

# The Metropolitan Water District of Southern California

# Agenda

The mission of the Metropolitan Water District of Southern California is to provide its service area with adequate and reliable supplies of high-quality water to meet present and future needs in an environmentally and economically responsible way.

## **EO&P Committee**

M. Ramos, Chair  
T. Phan, Vice Chair  
M. Camacho  
G. Cordero  
D. Erdman  
S. Faessel  
L. Fong-Sakai  
F. Jung  
A. Kassakhian  
J. McMillan  
N. Sutley

## **Ethics, Organization, and Personnel Committee**

Meeting with Board of Directors \*

**July 11, 2023**

**10:30 a.m.**

Agendas, live streaming, meeting schedules, and other board materials are available here: <https://mwdh2o.legistar.com/Calendar.aspx>. A listen only phone line is available at 1-877-853-5257; enter meeting ID: 873 4767 0235. Members of the public may present their comments to the Board or a Committee on matters within their jurisdiction as listed on the agenda via in-person or teleconference. To participate via teleconference (833) 548-0276 and enter meeting ID: 876 9484 9772 or click <https://us06web.zoom.us/j/87694849772?pwd=V3dGZGRYUjJ3allqdUxXTIJRM044Zz09>

## **Tuesday, July 11, 2023 Meeting Schedule**

**08:30 a.m. FAIRP  
10:30 a.m. EOP  
12:30 p.m. Break  
01:00 p.m. BOD  
02:30 p.m. Sp Exec**

**MWD Headquarters Building • 700 N. Alameda Street • Los Angeles, CA 90012**

**Teleconference Locations:**

**Fullerton City Hall Council Chambers • 303 W. Commonwealth Avenue • Fullerton, CA 92832**

**2680 W. Segerstrom Avenue Unit I, • Santa Ana CA 92704**

**3008 W. 82nd Place • Inglewood, CA 90305**

**Cedars Sinai Medical Center • 8700 Beverly Blvd • Los Angeles, CA 90048**

**Meritage Resort • 875 Bordeaux Way • Napa, CA 94558**

\* The Metropolitan Water District's meeting of this Committee is noticed as a joint committee meeting with the Board of Directors for the purpose of compliance with the Brown Act. Members of the Board who are not assigned to this Committee may participate as members of the Board, whether or not a quorum of the Board is present. In order to preserve the function of the committee as advisory to the Board, members of the Board who are not assigned to this Committee will not vote on matters before this Committee.

- 1. Opportunity for members of the public to address the committee on matters within the committee's jurisdiction (As required by Gov. Code Section 54954.3(a))**

## **\*\* CONSENT CALENDAR ITEMS -- ACTION \*\***

- 2. CONSENT CALENDAR OTHER ITEMS - ACTION**

- a. Approval of the Minutes of the Ethics, Organization, and Personnel Committee for June 13, 2023 (Copies have been submitted to each Director, Any additions, corrections, or omissions) [21-2347](#)

**Attachments:** [07112023 EOP \(06132023\) Minutes](#)

### 3. **CONSENT CALENDAR ITEMS - ACTION**

NONE

**\*\* END OF CONSENT CALENDAR ITEMS \*\***

### 4. **OTHER BOARD ITEMS - ACTION**

NONE

### 5. **BOARD INFORMATION ITEMS**

NONE

### 6. **COMMITTEE ITEMS**

- a. Contractor Code of Conduct [21-2468](#)
- b. Monthly Ethics Education [21-2471](#)

**Attachments:** [07112023 EOP 6b Presentation](#)  
[07112023 EOP 6b Attachment](#)

- c. Discussion of Department Head Performance and Goal Setting [Public employees' performance evaluations – Ethics Officer; to be heard in closed session pursuant to Gov. Code Section 54957] [21-2472](#)
- d. Equal Employment Opportunity Statistical Report [21-2469](#)

**Attachments:** [07112023 EOP 6d Presentation](#)

### 7. **MANAGEMENT REPORTS**

- a. Ethics Officer's Report [21-2348](#)
- b. Human Resources Manager's Report [21-2349](#)

**Attachments:** [07112023 EOP 7b Presentation](#)

- c. Equal Employment Opportunity Officer's Report [21-2350](#)

### 8. **FOLLOW-UP ITEMS**

NONE

## **9. FUTURE AGENDA ITEMS**

## **10. ADJOURNMENT**

**NOTE:** This committee reviews items and makes a recommendation for final action to the full Board of Directors. Final action will be taken by the Board of Directors. Committee agendas may be obtained on Metropolitan's Web site <https://mwdh2o.legistar.com/Calendar.aspx>. This committee will not take any final action that is binding on the Board, even when a quorum of the Board is present.

Writings relating to open session agenda items distributed to Directors less than 72 hours prior to a regular meeting are available for public inspection at Metropolitan's Headquarters Building and on Metropolitan's Web site <https://mwdh2o.legistar.com/Calendar.aspx>.

Requests for a disability-related modification or accommodation, including auxiliary aids or services, in order to attend or participate in a meeting should be made to the Board Executive Secretary in advance of the meeting to ensure availability of the requested service or accommodation.

**THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

**MINUTES**

**ETHICS, ORGANIZATION AND PERSONNEL COMMITTEE**

**June 13, 2023**

Chair Ramos called the teleconference meeting to order at 10:30 a.m.

Members present: Directors Camacho, Erdman, Faessel, Fong-Sakai, Jung (entered after rollcall), Kassakhian, McMillan, Phan (teleconference posted location), Ramos and Sutley (entered after rollcall).

Members absent: Directors Cordero.

Other Board Members present: Directors Abdo, Ackerman, Armstrong, De Jesus, Dennstedt, Garza, , Gray (teleconference posted location), Kurtz, Lefevre, McCoy, Miller, Morris, Ortega, Peterson, and Smith.

Committee Staff present: Hagekhalil, Kasaine, H. Rodriguez, Salinas, H. Torres, and Wisdom.

**1. OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE COMMITTEE ON MATTERS WITHIN THE COMMITTEE’S JURISDICTION**

None

**CONSENT CALENDAR ITEMS — ACTION**

**2. CONSENT CALENDAR OTHER ITEMS – ACTION**

- A. Approval of the Minutes of the Ethics, Organization, and Personnel Committee for April 11, 2023

**3. CONSENT CALENDAR ITEMS – ACTION**

- 7-9 Authorize adding a \$500,000 line item to the fiscal year 2023/2024 Equal Employment Opportunity Office budget to cover outside legal services; and authorize an agreement with Meyers Nave in an amount no to exceed \$500,000 for ongoing legal advice in support of Equal Employment Opportunity Office activities and Equal Employment Opportunity related personnel and compliance matters

Motion: Authorize adding a \$500,000 line item to the fiscal year 2023/2024 Equal Employment Opportunity Office budget to cover outside legal services; and authorize an agreement with Meyers Nave in an amount not to exceed \$500,000 for ongoing legal advice in support of Equal Employment Opportunity Office activities and Equal Employment Opportunity related personnel and compliance matters.

No presentations were given, Director Camacho made a motion, seconded by Director Faessel to approve the consent calendar consisting of item 2A and 7-9.

The vote was:

Ayes: Directors Camacho, Erdman, Faessel, Fong-Sakai, Kassakhian, McMillan, Phan, and Ramos

Noes: None

Abstentions: None

Absent: Directors Cordero, Jung, and Sutley.

The motion passed by a vote of 8 ayes, 0 noes, 0 abstention, and 3 absent.

#### **END OF CONSENT CALENDAR ITEMS**

#### **4. OTHER BOARD ITEMS – ACTION**

8-4 Approve entering into fiscal years 2022-2026 Memorandum of Understanding between The Metropolitan Water District of Southern California and The Supervisors Association of The Metropolitan Water District of Southern California; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA [Conference with Labor Negotiators

Motion: Authorize the General Manager to exercise discretion under Administrative Code Section 6101(k) to enter into a successor Memorandum of Understanding with the Supervisors' Association

No presentations were given, Director Camacho made a motion, seconded by Director Kassakhian to approve the other board items – action consisting of item 8-4

The vote was:

Ayes: Directors Camacho, Erdman, Faessel, Fong-Sakai, Jung, Kassakhian, McMillan, Phan, and Ramos

Noes: None

Abstentions: None

Absent: Directors Cordero and Sutley.

The motion passed by a vote of 9 ayes, 0 noes, 0 abstention, and 2 absent.

Mr. Hagekhalil provided an update on reopener negotiations with AFSCME Local 1902.

## **5. BOARD INFORMATION ITEMS**

None

## **6. COMMITTEE ITEMS**

a. Subject: Ethics Officer's Annual Plan for fiscal year 2023/2024

Presented by: Abel Salinas, Ethics Officer

Mr Salinas presented his annual report which highlighted the work accomplished by the Ethic Office in the past year. Mr. Salinas also presented an outline of his plan for the Ethics Office which established the offices goals for the upcoming fiscal year.

The following Directors provided comments or asked questions

1. Fong-Sakai
2. Smith
3. Sutley
4. Ortega
5. Ramos

Staff responded to the Directors questions and comments.

b. Subject: Contractor Code of Conduct [WITHDRAWN 6/8/2023]

Item was withdrawn.

c. Subject: Update on Apprenticeship Program

Presented by: Melissa Wassenaar, Senior Training Administrator

Ms. Wassenaar provided an overview on the Apprenticeship Program, reviewed how apprentice met certification requirements, reviewed recent program success stories and provided an update on program developments.

The following Directors provided comments or asked questions

1. Sutley
2. Faessel
3. Dennstedt
4. Abdo
5. Phan
6. Ortega
7. Peterson

Staff responded to the Directors questions and comments.

- d. Subject: Update on Department Head evaluation process and timeline for fiscal year 2022/2023

Presented by: Katano Kasaine, Assistant General Manager/CFO

Ms. Kasaine provided an overview of the Department Head Evaluation process and reviewed the timeline for the 2022/2023 fiscal year.

The following Directors provided comments or asked questions

1. Kurtz
2. Ortega
3. Peterson
4. Ramos

Staff responded to the Directors questions and comments.

## **7. MANAGEMENT REPORT**

- a. Ethics Officer's Report

Mr. Salinas reported that since April, the Ethics Office has not initiated new investigations. Mr. Salinas reported that there are currently 10 ongoing Ethics investigations. One involves allegations of retaliation for reporting potential workplace misconduct which the Ethics Officer anticipates completing the investigation within the next eight weeks. The other nine matters include three involving alleged retaliation and the other six involve alleged unauthorized release of confidential information. The Ethics Officer anticipates completing these investigations within the next three months.

b. Human Resources Manager's Report

None

c. Equal Employment Opportunity Officer's Report

Ms. Wisdom reminded Board members to take the Sexual Harassment Prevention Correction training by the June 30 deadline.

The following Directors provided comments or asked questions

1. Ortega
2. Dennstedt

Staff responded to the Directors questions and comments.

Ms. Kasaine provided an update on Human Resources and announced that a report would be brought to the committee.

**8. FOLLOW-UP ITEMS**

Director Ramos requested for staff to bring report on HR processes including recruitment, hiring process, and application process.

Director Dennstedt suggested that Directors' compliance for the Sexual Harassment training be posted on the website for transparency.

Director Phan requested for staff follow-up on Form 700 transparency.

