



- Audit and Ethics Committee

11/4/2019 Committee Meeting

6A

Subject

Recommend that the Board, after applicable staff communication with the bargaining units, approve proposed ethics-related amendments to the Administrative Code; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

Executive Summary

At the direction of the Board, the law firm of Olson Hagel & Fishburn has been engaged in reviewing the policies and procedures of Metropolitan's Ethics Office and developing recommended changes. As part of that process, at the June 25, 2019 Audit and Ethics Committee (Committee) meeting, Olson Hagel presented a set of proposed amendments to the Administrative Code.

After assuming office in July, the new Ethics Officer began reviewing the proposal, consulting with staff and Olson Hagel, and developing perspectives on the issues addressed in the proposal. The Ethics Officer presented several additional recommendations for discussion at the Committee's October 7, 2019 meeting.

After receiving additional input from the Committee at its meeting of October 7, 2019, this proposal has been further developed with the goal of presenting draft Administrative Code amendments for the Committee's consideration and potential action at its meeting of November 4, 2019. The proposal would be ready for consideration by the full Board after staff communicates with the bargaining units.

Details

Background

In July 2017, at the request of the Chairman of the Board, the General Manager entered into a contract for legal services with Wilmer Cutler Pickering Hale and Dorr LLP (Wilmer Hale) to review the policies and procedures of the Ethics Office and provide recommendations for consideration by Metropolitan's Board.

In February 2018, Wilmer Hale made a presentation to the Executive Committee regarding their review of the policies, procedures, and governance of the Ethics Office. After the presentation, the Board recommended that staff work with new counsel to propose appropriate actions to assist in the implementation of policies approved by the Board. The areas of discussion include the reporting structure for the Ethics Officer and the policies, procedures, guidelines, and applicable Administrative Code provisions relating to the work of the Ethics Office.

In January 2018, Olson Hagel & Fishburn (Olson Hagel) was engaged to independently review the findings and recommendations of Wilmer Hale, make recommendations designed to clarify the role and enhance the operational effectiveness of the Ethics Office, and assist in the implementation of any changes authorized by the Board.

In May 2018, Olson Hagel provided the Board with an initial review of the Wilmer Hale report and discussed the requirements of SB 60 relating to Metropolitan's Ethics Office. Olson Hagel prepared its review and recommendations in four phases: (1) reporting structure for the Ethics Officer; (2) overall duties of the Audit and Ethics Committee and the Ethics Officer; (3) review and clarification of the jurisdiction, powers, and responsibilities of the Ethics Office, including the conduct of investigations and related matters; and (4) education, training, advice, and compliance by the Ethics Office.

Proposed Administrative Code changes implementing Olson Hagel's recommendations regarding the reporting structure for the Ethics Officer and recommendation that the Audit and Ethics Committee become a standing committee of the Board were approved by the Board in November 2018.

Olson Hagel presented recommendations regarding the jurisdiction, powers, and responsibilities of the Ethics Office, including the conduct of investigations and related matters; Metropolitan's compliance with SB 60; and provision of education/training and advice by the Ethics Office to the Audit and Ethics Committee at the January, February, and March 2019 Committee meetings. Comments and concerns expressed by the Committee have been considered in preparing the recommendations. The final step in the process is the reorganization and revision of the Metropolitan Administrative Code pertaining to ethics to incorporate the recommended changes, as discussed further below.

June 2019 Audit and Ethics Committee Meeting

At the June meeting of the Audit and Ethics Committee, Olson Hagel presented an overview of the complete set of remaining proposed Administrative Code amendments. That presentation explained some areas where Olson Hagel's recommendations had been modified. Those areas included: (1) private communications by directors with staff; (2) private communications by directors with vendors and contractors; (3) limiting the scope of whistleblower retaliation allegations within the Ethics Office's jurisdiction; (4) new rules for contractors; and (5) new rules for lobbyists and lobbying firms. In the course of discussion, questions arose about additional topics, including gift limits, referrals to outside enforcement agencies, and whether or when a subject would learn about allegations that the Ethics Office does not investigate.

After hearing directors' comments about proposed gift limits, Olson Hagel indicated they would modify the proposal to remove additional gift regulations for directors. Directors will be subject to the state law criteria for reporting and limits on gifts.

October 2019 Audit and Ethics Committee Meeting

Beginning in July, the new Ethics Officer began reviewing the recommendations and consulted with Ethics Office staff, the General Counsel staff, and Olson Hagel. At the October 7, 2019 Committee meeting, the Ethics Officer presented recommendations for modifying the proposed amendments as described below. Where relevant, the narrative below describes developments from the October Committee meeting.

1. Oversight and Feedback

The Ethics Officer proposed an oversight and feedback mechanism between the Ethics Officer and the Audit and Ethics Committee Chair and Vice-Chair. This arrangement would allow the Ethics Officer to share information or concerns involving any matter and receive input from the Audit and Ethics Committee Chair and Vice-Chair. Limiting this oversight and feedback function to a limited number of directors on an ad hoc basis is necessary to protect confidentiality and avoid communications that could be deemed a meeting under the Brown Act. The Audit and Ethics Committee Chair and Vice-Chair would have access to otherwise confidential information concerning complaints or investigations. In performing this role, the Chair and Vice-Chair would be under an obligation of strict confidentiality not to disclose the details of any such matter. There would be an understanding that their input is only advisory. The Ethics Officer believes that this type of oversight and feedback mechanism would be beneficial to the Ethics program.

Update: During the discussion at the October meeting, Committee members suggested adding the Board Chair as a third director authorized to receive confidential information from the Ethics Officer. The revised proposal includes this addition.

This item appears as Sections 6470, subsection (i) and 7412, subsection (e) in Attachments 1 and 2.

2. Gifts to Employees from Contractors and Vendors

The June proposal would have prohibited employees who file Statements of Economic Interests (Form 700) from accepting gifts over \$50 from any Metropolitan contractor, vendor, or entity seeking business within the employee's disclosure category.

The Ethics Officer's revised proposal would extend a gift limit to all Metropolitan employees, regardless of whether they are Form 700 filers. The policy would prohibit employees from accepting gifts from all Metropolitan contractors, vendors, non-profit organizations that receive or seek financial support, and other entities seeking business with Metropolitan, with limited exceptions: (1) modest food and refreshments in the course of official business meetings; and (2) items of nominal intrinsic value. The combined value of such items from a single contractor in a calendar year could not exceed \$50.

***Update:** At the October Committee meeting there was extensive discussion on this topic. The main issue was whether the proposed new gift limits should apply to all employees or only to Form 700 filers. It was suggested and the Committee agreed that there be two alternatives presented to the Committee for consideration and potential action at the subsequent meeting. The amendments presented here include the Ethics Officer's recommendation. The relevant language of the two alternatives is stated below:*

***Alternative 1:** No Metropolitan employee shall accept any gift from a donor who the employee knows is a restricted source. This limitation shall not apply to modest food or beverages provided during a work-related event or items of nominal intrinsic value, so long as the total value does not exceed \$50 in a calendar year from a single source.*

***Alternative 2:** No Metropolitan designated employee or other employee who must submit a Statement of Economic Interests shall accept any gift from a donor who the employee knows is a restricted source. This limitation shall not apply to modest food or beverages provided during a work-related event or items of nominal intrinsic value, so long as the total value does not exceed \$50 in a calendar year from a single source.*

In both alternatives, "restricted source" means a contractor or non-profit entity that receives financial support from Metropolitan.

The Ethics Officer continues to recommend adoption of Alternative 1, i.e., that the revised gift limit apply to all employees, not only to Form 700 filers. A simple policy that applies equally to all employees is more likely to be understood and followed by the workforce. Gifts to government officials at any level can create an appearance of unfairness, even if there is no observable change in how a public official acted.

The proposed amendments have been modified in two additional places in response to comments from directors. Some directors observed that it would be unfair to apply the rule in cases where the employee was unaware that the donor of a gift was a contractor. To address this concern, the modified language clarifies that for the restriction to apply, the employee must have knowledge that the donor was a contractor or otherwise seeking business or funding from Metropolitan.

Another concern was that the language did not clearly indicate that non-profit organizations that receive funding from Metropolitan were covered by the gift limitation. To address this concern, the modified language uses a different term ("restricted source") which by definition includes non-profit funding recipients in addition to contractors.

Several member agencies currently prohibit all of their employees from receiving gifts from contractors, vendors, or others seeking to do business with the agencies.

This item appears as Sections 7105, subdivision (q) and 7122, subsection (a) in Attachments 1 and 2.

3. Establishing Levels of Severity for Violations

Currently, there is no requirement that a report finding a violation of ethics rules include any designation of the severity of the violation. The Human Resources and Legal Departments have informed the Ethics Office that it would be useful to have an objective determination of the level of severity of a violation to assist in determining the appropriate level of discipline.

The Ethics Officer's proposal includes four levels of violations, along with mitigating and aggravating factors that could affect that determination.

This item appears as Section 7431 in Attachments 1 and 2.

4. Discretion Whether to Open Investigations

Under the June proposal, the Ethics Officer has discretion to decline to conduct an investigation if: (1) the matter is outside the Ethics Office's jurisdiction; or (2) the complaint lacks sufficient information to establish a potential violation. The Ethics Officer's proposal would permit the Ethics Officer to decline or defer investigation for additional reasons.

Update: After further internal discussion, the Ethics Officer concluded that the original proposal was sufficient.

This item appears as Section 7401 in Attachments 1 and 2.

5. Notice to Subjects of an Investigation

Under the June proposal, the Ethics Officer would be required within 15 business days of receiving a complaint to initiate an investigation and provide notice to the subject. The Ethics Officer's proposal would extend this period to 30 calendar days (therefore, approximately one week longer). The Ethics Officer would use this 30-day period to vet allegations to determine if an investigation should be opened. If the Ethics Officer determines not to initiate an investigation, under normal circumstances there would be no notice to the subject of the complaint. This is advisable to avoid retaliation or perceived retaliation against complainants.

This item appears as Section 7411 in Attachments 1 and 2.

6. Quarterly or Monthly Board Reports on Pending Investigations

The June proposal requires monthly reports to the Board about the number and status of pending investigations. The Ethics Officer's proposal would modify this requirement to a quarterly report.

This item appears in Section 6470, subsection (g) in Attachments 1 and 2.

7. Whistleblower/Retaliation Investigations and Protections

Section 7110 of the Administrative Code requires the Ethics Office to investigate all complaints of interference with, or reprisal for, reporting: (1) a work-related violation of law; (2) gross waste of funds; (3) gross abuse of authority; (4) specified dangers to public health or safety; (5) abuse of official authority for personal gain; or (6) a conflict of interest; unless the Office of Ethics has a conflict of interest.

Under the June proposal, the Ethics Office would be responsible only for complaints alleging retaliation for reporting of ethics violations or for cooperating with an ethics investigation. Responsibility for cases alleging retaliation for reporting violations of other rules would be handled by the Human Resources Department.

After considering the issue, the Ethics Officer believes it would be beneficial to Metropolitan for the Ethics Office to maintain broader responsibilities in this area, but with improved clarity as to that scope.

The Ethics Officer's proposal includes a more concise and focused statement of the types of retaliation allegations that the Ethics Office would be authorized to investigate. The policy covers any complaints alleging retaliation for good-faith reporting of: (1) a work-related violation of law or Metropolitan policy (including conflicts of interest and abuse of authority), aside from Equal Employment Opportunity-related complaints; (2) a gross abuse or waste of Metropolitan resources; or (3) a gross public health or safety danger. The Human Resources Department will continue to handle alleged retaliation by employees arising from Equal Employment Opportunity-related complaints, including sexual harassment.

In addition, the Ethics Officer's proposal would require that for individuals to receive whistleblower protection from the Ethics Office, they must report the alleged misconduct either to a relevant outside agency, to the Ethics Office, to the Human Resources Department, or to any manager other than the subject of the complaint. Making this reporting requirement more defined will avoid confusion about whether and when employees are entitled to whistleblower protection. It also will allow the Ethics Office to protect the identity of a whistleblower and the due process rights of a subject.

Update: After further internal discussion, the language proposed Section 7128 has been modified for clarity. It specifies what types of reports constitute protected whistleblower activity. It clarifies that the person making the report must have a reasonable belief that the information reported constitutes a

violation of law or Metropolitan policy (including ethics rules), gross abuse or waste of public resources, or gross public health or safety danger. Reporting only a disagreement with a policy decision within the lawful discretion of a Metropolitan official will not qualify as protected whistleblowing activity. To constitute protected whistleblowing activity, the person must report the information to a Metropolitan management employee, the Ethics Office, or governmental entity.

This item appears as Section 7128 in Attachments 1 and 2.

8. *Public Notice for Contracts of \$50,000 or more*

SB 60 requires that Metropolitan's ethics rules address and seek to avoid potential ethical abuses relating to public notice and approval procedures for contracts of \$50,000 or more. (MWD Act, section 126.7(b)(3).) The June proposal made it an internal ethics violation to intentionally fail to comply with Metropolitan's notice and selection procedures for contracts.

The Ethics Officer recommends adding an additional requirement in this area. Under the revised proposal, Metropolitan would post information about all existing contracts of \$50,000 or more in a centralized location on its website. Metropolitan already makes some of this information available to the public through quarterly board reports. Making this information more readily available would assist the public in understanding and knowing about the scope and size of public contracting at Metropolitan. This enhanced transparency satisfies the legal requirements of SB 60 and is consistent with SB 60's legislative purposes.

This item appears as Section 7103 in Attachments 1 and 2.

9. *Investigation of allegations of discrimination and harassment based on a protected characteristic, and related retaliation, against directors*

In its final report, the Wilmer Hale firm recommended that the Ethics Office no longer execute responsibilities related to discrimination and sexual harassment claims involving directors. The Olson Hagel firm concurred with this recommendation. Both firms viewed the topic as outside the purview of SB 60 and outside the professional expertise of the Ethics Office.

In 2009, Section 7111 of the Administrative Code was amended to refer complaints of alleged sexual harassment or other protected-class discrimination to the Ethics Office. Under the procedures in place at that time, any such investigation was overseen by a committee including several directors. In 2013, the Board eliminated this committee process for overseeing ethics allegations involving directors. However, there was no change at that time to the language referring discrimination and harassment investigations to the Ethics Office for investigation.

Under the June proposal, responsibility for handling allegations of discrimination and harassment based on a protected characteristic, including sexual harassment, against directors would shift to an ad hoc subcommittee of three directors appointed by the Executive Committee. The subcommittee would engage an independent outside investigator to perform the investigation. The subcommittee would report its findings to the Executive Committee for appropriate action. The Ethics Officer did not recommend changes to this proposal at the October Committee meeting.

***Update:** During the October Committee discussion, directors suggested that the Ethics Officer should play a central role in this process to guard against improper political influence. In subsequent discussions, staff noted that in past experiences with special subcommittees, the directors sometimes requested staff assistance for contracting or understanding the required procedures.*

To address these director's concerns, staff believes that the Board might wish to consider amending proposed section 2416, subsection (f)(5) to give the ad hoc subcommittee the option of consulting with the Ethics Officer or the Office of General Counsel for input on issues that might arise in the course of an investigation of allegations of discrimination or harassment, or related retaliation, against a director. This permissible involvement of the Ethics Officer and the Office of the General Counsel has not been added to the proposed provisions, but staff raises the issue through this letter for Committee consideration. If added, Section 2416, subsection (f)(5)(ii) would be amended as follows:

The ad hoc subcommittee shall hire an outside investigator who shall report findings to the ad hoc subcommittee. At its discretion, the ad hoc subcommittee may consult with the Office of General Counsel or Ethics Officer for input on issues that might arise in the course of an investigation of allegations of discrimination, harassment, or retaliation involving a director. The ad hoc subcommittee shall report its findings to the Executive Committee for appropriate action.

Finally, staff determined that it is advisable to expressly state in these provisions that they encompass related retaliation, and this addition has been made to the proposed provisions. Staff also determined that it is advisable to make a comparable addition to the section concerning discrimination and harassment by officers and employees.

This item appears in Sections 2131, 2416, subsection (f)(5), and 6305 in Attachments 1 and 2.

Finally, the Ethics Officer recommends certain other minor changes to the proposed amendments that were presented in June 2019. For example, with a goal of improved clarity and simplicity, Penalties for Violations are now contained in one section (Section 7432) rather than multiple sections (the previous Sections 7431-7436). Also, additional potential penalties such as counseling have been added. These changes appear in Attachments 1 and 2.

Next Steps

If approved by the Committee, staff will prepare revised proposed amendments to the Administrative Code for consideration by the full Board, after staff communicates with the bargaining units.

Policy

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

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).

CEQA determination for Option #2:

None required

Board Options

Option #1

Recommend that the Board, after applicable staff communication with the bargaining units, approve proposed ethics-related amendments to the Administrative Code.

Fiscal Impact: None

Business Analysis: Providing the recommendation that the Board, after applicable staff communication with the bargaining units, approve the proposed Administrative Code amendments will assist in completing the Board's goal of implementing beneficial changes to the policies and procedures of the Ethics Office.

Option #2

Do not recommend that the Board approve the proposed Administrative Code amendments.

Fiscal Impact: Further work on proposed amendments may involve additional outside counsel costs.

Business Analysis: Staff would continue further work on proposed amendments as directed by the Committee, which may delay completing the Board's goal of implementing beneficial changes to the policies and procedures of the Ethics Office.

Staff Recommendation

Option #1



Abel Salinas
Ethics Officer

10/24/2019

Date

Attachment 1 – Clean Version Administrative Code with proposed amendments

Attachment 2 – Redline Administrative Code proposed amendments

Attachment 3 – Applicable sections of current Administrative Code

Ref# e12669350

Division II**PROCEDURES PERTAINING TO THE BOARD, COMMITTEE AND DIRECTORS****Chapter 1****BOARD OF DIRECTORS****Article 3****BOARD CONDUCT RULES**

Sec.

