

BOARD OF DIRECTORS REPORT

To: Paul J. Ballard, Interim General Manager and CEO

From: Angie Rivera-Malpiede, Board Chair & Director, District C

Date:

Subject: Ad Hoc Committee - Code of Conduct Final Report

Date: July 23, 2020

GM

Board Meeting Date: July 21, 2020

ATTACHMENTS:

- 2020-07-21 Ad Hoc Conduct Final Report (PDF)
- Ad Hoc Committee on Code of Conduct - Members (4) (PDF)
- Ad Hoc Committee Report Documents (PDF)

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Approved by:



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Ad Hoc Committee on Code of Conduct – Final Report

July 21, 2020

Executive Summary

This Ad Hoc Committee (the Committee) was created by Chair Rivera-Malpiede for the purpose of evaluating the impact of the Code of Conduct to ensure that the Code: continued to work toward preserving RTD's transit system in a manner that is fair and respectful of RTD's patrons; was enforced fairly and consistently; and met the safety needs of the public using the system during the COVID-19 pandemic.

The Committee, consisting of members from RTD, government agencies, and community organizations, met over the course of two months to discuss the Code of Conduct and to analyze its impact on RTD's operations and the needs of the public. By leveraging collective knowledge, expertise, and resources, the Committee was able to agree upon and make more than 20 specific revisions to the Code of Conduct. These changes were made with a focus on putting people first, modernizing language, eliminating ambiguity, and considering behavior that creates real impacts to the provision of transit services. The Committee recommends that the Code of Conduct exist as a living document that is periodically reviewed by RTD with help from its community partners.

Background

The RTD Board of Directors originally adopted the agency's Code of Conduct in December 2016. During the Board meeting held on April 21, 2020, RTD staff presented to the RTD Board of Directors revisions to the Code of Conduct intended primarily to address safety and operational concerns and complications exacerbated by the COVID-19 public health crisis. The Board of Directors subsequently approved the revisions to the Code of Conduct; but in doing so Chair Rivera-Malpiede created an ad hoc committee through which RTD Directors and staff could work collaboratively and inclusively with key stakeholders and leverage collective knowledge, expertise, and resources to further evaluate and improve the Code of Conduct. Chair Rivera-Malpiede created a charter for the Committee, which is attached to this report. In that Charter, Chair Rivera-Malpiede directed the Committee to present this formal report incorporating its findings to the Board of Directors no later than July 21, 2020, and this final report was formally published in the agenda packet for the Board Meeting held on that date. A copy of this final report was also provided to the Citizens Advisory Committee, Amalgamated Transit Union 1001, the Access-a-Ride Paratransit Advisory Committee, the Advisory Committee for People with Disabilities, and to those organizations represented by the members of the Committee.

Purpose

The Committee was created for the purpose of reviewing the impact of the Code of Conduct to ensure that the Code:

- ♦ continued to work toward preserving the safety, cleanliness, and accessibility of RTD's transit system in a manner that is fair and respectful of RTD's patrons;
- ♦ was enforced fairly, consistently, and equitably; and
- ♦ addressed the public safety needs of employees, riders, and individuals from vulnerable populations using the system during the COVID-19 pandemic.

The Committee was also designed to be a collaborative venue to discuss how the Code of Conduct supports RTD's mission of safe, clean transportation as well as how the Code serves the needs of the community.

Committee Members

The Committee was comprised of various members from within RTD as well as from key external government agencies and community organizations. In furtherance of its mission to serve the public through transportation, it was imperative to RTD that these important community partners be a part of the careful evaluation of RTD's Code of Conduct. The community partners contributed invaluable perspective, insight, and expertise leading to an improved version of the Code of Conduct. A complete list of Committee members is listed below.

