



## MTA HAS AN OPPORTUNITY TO IMPROVE EMPLOYEES' COMPLIANCE WITH TRAINING REQUIREMENTS – FINAL

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### I. EXECUTIVE SUMMARY

The Metropolitan Transportation Authority (MTA) requires its employees to take certain non-operational training courses on a regular basis. The designated courses – which are developed by New York State and the MTA itself – address key topics necessary to keep the workplace healthy, safe, and productive. Failure to complete the courses increases the likelihood that employees will unknowingly engage in behaviors that could hurt themselves, their operating unit, or the MTA.

A 2020 review by the Office of the MTA Inspector General (OIG) Investigations Division raised concerns that some MTA employees had not complied with the training requirements. To determine the extent of compliance in both 2017 and 2019, OIG Audit staff reviewed the records of four operating units: Metro-North Railroad (MNR), Long Island Railroad (LIRR), and the Department of Buses (Buses) and Department of Subways (Subways) of New York City Transit (NYC Transit).<sup>1</sup> Overall, we found that compliance with training requirements varied by agency and training course, with some low compliance rates in Subways. We note that there has been little managerial accountability or enforcement of the requirements. After the recent reorganization, MTA management now has an opportunity to improve its administration of mandated training and make other changes to increase participation.

In February 2022, we shared our Draft Report with MTA Headquarters' (MTAHQ) People Department for comment. The Report contained four recommendations intended to strengthen employee compliance with training requirements. In his March 30, 2022 response, the Acting Chief People Officer indicated that our findings present an opportunity for his Office to implement practices that will “positively affect the 2022 mandated training participation and completion rates.” MTAHQ accepted our recommendations with expected dates for implementation in 2022 and 2023. The agency’s specific responses appear in the Recommendations section at the end of this Report.

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<sup>1</sup> Although Buses and Subways are both part of NYC Transit, for the purposes of mandated training the agency treats them as separate entities. Buses’ statistics include MTA Bus employees.

## A. Summary of Findings

- Many MTA employees did not complete the required training in 2017 and 2019. Buses and LIRR employees showed the highest rates of completion (80%–100%), while Subways employees showed the lowest rates (with most courses under 60% and some as low as 33%). MNR showed the greatest improvement in compliance rates, increasing from the 70% range in 2017 to over 90% in 2019.
- In 2019, Buses and LIRR did not adhere to New York State law requiring employees to attend annual training in sexual harassment prevention. Subways and MNR did require employees to take the training but had very low completion rates (58% and 43%, respectively).
- In the absence of MTA-wide guidelines, MTAHQ considered each agency responsible for confirming that employees had completed the training. However, in many cases the agencies left this task to the discretion of the operating departments. Only LIRR and Buses developed a reliable and effective system to encourage compliance.
- MTAHQ's recent reorganization led to the creation of Organizational Design & Development (Organizational Design), a group designed to oversee non-operational training across all agencies. This change represents an opportunity for MTA to establish clear and consistent policies and practices to ensure the success of the training program.

## B. Summary of Recommendations

- Develop procedures describing the roles of MTAHQ, the agencies, and the operating departments in administering training, including the assignment of responsibility for confirming employees' compliance with training requirements.
- Establish specific compliance goals against which employees' actual course completion rates can be tracked and expectations set.
- Consider other methods for improving participation, including scheduling training in advance for discrete work groups and establishing consequences for employees who do not complete the required courses.
- Ensure that MTA employees complete sexual harassment prevention training annually, in accordance with State law.

## II. BACKGROUND

### A. MTA Mandated Training Program

Each year, MTA employees must take approximately 15 courses on topics relevant to the workplace; these make up the Mandated Training Program (Program). Each course is developed either by the New York State Governor's Office of Employee Relations (GOER) or by MTA Headquarters (MTAHQ). Although the State does not legally require MTA employees to take GOER courses, MTA has for years adopted them as an integral part of the Program.

GOER courses tend to emphasize employees' rights and responsibilities, along with associated laws, policies, procedures, and key terms, e.g., *Prevention of Workplace Violence*. MTAHQ's internally developed courses describe a specific ethics or compliance policy, e.g., *Code of Ethics*. Mandated Training courses, which are designed to be taken online via a workplace computer, typically vary little from year to year.

Not all MTA employees are required to take every course. MTAHQ determines the minimum audience – which groups of employees should be enrolled in a course – and agencies can expand the requirement to include additional groups of employees. A key determinant of who has to take MTAHQ courses is whether an employee is in a union-represented position. In general, MTAHQ-mandated courses are required for non-represented employees only. GOER courses are designed for varying audiences ranging from all MTA employees to specific subsets.<sup>2</sup>

The success of the Program can be measured by the percentage of enrolled employees who complete training in a given period – the compliance rate. At the end of each training cycle, MTAHQ calculates each agency's compliance rate for each course and reports these statistics to the MTA Board and to GOER.

