



- **Board of Directors**
Community and Workplace Culture Committee (C&WC)

7/8/2025 Board Meeting

8-3

Subject

Amend Metropolitan Administrative Code Section 2416(f)(5) to update procedures for addressing Equal Employment Opportunity allegations against members of the Board and direct reports to the Board; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

Executive Summary

Metropolitan's Administrative Code Section 2416(f)(5) defines the duties of the Executive Committee, including its responsibility to address substantiated Equal Employment Opportunity (EEO) allegations of discrimination, harassment, and retaliation involving members of the Board and direct reports to the Board. The proposed amendments to Section 2416(f)(5) formalize and clarify the process for reviewing investigative findings, presenting recommended actions to the Board, and maintaining confidentiality and legal protections throughout the process. These updates reflect guidance provided by the Ad Hoc Committee on EEO Investigations (Ad Hoc EEOI), Chair Adan Ortega and the EEO Office and are designed to strengthen the integrity, consistency, and transparency of Metropolitan's approach to addressing EEO matters involving Board members and direct reports.

Proposed Action(s)/Recommendation(s) and Options

Staff Recommendation: Option #1

Option #1

Amend Metropolitan Administrative Code Section 2416(f)(5) to update procedures for addressing Equal Employment Opportunity allegations against members of the Board and direct reports to the Board

Fiscal Impact: None

Business Analysis: The Administrative Code will be amended to promote consistency, transparency, and alignment with established legal requirements, EEO principles, and public sector best practices.

Option #2

Do not amend Metropolitan Administrative Code Section 2416(f)(5)

Fiscal Impact: None

Business Analysis: The Administrative Code will not be amended to promote consistency, transparency, and alignment with established legal requirements, EEO principles, and public sector best practices.

Alternatives Considered

Not Applicable

Applicable Policy

Metropolitan Water District Administrative Code Section 2416: Duties and Functions [Executive Committee]

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

Related Board Action(s)/Future Action(s)

Not Applicable

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves organizational, maintenance, or administrative activities; personnel-related actions; and/or general policy and procedure making that will not result in direct or indirect physical changes in the environment. (Public Resources Code Section 21065; State CEQA Guidelines Section 15378(b)(2) and (5).)

CEQA determination for Option #2:

None required

Details and Background

Background

Administrative Code Section 2416 delegates to the Executive Committee various duties related to Board governance, including the handling of EEO-based complaints involving members of the Board and Board direct reports comprised of the General Manager, General Counsel, General Auditor, and Ethics Officer.

The proposed amendments to Section 2416(f)(5) build upon existing provisions by providing clearer direction for how the Executive Committee and its three-member ad hoc subcommittee (EEO ad hoc subcommittee or subcommittee) address substantiated EEO-based findings. The amendments emphasize the use of independent investigators, enhance confidentiality protections, and establish a more structured and transparent process for Board review and potential action.

Proposed Administrative Code Amendments:

The proposed amendments to Section 2416(f)(5), if approved, will accomplish the following:

- *Streamline legal and procedural support for the EEO ad hoc subcommittee:* The amendments remove the requirement for the Executive Committee to separately retain outside legal counsel to advise the EEO ad hoc subcommittee. Instead, legal and procedural support for the subcommittee will be coordinated through the EEO Office for complaints against all direct reports to the Board. This change improves efficiency, avoids duplication of legal resources, and ensures that legal guidance provided to the subcommittee reflects Metropolitan's governance structure, including compliance with applicable laws such as the Brown Act.
- *Introduce a formal process for redaction, dissemination, and Board review of substantiated EEO investigative reports:* The revised language specifies that a redacted investigative report will be provided to the full Board, along with a separate presentation of the EEO ad hoc subcommittee's recommended actions. This codifies a consistent and transparent approach to handling investigative materials while protecting confidentiality and maintaining applicable legal privileges.
- *Strengthen confidentiality and privilege protections:* The amendments incorporate express language emphasizing that all investigative reports, communications, and subcommittee proceedings are intended to be protected by attorney-client privilege and confidentiality, to the extent permitted by law.

The following amendments to Administrative Code Section 2416(f)(5) are summarized as follows:

- Section 2416(f)(5)(i) is amended to rename the ad hoc subcommittee the EEO ad hoc subcommittee and to add that EEO investigations shall be conducted in an attorney-client privileged manner, as practical.
- Section 2416(f)(5)(ii) is amended to (a) delete the services of an external law firm, (b) add from subsection (iii) the services of an external investigator, the applicable investigatory standards and

procedures, and clarify the inclusion of findings of fact and violations of District policies in the investigative report, (c) add that a redacted report goes to the subcommittee for review and determination, (d) delete and move the following: the procedures for recommendations and reviews by the subcommittee to subsection (iii), the remedial and disciplinary standards for directors to subsection (iv), and standards for the General Manager and other direct reports (referred to as department heads in this section) to subsection (v), and (e) decapitalize the word “all” into “all EEO investigations being handled in a professional manner.”