2130. Avoiding Personal Bias

2131. Nondiscrimination, Harassment, and Retaliation by Directors

§ 2130. Avoiding Personal Bias.

A Board member shall not make, participate in or attempt to influence any decision, if he or she is incapable of providing fair treatment to a matter before the Board due to bias, prejudice or because he or she has prejudged a matter.

§ 2131. Nondiscrimination, Harassment, and Retaliation by Directors.

Directors 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 orientation, medical condition, genetic information, disability (physical or mental), 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 directors, 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 any characteristic protected by law will not be sanctioned nor tolerated. Directors also shall not retaliate against any person for reporting discrimination or harassment prohibited by this section. Reports of discrimination or harassment based on a characteristic protected by law, or related retaliation, are taken seriously, and appropriate action will be taken against individuals found to have engaged in such conduct. The prohibition against discrimination, harassment, and retaliation applies to all transactions of Metropolitan's business, whether at a Metropolitan-operated facility or an external site. Allegations regarding director conduct in violation of this section shall be reported to the Board Chair, except allegations regarding conduct by the Board Chair in violation of this section shall be reported to the Chair and Vice Chair of the Audit and Ethics Committee. An employee also has the option of submitting allegations regarding director

conduct in violation of this section to Metropolitan's Equal Employment Opportunity Investigations staff for that staff's transmission to the Board Chair, or to the Chair and Vice Chair of the Audit and Ethics Committee, as applicable.

Article 4

MISCELLANEOUS BOARD RULES

Chapter 4

STANDING COMMITTEES

Article 2

EXECUTIVE COMMITTEE

§ 2410. Membership.

The Executive Committee shall have a maximum of 16 members and shall consist of the Chair, Vice Chairs, Secretary, all past Chairs of the Board who are directors of the District, and the Chairs of the standing committees in addition to the Executive Committee, and two additional directors as nonofficer members.

§ 2416. Duties and Functions (Executive Committee)

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

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

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

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

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

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

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

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

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

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

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

(b) The Executive Committee shall:

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

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

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

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

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

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

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

(f) The Executive Committee shall also:

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

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

(3) Conduct hearings on vendors' protests:

(i) Hearings requested pursuant to section 8142(d), and other hearings granted on the Executive Committee's own motion, unless delegated pursuant to section 8148 shall be held by the committee at its next regular meeting to be held at least 72 hours after filing of the notice of protest. The hearing shall be conducted in accordance with such rules as the Chair of the committee shall announce. The committee shall make a decision on the bidder's or applicant's protest, shall set forth its reasons therefor, and shall cause the Board Executive Secretary to serve a copy of the decision on the bidder or applicant. The decision of the committee shall be final unless the committee chooses to refer the notice of protest to the Board.

(ii) The Chair of the Executive Committee may re-delegate hearings provided for under subparagraph (i) above to a minimum of three members of the Executive Committee who shall act in place of the committee in the conduct of the hearing and who shall at the conclusion thereof make their recommendations to the full committee. Such recommendations shall be accompanied by copies of any materials submitted in evidence. Any hearing held and recommendations made pursuant to such delegated authority shall be completed in advance of the time set for the next regular meeting of the full committee following the meeting at which the matter would otherwise have been heard by the committee.

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

(5) Investigate allegations of discrimination, harassment, and retaliation against directors:

(i) The Executive Committee shall create an ad hoc subcommittee of three members to investigate any allegations of discrimination, harassment, or retaliation in violation of Section 2131 made against a director. No director who is the subject of an allegation of discrimination, harassment, or retaliation shall be appointed to the subcommittee.

- (ii) The ad hoc subcommittee shall hire an outside counsel or investigator who shall report findings to the ad hoc subcommittee. The ad hoc subcommittee shall report its findings to the Executive Committee for appropriate action.

Article 9.5

AUDIT AND ETHICS COMMITTEE

§ 2496. Duties and Functions.

(a) Duties and Functions with respect to General Auditor

(1) The Audit and Ethics Committee shall study, advise, and make recommendations with regard to:

- (i) All reports of the General Auditor and external auditors, including the audited financial statements of the District;
- (ii) The Audit Department's annual business plan and biennial budget;
- (iii) Requests from other committees of the Board for audits and reviews not included in the Audit Department's annual business plan;

(2) The Audit and Ethics Committee shall be responsible for monitoring and overseeing the duties and responsibilities of the Audit Department and the external auditors as those duties and responsibilities relate to the effectiveness of the District's internal control system. It shall review and approve the business plan containing the key priorities for the coming year of the General Auditor and the Audit Department in advance of the July Board meeting.

(3) As part of the Department Head annual evaluation process, the Audit and Ethics Committee shall be responsible for engaging in periodic performance expectations discussions, including progress checks, with the General Auditor.

(b) Duties and Functions with respect to Ethics Officer

(1) The Audit and Ethics Committee shall be responsible for recommending to the Board of Directors employment and termination of the Ethics Officer. The Committee shall further conduct periodic performance reviews of the Ethics Officer and provide a written report to the Board of Directors regarding that review.

(2) The Audit and Ethics Committee shall be responsible for monitoring and overseeing the duties and responsibilities of the Ethics Officer to ensure the independence of the

Ethics Officer and to ensure the Ethics Officer is working in a collaborative manner with the Board of Directors, General Manager, General Counsel, and General Auditor.

(3) The Audit and Ethics Committee shall review and receive quarterly status reports of pending investigations by the Ethics Officer. The reports shall include the general nature and status of the investigation, how long the investigation has been pending, when the investigation is expected to be completed and, when completed, the resolution of the investigation.

(4) The Audit and Ethics Committee shall review and receive quarterly reports from the Ethics Officer on any engagement of professional and technical consultants.

(5) The Audit and Ethics Committee shall review and approve the business plan containing the key priorities for the coming year for the Ethics Office. It shall review and approve the business plan in advance of the July Board meeting.

Division VI

PERSONNEL MATTERS

Chapter 3

GENERAL EMPLOYEE MATTERS

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 Program

6303. Objectives of Affirmative Action Program

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

6305. Nondiscrimination, Harassment, and Retaliation by Officers and Employees

6306. Definitions

§ 6305. Nondiscrimination, Harassment, and Retaliation by Officers and Employees.

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 orientation, medical condition, genetic information, disability (physical or mental), 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 directors, 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 any characteristic protected by law will not be sanctioned nor tolerated. Officers and employees also shall not retaliate against any person for reporting discrimination or harassment prohibited by this section. Reports of discrimination or harassment based on a characteristic protected by law, or related retaliation, are taken seriously, and appropriate action will be taken against individuals found to have engaged in such conduct. The prohibition against discrimination, harassment, and retaliation 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 Investigations staff.

Chapter 4

OFFICERS

Article 5

ETHICS OFFICER

§ 6470. Powers and Duties.

The powers and duties of the Ethics Officer shall be as follows:

- (a) The Ethics Officer shall report to the Board through the Audit and Ethics Committee.
- (b) The Ethics Officer shall oversee an Office staffed with professional, qualified persons.
- (c) The Ethics Officer shall be free from political interference in fulfilling his or her responsibilities detailed in this article.
- (d) The Ethics Officer shall maintain a collaborative relationship with the Board, General Manager, General Counsel, and General Auditor.
- (e) The Ethics Officer shall propose amendments to the Administrative Code to the Audit and Ethics Committee for approval and adoption by the Board, relating to:
 - (1) Regulation of lobbying activities;
 - (2) Conflicts of interest and financial disclosure;

- (3) Public notice and approval procedures for contracts of \$50,000 or more;
- (4) Disclosure of campaign contributions related to potential conflicts of interest; and
- (5) Such other ethics rules for application to board members, officers, employees, lobbyists, lobbying firms, and contractors as deemed appropriate.

(f) The Ethics Officer shall educate, train, provide advice, and seek compliance from board members, officers, applicable employees, lobbyists, lobbying firms, and Metropolitan contractors and subcontractors concerning:

- (1) The rules prescribed in Division VII;
- (2) The Political Reform Act of 1974, as amended, and applicable regulations;
- (3) The conflict of interest rules of Government Code section 1090.

(g) The Ethics Officer shall investigate potential violations of ethics rules in Division VII by board members, officers, applicable staff, lobbyists, lobbying firms, and contractors consistent with the rules specified in Division VII. The Ethics Officer shall prepare status reports of pending investigations on a quarterly basis. The reports shall include the general nature and status of the investigation, how long the investigation has been pending, when the investigation is expected to be completed and, when completed, the resolution of the investigation.

(h) The Ethics Officer shall be the filing officer on behalf of the District to receive and file Statements of Economic Interest pursuant to the California Government Code and section 7501 of the Administrative Code.

(i) The Ethics Officer shall have the authority to confer with the Chair of the Board and the Chair and Vice Chair of the Audit and Ethics Committee for the purpose of seeking advice and feedback on any policy, operational, or investigative matters, subject to the confidentiality requirements in section 7412 of the Administrative Code.

Division VII

GOVERNMENTAL ETHICS

Chapter	Sec.
1 Ethics Rules for Metropolitan Officials	7100
2 Ethics Rules for Metropolitan Contractors and Lobbyists	7200
3 Ticket Distribution Policy	7300
4 Investigations by the Ethics Officer	7400

5 Disclosure of Economic Interests	7500
6 Education, Advice, and Compliance	7600

Chapter 1

ETHICS RULES FOR METROPOLITAN OFFICIALS

Article	Sec.
1 Purposes and Principles	7100
2 State Ethics Laws Incorporated into Administrative Code	7110
3 Metropolitan Ethics Requirements	7120

Article 1

PURPOSES AND PRINCIPLES

Sec.

- 7100. Purpose and Scope
- 7101. Purposes, Policy, and Values
- 7102. Restrictions on Misleading Associations
- 7103. Public Reporting for Contracts of \$50,000 or More
- 7104. Ethics Officer Jurisdiction
- 7105. Definition of Terms

§ 7100. Purpose and Scope.

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

§ 7101. Purposes, Policy, and Values.

The policy of Metropolitan is to maintain the highest standards of ethics from Metropolitan officials. Metropolitan is a public agency that shall conduct its business with integrity in an honest and ethical manner. The proper operation of Metropolitan requires decisions and policy to be made in the proper channels of governmental structure, that public office not be used for unauthorized personal gain, and that all individuals associated with Metropolitan remain impartial and responsible towards the public. Accordingly, it is the policy of Metropolitan that Metropolitan officials shall strive to maintain the highest standard of

personal honesty and fairness in carrying out their duties. Metropolitan officials shall conduct Metropolitan's business in compliance with the law, this Chapter, and other Metropolitan policies, and shall exercise good judgment based on Metropolitan's values and goals. In carrying out their duties, Metropolitan officials should exercise fairness, impartiality, and avoid behavior that is likely to create an appearance of impropriety. This policy sets forth the minimal ethical standards to be followed by Metropolitan officials. Strict compliance with this Chapter is not necessarily sufficient, and any attempt to evade or circumvent any requirements of the Chapter is improper.

§ 7102. Restrictions on Misleading Associations.

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

§ 7103. Public Reporting for Contracts of \$50,000 or More

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

§ 7104. Ethics Officer Jurisdiction.

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

§ 7105. Definition of Terms.

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

- (a) "Complaint" means any communication to the Ethics Officer alleging violations of Metropolitan ethics rules.
- (b) "Complainant" means the individual who files a complaint with the Ethics Officer alleging violations of Metropolitan ethics rules.
- (c) "Conflict of interest code" means the Code required by Government Code section 87300 and approved by the Fair Political Practices Commission on a biennial basis.

- (d) “Contractor” means any non-governmental individual or entity providing goods, services, or other consideration through a contract with Metropolitan, or any non-governmental individual or entity seeking such a contract. For purposes of Division VII only, “Contractor” includes subcontractors and subconsultants.
- (e) “Designated employee” means a Metropolitan employee or consultant who must file Statements of Economic Interest pursuant to Government Code section 87300 and Metropolitan’s Conflict of Interest Code.
- (f) “Disclosure category” means the types of financial interests that a Designated Employee must disclose on his or her Statement of Economic Interests.
- (g) “Formal complaint” means a complaint made in writing where the complainant is identified with contact information.
- (h) “FPPC” means the California Fair Political Practices Commission.
- (i) “Gift” shall have the same meaning as that in Government Code section 82028 and regulations of the FPPC, or any successor statute or regulation.
- (j) “Informal complaint” means a complaint where the complainant is not identified or lacks sufficient contact information.
- (k) “Lobbying firm” means 1) any business entity, including an individual contract lobbyist, which receives compensation for the purpose of influencing a specific decision of any Metropolitan official including a decision to enter into a contract, and 2) any owner or employee of the business entity is a lobbyist.
- (l) “Lobbyist” means any individual who receives or is entitled to receive \$2,000 or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, to communicate directly with a Metropolitan official for the purpose of influencing a specific decision of any Metropolitan official, including a decision to enter into a contract. For purposes of this definition, oral statements made during a public hearing or written statements made as part of the public record shall not be considered communications for the purpose of influencing a decision of any Metropolitan official. Individuals employed by other governmental agencies and individual employees of private entities, other than lobbying firms, seeking to influence a Metropolitan decision are not lobbyists. Decisions involving ministerial acts, personnel matters, and collective bargaining shall not be considered “decisions” for purposes of this definition.
- (m) “Metropolitan ethics rules” means the rules contained in Articles 2 and 3 of Chapter 1 of this Division commencing with section 7110, and in Articles 2 and 3 of Chapter 2 of this Division commencing with section 7210.

- (n) “Metropolitan official” means a public official as that term is defined by Government Code section 82048, or any successor statute, and includes Metropolitan directors, officers, and all employees.
- (o) “Office” means the Office of Ethics.
- (p) “Political contribution” shall have the same meaning as that in Government Code section 82015 and interpretative regulations of the FPPC, or any successor statute or regulation.
- (q) “Restricted source” means 1) any non-governmental individual or entity that seeks or receives financial support from Metropolitan 2) and any contractor, as that term is defined in subdivision (d).
- (r) “Subject of the complaint” means a Metropolitan official, lobbyist, lobbying firm, or contractor against whom a complaint has been filed, a Metropolitan official, lobbyist, lobbying firm, or contractor referred from a Metropolitan department to the Ethics Officer regarding possible violations of Metropolitan ethics rules, or a Metropolitan official, lobbyist, lobbying firm or contractor who is the subject of an investigation initiated by the Ethics Officer.

Article 2

STATE ETHICS LAWS INCORPORATED INTO ADMINISTRATIVE CODE

Sec.

7110. Incorporation of State Ethics Laws into the Administrative Code

7111. Conflicts of Interest Regarding Contracts

7112. Conflicts of Interest Regarding Governmental Decisions

7113. Campaign Contributions

7114. Influencing Prospective Employment

7115. Honoraria

7116. Gift Limitations

7117. Loans to Public Officials

7118. Statement of Economic Interests

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

The purpose of this Article is to incorporate specific state ethics laws into this Administrative Code. The state ethics laws incorporated herein shall include any relevant state laws defining or limiting the application of the incorporated law, state regulations or formal opinions interpreting these laws, as well as any successor laws and regulations or opinions. As a

result of such incorporation, the Ethics Officer shall have the jurisdiction to investigate alleged violations as well as a duty to educate, advise and train Metropolitan officials, and seek compliance by such officials. Metropolitan officials shall have an obligation to abide by these incorporated rules and are subject to the provisions of Article 4 of Chapter 4 of this Division for any violations.

§ 7111. Conflicts of Interest Regarding Contracts.

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

§ 7112. Conflicts of Interest Regarding Governmental Decisions.

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

§ 7113. Campaign Contributions.

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

§ 7114. Influencing Prospective Employment.

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

§ 7115. Honoraria.

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

§ 7116. Gift Limitations.

Government Code section 89503 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code. (As of the time of the initial adoption of this section the gift limit is \$500 per calendar year per source. See section 7122 for additional limits on gifts from Metropolitan contractors.)

§ 7117. Loans to Public Officials.

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

§ 7118. Statement of Economic Interests.

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

Article 3**METROPOLITAN ETHICS REQUIREMENTS**

Sec.

7120. Application of Metropolitan Ethics Requirement

7121. Misuse of Position or Authority

7122. Additional Gift Limits and Compensation Restrictions

7123. Political Contributions and Activities

7124. Limits on Contracts and Grants with Former Directors

7125. Prohibited Director Communications

7126. Use of Confidential Information

7127. Duty to Report

7128. Whistleblower and Witness Protections

7129. Failure to Cooperate with Ethics Officer Investigation

7130. Employment with Persons Doing Business with Metropolitan

7131. Compliance with Metropolitan Contracting Procedures and Guidelines

§ 7120. Application of Metropolitan Ethics Requirements.

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

§ 7121. Misuse of Position or Authority.

Metropolitan officials shall not use their governmental position or authority to obtain, or attempt to obtain, a private benefit, or advantage for themselves or any other individual or entity, or a disadvantage for any other individual or entity other than one naturally arising from proper performance of their governmental duties.

§ 7122. Additional Gift Limits and Compensation Restrictions.

(a) No Metropolitan employee shall accept any gift from a donor who the employee knows is a restricted source. This limitation shall not apply to modest food or beverages provided during a work-related event or items of nominal intrinsic value, so long as the total value does not exceed \$50 in a calendar year from a single source.

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

§ 7123. Political Contributions and Activities.

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

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

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

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

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

(f) Metropolitan officials shall not use Metropolitan assets, property, equipment, or other resources to engage in political activities unless such use is incidental to other legitimate activities and is minimal.

(1) For purposes of this subdivision, Metropolitan resources include, but are not limited to, computers, e-mail systems, Internet services, telephones, photocopying and fax machines, office supplies, postage, vehicles, office spaces, open spaces, facilities, staff, and field sites owned, leased, or controlled by Metropolitan.