**9. FUTURE AGENDA ITEMS**

None

**11. ADJOURNMENT**

Next meeting will be held on July 11, 2023

Meeting adjourned at 12:03 p.m.

Marsha Ramos  
Chair





Ethics, Organization and Personnel Committee

# Monthly Ethics Education

Item 6b

July 11, 2023

# Background

## Ethics Codes

- Substantive
  - MWD Officials
  - Contractors & Lobbyists
  - Disclosure

*References: Admin. Code 7100-7300*

# Background

## Ethics Codes

- Procedural
  - Investigations
  - Advice
  - Compliance

*References: Admin. Code 7400-7600*

# Monthly Spotlight

## **§ 7125. Prohibited Director Communications.**

Except for statements on the record at a public meeting, Directors shall not use their position of authority to communicate directly or indirectly with Metropolitan employees to influence: (1) the selection of a specific vendor, contractor, consultant, or other entity for a specific contract or procurement; (2) any hiring or employment decisions other than Department Heads; or (3) real property transaction.

The requirements of this section shall in no way restrict Directors from communicating with Metropolitan employees about Metropolitan procurement policies, procedures or other general matters, including requesting or receiving information about matters to be considered by Directors at public meetings.

M.I. 52574 – November 9, 2021.



## Division VII

### GOVERNMENTAL ETHICS

Chapter	Sec.
1 Ethics Rules for Metropolitan Officials	7100
<b>2 Ethics Rules for Metropolitan Contractors and Lobbyists</b>	<b>7200</b>
<b>3 Ticket Distribution Policy</b>	<b>7300</b>
<b>4 Investigations by the Ethics Officer</b>	<b>7400</b>
<b>5 Conflict of Interest Code</b>	<b>7500</b>
<b>6 Education, Advice, and Compliance</b>	<b>7600</b>

#### Chapter 1

#### ETHICS RULES FOR METROPOLITAN OFFICIALS

Article	
1 Purposes and Principles	7100
<b>2 State Ethics Laws Incorporated into Administrative Code</b>	<b>7110</b>
<b>3 Metropolitan Ethics Requirements</b>	<b>7120</b>

#### Article 1

#### PURPOSES AND PRINCIPLES

Sec.
7100. Purpose and Scope
7101. Purposes, Policy, and Values
<b>7102. Ethics Officer Jurisdiction</b>
<b>7103. Definition of Terms</b>

#### **§7100. Purpose and Scope.**

Metropolitan is subject to the Political Reform Act of 1974, as amended (the “Political Reform Act”), and regulations of the California Fair Political Practices Commission. The purposes of this Chapter are to incorporate specific applicable provisions of the Political Reform Act and related laws into the Administrative Code, to impose additional ethics requirements on Metropolitan officials as permitted by Section 81013 of the Political Reform Act, and to implement the District’s statutory obligations with respect to Metropolitan Act section 126.7 (SB 60, Chapter 415, Statutes of 1999). These obligations require compliance with applicable state government ethics laws and additional Metropolitan ethics requirements as specified in the Administrative Code.

[Former Sec. 7100 – Incorporation of the Title 2, CA Code of Regulations, renumbered 7200 and new Sec. 7100 created by M. I. 46109 – February 8, 2005; amended by M.I. 52574 - November 9, 2021.

#### **§ 7101. Purposes, Policy, and Values.**

The policy of Metropolitan is to maintain the highest standards of ethics from Metropolitan officials. Metropolitan is a public agency that shall conduct its business with integrity in an honest and ethical manner. The proper operation of Metropolitan requires Provisions updated to reflect the actions of the Board of Directors through its 1/11/2022 meeting.



decisions and policy to be made in the proper channels of governmental structure, that public office not be used for unauthorized personal gain, and that all individuals associated with Metropolitan remain impartial and responsible towards the public. Accordingly, it is the policy of Metropolitan that Metropolitan officials shall strive to maintain the highest standard of personal honesty and fairness in carrying out their duties. Metropolitan officials shall conduct Metropolitan's business in compliance with the law, this Chapter, and other Metropolitan policies, and shall exercise good judgment based on Metropolitan's values and goals. In carrying out their duties, Metropolitan officials should exercise fairness, impartiality, and avoid behavior that is likely to create an appearance of impropriety. This policy sets forth the minimal ethical standards to be followed by Metropolitan officials. Strict compliance with this Chapter is not necessarily sufficient, and any attempt to evade or circumvent any requirements of the Chapter is improper.

M.I. 41598 - October 10, 1995; amended by M.I. 43915 - March 14, 2000; former Sec. 7300 – Purpose & Scope, renumbered 7101 and renamed by M. I. 46109 – February 8, 2005; amended section title and paragraph by M.I. 52574 - November 9, 2021.

### **§ 7102. Ethics Officer Jurisdiction.**

The Ethics Officer's jurisdiction to provide education and training, issue advice, ensure compliance, and conduct investigations shall be limited to specific state ethics laws incorporated into the Administrative Code in Article 2 of this Chapter, specific Metropolitan ethics requirements specified in Article 3 of this Chapter and the ethics rules for Metropolitan contractors, lobbying firms, and lobbyists specified in Chapter 2 of this Division.

M. I. 41598- October 10, 1995; amended by M.I. 43915 – March 14, 2000; former Sec. 7301-Responsibilities of Public Office, renumbered 7102 by M.I. 46109 – February 8, 2005; amended by M.I. 49648 - January 14, 2014; amended section title and paragraph by M.I. 52574 - November 9, 2021.

### **§ 7103. Definition of Terms.**

The terms defined in this section shall apply throughout this Division.

(a) “Complaint” means any communication to the Ethics Officer alleging violations of Metropolitan ethics rules.

(b) “Complainant” means the individual who files a complaint with the Ethics Officer alleging violations of Metropolitan ethics rules.

(c) “Conflict of interest code” means the Code required by Government Code Section 87300 and approved by the Fair Political Practices Commission on a biennial basis.

(d) “Contractor” means any non-governmental individual or entity providing goods, services, or other consideration through a contract with Metropolitan, or any non-governmental individual or entity seeking such a contract. For purposes of Division VII only, “Contractor” includes subcontractors and subconsultants.

(e) “Designated employee” means a Metropolitan employee or consultant who must file Statements of Economic Interest pursuant to Government Code Section 87300 and Metropolitan's Conflict of Interest Code.

(f) “Disclosure category” means the types of financial interests that a Designated Employee must disclose on their Statement of Economic Interests.

(g) “Formal complaint” means a complaint made in writing where the complainant is identified with contact information.

(h) “FPPC” means the California Fair Political Practices Commission.

(i) “Gift” shall have the same meaning as that in Government Code section 82028 and regulations of the FPPC, or any succession statute or regulation.

(j) “Informal complaint” means a complaint where the complainant is not identified or lacks sufficient contact information.

(k) “Lobbying firm” means 1) any business entity, including an individual contract lobbyist, which receives compensation for the purpose of influencing a specific decision of any Metropolitan official including a decision to enter into a contract, and 2) any owner or employee of the business entity is a lobbyist.

(l) “Lobbyist” means any individual who receives or is entitled to receive \$2,000 or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, to communicate directly with a Metropolitan official for the purpose of influencing a specific decision of any Metropolitan official, including a decision to enter into a contract. For purposes of this definition, oral statements made during a public hearing or written statements made as part of the public record shall not be considered communications for the purpose of influencing a decision of any Metropolitan official. Individuals employed by, retained by, or holding office with other governmental agencies and individual employees of private entities, other than lobbying firms, seeking to influence a Metropolitan decision are not lobbyists. Decisions involving ministerial acts, personnel matters, and collective bargaining shall not be considered “decisions” for purposes of this definition.

(m) “Metropolitan ethics rules” means the rules contained in Articles 2 and 3 of Chapter 1 of this Division commencing with section 7110, and in Articles 2 and 3 of Chapter 2 of this Division commencing with section 7210.

(n) “Metropolitan official” means a public official as that term is defined by Government Code section 82048, or any successor statute, and includes Metropolitan directors, officers, and all employees.

(o) “Office” means the Office of Ethics.

(p) “Political contribution” shall have the same meaning as that in Government Code section 82015 and interpretative regulations of the FPPC, or any successor statute or regulation.

(q) “Restricted source” means 1) any non-governmental individual or entity that seeks or receives financial support from Metropolitan and 2) any contractor, as that term is defined in subdivision (d).



(r) “Subject of the complaint” means a Metropolitan official, lobbyist, lobbying firm, or contractor against whom a complaint has been filed, a Metropolitan official, lobbyist, lobbying firm, or contractor referred from a Metropolitan department to the Ethics Officer regarding possible violations of Metropolitan ethics rules, or a Metropolitan official, lobbyist, lobbying firm or contractor who is the subject of an investigation initiated by the Ethics Officer.

M.I. 52574 - November 9, 2021; amended paragraph (f) by M.I. 53064 – December 13, 2022.

**[§ 7103. (Fair and Equal Treatment) Repealed by M.I. 52574 - November 9, 2021]**

**[§ 7104. (Misuse of Position or Authority) Repealed by M.I. 52574 - November 9, 2021]**

**[§ 7105. (Contracts and Grants With Metropolitan) Repealed by M.I. 52574 - November 9, 2021]**

**[§ 7106. (Communications on Procurements) Repealed by M.I. 52574 - November 9, 2021]**

**[§ 7107. (Use of Confidential Information) Repealed by M.I. 52574 - November 9, 2021]**

**[§ 7108. (Soliciting Political Contributions) Repealed by M.I. 52574 - November 9, 2021]**

**[§ 7109. (Improper Activities and the Reporting of Such Activities) Repealed by M.I. 52574 - November 9, 2021]**

**[§ 7110. (Protection of “Whistleblowers”) Repealed by M.I. 52574 - November 9, 2021]**

**[§ 7111. (Nondiscrimination and Harassment) Repealed by M.I. 52574 - November 9, 2021]**

**[§ 7112. (Limitation on Associations) Repealed by M.I. 52574 - November 9, 2021]**

**[§ 7113. (Ethics Advice) Repealed by M.I. 52574 - November 9, 2021]**

## Article 2

### STATE ETHICS LAWS INCORPORATED INTO ADMINISTRATIVE CODE

Sec.

7110. Incorporation of State Ethics Laws into the Administrative Code

7111. Conflicts of Interest Regarding Contracts

**7112. Conflicts of Interest Regarding Governmental Decisions**

**7113. Campaign Contributions**

**7114. Influencing Prospective Employment**

**7115. Honoraria**

**7116. Gift Limitations**

**7117. Loans to Public Officials**

**7118. Statement of Economic Interests**

#### **§ 7110. Incorporation of State Ethics Laws into the Administrative Code.**

The purpose of this Article is to incorporate specific state ethics laws into this Administrative Code. The state ethics laws incorporated herein shall include any relevant state laws defining or limiting the application of the incorporated law, state regulations, or formal opinions interpreting these laws, as well as any successor laws and regulations or opinions. As a result of such incorporation, the Ethics Officer shall have the jurisdiction to investigate alleged violations as well as a duty to educate, advise and train Metropolitan officials, and seek compliance by such officials. Metropolitan officials shall have an obligation to abide by these incorporated rules and are subject to the provisions of Article 4 of Chapter 4 of this Division for any violations.

M.I. 52574 - November 9, 2021.

#### **§ 7111. Conflicts of Interest Regarding Contracts.**

Government Code section 1090 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code.

