



● **Board of Directors**
Communications and Legislation Committee

4/13/2021 Board Meeting

9-2

Subject

Report on SB 480 (Stern, D-Calabasas) Metropolitan Water District of Southern California: rules: inappropriate conduct

Executive Summary

The Metropolitan Water District of Southern California (Metropolitan) was established by the California Legislature in 1928 and is governed in part by the Metropolitan Water District Act (Act). The powers of the District are exercised by its Board of Directors which adopts policies through the Administrative Code. Metropolitan management can adopt various operating policies. The Act requires Metropolitan to maintain an Office of Ethics with prescribed duties.

SB 480 (**Attachment 1**) would amend the Act and require Metropolitan to adopt rules relating to inappropriate conduct, as defined, by board members, officers, and employees, and change certain processes.

Details

SB 480 would amend the Act by making the Ethics Officer responsible for adopting and investigating alleged violations of rules relating to inappropriate conduct by board members, officers, and employees.

“Inappropriate conduct” is defined in the bill as any conduct toward others that is physical, verbal, or visual based on or because of sex, gender, gender identity or expression, race, color, ancestry, religious creed, national origin, age for 40 years of age and over, physical or mental disability, sexual orientation, marital status, military or veteran status, medical condition, genetic information, or any other characteristic protected by state or federal employment law when the conduct reasonably would be considered inappropriate for the workplace.

In 1999, Senate Bill 60 amended the Metropolitan Act to require the district to establish and operate an Office of Ethics responsible for:

1. Adopting rules relating to internal disclosure, lobbying, conflicts of interest, contracts, campaign contributions, and ethics for application to its board members, officers, and employees.
2. Educating directors, employees, and contractors about these rules.
3. Investigating alleged violations of the ethics rules and making available to the public the results of such investigations.
4. Protecting the confidentiality of sources, the job security of whistleblowers, and the due process rights of the accused.
5. Proposing for the Board’s adoption a schedule of penalties for violation of the rules.

Senate Bill 60 also requires the Office of Ethics to operate as an independent entity free from political influence.

As proposed in SB 480, the Ethics Officer would have the same responsibilities and duties for “inappropriate conduct” rules as the Ethics Officer currently has for the types of government ethics rules already set forth.

The term “inappropriate conduct” was taken from the California Legislature’s policy Appropriate Workplace Conduct: Creating a Culture of Respect, Civility, and Diversity which took effect on February 1, 2019. That

policy protects employees and applicants for employment with the Senate and Assembly from discrimination, harassment, whistleblower retaliation, other retaliation, and other inappropriate conduct on the basis of protected class by supervisors, managers, coworkers, and third parties with whom the employee comes into contact for work.

The general term “equal employment opportunity” or “EEO” encapsulates inappropriate workplace conduct, including discrimination based on a protected characteristic, sexual harassment, other harassment based on a protected characteristic, bullying based on a protected characteristic, retaliation, or any other prohibited EEO conduct under California law. Metropolitan’s Equal Employment Opportunity and Sexual Harassment Prohibition policies, other operating policies, Administrative Code, and misconduct rules already collectively address “inappropriate conduct” as defined in the bill.

Under the existing Administrative Code, allegations regarding employee conduct in violation of EEO policies are reported to and addressed by Metropolitan’s Equal Employment Opportunity Investigations Staff. Reports of EEO violations by directors are reported to the Ethics Officer or the Board Chair, and an outside counsel overseen by the Ethics Officer undertakes an investigation. (Admin. Code, Section 7111).

Metropolitan’s Equal Employment Opportunity Policy H-07 prohibits discrimination and harassment based on an employee’s membership in a protected class, and related retaliation. The policy and the incorporated EEO Investigations – Discrimination Complaint Procedures generally set forth Metropolitan’s process for identifying a potential violation of the policy, investigating the matter, and responsive action that may be needed if a violation of the policy is found to have occurred. These matters are primarily managed and supervised by the EEO manager within Metropolitan’s Human Resources Group and can be investigated by Human Resources staff or by outside investigators engaged by the Legal Department. Investigations handled by outside investigators are supervised by the Legal Department, and results and recommendations are returned to Human Resources staff for further processing.

Metropolitan’s Sexual Harassment Prohibition Policy H-13 specifically prohibits “inappropriate conduct” of a sexual nature. A potential violation of this policy would be reported to the EEO manager and would be immediately reviewed and/or investigated under the same procedures governing a violation of the H-07 policy.

Metropolitan does not make its EEO investigation results available to the public; these are treated as confidential records protected by privacy rights, shared only as necessary for business reasons. In addition, the work product of outside EEO investigators and communications with Metropolitan’s Legal Department may be protected by the attorney work product doctrine and the attorney-client privilege.

For ethics investigations conducted by the Ethics Office, public disclosure is limited to the general nature of the allegations and findings, without naming the subject of the investigation or providing other details that would identify the subject, complainant, or witnesses.

When a violation of either the H-07 policy or the H-13 policy is identified and proven through the EEO investigation process, or when other inappropriate conduct, including as defined in SB 480, is identified, that matter is referred to Employee Relations within Human Resources to coordinate with management for corrective action. Tools available include the ability to require the offending employee to complete a 90-day corrective action plan, to issue discipline (up to and including discharge depending on the circumstances), or require various forms of training or retraining. If discipline is imposed by management, the offending employee is also afforded the due process right to challenge the proposed action.

Various Administrative Code sections also address “inappropriate conduct” as defined in the bill and other EEO matters. Potential violations by employees are reported to and investigated through Metropolitan’s EEO program. Potential violations by directors can be reported to Metropolitan’s Ethics Officer or the Board Chair.

Also, lastly, Metropolitan’s memoranda of understanding (MOUs) with its four bargaining units, as well as Metropolitan’s Administrative Code Section 6219, specify various forms of misconduct that currently include “inappropriate conduct” as defined in SB 480. All of Metropolitan’s represented employees are covered by one of the MOUs, and Metropolitan’s small number of unrepresented employees are covered by Administrative Code Section 6219.

SB 480 requires that the rules relating to “inappropriate conduct” apply to board members, officers, and employees. In general, Metropolitan officials and employees are divided into three categories: directors, officers, and employees. The Board of Directors is responsible for identifying the objectives and performance expectations for the principal officers of the organization (the General Manager, General Counsel, Auditor, and Ethics Officer). The principal officers, or department heads, are in turn responsible for setting forth the performance expectations of employees within their respective departments. As a public agency, Metropolitan employees are public employees and are afforded due process rights in the event corrective action is sought against them. In cases where serious discipline is implicated (such as a long-term suspension, demotion, or termination), employees are generally afforded the right to an evidentiary administrative appeal hearing before a neutral third-party hearing officer. The hearing officer may reverse Metropolitan’s discipline decision. The hearing officer’s decision is then subject to challenge through a writ petition in superior court, which in turn can also be appealed through the California court system.

The pertinent Metropolitan operating policies and Administrative Code sections are collectively attached in **Attachment 2**.

Conclusion

Metropolitan’s existing rules and policies prohibit unlawful discrimination, harassment, retaliation, and other misconduct. SB 480 would amend Metropolitan’s Act to require Metropolitan to adopt rules prohibiting inappropriate conduct as defined in the bill, which existing Metropolitan policy and the law already prohibit. However, the bill’s requirement for Metropolitan’s Ethics Office to adopt these rules for the Board’s approval, provide education, and investigate complaints relating to the rules, would differ from Metropolitan’s current framework in which the Human Resources group is generally responsible for these matters. The bill’s requirement for the Ethics Office to make available to the public the investigation results, and to propose a schedule of penalties for EEO rules violations for the Board’s approval, would also differ from current practice.

Metropolitan’s Board of Directors authorized Metropolitan’s Ethics Officer in November 2020 to enter a contract with the Shaw Law Group to conduct an independent and thorough review of allegations of systemic equal employment opportunity-related discrimination, harassment, retaliation, and related concerns and current policies and procedures as described above.

