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Metropolitan Water District Ethics Officer's Proposed Amendments to Administrative Code

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Stepping Back for Perspective

- Timeline of Process
- SB 60's Requirements
- Team Approach to Amending the Ethics Provisions of the Administrative Code
- Broad Overview of the Proposed Changes

Timeline

- July 2017 - Wilmer Hale retained to review the policies and procedures of the Ethics Office.
- February 2018 - Wilmer Hale presented findings to the Executive Committee.
- February 2018 - Olson Hagel retained to assist with redrafting Ethics rules.
- May 2018 - Olson Hagel provided the Audit and Ethics Committee an initial overview of Metropolitan's ethics rules and approach to revision.
- Fall 2018 - First set of recommendations for Phases I and II rules revisions related to independence and structure of Ethics Office presented to Audit and Ethics Committee--later adopted by Board.
- January to March 2019 - Recommendations regarding the jurisdiction, powers, and responsibilities of the Ethics Office, including the conduct of investigations; and provision of education/training by the Ethics Office presented to the Audit and Ethics Committee.
- June 2019 - Package of proposed amendments to the Administrative Code presented to the Audit and Ethics Committee.
- July 2019 - Abel Salinas is hired as new Ethics Officer and begins review of the June 2019 recommendations.
- October 2019 - The Ethics Officer presented recommendations for modifying the proposed amendments to the Audit and Ethics Committee.

SB 60 Requirements

SB 60 (adopted in 1999) requires Metropolitan to create an independent Ethics Office:

- The Metropolitan Board shall “establish and operate” the Ethics Office;
- The Ethics Office:
 - “shall operate as an independent entity that is not subject to political influence”;
 - Be staffed with professional, qualified persons;
 - Adopt rules for Board approval relating to internal disclosure, lobbying, conflicts of interest, contracts, campaign contributions, and ethics that are “consistent with the intent and spirit” of the laws and regulations of the FPPC, LA City Ethics Commission, and the LA County Metropolitan Transportation Commission

SB 60 Requirements

The Ethics Office shall also:

- Educate Metropolitan Board, staff, contractors and subcontractors concerning ethics rules;
- Investigate alleged violations of ethics rules;
- Protect the confidentiality of sources, the job security of “whistle blowers” and the due process rights of the “accused”;
- Make investigation results public, subject to the above protections;
- Propose for Board adoption a schedule of penalties for violations of ethics rules.

Team Approach

- Collaborative effort involving Ethics Office staff, General Counsel, Department of Human Resources and Olson Hagel.
- Input from Audit and Ethics Committee and others.
- Focus was on redrafting Administrative Code related to ethics rules to address the following:
 - Code was not organized coherently
 - Jurisdiction of Ethics Officer to investigate often unclear
 - Ethics rules were sometimes confusing and some rules were not enforceable
 - Many substantive rules were not in Code but in policies or guidelines
- Objective was to:
 - Fulfill SB 60 requirements
 - Organize Code in logical order
 - Provide clear rules/draw bright lines so the Ethics Officer's role is clearly understood

Four Phases

1. Reporting structure for the Ethics Officer
2. 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
 - Clear ethics rules over which Ethics Office has jurisdiction to investigate;
 - Clear and consistent investigative process;
 - Access by Ethics Office to information;
 - Confidentiality during the investigation process;
 - Making investigation results public.
4. Education, training, advice, and compliance

Phases 1 and 2

1. Reporting structure for the Ethics Officer

- The Board approved Administrative Code changes confirming the Ethics Officer reports to the Board, but through the Audit and Ethics Committee.
- Also approved making the Audit and Ethics Committee a standing committee of the Board.

2. Duties of the Audit and Ethics Committee and the Ethics Officer

- The Board approved Administrative Code changes that clarified the responsibilities and duties of the Ethics Office.
- Minor modifications to these rules are now recommended to conform with recommendations arising from Phase 3.

Phase 3 - Jurisdiction to Investigate & Procedures

- Involved a substantial reorganization of Division VII of the Administrative Code
- Two parts:
 - Part 1. Ethics rules over which the Ethics Office would have responsibility to investigate alleged violations
 - Part 2. Procedures for conducting investigations

Phase 3, Part 1 – The Ethics Rules

Goal was to clearly define the scope of the Ethics Officer's jurisdiction to conduct investigations of alleged violations:

- Incorporated specific State ethics laws into Metropolitan Code
- Modified/deleted/expanded existing Metropolitan ethics rules
- Added some current operating policies as well as new rules (e.g., lobbying) to the Administrative Code

Phase 3, Part 2 - Procedures for Conducting Investigations

Goal was to specify the procedures for Ethics Officer investigations, including provisions on:

- Investigation timelines
- Who conducts investigations
- Due process rights of accused
- Protecting confidentiality of sources
- Access to Metropolitan records by Ethics Officer
- Procedures for making investigations public
- Penalties for violation of ethics rules

Phase 4 - Education/Training, Advice & Compliance

Goal was to:

- Build upon existing training already provided by Ethics Office, ensure that Board, officers, staff and contractors understand:
 - Applicable state ethics laws, Administrative Code provisions, and Metropolitan ethics policies;
 - Role, stature and jurisdiction of Ethics Office.
- Identify appropriate target audiences, training content and optimal frequency.
- Emphasize role and importance of advice.
 - Supports ethical culture;
 - Immunity from investigation/enforcement of potential violations of Administrative Code ethics provisions regarding prospective conduct.
- Proactively review Form 700s of Board members, officers and key decision-making staff.

Detail About Code Revisions

Division VII has a new structure in six chapters:

1. Ethics Rules for Metropolitan Officials
2. Ethics Rules for Contractors and Lobbyists
3. Ticket Distribution Policy
4. Investigations by the Ethics Officer
(Procedures)
5. Disclosure of Economic Interests
6. Education, Advice, and Compliance

Since June

New Ethics Officer, Abel Salinas, joined Metropolitan, reviewed the proposed changes to the Administrative Code and offered several amendments in the following areas:

- Audit and Ethics Committee oversight and feedback;
- Gifts to employees from contractors and vendors;
- Establishing levels of severity for violations;
- Notice to subjects of an investigation;
- Quarterly reports on pending investigations;
- Public notice for contracts of \$50,000 or more;
- Allow the ad hoc subcommittee of three directors that investigates discrimination and sexual harassment claims involving directors to confer with the Office of General Counsel or Ethics Officer for input on issues that might arise in the course of an investigation.

Next Steps

- Audit and Ethics Committee considers and recommends the updated proposed changes to the Administrative Code to the full Board.
- Board considers recommendations of Audit and Ethics Committee and adopts final Administrative Code revisions.