M.I. 46109 – February 8, 2005; title and paragraph amended former Section 7121 by M. I. 52574 – November 9, 2021.

#### **§ 7112. Conflicts of Interest Regarding Governmental Decisions.**

Government Code section 87100 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code.

Section 7305 renamed and adopted by M.I. 43915 – March 14, 2000; paragraph A, A2, and paragraph D repealed by M.I. 45085 – November 19, 2002; former Sec. 7305 – Revolving Door Policy renumbered 7122, renamed, and amended by M.I. 46109 – February 8, 2005; title and paragraph amended former Section 7122 by M. I. 52574 – November 9, 2021.

#### **§ 7113. Campaign Contributions.**

Government Code section 84308 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code.

M. I. 52574 – November 9, 2021.

#### **§ 7114. Influencing Prospective Employment.**

Government Code section 87407 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code.

M. I. 52574 – November 9, 2021.

#### **§ 7115. Honoraria.**

Government Code section 89502 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code.

M. I. 52574 – November 9, 2021.

#### **§ 7116. Gift Limitations.**

Government Code section 89503 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code. (As of the time of the initial adoption of this section the limit is \$520 per calendar year per source. See Section 7122 for additional limits on gifts from restricted sources).

M. I. 52574 – November 9, 2021.

#### **§ 7117. Loans to Public Officials.**

Government Code section 87460(b) is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code.

M. I. 52574 – November 9, 2021.

#### **§ 7118. Statement of Economic Interests.**

Metropolitan officials shall file complete and accurate Statements of Economic Interests pursuant to Government Code section 87200 or 87300, as applicable, consistent with the requirements of the Political Reform Act. Any failure to file complete and accurate Statements of Economic Interest shall be considered a violation of this Code.

M. I. 52574 – November 9, 2021.

**[§ 7120. (Conflict of Interest; Method of Recusal) Repealed by M.I. 52574 - November 9, 2021]**

**[§ 7121. (Recusal Due to Bias) Repealed by M.I. 52574 - November 9, 2021]**

**[§ 7122. (“Revolving Door”; Additional Requirements) Repealed by M.I. 52574 - November 9, 2021]**

## Article 3

### METROPOLITAN ETHICS REQUIREMENTS

Sec.

7120. Application of Metropolitan Ethics Requirements

**7121. Misuse of Position or Authority**

**7122. Additional Gift Limits and Compensation Restrictions**

**7123. Political Contributions and Activities**

**7124. Limits on Contracts and Grants with Former Directors**

**7125. Prohibited Director Communications**

**7126. Use of Confidential Information**

**7127. Duty to Report**

**7128. Retaliation, Whistleblower, and Witness Protection**

**7129. Failure to Cooperate with Ethics Officer Investigation**

**7130. Employment with Persons Doing Business with Metropolitan**

**7131. Compliance with Metropolitan Contracting Procedures and Guidelines**

**7132. Public Reporting for Contracts of \$50,000 or More**

**7133. Restrictions on Misleading Associations**

#### **§ 7120. Application of Metropolitan Ethics Requirements.**

Metropolitan officials shall have an obligation to abide by the rules listed in this Article and are subject to the provisions of Article 4 of Chapter 4 of this Division for any violations.

M.I. 52574 – November 9, 2021.

#### **§ 7121. Misuse of Position or Authority.**

Metropolitan officials shall not misuse their governmental position or authority to obtain, or attempt to obtain, a private benefit, or advantage for themselves or any other individual or entity, or a disadvantage for any other individual or entity.

M. I. 52574 – November 9, 2021.

#### **§ 7122. Additional Gift Limits and Compensation Restrictions.**

(a) Metropolitan employees shall not accept any gift from a donor who the employee knows is a restricted source. This limitation shall not apply to modest food or beverages provided during a work-related event or items of nominal intrinsic value, so long as the total value does not exceed \$50 in a calendar year from a single source.

(b) Metropolitan employees shall not receive, directly or indirectly, any compensation from any source, except from Metropolitan, for performance of their duties as Metropolitan employees.

M.I. 52574 – November 9, 2021; paragraph (a) amended by M.I. 52941 - August 16, 2022.

### **§ 7123. Political Contributions and Activities.**

(a) Metropolitan officials shall not solicit or receive political contributions at any Metropolitan facility or on any District property.

(b) Metropolitan officials shall not use Metropolitan's seal, trademark, stationary, or other indicia of Metropolitan's identity, or facsimile thereof, in any solicitation for political contributions.

(c) Directors shall not solicit political contributions from Metropolitan employees.

(d) Metropolitan employees shall not solicit political contributions from other employees over whom they exercise authority or otherwise supervise.

(e) At the time of their election to any elective public office, the Metropolitan employee shall disclose the office elected to and the term of office to the Ethics Officer and General Manager.

(f) Metropolitan officials shall not use Metropolitan assets, property, equipment, or other resources to engage in political activities.

(1) For purposes of this subdivision, 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, staff, and field sites owned, leased, or controlled by Metropolitan.

(2) Sending emails or otherwise using Metropolitan resources to support or oppose a candidate or ballot measure, or to solicit political contributions for a candidate or ballot measure is prohibited.

(g) Metropolitan employees shall not engage in political activities during their work hours with Metropolitan.

M.I. 52574 – November 9, 2021; amended paragraph (e) by M.I. 53064 – December 13, 2022.

### **§ 7124. Limits on Contracts and Grants with Former Directors.**

(a) Directors shall not contract for professional services with Metropolitan during the Director's term of office and for a period of one year thereafter.

(b) For a period of one year after a Director leaves office, Metropolitan shall not contract with any for-profit entity in which a former Director is an officer, partner, or shareholder who holds more than ten percent (10%) of the stock in the for-profit entity.

(c) These restrictions on contracting after leaving office may be waived by a two-thirds vote of the Board of Directors.

M.I. 52574 – November 9, 2021.

## **§ 7125. Prohibited Director Communications.**

Except for statements on the record at a public meeting, Directors shall not use their position of authority to communicate directly or indirectly with Metropolitan employees to influence: (1) the selection of a specific vendor, contractor, consultant, or other entity for a specific contract or procurement; (2) any hiring or employment decisions other than Department Heads; or (3) real property transaction.

The requirements of this section shall in no way restrict Directors from communicating with Metropolitan employees about Metropolitan procurement policies, procedures or other general matters, including requesting or receiving information about matters to be considered by Directors at public meetings.

M.I. 52574 – November 9, 2021.

## **§ 7126. Use of Confidential Information.**

(a) Metropolitan officials shall not willfully or knowingly disclose or use any confidential or privileged information unless authorized to do so or required to do so by law or Metropolitan policy.

(b) “Confidential or privileged information” as used in this section shall mean information, whether contained in a document, recorded, or communicated in another manner, which is maintained confidentially at or by Metropolitan and if contained in a writing, would not be subject to disclosure under the California Public Records Act.

M.I. 52574 – November 9, 2021.

## **§ 7127. Duty to Report.**

Each Metropolitan Management Employee shall report to the Ethics Officer any facts made known to the Management Employee which would indicate that a Metropolitan official, lobbyist, lobbying firm, or contractor has engaged in activities which appear to violate any provisions of Chapters 1 or 2 of this Division. For purposes of this section, “Management Employee” shall have the same meaning as used in section 6101(i) of this Code.

M.I. 52574 – November 9, 2021.

## **§ 7128. Retaliation, Whistleblower, and Witness Protections.**

Metropolitan officials shall not (1) engage in retaliation or threaten to engage in retaliation as a reprisal for or (2) prevent, discourage, or interfere with a person from:

(a) Reporting in good faith to a Metropolitan Management Employee, the Ethics Office, or other appropriate department or government agency information (other than information about a disagreement with a policy decision within the lawful discretion of a Metropolitan official) the person reasonably believes indicates:

(1) A work-related violation of any law or Metropolitan policy, other than an equal opportunity-related law or policy,

(2) A gross waste or abuse of Metropolitan resources,

(3) A workplace safety concern, or

(4) A public health or safety danger.

(b) Cooperating with investigations of matters reported pursuant to subdivision (a).

#### Definitions and Examples

For purposes of this section, a “Covered Individual” is an official who engages in one or both of the protected activities described in subsections (a) and (b) above.

For purposes of this section, “Retaliation” is when a Covered Individual is subjected to an adverse employment action because they engaged in one or both of the protected activities described in subsections (a) and (b) above).

For purposes of this section, examples of an adverse employment action include, but are not limited to: demotion; suspension; reduction in pay; denial of a merit salary increase; failure to hire or consider for hire; refusing to promote or consider for promotion; harassing an employee; denying employment opportunities; changing work assignments; treating people differently, such as denying an accommodation; not talking to an employee when otherwise required by job duties; singling a Covered Individual out for harsher treatment; lowering a performance evaluation; removing a Covered Individual from projects, standby, or other work assignments; withholding pay increases or assigning more onerous work, eliminating a position, or taking a form of disciplinary action; filing bad faith complaints against someone; spreading rumors about a complaint or a complainant; or otherwise excluding the Covered Individual from job-related activities.

M.I. 52574 – November 9, 2021; amended Section title, amended opening paragraph, amended paragraph (a)(3), added paragraph (a)(4), added new paragraphs titled “Definitions and Examples” by M.I. 52941 - August 16, 2022.

#### **§ 7129. Cooperation with Ethics Officer Investigations.**

(a) Metropolitan officials, lobbyists, lobbying firms, and contractors shall cooperate with the Ethics Office during an investigation. Conduct including, but not limited to, intentionally destroying relevant documents, refusing to be interviewed, refusing to provide documents or information, or obstructing an investigation shall be deemed a failure to cooperate.

(b) Metropolitan officials, lobbyists, lobbying firms, and contractors shall not provide false or misleading information to the Ethics Officer during an investigation.

(c) Metropolitan officials shall not participate in any Ethics Office complaint or investigation process except when necessary to provide information or otherwise respond to allegations.

(d) Metropolitan officials shall not interfere in any way with an Ethics Office complaint or investigation.

(e) Metropolitan officials shall provide to the Ethics Officer any documents or other information requested in connection with an Ethics Office complaint or investigation.

M.I. 52574 – November 9, 2021; amended Section title, amended paragraph (a) and added new paragraphs (c), (d), and (e) by M.I. 52941 - August 16, 2022.

#### **§ 7130. Employment with Persons Doing Business with Metropolitan.**

(a) Metropolitan employees shall not accept, solicit, or apply for employment with, or be compensated by, any individual or entity while that individual or entity is doing business with or 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.

(b) Metropolitan employees shall not recommend the employment or hiring of a relative to a Metropolitan contractor known by the employee to be dealing with Metropolitan on matters within the employee's area of responsibility or upon which the employee must act or make a recommendation.

M.I. 52574 – November 9, 2021.

#### **§ 7131. Compliance with Metropolitan Contracting Procedures and Guidelines.**

Metropolitan officials shall not intentionally fail to comply with Metropolitan contracting procedures and guidelines, including public notice procedures and contract approval procedures, as contained in this Administrative Code or any Metropolitan Operating Policy.

M.I. 52574– November 9, 2021.

#### **§ 7132. Public Reporting for Contracts of \$50,000 or More.**

Metropolitan shall post information about all existing contracts of \$50,000 or more in a centralized location on its website.