Metropolitan is committed to the review and improvement of its EEO policies and procedures. Staff will work with the author’s office and keep them apprised of the progress of the review and any related actions taken by the Board.

Policy

Metropolitan Water District Administrative Code Section 4513: Equal Opportunity Requirements

Metropolitan Water District Administrative Code Section 6219: Disciplinary Actions

Metropolitan Water District Administrative Code Section 6300: Statement of Equal Employment Opportunity Policy

Metropolitan Water District Administrative Code Section 6301: Good Faith Efforts Required

Metropolitan Water District Administrative Code Section 6302: General Manager’s Responsibility to Implement Affirmative Action Program

Metropolitan Water District Administrative Code Section 6303: Objectives of Affirmative Action Program

Metropolitan Water District Administrative Code Section 6304: General Manager’s Report on Equal Employment Opportunity Policy and Affirmative Action Program

Metropolitan Water District Administrative Code Section 7110: Protection of “Whistleblowers”

Metropolitan Water District Administrative Code Section 7111: Nondiscrimination and Harassment

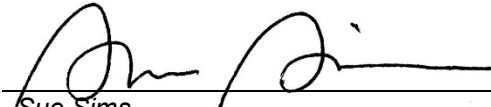
Metropolitan Water District Administrative Code Section 7140: Violation of Ethics Provisions

Metropolitan Water District Administrative Code Section 8161: Nondiscrimination Practices in District Contracts

Metropolitan Water District Operating Policy H-03: Ethics Policy

Metropolitan Water District Operating Policy H-07: Equal Employment Opportunity

Metropolitan Water District Operating Policy H-13: Sexual Harassment Prohibition Policy


Sue Sims
External Affairs Manager

4/7/2021
Date



4/8/2021
Date

Attachment 1 – SB 480, as amended March 15, 2021

Attachment 2 – Pertinent Metropolitan Operating Policies and Administrative Code Sections

Ref# ea12680235

Attachment 1 – SB 480, as amended March 15, 2021

AMENDED IN SENATE MARCH 15, 2021

AMENDED IN SENATE MARCH 10, 2021

SENATE BILL**No. 480****Introduced by Senator Stern**

February 17, 2021

~~An act to add Section 1798.138 to the Civil Code, relating to platform companies.~~ *An act to amend Section 126.7 of, and to add Section 14 to, the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), relating to water.*

LEGISLATIVE COUNSEL'S DIGEST

SB 480, as amended, Stern. ~~Platform companies: content management: negative externalities: report.~~ *Metropolitan Water District of Southern California: rules: inappropriate conduct.*

The Metropolitan Water District Act provides for the creation of metropolitan water districts and specifies the powers and purposes of a district. The act requires the Metropolitan Water District of Southern California to establish and operate an Office of Ethics and adopt rules relating to internal disclosure, lobbying, conflicts of interest, contracts, campaign contributions, and ethics for application to its board members, officers, and employees.

This bill would require the Metropolitan Water District of Southern California to adopt rules relating to inappropriate conduct, as defined, by board members, officers, and employees. By imposing an additional requirement on the Metropolitan Water District of Southern California, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law, the California Consumer Privacy Act of 2018 (CCPA), grants a consumer various rights with respect to personal information, as defined, that is collected or sold by a business, as defined, and also establishes, as approved by the voters as Proposition 24 at the November 3, 2020, statewide general election, the California Privacy Protection Agency and vests it with full administrative power, authority, and jurisdiction to implement and enforce the CCPA.~~

~~This bill would require a platform company, as described, to report annually to the Department of Justice by April 1 of each year prescribed information relating to content management and the negative externalities associated with the platform company's business activities. The bill would require the platform company to also report that information to the Legislature and the agency.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14 is added to the Metropolitan Water
- 2 District Act (Chapter 209 of the Statutes of 1969), to read:
- 3 Sec. 14. "Inappropriate conduct" means any conduct toward
- 4 others that is physical, verbal, or visual based on or because of
- 5 sex, gender, gender identity or expression, race, color, ancestry,
- 6 religious creed, national origin, age for 40 years of age and over,
- 7 physical or mental disability, sexual orientation, marital status,
- 8 military or veteran status, medical condition, genetic information,
- 9 or any other characteristic protected by state or federal
- 10 employment law when the conduct reasonably would be considered
- 11 inappropriate for the workplace.
- 12 SEC. 2. Section 126.7 of the Metropolitan Water District Act
- 13 (Chapter 209 of the Statutes of 1969), as added by Section 2 of
- 14 Chapter 415 of the Statutes of 1999, is amended to read:
- 15 Sec. 126.7. (a) The Metropolitan Water District of Southern
- 16 California shall establish and operate an Office of Ethics and ~~adopt~~
- 17 do both of the following:

3

1 (1) *Adopt* rules relating to internal disclosure, lobbying, conflicts
2 of interest, contracts, campaign contributions, and ethics for
3 application to its board members, officers, and employees
4 consistent with the intent and spirit of the laws and regulations of
5 the Los Angeles City Ethics Commission, the Fair Political
6 Practices Commission, and the Los Angeles County Metropolitan
7 Transportation Authority.

8 (2) *Adopt rules relating to inappropriate conduct by board*
9 *members, officers, and employees.*

10 (b) The rules described in *paragraph (1) of subdivision (a)* shall
11 address, and seek to avoid potential ethical abuses relating to, all
12 of the following matters:

13 (1) The direct and indirect business relationships between board
14 members, contractors, and vendors, and between board members
15 and officers or employees of member public agencies.

16 (2) The solicitation of campaign contributions by board
17 members, officers, or employees and the receipt of contributions
18 from bidders, contractors, or subcontractors.

19 (3) Public notice and approval procedures for contracts of fifty
20 thousand dollars (\$50,000) or more.

21 (c) (1) The office shall operate as an independent entity that is
22 not subject to political influence and shall be staffed with
23 professional, qualified persons.

24 (2) The office shall adopt the rules described in subdivision (a)
25 for approval by the board, educate the board, staff, contractors,
26 and subcontractors concerning those rules, and shall investigate
27 complaints concerning the violation of those rules.

28 (3) The office shall adopt procedures for protecting the
29 confidentiality of sources, the job security of “whistle blowers,”
30 and the due process rights of the accused.

31 (d) Subject to paragraph (3) of subdivision (c), the office shall
32 make available to the public the results of the investigations that
33 it undertakes.

34 (e) The office shall propose, and the board shall adopt, a
35 schedule of penalties for violations of the rules described in
36 subdivision (a) by board members, officers, staff, or contractors.

37 (f) For any association of individuals or entities that includes
38 board members, officers, or employees of the Metropolitan Water
39 District of Southern California or of a member public agency of
40 that district that is known by a name other than the Metropolitan

1 Water District of Southern California or the name of a member
2 public agency of the district, the rules of ethics shall prohibit any
3 association structure or identification that is likely to mislead the
4 public as to the association's true identity, its source of funding,
5 or its purpose.

6 (g) Nothing in this section prohibits the Metropolitan Water
7 District of Southern California, a member public agency of that
8 district, or a board member, officer, or employee of the
9 Metropolitan Water District of Southern California or of a member
10 public agency of the district, from participating in, or providing
11 funding in a clearly identifiable way for, an association formed
12 for the purpose of undertaking legitimate activities, including, but
13 not limited to, advocating on behalf of that association before a
14 local agency, the Legislature, or the United States Congress.