- Section 2416(f)(5)(iii) is amended to add the review and determination duties of the EEO ad hoc subcommittee following the receipt of a substantiated finding. Subsections (iii)(a), (iii)(b), and (iii)(c) are added to specify and ensure timely review, certain consultations, and dissemination of the redacted report.
- Section 2416(f)(5)(iv) is amended to delete conflicts of interest protocols and add the remedial and disciplinary standards for directors that were deleted from subsection (ii).
- Section 2416(f)(5)(v) is amended to delete the protocols to deviate from the investigatory procedures and add the remedial and disciplinary standards for the General Manager and department heads that were deleted from subsection (ii).
- Section 2416(f)(5)(vi) is amended to delete the subcommittee’s quarterly reporting and add conflicts of interest protocols that were deleted from subsection (iv).
- Section 2416(f)(5)(vii) is added to include the protocols to deviate from the investigatory procedures that were deleted from subsection (v).
- Section 2416(f)(5)(viii) is added to include the subcommittee’s quarterly reporting requirement that was deleted from subsection (vi).

These revisions, developed with guidance from the Chair of the Ad Hoc EEOI, the Board Chair and the EEO Office ensure Metropolitan's investigative processes remain impartial, consistent, and aligned with legal requirements and public sector best practices. By formalizing roles, strengthening confidentiality protections, and establishing clear procedures for addressing substantiated EEO-based allegations, these updates enhance the integrity, transparency, and fairness of Metropolitan's approach to EEO matters involving the Board and its direct reports. Retaining the current version of Section 2416(f)(5) may result in procedural gaps, reduced consistency, and hamper transparency in how EEO complaints involving the Board and its direct reports are addressed.

The foregoing proposed amendments to Administrative Code Section 2416(f)(5) are found at **Attachment 1** (with changes marked) and **Attachment 2** (clean copy). All amendments and changes are effective upon Board approval unless specified otherwise.

Jonaaura Wisdom

7/1/2025

Jonaaura Wisdom
Chief EEO Officer

Date

Deven Upadhyay

7/1/2025

Deven Upadhyay
General Manager

Date

Attachment 1 – The Administrative Code of The Metropolitan Water District of Southern California (with changes marked)

Attachment 2 - The Administrative Code of The Metropolitan Water District of Southern California (clean copy)

§ 2416. Duties and Functions. [Executive Committee]

(a) The Executive Committee shall study, advise, and make recommendations with regard to:

(1) Public information for governmental and other entities and officials, and for the citizens of California regarding matters affecting the District's interests;

(2) Official dealings with the United States Government, the State of California or other states, member public agencies or their sub-agencies, foreign governments and other entities or persons in matters of public policy or other activities as deemed appropriate;

(3) Policies and procedures to be considered by the Board or committees thereof, except for policy matters within the jurisdiction of a specific standing committee;

(4) Matters relating to the Colorado River Board of California;

(5) Major policy issues to be considered by the Board, including proposed amendments to the Metropolitan Water District Act;

(6) Questions raised by the officers and staff in intervals between meetings of the Board and in unexpected situations and emergencies.

(7) The terms and conditions of employment of all consultants and advisors not within the jurisdiction of other committees;

(8) Resolution of conflicting committee recommendations pursuant to Section 2314;

(9) The progress of, and propose modifications to, the Board's goals in light of then existing and projected future conditions; and

(10) Such other matters as may be required by Division II of this Code.

(b) The Executive Committee shall:

(1) Review and approve board and committee agendas and, notwithstanding the jurisdiction of the other standing committees in the Code, have the authority to direct which committee shall consider an item;

(2) Review and approve the scheduling of board and committee meetings;

(3) Be responsible for the oversight and management of the organization including, but not limited to, the form of the District's organization and the flow of the authority and responsibility. This includes monitoring and overseeing the duties and responsibilities of management; and

(4) Consider the effectiveness of the District's internal control system, including information technology security and control.

(c) The Executive Committee shall retain ultimate responsibility for those duties as are specifically assigned to the subcommittees of the Executive Committee.

(d) The Executive Committee shall be responsible for reviewing and approving the annual business plan containing the General Manager's key priorities for the coming year.

(e) As part of the Department Head annual evaluation process, the Executive Committee shall be responsible for engaging in periodic performance expectations discussions, including progress checks, with the General Manager.

(f) The Executive Committee shall also:

(1) Act on behalf of the Board in unexpected situations and emergencies, subject to subsequent approval or ratification of the actions taken whenever such approval or ratification is required by law.