### B. Training Oversight Responsibilities

MTAHQ administers MTA's centralized Mandated Training functions; these tasks include obtaining GOER's course list, developing MTAHQ-issued training courses, communicating course information to the agencies, and reporting on compliance rates. The Corporate Compliance department performed this function until the latter part of 2021, when Organizational Design took on the role.

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<sup>2</sup> For example, GOER requires supervisors to take a course describing their responsibilities under the Americans with Disabilities Act.

As of late 2021, each agency had designated a Mandated Training Liaison (Liaison) to oversee the agency-level administrative functions of the Program. The Liaisons communicate course requirements to the operating departments, retrieve course completion information from PeopleSoft's Enterprise Learning Module (ELM), and report compliance data to MTAHQ at the end of each training cycle.

OIG learned that when Corporate Compliance led the Program, it did not confirm whether employees complied with Mandated Training requirements or penalize non-compliance in any way. Corporate Compliance considered the individual agencies responsible for any oversight or enforcement activities. Within the agencies, we learned that the Liaisons left these functions to the discretion of the operating departments.

As of late 2021, MTA did not have formal policies or procedures describing either the levels of accountability or the specific duties assigned to MTAHQ personnel, agency Liaisons, and the operating departments in administering the Program.

### **C. Changing Requirements for Represented Employees: 2017 - 2022**

In response to both internal and external forces, the MTA has adjusted the Mandated Training Program during the past five years. In 2017, the Program included six courses intended for all MTA employees regardless of representation status, but in 2018, MTA leadership decided that due to financial constraints, represented employees would take Mandated Training courses on a three-year cycle beginning in 2017 rather than annually. This was projected to save \$2.8 million each year the training was not required. Since the next training cycle was scheduled for 2020; represented employees were not required to participate in the 2019 Program.

In 2020, GOER courses were suspended due to the Covid-19 pandemic. In late 2021, MTAHQ announced that in 2022, represented employees would again be required to complete Mandated Training courses, reestablishing the 3-year training cycle.

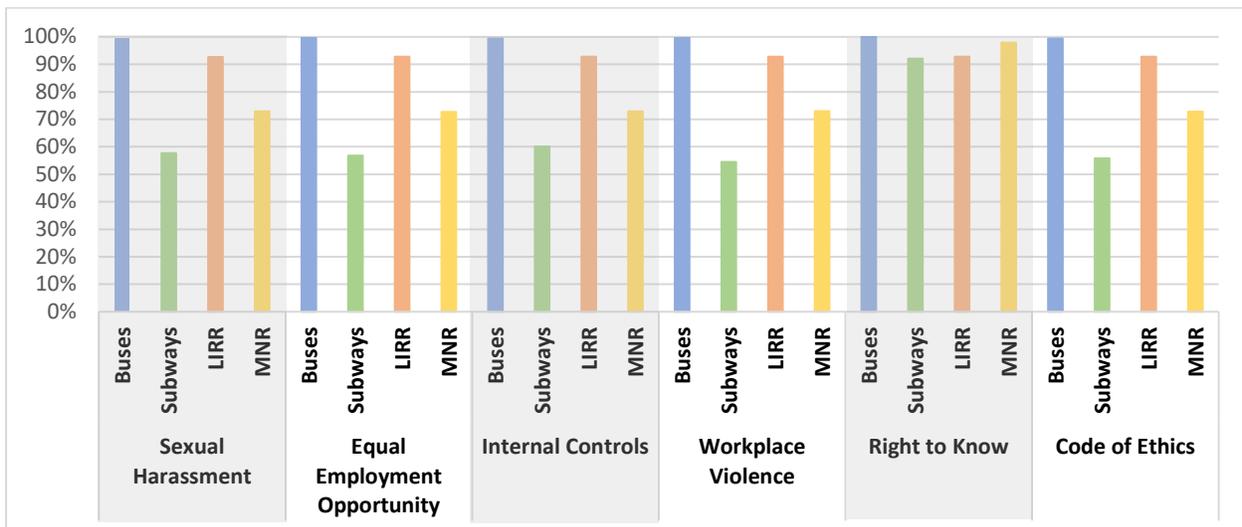
### III. FINDINGS

#### A. A Significant Number of MTA Employees are Not Completing Mandated Training

Most non-represented employees and some represented employees take Mandated Training using office computers at a time convenient to them. While some, particularly represented employees, will be given a scheduled time and place to train, others are left on their own to follow through. To determine whether employees adhered to annual Mandated Training requirements, we spoke to the Liaisons and other training department staff at each agency and reviewed compliance data for both 2017, the last year MTA required represented employees to undergo training, and 2019, the last year MTA offered non-represented employees a full set of training courses before the pandemic.

