

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

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

Ethics, Organization, and Personnel Committee - Final - Revised 3

Meeting with Board of Directors *

June 11, 2024

11:00 a.m.

Agendas, live streaming, meeting schedules, and other board materials are available here: <https://mwdh2o.legistar.com/Calendar.aspx>. Written public comments received by 5:00 p.m. (business days) before the meeting is scheduled will be posted under the Submitted Items and Responses tab available here: <https://mwdh2o.legistar.com/Legislation.aspx>. If you have technical difficulties with the live streaming page, a listen-only phone line is available at 1-877-853-5257; enter meeting ID: 891 1613 4145. Members of the public may present their comments to the Board on matters within their jurisdiction as listed on the agenda via in-person or teleconference. To participate via teleconference 1-833-548-0276 and enter meeting ID: 815 2066 4276 or click <https://us06web.zoom.us/j/81520664276pwd=a1RTQWh6V3h3ckFhNmdsUWpKR1c2Zz09>

**Tuesday, June 11, 2024
Meeting Schedule**

**09:00 a.m. FAM
11:00 a.m. EOP
01:30 p.m. Break
02:00 p.m. BOD**

MWD Headquarters Building • 700 N. Alameda Street • Los Angeles, CA 90012
Teleconference Locations:
2680 W. Segerstrom Avenue Unit I • Santa Ana, CA 92704
Long Beach Utilities Department • 1800 E. Willow Road • Long Beach, CA 90807
3008 W. 82nd Place • Inglewood, CA 90305
City Hall • 303 W. Commonwealth Avenue • Fullerton, CA 92832
Conference Room • 1545 Victory Blvd 2nd Floor • Glendale, CA 91201

* 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 May 14, 2024 (Copies have been submitted to each Director, any additions, corrections, or omissions) [21-3424](#)

Attachments: [06112024 EOP 2A \(05142024\) Minutes](#)

3. CONSENT CALENDAR ITEMS - ACTION

NONE

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

4. OTHER BOARD ITEMS - ACTION

- 8-6 Discussion of correspondence alleging employment violations and provide direction to staff; the General Manager has determined the proposed action is exempt or otherwise not subject to CEQA [Conference with legal counsel—anticipated litigation; based on existing facts and circumstances, including receipt of a correspondence containing allegations of serious Equal Employment Opportunity and other violations; there is significant exposure to litigation against Metropolitan; one potential case; to be heard in closed session pursuant to Gov. Code Section 54956.9 (d)(2)]. [ADDED ITEM 6/7/24] [21-3478](#)

5. BOARD INFORMATION ITEMS

NONE

6. COMMITTEE ITEMS

- a. Monthly Ethics Education [21-3423](#)

Attachments: [06112024 EOP 6a Presentation](#)

[06112024 EOP 6a Att. 1](#)

[06112024 EOP 6a Att. 2](#)

- b. Update on Department Head Evaluation Process and Comparator Agencies [21-3451](#)

Attachments: [6112024 EOP 6b Presentation](#)

- c. Discussion of proposed revisions to the investigative procedures for Equal Employment Opportunity and Ethics allegations involving members of the Board of Directors and Direct Reports to the Board. [ADDED ITEM 6/5/24] [21-3473](#)

Attachments: [06112024 EOP 6c C-L](#)

- d. Discussion on conducting a workforce assessment. [ADDED ITEM 6/6/24] [21-3476](#)

7. MANAGEMENT ANNOUNCEMENTS AND HIGHLIGHTS

- a. Ethics Officer's report on monthly activities [21-3425](#)
- b. Equal Employment Opportunity activities [21-3426](#)
Human Resources activities
Safety, Security, and Protection activities

Attachments: [06112024 EOP 7b Equal Employment Opportunity Report](#)
[06112024 EOP 7b Human Resources Report](#)
[06112024 EOP 7b Safety, Security, and Protection Report](#)

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

May 14, 2024

Chair Pressman called the meeting to order at 12:52 p.m.

Members present: Directors Bryant, Camacho, Cordero, Erdman, Faessel, Jung (teleconference posted location), McMillan, Phan, Ramos, and Pressman.

Members absent: Directors Douglas, Fong-Sakai, Kassakhian, and Sutley.

Other Board Members present: Directors Abdo, Ackerman, Armstrong, De Jesus (AB2449 “Just Cause”), Dennstedt, Dick, Fellow, Garza (AB2449 “Just Cause”), Goldberg, Gray, Kurtz, Lefevre, McCoy, Miller, Morris, Ortega, Peterson, Petersen, and Seckel.

Director De Jesus indicated he is participating under AB 2449 “just cause” regarding contagious illness. Director De Jesus appeared by audio and on camera.

Director Garza indicated he is participating under AB 2449 “just cause” regarding contagious illness. Director Garza appeared by audio and on camera.

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

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

Name	Affiliation	Item
1. Olivia Sanchez	ACE President	8-6

CONSENT CALENDAR ITEMS — ACTION

2. CONSENT CALENDAR OTHER ITEMS – ACTION

A. Approval of the Minutes of the Ethics, Organization, and Personnel Committee for March 11, 2024 (copies submitted to each Director, any additions, corrections, or omissions)

3. CONSENT CALENDAR ITEMS – ACTION

7-3 Authorize the General Manager to enter into an agreement for administrative supplemental labor services containing the following thirty supplemental temporary labor agencies: SuperbTech Inc., AtWork Personnel Services, Project Partners, PSP Group Inc., Johnson Service Group Inc., CathyJon Enterprises Inc. Tryfacta Inc., 22nd Century Technologies Inc., Ronin Staffing LLC, Enterprise Resource Services Inc., Sierra Cybernetics Inc., Morris and Willner Partners, Staffmark Group, Balanced Diversity Solutions, Partners In Diversity Inc., AppleOne Inc., Genesis Global Recruiting, HireGround Personnel Services Inc., Jada Systems Inc., Mantek Solutions Inc, TPS Group, Good People Inc., Info Origin Inc, Harvest Technical Services Inc, TruCapital Partners, Information Management Resources Inc., Kaygen Inc., SoftHQ Inc., Akshar IT Solutions LLC, and Infojini Inc, each with up to four annual renewal options, with a maximum not-to-exceed amount of \$8 million per year for the contract; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA.

Presented by: Brandon Patrick, Unit Manager Class Comp & Recruitment

Motion: Authorize the General Manager to enter into an agreement for administrative supplemental labor services containing the following thirty supplemental temporary labor agencies: SuperbTech Inc., AtWork Personnel Services, Project Partners, PSP Group Inc., Johnson Service Group Inc., CathyJon Enterprises Inc. Tryfacta Inc., 22nd Century Technologies Inc., Ronin Staffing LLC, Enterprise Resource Services Inc.,Sierra Cybernetics Inc., Morris and Willner Partners, Staffmark Group, Balanced Diversity Solutions, Partners In Diversity Inc., AppleOne Inc., Genesis Global Recruiting, HireGround Personnel Services Inc., Jada Systems Inc., Mantek Solutions Inc., TPS Group, Good People Inc., Info Origin Inc, Harvest Technical Services Inc., TruCapital Partners, Information Management Resources Inc., Kaygen Inc., SoftHQ Inc., Akshar IT Solutions LLC, and Infojini Inc, each with up to four annual renewal options, with a maximum not-to-exceed amount of \$8 million per year for the contract.

Mr. Patrick gave an overview of why the board should authorize entering an agreement for administrative supplemental labor. The contract allows the district to enter an agreement with 30 supplemental labor companies which will provide coverage for vacancies and project support throughout the district.

7-4 Approve the Department Head 360 Evaluation process; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA.

Presented by: Barry Pressman, Chair of the Committee
Adan Ortega Jr., Chair of the Board

Motion: Approve the Department Head 360° Evaluation Process

Director Pressman gave a presentation on the process for the Department Head 360 Evaluation. Along with Chair Ortega who described in detail what the process consists of and the planning it involved. Guest speaker Eleanor Allen spoke briefly on her contribution to the project.

After completion of the presentations, Director Erdman made a motion, seconded by Director Camacho to approve the consent calendar items 2A, 7-3, and 7-4.

The vote was:

Ayes: Directors Bryant, Camacho, Cordero, Erdman, Faessel, Jung, McMillan, Phan, Pressman, and Ramos.

Noes: None

Abstentions: None

Absent: Directors Douglas, Fong-Sakai, Kassakhian and Sutley.

The motion for item 2A passed by a vote of 10 ayes, 0 noes, 0 abstention, and 4 absent.