(2) Sending emails or otherwise using Metropolitan resources to support or oppose a candidate or ballot measure, or to solicit political contributions for a candidate or ballot measure, is not considered an incidental or minimal use and is prohibited.

(g) Metropolitan employees shall not engage in political activities during their work hours with Metropolitan, unless required as part of Metropolitan job duties.

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

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

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

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

§ 7125. Prohibited Director Communications.

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

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

§ 7126. Use of Confidential Information.

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

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

§ 7127. Duty to Report.

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

§ 7128. Whistleblower and Witness Protections.

Metropolitan officials shall not take or threaten to take an action as a reprisal for, or to prevent, discourage, or interfere with a person from:

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

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

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

(3) A gross public health or safety danger.

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

§ 7129. Failure to Cooperate with Ethics Officer Investigation.

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

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

§ 7130. Employment with Persons Doing Business with Metropolitan.

Metropolitan employees shall not accept, solicit, or apply for employment with, or be compensated by, any individual or entity while that individual or entity is doing business with or engaged in negotiations with Metropolitan concerning a matter within the employee's areas of responsibility or upon which the employee must act or make a recommendation.

§ 7131. Compliance with Metropolitan Contracting Procedures and Guidelines.

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

Chapter 2

ETHICS RULES FOR METROPOLITAN CONTRACTORS AND LOBBYISTS

Article	Sec.
1 Policy	7200
2 Metropolitan Contractors	7210
3 Lobbyists	7220

Article 1

POLICY

Sec.
7200. Policy

§ 7200. Policy.

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

Article 2

METROPOLITAN CONTRACTORS

Sec.
7210. Contractor Code of Conduct.
7211. Contractor Code of Conduct Provisions.

§ 7210. Contractor Code of Conduct.

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

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

§ 7211. Contractor Code of Conduct Provisions.

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

- (a) Contractors shall abide by all Metropolitan ethics rules and policies applicable to contractors.
- (b) Contractors shall timely cooperate with any investigation by the Ethics Officer, which includes permitting access to their books, records and accounts, and responding to inquiries as may be necessary to complete any investigation at no additional charge to Metropolitan.
- (c) Failure to comply with the Contractor Code of Conduct shall be a basis for termination of existing contracts and debarment from future contracts as provided in section 8170.
- (d) Contractors shall not provide political contributions to Metropolitan board members in violation of Government Code section 84308 nor cause any Metropolitan official to violate section 7123.
- (e) Notice and a requirement that a contractor providing consulting services, including an employee of the contractor, comply with the conflict of interest and disclosure requirements of the Political Reform Act and Government Code section 1090 if the contractor qualifies as a public official.

Article 3**LOBBYISTS**

Sec.

7220. Lobbyist and Lobbyist Firm Registration and Reporting Requirements

7221. Revolving Door Restrictions on Former Metropolitan Officials

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

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

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

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

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

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

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

§ 7221. Revolving Door Restrictions on Former Metropolitan Officials.

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

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

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

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

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

Chapter 3

TICKET DISTRIBUTION POLICY

Article	Sec.
1 Ticket Distribution Policy	7300

Article 1

Ticket Distribution Policy

Sec.

7300. Definition

7301. Purpose of Ticket Distribution Policy

7302. Ticket Distribution Policy

§ 7300. Definition.

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

§ 7301. Purpose of Ticket Distribution Policy

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

§ 7302. Ticket Distribution Policy.

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

- (1) Support of general employee morale, retention or to reward public service.
- (2) Promotion of water conservation within Metropolitan’s service area and the State of California.

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

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

(5) Recognition of a Metropolitan program or purpose.

(6) Promotion of Metropolitan issues and interests.

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

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

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

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

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

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

Chapter 4

INVESTIGATIONS BY THE ETHICS OFFICER

Article	Sec.
1 Authority to Investigate and Jurisdiction	7400
2 Procedures for Investigations	7410
3 Procedures for Making Investigations Public	7420
4 Penalties for Violation of Metropolitan Ethics Rules	7430

Article 1

AUTHORITY TO INVESTIGATE AND JURISDICTION

Sec.

7400. Jurisdiction to Investigate

7401. Discretion to Investigate

7402. Concurrent Investigations

7403. Referrals to the Ethics Officer

7404. Determinations to Not Investigate

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

7406. Scope of Investigation

7407. Consultation with the General Counsel

7408. Requirements for Investigations

§ 7400. Jurisdiction to Investigate.

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

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

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

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

(c) The Ethics Officer shall not commence an investigation of alleged violations more than five years after the date on which the violation occurred. If the subject of the complaint concealed information underlying the alleged violation, the five-year period shall be tolled for the period of the concealment.

§ 7401. Discretion to Investigate.

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

§ 7402. Concurrent Investigations.

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

§ 7403. Referrals to the Ethics Officer.

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

§ 7404. Determinations to Not Investigate.

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

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

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

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

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

§ 7406. Scope of Investigation.

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

§ 7407. Consultation with the General Counsel.

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

§ 7408. Requirements for Investigations.

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

Article 2**PROCEDURES FOR INVESTIGATIONS**

Sec.

7410. Notice to Subject of Investigation

7411. Investigation Timeframe

7412. Confidentiality of Investigations

7413. Access to Metropolitan Records

7414. Opportunity for Subject to Respond

7415. Preponderance of the Evidence Standard

7416. Ethics Officer Report

§ 7410. Notice to Subject of Investigation.

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

(b) As a part of the notice provided in subdivision (a) of this section, the Ethics Officer shall provide the nature of the allegations, advise the subject of the investigation regarding Metropolitan's rules against retaliation, and advise the subject of their obligation to cooperate

with the investigation and that the failure to cooperate may lead to disciplinary action, regardless of the outcome of the investigation.

§ 7411. Investigation Timeframe.

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

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

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

§ 7412. Confidentiality of Investigations.

(a) Investigations by the Ethics Officer shall be confidential to the fullest extent possible.

(b) The Ethics Officer has the discretion to disclose information related to investigations for significant operational or safety reasons.

(c) The Ethics Officer shall not unnecessarily disclose the identity of the subject of a complaint, except as needed in furtherance of the investigation or otherwise provided by Article 3 of this chapter.

(d) During the investigation, the Ethics Officer shall advise the subject of the investigation, the complainant, and any witnesses of the confidentiality of the investigation.

(e) The Ethics Officer may confer with the Chair and Vice Chair of the Audit and Ethics Committee, and Chair of the Board, on any investigative matter subject to the following:

(1) The communications shall be advisory in nature, and

(2) The communications shall be confidential.

(f) The Ethics Officer shall, to the extent possible, protect the identity of any complainant.

§ 7413. Access to Metropolitan Records.

(a) Subject to applicable law, the Ethics Officer shall have access to all Metropolitan documents, files, records, or other materials deemed relevant by the Ethics Officer to an investigation.

(b) If there is a disagreement regarding access to documents, files, records, or other materials, including those that may be protected by the attorney-client privilege or attorney work product doctrine, the Ethics Officer and General Counsel shall discuss the matter with the affected Metropolitan department, and shall make a reasonable good faith effort to resolve the dispute.

(c) If the disagreement is not resolved pursuant to subdivision (b) of this section, the Ethics Officer and General Counsel shall jointly present the matter to an ad hoc committee consisting of the Chairs of the Audit and Ethics Committee, the Legal and Claims Committee and the Board who shall resolve any disagreement that does not involve the attorney-client privilege. If the dispute involves the attorney-client privilege and is not satisfactorily resolved by the ad hoc committee, the matter will be considered by the Board, as a majority of the Board is required to waive Metropolitan's attorney-client privilege.

§ 7414. Opportunity for Subject to Respond.

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

§ 7415. Preponderance of the Evidence Standard.

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

§ 7416. Ethics Officer Report.

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

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

Officer within 14 calendar days of receipt of the response, if any, unless the Ethics Officer determines additional time is required. The Ethics Officer shall provide a copy of any revised written report to the subject of the complaint.

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

(d) The Ethics Officer shall notify the General Counsel of the determination that there has been no violation at the same time the subject is notified of a no violation finding.

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

Article 3

PROCEDURES FOR MAKING INVESTIGATIONS PUBLIC

Sec.

7420. Public Information on Investigations

7421. Confidential Investigation Files

§ 7420. Public Information on Investigations.

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

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

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

§ 7421. Confidential Investigation Files.

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

Article 4**PENALTIES FOR VIOLATION OF METROPOLITAN ETHICS RULES**

Sec.

7430. Schedule of Penalties

7431. Levels of Violations

7432. Penalties for Violations

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

§ 7430. Schedule of Penalties.

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

§ 7431. Levels of Violations

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

(a) Levels of violations:

- (1) Level I (Severe Violation): One or more violations that seriously undermine or threaten the integrity of Metropolitan's governmental decision-making processes.
- (2) Level II (Significant Violation): One or more violations that undermine or threaten the integrity of Metropolitan's governmental decision-making processes.
- (3) Level III (Violation): One or more violations that are isolated or limited in nature, and that provide no more than a minimal personal benefit.
- (4) Level IV (Incidental Violation): A minor infraction that is technical in nature and does not constitute a Level III violation. Multiple or repeated Level IV infractions collectively may constitute a Level III violation.

(b) Mitigating and aggravating factors.

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

- (1) The nature and seriousness of the offense, and its relationship to the employee's duties and responsibilities.
- (2) The official position of the subject, including its responsibilities, prominence, or fiduciary role.
- (3) Acceptance of responsibility by the subject.
- (4) The degree to which the subject cooperated in the investigation.
- (5) Whether the subject had notice of the rules that were violated, or had been warned about the conduct in question.
- (6) Whether the offense was intentional, technical, negligent, or inadvertent, or was frequent.

§ 7432. Penalties for Violations.

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

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

- (1) Violations by Directors shall be referred to the Executive Committee for review and consideration of further action if appropriate under the circumstances which may include counseling, training, a private warning letter, public censure, temporary or permanent removal from committee assignments, or referral to the Director's appointing authority requesting appropriate action.
- (2) Violations by the Executive Officers shall be referred to the Executive Committee for review and the consideration of further action including counseling, performance review, or the imposition of discipline as deemed appropriate under the circumstances.
- (3) Violations by employees, other than the Executive Officers, shall be referred to the Human Resources Group and the appropriate Department Head or Group

Manager for review and the consideration of further action which may include counseling, performance review, or the imposition of discipline as deemed appropriate under the circumstances.

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

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

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

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

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

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

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

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

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

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

Chapter 5

CONFLICT OF INTEREST CODE

Article	Sec.
1 Conflict of Interest Code	7500
2 Designated Positions and Categories of Disclosure Index	7510

Article 1

CONFLICT OF INTEREST CODE

Sec.
7500. Political Reform Act - Incorporation of Title 2, California Code of Regulations
7501. Filing of Statements of Economic Interest

Article 2

DESIGNATED POSITIONS AND CATEGORIES OF DISCLOSURE INDEX

Sec.
7510. Reportable Interests
7511. Designated Positions
7512. Public Officials Who Manage Public Investments
7513. Consultants and New Positions

Chapter 6

EDUCATION, ADVICE, AND COMPLIANCE

Article	
1 Education and Training	7600
2 Ethics Advice	7610
3 Compliance	7620

Article 1

EDUCATION AND TRAINING

Sec.
7600. Education on Metropolitan Ethics Rules

- 7601. Ethics Education and Training Materials
- 7602. Ethics Training for the Board of Directors
- 7603. Ethics Training for Employees
- 7604. Ethics Training for Oversight of Contractors
- 7605. Additional Training for Statements of Economic Interest Filers

§ 7600. Education on Metropolitan Ethics Rules.

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

§ 7601. Ethics Education and Training Materials.

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

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

§ 7602. Ethics Training for the Board of Directors.

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

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

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

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

§ 7603. Ethics Training for Employees.

All employees shall receive training on Metropolitan's ethics provisions at least once every two years. In addition, all designated employees shall receive training on Statements of Economic Interest and disclosure categories at least once every two years. This training may be

either in-person or online. The Ethics Officer shall certify that all employees have completed this training.

§ 7604. Ethics Training for Oversight of Contractors.

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

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

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

Article 2

ETHICS ADVICE

Sec.

7610. Ethics Advice

7611. Requirements for Ethics Advice

7612. Advice Immunity

7613. Confidentiality of Ethics Advice

§ 7610. Ethics Advice.

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

§ 7611. Requirements for Ethics Advice.

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

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

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

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

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

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

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

§ 7612. Advice Immunity.

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

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

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

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

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

§ 7613. Confidentiality of Ethics Advice.

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

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

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

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

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

Article 3

COMPLIANCE

Sec.

7620. Ethics Training Required by Government Code

7621. Filing Officer Duties

7622. Additional Review of Statements of Economic Interest

7623. Compliance with Government Code Section 84308

§ 7620. Ethics Training Required by Government Code.

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

§ 7621. Filing Officer Duties.

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

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

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

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

§ 7622. Additional Review of Statements of Economic Interests.

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

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

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

§ 7623 Compliance with Government Code Section 84308.

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

Division II**PROCEDURES PERTAINING TO THE BOARD, COMMITTEE AND DIRECTORS****Chapter 1****BOARD OF DIRECTORS****Article 3****BOARD CONDUCT RULES**

Sec.

2130. Avoiding Personal Bias

2131. Nondiscrimination, ~~and~~ Harassment, and Retaliation by Directors

§ 2130. Avoiding Personal Bias.

A Board member shall not make, participate in or attempt to influence any decision, if he or she is incapable of providing fair treatment to a matter before the Board due to bias, prejudice or because he or she has prejudged a matter.

- *Language taken from former § 7121, but moved to Division II for purposes of establishing general statement of policy to guide Board actions, as opposed to a specific rule overseen and enforced by the Ethics Officer.*
- *There is no requirement in SB 60 mandating recusals based solely on bias, prejudice or prejudgment. The same is true for the FPPC, LA Ethics, and MTA rules.*

§ 2131. Nondiscrimination, ~~and~~ Harassment, and Retaliation by Directors.

Directors 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 orientation, medical condition, genetic information, disability (physical or mental), 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 directors, 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 any characteristic protected by law will not be sanctioned nor tolerated. Directors also shall not retaliate against any person for reporting discrimination or harassment prohibited by this section. Reports of discrimination or harassment based on a characteristic protected by law, or related retaliation, are taken seriously, and appropriate action will be taken against individuals found to

have engaged in such conduct. The prohibition against discrimination, ~~and~~ harassment, and retaliation applies to all transactions of Metropolitan's business, whether at a Metropolitan-operated facility or an external site. Allegations regarding director conduct in violation of this section shall be reported to the Board Chair, except allegations regarding conduct by the Board Chair in violation of this section shall be reported to the Chair and Vice Chair of the Audit and Ethics Committee. An employee also has the option of submitting allegations regarding director conduct in violation of this section to Metropolitan's Equal Employment Opportunity Investigations staff for that staff's transmission to the Board Chair, or to the Chair and Vice Chair of the Audit and Ethics Committee, as applicable.

- *Language is taken from former section 7111 which provided that the Ethics Officer would have jurisdiction over such complaints. Under new section 2416(f)(5), the Executive Committee will appoint an ad hoc subcommittee, utilizing an outside investigator, to investigate such complaints. Under proposed Section 2131, employees would also have the option to report allegations of director conduct in violation of this section to Metropolitan's EEO Investigations staff, where they report EEO allegations involving employees. The EEO Investigations staff would then refer the complaint as described above. Language was also added to expressly include allegations of related retaliation under this process.*
- *There is no provision in SB 60 regarding discrimination and harassment policies. The same is true for the FPPC, LA Ethics, and MTA rules, although each entity has provisions on this issue outside of their ethics provisions.*

Article 4

MISCELLANEOUS BOARD RULES

Chapter 4

STANDING COMMITTEES

Article 2

EXECUTIVE COMMITTEE

§ 2410. Membership.

The Executive Committee shall have a maximum of 16 members and shall consist of the Chair, Vice Chairs, Secretary, all past Chairs of the Board who are directors of the District, and the Chairs of the standing committees in addition to the Executive Committee, and two additional directors as nonofficer members.

- *This section needs to be amended to reflect the Audit and Ethics Committee's elevation from special committee to a standing committee, which increases the Executive Committee membership by one.*

§ 2416. Duties and Functions (Executive Committee)

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

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

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

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

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

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

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

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

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

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

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

(b) The Executive Committee shall:

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

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

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

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

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

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

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

(f) The Executive Committee shall also:

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

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

(3) Conduct hearings on vendors' protests:

(i) Hearings requested pursuant to section 8142(d), and other hearings granted on the Executive Committee's own motion, unless delegated pursuant to section 8148 shall be held by the committee at its next regular meeting to be held at least 72 hours after filing of the notice of protest. The hearing shall be conducted in accordance with such rules as the Chair of the committee shall announce. The committee shall make a decision on the bidder's or applicant's protest, shall set forth its reasons therefor, and shall cause the Board Executive Secretary to serve a copy of the decision on the bidder or applicant. The decision of the committee shall be final unless the committee chooses to refer the notice of protest to the Board.

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

the hearing and who shall at the conclusion thereof make their recommendations to the full committee. Such recommendations shall be accompanied by copies of any materials submitted in evidence. Any hearing held and recommendations made pursuant to such delegated authority shall be completed in advance of the time set for the next regular meeting of the full committee following the meeting at which the matter would otherwise have been heard by the committee.

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

(5) Investigate allegations of discrimination, ~~and harassment,~~ and retaliation against directors:

(i) The Executive Committee shall create an ad hoc subcommittee of three members to investigate any allegations of discrimination, ~~and harassment,~~ or retaliation in violation of Section 2131 made against a director. No director who is the subject of an allegation of discrimination, ~~or harassment,~~ or retaliation shall be appointed to the subcommittee.

(ii) The ad hoc subcommittee shall hire an outside counsel or investigator who shall report findings to the ad hoc subcommittee. The ad hoc subcommittee shall report its findings to the Executive Committee for appropriate action.