(2) Provide policy guidance where appropriate to those directors and District staff members who are associated with organizations in which the District has membership.

(3) Conduct hearings on appeals of protest denials involving Purchasing Contracts and Professional and Technical Services Contracts pursuant to Section 8150(b).

(i) Hearings shall be held by the committee at its next regular meeting to be held at least 72 hours after the filing of the notice of appeal of the General Manager's determination under Section 8150(b). The decision of the committee shall be final unless the committee chooses to refer the notice of protest to the Board.

(ii) The Chair of the Executive Committee may re-delegate duties provided for under subparagraph (i) above to a minimum of three members of the Executive Committee who shall act in place of the committee.

(4) Resolve disputes over inspection dates and monitor conduct of inspection trips to assure maximum effectiveness.

(5) Address substantiated allegations of discrimination, harassment, and retaliation against directors, the General Manager, General Counsel, General Auditor, and Ethics Officer:

(i) The Executive Committee shall create an EEO ad hoc subcommittee of three members and two alternates that will serve for a period of one year to address substantiated findings of violations determined as a result of Equal Employment Opportunity (EEO) investigations conducted for alleged violations of Section 2131 made against a director and for alleged violations of Section 6305 made against the

General Manager, General Counsel, General Auditor, or Ethics Officer. All matters related to EEO investigations, the development of recommendations, and confidential communications with the EEO ad hoc subcommittee shall be conducted in an attorney-client privileged manner to the extent practical. If any director serving on the three-member subcommittee is an involved party to an EEO investigation, or has a conflict of interest with any involved party, the conflicted director shall recuse themselves from the matter. The Chief EEO Officer (EEO Officer) will select an alternate director to fulfill all subcommittee duties related to the particular matter. If the EEO Officer has a conflict of interest in the same matter, the Ethics Officer and/or General Counsel will select an alternate director. Directors serving as alternates will not participate in ad hoc committee matters unless or until called to serve.

~~(ii) The Executive Committee will also select an external law firm to serve as counsel to the ad hoc subcommittee to provide guidance, as needed, for post investigation actions~~ (iii) The EEO ad hoc subcommittee shall delegate to the EEO Officer the responsibility to designate an external investigator to conduct a fact-finding EEO investigation pursuant to this section. The external investigator shall issue findings of fact and will include an assessment of whether applicable Metropolitan policies were violated. ~~ALL~~ EEO investigations will be fair, impartial, timely, and promptly initiated and completed by qualified personnel. Detailed EEO investigative procedures, pursuant to this section can be found in *EEO Investigative Procedures for the Board and its Direct Reports*. A redacted investigative report of substantiated EEO findings will be provided to the EEO ad hoc subcommittee for its review and determination or recommended post investigative action. ~~The EEO Officer shall refer substantiated findings of EEO investigations to the ad hoc subcommittee to determine recommended appropriate action. At its discretion, the ad hoc subcommittee may consult with the EEO Officer, Ethics Officer, and/or General Counsel on appropriate action regarding a director or department head. The ad hoc subcommittee shall report a substantiated finding of an EEO violation by a director or department head and recommend appropriate action for the Board's consideration. Appropriate action for directors may include, but is not limited to, counseling, training, a private warning letter, public censure, temporary or permanent removal from committee assignments, or referral to the Director's appointing authority requesting appropriate action. Appropriate action for department heads may include, but is not limited to, counseling, training, performance review, or the imposition of discipline, as deemed appropriate under the circumstances.~~

(iii) Following receipt of a substantiated finding, the EEO ad hoc subcommittee shall:

(a) Timely review the redacted EEO investigative report.

(b) Consult with the EEO Officer and the assigned General Counsel to the EEO ad hoc subcommittee to develop proposed

recommendations for remedial or disciplinary actions consistent with the severity of the substantiated violation(s);

(c) Direct the dissemination of the redacted external investigator's confidential, attorney-client privileged report to the full Board, consistent with applicable laws and protections of privilege and privacy. A redacted version of the report shall be transmitted to the full Board by the General Counsel's Office. A separate presentation of ad hoc subcommittee's proposed recommended actions shall be prepared by the General Counsel's Office, in consultation with the EEO Officer.