END OF CONSENT CALENDAR ITEMS

4. OTHER BOARD ITEMS – ACTION

8-6 Update on labor negotiations and approve entering into two-year extension of 2022-24 Memorandum of Understanding between The Metropolitan Water District of Southern California and The Association of Confidential Employees; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA [Conference with Labor Negotiators; to be heard in closed session pursuant to Gov. Code 54957.6. Metropolitan representatives: Katano Kasaine, Assistant General Manager, Chief Financial Officer, Mark Brower, Human Resources Group Manager, and Gifty J. Beets, Human Resources Section Manager of Labor Relations. Employee organization: Association of Confidential Employees].

Presented by: Gifty Beets, Human Resources Section Manager

Motion: Authorize the General Manager to exercise discretion under Administrative Code Section 610(k) to enter into a new Memorandum of Understanding with ACE.

Ms. Beets gave an update and an overview of labor negotiations item, to enter into a new Memorandum of understanding with ACE.

The following director had comments or questions.

1. Erdman
2. Pressman

Staff responded to the Directors' questions and comments.

Director Camacho made a motion, seconded by Director Bryant to approve item 8-6.

The vote was:

Ayes:	Directors Bryant, Camacho, Cordero, Erdman, Faessel, Jung, McMillan, Phan, Pressman, and Ramos.
Noes:	None
Abstentions:	None
Absent:	Directors Douglas, Fong-Sakai, Kassakhian, and Sutley.

The motion for item 8-6 passed by a vote of 10 ayes, 0 noes, 0 abstention, and 4 absent.

5. **BOARD INFORMATION ITEMS**

None

6. **COMMITTEE ITEMS**

- a. Subject: Monthly Ethics Education

Presented by: Peter Von Haam, Assistant Ethics Officer

Mr. Von Haam provided an update about Metropolitan's Contractors Code of Conduct. The Ethics Office carried out this board directive by drafting and circulating the draft document for internal review among Departments. The General Manager recently approved the final form of the Code. Management will be responsible for incorporating the Code into Metropolitan's new contracts.

7. MANAGEMENT ANNOUNCEMENTS AND HIGHLIGHTS

- a. Subject: Ethics Officer's Report on Monthly Activities

Presented by: Abel Salinas, Ethics Officer

Mr. Salinas reported the ethics office organized and hosted Southern California Ethics Symposium, co-sponsored by LA Metro and Los Angeles Mayor Karen Bass. Also reported training provided by the ethics office to headquarters and other locations, so far trained 1,300 employees throughout 25 events. Gave an update on pending investigations.

The following director had comments or questions.

1. Ramos

Staff responded to the Directors' questions and comments.

- b. Subject: Equal Employment Opportunity Activities
Human Resources Activities
Safety, Security, and Protection activities

Presented by: Jonaura Wisdom, Chief EEO Officer

Mark Brower, Human Resources Group Manager

Ms. Wisdom highlighted the EEO Office's office hours held at four desert facilities, the Weymouth Tour/Luncheon and EEO training for Weymouth employees, and the EEO Investigations 101 training.

Mr. Brower gave an overview of an upcoming employee appreciation event to be held on July 20th, upcoming Management Academy, providing training for new managers, updates on HR hosted wellness webinars, upcoming HR employee relations weekly visits to the desert, and recruitment team updates.

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The following directors had comments or questions on the Human Resources Activities.

1. Kurtz
2. Ortega
3. Ramos

Staff responded to the Directors' questions and comments.

Chair Pressman stated the Safety, Security, and Protection activities report is available online.

8. FOLLOW-UP ITEMS

None

9. FUTURE AGENDA ITEMS

None

10. ADJOURNMENT

Meeting adjourned at 1:53 p.m.

Barry Pressman
Chair



Ethics, Organization, & Personnel Committee

Monthly Ethics Education

Item 6a

June 11, 2024

Item 6a
Monthly
Ethics
Education

Subject

Overview of revised “pay to play” law

Purpose

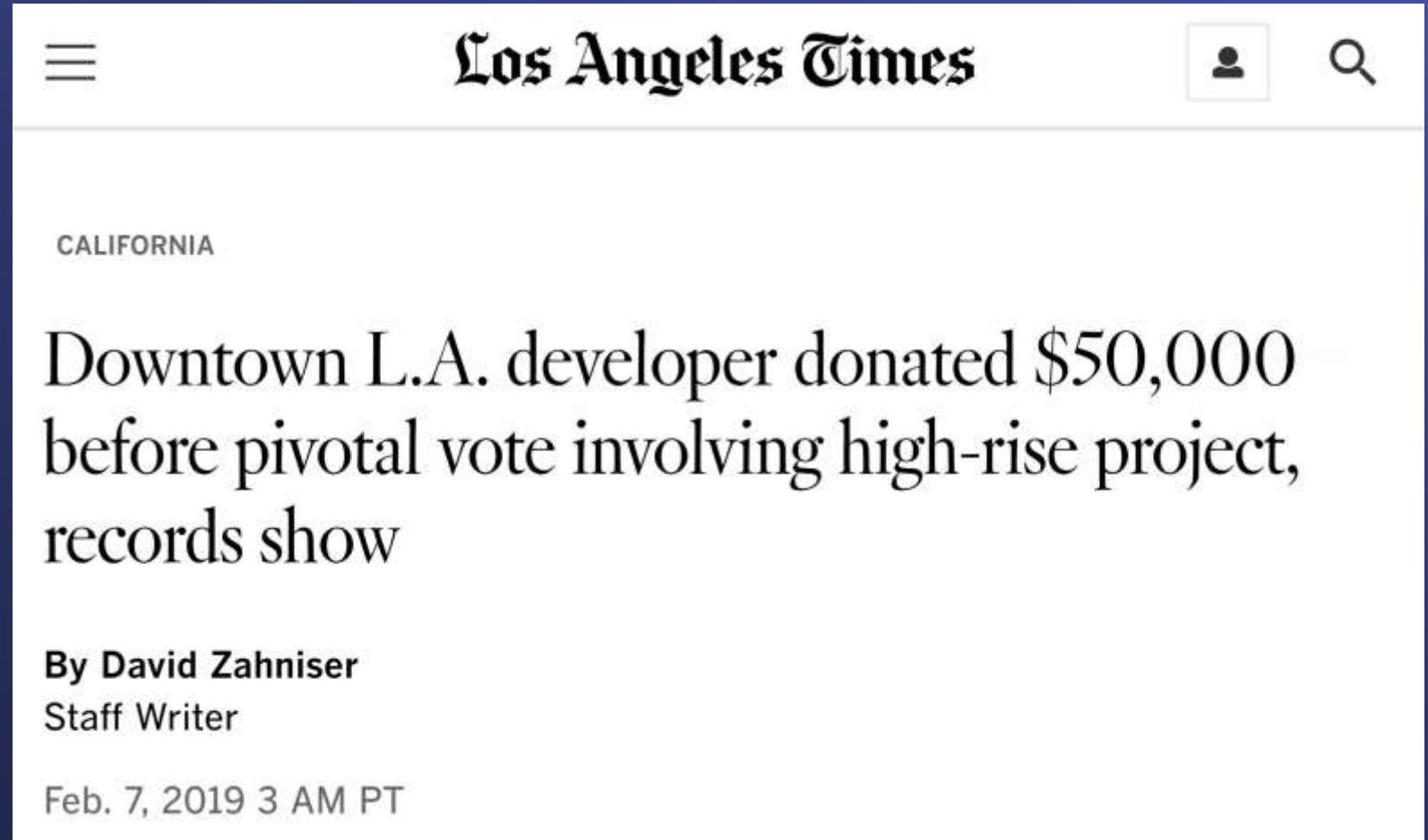
To help public officials avoid unintentional violations in the course of campaign fund-raising

Pay to Play Law

Levine Act in 1982

- LA Times report on Coastal Commission
- Gov Code sec. 84308
 - Campaign contributions
 - Prohibitions, disqualifications

2019



The screenshot shows the top portion of a Los Angeles Times article. At the top left is a hamburger menu icon. The page title "Los Angeles Times" is centered in a large, black, serif font. To the right of the title are icons for a user profile and a search magnifying glass. Below the title, the word "CALIFORNIA" is written in a smaller, all-caps, sans-serif font. The main headline is in a large, black, serif font and reads: "Downtown L.A. developer donated \$50,000 before pivotal vote involving high-rise project, records show". Below the headline, the author's name "By David Zahniser" and his title "Staff Writer" are listed in a smaller, black, sans-serif font. At the bottom left of the article preview, the date and time "Feb. 7, 2019 3 AM PT" are displayed in a small, black, sans-serif font.