- *This language is based partially on former § 7111 which provided that the Metropolitan EEO Investigations staff investigated alleged non-director violations of Metropolitan's discrimination/harassment policies and that either the Board Chair or Ethics Officer investigated alleged violations by directors. Under the proposed rule, EEO Investigations staff would continue to investigate non-director violations and an ad hoc subcommittee, utilizing an outside investigator, would investigate alleged director violations. As a consequence, the language is no longer in Division VII, but under Division II related to the Board of Directors.*
- *There is no provision in SB 60 regarding discrimination and harassment policies. The same is true for the FPPC, LA Ethics, or MTA rules, although each entity has provisions on this issue outside of their ethics provisions.*

Article 9.5

AUDIT AND ETHICS COMMITTEE

§ 2496. Duties and Functions.

(a) Duties and Functions with respect to General Auditor

(1) The Audit and Ethics Committee shall study, advise, and make recommendations with regard to:

(i) All reports of the General Auditor and external auditors, including the audited financial statements of the District;

(ii) The Audit Department's annual business plan and biennial budget;

(iii) Requests from other committees of the Board for audits and reviews not included in the Audit Department's annual business plan;

(2) The Audit and Ethics Committee shall be responsible for monitoring and overseeing the duties and responsibilities of the Audit Department and the external auditors as those duties and responsibilities relate to the effectiveness of the District's internal control system. It shall review and approve the business plan containing the key priorities for the coming year of the General Auditor and the Audit Department in advance of the July Board meeting.

(3) As part of the Department Head annual evaluation process, the Audit and Ethics Committee shall be responsible for engaging in periodic performance expectations discussions, including progress checks, with the General Auditor.

(b) Duties and Functions with respect to Ethics Officer

(1) The Audit and Ethics Committee shall be responsible for recommending to the Board of Directors employment and termination of the Ethics Officer. The Committee shall further conduct periodic performance reviews of the Ethics Officer and provide a written report to the Board of Directors regarding that review.

(2) The Audit and Ethics Committee shall be responsible for monitoring and overseeing the duties and responsibilities of the Ethics Officer to ensure the independence of the Ethics Officer and to ensure the Ethics Officer is working in a collaborative manner with the Board of Directors, General Manager, General Counsel, and General Auditor. ~~Such review and monitoring shall include resolution of any issues between the Ethics Officer and the General Manager, General Counsel and General Auditor regarding requests for access to documents and information maintained by those Department Heads.~~

(3) The Audit and Ethics Committee shall review and receive quarterly status reports of pending investigations by the Ethics Officer ~~at each regular meeting of the Committee~~. The reports shall ~~be limited to include~~ the general nature and status of the investigation, how long the investigation has been pending, when the investigation is expected to be completed and, when completed, the resolution of the investigation.

(4) The Audit and Ethics Committee shall review and receive quarterly reports from the Ethics Officer on any engagement of professional and technical consultants.

(5) The Audit and Ethics Committee shall review and approve the business plan containing the key priorities for the coming year for the Ethics Office. It shall review and approve the business plan in advance of the July Board meeting.

- *While this section was just amended last fall as part of Phase 2, the assumption at the time was the A & E Committee would resolve disputes related to access of documents. Since then the Committee has instructed the drafting team to assign resolution of disputes to an ad hoc committee made up of the Chairs of the Board, A & E and Legal and Claims Committees. This necessitates removing the language in ~~strikeout~~. The new process is now part of proposed § 7413(c).*
- *Proposed language changes the Ethics Officer's investigations reporting requirement from monthly to quarterly, to allow for better reporting of investigations as they develop. It also permits the Ethics Officer to report additional non-confidential information, such as case numbers to help directors track particular matters of interest.*

Division VI

PERSONNEL MATTERS

Chapter 3

GENERAL EMPLOYEE MATTERS

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 Program

6303. Objectives of Affirmative Action Program

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

6305. Nondiscrimination, ~~and~~ Harassment, and Retaliation by Officers and Employees

6306. Definitions

§ 6305. Nondiscrimination, ~~and~~ Harassment, and Retaliation by Officers and Employees.

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 orientation, medical condition, genetic information, disability (physical or mental), 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 directors, 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 any characteristic protected by law will not be sanctioned nor tolerated. Officers and employees also shall not retaliate against any person for reporting discrimination or harassment prohibited by this section. Reports of discrimination or harassment based on a characteristic protected by law, or related retaliation, are taken seriously, and appropriate action will be taken against individuals found to have engaged in such conduct. The prohibition against discrimination, ~~and~~ harassment, and retaliation 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 Investigations staff.

- *Language is taken from former section 7111 which provided that EEO Investigations staff would have jurisdiction over such complaints. This will continue, but in Division VI of the Code (Personnel Matters) and will no longer be in Division VII concerning the Ethics Officer's duties.*
- *There is no provision in SB 60 regarding discrimination and harassment policies. The same is true for the FPPC, LA Ethics, and MTA rules, although each entity has provisions on this issue outside of their ethics provisions.*

Chapter 4

OFFICERS

Article 5

ETHICS OFFICER

§ 6470. Powers and Duties.

The powers and duties of the Ethics Officer shall be as follows:

- (a) The Ethics Officer shall report to the Board through the Audit and Ethics Committee.
- (b) The Ethics Officer shall oversee an Office staffed with professional, qualified persons.

(c) The Ethics Officer shall be free from political interference in fulfilling his or her responsibilities detailed in this article.

(d) The Ethics Officer shall maintain a collaborative relationship with the Board, General Manager, General Counsel, and General Auditor.

(e) ~~The Ethics Officer shall propose rules for the conduct of the Ethics Office's decision-making processes.~~ The Ethics Officer shall propose amendments to the Administrative Code to the Audit and Ethics Committee for approval and adoption by the Board, relating to:

(1) Regulation of lobbying activities;

(2) Conflicts of interest and financial disclosure;

(3) ~~Review of Metropolitan contracts for compliance with ethics rules~~ Public notice and approval procedures for contracts of \$50,000 or more;

(4) Disclosure of campaign contributions related to potential conflicts of interest; and

(5) Such other ethics rules for application to board members, officers, employees, lobbyists, lobbying firms, and contractors as deemed appropriate.

(f) The Ethics Officer shall educate, train, provide advice, and seek compliance from board members, officers, applicable employees, lobbyists, lobbying firms, and Metropolitan contractors and subcontractors concerning:

(1) The rules prescribed in Division VII;

(2) The Political Reform Act of 1974, as amended, and applicable regulations;

(3) The conflict of interest rules of Government Code section 1090.

(g) The Ethics Officer shall investigate potential violations of ethics rules in Division VII by board members, officers, applicable staff, lobbyists, lobbying firms, and contractors consistent with the rules specified in Division VII. The Ethics Officer shall prepare status reports of pending investigations ~~at each regular meeting of the Committee~~ on a quarterly basis. The reports shall ~~be limited to include~~ the general nature and status of the investigation, how long the investigation has been pending, when the investigation is expected to be completed and, when completed, the resolution of the investigation.

(h) The Ethics Officer shall be the filing officer on behalf of the District to receive and file Statements of Economic Interest pursuant to the California Government Code and section 7501 of the Administrative Code.

(i) The Ethics Officer shall have the authority to confer with the Chair of the Board and the Chair and Vice Chair of the Audit and Ethics Committee for the purpose of seeking advice and feedback on any policy, operational, or investigative matters, subject to the confidentiality requirements in section 7412 of the Administrative Code.

- *This section was revised previously as part of Phase 2, but a change in the cross reference in subdivision (h) was necessitated by a renumbering of sections in Division VII. In addition, the first sentence in subdivision (e) has been deleted as unnecessary since the Code will now provide the rules for conduct of the Ethics Office. It also updated the change to the Ethics Officer's investigations reporting requirement from monthly to quarterly, pursuant to the amendment to § 2496, and updated the requirement that the Ethics Officer propose rules related to public notice and approval procedures for contracts to more closely track the mandate under SB 60. Subdivision (i) was also added to expressly permit the Ethics Officer to confer with the Chair of the Board and Chair and Vice Chair of the Audit and Ethics Committee for oversight and feedback on investigative and other matters.*

Division VII

GOVERNMENTAL ETHICS

Chapter	Sec.
1 Ethics Rules for Metropolitan Officials	7100
2 Ethics Rules for Metropolitan Contractors and Lobbyists	7200
3 Ticket Distribution Policy	7300
4 Investigations by the Ethics Officer	7400
5 Disclosure of Economic Interests	7500
6 Education, Advice, and Compliance	7600

Chapter 1

ETHICS RULES FOR METROPOLITAN OFFICIALS

Article	Sec.
1 Purposes and Principles	7100
2 State Ethics Laws Incorporated into Administrative Code	7110
3 Metropolitan Ethics Requirements	7120

Article 1

PURPOSES AND PRINCIPLES

Sec.
7100. Purpose and Scope

7101. Purposes, Policy, and Values

7102. Restrictions on Misleading Associations

7103. Public Reporting for Contracts of \$50,000 or More

710~~4~~3. Ethics Officer Jurisdiction

710~~5~~4. Definition of Terms

§ 7100. Purpose and Scope.

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

- *This language is patterned after former § 7100. Language was added to encompass ethics areas not governed by the Political Reform Act.*
- *Metropolitan officials are governed by the Political Reform Act. In addition, SB 60 mandates adoption of ethics rules for Metropolitan officials.*

§ 7101. Purposes, Policy, and Values.

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

- *This language is based on former §§ 7101 and 7102. In addition, language was added from former § 7103 regarding Metropolitan officials not granting any special*

consideration, treatment or advantage to any individual or group beyond that available to every other individual or group in similar circumstances in connection with any transaction, contract, grant or sale to which Metropolitan is a party. As a result, these become policy goals of Metropolitan, but do not fall within the jurisdiction of the Ethics Officer's responsibility to educate staff, contractors and lobbyists, or to investigate violations.

§ 7102. Restrictions on Misleading Associations.

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

- *This language is based on former § 7112, however the language has been modified to focus its application so that funding or in-kind support of any association must be disclosed. By disclosing any such participation or support, Metropolitan cannot "mislead the public as to the association's true identity, its source of funding, or its purpose."*
- *This provision is required by § 126.7(f) of the MWD Act. This section imposes certain limitations on Metropolitan's authority to participate in or support associations involving Metropolitan officials or member agency representatives. As such, the rules must prohibit any association structure or association identification that could mislead the public about the association's identity, source of funding, or purpose. There are no comparable provisions in the FPPC, LA Ethics, or MTA rules.*

§ 7103. Public Reporting for Contracts of \$50,000 or More

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

- *This language is added to address the express requirement in SB 60 that the Ethics Officer propose a rule addressing the public notice of contracts of \$50,000 or more.*

§ 710~~4~~3. Ethics Officer Jurisdiction.

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

- *This is a new provision intended to clarify that the Ethics Officer's jurisdiction to educate and investigate is limited to those matters specified in the Administrative Code.*
- *SB 60 lists subject matters over which the Ethics Officer has jurisdiction with a requirement that the board adopt specific ethics rules subject to the Ethics Officer's jurisdiction. The same is generally true for the FPPC, LA Ethics, and MTA, though the MTA Inspector General (rather than its Chief Ethics Officer) investigates ethics violations.*

§ 71054. Definition of Terms.

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

- “Complaint” means any communication to the Ethics Officer alleging violations of Metropolitan ethics rules.
- “Complainant” means the individual who files a complaint with the Ethics Officer alleging violations of Metropolitan ethics rules.
- “Conflict of interest code” means the Code required by Government Code section 87300 and approved by the Fair Political Practices Commission on a biennial basis.
- “Contractor” means any non-governmental individual or entity providing goods, services, or other consideration through a contract with Metropolitan, or any non-governmental individual or entity seeking such a contract. For purposes of Division VII only, “Contractor” includes subcontractors and subconsultants.
- “Designated employee” means a Metropolitan employee or consultant who must file Statements of Economic Interest pursuant to Government Code section 87300 and Metropolitan’s Conflict of Interest Code.
- “Disclosure category” means the types of financial interests that a Designated Employee must disclose on his or her Statement of Economic Interests.
- “Formal complaint” means a complaint made in writing where the complainant is identified with contact information.
- “FPPC” means the California Fair Political Practices Commission.
- “Gift” shall have the same meaning as that in Government Code section 82028 and regulations of the FPPC, or any successor statute or regulation.

- (j) “Informal complaint” means a complaint where the complainant is not identified or lacks sufficient contact information.
- (k) “Lobbying firm” means 1) any business entity, including an individual contract lobbyist, which receives compensation for the purpose of influencing a specific decision of any Metropolitan official including a decision to enter into a contract, and 2) any owner or employee of the business entity is a lobbyist.
- (l) “Lobbyist” means any individual who receives or is entitled to receive ~~two thousand dollars~~ (\$2,000) or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, to communicate directly with a Metropolitan official for the purpose of influencing a specific decision of any Metropolitan official, including a decision to enter into a contract. For purposes of this definition, oral statements made during a public hearing or written statements made as part of the public record shall not be considered communications for the purpose of influencing a decision of any Metropolitan official. Individuals employed by other governmental agencies and individual employees of private entities, other than lobbying firms, seeking to influence a Metropolitan decision are not lobbyists. Decisions involving ministerial acts, personnel matters, and collective bargaining shall not be considered “decisions” for purposes of this definition.
- (m) “Metropolitan ethics rules” means the rules contained in Articles 2 and 3 of Chapter 1 of this Division commencing with section 7110, and in Articles 2 and 3 of Chapter 2 of this Division commencing with section 7210.
- (n) “Metropolitan official” means a public official as that term is defined by Government Code section 82048, or any successor statute, and includes Metropolitan directors, officers, and all employees.
- (o) “Office” means the Office of Ethics.
- (p) “Political contribution” shall have the same meaning as that in Government Code section 82015 and interpretative regulations of the FPPC, or any successor statute or regulation.
- (q) “Restricted source” means 1) any non-governmental individual or entity that seeks or receives financial support from Metropolitan 2) and any contractor, as that term is defined in subdivision (d).
- (r) “Subject of the complaint” means a Metropolitan official, lobbyist, lobbying firm, or contractor against whom a complaint has been filed, a Metropolitan official, lobbyist, lobbying firm, or contractor referred from a Metropolitan department to the Ethics Officer regarding possible violations of Metropolitan ethics rules, or a Metropolitan

official, lobbyist, lobbying firm or contractor who is the subject of an investigation initiated by the Ethics Officer.

- *A definition of terms section has been added to define significant terms used throughout Division VII. The current Administrative Code includes some, but not as many, definitions spread throughout the Code. This section places definitions in one section. Some terms are new due to additions to the Code, such as a definition of “lobbyist” while others were taken from the Ethics Officer’s Guidelines for Investigations.*
- *The FPPC, LA Ethics, and MTA all provide varying definitions of terms used. In many cases the new language incorporates or references the definitions used by the FPPC, e.g., “gift.”*

Article 2

STATE ETHICS LAWS INCORPORATED INTO ADMINISTRATIVE CODE

Sec.

7110. Incorporation of State Ethics Laws into the Administrative Code

7111. Conflicts of Interest Regarding Contracts

7112. Conflicts of Interest Regarding Governmental Decisions

7113. Campaign Contributions

7114. Influencing Prospective Employment

7115. Honoraria

7116. Gift Limitations

7117. Loans to Public Officials

7118. Statement of Economic Interests

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

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

- *This is a new section that makes clear the specific provisions of state ethics laws to be incorporated into the Administrative Code. It replaces former provisions of the Code that included a hybrid of state conflict of interest laws and other provisions which were, in some cases, unclear and difficult to enforce.*

- *SB 60 requires Metropolitan to adopt rules concerning internal disclosure, lobbying, conflicts of interest, contracts, campaign contributions, and ethics rules consistent with the spirit of the laws and regulations of the FPPC, LA Ethics, and MTA. LA Ethics and MTA do not specifically incorporate state laws into their ethics rules, although public officials within their jurisdiction are subject to those laws enforced by the FPPC. Instead, LA Ethics and MTA have adopted their own separate set of ethics rules which they enforce, many of which mirror or are more restrictive than FPPC rules.*

§ 7111. Conflicts of Interest Regarding Contracts.

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

- *This section incorporates into the Administrative Code Government Code section 1090 conflicts law governing the making of contracts by public officials.*
- *SB 60 requires Metropolitan to adopt rules concerning the making of contracts. The FPPC enforces section 1090. LA Ethics and MTA have rules related to conflicts of interest beyond just the making of contracts.*

§ 7112. Conflicts of Interest Regarding Governmental Decisions.

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

- *This section incorporates into the Administrative Code FPPC rules regarding conflicts of interest for all governmental decision making, not just contracts.*
- *SB 60 requires Metropolitan to adopt rules related to conflicts of interest. LA Ethics and MTA have rules related to conflicts of interest.*

§ 7113. Campaign Contributions.

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

- *This section incorporates into the Administrative Code FPPC rules prohibiting decision making by board members related to certain campaign contributors and their representatives.*
- *SB 60 requires Metropolitan to adopt rules related to campaign contributions. MTA prohibits certain decision by board members related to campaign contributors. LA Ethics does not have a separate rule although City officials are governed by FPPC rules.*

§ 7114. Influencing Prospective Employment.

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

- *This section incorporates into the Administrative Code FPPC rules prohibiting decision making by Metropolitan officials that impacts prospective employers.*
- *There are no specific requirements in SB 60 concerning prospective employers, although such laws assist with avoiding conflicts of interest which is a goal of SB 60. Both LA Ethics and MTA rules have rules prohibiting officials from making decisions related to prospective employment.*

§ 7115. Honoraria.

