



● **Board of Directors**
Organization and Personnel Committee

3/9/2010 Board Meeting

7-7

Subject

Approve amendments to the Metropolitan Water District Administrative Code to conform to current laws, policies, and practices

Description

This letter proposes amendments to Metropolitan's Administrative Code with respect to affirmative action, equal employment opportunity, and nondiscrimination to clarify and conform to Metropolitan's policies and practices, to conform to pertinent laws and regulations, and to correct minor errors.

The proposed amendments are set forth in [Attachment 1](#) with overstrike reflecting deletions and underlying reflecting additions. [Attachment 2](#) sets forth the sections as they would now appear in the Administrative Code.

The Administrative Code is proposed to be amended as follows:

1. Division VI, Chapter 3, Article 1's title, and Sections 6300 and 7111, are amended to clarify and conform to Metropolitan's current policies and practices concerning equal employment opportunity and nondiscrimination. This includes changing the reference in Section 7111 from "Equal Employment Opportunity Program Office" to "Equal Employment Opportunity Manager" to conform to current policy.
2. Sections 6300, 6305, and 7111 are amended to conform to current protected characteristics under the law and their legal definitions. In Sections 6300 and 7111, the explanation "(gender or pregnancy)" is added to the characteristic "sex," the explanation "(physical or mental)" is added to the characteristic "disability," the characteristics "disabled veteran status" and "Vietnam veteran status" are changed to the broader "protected veteran status," and the characteristic "genetic information" is added. In Section 6300, the reference to Section 6305 for the definition of the characteristic "medical condition" is deleted as unnecessary, and "or other characteristic protected by law" is added to encompass future changes in protected characteristics under the law. In Section 6305, the definitions of the characteristics "protected veteran" and "age" are added, and the definition of the characteristic "medical condition" is updated. In Section 7111, the characteristic "sexual preference" is changed to "sexual orientation" to conform to Section 6300 and the law.
3. Sections 6302 and 6303 are amended to clarify and conform to Metropolitan's current policies and practices concerning affirmative action, and the legal requirements applicable to Metropolitan concerning affirmative action. As a federal contractor and pursuant to a determination by the Office of Federal Contract Compliance Programs, Metropolitan is required (a) to take affirmative action to ensure that applicants are considered and employed, and that employees are treated during employment, without regard to race, color, religion, sex, national origin, protected veteran status, or disability, and (b) to prepare a written affirmative action plan with respect to protected veteran status and persons with disabilities. The amendments confirm that Metropolitan will comply with affirmative action laws applicable to Metropolitan. These amendments permit Metropolitan to modify its practices with respect to affirmative action to comply with future changes in legal

requirements, without requiring amendment of the Administrative Code. Sections 6302 and 6303 are also amended to correct minor errors.

4. Section 6304 is amended to clarify and conform to Metropolitan's current practices with respect to the General Manager's periodic report to the Organization and Personnel Committee, to specify that the report concerns the equal employment opportunity policy and affirmative action program, and to change the timing of the report from semiannually to annually.

Policy

Metropolitan Water District Administrative Code Section 2481: Duties and Functions of the Organization and Personnel Committee

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination and approve amendments to the Administrative Code set forth in [Attachment 2](#) to reflect the changes recommended in this letter.

Fiscal Impact: None

Business Analysis: To conform to current laws, policies, and practices

Option #2

Do not approve amendments to the Administrative Code set forth in [Attachment 2](#).

Fiscal Impact: None

Business Analysis: To conform to current laws, policies, and practices

Staff Recommendation

Option #1



Fidencio M. Mares
Director of Human Resources

2/16/2010
Date



Jeffrey Kightlinger
General Manager

2/22/2010
Date

Attachment 1 – The Administrative Code of The Metropolitan Water District of Southern California (showing additions and deletions)

Attachment 2 – The Administrative Code of The Metropolitan Water District of Southern California (changed provisions only)

Ref# HR12604211

Division VI

Chapter 3

GENERAL EMPLOYEE MATTERS

Article		Sec.
1	<u>Equal Employment Opportunity and</u> Affirmative Action 6300	_____
2	Expense Account Regulations	_____ 6320
3	Employee Tours	6340
4	Miscellaneous	_____ 6350

Article 1

EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

Sec.

- 6300. Statement of Equal Employment Opportunity Policy
- 6301. Good Faith Efforts Required
- 6302. General Manager's Responsibility to Implement Affirmative Action ~~Policy~~Program
- 6303. Objectives of Affirmative Action Program
- 6304. General Manager's Report on ~~Affirmative Action~~Equal Employment Opportunity Policy and Affirmative Action Program
- 6305. Definitions

§ 6300. Statement of Equal Employment Opportunity Policy.