2021

News & Public Affairs

Hefty Contracts for Campaign Contributors in Huntington Park



Several companies that donated to Huntington Park council members received city contracts: Sean McMorris, the policy and organizing consultant for California Common Cause, said the campaign report indicates a "classic culture of pay-to-play." | Erick Cabrera

 PBS SoCal

Pay to Play Law

Levine Act Amendments

- Appointed or Elected
- Ban extends from 3 months to 12 months after vote
- Cure for honest mistakes
- More public disclosure





2023 Changes to Section 84308

February 2023

Senate Bill 1439

In 2022, the California Legislature passed [SB 1439](#), a bill that amended Section 84308 of the Political Reform Act (“the Act”). The changes took effect on January 1, 2023. As detailed below, the amendments significantly broadened the scope of the statute—most significantly by applying the statute’s restrictions to agencies whose members are directly elected by voters. In response to the changes brought on by SB 1439, the FPPC: (1) issued the [Kendrick Opinion](#) on the application of amended Section 84308; (2) is preparing a package of regulatory amendments; and (3) is providing guidance in the form of this fact sheet¹, as well as through formal advice letters and informal assistance via phone and email.

Section 84308 Generally

Section 84308 prohibits certain officials from taking part in an entitlement for use proceeding if the official has received a contribution exceeding \$250 from a party or participant in the proceeding within the preceding 12 months. An official is also prohibited from accepting, soliciting, or directing a contribution exceeding \$250 from a party or participant in the proceeding for a certain period of time after a final decision is rendered in such a proceeding.

A “party” is any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use. A “participant” is person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use, **and** has a financial interest in the decision.

A party to a proceeding before an agency involving a license, permit, or other entitlement for use must disclose on the record any contribution in an amount of more than two hundred fifty dollars (\$250) made within the preceding 12 months to an official of the agency.

¹ This fact sheet is informational only and contains only highlights of selected provisions of the law. It does not carry the weight of the law. For further information, consult the Political Reform Act and its corresponding regulations, advice letters, and opinions.

In certain instances, an official may avoid violating this section by returning contributions in excess of \$250. (See subdivision (d).)

Changes in 2023

As of January 1, 2023, Section 84308 now operates differently in two key ways:

- 1. Section 84308 now applies to agencies whose members are directly elected by voters including local elected officials such as city councilmembers and county supervisors serving on their respective boards; and**
- 2. Officials are prohibited from accepting, soliciting, or directing a contribution exceeding \$250 from a party or participant for 12 months after the final decision of a proceeding.**

Common Questions Regarding Section 84308

Q. What types of proceedings are covered by Section 84308?

A. Section 84308 pertains to “proceeding[s] involving a license, permit, or other entitlement for use.” The phrase “license, permit, or other entitlement for use,” in turn, “means all business, trade, and land use licenses and permits and all other entitlements for use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises.”

Q. Does an official have a duty to proactively determine whether a participant has a financial interest in a decision?

A. No. Section 84308 and Regulation 18438.7 require an official to recuse when the official knows or has reason to know of a participant’s financial interest in a proceeding, but neither the statute nor regulation establish a proactive duty to investigate a potential financial interest, such as reviewing other public records or questioning the individual.

Q. Do SB 1439’s amendments to Section 84308 apply to contributions received or proceedings participated in throughout 2022, before SB 1439 took effect?

A. The Commission has determined a local elected official is not prohibited from taking part in entitlement for use proceedings based on contributions received in 2022, nor is an official prohibited from accepting, soliciting, or directing contributions exceeding \$250 from parties or participants in proceedings finalized in 2022. (See *Kendrick* Opinion, No. O-22-002.)

Q. When will the Commission amend regulations relating to Section 84308?

A. Pre-notice discussion of regulatory amendments is scheduled to occur at the Commission's February 16, 2023 meeting, with presentation for adoption scheduled to occur at the Commission's April 20, 2023 meeting. The Commission welcomes and encourages public comments regarding potential regulatory amendments. To find out how to participate in a FPPC meeting, go to <https://www.fppc.ca.gov/about-fppc/contact-us/public-comment.html>.



Pay to Play No More? Levine Act (SB 1439)

Friday, Sept. 22, 2023

Robert Fabela, City Attorney, Anaheim
Amanda B. Freeman, Senior Deputy City Attorney, Fresno
Rebecca L. Moon, Senior Assistant City Attorney, Sunnyvale

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Pay to Play No More? The Levine Act (SB 1439)

Amanda Freeman, Senior Deputy City Attorney, City of Fresno

Rebecca Moon, Senior Assistant City Attorney, Sunnyvale

Robert Fabela, City Attorney, Anaheim

League of California Cities Annual Conference, September 2023

In 1982, the *Los Angeles Times* reported that several California Coastal Commissioners had received large campaign donations from persons with applications pending before them.¹ The *Times*' investigation revealed a pattern of questionable – if not shocking – conduct that included directly contacting applicants with pending projects to request donations for political campaigns, accepting donations from attorneys and consultants who regularly represented applicants, and soliciting donations from successful applicants after voting to approve their projects. This scandal led to the enactment of the Levine Act (AB 1040), which added Government Code 84308 to the Political Reform Act of 1974. The purpose of the Levine Act is to prevent officials from using their authority as government officials to demand campaign contributions from applicants, a practice known as “pay to play.”

As originally enacted, the Levine Act's restrictions only applied to members of appointed boards and commissions, excluding city councilmembers and county supervisors in their elected roles, as opposed to any appointed roles they may have had (such as on LAFCO). This changed on January 1, 2023, as a result of SB 1439, which expanded the reach of the Levine Act to local elected officials such as city councilmembers, special district board members, and school board members even when acting in their elected roles.

State Senator Steve Glazer (D-Contra Costa County) introduced SB 1439 with the support of the government watchdog organization California Common Cause and other advocates of public accountability. Supporters of the legislation cited recent “pay to play” scandals in cities such as Los Angeles² and Huntington Park.³

Under the Levine Act as amended by SB 1439:

- Officers of an agency are prohibited from accepting, soliciting, or directing campaign contributions over \$250 from any party to, or participant in, a proceeding involving a license, permit, contract, or entitlement for use (“proceeding”) before their agency.⁴ This includes contributions from parties and their agents, and from those with a financial interest in the matter (and their agents) who merely participate in a proceeding, as by speaking at a Council meeting. The prohibition applies while the proceeding is pending and for 12 months following a final decision, when the officer knows or has reason to know the party has a financial interest in the proceeding (such as owning a home nearby). (Gov. Code, § 84308, subd. (b).) This prohibition impacts fundraising for a year after the decision.

¹ *Coastal Commission Seats Used as Fundraising Base*, Los Angeles Times (March 12, 1980), p. 1, <https://www.newspapers.com/image/385326358> [paywall].

² Zahniser, *Downtown L.A. developer donated \$50,000 before pivotal vote involving high-rise project, records show*, Los Angeles Times (Feb. 7, 2019), at <https://www.latimes.com/local/lanow/la-me-developer-donations-onni-20190207-story.html> [as of Aug. 15, 2023].

³ Cabrera and Patel, *Hefty Contracts for Campaign Contributors in Huntington Park*, KCET (July 26, 2021), at <https://www.kcet.org/news-community/hefty-contracts-for-campaign-contributors-in-huntington-park> [as of Aug. 15, 2023].

⁴ “License, permit, or other entitlement for use,” includes all business, professional, trade, and land use licenses and permits and all other entitlements for use, and all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises. (Gov. Code § 84308(a).)

- An officer who received a campaign contribution of more than \$250 from a party or participant, or their agents, in the past 12 months may be disqualified from participating in that proceeding. The disqualification depends on whether the officer “knowingly and willfully” accepted a contribution from a party, or if they accepted a contribution knowing the donor was a participant with a financial interest in the decision. (Gov. Code § 84308(c).) Additionally, an officer who received a contribution greater than \$250 in the preceding 12 months from a party or participant to the proceeding must disclose that fact on the record. (Gov. Code, § 84308, subd. (c).)
- Parties to and participants in a proceeding must disclose on the record if they made contributions over \$250 within the prior 12 months to any officer of the agency and are prohibited from making contributions to any officer of the agency while the proceeding is pending and for 12 months after the date a final decision is rendered. (Gov. Code § 84308, subd. (e).)

Who is Subject to SB 1439? State and local agency “officers,” including any elected or appointed officers, alternates, chief executive officers, and candidates for elective office. This includes members of city councils, county and special district boards, and appointed boards. The law does not apply to courts, the judicial branch, or the governor’s cabinet members. (Cal. Code Regs., tit. 2, § 18438.1.)