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

- *This section incorporates into the Administrative Code FPPC rules prohibiting acceptance of honorarium for making a speech or appearing on a panel by Metropolitan officials.*
- *There are no specific requirements in SB 60 concerning the prohibition of honorarium, although such rules can help avoid conflicts of interest which is a goal of SB 60. Neither LA Ethics nor MTA have separate honorarium rules, although public officials within those jurisdictions are governed by FPPC rules.*

§ 7116. Gift Limitations.

Government Code section 89503 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code. (As of the time of the initial adoption of this section the gift limit is \$500 per calendar year per source. [See section 7122 for additional limits on gifts from Metropolitan contractors.](#))

- *This section incorporates into the Administrative Code FPPC rules limiting gifts made to public officials and incorporating statutory and regulatory exceptions to the definition of gift. The current state gift limit is \$500 per calendar year from a single reportable source.*
- *There are no specific requirements in SB 60 concerning the limitation of gifts, although limiting gifts to public officials is an aspect of conflict of interest regulation generally. LA Ethics sets its gift limit at zero dollars from lobbyists, \$100 per calendar year from individuals that have a contract with a city agency or seek an entitlement from a city agency, and \$500 from specific reportable sources. MTA prohibits board members from receiving gifts from contractors, and they can only accept gifts aggregating no more than ten dollars in a calendar month from an MTA registered lobbyist. MTA prohibits employees from accepting gifts of over \$50 a year from MTA contractors or lobbyists. Otherwise, the gift limit for MTA board members and designated MTA employees is \$500.*

§ 7117. Loans to Public Officials.

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

- *This section incorporates into the Administrative Code FPPC rules prohibiting certain loans to public officials.*
- *There are no specific requirements in SB 60 concerning loans, although such rules help avoid conflicts of interest, a goal of SB 60. Neither LA Ethics nor MTA have separate rules on loans to public officials.*

§ 7118. Statement of Economic Interests.

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

- *This section incorporates into the Administrative Code FPPC rules imposing upon Metropolitan officials the duty to file Statements of Economic Interests.*
- *There are no specific requirements in SB 60 concerning the disclosure of economic interests, although such rules help to detect conflicts of interest, a goal of SB 60. SB 60 does require adoption of rules related to “internal disclosure.” LA Ethics and MTA officials do have to disclose their economic interests under their respective conflict of interest codes.*

Article 3**METROPOLITAN ETHICS REQUIREMENTS**

Sec.

7120. Application of Metropolitan Ethics Requirement

7121. Misuse of Position or Authority

7122. Additional Gift Limits and Compensation Restrictions

7123. Political Contributions and Activities

7124. Limits on Contracts and Grants with Former Directors

7125. Prohibited Director Communications

7126. Use of Confidential Information

7127. Duty to Report

7128. Whistleblower and Witness Protections

7129. Failure to Cooperate with Ethics Officer Investigation

7130. Employment with Persons Doing Business with Metropolitan

7131. Compliance with Metropolitan Contracting Procedures and Guidelines

§ 7120. Application of Metropolitan Ethics Requirements.

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

- *This language was added to clarify the Ethics Officer's jurisdiction extends to Metropolitan's internal ethics rules, separate from those imposed by state law.*
- *SB 60 requires Metropolitan to adopt ethics rules that apply to board members, officers, and employees.*

§ 7121. Misuse of Position or Authority.

Metropolitan officials shall not use their governmental position or authority to obtain, or attempt to obtain, a private benefit, or advantage for themselves or any other individual or entity, or a disadvantage for any other individual or entity other than one naturally arising from proper performance of their governmental duties.

- *This language is based on former § 7104, although it clarifies that Metropolitan officials shall not use their governmental position or authority to obtain a private benefit or advantage over others.*
- *SB 60 requires Metropolitan to adopt rules relating to ethics. LA Ethics rules prohibit city officials from misusing or attempting to misuse their positions to create or attempt to create a private advantage or disadvantage, financial or otherwise. MTA rules classify situations where an employee uses their contacts or position to advance their private business or financial interests, whether or not at the expense of MTA, as a conflict of interest. FPPC rules do not address this issue.*

§ 7122. Additional Gift Limits and Compensation Restrictions.

~~(a) No Metropolitan employee official who is required to file a Statement of Economic Interests pursuant to Chapter 5 of this Division shall accept any gifts from a donor who the employee knows is a restricted source, with a total value in excess of fifty dollars (\$50) in any calendar year from any single source if that source is a contractor and if the gift is from a source that must be reported on the official's Statement of Economic Interests. This limitation shall not apply to modest food or beverages provided during a work-related event or items of nominal intrinsic value, so long as the total value does not exceed \$50 in a calendar year from a single source.~~

(b) ~~No~~ Metropolitan employees shall not receive, directly or indirectly, any compensation from any source, except from Metropolitan, for performance of their duties as Metropolitan employees.

- *Subdivision (a) is based on former § 7130, however, it was modified to (1) prohibit any gift from Metropolitan contractors other than nominal items and (2) apply to all employees.*
- *The definitions of “gift” and “contractor” set out in § 7105 apply.*
- *SB 60 does not specifically require Metropolitan to adopt rules related to gifts, although it does address the direct and indirect business relationships between board members and contractors, plus state law imposes general gift limits. In addition, state law imposes a restriction on outside income for performing a state job. LA Ethics sets its gift limit at zero dollars from lobbyists, \$100 per calendar year from individuals that have a contract with a city agency or seek an entitlement from a city agency, and \$500 from specific reportable sources. MTA prohibits board members from receiving gifts from contractors, and they can only accept gifts aggregating no more than ten dollars in a calendar month from an MTA registered lobbyist; MTA prohibits employees from accepting gifts of over \$50 a year from MTA contractors or lobbyists. Otherwise, the gift limit for MTA board members and designated MTA employees is \$500. The FPPC currently limits gifts to \$500 per calendar year.*

§ 7123. Political Contributions and Activities.

(a) ~~No~~ Metropolitan officials shall not solicit or receive political contributions at any Metropolitan facilities or on any District property.

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

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

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

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

(f) Metropolitan officials shall not use Metropolitan assets, property, equipment, or other resources to engage in political activities unless such use is incidental to other legitimate activities and is minimal.

(1) For purposes of this subdivision, Metropolitan resources include, but are not limited to, computers, e-mail systems, Internet services, telephones, photocopying and fax

machines, office supplies, postage, vehicles, office spaces, open spaces, facilities, staff, and field sites owned, leased, or controlled by Metropolitan.

(2) Sending emails or otherwise using Metropolitan resources to support or oppose a candidate or ballot measure, or to solicit political contributions for a candidate or ballot measure, is not considered an incidental or minimal use and is prohibited.

(g) Metropolitan employees shall not engage in political activities during their work hours with Metropolitan, unless required as part of Metropolitan job duties.

- *This language is based in part on former § 7108 with technical modifications. A prohibition on directors seeking contributions from employees was added as well as a ban on using Metropolitan property for political activities and engaging in political activities during work hours. These requirements were taken from the Ethics Operating Policy.*
- *SB 60 requires Metropolitan to adopt rules relating to campaign contributions. MTA bans employees from soliciting political contributions from any company, consultant, or firm seeking a contract with the MTA and bans employees from participating in political or charitable activities during work hours. LA Ethics prohibits City employees from engaging in political activity while on duty or using City resources or facilities. City employees also may not solicit campaign contributions from other City personnel or use City-owned space for campaign activity. The FPPC does not regulate this activity directly, although it does impose reporting requirements upon governmental agencies that use public resources for political activities.*

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

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

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

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

- *The first and last subsections are based on former § 7105(e). The second subsection comes from MTA rules. Note this restriction was not part of the A & E Committee Power Point presentation and should be considered a new recommendation.*
- *SB 60 requires Metropolitan to adopt rules to address the direct and indirect business relationships between board members, contractors, and vendors, and between board members and officers or employees of member public agencies. MTA prohibits former*

board members or their staff from participating in any contract with the agency for 12 months after leaving the board. Neither the FPPC nor LA Ethics rules regulate this activity.

§ 7125. Prohibited Director Communications.

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

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

- *This language is based in part on former § 7106, although the rule prohibiting board/staff communications has been modified to limit communications for the purpose of influencing the staff. Note this language is not the approach originally proposed and discussed with the A & E Committee earlier this year. The original proposal would have permitted ex parte communications with staff and contractors, but would have required public disclosure regarding specific procurement or specific matter pending a board decision.*
- *SB 60 requires Metropolitan to adopt rules relating to internal disclosures. MTA requires a communications blackout between board members and their staff in connection with procurements. This blackout period begins when MTA publishes procurement solicitation documents and ends when management's recommendation for board approval is made public. Neither the FPPC nor LA Ethics rules regulate this issue.*

§ 7126. Use of Confidential Information.

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

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

- *This language is based on former § 7107, but now ties confidential information to state Public Records Act and broadens the prohibition by deleting references to financial gain or personal benefit.*
- *MTA bans employees from making public or disclosing any confidential information. LA Ethics prohibits current or former City officials or employees from misusing or disclosing confidential information acquired as a result of City service. The FPPC does not regulate this issue.*

§ 7127. Duty to Report.

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

- *This language is new and intended to encourage Metropolitan managers to report potential violations of the Code to the Ethics Officer. It is consistent with reporting obligations for managers under Metropolitan’s EEO policy.*
- *The FPPC does not have a comparable rule. MTA and LA City Ethics have similar reporting requirements.*

§ 7128. Whistleblower and Witness Protections.

Metropolitan officials shall not take or threaten to take an action as a reprisal for, or to prevent, discourage, or interfere with a person from:

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

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

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

(3) A gross public health or safety danger.

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

~~(a) No Metropolitan official shall take or threaten to take an action to discourage, restrain, or interfere with a Metropolitan official for the purpose of preventing such~~

~~individual from acting in good faith to report or otherwise bring to the attention of the Ethics Officer an alleged violation of a Metropolitan ethics rule or from cooperating with an Ethics Officer investigation.~~

~~(b) No Metropolitan official shall take or threaten to take any action as a reprisal against a Metropolitan official who reports or otherwise brings to the attention of the Ethics Officer an alleged violation of a Metropolitan ethics rule or who cooperates with an Ethics Officer investigation.~~

~~(c) No Metropolitan official shall take or threaten to take any action as a reprisal against a Metropolitan official who serves as a witness for the Ethics Officer regarding an alleged violation of a Metropolitan ethics rule or who cooperates with an Ethics Officer investigation.~~

~~(d) Complaints alleging threats or retaliation regarding matters not within the jurisdiction of the Ethics Officer may be referred at the discretion of the Ethics Officer to another Metropolitan department or governmental agency.~~

- *This language is based on subdivision (a), (b), and (c) of former § 7110, with slight modifications.*
- *SB 60 requires Metropolitan to adopt procedures for protecting the job security of whistleblowers. MTA prohibits reprisals for reporting potential ethics and other state and federal violations. The FPPC does not have a retaliation provision covering state officials. The LA Ethics Commission has a provision prohibiting retaliation for reporting possible violations of law.*

§ 7129. Failure to Cooperate with Ethics Officer Investigation.

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

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

- *This language was taken from Ethics Officer's former Guidelines for Investigations and expanded upon to define specific obstructive conduct.*
- *SB 60 requires Metropolitan to investigate complaints concerning the violation of Metropolitan ethics rules. The LA Ethics Commission has similar rules on cooperation and, by practice, the FPPC considers non-cooperation to be an aggravating factor when determining penalties.*

§ 7130. Employment with Persons Doing Business with Metropolitan.

~~No~~ Metropolitan employees shall not accept, solicit, or apply for employment with, or be compensated by, any individual or entity while that individual or entity is doing business with or engaged in negotiations with Metropolitan concerning a matter within the employee's areas of responsibility or upon which the employee must act or make a recommendation.

- *This language is taken from the Ethics Operating Policy and modified for clarity.*
- *SB 60 requires Metropolitan to adopt rules addressing the direct and indirect business relationships between board members, contractors, and vendors, and between board members and officers or employees of member public agencies. LA Ethics prohibits a City official from negotiating the possibility of future employment or business opportunities with a person if they have a matter that is currently pending before that City official. FPPC rules prohibit public officials from making, participating in making, or influencing a governmental decision that directly relates to a prospective employer while negotiating, or after reaching, an employment arrangement. MTA does not regulate this issue.*

§ 7131. Compliance with Metropolitan Contracting Procedures and Guidelines.

~~No~~ Metropolitan officials shall not intentionally fail to comply with Metropolitan contracting procedures and guidelines, including public notice procedures and contract approval procedures, as contained in this Administrative Code or any Metropolitan Operating Policy.

- *This is a new section that would make intentional non-compliance with established procurement procedures an ethics violation.*
- *SB 60 requires Metropolitan adopt a rule on the public notice and approval procedures for contracts of \$50,000 or more. Neither the FPPC, LA Ethics, nor MTA regulate this issue directly.*

Chapter 2

ETHICS RULES FOR METROPOLITAN CONTRACTORS AND LOBBYISTS

Article	Sec.
1 Policy	7200
2 Metropolitan Contractors	7210
3 Lobbyists	7220

Article 1

POLICY

Sec.

7200. Policy

§ 7200. Policy.

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

- *This language is taken from former § 7101 to be applied specifically to contractors, and has been modified to include lobbyists.*
- *SB 60 requires Metropolitan to adopt rules regarding lobbying and business relationships with contractors.*

Article 2

METROPOLITAN CONTRACTORS

Sec.

7210. Contractor Code of Conduct.

7211. Contractor Code of Conduct Provisions.

§ 7210. Contractor Code of Conduct.

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

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

- *This is a new section intended to impose additional requirements upon Metropolitan contractors. It will be implemented on a going-forward basis for new contracts.*
- *SB 60 requires Metropolitan to adopt rules relating to contracts and direct and indirect business relationships between board members, contractors, and vendors, and between board members and officers or employees of member public agencies respectively. MTA has a Contractor Code of Conduct. No comparable provisions are in the FPPC or LA Ethics rules.*

§ 7211. Contractor Code of Conduct Provisions.

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

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

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

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

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

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

- *This is a new section intended to impose additional requirements upon Metropolitan contractors.*
- *SB 60 requires Metropolitan to adopt rules relating to contracts and direct and indirect business relationships between board members, contractors, and vendors, and between board members and officers or employees of member public agencies respectively. MTA has a Contractor Code of Conduct. No comparable provisions are in the FPPC or LA Ethics rules.*

Article 3

LOBBYISTS

Sec.

7220. Lobbyist and Lobbyist Firm Registration and Reporting Requirements

7221. Revolving Door Restrictions on Former Metropolitan Officials

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

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

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

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

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

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

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

- *This is a new section added to require lobbyists and lobbying firms to register with Metropolitan and disclose the topic lobbied and who was lobbied by category (i.e., board and/or staff). The terms lobbying firm and lobbyist are defined in §§ 7105(k) and (l) respectively and are patterned after FPPC rules. Oral statements made during a public hearing or written statements made as part of the public record are not considered lobbying. Only contract lobbyists are covered by this rule.*
- *SB 60 requires Metropolitan to adopt rules relating to lobbying. The FPPC defines a lobbyist as any individual who receives \$2,000 or more in economic consideration in a calendar month, or whose principal duties as an employee are, to communicate directly with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action. Lobbyists must register with the Secretary of State and submit quarterly reports of their lobbying activity. LA Ethics*

defines a lobbyist as anyone compensated to spend 30 or more hours in any consecutive three-month period engaged in lobbying activities which include at least one direct communication with a City official or employee, conducted either personally or through agents, for the purpose of attempting to influence municipal decision making on behalf of any person. Lobbyists and their lobbying firms must register yearly and file quarterly reports with the Ethics Commission. MTA defines lobbying as “any attempt by a lobbyist or lobbying firm to influence an MTA action through direct or indirect communication, other than administrative testimony, with an MTA official and defines lobbyists as “any individual who receives any economic consideration, other than reimbursement for reasonable travel expenses, for lobbying.” All lobbyists are required to register with MTA and to report their lobbyist activity on a quarterly basis and registration must be renewed on an annual basis.

§ 7221. Revolving Door Restrictions on Former Metropolitan Officials.

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

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

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

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

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

- *This language is based on former § 7122.*
- *SB 60 requires Metropolitan to adopt rules relating to lobbying. FPPC rules prohibit former officials, for one year after leaving state service, from being paid to communicate with their former agency in an attempt to influence certain actions or proceedings. MTA prohibits former board members or their staff from participating in any contract with the agency for a period of 12 months after leaving office. LA Ethics prohibits former officials from influencing a matter that they personally and substantially participated in and certain former officials cannot attempt to influence any matter appearing before their former agency for a year after leaving city service.*

Chapter 3

TICKET DISTRIBUTION POLICY

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1 Ticket Distribution Policy	7300

Article 1

Ticket Distribution Policy

Sec.

7300. Definition

7301. Purpose of Ticket Distribution Policy

7302. Ticket Distribution Policy

§ 7300. Definition.

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

§ 7301. Purpose of Ticket Distribution Policy

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

§ 7302. Ticket Distribution Policy.

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

- (1) Support of general employee morale, retention or to reward public service.
- (2) Promotion of water conservation within Metropolitan’s service area and the State of California.

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

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

(5) Recognition of a Metropolitan program or purpose.

(6) Promotion of Metropolitan issues and interests.

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

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

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

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

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

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

- *These sections are based on former § 7132, keeps the original language, and adds additional requirements based on the FPPC's recent amendments to its regulations.*
- *FPPC regulations require all local agencies, including the City of LA and MTA, to adopt a free ticket distribution policy.*

Chapter 4

INVESTIGATIONS BY THE ETHICS OFFICER

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2 Procedures for Investigations	7410
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Article 1

AUTHORITY TO INVESTIGATE AND JURISDICTION

Sec.

7400. Jurisdiction to Investigate

7401. Discretion to Investigate

7402. Concurrent Investigations

7403. Referrals to the Ethics Officer

7404. Determinations to Not Investigate

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

7406. Scope of Investigation

7407. Consultation with the General Counsel

7408. Requirements for Investigations

§ 7400. Jurisdiction to Investigate.