M.I. 52574 – November 9, 2021.

#### **§ 7133. Restrictions on Misleading Associations.**

(a) No Metropolitan official shall authorize, direct, or otherwise cause Metropolitan to participate in, or provide Metropolitan resources to, any association if its structure or identification is likely to mislead the public as to the association's true identity, its source of funding, or its purpose.

(b) In order to avoid the potential of misleading the public about any aspect of Metropolitan's participation in associations, Metropolitan's General Manager shall disclose on its public website all associations to which it provides funding or in-kind support, along with a description of the support provided and a link to that association's website, if any.

M.I. 52574 – November 9, 2021.



**[§ 7130. (Gifts; Additional Requirements) Repealed by M.I. 52574 - November 9, 2021]**

**[§ 7131. (Honoraria; Additional Requirements) Repealed by M.I. 52574 - November 9, 2021]**

**[§ 7132. (Ticket Distribution Policy) Repealed by M.I. 52574 - November 9, 2021]**

## Chapter 2

### ETHICS RULES FOR METROPOLITAN CONTRACTORS AND LOBBYISTS

#### Article

1 Policy	7200
<b>2 Metropolitan Contractors</b>	<b>7210</b>
<b>3 Lobbyists</b>	<b>7220</b>

#### Article 1

#### POLICY

#### Sec.

#### § 7200. Policy

The policy of Metropolitan is to maintain the highest standards of conduct from persons doing business with Metropolitan. Accordingly, it is the policy of Metropolitan that contractors and those attempting to influence Metropolitan decisions shall maintain the highest standard of personal honesty and fairness in dealing with Metropolitan and in carrying out duties on behalf of Metropolitan. This policy sets forth the minimal ethical standards to be followed by Metropolitan contractors, lobbying firms, and lobbyists.

M.I. 52574 – November 9, 2021.

## Article 2

### METROPOLITAN CONTRACTORS

Sec.

7210. Contractor Code of Conduct

7211. Contractor Code of Conduct Provisions

#### **§ 7210. Contractor Code of Conduct.**

(a) All Metropolitan contractors shall be subject to a Contractor Code of Conduct.

(b) This Contractor Code of Conduct shall be included in all written contracts with Metropolitan and shall be posted on Metropolitan's public website.

M.I. 52574 – November 9, 2021 (repeals and replaces former Section 7210).

#### **§ 7211. Contractor Code of Conduct Provisions.**

The General Manager, Ethics Officer, and General Counsel shall jointly approve the terms of the Contractor Code of Conduct. This Contractor Code of Conduct shall include, but not be limited to, the following provisions:

(a) Contractors shall abide by all Metropolitan ethics rules and policies applicable to contractors.

(b) Contractors shall timely cooperate with any investigation by the Ethics Officer, which includes permitting access to their books, records and accounts, and responding to inquiries as may be necessary to complete any investigation at no additional charge to Metropolitan.

(c) Failure to comply with the Contractor Code of Conduct shall be a basis for termination of existing contracts and debarment from future contracts as provided in section 8170.

(d) Contractors shall not provide political contributions to Metropolitan board members in violation of Government Code section 84308 nor cause any Metropolitan official to violate section 7123.

(e) Notice and a requirement that a contractor providing consulting services, including an employee of the contractor, comply with the conflict of interest and disclosure requirements of the Political Reform Act and Government Code section 1090 if the contractor qualifies as a public official.

M.I. 52574 – November 9, 2021 (repeals and replaces former Section 7211).

**[§ 7212. (Public Officials Who Manage Public Investments) Repealed by M.I. 52574 - November 9, 2021]**

**[§ 7213. (Consultants and New Positions) Repealed by M.I. 52574 - November 9, 2021]**

## Article 3

### LOBBYISTS

Sec.

7220. Lobbyist and Lobbying Firm Registration and Reporting Requirements

**7221. Revolving Door Restrictions on Former Metropolitan Officials**

#### **§ 7220. Lobbyist and Lobbying Firm Registration and Reporting Requirements.**

The Ethics Officer shall prescribe forms to comply with the requirements of this section and shall make all information listed on any registration statement and all quarterly disclosures publicly available on the Metropolitan public website within 14 calendar days of filing.

(a) Lobbyists shall file a registration statement with the Ethics Officer prior to communicating with a Metropolitan official for the purpose of influencing a decision of a Metropolitan official. The registration statement shall include the lobbyist's full name, business address, email address, telephone number and name of lobbying firm owned by the lobbyist or employing lobbyist.

(b) Lobbyists shall file quarterly reports with the Ethics Officer disclosing all topics they attempted to influence, the name of the lobbyist employer for whom they were engaged for the purpose of influencing, and whether they communicated with board members and/or staff members. Reports shall be due on or before the last day of the month following each calendar quarter.

(c) Lobbying firms shall file a registration statement with the Ethics Officer at the same time the firm's lobbyist registers. The registration statement shall include the lobbying firm's name, business address, email address, telephone number, lobbyist employed by or who owns the firm, and name of the entity compensating the lobbying firm.

(d) Lobbying firms shall file quarterly reports with the Ethics Officer disclosing the names of lobbyists who own or are employed by the firm, all topics the firm's lobbyists attempted to influence, and the name of the entity for whom the firm is compensated for the purpose of influencing. Reports shall be due on or before the last day of the month following each calendar quarter.

(e) Lobbyists and lobbying firms which have ceased lobbying Metropolitan officials shall file a termination statement with the Ethics Officer.

M.I. 52574 – November 9, 2021.

#### **§ 7221. Revolving Door Restrictions on Former Metropolitan Officials.**

(a) For a period of one year after leaving office or employment with Metropolitan:

(1) Directors shall not represent for compensation non-governmental entities before Metropolitan.

(2) All other Metropolitan officials shall not represent for compensation non-governmental entities before Metropolitan with regard to any issues over which they had decision-making authority during the three years prior to leaving office or employment.

(b) For purposes of this section, “represent” shall mean being compensated to communicate directly with a Metropolitan official for the purpose of influencing a Metropolitan decision.

(c) These restrictions shall not apply to representation of not-for-profit charitable entities before Metropolitan.

M.I. 52574 – November 9, 2021.

## Chapter 3

### TICKET DISTRIBUTION POLICY

#### Article

#### 1 Ticket Distribution Policy

7300

#### Article 1

### TICKET DISTRIBUTION POLICY

#### Sec.

#### 7300. Definition

#### 7301. Purposes of Ticket Distribution Policy

#### 7302. Ticket Distribution Policy

#### **§7300. Definition.**

“Ticket” or “pass” shall mean and refer to a ticket or pass as these terms are defined in FPPC Regulation 18946, as amended from time to time.

M.I. 52574 - November 9, 2021.

#### **§7301. Purpose of Ticket Distribution Policy.**

The purpose of this Policy is to ensure that all tickets and/or passes Metropolitan receives from public and private entities and individuals, which Metropolitan purchases or which Metropolitan owns because of its control of the event or facility, are distributed in furtherance of a public purpose of Metropolitan. This ticket distribution policy shall only apply to Metropolitan’s distribution of tickets and/or passes to, or at the request of, a Metropolitan official.

M.I. 52574 - November 9, 2021.

#### **§7302. Ticket Distribution Policy.**

(a) Ticket Distribution Public Purposes. Metropolitan may accomplish one or more public purposes of Metropolitan through the distribution of tickets and/or passes to, or at the request of, a Metropolitan official. The following list is illustrative rather than exhaustive of the public purposes of Metropolitan that may be served by Metropolitan officials attending events using tickets and/or passes distributed to them by Metropolitan:

(1) Support of general employee morale, retention or to reward public service.

(2) Promotion of water conservation within Metropolitan’s service area and the State of California.

(3) Promotion of the quality of the water served by Metropolitan and the water service provided by Metropolitan.

(4) Promotion of Metropolitan recognition, visibility, and/or profile on a local, state, national or international scale.

(5) Recognition of a Metropolitan program or purpose.

(6) Promotion of Metropolitan issues and interests.

(b) Public Purpose Requirement. The distribution of any ticket and/or pass by Metropolitan to, or at the request of, a Metropolitan official shall accomplish one or more public purposes of Metropolitan.

(c) Transfer Prohibition. The transfer by any Metropolitan official of any ticket and/or passes distributed to that official pursuant to this ticket distribution policy to any other individual is prohibited except to members of the official's immediate family for their personal use, or to no more than one guest solely for their attendance at the event.

(d) Metropolitan shall not disproportionately distribute tickets and/or passes to Directors, Executive Officers, or other senior management.

(e) Designation of Agency Head. For the purpose of implementing and posting this ticket distribution policy, and completing and posting the required FPPC form for distribution of tickets and/or passes, Metropolitan's General Manager, or their designee, is the responsible official.

(f) Website Posting. This ticket distribution policy shall be posted on Metropolitan's public website in prominent fashion and the link to this website shall be submitted to the FPPC for posting on the FPPC website.

(g) The distribution of a ticket and/or passes pursuant to this ticket distribution policy shall be posted on Metropolitan's website in a prominent fashion within forty-five (45) days after the ticket distribution. Such posting shall use the required FPPC form.

M.I. 52574 - November 9, 2021 amended paragraph (e) by M.I. 53064 – December 13, 2022.

## Chapter 4

### INVESTIGATION BY THE ETHICS OFFICER

#### Article

1	Authority to Investigate and Jurisdiction	7400
2	<b>Procedures for Investigations</b>	<b>7410</b>
3	<b>Procedures for Making Investigations Public</b>	<b>7420</b>
4	<b>Penalties for Violation of Metropolitan Ethics Rules</b>	<b>7430</b>

#### Article 1

### AUTHORITY TO INVESTIGATE AND JURISDICTION

#### Sec.

7400.	Jurisdiction to Investigate
7401.	<b>Discretion to Investigate</b>
7402.	<b>Concurrent Investigations</b>
7403.	<b>Referrals to the Ethics Officer</b>
7404.	<b>Determinations to Not Investigate</b>
7405.	<b>Investigations of Directors, General Manager, General Counsel, General Auditor, or Ethics Officer</b>
7406.	<b>Scope of Investigation</b>
7407.	<b>Consultation with the General Counsel</b>
7408.	<b>Requirements for Investigations</b>

#### **§7400. Jurisdiction to Investigate.**

(a) The Ethics Officer shall investigate all formal and informal complaints if the alleged actions would, if true, constitute a violation of a Metropolitan ethics rule.

(1) The Ethics Officer shall provide written acknowledgement of the receipt of a formal complaint to the complainant, request that the complainant keep the complaint confidential, and inform the complainant that no additional updates regarding the complaint will be provided.

(2) If the Ethics Officer determines that the complaint does not involve a Metropolitan official, lobbyist, lobbying firm, or contractor, does not involve Metropolitan ethics rules, or lacks sufficient information to establish a potential violation, then the Ethics Officer shall not conduct an investigation. The complainant shall be so notified in writing of any such determination by the Ethics Officer. Nothing in this section shall preclude a complainant from filing a subsequent complaint.

(b) The Ethics Officer may initiate investigations involving potential violations of Metropolitan ethics rules without a formal or informal complaint or referral from another Metropolitan department.

(c) The Ethics Officer shall not commence an investigation of alleged violations more than five years after the date on which the violation occurred. If the subject of the complaint



concealed information underlying the alleged violation, the five-year period shall be tolled for the period of the concealment.