Curing a violation. If an officer receives a contribution that will otherwise require disqualification under Section 84308, they may participate if they return the contribution within 30 days from the time they know or should know about (1) the contribution *and* (2) the proceeding. (Gov. Code § 84308, subd. (d)(1).) Additionally, an officer who accepts, solicits, or directs a contribution of more than \$250 during the 12 months after the date a final decision may cure the violation by returning the contribution or the portion exceeding \$250 within 14 days, but only if they did not knowingly and willfully accept, solicit, or direct the prohibited contribution, and the officer’s controlled committee (or the officer if none) must maintain records of the cure. (Gov. Code § 84308, subd. (d)(2).)

FPPC Regulations. The California Fair Political Practices Commission (FPPC) revised the regulations applicable to Section 84308, effective August 12, 2023. Key clarifying provisions include:

- **Dates.** The amendments to the Levine Act do not apply to proceedings participated in or contributions made or accepted, solicited, or directed by an officer prior to January 1, 2023, if the officer was not already subject to the Levine Act. (Cal. Code Regs., tit. 2, § 18438.) This regulation codifies the FPPC’s *Kendrick* opinion (No. O-22-002, December 22, 2022). As noted below, Senator Glazer objects to this conclusion and has asked the Attorney General to opine otherwise, but that may not occur by the end of 2023, when the point should be moot.
- **“Proceedings.”** A “proceeding” includes any proceeding to grant, deny, revoke, restrict, or modify a license, permit or other entitlement for use that does not solely involve purely ministerial decisions, and is applied for by the party; formally or informally requested by the party; or involves a franchise or contract other than

competitively bid, labor, and personal employment contracts. (Cal. Code Regs., tit. 2, § 18348.2.)

- **“Pending” proceedings.** For officers, a decision is “pending” once it is before the officer for consideration, such as an item placed on the agenda of a public meeting, or when it is reasonably foreseeable the decision will come before the officer and the officer knows or has reason to know the decision is within the jurisdiction of the agency (as when an office has notice that a formal land use application has been submitted to the agency which must come before his or her board). For a party or participant, a proceeding is pending when it is before the jurisdiction of the agency for its decision, such as when an application is filed. (Cal. Code Regs., tit. 2, § 18348.2.)
- **“Officer of the agency.”** An “officer” is an individual who: 1) may make, participate in making, or attempt to influence a decision in the proceeding or who exercises authority over officers who may do so, and: 2) serves in an elected position (including those appointed to a vacancy); is an appointed member of a board or commission; is a candidate for elected office or was a candidate for office in the 12 months before the proceeding; or is the chief executive of a county, city, or district. (Cal. Code Regs., tit. 2, § 18438.1(d).) This means a candidate who lost an election remains subject to the Levine Act prohibitions for a year if they have decisionmaking authority over a proceeding (like a Planning Commissioner who continues to serve after an unsuccessful run for Council).
- **“Agent” of a party or participant.** A person is the agent of a party to, or a participant in, a pending proceeding only if the person represents the party or participant for compensation *and* appears before or otherwise communicates with the agency for the purpose of influencing the pending proceeding. (Cal. Code Regs., tit. 2, § 18348.3.)
- **When an officer “knows or has reason to know” a participant has a financial interest.** An officer knows or has reason to know of a participant’s financial interest in a decision only if the officer has actual knowledge of the financial interest, or the participant reveals facts in written or oral statements during the proceeding before the officer that make the person’s financial interest apparent. All relevant facts known by the officer at the time of the proceeding should be considered.

The regulation creates three rebuttable presumptions. An officer is deemed to know of a participant’s potential financial interest when they are aware a participant has: an interest in real property within 500’ of the project; an economic interest in a business entity that may see a significant increase or decrease in customers as a result of the proceeding; or a business relationship with the applicant that may result in additional services provided to the applicant. (Cal. Code Regs., tit. 2, § 18438.7(a)(2).) The above notwithstanding, an officer does *not* know or have reason to know of a participant’s financial interest in a decision solely as a result of the participant identifying an economic interest located in the general vicinity of

a business entity or real property at issue in the proceeding. (Cal. Code Regs., tit. 2, § 18438.7(a)(4).)

- **Accepting, receiving, soliciting, and directing contributions.** An officer “accepts” or “receives” a contribution when the contribution is made to the officer’s own campaign or any committee controlled by the officer. An officer “solicits” or “directs” a contribution by requesting contributions to any other campaign or controlled committee, not just their own. Note that a “controlled committee” can include not just campaign committees but also ballot measure committees, legal defense funds, recall committees, and officeholder controlled committees. The regulation includes exceptions for fundraising requests through mass mailings or mass media, as well as speaking at public events. Also, an officer does not solicit or direct a contribution solely because the officer’s name is printed with other names on stationery or letterhead used to request contributions. (Cal. Code Regs., tit. 2, § 18438.6.)
- **Aggregating contributions.** All contributions made by a party or participant must be aggregated with contributions made by their agents during the prior 12 months or from the date the agent was hired as a paid employee, contractor, or consultant, whichever is shorter. For example, if Party A contributes \$75 in April 2023, and Party A’s agent contributes \$176 in June 2023, the recipient of the \$251 campaign contribution would be limited by the Levine Act until June 2024. The party or participant’s contributions must also be aggregated with contributions by individuals (other than an uncompensated officer of a non-profit organization), or entities required to be aggregated with the party, participant, or agent under Government Code § 82015.5. (Cal. Code Regs., tit. 2, § 18438.5.)
- **Disclosures.** An officer must disclose receipt of a disqualifying contribution on the record at the beginning of the public meeting involving the proceeding. If an official learns of a contribution *during* a proceeding, they must disclose the contribution on the record before participating further in the proceeding. (2 CCR § 18438.8.) The official may continue to participate in the proceeding if the official has known or should have known about the contribution and proceeding for fewer than 30 days, discloses the disqualifying contribution on the record of the public meeting, confirms the contribution will be returned within 30 days of when the official knew or should have known about the contribution, and the contribution is returned within that time. (Cal. Code Regs., tit. 2, §§ 18438.7, 18438.8.)
- **Willful or knowing receipt of a contribution.** An officer who “willfully or knowingly received” a contribution from a party or participant with a financial interest may not participate in or influence the decision. Willful or knowing receipt includes when the officer has actual knowledge of the contribution, when the contribution is disclosed by the party or participant at the proceeding (as required by Government Code section 84308(e)), or when the officer is aware of other facts establishing reason to know of the contribution (such as being informed by another person a contribution has been made, a history of two or more prior donations over \$250 from the party or participant, the officer’s personal solicitation of a contribution from the party, etc.). However, an officer without actual knowledge of

the contribution from a party or participant does not have reason to know of the contribution based solely on the fact that the contribution was reported as required by law. (Cal. Code Regs., tit. 2, §18438.7.)

- **Legally required participation.** Officials who would otherwise be disqualified from engaging in a proceeding can participate if their participation is legally required, in the same manner as when a conflict exists due to a financial interest. (Cal. Code Regs., tit. 2, § 18703.) Also, see the FPPC’s *Granda* informal advice letter addressing how legally required participation applies to strong mayors, discussed further below.

FPPC Letters. Since 1982, the FPPC has issued over 200 formal and informal advice letters related to the Levine Act. The database of letters on the FPPC website is an important starting point for research.⁵ Although the law has been expanded to cover local elected officials, the fundamental requirements and prohibitions have not changed. In addition, the FPPC has fielded many questions in 2023 from elected officials. Recent letters include the following:

- **Contracts are proceedings, regardless of value.** Contracts are considered entitlement for use proceedings for purposes of Section 84308 regardless of value. Small contracts, including purchase orders, are subject to Section 84308’s provisions. Charter school petitions, which are contracts, are subject to Section 84308. Labor contracts, such as collectively bargained project labor agreements, are expressly exempted from Section 84308. (FPPC *Valesquez* informal advice letter, No. I-23-065, May 9, 2023; see also Cal. Code Regs., tit. 2, § 18348.2(a)(3)(B).)
- **Strong mayors and legally required participation.** The legally required participation exception likely applies to strong mayors exercising approval or veto powers. Examining *Affordable Hous. Alliance v. Feinstein* (1986) 179 Cal.App.3d 484 and its progeny, the *Granda* letter clarified that San Diego’s strong mayor may participate in a proceeding despite receiving a disqualifying contribution in the preceding 12 months because of his charter-granted veto and approval powers. However, the mayor may not solicit, receive, or direct contributions exceeding \$250 while a proceeding is pending or for a year after, and is required to disclose the contribution. (FFPC *Granda* informal advice letter, No. I-23-102, July 12, 2023.)
- **Applicability to candidates.** The FPPC applied Regulation 18438.1 to clarify that a candidate for elected office is not an “officer of the agency” subject to the restrictions of Section 84308 unless they have decisionmaking authority with respect to a proceeding in the *Titus* formal advice letter (No. A-23-103, published June 27, 2023).