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

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

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

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

(c) The Ethics Officer shall not commence an investigation of alleged violations more than five years after the date on which the violation occurred. If the subject of the complaint concealed information underlying the alleged violation, the five-year period shall be tolled for the period of the concealment.

- *This section is based in large part upon former section 6471 which gave the Ethics Officer general authority to conduct investigations, as well as upon provisions contained in the Guidelines for Investigations. This new section clarifies that the Ethics Officer will investigate all complaints within the Ethics Officer's jurisdiction while specifying the office should not investigate matters outside its jurisdiction. It also provides that the Ethics Officer may initiate investigations without complaints and now specifies a statute of limitations.*
- *SB 60 requires that the Ethics Officer "shall investigate complaints concerning the violation" of Metropolitan's ethics rules. The FPPC, LA Ethics, and MTA all have rules relative to the authority to conduct investigations. In addition, the FPPC is subject to a five-year statute of limitations.*

§ 7401. Discretion to Investigate.

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

- *This section is based in large part upon former section 6471 which prohibited the Ethics Officer from conducting investigations where there are no specific or defined standards of conduct, including matters alleging only generalized unfairness, unequal treatment or bias.*
- *SB 60 requires that the Ethics Officer "shall investigate complaints concerning the violation" of Metropolitan's ethics rules. The FPPC and LA Ethics routinely exercise broad discretion regarding investigations.*

§ 7402. Concurrent Investigations.

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

- *This is a new section intended to allow the Ethics Officer to investigate jointly alleged violations with other Metropolitan departments, if the alleged violation is within the Ethics Officer's jurisdiction.*

- *SB 60 requires that the Ethics Officer “shall investigate complaints concerning the violation” of Metropolitan’s ethics rules. Neither the FPPC, MTA, nor LA Ethics have a similar provision.*

§ 7403. Referrals to the Ethics Officer.

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

- *This is a new section intended to require other Metropolitan departments to refer to the Ethics Officer any ethics violations that comes to the attention of those departments.*
- *SB 60 requires that the Ethics Officer “shall investigate complaints concerning the violation” of Metropolitan’s ethics rules. Neither the FPPC, MTA, nor LA Ethics have a similar provision.*

§ 7404. Determinations to Not Investigate.

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

- *This is a new section clarifying that the Ethics Officer may reopen an investigation, after a determination to not investigate, upon further information establishing a potential violation.*
- *SB 60 requires that the Ethics Officer “shall investigate complaints concerning the violation” of Metropolitan’s ethics rules.*

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

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

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

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

- *This is a new section patterned on current practice, but expanded to require the use of an outside counsel or investigator. The section now also contains a specific procedure for any allegations against the Ethics Officer or staff.*
- *SB 60 requires that the Ethics Officer “shall investigate complaints concerning the violation” of Metropolitan’s ethics rules. Neither the FPPC, MTA, nor LA Ethics have a similar provision requiring outside investigators for appointed officials. However, the state Legislature’s policy requires outside investigators for members of the Legislature.*

§ 7406. Scope of Investigation.

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

- *This is a new section patterned on current practice which now makes it clear the Ethics Officer is not confined to allegations made in a complaint.*
- *SB 60 requires that the Ethics Officer “shall investigate complaints concerning the violation” of Metropolitan’s ethics rules.*

§ 7407. Consultation with the General Counsel.

The Ethics Officer may consult the General Counsel regarding any investigation at the Ethics Officer’s discretion.

- *This section is patterned in part on the Guidelines for Investigations, although the Guidelines are more prescriptive in that they require the General Counsel be provided a copy of any investigative report and that differences of opinion be resolved through a collaborative effort. The new rule gives the Ethics Officer sole discretion on how to conduct an investigation and the conclusions reached, but does not require consultation.*
- *SB 60 requires that the Ethics Officer “operate as an independent entity” within Metropolitan.*

§ 7408. Requirements for Investigations.

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

- *This is a new section intended to clarify that the Ethics Officer must follow the investigation procedures in this chapter, thus replacing the Guidelines for Investigations.*

- *The FPPC and LA Ethics have specific rules regarding the conduct of investigations.*

Article 2

PROCEDURES FOR INVESTIGATIONS

Sec.

7410. Notice to Subject of Investigation

7411. Investigation Timeframe

7412. Confidentiality of Investigations

7413. Access to Metropolitan Records

7414. Opportunity for Subject to Respond

7415. Preponderance of the Evidence Standard

7416. Ethics Officer Report

§ 7410. Notice to Subject of Investigation.

(a) Upon receipt of a complaint, referral from a Metropolitan department, or determination by the Ethics Officer to conduct an investigation pursuant section 7400(b), the Ethics Officer shall notify the subject of the complaint in writing within ~~30~~¹⁵ ~~business calendar~~ days: provided, however, if the integrity of the investigation may be compromised by notifying the subject, then the Ethics Officer may withhold notice until an appropriate time. No notice need be given to the subject of the complaint if the Ethics Officer ~~determines that there is insufficient information to establish a potential violation or if the alleged violation is not within the jurisdiction of the Ethics Officer~~determines that an investigation is not warranted.

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

- *This section is based in part on Guidelines for Investigations which requires notice to the subject of an investigation after a preliminary review determines the Ethics Officer should conduct an investigation. However, the new section provides specific time frames in which the notice must be given and eliminates the more formal preliminary review process now in place. The new section also includes a provision to allow delayed subject notification where the integrity of the investigation may be compromised by providing such notice.*
- *SB 60 requires that the Ethics Officer "operate as an independent entity" within Metropolitan. The FPPC regulations require notice to a respondent including providing the respondent a copy of the complaint. LA Ethics includes similar notice procedures.*

§ 7411. Investigation Timeframe.

(a) Investigations shall be conducted expeditiously and completed within 180 calendar days, except as provided in subparagraph (b). An investigation commences ~~upon notification of the subject of the investigation pursuant to section 7410~~upon the Ethics Officer's determination to open an investigation, but in no event later than 30 calendar days from receipt of the complaint or referral.

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

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

- *This is a new section intended to create a clear timeline for an investigation, replacing the former timelines in the Investigation Guidelines.*
- *Other than requiring an investigation, SB 60 does not mandate a timeframe for the conduct of the investigation. The same is true for the FPPC and LA Ethics.*

§ 7412. Confidentiality of Investigations.

(a) Investigations by the Ethics Officer shall be confidential to the fullest extent possible.

(b) The Ethics Officer has the discretion to disclose information related to investigations for significant operational or safety reasons.

(c) The Ethics Officer shall not unnecessarily disclose the identity of the subject of a complaint, except as needed in furtherance of the investigation or otherwise provided by Article 3 of this chapter.

(d) During the investigation, the Ethics Officer shall advise the subject of the investigation, the complainant, and any witnesses of the confidentiality of the investigation.

(e) The Ethics Officer may confer with the Chair and Vice Chair of the Audit and Ethics Committee, and Chair of the Board, on any investigative matter subject to the following:

(1) The communications shall be advisory in nature, and

(2) The communications shall be confidential.

~~Unauthorized disclosure of confidential or privileged information regarding an investigation constitutes a violation of section 7126.~~

(f) The Ethics Officer shall, to the extent possible, protect the identity of any complainant.

- *This section is patterned after a provision in the Investigation Guidelines.*
- *SB 60 requires the Ethics Officer protect the confidentiality of sources and the due process rights of the accused. FPPC and LA Ethics investigations are confidential until probable cause proceedings are completed.*
- *This section was modified to give the Ethics Officer discretion to disclose investigation related information under certain circumstances, including to the Chair of the Board and the A&E Committee Chair and Vice Chair.*

§ 7413. Access to Metropolitan Records.

(a) Subject to applicable law, ~~t~~The Ethics Officer shall have ~~reasonable~~ access to all Metropolitan documents, files, records, or other materials deemed relevant by the Ethics Officer to an investigation.

(b) If there is a disagreement regarding access to documents, files, records, or other materials, including those that may be protected by the attorney-client privilege or attorney work product doctrine, the Ethics Officer and General Counsel shall discuss the matter with the affected Metropolitan department, and shall make a reasonable good faith effort to resolve the dispute.

(c) If the disagreement is not resolved pursuant to subdivision (b) of this section, the Ethics Officer and General Counsel shall jointly present the matter to an ad hoc committee consisting of the Chairs of the Audit and Ethics Committee, the Legal and Claims Committee and the Board who shall resolve any disagreement that does not involve the attorney-client privilege. If the dispute involves the attorney-client privilege and is not satisfactorily resolved by the ad hoc committee, the matter will be considered by the Board, as a majority of the Board is required to waive Metropolitan's attorney-client privilege.

- *This is a new section intended to allow the Ethics Officer to review records, but also partly patterned on former § 2496 regarding disagreements over access to Metropolitan records.*
- *SB 60 requires that the Ethics Officer operate as an independent entity and that it conduct investigations of alleged violations of Metropolitan's ethics rule.*

§ 7414. Opportunity for Subject to Respond.

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

- *This section is patterned after a similar process in the Investigation Guidelines.*
- *SB 60 requires the due process rights of the accused be protected. The FPPC regulations provide a respondent an opportunity to file written responses to formal reports finding a violation. LA Ethics rules include an administrative hearing requirement allowing subjects to respond to allegations.*

§ 7415. Preponderance of the Evidence Standard.

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

- *This section is patterned after a portion of former § 7140.*
- *SB 60 requires the due process rights of the accused be protected. The FPPC and LA Ethics rules establish a preponderance of the evidence standard.*

§ 7416. Ethics Officer Report.

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

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

(c) If the Ethics Officer determines after an investigation that there has been no violation, the Ethics Officer shall notify the subject of the complaint within 1410 calendar days of such determination.

(d) The Ethics Officer shall ~~provide a copy of the Ethics Officer report to the General Counsel, or~~ notify the General Counsel of the determination that there has been no violation; at

the same time ~~the report is provided to the subject of the complaint or~~ the subject is notified of a no violation finding.

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

- *This section is patterned after a similar provision in the Guidelines for Investigations.*
- *SB 60 requires the due process rights of the accused be protected. The FPPC and LA Ethics rules provide for preparation of a written Report regarding an investigation and provide the respondent an opportunity to file a written response.*

Article 3

PROCEDURES FOR MAKING INVESTIGATIONS PUBLIC

Sec.

7420. Public Information on Investigations

7421. Confidential Investigation Files

§ 7420. Public Information on Investigations.

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

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

(c) Nothing in this Division prevents a state or local agency to which a referral has been made by the Ethics Officer pursuant to section 74387(a) from revealing the identity of the subject of an investigation in accordance with the agency's policies.

- *This section is based in part on former § 6471 which requires the "results" of an investigation be made public, although the former Code language did not specify what results meant precisely.*

- *SB 60 requires the Ethics Officer to make available to the public the results of an investigation in a manner that protects the confidentiality of sources, the security of whistleblowers and the due process rights of the accused. The FPPC and LA Ethics rules provide that an investigation remain confidential until a determination of “probable cause” that a violation occurred is made by the Executive Director of the respective agencies.*

§ 7421. Confidential Investigation Files.

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

- *This section is patterned after a similar provision in the Guidelines for Investigations.*
- *SB 60 requires the Ethics Officer to make available to the public the results of an investigation in a manner that protects the confidentiality of sources, the security of whistleblowers and the due process rights of the accused. The FPPC and LA Ethics rules provide that an investigation remain confidential until a determination of “probable cause” that a violation occurred is made by the Executive Director of the respective agencies.*

Article 4

PENALTIES FOR VIOLATION OF METROPOLITAN ETHICS RULES

Sec.

7430. Schedule of Penalties

7431. Levels of Violations

7432. Penalties for Violations

~~7431. Penalties for Violations by Directors~~

~~7432. Penalties for Violations by Executive Officers~~

~~7433. Penalties for Violations by Unrepresented Employees~~

~~7434. Penalties for Violations by Represented Employees~~

~~7435. Penalties for Violations by Contractors~~

~~7436. Penalties for Violations by Lobbyists~~

7437. Serious Violations of the Political Reform Act or Government Code section 1090

§ 7430. Schedule of Penalties.

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

- *This is a new section since the current Code does not specify “penalties” for violations of Metropolitan’s ethics rules, although former § 6471(d) provided that the Ethics Officer may refer “upon validation of a complaint” a matter to another Metropolitan department for “disposition.”*
- *SB 60 requires the Ethics Officer to propose and the board to adopt a schedule of penalties for violations of Metropolitan ethics rules for board member officers, staff and contractors, but does not provide any specifics. The FPPC, LA Ethics, and MTA levy penalties for the violations of their respective ethics rules based on explicit authority provided by state law or city ordinance.*

§ 7431. Levels of Violations

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

(a) Levels of violations:

- (1) Level I (Severe Violation): One or more violations that seriously undermine or threaten the integrity of Metropolitan’s governmental decision-making processes.
- (2) Level II (Significant Violation): One or more violations that undermine or threaten the integrity of Metropolitan’s governmental decision-making processes.
- (3) Level III (Violation): One or more violations that are isolated or limited in nature, and that provide no more than a minimal personal benefit.
- (4) Level IV (Incidental Violation): A minor infraction that is technical in nature and does not constitute a Level III violation. Multiple or repeated Level IV infractions collectively may constitute a Level III violation.

(b) Mitigating and aggravating factors.

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

- (1) The nature and seriousness of the offense, and its relationship to the employee’s duties and responsibilities.
- (2) The official position of the subject, including its responsibilities, prominence, or fiduciary role.
- (3) Acceptance of responsibility by the subject.

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

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

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

- *This section was added to assist Human Resources and Management, or the Board in the case of violations involving directors, in determining what type of discipline or other recourse is warranted for a violation of Metropolitan's Ethics Rules based on the circumstances of a particular matter.*
- *SB 60 requires adoption of a "schedule of penalties." LA Ethics routinely refers matters to the FPPC as a matter of policy. Unlike the Ethics Office, LA Ethics and FPPC have the authority to impose financial penalties for violations as law enforcement agencies.*

~~§ 7431. Penalties for Violations by Directors.~~

~~Penalties for violations by Directors shall be determined by the Executive Committee and may include a private warning letter, public censure, temporary or permanent removal from committee assignments, or referral to the Director's appointing authority requesting appropriate action.~~

~~§ 7432. Penalties for Violations by Executive Officers.~~

~~Penalties for violations by the General Manager, General Counsel, General Auditor and Ethics Officer shall be referred to the Executive Committee and may include written warning, demotion, suspension, reduction in pay, or discharge. Executive Officers may challenge the determination of a violation and any penalty pursuant to section 6218 or an applicable employment agreement.~~

~~§ 7433. Penalties for Violations by Unrepresented Employees.~~

~~Penalties for violations by unrepresented employees, other than the Executive Officers, shall be referred to the appropriate Executive Officer and may include written warning, demotion, suspension, reduction in pay, or discharge. Unrepresented employees may challenge the determination of a violation and/or the penalty pursuant to section 6218.~~

~~§ 7434. Penalties for Violations by Represented Employees.~~

~~Penalties for violations by represented employees shall be referred to the Metropolitan Human Resources Department for appropriate action pursuant to the employee's bargaining unit Memorandum of Understanding. The Human Resources Department shall coordinate with the~~

~~appropriate Executive Officer or other manager. Represented employees may challenge the determination of a violation or the penalty pursuant to section 6218 or the applicable Memorandum of Understanding.~~

~~**§ 7435. Penalties for Violations by Contractors.**~~

~~Penalties for violations by Metropolitan contractors shall be referred to the General Manager and may include termination of a contract, monetary penalties as specified in the contract, or debarment from future contracts pursuant to Article 5 of Chapter 1 of Division VIII.~~

~~**§ 7436. Penalties for Violations by Lobbyists.**~~

~~Penalties for violations by Metropolitan lobbyists and lobbying firms shall be referred to the General Manager and may include: (1) suspension of the Metropolitan registration of the lobbyist and lobbying firm or (2) publication of the violation on Metropolitan's webpage.~~

§ 7432. Penalties for Violations.

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

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

- (1) Violations by Directors shall be referred to the Executive Committee for review and consideration of further action if appropriate under the circumstances which may include counseling, training, a private warning letter, public censure, temporary or permanent removal from committee assignments, or referral to the Director's appointing authority requesting appropriate action.
- (2) Violations by the Executive Officers shall be referred to the Executive Committee for review and the consideration of further action including counseling, performance review, or the imposition of discipline as deemed appropriate under the circumstances.
- (3) Violations by employees, other than the Executive Officers, shall be referred to the Human Resources Group and the appropriate Department Head or Group Manager for review and the consideration of further action which may include counseling, performance review, or the imposition of discipline as deemed appropriate under the circumstances.

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

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

- *This is a new section to create penalties for violations by individuals and entities subject to Metropolitan's ethics rules.*
- *SB 60 requires that the Ethics Officer propose and the board adopt a schedule of penalties for violations of Metropolitan ethics rules but does not provide any specifics. The FPPC, LA Ethics, and MTA levy penalties for the violations of their respective ethics rules based on explicit authority provided by state law or city ordinance.*

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

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

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

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

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

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

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

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

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

- *This article is patterned after, but expands upon, the referral provisions in former § 7140 concerning enforcement authority.*
- *SB 60 requires adoption of a “schedule of penalties.” LA Ethics routinely refers matters to the FPPC as a matter of policy. Unlike the Ethics Office, LA Ethics and FPPC have the authority to impose financial penalties for violations.*

Chapter 5

CONFLICT OF INTEREST CODE

Article	Sec.
1 Conflict of Interest Code	7500
2 Designated Positions and Categories of Disclosure Index	7510

Article 1

CONFLICT OF INTEREST CODE

Sec.

7500. Political Reform Act - Incorporation of Title 2, California Code of Regulations

7501. Filing of Statements of Economic Interest

Article 2

DESIGNATED POSITIONS AND CATEGORIES OF DISCLOSURE INDEX

Sec.