The policy of ~~this organization~~the District is one of equal employment opportunity for any ~~qualified person~~employee or applicant for employment. ~~The District will not unlawfully discriminate without unlawful discrimination when taking any employment action or making employment decisions, including basing decisions because of on~~ race, sex (gender or pregnancy), creed, national origin, color, disability (physical or mental), ~~disabled veteran status, Vietnam~~protected veteran status, religion, age, medical condition ~~(as defined in subdivision (a) of Section 6305)~~, genetic information, marital status, ancestry, ~~and~~ sexual orientation, or other characteristic protected by law.

Res. 7606 - September 17, 1974; Section 351.1 amended by M.I. 34148 - March 9, 1982; amended by M.I. 35592 - April 9, 1985. Section 351.1 repealed and Section 6300 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; amended by M.I. 40171 - April 13, 1993.

§ 6301. Good Faith Efforts Required.

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

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

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

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

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

§ 6303. Objectives of Affirmative Action Program.

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

(a) To ensure equal employment opportunity ~~in each District department~~ to individuals covered by affirmative action laws applicable to the District.

(b) To eliminate non-job-related barriers in the terms, conditions, and privileges of employment and to ensure equal consideration of all qualified applicants and employees without regard to characteristics protected by affirmative action laws applicable to the District, except as permitted by law ~~the factors in Section 6300.~~

~~(c) To encourage sensitivity to and respect for persons of differing sexual, ethnic, cultural and racial backgrounds in all District employment related activities.~~

~~(d)~~ (e) To analyze employment data to ensure compliance with any equal employment opportunity and ~~any~~ affirmative action requirements imposed by law.

~~(e)~~ (f) To disseminate information on equal employment opportunity and affirmative action to all District personnel.

~~(f)~~ (g) To review District personnel practices, including but not limited to recruitment, selection, classification, training, promotion, and career development to ensure equal access is provided to qualified applicants and employees covered by affirmative action laws applicable to the District, without unlawful discrimination.

~~(g)~~ (h) To promptly resolve questions or complaints arising from this program.

Res. 7606 - September 17, 1974; Section 351.4 amended by M.I. 34148 - March 9, 1982. Section 351.4 repealed and Section 6303 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

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

~~Semi-annually~~, the General Manager shall report to the Organization and Personnel Committee ~~on the implementation of this Article and~~ on the status of the equal employment opportunity policy and Affirmative Action Program.

Res. 7606 - September 17, 1974; Section 351.5 amended by M.I. 34148 - March 9, 1982. Section 351.5 repealed and Section 6304 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; amended by M. I. 44582 - August 20, 2001; amended by M. I. 46064 - January 11, 2005; amended by M.I. 46983 - February 13, 2007.

§ 6305. Definitions.

Terms, whenever used in this Article, shall have the meaning provided for in applicable law. In conformance with applicable state law, the following terms shall have the meanings indicated herein:

(a) Protected veteran - a disabled veteran, a special disabled veteran, a Vietnam era veteran, a recently separated veteran, an armed forces service medal veteran, or any other protected veteran as defined by law.

(b) Age - 40 and above.

(c) Medical condition - Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer, for which a person has been rehabilitated or cured, based on competent medical evidence or genetic characteristics.

Section 351.6 - M.I. 34148 - March 9, 1982. Section 351.6 repealed and Section 6305 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; amended by M.I. 40171 - April 13, 1993.

Division VII**Chapter 1****Article 1****§ 7111. Nondiscrimination and Harassment.**

Board members, officers, and employees shall not, in the performance of their official functions, discriminate against any person on the basis of race, religion, color, creed, age, marital status, national origin, ancestry, sex (gender or pregnancy), sexual preference orientation, medical condition, genetic information, disability (physical or mental), disabled veteran status, Vietnam era-protected veteran status, or other characteristic protected by law and they shall cooperate in achieving the equal opportunity and affirmative action goals and objectives of Metropolitan. Metropolitan Board members, officers, employees, and guests have the right to participate in official Metropolitan functions in an environment free from all forms of discrimination and conduct which can be considered harassing, coercive, or disruptive. Harassment based on race, color, religion, sex, or other any characteristic protected by law, will not be sanctioned nor tolerated. Reports of harassment are taken seriously, and appropriate action will be taken against individuals found to have engaged in harassing conduct. The prohibition against discrimination and harassment applies to all transactions of Metropolitan's business, whether at a Metropolitan-operated facility or an external site. Allegations regarding officer or employee conduct in violation of this section shall be reported to Metropolitan's Equal Employment Opportunity Program Office Manager. Allegations regarding director conduct in violation of this section shall be reported to the Ethics Officer or Board Chair.

Division VI

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- (c) To analyze employment data to ensure compliance with any equal employment opportunity and affirmative action requirements imposed by law.
- (d) To disseminate information on equal employment opportunity and affirmative action to all District personnel.
- (e) To review District personnel practices, including but not limited to recruitment, selection, classification, training, promotion, and career development to ensure equal access is provided to qualified applicants and employees covered by affirmative action laws applicable to the District, without unlawful discrimination.
- (f) To promptly resolve questions or complaints arising from this program.

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

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

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