Outstanding questions. While the FPPC’s amended regulations provide some clarity, ambiguities remain. For example, what is an “informal request” triggering a proceeding?

⁵ <https://www.fppc.ca.gov/advice/advice-opinion-search.html>

Does a right to appeal a lower level decision to City Council (e.g., from Planning Commission) make it “reasonably foreseeable” that the decision will come before the City Council? Would an individual who complains about a project’s impact on home values in a community with high rates of home ownership mean an officer “knows or has reason to know” that individual is a participant with a financial interest in a proceeding? If your agency encounters such questions, cities may benefit from a request for formal advice from the FPPC.

Senator Glazer, the author of SB 1439, also requested an opinion from the Attorney General addressing whether the disclosure and recusal provisions of SB 1439 apply to contributions made before January 1, 2023. As of the drafting of this paper the Attorney General has not issued an opinion. Since Senator Glazer’s request, the revised FPPC regulations and its formal *Kendrick* opinion both expressly addressed the question in the negative.

Legal challenge to SB 1439. The *Family Business Ass’n v. FPPC* (Sac. Superior Court Case #34-2023-00335169) challenge to SB 1439 on constitutional grounds was unsuccessful; the Sacramento Superior Court granted a motion for judgment on the pleadings rejecting all of the plaintiff’s arguments on May 25, 2023. Appeal was due by August 16, 2023, and no appeal is on the Court of Appeal’s or trial court’s docket as of late August when this paper is written.

Practice ideas.

- Include a field in staff report templates indicating whether Section 84308 applies (see City of Anaheim staff reports as an example).
- Include a reminder on meeting agendas about applicability of Section 84308 or add a standing agenda item for officers’ and participants’ disclosures.
- Require applicant to disclose contributions when they submit their applications – e.g., include a disclosure section on templates to list campaign contribution over \$250 to a decisionmaker in the prior twelve months.
- Include a provision in forms of contracts to alert contracting parties to this statute.

As agencies implement SB 1439, we encourage proactive training for officers to help them understand the expanded Levine Act. The Institute for Local Government recently held a webinar on the topic; the video presentation is available here: <https://www.ca-ilg.org/post/lunch-and-learn-californias-new-campaign-contribution-regulations-what-local-governments-need> .



Board of Directors

Update on Comparator Agencies for Department Head 2024 Salary Survey

Ethics, Organization, and Personnel Committee

Item 6b

June 11, 2024

Item 6b

Update of
Comparator
Agencies for
Department Head
2024 Salary Survey

Subject

Update on the comparator agencies used for the Department Head 2024 salary survey

Purpose

Overview of the salary survey process and agencies we use to compare against. Provide information on other agencies to potentially include in the salary survey and seek Board guidance

Background Current Process

Current Comparator Agencies

Per Administrative Code, Section 6208(h)(2) and in use since 2004:

- County of Los Angeles
- East Bay Municipal Utility District
- Los Angeles Department of Water and Power
- Los Angeles Metropolitan Transportation Authority
- Orange County Water District
- San Diego County Water Authority
- San Francisco Public Utilities Commission
- Sanitation Districts of Los Angeles County
- State Department of Water Resources

Background

Current Process

Market Competitiveness

- Annual Direct Report salary survey
 - General Manager
 - General Counsel
 - General Auditor
 - Ethics Officer
- Compares actual base salaries
- Salaries measured against 75th percentile (+/-10%)

Option
Revised Agency
List

Comparator Agencies for Consideration

Eleven Agencies

- Alameda County Water District (New)
- Central Arizona Project (New)
- Contra Costa Water District (New)
- East Bay Municipal Utility District
- Los Angeles Department of Water and Power
- San Diego County Water Authority
- San Francisco Public Utilities Commission
- Sanitation Districts of Los Angeles County
- Santa Clara Valley Water District (New)
- Southern Nevada Water Authority (New)
- Zone 7 Water Agency (New)

Options

Compensation Options

- Market data adjustment
- Alignment to MWD negotiated MOUs with employees:
 - Cost of living adjustment – FY 24/25 = 3%
 - Merit step increase based on performance, up to salary range maximum (2.75% to 11%)

Discussion

Committee Discussion





Ethics, Organization, and Personnel Committee

6/11/2024 Committee Meeting

6c

Subject

Discussion of proposed revisions to the investigative procedures for Equal Employment Opportunity and Ethics allegations involving members of the Board of Directors and Direct Reports to the Board

EEO and Ethics Complaint and Investigation Procedure Re Direct Reports and Board Members

I. PURPOSE

The Metropolitan Water District of Southern California (“District”) is committed to preventing discrimination, harassment and retaliation in the workplace.

The District has zero tolerance for any conduct that violates this policy. Conduct need not violate either federal or state law in order to constitute a violation of this policy.

A single act by a District employee may constitute a violation of this policy and provide sufficient grounds for the District to discipline the employee.

This policy establishes a complaint procedure by which the District will investigate and resolve complaints of discrimination, harassment and retaliation by and against District covered individuals. The District encourages all covered individuals to report any conduct that they believe violates this policy as soon as possible.

The District expressly prohibits any retaliation against an employee because they filed or supported a complaint or because they participated in the investigation or complaint resolution process. Individuals found to have retaliated against an employee in violation of this policy will be subject to appropriate sanction or disciplinary action, up to and including termination.

II. COVERED INDIVIDUALS AND SCOPE OF POLICY

This policy covers the following individuals: General Manager, General Auditor, General Counsel, Ethics Officer and any Board member (“covered individuals”).

This policy applies to all terms and conditions of employment, internships, and volunteer opportunities, including, but not limited to, selection, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

III. REPORTING DISCRIMINATION, HARASSMENT, AND RETALIATION

Everyone must work toward preventing discrimination, harassment, and retaliation, but leadership matters. Supervisors and managers have a special responsibility to make sure employees feel safe at work and that workplaces are free from discrimination, harassment, and retaliation. Any employee or covered individual is encouraged to report discriminatory, harassing, or retaliatory behavior to a supervisor or manager. Anyone who witnesses or becomes aware of potential instances of discrimination, harassment, or retaliation should report such behavior to a supervisor, manager, or to the EEO or Ethics Officer, without disregard to any chain of command.

Any report of an alleged EEO or Ethics violation submitted to any department (e.g., Human Resources, Water System Operations), department (e.g., Audit, Ethics, Legal), or Board Member must be immediately forwarded in writing to the intake committee¹. A referring group, department, or Board Member should notify the complainant, in writing, of the referral to the intake committee. The intake committee will confirm receipt of a complaint with the referring group, department or Board Director, and the complainant). The intake committee will document any complaint or referral in its confidential case database system.

IV. COMPLAINTS AND INVESTIGATIONS

A. COMPLAINTS

After the intake committee is notified of an EEO or Ethics complaint, the intake committee will promptly (not to exceed three (3) business days) confirm receipt of the complaint in writing and will contact the complainant within five (5) business days to schedule an intake assessment for the purposes of obtaining additional information as necessary.

The intake committee will conduct an intake assessment within ten (10) business days of receipt of a complaint to better understand the facts and circumstances surrounding the complaint. Any instances in which this timeline is exceeded will be due to extenuating circumstances of the parties involved (i.e. participants' leave of absence, their coordination with union representatives, participants' delays due to work schedule). In the case of an anonymous complaint, the intake assessment may be more limited in scope.

During the intake assessment, the complainant should be prepared to provide the following information:

- 1) The basis for the charge of discrimination, harassment, and/or retaliation;
- 2) A description of the specific action(s) about which they are complaining, including the date(s) and time(s) the alleged action(s) occurred; and
- 3) The names of all the individuals involved, including the subject of the complaint (respondent), and any witnesses who saw, heard or otherwise has knowledge of the alleged discrimination, harassment or retaliation.

¹ The intake committee will be comprised of an outside entity whose responsibilities and duties are outlined in this policy.

After completing an intake assessment, and upon the collection and review of relevant documentation and information, the intake committee will determine whether the complaint falls under this policy. If the allegation, in part or in whole, falls within the EEO or Ethics Office's jurisdiction, the intake committee will determine whether the complaint is appropriate for investigation by an external investigator. The complainant will be notified of this determination within ten (10) business days of the date in which the complainant provides the intake committee with all requested information necessary to establish jurisdiction. There may be instances when the intake committee will need to preliminarily gather information to determine jurisdiction, which may extend the ten (10) business day timeframe.

If the intake committee determines that a complaint falls outside its jurisdiction, inform the complainant in writing and refer the matter in writing to the appropriate office (e.g., Human Resources, Ethics). The referral will be documented in the EEO or Ethics Offices' case database system.