7510. Reportable Interests

7511. Designated Positions

7512. Public Officials Who Manage Public Investments

7513. Consultants and New Positions

Chapter 6

EDUCATION, ADVICE, AND COMPLIANCE

Article		
1 Education and Training		7600
2 Ethics Advice		7610
3 Compliance		7620

Article 1

EDUCATION AND TRAINING

Sec.

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

§ 7600. Education on Metropolitan Ethics Rules.

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

- *This section is patterned on former provisions in § 6470 and is intended to codify the current Ethics Office education efforts and expand them.*
- *SB 60 requires the Ethics Officer to educate the board, staff and contractors and subcontractors on Metropolitan ethics rules.*

§ 7601. Ethics Education and Training Materials.

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

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

- *This is a new section patterned on current practice.*
- *SB 60 requires the Ethics Officer to educate the board, staff and contractors and subcontractors on Metropolitan ethics rules.*

§ 7602. Ethics Training for the Board of Directors.

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

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

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

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

- *This is a new section patterned on current practice but expanded to allow for additional ethics training for Directors.*
- *SB 60 requires the Ethics Officer to educate the board, staff and contractors and subcontractors on Metropolitan ethics rules.*

§ 7603. Ethics Training for Employees.

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

- *This is a new section patterned on current practice but expanded to create additional training opportunities for employees.*
- *SB 60 requires the Ethics Officer to educate the board, staff, contractors and subcontractors on Metropolitan ethics rules.*

§ 7604. Ethics Training for Oversight of Contractors.

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

- *This is a new section to allow for training of contractors based on the proposed ethics rules applicable to contractors in Chapter 2.*
- *SB 60 requires the Ethics Officer to educate the board, staff and contractors and subcontractors on Metropolitan ethics rules.*

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

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

- *This is a new section intended to create additional training for certain Form 700 filers.*
- *SB 60 does not require the Ethics Office to seek compliance with Metropolitan ethics rules, but the Administrative Code has designated the Ethics Officer as a filing officer, pursuant to FPPC rules, giving the Ethics Officer compliance responsibilities related to the filing of Statements of Economic Interest (Form 700).*

Article 2

ETHICS ADVICE

Sec.

7610. Ethics Advice

7611. Requirements for Ethics Advice

7612. Advice Immunity

7613. Confidentiality of Ethics Advice

§ 7610. Ethics Advice.

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

- *This is a new section patterned upon former § 7113.*
- *SB 60 does not require the Ethics Office to provide advice regarding Metropolitan ethics rules. However, this helps fulfill the SB 60 requirement to educate Metropolitan officials on Metropolitan ethics rules. The FPPC, LA Ethics, and the MTA all provide advice regarding their respective ethics rules.*

§ 7611. Requirements for Ethics Advice.

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

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

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

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

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

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

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

- *This is a new section patterned upon former § 7113 and current practice but expanded to mirror the FPPC's advice requirements.*
- *SB 60 does not require the Ethics Office to provide advice regarding Metropolitan ethics rules. However, this helps fulfill the SB 60 requirement to educate Metropolitan officials on Metropolitan ethics rules. The FPPC, LA Ethics, and the MTA all provide advice regarding their respective ethics rules.*

§ 7612. Advice Immunity.

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

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

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

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

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

- *This is a new section patterned on current practice but expanded to mirror the FPPC's advice requirements.*
- *SB 60 does not require the Ethics Office to provide advice regarding Metropolitan ethics rules. However, this helps fulfill the SB 60 requirement to educate Metropolitan officials*

on Metropolitan ethics rules. The FPCC and LA Ethics provide immunity based on advice if it is followed.

§ 7613. Confidentiality of Ethics Advice.

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

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

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

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

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

- *This is a new section patterned on current practice.*

Article 3

COMPLIANCE

Sec.

7620. Ethics Training Required by Government Code

7621. Filing Officer Duties

7622. Additional Review of Statements of Economic Interest

7623. Compliance with Government Code Section 84308

§ 7620. Ethics Training Required by Government Code.

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

- *This language is patterned after former § 6474.*
- *SB 60 does not require the Ethics Office to seek compliance with Metropolitan ethics rules, but the Administrative Code has designated the Ethics Officer as a filing officer,*

pursuant to FPPC rules, giving the Ethics Officer compliance responsibilities related to the filing of Statements of Economic Interest (Form 700).

§ 7621. Filing Officer Duties.

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

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

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

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

- *This language is patterned after former § 6474.*
- *SB 60 does not require the Ethics Office to seek compliance with Metropolitan ethics rules, but the Administrative Code has designated the Ethics Officer as a filing officer, pursuant to FPPC rules, giving the Ethics Officer compliance responsibilities related to the filing of Statements of Economic Interest (Form 700). The MTA ethics officer is the filing officer for MTA, and the LA Ethics is the filing officer for the City of LA.*

§ 7622. Additional Review of Statements of Economic Interests.

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

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

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

- *This is a new section intended to expand the review of certain Form 700 filings.*

- *SB 60 does not require the Ethics Office to seek compliance with Metropolitan ethics rules, but the Administrative Code has designated the Ethics Officer as a filing officer, pursuant to FPPC rules, giving the Ethics Officer compliance responsibilities related to the filing of Statements of Economic Interest (Form 700).*

§ 7623 Compliance with Government Code Section 84308.

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

- *This is a new section patterned in part after current practice. The goal is to assist Directors with complying with section 84308 rules related to campaign contributors.*

The following sections would be deleted from the Administrative Code. Note many current sections have been renumbered, rephrased or combined with other sections. These sections are not listed below, but only those sections which are being deleted in whole or part, as noted.

1. Current § 7102. Responsibilities of Public Office
 - Unnecessary since Metropolitan officials already are required by law to uphold the Constitution and comply with federal, state and local laws.
2. Current § 7103. Fair and Equal Treatment
 - Incorporated into proposed § 7101 establishing a general policy goal.
3. Current § 7105(a) and (c). Contracts and Grants with Metropolitan
 - These provisions prohibited inducements to contractors and prohibited “special treatment” to any person. They have been removed as vague and unenforceable.
4. Current § 7109. Improper Activities and the Reporting of Such Activities
 - Deleted as unenforceable and vague.
5. Current § 7111. Nondiscrimination and Harassment
 - Deleted as not within Ethics Officers Jurisdiction, but HR’s for employees and a new ad hoc committee of the Executive Committee for Directors. New sections have been added to address allegations of discrimination and harassment.
6. Current § 7120. Conflict of Interests; Method of Recusal
 - Overlaps with state laws which have now been incorporated into the Administrative Code.

7. Current § 7131. Additional Requirements Honoraria

- Overlaps with state laws which have now been incorporated into the Administrative Code.

The applicable sections of Metropolitan's current Administrative Code

Division II

**PROCEDURES PERTAINING TO BOARD, COMMITTEES
AND DIRECTORS**

Chapter 1

BOARD OF DIRECTORS

Chapter 4

STANDING COMMITTEES

Article 2

EXECUTIVE COMMITTEE

§ 2410. Membership.

The Executive Committee shall have a maximum of 15 members and shall consist of the Chair, Vice Chairs, Secretary, all past Chairs of the Board who are directors of the District, and the Chairs of the standing committees in addition to the Executive Committee, and two additional directors as nonofficer members.

§ 2416. Duties and Functions. [Executive Committee]

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

- (1) Public information for governmental and other entities and officials, and for the citizens of California regarding matters affecting the District's interests;
- (2) Official dealings with the United States Government, the State of California or other states, member public agencies or their sub-agencies, foreign governments and other entities or persons in matters of public policy or other activities as deemed appropriate;
- (3) Policies and procedures to be considered by the Board or committees thereof, except for policy matters within the jurisdiction of a specific standing committee;
- (4) Matters relating to the Colorado River Board of California;

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

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

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

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

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

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

(b) The Executive Committee shall:

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

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

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

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

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

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

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

(f) The Executive Committee shall also:

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

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

(3) Conduct hearings on vendors' protests:

(i) Hearings requested pursuant to Section 8142(d), and other hearings granted on the Executive Committee's own motion, unless delegated pursuant to Section 8148 shall be held by the committee at its next regular meeting to be held at least 72 hours after filing of the notice of protest. The hearing shall be conducted in accordance with such rules as the Chair of the committee shall announce. The committee shall make a decision on the bidder's or applicant's protest, shall set forth its reasons therefor, and shall cause the Board Executive Secretary to serve a copy of the decision on the bidder or applicant. The decision of the committee shall be final unless the committee chooses to refer the notice of protest to the Board.

(ii) The Chair of the Executive Committee may re-delegate hearings provided for under subparagraph (i) above to a minimum of three members of the Executive Committee who shall act in place of the committee in the conduct of the hearing and who shall at the conclusion thereof make their recommendations to the full committee. Such recommendations shall be accompanied by copies of any materials submitted in evidence. Any hearing held and recommendations made pursuant to such delegated authority shall be completed in advance of the time set for the next regular meeting of the full committee following the meeting at which the matter would otherwise have been heard by the committee.

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

Article 9.5**AUDIT AND ETHICS COMMITTEE****§ 2496. Duties and Functions****(a) Duties and Functions with respect to General Auditor**

- (1) The Audit and Ethics Committee shall study, advise and make recommendations with regard to:
 - (i) All reports of the General Auditor and external auditors, including the audited financial statements of the District;
 - (ii) The Audit Department's annual business plan and biennial budget;
 - (iii) Requests from other committees of the Board for audits and reviews not included in the Audit Department's annual business plan;
- (2) The Audit and Ethics Committee shall be responsible for monitoring and overseeing the duties and responsibilities of the Audit Department and the external auditors as those duties and responsibilities relate to the effectiveness of the District's internal control system. It shall review and approve the business plan containing the key priorities for the coming year of the General Auditor and the Audit Department in advance of the July Board meeting.
- (3) As part of the Department Head annual evaluation process, the Audit and Ethics Committee shall be responsible for engaging in periodic performance expectations discussions, including progress checks, with the General Auditor.

(b) Duties and Functions with respect to Ethics Officer

- (1) The Audit and Ethics Committee shall be responsible for recommending to the Board of Directors employment and termination of the Ethics Officer. The Committee shall further conduct periodic performance reviews of the Ethics Officer and provide a written report to the Board of Directors regarding that review.

- (2) The Audit and Ethics Committee shall be responsible for monitoring and overseeing the duties and responsibilities of the Ethics Officer to ensure the independence of the Ethics Officer and to ensure the Ethics Officer is working in a collaborative manner with the Board of Directors, General Manager, General Counsel and General Auditor. Such review and monitoring shall include resolution of any issues between the Ethics Officer and the General Manager, General Counsel and General Auditor regarding requests for access to documents and information maintained by those Department Heads.
- (3) The Audit and Ethics Committee shall review and receive status reports of pending investigations by the Ethics Officer at each regular meeting of the Committee. The reports shall be limited to the general nature and status of the investigation, how long the investigation has been pending, when the investigation is expected to be completed and, when completed, the resolution of the investigation.
- (4) The Audit and Ethics Committee shall review and receive quarterly reports from the Ethics Officer on any engagement of professional and technical consultants.
- (5) The Audit and Ethics Committee shall review and approve the business plan containing the key priorities for the coming year for the Ethics Office. It shall review and approve the business plan in advance of the July Board meeting.

Division VI

PERSONNEL MATTERS

Chapter 3

GENERAL EMPLOYEE MATTERS

Article		Sec.
1	Equal Employment Opportunity and 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 Program

6303. Objectives of Affirmative Action Program

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

6305. Definitions

§ 6305. Definitions.

Terms, whenever used in this Article, shall have the meaning provided for in applicable law. In conformance with applicable 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, or genetic characteristics.

Chapter 4

OFFICERS

Article 5

ETHICS OFFICER

§ 6470. Powers and Duties.

The powers and duties of the Ethics Officer shall be as follows:

- (a) The Ethics Officer shall report to the Board, through the Audit and Ethics Committee.
- (b) The Ethics Officer shall oversee an Ethics Office staffed with professional, qualified persons.
- (c) The Ethics Officer shall be free from political interference in fulfilling his/her responsibilities detailed in this article.
- (d) The Ethics Officer shall maintain a collaborative relationship with the Board, General Manager, General Counsel, and General Auditor.
- (e) The Ethics Officer shall propose rules for the conduct of the Ethics Office's decision-making processes. The Ethics Officer shall propose amendments to the Administrative Code to the Audit and Ethics Committee for approval and adoption by the Board, relating to:
- (1) regulation of lobbying activities;
 - (2) conflicts of interest and financial disclosure;
 - (3) review of Metropolitan contracts for compliance with ethics rules;
 - (4) disclosure of campaign contributions related to potential conflicts of interest;
 - (5) such other ethics rules for application to board members, officers, and employees as deemed appropriate.
- (f) The Ethics Officer shall educate, train, provide advice and seek compliance from board members, officers, applicable employees, and Metropolitan contractors and subcontractors concerning:
- (1) The rules prescribed in subsection (e);
 - (2) The Political Reform Act of 1974, as amended and applicable regulations;
 - (3) The conflict of interest rules of Government Code section 1090.
- (g) The Ethics Officer shall investigate potential violations of the matters specified in subsection (e) by board members, officers, applicable staff and contractors consistent with the rules specified in Division VII. The Ethics Officer shall prepare status reports of pending investigations at each regular meeting of the Committee. The reports shall be limited to the general nature and status of the investigation, how long the investigation has been pending, when the investigation is expected to be completed and, when completed, the resolution of the investigation.

(h) The Ethics Officer shall be the filing officer on behalf of the District to receive and file Statements of Economic Interest pursuant to the California Government Code and Section 7205 of this Administrative Code.

Division VII

CONFLICTS OF INTEREST AND ETHICS REQUIREMENTS

Chapter	Sec.
1 Ethics Requirements for Directors, Officers, and Employees	7100
2 Disclosure of Economic Interests	7200
[3 Renumbered Chapter 1 and amended	7300]

Chapter 1

ETHICS REQUIREMENTS FOR DIRECTORS, OFFICERS, AND EMPLOYEES

Article	
1 General Provisions	7100
2 Conflicts of Interest	7120
3 Gifts and Honoraria	7130
4 Enforcement	7140

Article 1

GENERAL PROVISIONS

Sec.	
7100.	Purpose and Scope
7101.	Policy
7102.	Responsibilities of Public Office
7103.	Fair and Equal Treatment
7104.	Proper Use and Safeguarding of Metropolitan Property and Resources
7105.	Contracts with Metropolitan
7106.	Communications on Procurements
7107.	Use of Confidential Information
7108.	Soliciting Political Contributions
7109.	Improper Activities and the Reporting of Such Activities

- 7110. Protection of “Whistleblowers”
- 7111. Nondiscrimination and Harassment
- 7112. Limitation on Associations
- 7113. Ethics Advice

§ 7100. Purpose and Scope.

The Metropolitan Water District of Southern California is subject to the Political Reform Act of 1974, as amended (the “Act”), and regulations of the Fair Political Practices Commission. The purpose of this division is to impose additional ethics requirements on the directors, officers and employees of the District as permitted by Section 81013 of the Act.

§ 7101. Policy

The policy of The Metropolitan Water District of Southern California is to maintain the highest standards of ethics from its Board members, officers and employees. The proper operation of Metropolitan requires decisions and policy to be made in the proper channels of governmental structure, that public office not be used for personal gain, and that all individuals associated with Metropolitan remain impartial and responsible towards the public. Accordingly, it is the policy of Metropolitan that Metropolitan Board members, officers, and employees shall maintain the highest standard of personal honesty and fairness in carrying out their duties. This policy sets forth the minimal ethical standards to be followed by the Board of Directors, officers, and employees of The Metropolitan Water District of Southern California.

§ 7102. Responsibilities of Public Office.

In the course of their official duties, Board members, officers, and employees are obliged to uphold the Constitution of the United States and the Constitution of the State of California, and to comply with federal, state, and local laws regulating their conduct, including conflict of interests and financial disclosure laws. Board members, officers, and employees should work in full cooperation with other public officials unless prohibited from so doing by law or officially recognized confidentiality of their work.

§ 7103. Fair and Equal Treatment.

No Board member, officer, or employee shall grant any special consideration, treatment, or advantage to any person or group beyond that which is available to every other person or group in the same circumstances.

§ 7104. Misuse of Position or Authority

No Board member, officer, or employee shall use his or her position or the power or authority of his or her office or position in any manner intended to induce or coerce any person to provide, directly or indirectly, anything of value that will accrue to the private advantage, benefit, or economic gain, of the Board member, officer, or employee, or of any other person.

(a) As used in this section, the term “private advantage, benefit, or economic gain” means any advantage, benefit, or economic gain, distinct from that enjoyed by members of the public without regard to official status or not resulting naturally from lawful and proper performance of official duties.

(b) A Board member, officer, or employee engages in a prohibited use of official position when he or she engages in activities other than the lawful and proper performance of duties, including creating deliberately false or misleading records in the course of official duties.

§ 7105. Contracts and Grants With Metropolitan.

(a) Board members, officers, and employees are prohibited from offering inducements to a potential vendor, contractor, grantee, or other party, to the exclusion of similar persons or firms, in hopes of obtaining reciprocal favors. Metropolitan policies pertaining to the procurement of goods, services, and contractors, as well as the hiring of personnel, must be followed to ensure fairness to the participants.

(b) No Board member, officer, employee or consultant shall make, participate in making or attempt to influence any transaction, contract, grant or sale to which Metropolitan is a party, if the Board member, officer, employee, or consultant or an immediate relative thereof, has a financial interest (as defined in the California Political Reform Act). “Immediate relative” means a spouse, domestic partner, child, parent, parent in-law, brother, sister, stepparent, stepchild, grandparent or grandchild. Metropolitan may require potential contractors or grantees to submit verified written statements regarding any financial interests of Board members, officers, employees, consultants or their immediate relatives in proposed transactions, contracts, grants or sales.