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|---|---|
| ♦ Angie Rivera-Malpiede, Board Chair and Ad Hoc Committee Chair, RTD | ♦ Evan Dreyer, Deputy Chief of Staff, Mayor's Office, City and County of Denver |
| ♦ Kate Williams, Director for District A, RTD | ♦ Paul M. Pazen, Chief of Police, Denver Police Department |
| ♦ Shontel M. Lewis, Director for District B, RTD | ♦ Britta Fisher, Executive Director of the Department of Housing Stability and Chief Housing Officer, City and County of Denver |
| ♦ Ken Mihalik, Director for District G, RTD | ♦ Gary Bryskiewicz, Chief Paramedic, Denver Health |
| ♦ Troy L. Whitmore, Director for District K, RTD | ♦ Aubrey Hasvold, Advocacy Program Director, Colorado Coalition for the Homeless |
| ♦ Paul J. Ballard, Interim Chief Executive Officer and General Manager, RTD | ♦ Denise Maes, Public Policy Director, ACLU of Colorado |
| ♦ Michael Ford, Chief Operations Officer, RTD | ♦ Carleigh Sillon, Program Manager, Crisis Intervention Response Unit, Mental Health Center of Denver |
| ♦ Mike Meader, Chief Safety and Security Officer and Assistant General Manager of Safety, Security, and Asset Management, RTD | ♦ Robert "Bob" Dorshimer, Chief Executive Officer, Mile High Behavioral Healthcare |
| ♦ Barbara McManus, Executive Manager of the Board Office, RTD | ♦ Kate Barton, Senior Vice President, Executive Office and Special Projects, Downtown Denver Partnership |
| ♦ John McKay, Board Office Administrator, RTD | |
| ♦ Marisela D. Sandoval, Associate General Counsel, RTD | |

Meetings

The Committee met every other week beginning May 6, 2020 through July 8, 2020. A special meeting was also held on July 9, 2020 to discuss and finalize the Code of Conduct for presentation to the Board of Directors. The Committee convened a total of six times. Meetings were conducted via Zoom due to the ongoing COVID-19 pandemic. All meetings were public and recordings of those meetings can be found on RTD's website (<http://rtd.igm2.com/Citizens/Calendar.aspx>).

Scope and Process

Initially, Mr. Meader gave a thorough presentation on the Code of Conduct, which explained its purpose and origin, how it is enforced, and the revisions to the Code over time. This presentation allowed Committee members to become more familiar with the Code and to begin their evaluation process. Each Committee member was then asked to carefully and critically review the Code of Conduct and to propose specific, realistic

changes to rules in the Code or language in the Code. Each Committee member was asked to: 1) cite the specific paragraph in the Code of Conduct that caused questions or concerns; 2) identify those specific questions or concerns; and 3) suggest realistic changes to address those questions or concerns using SMART (specific, measurable, attainable, realistic, time-based) goals. A comprehensive discussion about the feedback collected from the Committee members occurred over the course of three meetings, and all feedback was incorporated into meaningful and thoughtful revisions to the Code of Conduct.

Findings

The Committee made the following findings:

- The Code of Conduct was outdated in some respects. The Committee worked to modernize the language in the Code, eliminate ambiguity, and update the Code to address the current needs of the public.
- The Code of Conduct was not very people-centered. The Committee worked arduously—in its review, analysis, and revisions—to put the people first.
- The Code of Conduct did not account for actual impact on delivery of services in every instance. The Committee carefully considered each rule and whether or not the conduct prohibited created an actual impact to the provision of transit services. Substantial changes were made as a result of this evaluation.
- The Committee consistently focused on how the Code can be enforced and applied in an equitable manner. Fair and consistent enforcement was of the utmost importance to the Committee.
- The Code of Conduct has greatly improved from the prior version. However, concerns remain about vague language in the Code that allows for too much discretion in enforcement. Concerns also remain about disproportional enforcement, particularly against persons experiencing homelessness.
- In addition to providing transit and moving people, RTD must prioritize educating the public as well as collaborating with the community to ensure that RTD continues to meet the needs of the public.

Results/Conclusion

As a result of thoughtful discourse and productive discord, more than 20 specific revisions to the Code of Conduct were made. Attached is a complete redline of modifications made by the Committee to the Code of Conduct, dated December 20, 2016, revised April 21, 2020. A complete record of all of the Committee's discussions about the revisions to the Code of Conduct, the intent of those revisions, and related issues can be found on RTD's website (<http://rtd.ig2.com/Citizens/Calendar.aspx>).