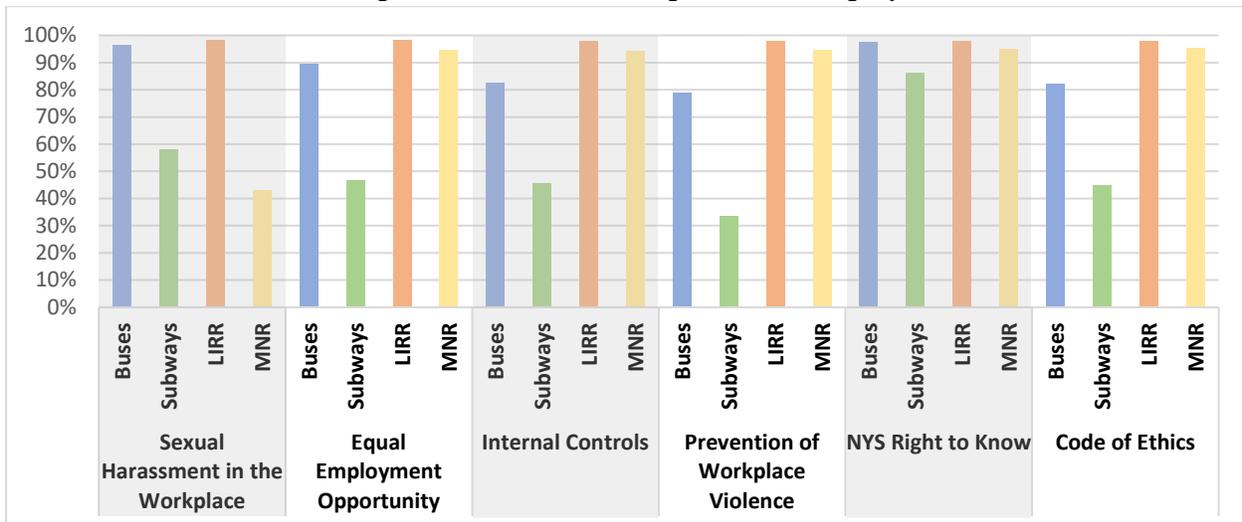
As indicated in the graphs below and in the table in Appendix A, in both 2017 and 2019 many employees did not complete training for the six courses MTAHQ deemed required for all MTA employees in 2017, and then for non-represented personnel only in 2019.<sup>3</sup> The non-compliance varied considerably between agencies: Subways and MNR tended to have lower compliance rates than LIRR and Buses.

**Chart 1: 2017 Mandated Training Completion Rates by Course & Agency**  
*Participants Include Represented and Non-Represented Employees*



<sup>3</sup> Of the six courses, five were issued by GOER and one (Code of Ethics) by MTAHQ.

**Chart 2: 2019 Mandated Training Completion Rates by Course & Agency**  
*Participants Include Non-Represented Employees<sup>4</sup>*



- OIG found that for Subways, five of the six mandated courses had completion rates of 60% or lower in 2017. The rates were even lower in 2019, when employees completed five of the six courses *less than 50%* of the time.<sup>5</sup>
- For MNR employees, four of the six courses had completion rates of under 75% in 2017, although the agency’s rates improved in 2019.
- On a positive note, LIRR’s compliance rates were at or above 92% for every course in both 2017 and 2019. Buses’ compliance rate was over 90% for every course in 2017 and ranged from 79% to 97% in 2019.

1. *Represented Employees’ Compliance Rates*

Our analysis revealed that represented employees had a lower compliance rate, particularly for Subways and MNR. The Liaisons described two key challenges in improving this performance: a lack of enforcement, and the cost of overtime – either for the front-line employees assigned to cover the shifts of colleagues taking the training courses, or for the trainees themselves. We address each of these factors below.

<sup>4</sup> The chart includes data on non-represented employees only, except in two places: Buses and MNR also enrolled represented employees in the 2019 sexual harassment prevention course.

<sup>5</sup> In 2019, Buses and Subways enrolled represented employees who had not taken Mandated Training in 2017 or 2018, including new hires. The addition of this large group had an adverse impact on compliance rates.