15 *SEC. 3. No reimbursement is required by this act pursuant to*
16 *Section 6 of Article XIII B of the California Constitution because*
17 *a local agency or school district has the authority to levy service*
18 *charges, fees, or assessments sufficient to pay for the program or*
19 *level of service mandated by this act, within the meaning of Section*
20 *17556 of the Government Code.*

21 ~~SECTION 1. It is the intent of the Legislature for major social~~
22 ~~media platforms to account for, and mitigate, negative externalities~~
23 ~~from their business activities on the public health, democratic~~
24 ~~security, mental health, violence, extremism, and other impacts~~
25 ~~on the people of California.~~

26 ~~SEC. 2. Section 1798.138 is added to the Civil Code, to read:~~

27 ~~1798.138. (a) As used in this section, "platform" means any~~
28 ~~internet website or electronic or digital networking service or~~
29 ~~account that provides for the posting, display, or exchange of~~
30 ~~information, including, but not limited to, social media internet~~
31 ~~websites or other internet websites featuring videos or still~~
32 ~~photographs, blogs, video blogs, podcasts, instant and text~~
33 ~~messages, email, online services or accounts, or internet website~~
34 ~~profiles or locations.~~

35 ~~(b) A platform company that, in combination with each~~
36 ~~subsidiary and affiliate of the service, has 25,000,000 or more~~
37 ~~unique monthly visitors or users for a majority of the preceding~~
38 ~~12 months, shall report to the Department of Justice by April 1,~~
39 ~~2022, and by that date each year thereafter, the following~~
40 ~~information:~~

5

- 1 ~~(1) The amount of money, labor hours, and other efforts~~
2 ~~expended to prevent, mitigate the effects of, and remove potentially~~
3 ~~harmful content.~~
- 4 ~~(2) Any internal accounting of the negative externalities~~
5 ~~associated with the platform company's business activities.~~
- 6 ~~(3) Quantified statistics on how much content is being reviewed,~~
7 ~~how much content is targeted for removal, and how much content~~
8 ~~is actually removed due to breach of terms-of-service agreement~~
9 ~~issues or other issues.~~
- 10 ~~(4) The categories the platform places content into that the~~
11 ~~platform targets for removal and the corresponding number of~~
12 ~~postings that fall into each category.~~
- 13 ~~(e) A platform company shall also report the information~~
14 ~~required by subdivision (b) to the Legislature and the California~~
15 ~~Privacy Protection Agency.~~

Attachment 2 – Pertinent Metropolitan Operating Policies and Administrative Code Sections**Appendix A: Relevant Metropolitan Administrative Codes and Operating Policies****Metropolitan Water District Administrative Code**

1. Section 4513: Equal Opportunity Requirements
2. Section 6219: Disciplinary Actions
3. Section 6300: Statement of Equal Employment Opportunity Policy
4. Section 6301: Good Faith Efforts Required
5. Section 6302: General Manager's Responsibility to Implement Affirmative Action Program
6. Section 6303: Objectives of Affirmative Action Program
7. Section 6304: General Manager's Report on Equal Employment Opportunity Policy and Affirmative Action Program
8. Section 7110: Protection of "Whistleblowers"
9. Section 7111: Nondiscrimination and Harassment
10. Section 7140: Violation of Ethics Provisions
11. Section 8161: Nondiscrimination Practices in District Contracts

Metropolitan Water District Operating Policy

1. H-03: Ethics Policy
2. H-07: Equal Employment Opportunity
3. H-13: Sexual Harassment Prohibition Policy

§ 4513. Equal Opportunity Requirements.

Pursuant to contract between agencies of the United States and the District, any delivery of water by the District to a member public agency shall be subject to the following provisions. For the purposes of these provisions only, the member public agency is therein referred to as "Contractor."

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Contracting Officer setting forth the provisions of this nondiscrimination clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without discrimination because of race, color, religion, sex, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Federal Contracting Officer, advising said labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by said amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Federal Contracting Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Federal Government contracts in accordance with procedures authorized in said amended Executive Order, and such other sanctions may be imposed and remedies invoked as provided in said amended Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

M.I. 36781 - August 18, 1987.

§ 6219. Disciplinary Actions.

(a) Disciplinary actions should be designed to fit the problem and may include warning, demotion, suspension, reduction in pay, discharge, or other appropriate action. The particular action imposed shall depend on the severity of the misconduct and the particular factual circumstances involved.

(b) Misconduct that may result in disciplinary action, up to and including discharge includes, but is not limited to, the following examples:

A. Insubordination, including: (a) refusal to follow a work order; (b) insulting or demeaning the authority of a supervisor or manager; or, (c) foul or abusive language directed at a supervisor or manager

B. Intentional or negligent conduct that damages District property or the property of another employee, a customer, a vendor, or a visitor

Note: property includes, but is not limited to, records, supplies, materials, equipment, land or facilities

C. Intentional or negligent misuse of District property, or the property of another employee, a customer, a vendor, or a visitor

D. Removing from the premises without authorization, the property of the District, a District employee, customer, vendor, or visitor

E. Theft

F. Fighting or provoking a fight on District time or property

G. Engaging in horseplay or other action that endangers District property or disrupts work

H. Harassing, threatening, intimidating, or coercing any other employee, customer or visitor, including any violation of District Harassment Policy

I. Violation of District's Equal Employment Opportunity Policy

J. Failure to work cooperatively with others

- K. Bringing or possessing weapons or any other dangerous device onto District property without authorization
 - L. Violation of the District's Alcohol and Controlled Substance Policy and Testing Program or the Drug Free Workplace Section in the applicable MOU
 - M. Disregarding any safety, fire prevention or security rule or practice, or engaging in activity that creates a safety, fire, or security hazard
 - N. Smoking in restricted areas or where "No Smoking" signs are posted or otherwise violating District's "No Smoking" Policy
 - O. Sleeping during work time
 - P. Failing to report a work-related accident or injury immediately
 - Q. Soliciting or accepting reimbursement or gratuities for services from customers or any other person during working hours or while on District premises
 - R. Unauthorized vending, solicitation or sales of goods or services from customers or any other person during working hours or while on District premises
 - S. Entering an unauthorized area at any time
 - T. Excessive tardiness or unscheduled absenteeism for any reason whether or not reported
 - U. Failing to notify one's supervisor of absence and the reason for absence prior to the start of a shift
 - V. Leaving District premises or one's assigned work area during working hours without permission
 - W. Failure to abide by lunch or break periods or working unauthorized overtime
 - X. Failing to meet acceptable performance standards
 - Y. Recording another employee's time
 - Z. Submitting an employment application containing false or misleading information
 - AA. Falsifying or destroying any District records, including, but not limited to, any timekeeping records or customer records
 - BB. Failure to perform assigned duties
 - CC. Unauthorized dissemination of proprietary information
 - DD. Unauthorized dissemination of employee records or files
 - EE. Conviction of a felony or conviction of a misdemeanor involving moral turpitude which relates to the employee's ability to perform the duties of his position. For purposes of these rules, a plea of "nolo contendere" or "no contest" will constitute conviction
 - FF. Refusing to take or subscribe to any oath or affirmation which is required by law in connection with employment
 - GG. Failing to obtain or maintain any required license, registration, certifications, or permit
 - HH. Incompetency
 - II. Dishonesty
 - JJ. Abuse of sick leave
 - KK. Violation of properly adopted rules and regulations set forth in writing by the employee's department/group
 - LL. Performance of non-District work on work time
 - MM. Any other misconduct which affects the work environment or the quality customer relations or any other violation of established District policy
- M.I. 42500 - July 8, 1997; paragraph KK amended by M. I. 45943 – October 12, 2004.

§ 6300. Statement of Equal Employment Opportunity Policy.

The policy of the District is one of equal employment opportunity for any employee or applicant for employment. The District will not unlawfully discriminate when taking any employment action or making employment decisions, including basing decisions on race, sex (gender or pregnancy), creed, national

origin, color, disability (physical or mental), protected veteran status, religion, age, medical condition, genetic information, marital status, ancestry, sexual orientation, or other characteristic protected by law. Res. 7606 - September 17, 1974; Section 351.1 amended by M.I. 34148 - March 9, 1982; amended by M.I. 35592 - April 9, 1985. Section 351.1 repealed and Section 6300 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; amended by M.I. 40171 - April 13, 1993; amended by M.I. 48202 - March 9, 2010.