The Code of Conduct should exist as a living document. The Committee suggests that the Code of Conduct be evaluated periodically to ensure the Code continues to meet operational demands as well as the needs of the public, including during public emergencies. In doing so, RTD should leverage the relationships RTD built with community partners through this Ad Hoc Committee.

Organization	Name	Title/Position
RTD Directors	Angie Rivera-Malpiede	Chair, Director, Dist. C
	Shontel Lewis	Director, Dist. B
	Ken Mihalik	Director, Dist. G
	Troy Whitmore	Director, Dist. K
	Kate Williams	Director, Dist. A
RTD Staff	Paul J. Ballard	GM/CEO
	Michael Ford	Chief Operations Officer
	Mike Meader	Chief Safety Officer
	Marisela Sandoval	Associate General Counsel
	Barbara McManus	Executive Manager, Board Office
	John McKay	Board Office Administrator
Denver Mayor's Office	Evan Dreyer	Deputy Chief of Staff
Denver Police Dept.	Paul Pazen	Police Chief
Denver Office of Housing Stability	Britta Fisher	Chief Housing Officer
Denver Health, Paramedics/EMS	Gary Bryskiewicz	Chief Paramedic
Colorado Coalition for the Homeless	Aubrey Hasvold	Advocacy Program Director
ACLU	Denise Maes	Public Policy Director
Mental Health Center of Denver	Carleigh Sailon	Assistant Program Manager- Crisis Intervention Response Unit
Mile High Behavioral Health	Bob Dorshimer	CEO
Downtown Denver Partnership	Kate Barton	SVP

Ad Hoc Committee on Code of Conduct - Charter

Committee Purpose:

- RTD has an obligation to ensure the safety, cleanliness, and accessibility of the transit system.
- To this end, the agency has established a Board-approved Code of Conduct to establish, convey, and regulate appropriate behavior on RTD vehicles, facilities, and property.
- During the Board Meeting held in April 21, 2020, the RTD Board approved revisions to the Code of Conduct that were brought by staff largely to address safety concerns and complications that have been exacerbated by the COVID-19 public health crisis.
- The ad hoc committee (committee) was created for the purpose of reviewing the impact of the revisions to the RTD Code of Conduct to ensure that the Code:
 - Continues to work toward preserving the safety, cleanliness, and accessibility of RTD's transit system for all our patrons;
 - Is enforced fairly, consistently, and equitably; and
 - Addresses the current public safety needs of employees and passengers using the system during the COVID-19 pandemic.
- Additionally, the committee meetings will serve as a collaborative venue in which to discuss with committee participants how the Code of Conduct supports RTD's mission of safe, clean transportation.

Authorization:

- Section 32-9-109.5 and Section 32-9-114 of the RTD Act describe the administrative powers and authority given to the RTD Board of Directors. The Board Bylaws provide further description of standing committees. The standing committee can take a vote on an action to move it forward to the full Board at a regular Board meeting, but the action is not an official action of the District unless approved by the Board at a formal Board meeting or Special Board Meeting.

Committee Composition:

- The current Chair of the Board is Angie Rivera-Malpiede. The Chair of the Board shall serve as Committee Chair.
- Chair Rivera-Malpiede appointed the following committee members from RTD:
 - Directors Lewis, Mihalik, Whitmore, and Williams
 - General Manager Paul J. Ballard
 - Michael Ford, Chief Operations Officer
 - Mike Meader, Chief Safety Officer and AGM of Safety, Security, & Asset Management
 - Marisela Sandoval, Associate General Counsel

- Bob Grado, RTD Chief of Police and Emergency Management
- Barbara McManus, Executive Manager of the Board Office
- John McKay, Board Office Administrator (appointed to provide meeting and technical resources)
- In addition, Chair appointed the following external committee members:
 - Evan Dreyer – Deputy Chief of Staff, Mayor Hancock’s Office
 - Paul Pazen – Chief, Denver Police Department
 - Britta Fisher – Chief Housing Officer, Denver Office of Housing Stability
 - Gary Bryskiewicz – Chief Paramedic, Denver Health
 - Aubrey Hasvold – Advocacy Program Director, Colorado Coalition for the Homeless
 - Denise Maes – Public Policy Director, ACLU of Colorado
 - Carleigh Sailon – Assistant Program Manager- Crisis Intervention Response Unit, Mental Health Center of Denver
 - Bob Dorshimer – CEO, Mile High Behavioral Health
 - Kate Barton – Senior Vice President, Downtown Denver Partnership