~~(iv) When the General Manager is a party to the complaint or when in the judgment of the EEO Officer that matter should be handled differently to avoid real or perceived conflicts of interest, or to avoid potential bias or threats to impartiality, the EEO Officer shall delegate to the Ethics Officer the responsibility to retain an external investigator to conduct a fact-finding EEO investigation pursuant to this section. If the Ethics Officer has a conflict of interest in the particular case, the EEO Officer would delegate to the General Counsel the responsibility to retain an external investigator to conduct a fact-finding investigation pursuant to this section. Substantiated EEO findings under this subsection shall be referred directly to the ad hoc subcommittee to determine recommended appropriate action for the Board's consideration. Appropriate remedial or disciplinary actions for directors may include, but are not limited to, counseling, training, a private warning letter, public censure, temporary or permanent removal from committee assignments, or referral to the director's appointing authority for further action.~~

~~(v) A deviation of this investigation protocol by the EEO Officer may occur, in certain circumstances, with a written justification and approval of the ad hoc subcommittee responsible for EEO investigations of directors and department heads. Appropriate remedial or disciplinary actions for the General Manager, General Counsel, General Auditor, or Ethics Officer may include, but are not limited to, counseling, training, performance evaluation review, employment agreement modification, employment agreement termination, or employee discipline consistent with applicable laws, contractual provisions, and policies.~~

~~(vi) On a quarterly basis, the Chief EEO Officer will report to the Executive Committee EEO case statistics regarding EEO complaints filed against the Board and its direct reports. When the General Manager is a party to the complaint or when in the judgment of the EEO Officer that matter should be handled differently to avoid real or perceived conflicts of interest, or to avoid potential bias or threats to impartiality, the EEO Officer shall delegate to the Ethics Officer the responsibility to retain an external investigator to conduct a fact-finding EEO investigation pursuant to this section. If the Ethics Officer has a conflict of interest in the particular case, the EEO Officer would delegate to the General Counsel the responsibility to retain an external investigator to conduct a fact-finding investigation pursuant to this section.~~

Substantiated EEO findings under this subsection shall be referred directly to the EEO ad hoc subcommittee to determine recommended appropriate action for the Board's consideration.

(vii) A deviation of this investigation protocol by the EEO Officer may occur, in certain circumstances, with a written justification and approval of the EEO ad hoc subcommittee responsible for EEO investigations of directors and department heads.

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- (7) The terms and conditions of employment of all consultants and advisors not within the jurisdiction of other committees;
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(c) The Executive Committee shall retain ultimate responsibility for those duties as are specifically assigned to the subcommittees of the Executive Committee.

(d) The Executive Committee shall be responsible for reviewing and approving the annual business plan containing the General Manager's key priorities for the coming year.

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(ii) The EEO ad hoc subcommittee shall delegate to the EEO Officer the responsibility to designate an external investigator to conduct a fact-finding EEO investigation pursuant to this section. The external investigator shall issue findings of fact and will include an assessment of whether applicable Metropolitan policies were violated. All EEO investigations will be fair, impartial, timely, and promptly initiated and completed by qualified personnel. Detailed EEO investigative procedures, pursuant to this section can be found in *EEO Investigative Procedures for the Board and its Direct Reports*. A redacted investigative report of substantiated EEO findings will be provided to the EEO ad hoc subcommittee for its review and determination or recommended post investigative action.

(iii) Following receipt of a substantiated finding, the EEO ad hoc subcommittee shall:

(a) Timely review the redacted EEO investigative report.

(b) Consult with the EEO Officer and the assigned General Counsel to the EEO ad hoc subcommittee to develop proposed recommendations for remedial or disciplinary actions consistent with the severity of the substantiated violation(s);

(c) Direct the dissemination of the redacted external investigator's confidential, attorney-client privileged report to the full Board, consistent with applicable laws and protections of privilege and privacy. A redacted version of the report shall be transmitted to the full Board by the General Counsel's Office. A separate presentation of the EEO ad hoc subcommittee's proposed recommended actions shall be prepared by the General Counsel's Office, in consultation with the EEO Officer.

(iv) Appropriate remedial or disciplinary actions for directors may include, but are not limited to, counseling, training, a private warning letter, public

censure, temporary or permanent removal from committee assignments, or referral to the director's appointing authority for further action.

(v) Appropriate remedial or disciplinary actions for the General Manager, General Counsel, General Auditor, or Ethics Officer may include, but are not limited to, counseling, training, performance evaluation review, employment agreement modification, employment agreement termination, or employee discipline consistent with applicable laws, contractual provisions, and policies.

(vi) When in the judgment of the EEO Officer that matter should be handled differently to avoid real or perceived conflicts of interest, or to avoid potential bias or threats to impartiality, the EEO Officer shall delegate to the Ethics Officer the responsibility to retain an external investigator to conduct a fact-finding EEO investigation pursuant to this section. If the Ethics Officer has a conflict of interest in the particular case, the EEO Officer would delegate to the General Counsel the responsibility to retain an external investigator to conduct a fact-finding investigation pursuant to this section. Substantiated EEO findings under this subsection shall be referred directly to the EEO ad hoc subcommittee to determine recommended appropriate action for the Board's consideration.

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