As of late 2021, MTAHQ had not specified whether the Program should include a mechanism for confirming whether individual employees completed the Mandated Training courses – or whether instances of non-compliance should be met with any corrective action. OIG learned that under the informal practices followed in recent years, neither MTAHQ staff nor the Liaisons confirmed whether individual employees had completed training. They told us that if anyone performed this verification or penalized non-compliance, it would be the operating departments. Notably, though, the departments were not directed or required to do so. It is possible that many employees lacked an incentive to complete Mandated Training, given that their departmental management did not take corrective action; the notable exception to this was LIRR, as discussed below.

Further, as of late 2021, the Liaisons did not always provide the operating departments with the information that would allow them to identify non-compliant individuals in the first place. Each of the Liaisons we spoke with said they send ELM course completion data to the operating department heads; however, the Liaisons differed in the types of data they provided and how frequently they did so. For example, the Subways Liaison sent compliance data to the operating department heads at regular intervals, increasing in frequency toward the end of the training cycle; however, the information included non-represented employees only.<sup>6</sup> On a similarly limited basis, the MNR Liaison shared compliance information with the departments only upon request. Thus, the Subways and MNR operating departments would not have been able to verify the training status of all of their employees. In contrast, as of late 2021, Buses and LIRR frequently and automatically sent compliance data for all employees to the operating department heads.

Notably, after sharing the ELM data on employees' training status, most of the Liaisons we spoke to did not seek a response from the operating departments to ensure they had received it. (The exception was LIRR, which we address below.) The Liaisons told us that when they sent compliance information to the departments, they rarely received any acknowledgment or tracked and questioned non-compliance. This mostly one-way communication represented a missed opportunity for the agencies to enforce employee compliance with Mandated Training requirements.

On the subject of overtime expenses, all of the officials we interviewed emphasized that training for represented employees is a significant cost to the MTA. They said the agencies try to minimize the use of overtime when providing training, but this is not always possible. We

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<sup>6</sup> For Mandated Training purposes, NYC Transit Department of Subways considers represented employees in professional, technical, and clerical titles as non-represented because (1) they have ready access to work computers and (2) their training obligations do not affect service delivery.

were told that the opportunity to earn overtime provides an incentive for employees to complete Mandated Training they might otherwise refuse to take. For example, MNR management was able to establish agreements with some of the unions to pay employees an established amount for full completion of the required courses. However, not all of the agency's unions agreed to the terms of the agreements, and MNR believed that some represented employees had no incentive to comply with training requirements.

## 2. *Successful Techniques to Improve Training Completion Rates*

In contrast to Subways and MNR, Buses and LIRR employed training techniques that Organizational Design might find useful in developing a successful Program. Despite the challenges noted above, Buses and LIRR consistently achieved compliance rates near or greater than 90%. Importantly, both agencies designated time for training in advance. For example, to avoid service disruptions, we learned that managers from each bus facility organized employees into training groups based on employee availability. Buses then combined instruction on the content of each Mandated Training course with prescheduled, federally required *Right to Know* training. By taking advantage of these previously scheduled sessions, the agency avoided the additional expense of holding separate training events.

LIRR management also established formal Mandated Training agreements with each of its unions. The agency mailed employees compact discs containing training material, which allowed employees to complete the courses at their convenience on their home computers. Employees were paid eight hours of straight pay upon completing all required courses. Notably, LIRR was the only agency we reviewed that had established formal consequences for employees who failed to complete the Mandated Training: the union agreements stipulated that any employee failing to complete even one course would be unable to renew their annual transportation pass.

Organizational Design's assumption of responsibility for the Program presents an excellent opportunity for MTA to develop more consistent training standards. In doing so, Organizational Design might want to consider the approaches that have facilitated high compliance rates at Buses and LIRR. When we discussed our observations with MTAHQ leaders, they acknowledged the importance of Mandated Training and the challenges of providing it to MTA's large, diverse workforce. They recognized that any solutions must be designed for each agency's particular characteristics, including specific employee groups, work locations, unions, and other factors. MTAHQ officials also noted that the establishment of minimum compliance rates would add a key standard against which to measure agency performance.

We believe it would be a prudent business practice for Organizational Design to work with each MTA agency to establish mechanisms to more closely monitor employees for compliance with Mandated Training and establish penalties for employees who do not complete the courses.

## **B. MTA is Not in Full Compliance with State Law Requiring Annual Sexual Harassment Prevention Training**

New York State Labor Law requires public employers to provide all employees with sexual harassment prevention training on an annual basis. According to an MTAHQ official, MTA considered a GOER course already included in the Program, *Sexual Harassment in the Workplace (Sexual Harassment)*, to fulfill this requirement. However, once the MTA changed the training cycle for represented employees to three years, we learned that MTAHQ took no action to ensure that represented employees received annual training in compliance with the new law. Instead, MTA left the provision of anti-sexual harassment training up to the discretion of the agencies.

