



# BLACK EMPLOYEES ALLIANCE AND COALITION AGAINST ANTI- BLACKNESS

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Press Release

For Immediate Release

From: Black Employee Alliance

The Black Employee Alliance (BEA) was formed in 2019. The BEA was born out of the struggle, resistance, and determination of Black employees of the City/County of San Francisco. In 2019, more than 50 Black City/County (City) employees made public statements before the San Francisco Board of Supervisors (SF BOS), about their personal experiences and observations of disparate treatment and the disparate impact of City management decisions and actions. Many of the members of the BEA remember the SF BOS meeting during which they heard heart wrenching accounts of harassment, retaliation, denial of promotion, bias in hiring, disproportionate discipline, denial of reasonable accommodation, and termination of employment. After this open, courageous, and passionate testimony, the seeds of the BEA were formed. The organization now has a track record of more than 3 years of organizing and action.

The BEA's work was the impetus for the Mayor to require the collection and reporting of Corrective Action and Discipline by Race/Ethnicity and Gender, and tracking of Citywide Workforce Demographics to examine the BEA's claims of systematic and structural anti-Black racism against Black City employees. The BEA reflects on its work which was either the direct catalyst for, leading

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voice in, or the originator of the City's Ordinance No. 188-19 which acknowledged the City's history of structural racism. This ordinance amended the Administrative Code to create the City's Office of Racial Equity (ORE).

The BEA did not stop there, in 2020, the organization's work resulted in the Mayor hiring an independent reviewer, William B. Gould IV, from Stanford University, to examine equal employment opportunity. The result was a 44-page report (Gould Report). This initiative is hailed as the idea of the Mayor, but all the members of the BEA and all Black City employees know that this was the result of the blood, sweat, tears, and strategizing of the group and its members.

The BEA did not stop there. The organization has organized and conducted numerous educational presentations and sessions to ensure that its members and all Black City employees are informed of their employment rights as outlined and contained in City Union Memorandums of Understanding (MOUs), the City Employee Handbook, State law as enforced by the Civil Rights Department (formerly the Department of Fair Employment and Housing), and federal equal employment laws enforced by the U.S. Equal Employment Opportunity Commission (EEOC). Some BEA members recall that through their support of one member, the City's Department of Human Resources (DHR) was forced to try to save face and reverse its conclusions that a Black employee, subjected to being called the N-word at work, had not experienced harassment, only after the employee secured a finding by the State Civil Rights Department that concluded the

conduct was in fact harassment. It is this kind of trauma that Black employees are subjected to daily that makes the work of the BEA so essential in this climate of tokenism which is in response to the routine disparate treatment and on-going sacrifice made by Blacks in San Francisco, and the U.S. more generally.

The BEA supported the filing of a class action lawsuit in 2020 to elevate the struggle and resistance of Black City employees. We find ourselves on the eve of resolving this class action lawsuit, and we continue to resist the City's demands that the plaintiffs back off of their push to receive tangible, meaningful, measurable, and impactful change. For example, it is 2023 and the BEA points out that the Gould Report recommended, among other things:

- "The City should revise its policies and trainings so that EEO investigators maintain neutrality at all times. DHR should cease the practice of asking departments for "responses" to complainants' allegations when transmitting requests for information to the departments, as these departmental responses create an unnecessarily adversarial atmosphere for the independent investigation and risk skewing the investigation at an early stage."
- "EEO investigators should not be responsible for answering administrative complaints from the EEOC and DFEH, nor should they be charged with defending the

DHR director's determinations before the Civil Service Commission. Instead, the City should consider alternative arrangements that avoid the potential for role confusion and ensure the true neutrality of EEO investigators, such as maintaining a separate unit of EEO staff responsible for appeals and outside investigations. DHR should create a policy whereby investigations must be concluded in 120 days or a lesser period of time."

- "DHR should eliminate the separate layer of EEO intake at the departmental level, or what might be characterized as the preliminary investigative machinery, and all delegations of EEO personnel and functions performed by DHR should be rescinded so that DHR has complete and full authority in the EEO arena. Rather, DHR should house EEO investigators within all of the City's larger departments in order to facilitate greater familiarity with the departments' workings. These investigators should operate outside of the department chain of command, answering to DHR. But their presence in the departments would give EEO investigators better firsthand knowledge of the work environment on the ground and avoid the problem of EEO investigators relying primarily on departmental personnel gathering and compiling investigation information. The City must expand the EEO staff to effectively and expeditiously process the current volume of complaints."