M.I. 52574 - November 9, 2021.

**§7401. Discretion to Investigate.**

The Ethics Officer shall have the sole discretion to determine if the Office lacks jurisdiction or the complaint lacks sufficient information to establish a potential violation.

M.I. 52574 - November 9, 2021.

**§7402. Concurrent Investigations.**

The Ethics Officer may conduct an investigation concurrently and in coordination with other Metropolitan departments regarding matters over which the Ethics Officer and other Metropolitan departments have jurisdiction.

M.I. 52574 - November 9, 2021.

**§7403. Referrals to the Ethics Officer.**

Metropolitan departments shall refer any alleged violation of Metropolitan ethics rules to the Ethics Officer.

M.I. 52574 - November 9, 2021.

**§7404. Determinations to Not Investigate.**

An initial determination by the Ethics Officer to not open an investigation shall not preclude a future investigation based upon additional or further information.

M.I. 52574 - November 9, 2021.

**§7405. Investigations of Directors, General Manager, General Counsel, General Auditor, or Ethics Officer.**

(a) The Ethics Officer shall retain an outside counsel or investigator to conduct any investigation of alleged violations of Metropolitan ethics rules by a Director, General Manager, General Counsel or General Auditor. The investigation shall be conducted in consultation with the Ethics Officer. The Ethics Officer shall, based on the results of the investigation, make the final determination as to whether a violation has occurred. Prior to retaining the outside counsel or investigator, the Ethics Officer shall notify the Audit and Ethics Committee Chair, unless the Chair is the subject of the investigation, in which case the Vice Chair shall be notified.

(b) The Ethics Officer shall refer to the General Counsel any complaint of alleged violations of Metropolitan ethics rules by the Ethics Officer or any member of the Office staff. The General Counsel shall retain an outside counsel or investigator to conduct the investigation in consultation with the General Counsel. The General Counsel shall, based on the results of the investigation, make the final determination as to whether a violation has occurred. Prior to retaining the outside counsel or investigator, the General Counsel shall notify the Audit and Ethics Committee Chair.

(c) The General Counsel shall review any contract with an outside counsel or investigator to ensure compliance with Metropolitan contracting requirements.

M.I. 52574 - November 9, 2021.

**§7406. Scope of Investigation.**

The Ethics Officer may during the course of an investigation investigate potential violations of Metropolitan ethics rules beyond those identified in any complaint or referral received by the Ethics Officer or identified in the notification to the subject of the complaint made pursuant to section 7410.

M.I. 52574 - November 9, 2021.

**§7407. Consultation with the General Counsel.**

The Ethics Officer may consult the General Counsel at the Ethics Officer's discretion.

M.I. 52574 - November 9, 2021; amended by M.I. 52941 - August 16, 2022.

**§7408. Requirements for Investigations.**

The Ethics Officer shall abide by the requirements set forth in this Chapter for conducting any investigation.

M.I. 52574 - November 9, 2021.

## Article 2

### PROCEDURES FOR INVESTIGATIONS

Sec.

7410. Notice to Subject of Investigation

7411. Investigation Timeframe

**7412. Confidentiality of Investigations**

**7413. Access to Metropolitan Records**

**7414. Opportunity for Subject to Respond**

**7415. Preponderance of the Evidence Standard**

**7416. Ethics Officer Report**

#### **§7410. Notice to Subject of Investigation.**

(a) Upon receipt of a complaint, referral from a Metropolitan department, or determination by the Ethics Officer to conduct an investigation pursuant section 7400(b), the Ethics Officer shall notify the subject of the complaint in writing within 30 calendar days: provided, however, if the integrity of the investigation may be compromised by notifying the subject, then the Ethics Officer may withhold notice until an appropriate time. No notice need be given to the subject of the complaint if the Ethics Officer determines that an investigation is not warranted.

(b) As a part of the notice provided in subdivision (a) of this section, the Ethics Officer shall provide the nature of the allegations, advise the subject of the investigation regarding Metropolitan's rules against retaliation, and advise the subject of their obligation to cooperate with the investigation and that the failure to cooperate may lead to disciplinary action, regardless of the outcome of the investigation.

M.I. 52574 - November 9, 2021.

#### **§7411. Investigation Timeframe.**

(a) Investigations shall be conducted expeditiously and completed within 180 calendar days, except as provided in subparagraph (b). An investigation commences upon the Ethics Officer's determination to open an investigation, but in no event later than 30 calendar days from receipt of the complaint or referral.

(b) For good cause, an investigation may extend beyond 180 calendar days; provided, however, the Ethics Officer shall provide written notice to the subject of the investigation with an expected completion date. The Ethics Officer shall also notify the Audit and Ethics Committee Chair whenever an investigation extends beyond 180 calendar days and provide periodic updates on the status of the investigation thereafter.

(c) For purposes of the 180 calendar day period specified in this section, an investigation terminates upon service of the Ethics Officer's report upon the subject of the investigation, or upon notice of no violation given to the subject of the investigation, pursuant to section 7416.

M.I. 52574 - November 9, 2021.

#### **§7412. Confidentiality of Investigations.**

- (a) Investigations by the Ethics Officer shall be confidential to the fullest extent possible.
- (b) The Ethics Officer has the discretion to disclose information related to investigations for significant operational or safety reasons.
- (c) The Ethics Officer shall not unnecessarily disclose the identity of the subject of a complaint, except as needed in furtherance of the investigation or otherwise provided by Article 3 of this chapter.
- (d) During the investigation, the Ethics Officer shall advise the subject of the investigation, the complainant, and any witnesses of the confidentiality of the investigation.
- (e) The Ethics Officer may confer with the Chair of the Board and the Chair and Vice Chair of the Audit and Ethics Committee on any investigative matter subject to the following:
  - (1) The communications shall be for the purpose of feedback.
  - (2) The communications shall be confidential.
  - (3) The restrictions on interference with investigations in section 7129(d).
- (f) The Ethics Officer shall, to the extent possible, protect the identity of any complainant.

M.I. 52574 - November 9, 2021; amended paragraph (e), including (e)(1) and added new (e)(3) by M.I. 52941 - August 16, 2022.

#### **§7413. Access to Records, Information, and other Resources.**

- (a) The Ethics Officer shall have access to all Metropolitan functions, documents, records, property, personnel and other information deemed relevant by the Ethics Officer to an Ethics Office complaint or investigation, including information protected by the attorney-client privilege. Providing privileged information to the Ethics Office shall not constitute a waiver of the privilege.
- (b) If the Ethics Office determines that waiver of the attorney-client privilege is necessary, the Ethics Officer shall present the matter to the Board, as a majority of the Board is required to waive Metropolitan's attorney-client privilege.

M.I. 52574 - November 9, 2021; amended Section title, amended paragraph (a) and (b), and repealed prior paragraph (b) by M.I. 52941 - August 16, 2022.

#### **§7414. Opportunity for Subject to Respond.**

The subject of the complaint shall be afforded a reasonable opportunity to present any facts, legal arguments, or other relevant information to the Ethics Officer concerning an investigation and alleged violations prior to completion of the investigation.

M.I. 52574 - November 9, 2021.

#### **§7415. Preponderance of the Evidence Standard.**

The Ethics Officer shall use the preponderance of the evidence standard for making any determination of a violation of Metropolitan ethics rules.

M.I. 52574 - November 9, 2021.

#### **§7416. Ethics Officer Report.**

(a) Upon the completion of an investigation, the Ethics Officer shall prepare a written report that summarizes the evidence considered, any exculpatory evidence, a legal analysis if necessary, and a determination as to whether a violation has occurred.

(b) If the Ethics Officer determines by a preponderance of the evidence that the subject of the complaint has committed an ethics violation, the Ethics Officer shall provide the subject of the complaint, the written report specified in subdivision (a) of this section, along with any relevant evidence considered by the Ethics Officer. The subject shall have 14 calendar days from receipt of the report to file any response with the Ethics Officer. The Ethics Officer may grant an extension for good cause. The Ethics Officer shall consider the response and make any final changes to the written report as deemed appropriate by the Ethics Officer within 14 calendar days of receipt of the response, if any, unless the Ethics Officer determines additional time is required. The Ethics Officer shall provide a copy of any revised written report to the subject of the complaint.

(c) If the Ethics Officer determines after an investigation that there has been no violation, the Ethics Officer shall notify the subject of the complaint within 14 calendar days of such determination.

(d) Any referral to a local or state agency, an appropriate Metropolitan department or the Executive Committee pursuant to Article 4 of Chapter 4 of this Division, shall include the written report prepared by the Ethics Officer, relevant documents as determined by the Ethics Officer, and any response to the written report submitted by the subject of the complaint.

M.I. 52574 - November 9, 2021; amended paragraphs (a) and (b) and repealed prior paragraph (d) by M.I. 52941 - August 16, 2022.

## Article 3

### PROCEDURES FOR MAKING INVESTIGATIONS PUBLIC

Sec.

7420. Public Information on Investigations

7421. Confidential Investigation Files

#### **§7420. Public Information on Investigations.**

(a) At the conclusion of an investigation, the Ethics Officer shall post on Metropolitan's website the results of the investigation that describe: (1) the general nature of any alleged violations, (2) the conclusions reached by the Ethics Officer, and (3) any referral made to another Metropolitan department, the Executive Committee, or a local or state agency. The published results of the investigation shall not reveal the identity of the subject of the investigation. The Ethics Officer's report specified in section 7416(a) shall not be posted on Metropolitan's public website or otherwise be publicly disseminated.

(b) If the Ethics Officer determines that a Director has violated Metropolitan ethics rules, nothing in this Division prevents the Director's identity from becoming public in a board proceeding to address that violation.

(c) Nothing in this Division prevents a state or local agency to which a referral has been made by the Ethics Officer pursuant to section 7438(a) from revealing the identity of the subject of an investigation in accordance with the agency's policies.

M.I. 52574 - November 9, 2021.

#### **§7421. Confidential Investigation Files.**

The investigation files of the Ethics Officer, including the complaint and materials and information obtained by the Ethics Officer during the course of the investigation, are confidential and shall be subject to release only as required by law and as appropriate and necessary.

M.I. 52574 - November 9, 2021.

## Article 4

### PENALTIES FOR VIOLATION OF METROPOLITAN ETHICS RULES

Sec.

7430. Schedule of Penalties

7431. Levels of Violations

**7432. Penalties for Violations**

**7433. Serious Violations of the Political Reform Act or Government Code Section 1090**

#### **§7430. Schedule of Penalties.**

Penalties for violations of Metropolitan ethics rules shall be administered according to the penalties schedule in this article. Only Metropolitan officials, lobbyists, lobbying firms and contractors shall be subject to the penalties specified in this Article.

M.I. 52574 - November 9, 2021.

#### **§7431. Levels of Violations.**

In any Ethics Officer Report that finds a violation, the finding shall include a conclusion about the severity of the violation. This conclusion shall be based upon the severity of the underlying offense, along with any relevant mitigating or extenuating circumstances.

(a) Levels of violations:

(1) Level I (Severe Violation): One or more violations that seriously undermine or threaten the integrity of Metropolitan's governmental decision-making processes.

(2) Level II (Significant Violation): One or more violations that undermine or threaten the integrity of Metropolitan's governmental decision-making processes.