Once the intake committee receives a complaint of a potential policy violation, it will immediately begin assessing the situation to determine if interim measures should be implemented to restrict and/or eliminate contact between a complainant or respondent. If, at the discretion of the intake committee, an interim measure is required impacting a direct report, the intake committee will immediately inform the ad hoc committee, via an attorney client privileged communication, of the recommendation for an interim measure, the basis for the recommendation, and what specific measure is recommended. Such recommendations may include separating the employees by temporarily reassigning one or both employees, placing an employee on administrative leave, and/or modifying work activities or locations until the investigation is complete and appropriate action is taken. If the ad hoc committee agrees that either the recommended interim measure or another action is necessary and appropriate, the ad hoc committee will confidentially request that the Chair of the Board convene a special meeting to consider imposition of an interim measure.

When interim measures are implemented, it is best practice for the respondent to be subject to the interim measure pending the outcome of the investigation, unless the complainant voluntarily requests a temporary interim measure during the investigation.

Some examples of when interim measures may be taken include, but are not limited to:

- When there is a direct reporting relationship between the complainant and the respondent, and the complaint includes egregious allegations of discrimination, harassment and/or retaliation, including sexual harassment;
- To prevent the disruption or alteration of possible evidence;
- To prevent repetition of alleged conduct complained of;
- When there is a reasonable belief that an employee's continued presence in the workplace raises concerns about safety in the workplace.

Once an interim measure has been imposed impacting a direct report, the intake committee will continue to assess the situation to determine if the interim measure continues to be required and will keep the ad hoc subcommittee updated, accordingly. The intake committee encourages a complainant and/or impacted direct report to communicate with the ad hoc committee if any challenges or ongoing issues arise because of the imposition of an interim measure. The intake committee and the ad hoc committee, as applicable, will review the situation accordingly.

After the intake assessment is complete and relevant information is reviewed, the intake committee (with input from the complaining party) may elect to address and resolve a complaint in an informal manner, instead of by investigation. The informal resolution process may be effective when an allegation, as presented by the complainant, is not egregious enough to constitute a violation of the District's EEO or Ethics policies, and/or the intake committee determines an informal resolution is the most effective approach to resolving the complaint. Some examples of when the intake committee may elect to informally resolve a complaint includes:

- Behavior that is not egregious or sufficiently severe in nature;
- When the general facts of an allegation aren't disputed by the parties involved and the respondent admits to the alleged conduct
- When an incident arises from a misunderstanding or minor personality conflict;

At the end of the informal resolution process, the intake committee will generate a summary report. The summary report will include any substantiated finding(s). The investigative scope, process, evidence and analysis summarized in the report must support the findings. Once the intake committee concludes the summary report is in order, the report will be finalized and the intake committee will notify the ad hoc committee of the findings in the case. Upon receipt of the substantiated findings, the ad hoc committee will recommend action to the Board, as appropriate.

B. INVESTIGATIONS

Once the intake committee determines that a potential EEO or Ethics policy violation should be investigated, the investigation will immediately proceed in a prompt, thorough and fair manner by an external investigator/law firm. The investigation may include individual interviews with the parties involved and, where necessary, with witnesses who may have observed the alleged conduct or may have other relevant knowledge.

Once the intake committee determines that a potential EEO or Ethics policy violation should be investigated, the intake committee will notify the complainant and respondent of the investigation in writing. As the investigation progresses, other witnesses will receive advance notice of their interview and will be notified of their responsibility to cooperate during the investigation. Notification includes the following:

- The complainant will be notified of the decision to investigate a complaint, in writing, within five (5) business days. The notice will contain the basis upon which the matter is being investigated and the assigned investigator's name.
- The respondent will be notified that an EEO or ETHics complaint has been made against them, the basis upon which the matter is being investigated applicable to the respondent, and the assigned case investigator's name.
- Witnesses will be notified that they have been identified as a witness concerning an EEO or Ethics investigation for the purposes of scheduling a witness interview. Witnesses will also be notified of their duty to cooperate during the investigation, which will include participating in a witness interview and providing appropriate records as requested during the investigation.

All notices to the complainant, respondent, witnesses will remind the parties that the matter is confidential and that retaliation for participating in an investigation is strictly prohibited. The investigation will proceed and conclude promptly, and the investigator will take the time necessary to ensure the investigation is fair to all parties and is thorough. Case investigations will take ninety (90) business days to complete. However, cases may extend this timeline due to the complexity of the investigation, including the number of protected characteristics listed, the number of allegations under investigation, the amount of parties or witnesses to be interviewed, the expansion of investigative scope, and/or scheduling challenges with involved investigative parties, and/or their representation. The intake committee will inform involved parties, about the status of their investigation, through ongoing communication.

If the intake committee becomes aware of information indicating an individual participating in an investigation has potentially acted in bad faith by making a false allegation of discrimination, harassment or retaliation, or has provided false information to the intake committee during the course of an investigation, that information will be promptly and thoroughly assessed accordingly. Appropriate responsive action may follow if an individual participating in an investigation is found to have made a false allegation of discrimination, harassment or retaliation, or has provided false information to the intake committee during the course of an investigation.

At the completion of an investigation, the investigator will generate a written report with factual findings based on the preponderance of evidence standard. Each factual allegation will be resolved by one of the following findings:

- **Substantiated.** Where the investigation results show that it is more likely than not that a factual allegation occurred.
- **Unsubstantiated.** Where the investigation results failed to show that it is more likely than not that a factual allegation occurred.

The investigator will also be called upon to make a finding on whether a violation of District policy or the Administrative Code, as applicable, has occurred.

Once a report is complete, the investigation report and all relevant or supporting documentation will be reviewed by ad hoc committee. In cases where there are unsubstantiated findings, the investigation will be closed, and a notification letter will be sent to the complainant and respondent. The complete report and all relevant supporting documentation will be maintained confidentially and in an attorney-client privileged manner by the intake committee and not otherwise distributed unless required by law.

In cases where there are substantiated findings, the ad hoc committee shall determine recommended appropriate action, including prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.

V. RIGHT TO FILE REPORT WITH OUTSIDE ADMINISTRATIVE AGENCIES

An individual possesses the right to report workplace harassment, discrimination or retaliation to the EEOC and/or the CRD.

These administrative agencies provide a complaint process as well as certain legal remedies where the applicable agency determined that a violation of the law occurred.

The nearest EEOC and CRD offices are listed on the internet and in the government section of the telephone book. Employees may also check the posters that are located on District bulletin boards for EEOC and CRD office locations and telephone numbers.

VI. CONFIDENTIALITY

When conducting EEO or Ethics investigations, transparency must be balanced with the importance of confidentiality, protection of personnel information, and individual privacy rights. Like most organizations, the District conducts EEO or Ethics investigations confidentially. In addition to protecting individual privacy rights, this allows all persons who participate in an EEO or Ethics investigation to trust in the integrity of the process and be protected from potential retaliation. The District will take reasonable steps to keep information provided in the complaint and during investigative process confidential. EEO or Ethics investigations will be conducted in an attorney-client privileged manner. Similarly, the Informal Resolution process will be conducted in an attorney-client privileged manner. The District will endeavor to keep the reporting of the Covered Individual's concern, complaint and/or investigation confidential; however, complete confidentiality cannot be guaranteed when it interferes with the District's ability to fulfill its obligations under EEO or Ethics policies and applicable laws or to address the complaint, complete the investigation, and take appropriate action. All participants in an investigation are also asked to refrain from publicly disclosing their participation in an investigation or the substance of their participation.

Attachment 1 - Memo to Board

From: Chair of the Board
Sent: Friday, June 7, 2024 4:03 PM
To: Board of Directors
Subject: Draft Changes to EEO and ETHICS INVESTIGATION Procedures for Senior Metropolitan Officials



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Office of the Board of Directors

Date: June 7, 2024
To: Ethics, Organization, and Personnel Committee Members
Board of Directors
From: Adán Ortega, Jr., Chair of the Board
Subject: Draft Changes to EEO and ETHICS INVESTIGATION Procedures for Senior
Metropolitan Officials

On November 28, 2023, I reported to the Executive Committee that issues existed between our direct reports stemming from our current investigation procedures of senior officials. There is growing consensus that the current methods of processing and investigating cases against senior officials is unsustainable. I asked the Executive Committee's Ad Hoc Subcommittee on EEO Investigations to work with specialized outside counsel to draft a potential alternative processes for Metropolitan senior officials. Their draft describing an alternative process is attached. At this stage, the EOP Committee will provide direction and feedback on the draft provided that will be incorporated and presented at the Executive Committee on June 25th. My hope is that we can approve a revised process at July's board meeting.

I look forward to our discussion.