- “Until the City has made explicit the availability of a broader array of remedies under its MOU no-discrimination provisions, as recommended below, DHR should clarify what varieties of remedies are available through the EEO process. Existing guidance to City departments from DHR states that employees are entitled only to a make-whole remedy and that this remedy does not include damages for emotional distress, pain and suffering, or the like. But other documents examined in this review suggest that employees may be able to obtain such damages, where appropriate, through the EEO process, via settlements with the City. DHR must clarify what forms of relief may actually be awarded at the end of each process so as not to mislead employees about the scope of remedies available to them.”
- “The corrective action recommendations of the Director of Human Resources should be specific and binding, and departments should be required to implement them. DHR should track and record departments’ corrective actions in response to EEO investigations and should consider publicly posting departments’ rates of compliance with EEO recommendations in order to provide greater accountability. DHR should develop more forms of corrective action that permit a greater intervention than the issuance of city policy for offending employees’ signatures. This should include

both a greater emphasis on mandatory training for employees, managers, and supervisors who have violated city policies and also an openness to discipline, including removal, of the offending supervisor or management person, particularly when the respondent presents an ongoing threat to the complainant.”

- “The Civil Service Commission, on its own initiative, should establish and publicize a procedure by which employees appealing DHR’s EEO determinations may request that a hearing officer with special expertise and demonstrated commitment to antidiscrimination law conduct the employee’s appeal. The Commission could devise standards for cases which the Commission could handle itself, in accordance with the discussion in Finding 3, subsequent to public input from all relevant parties for the content of such standards. The appellant should be able to select from a slate of employment discrimination law experts with a background and demonstrated support for the principles of fair employment, as manifested by involvement in the field, writings, testimony, litigation, arbitration awards, or the like. These hearing officers should be empowered to conduct de novo review of DHR’s conclusions, to take evidence and witness testimony, and to order relief, including departmental action. Additionally, these hearing officers should be required to provide written opinions setting forth the

reasoning underlying their decisions. The standard of review is de novo.”

- “DHR should continue to monitor and report on an annual basis the effects of de-identification on the hiring process and reevaluate it so as to determine its efficacy, if any. The hiring manager should abide by the hiring recommendation of the interview panel barring compelling reasons not to do so. At the interview stage, all candidates possess the required qualifications for the position. Input from the hiring manager at this stage does not always discern which candidate is best, and a hiring panel staffed by disinterested parties can best ensure that bias or favoritism doesn’t play a role in the final hiring decision. Properly trained Human Resources personnel must use relevant EEOC standards relating to subjective criteria to certify proposed interview questions prior to the hiring manager knowing the identities of the interview candidates. DHR and the City departments should implement a uniform written policy for the process that governs filling exempt positions. This should include posting and a structured interview process unless there are compelling reasons not to have such a process, and the policy should clearly delineate when it is appropriate not to have a structured interview process for filling exempt positions. DHR should track and publicize which departments conform to the Civil Service Commission’s best practices for structuring the exempt hiring process.”

The Mayor and the DHR have publicly stated that they agree with and accept the Gould Report findings, conclusions, and recommendations. However, the City has not implemented even 1/4 of the recommendations. Nor has the City engaged with the BEA or other movement partners to discuss the planning, timing, or implementation of any changes based on the Gould Report recommendations. Displaying the City's untrustworthiness, it recently announced that DHR submitted a proposal for amending and revising the current Civil Service Rules, and did not inform any movement partners of the proposal, did not engage with the BEA as part of developing the proposal, and did not even poll or survey (much less discuss or solicit input from) City human resource professionals who work in City departments—prior to drafting and presenting the proposal to the Civil Service Commission.

In short, the Mayor and DHR are not committed to any meaningful, measurable, or impactful change for the improvement of the working conditions Black employees must endure. The Mayor and DHR are masterful at tokenism. This is true, as we observe that the ORE has been without a director for years. Also, we observe this in the ORE not being funded or structured in a way that it has the authority or staff to require accountability from City departments.

We speak out on behalf of all Black employees who suffer and endure a workplace operating adverse to their interests and health and well-being. We speak out on behalf of all Black employees who experience fundamentally inappropriate conduct which may also be unlawful

conduct in the workplace. We speak out on behalf of all Black employees who have and will continue to resist a City administration that fails to act consistent with an ethical compass and political will to make structural and systematic changes to ensure that the rights of Black employees are protected.

### **Black Employees Alliance and Coalition Against Anti-Blackness**

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