§ 6301. Good Faith Efforts Required.

The Board recognizes that the mere prohibition of unlawful discriminatory practices will not assure equal opportunity in employment and therefore directs that good faith efforts be undertaken to assure that equal treatment is accorded all applicants and employees in all matters affecting employment, including but not limited to, recruitment, selection, transfer, promotion, discipline, demotion, discharge, training, and benefits.

Res. 7606 - September 17, 1974; Section 351.2 amended by M.I. 34148 - March 9, 1982. Section 351.2 repealed and Section 6301 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

§ 6302. General Manager's Responsibility to Implement Affirmative Action Program.

The General Manager shall establish, direct, and monitor a detailed program implementing the affirmative action laws that are applicable to the District, and shall take appropriate steps to cause all personnel within this organization to abide by and affirmatively support said program.

Res. 7606 - September 17, 1974. Section 351.3 repealed and Section 6302 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; amended by M.I. 48202 - March 9, 2010.

§ 6303. Objectives of Affirmative Action Program.

The detailed affirmative action program to be developed by the General Manager shall provide, through an affirmative action plan, for attainment and maintenance, within a reasonable time frame to be established by the program, of the following minimum objectives:

- (a) To ensure equal employment opportunity to individuals covered by affirmative action laws applicable to the District.
- (b) To eliminate non-job-related barriers in the terms, conditions, and privileges of employment and to ensure equal consideration of all qualified applicants and employees without regard to characteristics protected by affirmative action laws applicable to the District, except as permitted by law.
- (c) To analyze employment data to ensure compliance with any equal employment opportunity and affirmative action requirements imposed by law.
- (d) To disseminate information on equal employment opportunity and affirmative action to all District personnel.
- (e) To review District personnel practices, including but not limited to recruitment, selection, classification, training, promotion, and career development to ensure equal access is provided to qualified applicants and employees covered by affirmative action laws applicable to the District, without unlawful discrimination.
- (f) To promptly resolve questions or complaints arising from this program.

Res. 7606 - September 17, 1974; Section 351.4 amended by M.I. 34148 - March 9, 1982. Section 351.4 repealed and Section 6303 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; paragraphs (a) and (b) amended, paragraphs (c) deleted, former paragraphs (d) – (g) renumbered to paragraphs (c) – (f) by M.I. 48202 – March 9, 2010.

§ 6304. General Manager's Report on Equal Employment Opportunity Policy and Affirmative Action Program.

Annually, the General Manager shall report to the Organization, Personnel and Technology Committee on the status of the equal employment opportunity policy and affirmative action program.

Res. 7606 - September 17, 1974; Section 351.5 amended by M.I. 34148 - March 9, 1982. Section 351.5 repealed and Section 6304 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; amended by M. I. 44582 – August 20, 2001; amended by M. I. 46064 – January 11, 2005; amended by M.I. 46983 - February 13, 2007; amended by M.I. 48081 – November 10, 2009, Section title and paragraph amended by M.I. 48202 – March 9, 2010; paragraph amended by M.I. 48800 – September 13, 2011.

§ 7110. Protection of “Whistleblowers.”

(a) No Board member, officer, or employee shall use or threaten to use any official authority or influence to discourage, restrain or interfere with any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the Office of Ethics, other appropriate agency, Metropolitan office or department any information which, if true, would constitute: a work-related violation by a Metropolitan Board member, officer, or employee of any law or regulation, gross waste of agency funds, gross abuse of authority, a specified and substantial danger to public health or safety due to an act or omission of a Metropolitan official or employee, use of a Metropolitan office or position or of Metropolitan resources for personal gain, or a conflict of interest of a Metropolitan Board member, officer, or employee.

(b) No Board member, officer, or employee shall use or threaten to use any official authority or influence to effect any action as a reprisal against a Metropolitan Board member, officer, or employee who reports or otherwise brings to the attention of the Office of Ethics or other appropriate agency, Metropolitan office or department any information regarding the subjects described in Paragraph (a) of this Section.

(c) Any person who believes that he or she has been subjected to any action prohibited by this section may file a confidential complaint with the Office of Ethics. The Office of Ethics shall thereupon investigate the complaint. Upon the conclusion of its investigation, the Office of Ethics shall take appropriate action as otherwise provided by Metropolitan’s ethics rules and procedures.

(d) In the event the Office of Ethics has a conflict of interest in an investigation of the retaliation complaint, the General Manager shall refer the investigation of the retaliation complaint to the Equal Employment Opportunities Office and the Office of the General Counsel, which shall take appropriate action as otherwise provided under Metropolitan rules and procedures and applicable law.

Adopted by M. I. 43915 - March 14, 2000; former Sec. 7110 - Opinions of the General Counsel renumbered 7113 and amended, and former Sec. 7312 renumbered to new Sec. 7110 and amended by M. I. 46109 – February 8, 2005.

§ 7111. Nondiscrimination and Harassment.

Board members, officers, and employees shall not, in the performance of their official functions, discriminate against any person on the basis of race, religion, color, creed, age, marital status, national origin, ancestry, sex (gender or pregnancy), sexual orientation, medical condition, genetic information, disability (physical or mental), protected veteran status, or other characteristic protected by law and they shall cooperate in achieving the equal opportunity and affirmative action goals and objectives of Metropolitan. Metropolitan Board members, officers, employees, and guests have the right to participate in official Metropolitan functions in an environment free from all forms of discrimination and

conduct which can be considered harassing, coercive, or disruptive. Harassment based on any characteristic protected by law will not be sanctioned nor tolerated. Reports of harassment are taken seriously, and appropriate action will be taken against individuals found to have engaged in harassing conduct. The prohibition against discrimination and harassment applies to all transactions of Metropolitan's business, whether at a Metropolitan-operated facility or an external site. Allegations regarding officer or employee conduct in violation of this section shall be reported to Metropolitan's Equal Employment Opportunity Investigations Staff. Allegations regarding director conduct in violation of this section shall be reported to the Ethics Officer or Board Chair.

M.I. 41598 - October 10, 1995; Section renumbered and amended by M.I. 43915 - March 14, 2000; former Sec. 7313 renumbered 7111 by M. I. 46109 – February 8, 2005; Section amended by M.I. 47889 - May 12, 2009; paragraph amended by M.I. 48202 – March 9, 2010; amended by M.I. 50155 - June 9, 2015.

§ 7140. Violation of Ethics Provisions

(a) When the Ethics Officer concludes, with the advice of General Counsel, that a preponderance of evidence exists that indicates that a member of the Board is in non-compliance with state law, the matter will be referred to the Fair Political Practices Commission, Attorney General, or District Attorney, as applicable, with notice of the referral provided to the Audit and Ethics Committee, director and the appointing member agency at the time of the referral. When the Ethics Officer concludes, after investigation, with the advice of General Counsel, that preponderance of evidence exists that indicates that a member of the Board is in non-compliance with the ethics provisions contained in the Administrative Code, the matter will be referred to a designated subcommittee of the Audit and Ethics Committee, with prompt notice to the Board member. A director shall not participate in the selection of, or as a member of this designated subcommittee with regard to any matters in which the director is a subject of the investigation. This subcommittee shall make a recommendation to the Executive Committee for appropriate action, which can include, but is not limited to: (1) find that the complaint was unsubstantiated or substantiated; (2) public or private censure by the Executive Committee with or without a copy of the letter to the appointing agency; (3) temporary or permanent removal of the Board member from one or more Board committees; (4) request to the appointing agency for replacement of the Board member; or (5) any other sanction determined by the Executive Committee to be appropriate and reasonable based upon the nature of the violation. All sanctions are subject to review of General Counsel for legal compliance. The Chair will be responsible for carrying out the determination of the Executive Committee. For the purposes of this section, "preponderance of evidence" means that the evidence indicates it is more likely than not that a violation has occurred.