(c) No Board member, officer, or employee shall grant any special consideration, treatment or advantage to any person or group beyond that available to every other person or group in the same circumstances, as prohibited by Section 7103 of this Administrative Code, in connection with any transaction, contract, grant or sale to which Metropolitan is a party. Proposed relationships with former Board members or Metropolitan employees subject to Board approval must be evaluated carefully in advance of completing any agreement with such persons

to ensure that no unfair advantage is given to them and that Metropolitan's interest are fully protected in such situations.

(d) Metropolitan shall not make any contract or award any grant in which a Metropolitan Board member, officer or employee has a financial interest, unless a remote interest or non-interest, as defined in the California Government Code, applies.

(e) Metropolitan shall not contract for services of any director during the Director's term of office and a period of one year thereafter. The restriction on contracting after leaving office may be waived in specific cases by a 2/3 vote of the Board of Directors.

§ 7106. Communications on Procurements.

(a) Except for statements on the record in a scheduled public meeting, Directors shall not directly or indirectly communicate with the General Manager, General Counsel, or General Auditor (or their staffs) regarding the selection of vendors, contractors, consultants, or other business entities for a specific procurement of goods or services.

(b) This policy in no way restricts open communication between Directors and the General Manager, General Counsel, or General Auditor on district-wide procurement policies, procedures, or other general matters.

§ 7107. Use of Confidential Information.

Confidential information must not be released to unauthorized persons unless the disclosure is approved by the Board of Directors, the Chair of the Board of Directors, or the Office of the General Counsel. Board members, officers, and employees are prohibited from using any confidential information for personal advantage or profit.

§ 7108. Soliciting Political Contributions.

(a) Board members, officers, and employees are prohibited from soliciting political funds or contributions at Metropolitan facilities.

(b) No Director, officer, or employee of Metropolitan shall use Metropolitan's seal, trademark, stationery, or other indicia of Metropolitan's identity, or facsimile thereof, in any solicitation for political contributions contrary to state or federal law.

§ 7109. Improper Activities and the Reporting of Such Activities.

Board members, officers, and employees shall not interfere with the proper performance of the official duties of others. Board members, officers, and employees are strongly encouraged to fulfill their own moral obligations to the public and Metropolitan by disclosing to the extent not expressly prohibited by law, improper activities within their knowledge. No Board member, officer, or employee shall directly or indirectly use or attempt to use the authority or influence of his or her position for the purpose of intimidating, threatening, coercing, commanding, or influencing any person with the intent of interfering with that person's duty to disclose improper activity.

§ 7110. Protection of “Whistleblowers.”

(a) No Board member, officer, or employee shall use or threaten to use any official authority or influence to discourage, restrain or interfere with any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the Office of Ethics, other appropriate agency, Metropolitan office or department any information which, if true, would constitute: a work-related violation by a Metropolitan Board member, officer, or employee of any law or regulation, gross waste of agency funds, gross abuse of authority, a specified and substantial danger to public health or safety due to an act or omission of a Metropolitan official or employee, use of a Metropolitan office or position or of Metropolitan resources for personal gain, or a conflict of interest of a Metropolitan Board member, officer, or employee.

(b) No Board member, officer, or employee shall use or threaten to use any official authority or influence to effect any action as a reprisal against a Metropolitan Board member, officer, or employee who reports or otherwise brings to the attention of the Office of Ethics or other appropriate agency, Metropolitan office or department any information regarding the subjects described in Paragraph (a) of this Section.

(c) Any person who believes that he or she has been subjected to any action prohibited by this section may file a confidential complaint with the Office of Ethics. The Office of Ethics shall thereupon investigate the complaint. Upon the conclusion of its investigation, the Office of Ethics shall take appropriate action as otherwise provided by Metropolitan's ethics rules and procedures.

(d) In the event the Office of Ethics has a conflict of interest in an investigation of the retaliation complaint, the General Manager shall refer the investigation of the retaliation complaint to the Equal Employment Opportunities Office and the Office of the General Counsel,

which shall take appropriate action as otherwise provided under Metropolitan rules and procedures and applicable law.

§ 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 orientation, medical condition, genetic information, disability (physical or mental), 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 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 Investigations Staff. Allegations regarding director conduct in violation of this section shall be reported to the Ethics Officer or Board Chair.

§ 7112. Limitation on Associations.

Metropolitan shall not participate in any association structure or identification that is likely to mislead the public as to the association's true identity, its source of funding, or its purpose.

§ 7113. Ethics Advice.

Any Board member, officer or employee who is unsure of any right or obligation arising under this Code may seek the assistance of the Ethics Officer, request an opinion from the General Counsel of Metropolitan, or seek oral or written advice from the Fair Political Practices Commission.

Article 2

CONFLICT OF INTEREST

Sec.

7120. Conflict of Interest; Method of Recusal

7121. Recusal Due to Bias

7122. "Revolving Door"; Additional Requirements

§ 7120 Conflict of Interest; Method of Recusal.

(a) A Board member who has a financial conflict of interest in a decision to be considered at a noticed public meeting shall do all of the following:

(1) Publicly identify the economic interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

(2) Recuse himself or herself from discussing and voting on the matter, or otherwise acting in violation of the Political Reform Act.

(3) Leave the room until after the discussion, vote, and any other disposition of the matter is concluded.

(b) Exceptions:

(1) When a Board member has a financial conflict of interest in a matter on the consent calendar, the member is not required to leave the room.

(2) Even when a financial conflict of interest is present, a Board member may appear before the Board as a member of the general public in order to represent himself or herself on matters related solely to his or her personal interests. The Board member also may listen to the public discussion of the matter with the members of the public. The member must comply with subsections (a)(1) (disclosure) and (a)(2) (recusal) and leave the dais to speak from the same area as members of the public. Such an appearance does not constitute making, participating in making, or influencing a governmental decision. Such "personal interests" include, but are not limited to:

(A) An interest in real property that is wholly owned by the official or members of his or her immediate family;

(B) A business entity that is wholly owned by the official or members of his or her immediate family;

(C) A business entity over which the official exercises sole direction and control, or over which the official and his or her spouse jointly exercises sole direction and control.

(c) Any other officer (as identified in Administrative Code Section 6400) or employee who has a financial conflict of interest in a decision shall promptly disclose such conflict in writing to his or her supervisor or appointing authority and not take any action with respect to such decision. A separate disclosure is required each time the officer or employee determines not to act with respect to a decision on the basis of a financial conflict of interest.

§ 7121. Recusal Due to Bias.

A Board member shall not make, participate in or attempt to influence any decision, if he or she is incapable of providing fair treatment to a matter before the Board due to bias, prejudice or because he or she has prejudged a matter.

§ 7122. “Revolving Door”; Additional Requirements

(a) In addition to complying with the post-employment restrictions set forth in the Political Reform Act and regulations of the Fair Political Practices Commission, for a period of one year after leaving office or employment with Metropolitan:

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

(2) Other officers of Metropolitan (as identified in Administrative Code Section 6400) and Metropolitan employees shall not represent for compensation non-governmental entities before Metropolitan with regard to any issues over which that officer or employee had decision-making authority during the three years prior to leaving office or employment.

(b) For purposes of this Section, “represent” shall mean for compensation to actively support or oppose a particular decision in a proceeding by lobbying in person the officers or employees of Metropolitan, testifying in person before Metropolitan, or otherwise acting to influence the officers of Metropolitan.

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

Article 3**GIFTS AND HONORARIA**

Sec.

7130. Gifts; Additional Requirements

7131. Honoraria; Additional Requirements

7132. Ticket Distribution Policy

§ 7130. Gifts; Additional Requirements.

(a) Board members, officers, and employees are subject to the rules and restrictions regarding the receipt of gifts set forth in the Political Reform Act and regulations of the Fair Political Practices Commission.

(b) No Board member, officer, or employee, shall receive or agree to receive, directly or indirectly, any compensation, reward or gift from any source, except from his or her appointing authority or employer, for any action related to the conduct of Metropolitan's business.

(c) A gift or gratuity, the receipt of which is prohibited under this Section shall be returned to the donor within 30 days. If return is not possible, the gift or gratuity shall be turned over to a public or charitable institution without being claimed as a charitable deduction and a report of such action, and the reasons why return was not feasible shall be made on the records of the Board or in the cases of officers and employees, on the records of Metropolitan. When possible, the donor also shall be informed of this action.

§ 7131. Honoraria; Additional Requirements.

Board members, officers, and employees are subject to the prohibition on the receipt of honoraria set forth in the Political Reform Act and regulations of the Fair Political Practices Commission.

§ 7132. Ticket Distribution Policy.

(a) Definitions: The following terms shall have the meanings set forth herein:

(1) “Metropolitan Official” shall mean and refer to a Metropolitan public official as that term is defined by Government Code section 82048, which includes directors, officers, and employees.

(2) “FPPC” shall mean and refer to the California Fair Political Practices Commission.

(3) “Policy” shall mean and refer to this Ticket Distribution Policy.

(4) “Ticket” or “pass” shall mean and refer to a ticket or pass as these terms are defined in FPPC Regulation 189044.1, as amended from time to time. (As of the time of the initial adoption of this policy the term “ticket” or “pass” means admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose.)

(b) Purpose of Policy. The purpose of this Policy is to ensure that all tickets and passes Metropolitan receives from public and private entities and individuals, which Metropolitan purchases or which Metropolitan owns because of its control of the event or facility, are distributed in furtherance of a public purpose of Metropolitan.

(c) Limitation. This Policy shall only apply to Metropolitan’s distribution of tickets and/or passes to, or at the request of a Metropolitan Official.

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

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

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

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

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

(5) Recognition of a Metropolitan program or purpose.

(6) Promotion of Metropolitan issues and interests.

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

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

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

(h) Website Posting. This Ticket Distribution Policy shall be posted on Metropolitan's public website in a prominent fashion and the link to this website shall be submitted to the FPPC for posting on the FPPC website.

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

Article 4

ENFORCEMENT

Sec.

7140. Violation of Ethics Provisions

§ 7140. Violation of Ethics Provisions

(a) When the Ethics Officer concludes, with the advice of General Counsel, that a preponderance of evidence exists that indicates that a member of the Board is in non-compliance with state law, the matter will be referred to the Fair Political Practices Commission, Attorney General, or District Attorney, as applicable, with notice of the referral provided to the Audit and Ethics Committee, director and the appointing member agency at the time of the referral. When

the Ethics Officer concludes, after investigation, with the advice of General Counsel, that preponderance of evidence exists that indicates that a member of the Board is in non-compliance with the ethics provisions contained in the Administrative Code, the matter will be referred to a designated subcommittee of the Audit and Ethics Committee, with prompt notice to the Board member. A director shall not participate in the selection of, or as a member of this designated subcommittee with regard to any matters in which the director is a subject of the investigation. This subcommittee shall make a recommendation to the Executive Committee for appropriate action, which can include, but is not limited to: (1) find that the complaint was unsubstantiated or substantiated; (2) public or private censure by the Executive Committee with or without a copy of the letter to the appointing agency; (3) temporary or permanent removal of the Board member from one or more Board committees; (4) request to the appointing agency for replacement of the Board member; or (5) any other sanction determined by the Executive Committee to be appropriate and reasonable based upon the nature of the violation. All sanctions are subject to review of General Counsel for legal compliance. The Chair will be responsible for carrying out the determination of the Executive Committee. For the purposes of this section, "preponderance of evidence" means that the evidence indicates it is more likely than not that a violation has occurred.

(b) The Ethics Officer, prior to making findings on the investigation of a complaint, shall notify the Director, officer, or employee of the investigation and provide him or her with an opportunity to submit any material he or she would like the Ethics Officer to review and to meet with the Ethics Officer.

(c) Any Director, including one who has brought a concern to the Ethics Office, who is dissatisfied with a determination by the Ethics Officer that no violation or non-compliance occurred, may appeal to the Executive Committee for further review.

(d) Violations of the ethics provisions contained in the Administrative Code by officers or employees will be handled through existing disciplinary procedures. Findings from the Ethics Officer will be referred to the appropriate Department Head for further action. An officer or employee who is subject to a finding of non-compliance with the ethics provisions contained in the Administrative Code may challenge such determination pursuant to Section 6218(b) and (c) of the Administrative Code or the applicable memorandum of understanding.

(e) The Ethics Officer shall review and summarize all ethics complaints in a monthly report to the Board of Directors. The General Counsel shall receive a copy of all findings, reports and actions concerning complaints.

Chapter 2

DISCLOSURE OF ECONOMIC INTERESTS

Article

1	Conflict of Interest Code	7200
2	Designated Positions and Categories of Disclosure Index	7210

Article 1

Conflict of Interest Code

Sec.

7200. Political Reform Act - Incorporation of Title 2, California Code of Regulations

7205. Filing of Statements of Economic Interest

§ 7200. Political Reform Act - Incorporation of the Title 2, California Code of Regulations.

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict-of-interest codes. The Fair Political Practices Commission has adopted a regulation, (2 Cal. Code of Regs. Sec. 18730) that contains the terms of a standard conflict-of-interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the following sections in this Division VII, designating positions and establishing disclosure categories, shall constitute the conflict-of-interest code of The Metropolitan Water District of Southern California ("Metropolitan").

§ 7205. Filing of Statement of Economic Interests.

Individuals holding designated positions shall file their statements of economic interests with Metropolitan, which will make the statements available for public inspection and reproduction. (Gov. Code Sec. 81008.) Upon receipt of the statements for the Board of Directors and other designated Public Officials Who Manage Public Investments (see Section 7221), Metropolitan shall make and retain copies and forward the originals to the Fair Political Practices Commission. All other statements will be retained by Metropolitan.

Article 2

DESIGNATED POSITIONS AND CATEGORIES OF DISCLOSURE INDEX

Sec.

7210. Reportable Interests

7211. Designated Positions

7212. Public Officials Who Manage Public Investments

7213. Consultants and New Positions

§ 7210. Reportable Interests

A reportable interest includes any investment, business position, source of income (including gifts, travel payments, or loans), or interest in real property.

- (a) For investments, business positions, and sources of income, an interest is reportable if it is engaged in the industries, activities, or services described in the disclosure category applicable to the designated position.
- (b) For interests in real property, an interest is reportable if it falls within the description for Category 11.

Category	Subject Matter	Disclosable Interests
1	<i>Full disclosure (excluding real property)</i>	Any interest within Categories 2 through 10.
2	<i>Legal, Audit, Ethics</i>	Law practice, auditing, public accounting, ethics and compliance, investigations, risk management, workers compensation, insurance, or related field.
3	<i>Finance</i>	Banking, investments, financial services, insurance, financial analysis, accounting, municipal finance, rate-setting, or related field.
4	<i>Engineering & Operations</i>	Engineering, design, construction, power operations, project management, planning, environmental impacts analysis, geosciences, water treatment, water quality, water infrastructure operations and maintenance, operations related health and safety or related field
5	<i>Information Technology</i>	Information technology, computer hardware, software, graphics, or related field.

6	<i>Water Resource Management, Bay-Delta, Colorado River</i>	Water resource management, planning, economics, engineering, water conservation, or related field.
7	<i>Real Property Development</i>	Real estate transactions, appraisals, financing, development, or related field.
8	<i>Human Resources</i>	Human resources planning, training, administration or related field. Any employee association or labor union.
9	<i>External Affairs</i>	Public policy, advocacy, public relations, lobbying, media, outreach, communications, travel, or related field.
10	<i>Administrative Services</i>	<p>Goods or services of the type used or procured by the designated position's department, office, division, or area.</p> <ul style="list-style-type: none"> - Examples of applicable goods may include: office equipment, office supplies, document management materials, vehicle parts, security-related materials, or maintenance materials. - Examples of applicable services may include: document support, archiving, records management, building services, maintenance services, security services, or automotive fleet services.
11	<i>Real Property</i>	Any interest in real property: (a) within the jurisdiction that is used by Metropolitan, or is of a type that Metropolitan has identified for potential acquisition, as well as real property within two miles of the property used or the potential site; (b) within two miles of any parcel or other location proposed for annexation to Metropolitan; or (c) within two miles of any parcel or other location outside the jurisdiction that Metropolitan has identified for acquisition, sale, or as a potential
12	<i>Subject of audit or investigation</i>	Any investment, source of income (including gifts, travel payments, or loans) or real property that was the subject of an audit or investigation assignment during the period covered by the statement

§ 7211. Designated Positions.

Listed below are the designated positions and the disclosure categories applicable for employees serving in those positions. Positions designated as public officials who manage public

investments (indicated by “87200” in category field) file statements directly with the Fair Political Practices Commission based upon Government Code disclosure criteria.

[DESIGNATED POSITIONS CHART OMITTED – NO PROPOSED CHANGES]

§ 7212. Public Officials Who Manage Public Investments.

The following positions are not covered by the conflict-of-interest code because they must file under Government Code Section 87200 and, therefore, are listed for information purposes only:

Members of the Board of Directors
General Manager
Chief Financial
Officer Treasurer
Assistant Treasurer
Budget and Treasury Manager

An individual holding one of the above listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by Section 87200.

§ 7213. Consultants and New Positions.

A “designated position” includes an individual serving in a new position in which the individual makes or participates in the making of decisions and an individual who is a consultant as defined in FPPC Regulation 18701. These individuals must file under the broadest disclosure set forth in this conflict-of-interest code. However, the Ethics Officer may determine disclosure that is tailored to the range of duties or contractual obligations for such individuals as long a clear explanation of the duties and disclosure requirements is provided in writing. Individuals serving in a new position must file under this provision until the position is added to this conflict-of-interest code. The written determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Section 81008, 82019; FPPC Regulations 18219 and 18734.)

Consultants providing the services of designated positions shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The Ethics Officer may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Ethics Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Sec. 81008.)