

## Division VII

### CONFLICTS OF INTEREST AND ETHICS REQUIREMENTS

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#### Chapter 1

### ETHICS REQUIREMENTS FOR DIRECTORS, OFFICERS, AND EMPLOYEES

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#### Article 1

### GENERAL PROVISIONS

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### **§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.

[Former Sec. 7100 – Incorporation of the Title 2, CA Code of Regulations, renumbered 7200 and new Sec. 7100 created by M. I. 46109 – February 8, 2005.

### **§ 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.

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

### **§ 7102. Responsibilities of Public Office.**

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 carry out the laws of the nation, state and local governmental agencies. Board members, officers, and employees shall comply with applicable 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.

M. I. 41598- October 10, 1995; amended by M.I. 43915 – March 14, 2000; former Sec. 7301- Responsibilities of Public Office, renumbered 7102 by M.I. 46109 – February 8, 2005.

### **§ 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.

M.I. 41598 – October 10, 1995; amended by M.I. 43915 – March 14, 2000; former Sec. 7302 renumbered 7103 M. I. 46109 – February 8, 2005.

## **§ 7104. Proper Use and Safeguarding of Metropolitan Property and Resources**

(a) Except as specifically authorized, no Board member, officer, or employee shall use or permit the use of Metropolitan-owned vehicles, equipment, telephones, materials or property for personal convenience or profit. No Board member, officer, or employee shall require a Metropolitan employee to perform services for the personal convenience or profit of a Board member, officer, or employee. Each Board member, officer, and employee must protect and properly use any Metropolitan asset within his or her control, including information recorded on paper or in electronic form. Using Metropolitan assets for personal profit is forbidden. Board members, officers, and employees shall safeguard Metropolitan property, equipment, moneys, and assets against unauthorized use or removal, as well as from loss due to criminal act or breach of trust.

(b) Board members, officers, and employees are responsible for maintaining written records, including expense accounts, in sufficient detail to reflect accurately and completely all transactions and expenditures made on Metropolitan's behalf. Creating a document with misleading or false information is prohibited.

M.I. 41598 – October 10, 1995; amended by M.I. 43915 – March 14, 2000; former Sec. 7303 renumbered 7104 by M. I. 46109 – February 8, 2005.

[Former Sec. 7304 moved to Sec. 7120; Former Sec. 7305 moved to Sec. 7122; Former Sec. 7306 moved to 7130, by M. I. 46109 – February 8, 2005.]

## **§ 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.

Old Sec. 7105 – Filing of Statements of Economic Interests, renumbered 7205, and former Sec. 7307 renumbered new Sec. 7105 and amended by M. I. 46109 – February 8, 2005; Section title amended, paragraph (a) amended and portions renumbered (b) and amended, paragraph (c) added, and old paragraph (b) renumbered (d) by M. I. 46338 - August 16, 2005; paragraph (b) amended and paragraphs (c) – (e) amended and renumbered by M.I. \_\_\_\_\_ - September 9, 2008.

#### **§ 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.

[Section renumbered and adopted by M.I. 43915 - March 14, 2000.] Former Sec. 7308 renumbered 7106 and amended by M. I. 46109 – February 8, 2005.

#### **§ 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.

M.I. 41598 - October 10, 1995; Section renumbered and amended by M.I. 43915 - March 14, 2000; former Sec. 7309 renumbered 7107 by M. I. 46109 – February 8, 2005.

#### **§ 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.

M.I. 41598 - October 10, 1995; Section renumbered and amended by M.I. 43915 - March 2000; second paragraph repealed by M. I. 45986 – November 9, 2004; former Sec. 7310 renumbered 7108 and amended by M. I. 46109 – February 8, 2005.

### **§ 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.

M.I. 41598 - October 10, 1995; Section renumbered and amended by M.I. 43915 - March 14, 2000; former Sec. 7311 renumbered 7109 and amended by M. I. 46109 – February 8, 2005.

### **§ 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.

Adopted by M. I. 43915 - March 14, 2000; former Sec. 7110 - Opinions of the General Counsel renumbered 7113 and amended, and former Sec. 7312 renumbered to new Sec. 7110 and amended by M. I. 46109 – February 8, 2005.

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

M.I. 41598 - October 10, 1995; Section renumbered and amended by M.I. 43915 - March 14, 2000; former Sec. 7313 renumbered 7111 by M. I. 46109 – February 8, 2005; Section amended by M.I. 47889 - May 12, 2009.

### **§ 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.

Adopted by M. I. 43915 – March 14, 2000; former Sec. 7314 renumbered 7112 by M. I. 46109 – February 8, 2005.

[Former Sec. 7315 – Violation of Ethics Policy, renumbered Sec. 7140, and Former Sec. 7316 – Inquiry and Review Committee renumbered Sec. 7141 by M. I. 46109 – February 8, 2005.]

### **§ 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.

Former Sec. 7110 - Opinions of the General Counsel renumbered 7113, title renamed Ethics Advice, and amended by M. I. 46109 – February 8, 2005.

Provisions updated to reflect the actions of the Board of Directors through its 05/12/2009 meeting.