(b) The Ethics Officer, prior to making findings on the investigation of a complaint, shall notify the Director, officer, or employee of the investigation and provide him or her with an opportunity to submit any material he or she would like the Ethics Officer to review and to meet with the Ethics Officer.

(c) Any Director, including one who has brought a concern to the Ethics Office, who is dissatisfied with a determination by the Ethics Officer that no violation or non-compliance occurred, may appeal to the Executive Committee for further review.

(d) Violations of the ethics provisions contained in the Administrative Code by officers or employees will be handled through existing disciplinary procedures. Findings from the Ethics Officer will be referred to the appropriate Department Head for further action. An officer or employee who is subject to a finding of non-compliance with the ethics provisions contained in the Administrative Code may challenge such determination pursuant to Section 6218(b) and (c) of the Administrative Code or the applicable memorandum of understanding.

(e) The Ethics Officer shall review and summarize all ethics complaints in a monthly report to the Board of Directors. The General Counsel shall receive a copy of all findings, reports and actions concerning complaints.

M.I. 41598 - October 10, 1995; Section renumbered and amended by M.I. 43915 - March 14, 2000; paragraphs (a), (b), and (c) added and paragraph (d) amended by M. I. 45990 – November 9, 2004; former Sec. 7315 renumbered 7140 and amended by M. I. 46109 – February 8, 2005; paragraph (d) amended by M. I. 47286 - November 20, 2007; paragraphs (a-d) amended by M.I. 47889 - May 12, 2009; paragraph (a) amended, new paragraph (b) added, former paragraph (b) deleted, paragraph (c) and (d) amended, paragraph (e) added by M.I. 48081 – November 10, 2009; amended paragraph (a) by M.I. 49648 - January 14, 2014.

§ 8161. Non-Discrimination Practices in District Contracts.

The General Manager is authorized to adopt a program to promote equal employment opportunities and non-discrimination practices in all District contracts involving an estimated cost exceeding \$25,000. [FORMER §8107.] Section 451.6 - M.I. 30757 - March 11, 1975; renumbered Section 451.22 by M.I. 32690 - April 10, 1979; renumbered Section 451.21 - June 3, 1985. Section 451.21 repealed and Section 8107 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; amended by M. I. 44582 – August 20, 2001; Former §8107 renumbered §8161 by M.I. 46371 - September 13, 2005.

OPERATING POLICIES

H-03 Ethics Policy

Issued: 3/25/98 Revised: 4/27/09

SUMMARY This operating policy establishes ethical policies that arise from the employment relationship and apply solely to officers and employees. Additional ethics policies of the Metropolitan Water District of Southern California applicable to Board members, officers and employees are set forth in Division VI, Chapter 3, and Division VII, Chapter 1, of Metropolitan's Administrative Code. In addition, Metropolitan's ethical policies are supplemental to State requirements with which Board members, officers, and employees must comply.

SUPERSESSON This Operating Policy supersedes Operating Policy H-03, dated March 25, 1998, and revised August 17, 2004; April 25, 2006; and May 8, 2008.

AUTHORITY The Ethics Officer is authorized to define Metropolitan's ethics policies for employees pursuant to guidance from the General Manager, General Counsel, and the Office of the Auditor.

POLICIES

Conflict of Interest- Employment Opportunities

1. Unless prior approval is obtained from the applicable Department Head or his or her designee, no Metropolitan employee shall apply for or accept employment with any person, firm, vendor, contractor, consultant or organization while that person, firm, vendor, contractor, consultant or organization is engaged in negotiations with Metropolitan concerning a matter within the employee's areas of responsibility or upon which the employee must act or make a recommendation. Employees are also prohibited from recommending the employment of a relative to any person, firm, vendor, contractor, consultant or organization known by the

- employee to be dealing with Metropolitan concerning matters within the employee's areas of responsibility or upon which the employee must act or make a recommendation.
2. Metropolitan may contract with, or award a grant to, an immediate relative of an officer or employee, or an organization in which the officer, employee, or immediate relative has a financial interest as defined by the Political Reform Act, only if all of the following conditions are satisfied:
 - a. The Metropolitan officer or employee has not participated in the making or in any way attempted to use his or her position to influence the making of the contract or the award.
 - b. The contract or grant is awarded pursuant to established procedures.
 - c. The Metropolitan officer or employee will not participate in the administration of the contract or grant.

Outside Work and Educational Activities

3. A Metropolitan employee must disclose outside activities, including professional or consulting services, to his or her immediate supervisor if the performance of such work activities interferes with the employee's ability to perform his or her normal Metropolitan duties or if the outside work activities create a conflict of interest. Under no circumstances will a Metropolitan employee enter into an employment or consulting agreement, or perform services for any vendor, landowner, or consulting firm that is under contract with Metropolitan, that has done business with Metropolitan within the preceding twelve months, or that is reasonably expected to do so in the foreseeable future. In addition, under no circumstances will a Metropolitan employee enter into an employment or paid consulting agreement that involves advising Metropolitan's member agencies, or any other governmental agency, special district, or other entity on matters with which the employee would consult in the course of his or her regular duties while employed by Metropolitan.
4. Employees participating in outside work activities must comply with the following guidelines:
 - a. The outside work activities for which the employee will be compensated must be performed on the employee's own time.
 - b. The performance of the outside work activities shall not give rise to a real or apparent conflict with Metropolitan's interests.
 - c. The performance of outside work activities shall not affect the employee's efficiency and job performance for Metropolitan.
 - d. The performance of outside work activities may not bring discredit to or reasonably cause unfavorable criticism of Metropolitan or impair public confidence in Metropolitan's integrity.
5. Employees who are simultaneously engaged in learning activities, including but not limited to undergraduate or graduate level courses for credit, professional development workshops (aside from those offered through Metropolitan), or other professional or personal seminars or classes, shall complete those learning activities, including research or homework, outside of Metropolitan work time.
6. Employees shall not use their relationship with Metropolitan to provide special access to Metropolitan facilities, resources or materials. All research for external learning activities involving questions or surveys for directors, officers, or staff must be approved by the Ethics Office and General Manager's Office. This does not apply to requests for information in the ordinary course of business. Material submitted for approval must contain the name and contact information for the teacher or facilitator, intended outcome, audience for intended outcome, and due date. All copies of any written questionnaire must carry a stamp indicating approval. Any resulting paper, project, or presentation must be put on file in the Ethics Office no later than one month after its completion.

Nepotism

7. No person shall be appointed, assigned or promoted to a position in Metropolitan whenever such person's relative already holds a Metropolitan position (either as an employee or Board member) and whenever such appointment, assignment, or promotion would result in any of the following:
 - a. Direct supervision of an employee by a related employee.
 - b. Related employees having the same immediate supervisor.
 - c. Related employees working in the same department, group or facility, where such placement has the potential for creating an adverse impact on supervision, safety, or morale, or where such placement creates potential conflicts of interests or hazards greater for relatives than for other persons.
8. A performance evaluation or an audit shall not be performed, prepared, or approved by any individual who is related to the employee whose job performance is being evaluated or audited. A recommendation for employment or promotion to a position in Metropolitan, or in a member agency, shall not be provided by any Metropolitan employee who is related to the applicant or promotional candidate unless authorized by the Group Manager and the Assistant General Manager/Chief Operating Officer.
9. In compliance with 7.a above, the affected Department Head will change job assignments as necessary if the placement of related employees creates a potential adverse impact on supervision, safety, or morale.
10. For purposes of this Operating Policy, "relative(s)" or "related employee" shall mean a spouse, domestic partner, child, parent, parent-in-law, child-in-law, brother, sister, stepparent, stepchild, grandparent or grandchild of a Metropolitan employee. "Direct supervision" means directing, monitoring, or evaluating an employee by another employee having authority to hire, assign, transfer, promote, demote, suspend, discharge, reward, audit, or discipline such employee, or having responsibility to direct him or her or adjust his or her grievances, or effectively recommend such action, when the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment. However, "direct supervision" shall not extend to persons who are more than two supervisory levels higher in Metropolitan's organization than the employee being supervised.

