



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Office of the Board of Directors

Date: July 20, 2022
To: All Metropolitan Employees
From: Gloria D. Gray, Chairwoman of the Board
Adel Hagekhalil, General Manager
Subject: July 2022 Board Action regarding attorney-client privilege and confidentiality in EEO investigation reports

For nearly two years, the Metropolitan Board of Directors has worked with management to address Equal Employment Opportunity (EEO) concerns raised by our employees as a priority of this Board. This included authorizing the Ethics Office to hire outside counsel to conduct an independent workplace climate assessment and to investigate four EEO complaints. Since then, management has undertaken many important initiatives, with the Board's oversight, to improve workplace conditions and foster an environment free from discrimination, harassment, and retaliation.

In carrying out its oversight, the Board requested the opportunity to review confidential and attorney-client privileged investigation reports by the Shaw Law Group ("SLG") regarding EEO complaints made by four employees and to consider whether to publicly release the reports. Only the Board can formally waive attorney-client privilege on these reports, and on July 12, 2022, the [Board voted](#) to not publicly release these confidential and attorney-client privileged investigation reports. This decision did not come lightly and was made after a lengthy closed session discussion.

While the Board believes in the importance of transparency, it must be balanced with the importance of confidentiality, protection of personnel information, and individual privacy rights. Like most organizations, Metropolitan conducts EEO investigations confidentially. In addition to protecting individual privacy rights, this allows all persons who participate in an EEO investigation to trust in the integrity of the process and be protected from potential retaliation. Individuals involved in EEO investigations receive the assurance that Metropolitan will make every effort to keep information provided in the complaint and investigative process confidential to the fullest extent possible. Independent EEO investigations are also often conducted under the attorney-client privilege, as with the SLG investigations here.

If the Board decided to waive attorney-client privilege and confidentiality and publicly release these investigation reports, it could potentially result in the identification of employees who participated in a confidential investigation, could foster fear of retaliation, and create a chilling effect discouraging current and future employees who may need to file an EEO complaint or participate in the investigative process in the future. These are especially important considerations to ensure Metropolitan maintains an EEO Office that is neutral and

trustworthy.

Consistent with SLG's workplace climate assessment report and a recent State Audit on similar concerns, management has taken necessary corrective actions related to the findings of the SLG investigation reports.

To enhance transparency regarding Metropolitan's EEO issues, the district has ensured that employees and the public have access to the [SLG Workplace Climate Assessment](#) report and the [State Audit Report](#). Both reports are posted on Metropolitan's public website along with [Progress Reports](#) on implementing the recommendations. This is important for accountability and will help support the Board's oversight of these critical concerns. Equally important, the district is augmenting its EEO resources, adopting new policies, and implementing best practices to enhance its working environment.

We recognize that a culture shift takes time as we make a concerted, ongoing effort to implement effective organizational change. The Board's decision protects individual privacy rights, the integrity of the investigative process, and the Metropolitan workforce, who expect the EEO investigative process to be fair, confidential, and exhibit integrity. These are fundamental elements of a strong EEO program and essential to ensure Metropolitan is the world-class professional organization we have all come to expect.

Sincerely,



Gloria D. Gray
Chairwoman of the Board



Adel Hagekhalil
General Manager

cc: Metropolitan Board of Directors
