

Ethics, Organization, and Personnel Committee  
Workshop



# Refresher of the EEO Investigative Procedures for the Board & its Direct Reports

Item 6b  
August 20, 2024



## Item# 6b

# EEO Investigative Procedures for the Board

## Subject

To provide the Board with a high-level overview of the investigative procedures for the Board and its direct reports.

## Purpose

Information Update

# Purpose & Authority

- Ensure Metropolitan is in compliance with all federal and state EEO laws, Metropolitan policies, and Administrative Codes sections 2131 and 6305
- Ensure the complaint and investigative process is fair, impartial, prompt and thorough
- Provide a mechanism for identifying, responding to, preventing, and eliminating discrimination, harassment and/or retaliation in the workplace



EEO Ad Hoc Subcommittee is comprised of 3 Board Members and 2 alternate Board Members

Subcommittee receives substantiated findings against any Board Member, or the General Manager, General Auditor, General Counsel, and/or Ethics Officer and recommend responsive action to the applicable Committee.

# EEO Protected Categories

- Age (40 & Above)
- Race
- Color
- Religion or Religious Creed
- National Origin
- Ancestry
- Citizenship Status
- Sex/Gender
- Gender Identity/Gender Expression
- Sexual Orientation
- Marital Status
- Medical Condition
- Genetic Information/Characteristics
- Disability (Physical or Mental)
- Military/Veteran Status
- Other Protected Characteristics

# Complaint Intake Procedures

## Complainants

- Employees
- Job Applicants
- Interns
- Volunteers
- Contractors
- Anonymous

## Modes of Complaint

- **Verbal** (phone, in-person)
- **Writing** (Email, letter, complaint form, online)
- **Referral** from any Metropolitan group, department or Board Member

## Intake Process

- Conduct intake assessment to determine:
- Basis of complaint
  - When the alleged misconduct occurred
  - Who the subject is
  - If there are witnesses, evidence, and documentation relevant to the allegation(s)

# EEO Jurisdiction

Is the Complainant a member of an EEO protected category?



