



Ethics, Organization, & Personnel Committee

# EEO Educational Update

Item 6c

March 11, 2024

# Item # 6c

## EEO Education Update

### Subject

Refresher on mandated reporting requirement of the Board.

### Purpose

Informational update.

## California Regulations

# Harassment and Discrimination Prevention and Correction

- Employers have an **affirmative duty** to take reasonable steps to prevent and promptly correct discriminatory and harassing conduct (Gov. Code, § 12940(k))
- Employers have an **affirmative duty** to create a workplace environment that is free from employment practices prohibited by CA Fair Employment & Housing Act (2 CCR § 11023)
- It is unlawful if an “employer or other covered entity, its **agents or supervisors**” knows of unlawful harassment and “fails to take immediate and appropriate corrective action” (2 CCR § 11019)

# California Fair Employment & Housing Act (FEHA)

## Section 12926 (d)

“Employer” includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision of the state, and cities, except as follows:

“Employer” does not include a religious association or corporation not organized for private profit.

## Section 12926 (t)

Supervisor is defined as any individual having the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

# Policies & Procedures

## Mandatory Reporting

### Admin Code Section 2131 Prohibition of Discrimination, Harassment & Retaliation by Directors

“Directors shall cooperate in achieving the equal opportunity goals and objectives of Metropolitan.”

### Investigative Procedures for the Board & Its Direct Reports

“Any report of an alleged EEO violation submitted to any Metropolitan group [...] or Board Member must be immediately forwarded in writing to the EEO Officer, unless there is an exception to the EEO Office’s jurisdiction as stated in the EEO AC policies.”

# Mandatory Reporting

## EEO Protected Categories

- Age (40 & Above)
- Race
- Color
- National Origin or Ancestry
- Citizenship Status
- Religion
- Mental or Physical Disability
- Genetic Information
- Marital Status
- Medical Condition
- Sex/Gender (including pregnancy and sexual harassment)
- Gender Identity/Gender Expression
- Sexual Orientation
- Military/Veteran Status

# Employer Obligations

## “Knew or Should’ve Known”

An employer has a legal obligation to respond to and address complaints if they are on “notice” of conduct that could be considered EEO related harassment, discrimination or retaliation.

Notice can occur in many ways:

- Formal complaint
- Informal complaint
- “Confidential” complaint
- Anonymous complaint
- Rumors



## EEO Best Practices

### Board Member Responsibilities:

- Immediately report any EEO-related allegations to the EEO Office for further handling
- Complete 2hrs of supervisor-level sexual harassment prevention training every 2 years