(3) Level III (Violation): One or more violations that are isolated or limited in nature, and that provide no more than a minimal personal benefit.

(4) Level IV (Incidental Violation): A minor infraction that is technical in nature and does not constitute a Level III violation. Multiple or repeated Level IV infractions collectively may constitute a Level III violation.

(b) Mitigating and aggravating factors.

In determining the appropriate level for a specific violation, the Ethics Officer Report shall include any applicable mitigating or aggravating factors including, but not limited to, the following:

(1) The nature and seriousness of the offense, and its relationship to the employee's duties and responsibilities.

(2) The official position of the subject, including its responsibilities, prominence, or fiduciary role.

(3) Acceptance of responsibility by the subject.

(4) The degree to which the subject cooperated in the investigation.

(5) Whether the subject had notice of the rules that were violated, or had been warned about the conduct in question.

(6) Whether the offense was intentional, technical, negligent, or inadvertent, or was frequent.

M.I. 52574 - November 9, 2021.

#### **§7432. Penalties for Violations.**

(a) Whenever the Ethics Officer finds a violation of a Metropolitan ethics rule, the Ethics Officer shall determine the level of violation pursuant section 7431.

(b) Whenever the Ethics Officer finds a violation of a Metropolitan ethics rule, the Ethics Officer shall refer the Ethics Officer report and the accompanying determination of level of violation as follows:

(1) Violations by Directors shall be referred to the Executive Committee for review and consideration of further action if appropriate under the circumstances which may include 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.

(2) Violations by the Executive Officers shall be referred to the Executive Committee for review and the consideration of further action including counseling, performance review, or the imposition of discipline as deemed appropriate under the circumstances.

(3) Violations by employees, other than the Executive Officers, shall be referred to the Human Resources Group and the appropriate Department Head or Group Manager for review and the consideration of further action which may include counseling, performance review, or the imposition of discipline as deemed appropriate under the circumstances.

(4) Violations by Metropolitan contractors shall be referred to the General Manager or designee for review and the consideration of further action which may include counseling, warning, termination of a contract, monetary penalties as specified in the contract, any other remedy available by contract, or debarment from future contracts pursuant to Article 5 of Chapter 1 of Division VIII as deemed appropriate under the circumstances.

(5) Violations by Metropolitan lobbyists and lobbying firms shall be referred to the General Manager or designee for review and the consideration of further action which may include counseling, warning, suspension of the Metropolitan registration of the lobbyist and lobbying firm, or publication of the violation on Metropolitan's webpage as deemed appropriate under the circumstances.

M.I. 52574 - November 9, 2021.



**§7433. Serious Violations of the Political Reform Act or Government Code Section 1090.**

(a) In addition to the disciplinary penalties in this Article, the Ethics Officer shall refer serious violations to the FPPC, Attorney General, or a District Attorney as determined by the Ethics Officer.

(b) Serious violations, as used in this section, shall include any of the following violations:

(1) Intentional and knowing violations of sections 7114 (influencing prospective employment), 7115 (honoraria ban), 7116 (gift limitations), 7117 (loans to public officials) and 7118 (Form 700).

(2) Violations of sections 7111 (conflicts of interest regarding contracts) and 7112 (conflicts of interest regarding governmental decisions).

(3) Any violation for failing to disclose reportable financial interests pursuant to section 7118 (Form 700) where a violation of section 7111 (conflicts of interest regarding contracts) or 7112 (conflicts of interest regarding governmental decisions) is also found.

(4) Violations of section 7113 (campaign contributions).

(5) Any violation of section 7116 (gift limitations) where the unlawful gift is from an individual or entity under contract with, otherwise engaged in doing business with, or is seeking to do business with, Metropolitan.

(6) At the discretion of the Ethics Officer, violations where the Metropolitan official has a prior serious violation.

M.I. 52574 - November 9, 2021.

## Chapter 5

### CONFLICT OF INTEREST CODE

#### Article

#### 1 Conflict of Interest Code

7500

#### Article 1

### CONFLICT OF INTEREST CODE

#### Sec.

7500. Metropolitan's Conflict of Interest Code

7501. Biennial Amendments to Conflict of Interest Code

7502. Filing of Statements of Economic Interest

#### **§7500. Metropolitan's Conflict of Interest Code.**

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes and biennial amendments thereto. The FPPC has sole authority to approve Metropolitan's conflict of interest code and amendments thereto. After final approval from the FPPC, Metropolitan's conflict of interest has the force and effect of law.

M.I. 52574 - November 9, 2021 (amends former Section 7200).

#### **§7501. Biennial Amendments Conflict of Interest Code.**

The Ethics Officer has sole authority to formulate and propose biennial and other amendments to Metropolitan's conflict of interest code to the FPPC. Upon the FPPC's final review and approval of the proposed amendments to the conflict of interest code, the conflict of interest code shall be deemed promulgated and incorporated by reference into this Article of the Administrative Code. The Ethics Officer shall maintain a copy of Metropolitan's approved conflict of interest code and post it to Metropolitan's internal and external websites.

M.I. 52574 - November 9, 2021.

#### **§7502. Filing Statements of Economic Interests.**

Individuals holding designated positions in the conflict of interest code shall file their statements of economic interests with the Office of Ethics, which will make copies of the statements available for public inspection and reproduction. Metropolitan officials whom the FPPC designates as public officials who manage public investments, including members of the Board of Directors, shall file their statements of economic interests with the FPPC. The Office of Ethics shall make copies of the statements available for public inspection and reproduction.

M.I. 52574 - November 9, 2021 (amends former Section 7205).

## Chapter 6

### EDUCATION, ADVICE, AND COMPLIANCE

#### Article

1 Education and Training	7600
2 <b>Ethics Advice</b>	<b>7610</b>
3 <b>Compliance</b>	<b>7620</b>

#### Article 1

### EDUCATION AND TRAINING

#### Sec.

7600. Education on Metropolitan Ethics Rules	
7601. <b>Ethics Education and Training Materials</b>	
7602. <b>Ethics Training for the Board of Directors</b>	
7603. <b>Ethics Training for Employees</b>	
7604. <b>Ethics Training for Oversight of Contractors</b>	
7605. <b>Additional Training for Statements of Economic Interest Filers</b>	

#### **§7600. Education on Metropolitan Ethics Rules.**

It shall be the policy of Metropolitan that its officials, lobbyists, lobbying firms, and contractors be held to the highest ethical standards. To achieve that policy goal, it shall be the responsibility of the Ethics Officer to educate and train Metropolitan officials, lobbyists, lobbying firms, and contractors regarding Metropolitan ethics rules to ensure compliance with applicable state government ethics laws and additional Metropolitan ethics requirements as specified in this Division.

M.I. 52574 - November 9, 2021.

#### **§7601. Ethics Education and Training Materials.**

(a) The Ethics Officer shall prepare materials for use in educating and training Metropolitan officials, lobbyists, lobbying firms, and contractors, including a guide to Metropolitan ethics rules.

(b) The Ethics Officer shall prepare training materials for use by Metropolitan officials, lobbyists, lobbying firms, and contractors on Metropolitan's Intramet or any successor system, or Metropolitan's webpage.

M.I. 52574 - November 9, 2021.

#### **§7602. Ethics Training for the Board of Directors.**

(a) The Ethics Officer shall provide an orientation ethics training for all newly appointed board members

(b) The Ethics Officer shall provide periodic in-person ethics training at meetings of the Board of Directors or committees thereof.

(c) The Ethics Officer shall provide regular written updates on changes in state ethics laws to the Board of Directors.

(d) The Ethics Officer shall certify Directors' compliance with mandatory state ethics training required by AB 1234.

M.I. 52574 - November 9, 2021.

#### **§7603. Ethics Training for Employees.**

All employees shall receive training on Metropolitan's ethics provisions at least once every two years. In addition, all designated employees shall receive training on Statements of Economic Interest and disclosure categories at least once every two years. This training may be either in-person or online. The Ethics Officer shall certify that all employees have completed this training.

M.I. 52574 - November 9, 2021.

#### **§7604. Ethics Training for Oversight of Contractors.**

All employees whose duties include substantive oversight of contractors shall receive training on the Contractor Code of Conduct at least once every two years. These trainings may be either in-person or online. The Ethics Officer shall certify that all employees have completed this training.

M.I. 52574 - November 9, 2021.

#### **§7605. Additional Training for Statements of Economic Interest Filers.**

The Ethics Officer shall provide trainings to Metropolitan officials and consultants required to file Statements of Economic Interest pursuant to section 87200 of the Government Code and sections 7118, 7511, 7512 and 7513 of this Division.

M.I. 52574 - November 9, 2021.

## Article 2

### ETHICS ADVICE

Sec.

7610. Ethics Advice

7611. Requirements for Ethics Advice

7612. Advice Immunity

**7613. Confidentiality of Ethics Advice**

#### **§7610. Ethics Advice.**

Metropolitan officials, lobbyists, lobbying firms and contractors may request advice from the Ethics Officer related to their duties and Metropolitan ethics rules under this Division.

M.I. 52574 - November 9, 2021.

#### **§7611. Requirements for Ethics Advice.**

(a) The Ethics Officer shall provide advice in writing to the requestor or in a memorandum to file, if the requestor declines a written response.

(b) The Ethics Officer shall only provide advice regarding questions concerning prospective acts, and not for prior conduct.

(c) Requests for advice may be declined in any of the following circumstances:

(1) The requestor is seeking advice relating to past conduct.

(2) The requestor is seeking advice regarding a third party.

(3) Relevant and material information provided in the request is inaccurate or incomplete.

(4) The request does not present a question under the Ethics Officer's jurisdiction.

M.I. 52574 - November 9, 2021.

#### **§7612. Advice Immunity.**

(a) Written advice by the Ethics Officer shall provide the requestor immunity from Metropolitan penalties or referral to a state or local agency by the Ethics Officer, as provided in Article 4 of Chapter 4 of this Division, if all of the following conditions are met.

(1) The request for advice was in writing and provides all material facts for the Ethics Officer to conduct a complete analysis, and

(2) The requestor complied with any guidance or recommendations contained within the written advice.

(b) Advice in response to a written request shall not provide immunity to any individual other than the requestor.

(c) Advice by the Ethics Officer does not provide immunity from enforcement by any state regulatory agency, including the FPPC, or any law enforcement agency.

M.I. 52574 - November 9, 2021.

**§7613. Confidentiality of Ethics Advice.**

(a) The Ethics Officer shall treat all ethics advice as confidential, but shall notify, in advance, the recipient of advice that:

(1) The communications associated with the advice and the advice itself are not protected by the attorney-client privilege.

(2) The advice is not necessarily confidential and exempt from disclosure under the Public Records Act or other legal process such as an internal investigation, subpoena, or production request.

(3) The advice will be provided for prospective conduct only and that information provided regarding past conduct could result in an investigation.

(b) The Ethics Officer shall keep confidential any communications regarding advice for prospective conduct, to the extent possible.

M.I. 52574 - November 9, 2021.

## Article 3

### COMPLIANCE

Sec.

7620. Ethics Training Required by Government Code

7621. Filing Officer Duties

7622. Additional Review of Statements of Economic Interest

**7623. Compliance with Government Code Section 84308**

#### **§7620. Ethics Training Required by Government Code.**

The Ethics Officer shall monitor and maintain the records of compliance for Directors and employees designated by the Board to participate in mandatory state ethics training requirements imposed by AB 1234. The Ethics Officer shall notify Metropolitan officials that are not in compliance with this section and seek their compliance.