Personal Relationships

11. Romantic or sexual relationships between staff members where one individual has control over the other's conditions of employment may be problematic for the parties to the relationship as well as for others who are supervised by one of the parties to the relationship. Therefore
 - The supervisor or staff member who has control over the other's conditions of employment is required to disclose his/her relationship to his/her direct supervisor.
 - The other staff member involved in the relationship is encouraged to disclose the relationship to either the next level of management or to Employee Relations.
12. Actions taken by the Department Head may include, but are not limited to, transfer or a change in reporting structure. If staff, whether or not involved in the relationship, believe they have been, or are being adversely affected, they are encouraged to contact Employee Relations or the Equal Employment Opportunity (EEO) Office.

Involvement in Community or Political Activities

13. Metropolitan's policy in general is noninterference with employee involvement in community or political activities outside of work. However, such activities may not: (a) create any conflict of interest with the employee's Metropolitan employment; or (b) impair or interfere with the

- employee's ability to perform his or her job duties, or (c) disrupt the functioning of his or her work team, unit, section, or group
14. Employees may not use Metropolitan assets, property, equipment, or other resources to engage in community or political activity, unless required as part of Metropolitan job duties or unless the use is incidental and minimal. Such Metropolitan resources include, but are not limited to, computers, e-mail systems, Internet services, telephones, photocopying and fax machines, office supplies, postage, vehicles, office spaces, open spaces, facilities, and field sites owned, leased, or controlled by Metropolitan. Sending e-mails or otherwise using Metropolitan resources to support or oppose a candidate or ballot item, or to solicit campaign contributions for a candidate or ballot item, is not considered an incidental or minimal use and is prohibited.
 15. Generally, employees may not engage in community or political activities during their work hours with Metropolitan, unless required as part of Metropolitan job duties. Employees engaging in such activities outside of work must meet the attendance and performance standards for their respective positions with Metropolitan. Metropolitan holds all employees to the same standards of performance and scheduling demands, and it does not make an exception for those employees whose outside activities interfere with the performance of their job duties.
 16. If an employee wishes to participate in a community or political activity that poses a scheduling conflict or otherwise interferes with his or her employment with Metropolitan, the employee must obtain the written approval of his or her supervisor prior to commencing the outside activity. Where an employee has an existing position or activity outside of Metropolitan that poses a scheduling conflict or otherwise interferes with his or her Metropolitan employment, the employee must promptly advise his or her supervisor of that position or activity and the corresponding scheduling requirements and request approval for time off.
 17. Supervisors are encouraged to work with their employees in accommodating occasional requests for time off due to an employee's involvement in outside community or political activities. Such requests should be treated like other employee requests for time off, and the employees involved should be allowed to adjust work schedules, or take annual leave, personal holidays, compensatory time off, or unpaid leave, as long as the requested time off does not impair or interfere with the performance of job duties or otherwise disrupt the functioning of a particular employee's work team, unit, section, or group. However, the supervisor, in his or her discretion, may deny an employee's request for time off to participate in an activity, including, but not limited to, because the employee is needed at work during the requested time or because the employee's requested time off for this purpose is excessive.
 18. If the outside activity has been approved, but is later determined to impair or interfere, in any way, with the employee's ability to perform any of his or her duties for Metropolitan, the employee may be required to discontinue the outside position as a condition of continued employment. Employees who are allowed to take time off to participate in community or political activity do so with the understanding that personal involvement in such activities is not a legitimate explanation for poor work attendance or substandard job performance.
 19. Metropolitan's accommodation of an employee's community or political activities is not an endorsement of those activities.

Distribution of Ethics Policy for Employees

20. All Metropolitan employees shall receive a copy of this policy and shall acknowledge receipt of this policy in writing as part of new employee orientation and annually thereafter.

RESPONSIBILITIES

The **Ethics Officer** is responsible for developing, implementing and maintaining Metropolitan's ethics policies for employees in accordance with the duties specified in Division VI, Chapter 4, Article 5, of Metropolitan's Administrative Code.

The **General Manager, General Auditor,** and the **General Counsel** are responsible for providing guidance to the Ethics Officer on formulating ethics policies, or revisions thereof, as well as implementation and compliance monitoring issues.

Employees are responsible for complying with Metropolitan's ethics policies in Metropolitan's Administrative Code and in this Operating Policy. Employees will not retaliate in any way against employees who express concern or bring allegations of non-compliance to the attention of the Ethics Office. Employees will not make malicious or fabricated allegations to the Ethics Office. Any employee who makes a malicious or fabricated allegation or who retaliates against an employee who has brought a concern to the attention of the Ethics Office may be subject to disciplinary action pursuant to Metropolitan policy, including any applicable memorandum of understanding.

REFERENCE

- Administrative Code Division VI, Chapter 3, Section 6330, Lobbying
- Administrative Code Division VI, Chapter 4, Article 5, Ethics Officer
- Administrative Code Division VII, Chapter 1, Section 7100 et seq.
- § 7101 Policy
- § 7102 Responsibilities of Public Office
- § 7103 Fair and Equal Treatment
- Administrative Code Division VII, Chapter 1, Section 7100 et seq.
- § 7104 Proper Use and Safeguarding of Metropolitan Property and Resources
- § 7105 Contracts and Grants With Metropolitan
- § 7108 Soliciting Political Contributions
- § 7109 Improper Activities and the Reporting of Such Activities
- § 7110 Protection of "Whistleblowers"
- § 7111 Nondiscrimination and Affirmative Action
- § 7120 Conflict of Interest; Method of Recusal
- § 7130 Gifts; Additional Requirements
- § 7140 Violation of Ethics Policy
- Memoranda of Understanding (MOUs)
- MWD Ethics Office Web site http://www.mwdh2o.com/mwdh2o/pages/ethics/ethics_01.html

H-07 Equal Employment Opportunity

Issued: 4/29/98

Revised: 11/5/12

SUMMARY

The Metropolitan Water District of Southern California maintains:

- Nondiscriminatory employment practices;
- An equal employment opportunity (EEO) program.

The Metropolitan Water District of Southern California:

- Will not tolerate discrimination against an employee or applicant based on a legally protected characteristic, or harassment of an employee, applicant, or contractor based on a legally protected characteristic;
- Will take action to prevent and eliminate such conduct, as required by law.

SUPERSESSON This Operating Policy supersedes Operating Policy H-07 dated April 29, 1998 and revised September 25, 2001, June 2, 2005 and April 29, 2010

AUTHORITY The Metropolitan Water District maintains an equal employment opportunity policy as authorized by federal, state, and local law. The General Manager delegates authority for administering and enforcing Metropolitan's Equal Employment Opportunity Program to the Chief Administrative Officer and the Human Resources Group Manager

DEFINITIONS The definitions for equal employment opportunity and related terms are contained in Administrative Code Sections 6300 and 6305, as revised, and may be obtained from the Equal Employment Opportunity Manager