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graph TD; A[Is the Complainant a member of an EEO protected category?] --> B[Is the Complainant alleging that the conduct/prohibited act is due to their membership in a protected category?]; B --> C[Did the complainant provide information to support a connection between the protected category and the prohibited act?];
```

Is the Complainant alleging that the conduct/prohibited act is due to their membership in a protected category?

Did the complainant provide information to support a **connection** between the protected category and the prohibited act?

# Complaint Outcome



**REFER TO OTHER  
RELEVANT DEPARTMENT**



**INFORMAL RESOLUTION**



**FORMAL INVESTIGATION**

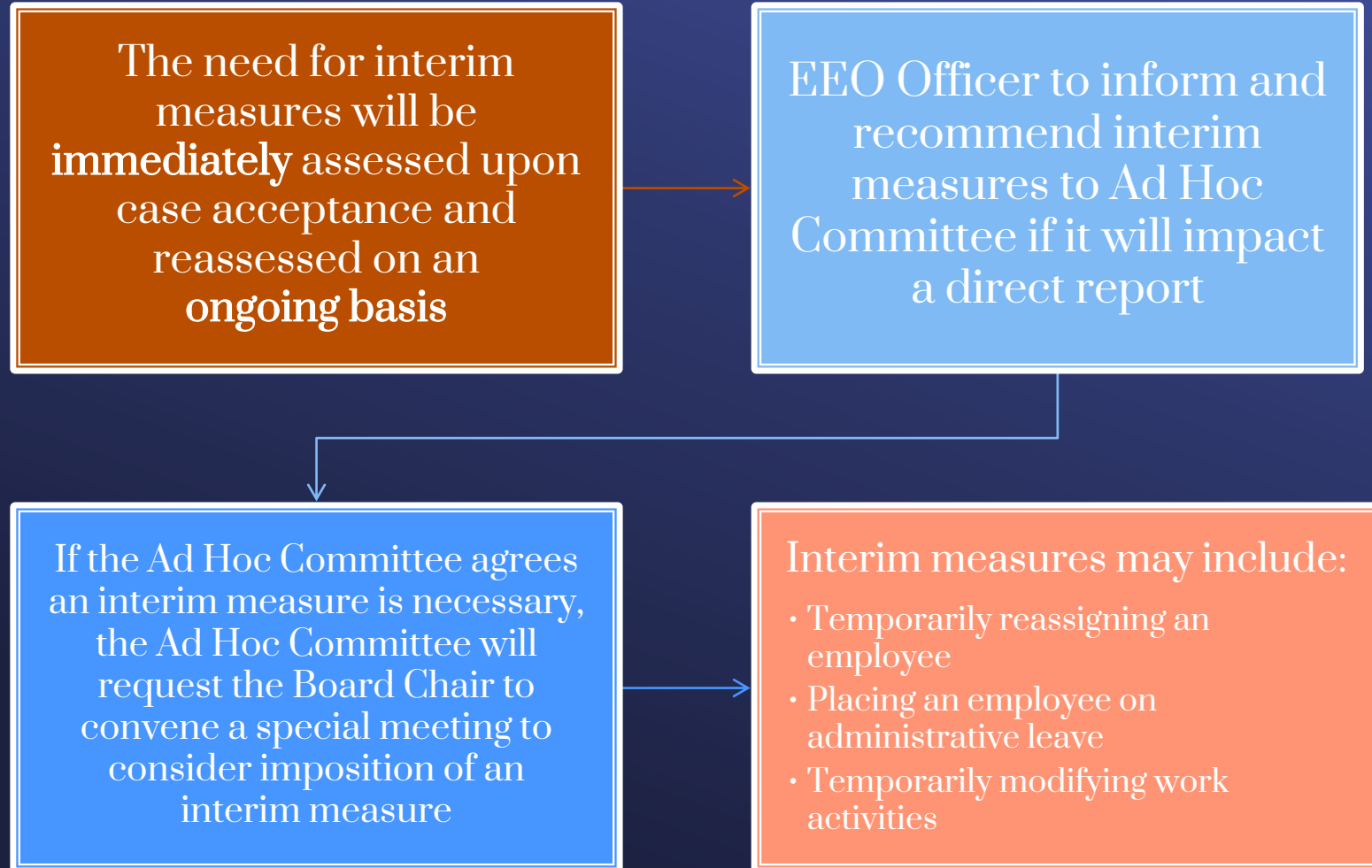
# Interim Measures

Examples of interim measures may include, but are not limited to:

- When there is a direct reporting relationship between the complainant and the respondent, and the complaint includes egregious allegations of discrimination, harassment and/or retaliation
- To prevent the disruption or alteration of possible evidence
- To prevent repetition of alleged conduct complained of
- When there is a reasonable belief that an employee's continued presence in the workplace raises concerns about safety in the workplace



# Interim Measure Process



# Investigative Steps



Notification of investigation



Interviews



Evidence gathering



Report writing



Analysis



Report review



Notification of determination

# Final Investigative Report

The final report should summarize the following:

- The allegations and incidents investigated, including dates.
- Parties involved (Complainant, Respondent, Witnesses).
- Key factual and credibility findings, including exhibits of evidence obtained, where applicable.
- Metropolitan policies or guidelines and their applicability to the investigation.
- Analysis and conclusion (findings)

# EEO's Standard of Proof

## Preponderance of Evidence

- Almost always the standard in a good faith investigation
- “More likely than not”
- Evidence on one side outweighs the other
- Greater than 50/50 chance proposition



# Findings

- **Substantiated** – Where the investigation shows that it is more likely than not that a factual allegation occurred
- **Unsubstantiated** – Where the investigation fails to show that it is more likely than not that a factual allegation occurred

## Unsubstantiated

- Notify Complainant/Respondent of Determination
- No further action
- Save in confidential case database system

## Substantiated

- Notify Complainant/Respondent of Determination
- EEO Officer to refer substantiated findings to Ad Hoc Committee through EEO's legal advisor
- Save in confidential case database system
- Corrective Action to be determined by Ad Hoc Committee

# Exception



A deviation of this investigation protocol by the EEO Officer may occur, in certain circumstances, with written justification and approval of the Ad Hoc Subcommittee responsible for addressing substantiated EEO AC violations against the Board and its Direct Reports

# Questions?