M.I. 52574 - November 9, 2021.

#### **§7621. Filing Officer Duties.**

(a) The Ethics Officer shall comply with the Duties of Filing Officers as required by section 18115 of Title 2 of Division 6 of the California Code of Regulations or any superseding law or regulations.

(b) The Ethics Officer shall provide reminders regarding the filing deadline for Statements of Economic Interests required to be filed.

(c) The Ethics Officer shall assist persons with technical and substantive compliance questions related to their Statements of Economic Interests.

(d) The Ethics Officer shall track the status of Assuming Office, Annual, and Leaving Office Statements of Economic Interests of Metropolitan officials and shall notify non-filers of their obligation to file. After the Ethics Officer sends two written communications following the filing deadline, non-filers shall be referred to the FPPC for further action.

M.I. 52574 - November 9, 2021.

#### **§7622. Additional Review of Statement of Economic Interests.**

(a) The Ethics Officer shall review all Statements of Economic Interests required to be filed pursuant to section 87200 of the Government Code. This review shall include:

- (1) Evaluating internal consistency and consistency with prior filings;
- (2) Reviewing individual filers' declared financial interests; and
- (3) Advising whether to file an amendment, if necessary.

(b) If the Ethics Officer has reason to believe a filer's official duties could potentially affect a declared financial interest, the Ethics Officer shall contact the filer and offer to provide advice to ensure no inadvertent conflict of interest arises.

M.I. 52574 - November 9, 2021.

**§7623. Compliance with Government Code Section 84308.**

The Ethics Officer shall implement procedures to assist Directors with complying with Government Code section 84308, including alerting Directors to matters on meeting agendas that may require recusal.

M.I. 52574 - November 9, 2021.





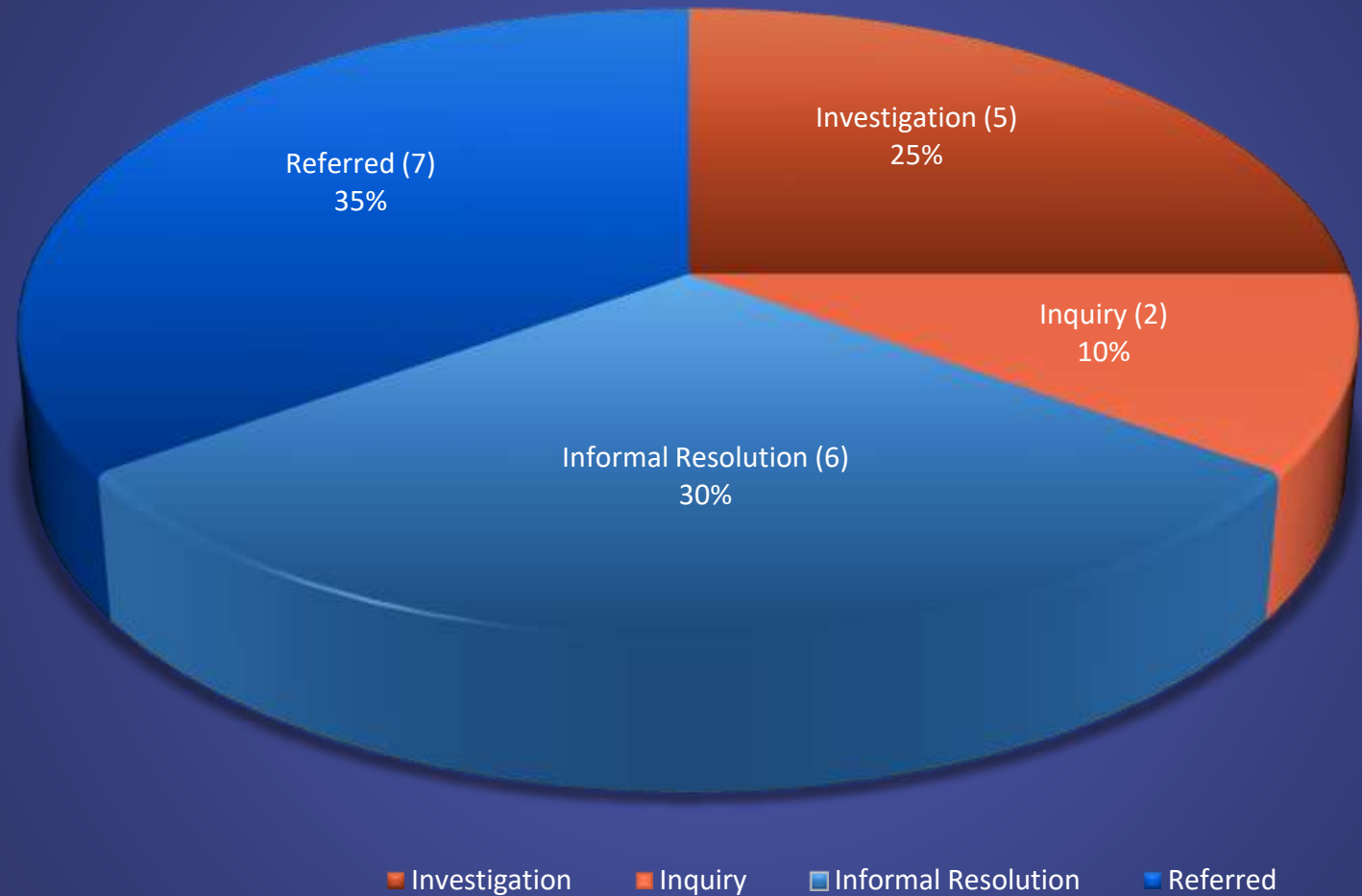
## Ethics, Organization, and Personnel Committee Workshop