POLICIES

1. Metropolitan requires a work environment free of discrimination or harassment on the basis of race, sex (gender or pregnancy), creed, national origin, color, disability (physical or mental), protected veteran status, religion, age (40 and above), medical condition, genetic information, marital status, ancestry, sexual orientation, gender identity or expression, or other characteristic protected by law.
2. Metropolitan does not and will not tolerate discrimination against any applicant or employee in opportunities, terms, conditions, or privileges of employment on the basis of any characteristic protected by law, which are listed above. Metropolitan also does not and will not tolerate harassment of any applicant, employee, or contractor on the basis of any characteristic protected by law. Such discrimination and harassment is prohibited by this policy.
3. Discrimination of an applicant or employee, and harassment of an applicant, employee, or contractor, based on a legally protected characteristic is also prohibited by state and federal law. In addition, state and federal law prohibit retaliation against a person for filing a complaint, assisting or participating in an investigation or proceeding, or opposing discrimination or harassment based on a legally protected characteristic
4. Engaging in discrimination or harassment in violation of this policy is conduct subject to disciplinary action, up to and including dismissal.
5. All complaints of discrimination or harassment based on a legally protected characteristic are taken seriously, investigated promptly as appropriate, and appropriate action is taken against individuals found to have engaged in such discrimination or harassment. Metropolitan has established and maintains an internal complaint procedure for processing alleged violations of the EEO Policy.
6. The prohibition against discrimination and harassment based on a legally protected characteristic applies to all transactions of Metropolitan's business, whether at a Metropolitan-operated facility or external site.
7. If an employee or applicant believes that he or she has been subjected to discrimination based on a legally protected characteristic by any Metropolitan employee or representative; or if an employee, applicant, or contractor believes that he or she has been subjected to harassment based on a legally protected characteristic by any Metropolitan employee, consultant or other contractor, vendor, client, or other business contact; the individual should immediately report the incident directly to: (1) the EEO Investigations Staff or the Employee Relations Section Manager, who are responsible for receiving and processing such reports for Metropolitan; (2) the Ethics Office, who is responsible for receiving and processing

reports regarding alleged director misconduct; or, (3) to another manager or supervisor, including but not limited to, the HR Group Manager, another Group Manager, or the Ethics Officer.

8. Metropolitan does not retaliate, nor tolerate retaliation, against employees, applicants, or contractors who, in good faith, make a complaint of discrimination or harassment based on a legally protected characteristic, assist or participate in a related investigation or proceeding, or oppose discrimination or harassment based on a legally protected characteristic. Such retaliation is prohibited by this policy. Any act of such retaliation should be reported immediately to: (1) the EEO Investigations Staff or the Employee Relations Section Manager, who are responsible for receiving and processing such reports for Metropolitan; (2) the Ethics Office, who is responsible for receiving and processing reports regarding alleged director misconduct; or, (3) to another manager or supervisor, including but not limited to, the HR Group Manager, another Group Manager, or the Ethics Officer. Reports will be investigated as appropriate and, where appropriate, corrective action will be taken. Any person who engages in such retaliation is subject to disciplinary action, up to and including dismissal.
9. Complaints made frivolously, in bad faith or without factual basis may be actionable by the respondent. Such complaints may result in disciplinary action, up to and including dismissal.
10. Metropolitan employees will receive a copy of this policy during new employee orientation and review it as part of their mandatory unlawful workplace harassment training.
11. Metropolitan maintains an affirmative action plan and nondiscrimination program in accordance with applicable law.

RESPONSIBILITIES

It is the responsibility of every **District manager** and **supervisor** to:

- Provide employees under his or her direct supervision, applicants, and contractors with a discrimination and harassment-free work environment, which includes not engaging in, condoning or tolerating behavior that could reasonably be considered a violation of this policy and monitoring the work environment of employees for conduct that could violate this policy.
- Enforce the District's EEO Policy and inform employees under his or her direct supervision of the District's EEO Policy, and their right to recourse for activities that may violate the policy.
- Create an environment where employees, applicants, and contractors do not feel intimidated and/or prevented from reporting an incident in violation of this policy.
- Immediately report any conduct that may reasonably violate this policy, or any such allegation to the EEO Investigations Staff. (If appropriate, such conduct may also be reported outside of the Human Resources Group, to the Legal Department and/or Ethics Officer.)
- Cooperate in an investigation related to any complaint of a violation of this policy. Managers and supervisors are prohibited from discussing the complaint outside of the investigative process, unless this is done in connection with performing the manager's or supervisor's job duties, required or permitted by law, or authorized by the Legal Department or other appropriate authority. Failure to cooperate or deliberately providing false or misleading information during an investigation, or discussing the complaint outside the investigative process, may be grounds for disciplinary action, up to and including dismissal.
- Not engage in, condone or tolerate behavior that could reasonably constitute retaliation of an employee, applicant, or contractor for alleging or opposing discrimination or harassment based on a legally protected characteristic, or participating in a related investigation or proceeding.

- Successfully and timely complete unlawful workplace harassment prevention training as mandated and ensure that employees under his or her direct supervision timely and successfully complete such training.

It is the responsibility of **every District employee**, including supervisors and managers, to:

- Be familiar with and understand Metropolitan's EEO policy on maintaining a discrimination and harassment-free work environment, including the procedures for reporting violations of that policy.
- Act in a manner that does not discriminate against or harass other employees, applicants, or contractors based on a legally protected characteristic, or engage in behavior that could reasonably be considered a violation of this policy.
- Understand that a violation of the EEO Policy can result in disciplinary action, up to and including dismissal; and that California law allows an employee to sue another employee for harassment based on a legally protected characteristic.
- Cooperate in an investigation related to any complaint of a violation of this policy. Employees are prohibited from discussing the complaint outside of the investigation process, unless required or permitted by law, or authorized by the Legal Department or other appropriate authority. Failure to cooperate or deliberately providing false or misleading information during an investigation, or discussing the complaint outside of the investigative process, may be grounds for disciplinary action, up to and including dismissal.
- Understand and comply with the objectives of Metropolitan's nondiscrimination policies while performing day-to-day job duties and representing Metropolitan in business transactions.
- Not engage in behavior that could reasonably constitute retaliation of an employee, applicant, or contractor for alleging or opposing discrimination or harassment based on a legally protected characteristic, or participating in a related investigation or proceeding.
- Successfully and timely complete unlawful workplace harassment prevention training as mandated.

It is the responsibility of the **Employee Relations Section Manager** to:

- Supervise the activities of the EEO Investigations Staff.
- Enforce an EEO Policy which prohibits discrimination and harassment based on a legally protected characteristic.
- Maintain an internal complaint procedure for processing and investigating alleged violations of the EEO Policy.
- Receive and process internal complaints alleging a violation of this policy, and ensure that complaints are investigated as appropriate, promptly, thoroughly and impartially.
- Ensure that Metropolitan takes immediate and appropriate corrective action when it is determined that a violation of this policy has occurred.

It is the responsibility of the **Ethics Office** to:

- Coordinate with the EEO Investigations Staff or the Employee Relations Section Manager concerning allegations and complaints of discrimination or harassment received by the Ethics Office, including immediately reporting any conduct that may reasonably violate this policy to the EEO Investigations Staff or Employee Relations Section Manager. (If appropriate, such conduct may be reported outside of the Human Resources Group to the Legal Department.)

It is the responsibility of the **Equal Employment Opportunity Manager** to:

- Establish and maintain an EEO Policy which prohibits discrimination and harassment based on a legally protected characteristic.
- Provide unlawful workplace harassment training to all employees.
- With the Legal Department and in compliance with the Administrative Code, receive and respond to EEO related charges filed with state or federal agencies.
- Establish and maintain an affirmative action plan and nondiscrimination program in accordance with applicable law.

REFERENCES

- [Administrative Code Sections 6219, 6300—6305, 7111](#)
- Operating Policy [H-03](#) and [H-13](#)
- Affirmative Action Plan for Covered Veterans and Persons with Disabilities
- Equal Employment Opportunity Policy Statement
- Nondiscrimination Program
- Applicable executive orders, federal, state, and local laws, statutes, and regulations
- [Discrimination Complaint Procedures](#)
- Applicable Metropolitan Board directives and policies
- Memoranda of Understanding

H-13 Sexual Harassment Prohibition Policy

Issued:5/8/08

Revised: 5/3/13

SUMMARY

The Metropolitan Water District of Southern California:

- Will not tolerate inappropriate conduct of a sexual nature in any form in the workplace or in any transaction of Metropolitan's business;
- Will take action to prevent and eliminate such conduct, as required by law.