Investigation
Policy.pdf



Equal Employment Opportunity Group

- **Equal Employment Opportunity May 2024 Monthly Activity**

Summary

This report provides a summary of Equal Employment Opportunity May 2024 Monthly Activities.

Purpose

Informational

Attachments

None

Detailed Report

EEO Policies Annual Review

The Equal Employment Opportunity (EEO) Office is currently conducting its annual review of the EEO Policy (H-07) and Sexual Harassment Prohibition Policy (H-13) to ensure that the policies continue to be in alignment with industry standards, best practices, and current EEO laws and regulations. Before the EEO Office implemented its annual policy review, the EEO policy was not consistently or proactively evaluated to ensure that it was operationally efficient and compliant. As part of the annual review process, Metropolitan’s bargaining units will have the opportunity to review the updates made to the policy, along with General Counsel, Employee Relations, and EEO’s legal advisors. The EEO policy review process is expected to be completed by July 2024.

Recruitment Source Addition

EEO worked in partnership with Human Resources to include Careers in Government to Metropolitan’s external job announcements. Careers in Government will post external recruitment to minority groups to include Veteran Jobs in Government, Latino Jobs in Government, Asian Jobs in Government, Disability Jobs in Government, African American Jobs in Government, LGBTQ in Government, Women in Government, Retiree Jobs in Government, and Native American Jobs in Government.

EEO Company Statement Revision

EEO updated Metropolitan’s job announcement tagline to state, “Metropolitan is an Equal Opportunity Employer. All qualified applicants will receive consideration for employment without regard to disability, status as a protected veteran, or any other protected characteristic(s).” Previous language stated, “Metropolitan is a Federal and State EO employer—Veterans/Disabled and other protected categories.”

Non-Discrimination Programs

EEO has completed the FY23 (July 1, 2022–June 30, 2023) Non-Discrimination programs and has identified underutilized positions which will be disseminated to the unions by the end of the fiscal year.



Human Resources Group

- **Human Resources May Activity Report**

Summary

This report provides a summary of the Human Resources activities for May 2024.

Purpose

Informational

Detailed Report

HR Priorities

Partner with Metropolitan leadership to support learning, development, and adaptive workforce planning initiatives.

In May, 601 employees completed in-person and virtual trainings covering topics like Grammar and Punctuation, Keeping Emails Short and Sweet, Persuasive Writing, Personal Security Awareness, Communication Strategies, Presentation Skills, and Reasonable Suspicion for Managers. LinkedIn Learning's online training platform was accessed for trainings on Communicating Values, Managing Your Time, Preventing Harassment, Excel Quick Tips, Building Leadership Visibility, and Advanced Business Development.

The Organizational Development & Training Unit also started its 14th cohort of Metropolitan Management University for 14 new managers. Classes included content on Developing a Leadership Mindset, Evaluating your Communication Strategy, Maintain Work/Life Balance, Conducting Effective One-on-One Meetings, and Leading Teams through Change.

Recruitment filled 19 positions in the month of May. Eleven new staffing requisitions were received, resulting in 204 positions being recruited for. Staff has been working with AllStar to develop an outreach campaign targeted towards hard-to-fill positions in the Desert, Environmental Planning, and Information Technology. This effort is aimed at making qualified candidates aware of the exciting opportunities available at Metropolitan. In addition, staff has been making site visits, which have included Jensen, Diamond Valley Lake, and Carson Reuse Facility.

HR Core Business: Provide Excellent Human Resources Services

Objective #1: Administer all HR services with efficiency and a focus on customer service excellence, consistency, and flexibility.

The Business Support Team planned, organized, and coordinated a “Finding More Margin” wellness webinar. The live webcast was held on May 22, 2024, and was hosted by Kaiser Permanente. The webinar invited employees to discover strategies to lessen time stress, create healthier boundaries, and build more time for themselves throughout the day. Employees were invited to create a realistic action plan, using their strengths to improve their health and well-being.

Board Report Human Resources May Activity Report

HR Metrics	June 2023	May 2024	Prior Month April 2024
Headcount			
Regular Employees	1,779	1,814	1,806
Temporary Employees	25	53	52
Interns	0	2	3
Recurrents	18	17	17
Annuitants	24	23	23

	May 2024	April 2024
Number of Recruitments in Progress (Includes Temps and Intern positions)	204	212
Number of New Staffing Requisitions	11	9
	May 2024	April 2024
Number of Job Audit Requests in Progress	11	11
Number of Completed/Closed Job Audits	1	0
Number of New Job Audit Requests	1	0

Transactions Current Month and Fiscal YTD (includes current month)			
External Hires	FY 22/23 Totals	May 2024	FISCAL YTD
Regular Employees	116	10	100
Temporary Employees	36	6	58
Interns	0	0	3
Internal Promotions	72	11	76
Management Requested Promotions	149	29	162
Retirements/Separations (regular employees)	98	2	63
Employee-Requested Transfers	19	2	13

Departures

Board Report Human Resources May Activity Report

Last	First Name	Classification	Eff Date	Reason	Group
Rutzen	Dean	Employee Relations Specialist	4/2/2024	Retirement - Service	HUMAN RESOURCES GROUP
Rivas	LeeAllen	O&M Tech IV	3/12/2024	Resignation	CONVEYANCE&DISTRIBUTION GROUP



Safety, Security, and Protection

- **Safety, Security, and Protection Monthly Activities for May 2024**

Summary

This monthly report for the Safety, Security, and Protection Group provides a summary of activities for May 2024 in the following key areas:

- Security and Emergency Management
 - Security and Emergency Response
 - Emergency Management Program Update
- Safety, Regulatory, and Training (SRT)
 - Health & Safety Programs
 - Environmental Programs
 - Apprenticeship Programs
 - Safety and Technical Training Programs

Purpose

Informational

Attachments

Attachment 1: Detailed Report – Safety, Security, and Protection Monthly Activities for May 2024

Key Activities Report for May 2024

Project Highlights

Security and Emergency Management

Security and Emergency Response

Strengthening Protective Partnerships with the FBI

We were honored to host a distinguished group from the Federal Bureau of Investigation (FBI) at the Weymouth Water Treatment Plant. The visit, which included special agents and analysts, marked a significant milestone in our ongoing efforts to safeguard Metropolitan critical infrastructure in Southern California.

During their visit, the FBI team delved into the intricacies of our facilities, gaining firsthand insights into the vital role they play in ensuring the wellbeing of over 19 million people in our service area. As we shared our challenges and concerns, they offered valuable support and established streamlined channels for emergency communication, concerns, and intelligence sharing.

This meeting signifies the beginning of a collaborative journey towards enhanced information sharing related to water sector-specific critical infrastructure. We are excited to embark on this path, which will involve deepening our engagement in open-source intelligence (OSINT) and participating in joint exercises to explore various security scenarios and mitigation strategies.

By fostering stronger partnerships with agencies like the FBI, we are not only bolstering our defenses but also laying the groundwork for a more resilient and secure future for our communities.



FBI visit represents significant milestone in effort to safeguard Metropolitan drinking water infrastructure

Office of Safety, Security & Protection

Security and Emergency Response

Water Information Sharing & Analysis Center (WaterISAC) is a nonprofit organization that is the security information sharing and operational arm of the U.S. water and wastewater sector. WaterISAC helps members strengthen their physical and cyber security, recover from natural and man-made disasters, and improve overall preparedness and resilience. It provides Metropolitan Security Management Unit with twice-weekly e-newsletters, alerts, webinars, and a library of physical and cyber threat information. WaterISAC also provides guidance on risk management, mitigation, and resilience. Members include hundreds of utilities serving more than 200 million people in the U.S., as well as state, local, and federal agencies and consulting firms.

On Thursday, May 23, Metropolitan Security Management partnered with Department of Homeland Security (DHS) Cybersecurity and Infrastructure Security Agency (CISA) Region 9 management to present a joint panel discussion during WaterISAC's Spring 2024 H2OSecCon. The presentation focused on leveraging DHS CISA partnerships, training, assessments, assistance, products, and services to drive water sector security upgrades. The H2OSecCon featured panel discussions and presentations from water utility and security experts sharing their experiences and recommendations on physical security.



Metropolitan Security and DHS CISA present joint panel discussion during WaterISAC's Spring 2024 H2OSecCon

Emergency Management Program Update

Dam Emergency Action Plan (EAP) training continued this month, with exercises held at the Weymouth Plant and Diamond Valley Lake. Metropolitan received an award from the United States Society on Dams (USSD), during their recent conference, for outstanding work in development of our Dam Emergency Action Plans.