# EEO Statistical Report

Item 6d  
July 11, 2023

# Total Complaints Received

April – June  
2023

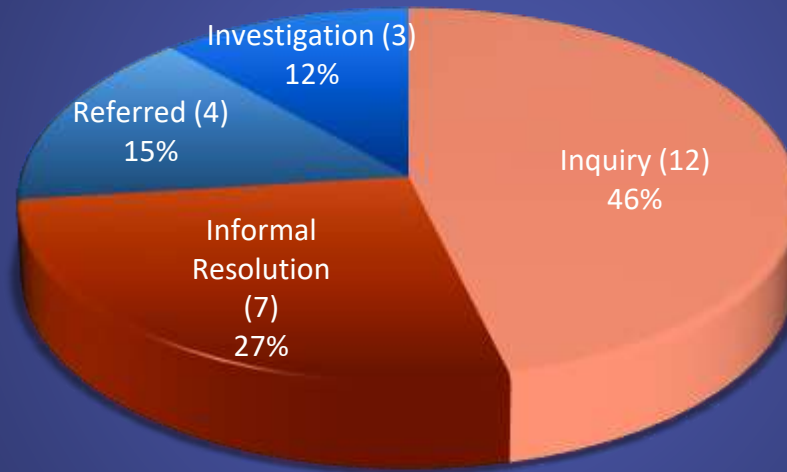


**Total = 20**

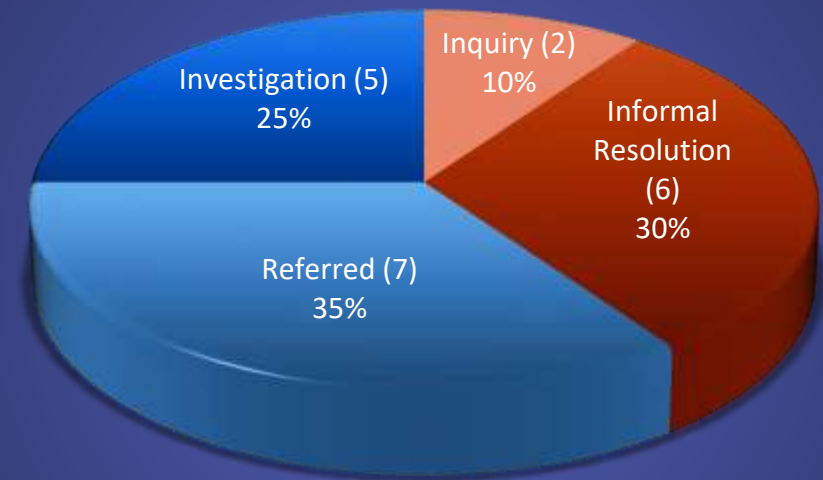
# Complaints Comparison by Quarter

January – June  
2023

January – March 2023 Total = 26

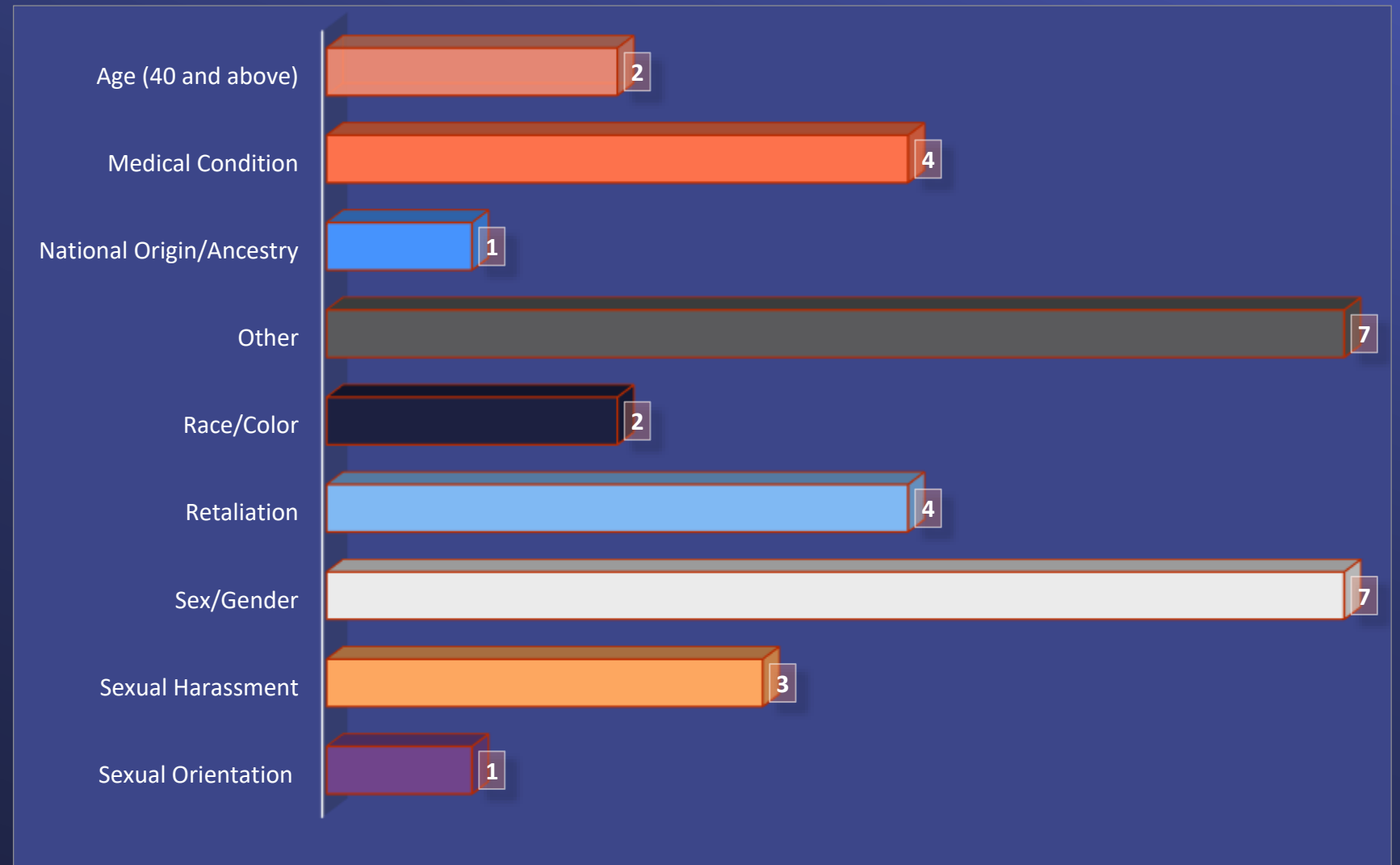


April – June 2023 Total = 20



April – June  
2023

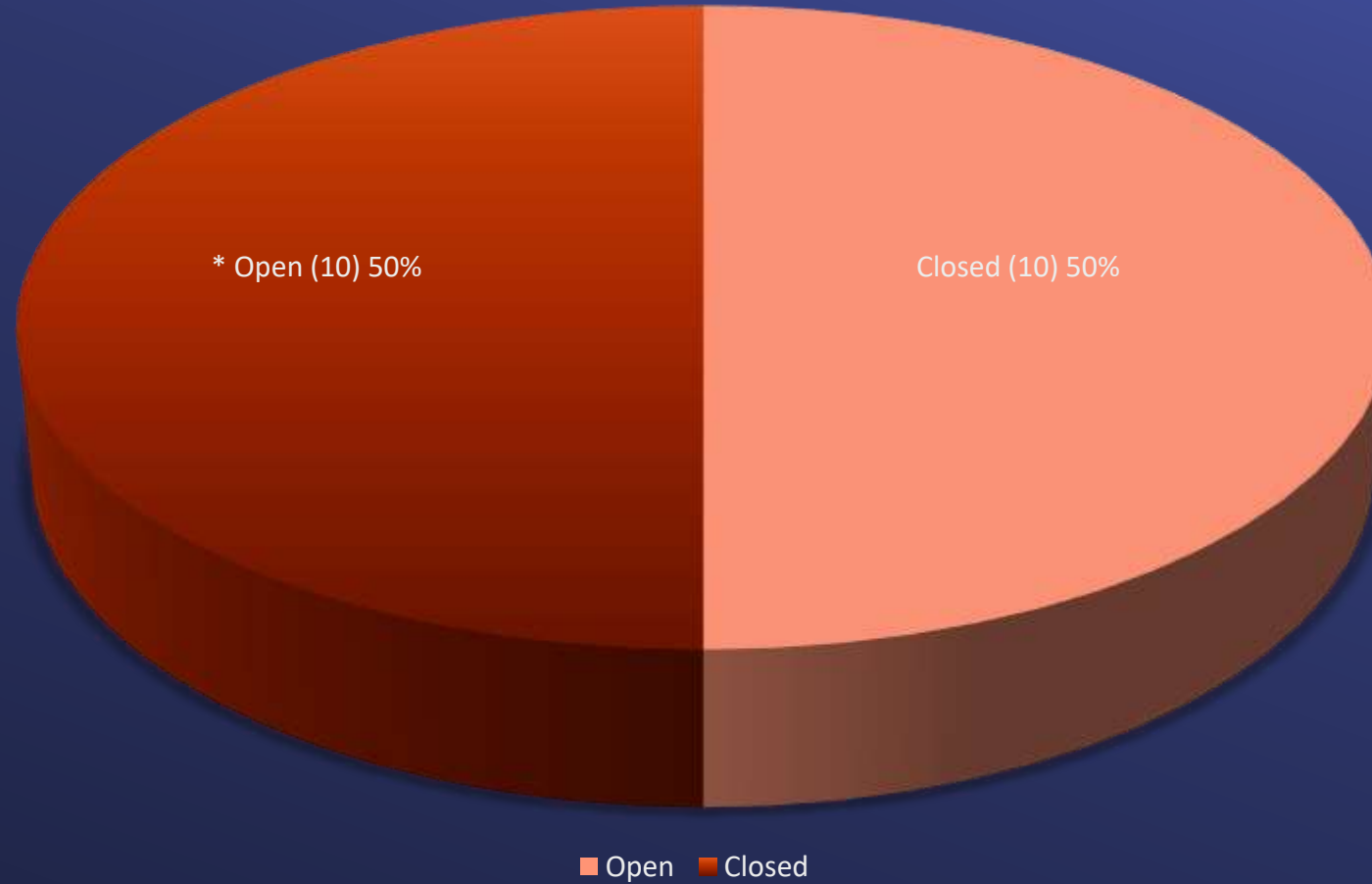
## Quarterly Basis of Complaints



**Total = 31**

# Complaints Open and Closed

April – June  
2023

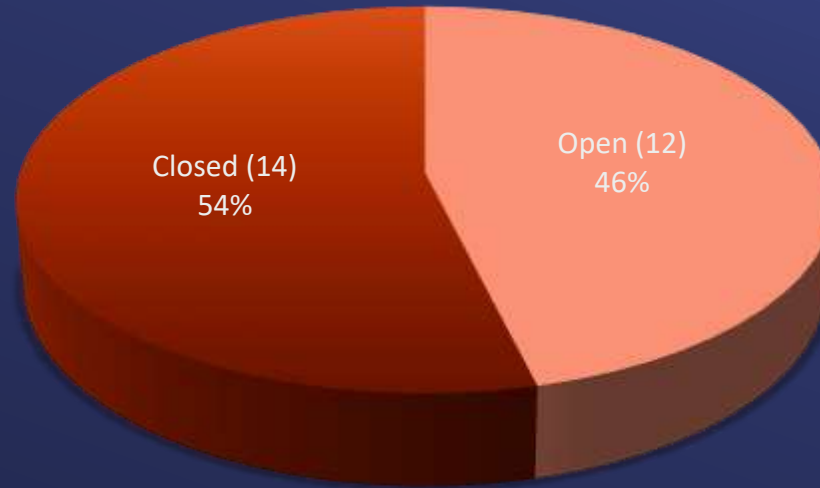


Case  
Closure  
Rate:  
56 business  
days

**\* 5 Complaints under assessment; 5 Complaints under Investigation**

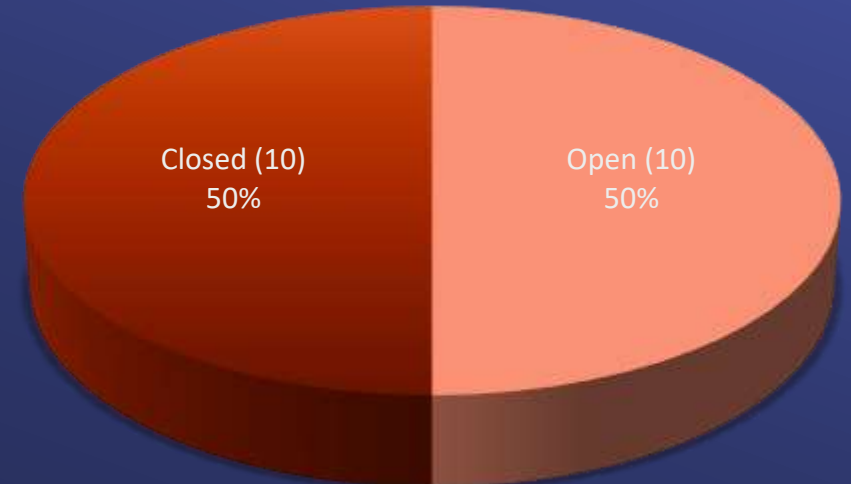
# Complaints Comparison & Closure Rate by Quarter

April – June  
2023



Case Closure Rate:  
93 business days

January - March 2023



Case Closure Rate:  
56 business days

April - June 2023

April – June  
2023

Questions?









Ethics, Organization and Personnel Committee

# Human Resources Manager's Report

Item 7b

July 11, 2023

# HR Services

## Overview of Services

- Employee and Labor Relations
- HR Support for MWD Departments
- Recruitment & Selection
- Classification & Compensation
- Benefits including leave administration, deferred compensation and retirements

## HR Services

### Overview of Services (continued)

- Human Resources Information Systems (HRIS)
- Workers' Compensation
- Non-industrial Medical
- Training and Organizational Development
- Business Support

# Statistics

## Employee Statistics

Employee Statistics	<u>June</u> <u>2021</u>	<u>June</u> <u>2022</u>	<u>June</u> <u>2023</u>
Regular Employees	1,806	1,762	1,779
Temporary Employees	30	37	25
Interns	3	2	0
Recurrents	20	18	18
Annuitants	16	19	24

# Statistics

## Activity Statistics

Statistics	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23	Impacts Vacancy Rate
External Hires - Regular	125	127	74	84	120	Yes
External Hires - Temporary	40	29	30	33	36	No
External Hires – Interns	38	18	3	3	1	No
Internal Hires – Recruited	98	91	60	67	70	No
Management Requested Promotions	130	109	149	134	134	No
Retirements/Separations (regular employees)	118	124	78	131	100	Yes
Employee Requested Transfers	19	15	20	14	18	No

# Challenges

## Key Challenges

- Transition in key positions
- State audit findings
- Recruitment volume and timelines

## HR Transitions

### Transition in Key Positions

- HR Group Manager
- Employee Relations Manager
- Non-Industrial Medical Staff
- COVID Staff
- Department of Transportation Drug and Alcohol Program Staff

## HR Transitions

### Transition in Key Positions – Fill Dates

- HR Group Manager (07/23)
- Employee Relations Manager (03/23)
- Non-Industrial Medical Staff (06/23)
- COVID Staff (06/23)
- Department of Transportation Drug and Alcohol Program Staff (06/23)



## State Audit

### State Audit Findings and Remedies

- Need for consistent recruitment and hiring practices
  - All hiring manager and recruitment staff were trained in MWD's adopted practice
- Need for check and balance to prevent bias
  - EEO added to recruitment process

## State Audit

### State Audit Findings and Remedies

- Need for statistical analysis regarding workforce demographics identifying barriers to employment
- Partnership formed between HR and DEI for execution of this analysis

## Recruitment Challenges

### Recruitment Volume/Timeline Challenges

- Current Recruitment Backlog
  - Approximately 35-40% of recruitments taking over 6 months (24 weeks) to fill
  - The current volume is unmanageable with current staffing levels
  - Inefficiencies compound the challenges faced by recruitment staff

# Recruitment Timeline

## Standard Recruitment Timelines

- Public Sector Industry Standard
  - 16 weeks
- MWD Standard
  - 18 weeks

# Recruitment Remedies

## Recruitment Remedies

- Added resources to alleviate backlog
- Workload standards for recruitment staff
- Efficiencies
  - Applying industry standards in scheduling and conducting recruitments
  - Pursuing the use of eligibility lists

## Keys to Success

## Keys to Success

- HR Staff
  - Subject matter expertise
  - Sustainable workloads
  - Comprehensive programs and processes
  - Commitment to public service at MWD
- Collaboration with partner departments