SUPERSESSION This Operating Policy supersedes Operating Policy H-13 dated May 8, 2008 and November 5, 2012

AUTHORITY The Metropolitan Water District maintains a sexual harassment prohibition policy as authorized by federal and state laws, statutes, or regulations. The General Manager delegates authority for administering and enforcing Metropolitan's Equal Employment Opportunity Program to the Chief Administrative Officer and the Human Resources Group Manager.

DEFINITIONS

Sexual harassment – for purposes of this policy, inappropriate conduct of a sexual nature toward an employee, applicant, or contractor, is referred to as "sexual harassment" and is prohibited by this policy.

Sexual harassment of an employee, applicant, or contractor is also prohibited by state and federal law. Sexual harassment is an unlawful employment practice which impacts morale, motivation and job performance.

Sexual harassment is defined by the Equal Employment Opportunity Commission (EEOC) as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment, or
- Submission to or rejection of the conduct by an individual is used as a basis for employment decisions affecting such individual, or
- The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Types of behavior that can be considered sexual harassment include but are not limited to:

- Unwanted sexual advances
- Discussing or telling off-color jokes
- Offering employment benefits in exchange for sexual favors
- Engaging in hostile, unwelcome or unnecessary physical conduct
- Commenting on physical attributes
- Displaying sexually suggestive pictures or materials
- Using demeaning or inappropriate terms
- Using crude or offensive language
- Sending suggestive, crude or offensive language or materials through email or other communication media

State and federal law also prohibit retaliation against a person for filing a complaint, assisting or participating in an investigation or proceeding, or opposing sexual harassment.

POLICIES

1. Metropolitan does not and will not tolerate sexual harassment of any employee, applicant, or contractor. The prohibition against sexual harassment applies to all transactions of Metropolitan's business, whether at a Metropolitan-operated facility or an external site.
2. If an employee, applicant, or contractor believes that he or she has been sexually harassed by any Metropolitan employee, consultant or other contractor, vendor, client, or other business contact, the individual should immediately report the incident directly to: (1) the EEO Investigations Staff or the Employee Relations Section Manager, who are responsible for receiving and processing such reports for Metropolitan; (2) the Ethics Office, who is responsible for receiving and processing reports regarding alleged director misconduct; or, (3) to another manager or supervisor, including but not limited to, the HR Group Manager, another Group Manager, or the Ethics Officer.
3. Engaging in sexual harassment is conduct subject to disciplinary action, up to and including discharge.
4. All complaints of sexual harassment are taken seriously, investigated promptly as appropriate, and appropriate action is taken against individuals found to have engaged in sexually harassing conduct. Metropolitan has established and maintains an internal complaint procedure for processing alleged violations of the policy.
5. Metropolitan does not retaliate, nor tolerate retaliation, against employees,

applicants, or contractors who, in good faith, make a complaint of sexual harassment, assist or participate in a related investigation or proceeding, or oppose sexual harassment. Such retaliation is prohibited by this policy. Any act of such retaliation should be reported immediately to: (1) the EEO Investigations Staff or the Employee Relations Section Manager, who are responsible for receiving and processing such reports for Metropolitan; (2) the Ethics Office, who is responsible for receiving and processing reports regarding alleged director misconduct; or, (3) to another manager or supervisor, including but not limited to, the HR Group Manager, another Group Manager, or the Ethics Officer. Reports will be investigated as appropriate and, where appropriate, corrective action will be taken. Any person who engages in such retaliation is subject to disciplinary action, up to and including dismissal.

6. Complaints made frivolously, in bad faith, or without factual basis may be actionable by the respondent. Such complaints may result in disciplinary action, up to and including dismissal.
7. Metropolitan employees receive a copy of this policy during new employee orientation and review it as part of their mandatory sexual harassment prevention training.

RESPONSIBILITIES

Metropolitan **managers or supervisors** are responsible for:

- Enforcing the District's Sexual Harassment Prohibition Policy and not engaging in, condoning or tolerating behavior that could reasonably be considered a violation of this policy.
- Creating an environment where employees, applicants, and contractors do not feel intimidated and/or prevented from reporting an incident in violation of this policy.
- Monitoring the work environment of their employees and other business contacts for signs of sexual harassment or inappropriate conduct that could violate this policy.
- Immediately reporting any conduct that may reasonably violate this policy, or any such allegation, to the EEO Investigations Staff. (If appropriate, such conduct may also be reported outside of the Human Resources Group, to the Legal Department and/or Ethics Officer.)
- Cooperating in an investigation related to any complaint of a violation of this policy. Managers and supervisors are prohibited from discussing the complaint outside of the investigative process, unless this is done in connection with performing the manager's or supervisor's job duties, required or permitted by law, or authorized by the Legal Department or other appropriate authority. Failure to cooperate or deliberately providing false or misleading information during an investigation, or discussing the complaint outside of the investigative process, may be grounds for disciplinary action, up to and including discharge.
- Not engaging in, condoning or tolerating behavior that could reasonably constitute retaliation of an employee, applicant, or contractor for alleging or opposing sexual harassment, or participating in a related investigation or proceeding.
- Successfully and timely completing sexual harassment prevention training as mandated and ensuring that employees under his or her direct supervision timely and successfully complete such training.

Metropolitan **employees**, including managers and supervisors, are responsible for:

- Not engaging in behavior that could reasonably be considered a violation of

- this policy.
- Understanding that a violation of this policy can result in disciplinary action, up to and including dismissal; and that California law allows an employee to sue another employee for sexual harassment.
 - Cooperating in an investigation related to any complaint of a violation of this policy. Employees are prohibited from discussing the complaint outside of the investigative process, unless required or permitted by law, or authorized by the Legal Department or other appropriate authority. Failure to cooperate or deliberately providing false or misleading information during an investigation, or discussing the complaint outside of the investigative process, may be grounds for disciplinary action, up to and including discharge.
 - Not engaging in behavior that could reasonably constitute retaliation of an employee, applicant, or contractor for alleging or opposing sexual harassment, or participating in a related investigation or proceeding.
 - Successfully and timely completing sexual harassment prevention training as mandated.

The **Employee Relations Section Manager** is responsible for:

- Supervising the activities of the EEO Investigations Staff.
- Enforcing a policy prohibiting sexual harassment.
- Maintaining internal complaint procedures for investigating complaints related to violations of this policy.
- Receiving and processing internal complaints alleging a violation of this policy, and ensuring that complaints are investigated as appropriate, promptly, thoroughly and impartially.
- Ensuring that Metropolitan takes immediate and appropriate corrective action when it is determined that a violation of this policy has occurred.

The **Ethics Office** is responsible for:

- Coordinating with the EEO Investigations Staff or the Employee Relations Section Manager concerning allegations and complaints of discrimination or harassment received by the Ethics Office, including immediately reporting any conduct that may reasonably violate this policy to the EEO Investigations Staff or Employee Relations Section Manager. (If appropriate, such conduct may be reported outside of the Human Resources Group to the Legal Department.)

The **Equal Employment Opportunity Manager** is responsible for:

- Establishing and maintaining a policy which prohibits sexual harassment.
- Providing sexual harassment prevention training to all employees.
- With the Legal Department and in compliance with the Administrative Code, receiving and responding to EEO related charges filed with state or federal agencies.
- Establish and maintain an affirmative action plan and nondiscrimination program in accordance with applicable law.

REFERENCES

- [Administrative Code, Sections 6219, 6300, 7111](#)

- Operating Policy [H-03](#) and [H-07](#)
- Applicable executive orders, federal, state and local laws, statutes and regulations
- [Discrimination Complaint Procedures](#)
- Memoranda of Understanding
- [Department of Fair Employment and Housing pamphlet on Sexual Harassment \(DFEH-185\)](#)