Outreach to outside agencies continued as Metropolitan prepares for possible future emergencies. This month, staff:

- Completed State Hazardous Materials Incident Command training at the Riverside City Emergency Operations Center (EOC)
- Added an additional monthly member agencies radio test
- Supported the Department of Water Resources by hosting one of their Dam EAP tabletop exercises at the Jensen Plant

Staff are also planning to support the California Utilities Emergency Association (CUEA) by making an emergency manager available periodically to work with CUEA staff in the State Operations Center (SOC) during emergency activations.

Project Highlights

Safety, Regulatory, and Training

SRT Health & Safety Programs

National Safety Council (NSC) Initiative


SRT finalized the charter and composition of Metropolitan's Executive Safety Committee. This committee will make appropriate executive-level decisions on safety priorities, resource allocation and initiatives, and will demonstrate executive leadership support and reinforce the importance of chain of command when finding safety solutions. The inaugural Executive Safety Committee meeting is scheduled for July 29, 2024. An executive leadership training, as well as subsequent meetings, have been scheduled for the remainder of the year.

Safety Communication

A new Safety Talk was issued to address safe work practices for the use of sodium thiosulfate and sodium bisulfate during dewatering. HSE 112 Electrical Safety Program updated to improve safe work practices, training requirements, along with other program guidance.

MWD Safety Talk



Employee Environmental, Health & Safety Information for Dewatering and Nitrification

Sodium Thiosulfate Not Hazardous No Odor No Color	 Dewatering	Sodium Bisulfate Corrosive and Irritant Slight rotten egg odor White color
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Nitrification is one of the various challenges Metropolitan may encounter during a shutdown. When employees are tasked with dewatering, following these work practices can keep employees safe.

SAFE WORK PRACTICES

- Hold pre-job safety meetings to coordinate the day's or night's activities and determine the best location for placement of the dechlor chemical. Take this time to consider potentially hazardous tasks and their mitigation efforts.
- Review and understand the safety data sheets associated with dewatering chemicals (e.g., Sodium Thiosulfate or Sodium Bisulfite).
- Wear PPE in accordance with HSE 115. PPE requirements will differ based on the type of work activities taking place. For example, making direct connections and transferring chemical will require higher levels of PPE.
- Be prepared for potential spills or leaks. Consider how much chemical may be used during dewatering. Mobile spill kits should be readily available in the appropriate sizes (e.g., small to large totes).
- Consider methods of secondary containment for quick deployment of chemicals to work sites.



FURTHER CONSIDERATIONS

- **Needle valves work better when dosing water with Sodium Bisulfite** because they allow fine adjustments to dial in the chemical dose.
 - Ball valves are not designed to make fine adjustments to chemical dosing.
- **During dewatering operations, continuous monitoring and periodic testing is important to ensure dosing remains appropriate.**
 - Water conditions change throughout the day, so adjustments may have to be made periodically.
- **When bags of Sodium Thiosulfate are used for dewatering, staff should periodically check on the bag's condition.** Bags may appear to look full, but they are actually empty or near empty.

New Safety Talk

HSE 112

Electrical Safety Program MWD Health, Safety, and Environmental Manual
Revision April 2024

1.0 PURPOSE AND SCOPE

The Electrical Safety Program establishes safety requirements for working on or near high and low voltage lines, circuits, equipment, and raceways. It is Metropolitan's policy that all electrical circuits, cables, wires, or equipment will be considered energized until proven de-energized by approved test instruments by a Qualified Electrical Worker.

Employees shall also refer to the [Systems Operating Orders Manual \(SOOM\)](#) for detailed instructions on clearances, outages, and electrical work on equipment rated at or above 600 volts. For other Lockout/Blockout or grounding procedures for equipment rated below 600 volts, refer to [HSE 114 Lockout/Blockout \(LOBO\) Program](#) and the [SOOM](#).

This program is governed by the requirements of Cal/OSHA Title 8, California Code of Regulations, Electrical Safety Orders 2320.1-2320.9, 2940-2945, and the Telecommunication Safety Orders 8600-8618.

2.0 APPLICABILITY

This program applies to all Metropolitan employees and contract workers under the supervision of Metropolitan whose job tasks involve working on electrical lines, equipment and/or systems.

3.0 DEFINITIONS

Qualified Electrical Worker (QEW) – A qualified electrical worker (i.e., an electrician) is one who has a minimum of two years of training and experience with energized high or low voltage circuits and equipment. A qualified electrical worker must demonstrate proficiency and familiarity with the work to be performed and knowledge of the hazards involved (CCR Title 8, Section 2700). See [Section 7](#) for training, skills, and knowledge required for a QEW.

Qualified Person – An authorized person (employee or contractor) who by experience or instruction is familiar with the construction and operation to be performed and the hazard involved when working on de-energized high and/or low voltage circuits and equipment. See [Section 7](#) for training, skills, and knowledge required for a qualified person.

Arc Flash Hazard – A dangerous condition associated with the possible release of energy caused by an electric arc. Refer to [Appendix A](#) for appropriate level of PPE for arc flash hazard when performing energized work.

An arc flash hazard may exist when energized electrical conductors or circuit parts are exposed or when they are within equipment in a guarded or enclosed condition, specifically when a person is interacting with the equipment in such a manner that could cause an electrical arc.

Arc Rating (AR) – The value attributed to materials that describes their performance to exposure to an electrical arc discharge. The arc rating is expressed in cal/cm² and is derived from the determined value of the arc thermal performance value (ATPV).

HSE 112 Electrical Safety

Office of Safety, Security & Protection

SRT Environmental Programs

Abandoned Waste

SRT Environmental responded for a clean-up of abandoned waste found on Metropolitan property in Jurupa Valley. The waste consisted of concrete pipe and insulation batting material. Several of these incidents occur each year, typically in remote areas.



Before clean-up



After clean-up

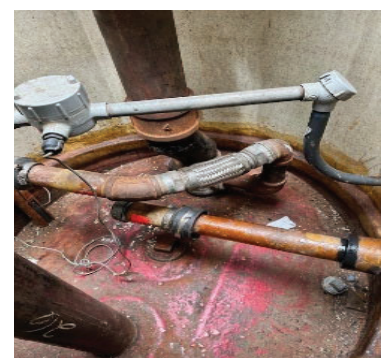


Weymouth Underground Storage Tank (UST) Return to Service

The required vapor vent line modifications to the Weymouth Fuel UST and testing were completed. This work enabled a full return-to-service for both tank compartments. Staff also coordinated the site visits by the City of La Verne Fire Marshal for the final inspections.



Vapor vent line removal above grade and capped



Vent line capped below grade

Office of Safety, Security & Protection

Advanced Clean Fleets Regulatory Implementation

In accordance with Metropolitan's "try before you buy" approach in implementing the CARB Advanced Clean Fleet regulation, an all-electric dump truck demonstration was conducted at the Mills facility. Feedback was positive for handling onsite activities. The truck generated less sound and greater torque than traditional dump trucks, but greater range would be required for remote or off-site work. Staff will continue to arrange additional opportunities to test available zero emission vehicles.



Battle Motors electric dump truck to transport sludge at Mills Plant

SRT Apprenticeship Programs

The SRT Apprenticeship Programs are designed to train apprentices to become qualified mechanics and electricians who are responsible for maintaining Metropolitan's water treatment and distribution systems. Recently, the Class of 2027 mechanical apprentices completed their final exams. During their training, they learned to read schematics, blueprints, and drawings. The final exams evaluated their ability to recognize symbols, read prints, and use them to fabricate projects. The Class of 2027 electricians were taught about DC circuits and were challenged to troubleshoot and solve DC circuit problems during their session. Final exams for the Class of 2027 electricians are scheduled for early June.

Lastly, the Class of 2026 electricians and desert electrical cross-training participants also completed their final exams this month. They were tested on troubleshooting circuits and motor control devices. The final exam consisted of written and practical components, allowing instructors to assess each student's competency and ability to troubleshoot problems.



Mechanical apprentices reviewing hydraulic systems



Electrical apprentices learning to calculate current, voltage, resistance, and power

Office of Safety, Security & Protection

SRT Safety and Technical Training Programs

This month, SRT Safety and Technical Training staff conducted Hydroelectric On-site Operator (OSO) training over two weeks and approximately 48 hours of classroom and field instruction. OSO training educates employees who work at hydroelectric power plants (HEP) and/or respond to alarms at an HEP on the plant operating procedures for startup, shutdown, and alarm response. Training staff was joined by subject matter experts to deliver instruction and facilitate field visits to San Dimas HEP and Pressure Control Structure (PCS), Etiwanda HEP, Lake Mathews HEP, Temescal HEP, Eagle Rock Control Center, Rio Hondo HEP and PCS, and Coyote Creek HEP and PCS.



OSO training exercise to jack the unit at Lake Mathews HEP during pre-start procedures (left) and to perform a weekly inspection procedure at Temescal HEP (right)