## 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.

M.I. 41598 - October 10, 1995; Section title amended by M.I. 43915 - March 14, 2000; paragraph A repealed and new paragraphs A, 1, 2, and 3 added by M. I. 46035 – December 14, 2004; former Sec. 7304 – Board of Directors; Conflict of Interest, renumbered 7120, amended, and new paragraphs (b)(1)(2) (A)-(C), and (c) added by M.I. 46109 – February 8, 2005.

### **§ 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.

M. I. 46109 – February 8, 2005.

### **§ 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.

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

## Article 3

### GIFTS AND HONORARIA

Sec.

7130. Gifts; Additional Requirements

**7131. Honoraria; Additional Requirements**

#### **§ 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.

M.I. 41598 – October 10, 1995; Section renumbered and amended by M.I. 43915 – March 14, 2000; former Sec. 7306 – Gifts, renumbered 7130, renamed and amended by M.I. 46109 – February 8, 2005.

#### **§ 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.

M. I. 46109 – February 8, 2005; paragraph (b) repealed and paragraph (a) left unnumbered by M. I. 46838 – October 10, 2006.

## Article 4

### ENFORCEMENT

Sec.

7140. Violation of Ethics Provisions

**7141. Inquiry and Review Committee**

#### **§ 7140. Violation of Ethics Provisions**

(a) When the Ethics Officer concludes, after investigation by the Inquiry and Review Committee, with the advice of General Counsel, that substantial 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 Executive Committee, director and the appointing member agency at the time of the referral. When the Ethics Officer concludes, after investigation by the Inquiry and Review Committee, with the advice of General Counsel, that substantial 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 the Executive Committee, with prompt notice to the Board member, with a recommendation 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.

(b) A Director who is subject to a finding of non-compliance with the ethics provisions in the Administrative Code by the Ethics Officer shall be provided a copy of all the material upon which the determination was based, and have the opportunity to present any relevant information, data, or facts in his or her own defense prior to the Inquiry and Review Committee determination.

(c) Any Director, including one who has brought a concern to the Ethics Office, who is dissatisfied with a determination by the Ethics Officer, and/or by the Inquiry and Review Committee, 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 Inquiry and Review Committee 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 by either the Ethics Officer and/or Inquiry and Review Committee, may challenge such determination pursuant to Section 6218(b) and (c) of the Administrative Code or the applicable memorandum of understanding.

M.I. 41598 - October 10, 1995; Section renumbered and amended by M.I. 43915 - March 14, 2000; paragraphs (a), (b), and (c) added and paragraph (d) amended by M. I. 45990 – November 9, 2004; former Sec. 7315 renumbered 7140 and amended by M. I. 46109 – February 8, 2005; paragraph (d) amended by M. I. 47286 - November 20, 2007; paragraphs (a-d) amended by M.I. 47889 - May 12, 2009.

## **§ 7141. Inquiry and Review Committee.**

(a) The Inquiry and Review Committee is a committee that investigates ethics complaints against Metropolitan directors, officers and employees. The committee shall be composed of the Ethics Officer, three elected members of the Board, and three staff members, one appointed by the General Manager, one appointed by the General Counsel and one appointed by the General Auditor. The elected directors shall serve staggered three-year terms, with the initial terms being for either one, two or three years. Members of the committee may be re-elected or reappointed to their positions.

(b) The Ethics Officer shall refer ethics complaints to the committee, and is a non-voting member of the committee. The General Counsel shall advise the committee on legal matters and shall review the recommendations of the committee for legal compliance.

(c) The committee shall collect relevant data, including requesting internal or external investigations. The committee shall vote on the findings of an investigation of a complaint according to the following rules:

(1) Prior to voting on the findings of an investigation of a complaint, the director, officer, or employee who is under investigation will be notified by the Ethics Officer and provided an opportunity to submit any material he or she would like the committee to review and to meet with the Inquiry and Review Committee.

(2) For an allegation against a director, all of the staff members shall be excused from participating in the investigation of that complaint and from voting on findings of the investigation. The General Counsel and Ethics Officer shall serve in an advisory function for the committee.

(3) Five of the six voting members of the committee shall vote on the findings of an investigation of an allegation against an employee or officer; one of the director members shall be excused from participating in the investigation of that complaint. The directors shall take turns excusing themselves from participating on the findings of an investigation of an allegation against an employee or officer.

(4) Committee members shall be excused as required by Sections 7141(c)(2) and 7141(c)(3). In addition, members must excuse themselves, or may be removed by vote of the other committee members, from participating in the investigation of a complaint involving his or her conflict of interest, or the appearance of a conflict of interest or any impropriety. No committee member shall be involved in the investigation of a complaint that involves his or her area of responsibility.

(d) The committee shall submit findings involving employees, along with any dissent, to the appropriate Department Head for action. The Ethics Officer will file a separate report with findings involving employees to the appropriate Department Head for action. For complaints involving directors, the committee shall submit findings, along with recommendations for action, along with any dissent, to the Executive Committee. The Ethics Officer will file a separate report with findings, along with recommendations for action, to the Executive Committee. A report on action to be taken in response to the findings must be submitted to the Ethics Office within thirty (30) days.

(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.

M. I. 45656 – February 10, 2004; former Sec. 7316 renumbered 7141 and amended by M.I. 46109 – February 8, 2005; paragraphs (b-d) amended, new paragraph (1) added, paragraphs (2 and 3) [formerly (1 and 2) amended by M.I. 47889 - May 12, 2009.