Significantly, Buses and MNR took this opportunity to enroll all their employees in GOER's 2019 *Sexual Harassment* course. According to the Buses and MNR Liaisons, this was a conscious choice the agencies made specifically to meet the requirements of the new law.<sup>7</sup>

In contrast, in 2019, the Subways and LIRR Liaisons chose not to enroll represented employees in anti-harassment training.<sup>8</sup> According to an LIRR training manager, the LIRR Diversity group provided equivalent in-person training to select represented employees.<sup>9</sup> MTAHQ, however, has not addressed whether agency-level training fulfills the State requirement.

Overall, it is likely that thousands of MTA employees did not receive training in sexual harassment prevention in 2019 as required by State law. However, because the numbers are unavailable, we cannot determine the scope of this non-compliance.

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<sup>7</sup> As anticipated, because of the difficulty in training represented employees, MNR's compliance rate for Sexual Harassment decreased 30 percentage points between 2017 and 2019, falling from 73% to 43%.

<sup>8</sup> Subways enrolled only those represented employees who had not completed the course in 2017 (e.g., recent hires).

<sup>9</sup> The training is not included in LIRR's official course completion rate.

#### IV. RECOMMENDATIONS

MTA management should:

1. Develop procedures describing the roles of MTAHQ, the agencies, and the operating departments in administering the Program, including the assignment of responsibility for confirming employees' compliance with training requirements.

*Agency Response: Accepted. In its written response, MTAHQ said the agency will "create an All-Agency Mandated Training Policy," which includes "procedures and processes for each agency to adhere to and outlines the formal duties of a GOER mandated training liaison." According to MTAHQ's Acting Chief People Officer, the Policy will also describe the role of each MTAHQ department involved in the Mandated Training process. He further explained that the Policy will incorporate the role of the operating departments in confirming employees' compliance with training requirements after MTAHQ has negotiated with the bargaining units to determine the terms under which training will be provided. The expected completion date for the Policy is Q4 2022.*

2. Establish specific compliance goals against which employees' actual course completion rates can be tracked and expectations set.

*Agency Response: Accepted. According to the Acting Chief People Officer, MTAHQ will establish specific compliance goals after completing the labor-management negotiations described above. Expected implementation: Q2 2023.*

3. Consider other methods for improving participation, including scheduling training in advance for discrete work groups and establishing consequences for employees who do not complete the required courses.

*Agency Response: Accepted. The agency's response stated, "Through collaboration with our Labor Relations partners, [the People Department] will develop clear consequences for employees for not completing mandating training." Further, MTAHQ will consider alternative methods for increasing participation. Expected implementation: Q2 2023.*

4. Ensure that MTA employees complete sexual harassment prevention training annually, in accordance with State law.

*Agency Response: Accepted, with implementation expected in Q4 2022.*

## Appendix A

*Compliance Rates for Mandated Training Courses by Operating Unit, 2017 & 2019*

Course Title & Authorizing Agency	Operating Unit	2017 Completion Rate <i>(all employees)</i>	2019 Completion Rate <i>(non-represented employees only)</i>
Sexual Harassment in the Workplace (GOER)	Buses	99.6%	96.2% *
	Subways	<b>57.7%</b>	<b>57.9%</b>
	LIRR	92.7%	98.3%
	MNR	72.9%	<b>43.1% *</b>
Equal Employment Opportunity: Rights and Responsibilities (GOER)	Buses	99.6%	89.3%
	Subways	<b>56.8%</b>	<b>46.6%</b>
	LIRR	92.8%	98.1%
	MNR	72.7%	94.7%
NYS Internal Controls (GOER)	Buses	99.4%	82.4%
	Subways	<b>60.1%</b>	<b>45.5%</b>
	LIRR	92.8%	97.7%
	MNR	72.9%	94.1%
Prevention of Workplace Violence (GOER)	Buses	99.6%	79.0%
	Subways	<b>54.5%</b>	<b>33.4%</b>
	LIRR	92.8%	98.0%
	MNR	73.0%	94.4%
NYS Right to Know (GOER)	Buses	100.0%	97.3%
	Subways	92.1%	86.3%
	LIRR	92.8%	98.0%
	MNR	97.9%	94.8%
Code of Ethics (MTAHQ)	Buses	99.4%	82.1%
	Subways	<b>55.8%</b>	<b>44.7%</b>
	LIRR	92.8%	97.7%
	MNR	72.8%	95.2%

\* In 2019, Buses and MNR enrolled *all* employees in the course *Sexual Harassment in the Workplace*.