Roles and Responsibilities:

- **Chair of the Committee:**
 - Presides over committee meetings.
 - Working closely with the Board Office, establishes and confirms an agenda for each meeting.
 - Reviews and approves meeting minutes.
 - Schedules all committee meetings and calls for additional committee meetings, if necessary.
 - Invites additional subject matter experts as necessary.
 - Ensures that discussion of agenda items is on-topic and productive.
 - Working closely with Chief Safety Officer Mike Meader, serves as co-lead for the creation of the report to the Board regarding the committee’s findings.
 - May choose to invite public comment or speakers if appropriate.
- **Vice-Chair of the Committee:**
 - Performs all Committee Chair responsibilities in the absence of the Committee Chair.
- **All Committee Members:**
 - Preparedness: Preview presentations/materials and review committee minutes provided by staff before the meeting and come prepared to discuss or take appropriate action on items brought before the committee.
 - Participation: Participate actively as committee members’ active participation and input is essential for the development of the final report to the Board.

Operating Procedures:

- As soon as practicable, the Executive Manager of the Board Office will submit an agenda to the Board Office staff with the appropriate reports, informational materials, or other documentation on recommendation of the Committee Chair.
- The agenda, backup materials, and minutes of each meeting will be posted on the Board's Meeting Portal.
- The committee's meetings are open to the full Board at all times and allow for discussion and input from Directors who are not members of the committee.
- The currently adopted Board of Directors Operating Guidelines are to be recognized at all meetings.

Reporting Requirements:

- All committee meetings are noticed and recorded per open meetings/open records requirements.
- Meetings with three or more Directors present are considered open meetings and must be noticed and posted at least 24 hours before the meeting.
- It is anticipated that the committee meetings will be held remotely; a public dial-in number will be published along with each meeting agenda.
- All meetings must have approved agendas.
- Minutes of each meeting are taken and included in the monthly Board agenda for the formal Board meeting.
- Minutes are reviewed by the Committee Chair and Executive Manager.
- Minutes from the committee meetings are permanent records and retained in the Board office via the MinuteTraQ document management system or per the document management or record storage system that is used by the agency at that time.
- The minutes of each meeting, along with the meeting's audio or video recording and full-text transcript, are made available to the public via the Meeting Portal within a reasonable time after the meeting.

Staffing Requirements:

- Directors rely on external consulting sources, the Executive Manager, and staff for preparation of presentations, reports, and other materials used in the committee meetings.
- In addition to Directors and agency staff, the committee consists of several subject matter experts whose role is to provide critical analysis of the impact of the revisions to the Code of Conduct and to advise in the creation of the final report to the Board.
- The committee may seek additional specialized expertise as needed.

- The Executive Manager participates in meetings, addresses questions or concerns raised by Directors, and submits any reports or materials specified by the Directors appointed to the committee.
- The Executive Manager reviews the agenda with the Committee Chair prior to the committee meetings.

Meeting Schedule and Process:

- The committee is slated to meet from 8:00 to 9:30 a.m. on Wednesday, May 6, 2020, and from 8:00 to 9:30 a.m. every other Wednesday thereafter through July 1, 2020.
- The Committee Chair may decide to cancel or postpone a scheduled committee meeting.
- Prior to the meeting, the Committee Chair meets with the staff to discuss or review the agenda and any items of concern.
- The Committee Chair has the flexibility to change the order of the agenda when deemed appropriate.

Reporting Process:

- The committee is tasked with creating a formal report to the Board that incorporates the findings of the committee members.
- The Committee Chair, working closely with the Chief Safety Officer, has sole discretion over the content and format of the committee's final report.
- The Committee Chair will present the final report to the Board no later than July 21, 2020.
- Thereafter, a copy of the final report will also be provided, at a minimum, to the Citizens Advisory Committee, Amalgamated Transit Union 1001, the Access-a-Ride Paratransit Advisory Committee, and the Advisory Committee for People with Disabilities.