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Presented to Santa Clara Valley Water District

Benchmark Study Assessment of SCVWD Ethics Office Reporting Structure

Report Date: March 24, 2016

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Executive Summary

The following benchmark evaluation provides an in depth survey of select local government agencies pertaining to several attributes of respective Ethics Offices and Ethics Officer role designations. Key data points include but are not limited to:

1) Existence of an Ethics Officer role designation
2) Reporting structures for the Ethics Officer
3) Duties and functions of the Ethics Officer
4) Written Policies
5) Procedures for reporting ethics violations

In addition to the District, the agencies surveyed include:

1) Alameda Heath System ("AHS")
2) City of Oakland ("Oakland")
3) City of San Jose ("San Jose")
4) County of Santa Clara ("Santa Clara")
5) Metropolitan Water District of Southern California ("Metropolitan")
6) San Francisco Public Utilities Commission ("SFPUC")[1]
7) Valley Transportation Authority ("VTA")

It is our recommendation to the Santa Clara Valley Water District ("The District") that the Ethics Officer report to the District Counsel on a day-to-day basis. Additionally, an Ethics Committee should provide programmatic direction to the Ethics Office and assist the Ethics Officer in developing strategies and setting long term goals. The Ethics Committee should regularly provide reports to the Board of Directors. This structure is in line with best practices for comparable agencies and nationally-recognized models.

Figure 1.0 Recommended Reporting Structure for Ethics Office

The solid lines represent day-to-day reporting. This reporting relationship is the traditional line management role entailing objective setting and performance evaluation.
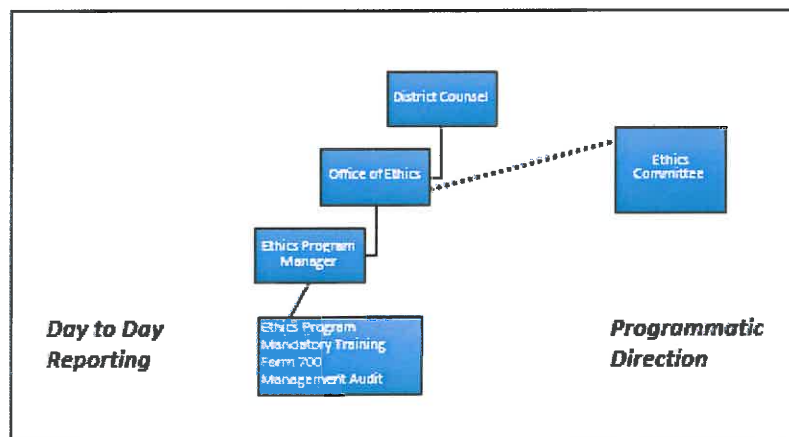
The dotted lines represent an internal reporting structure whereby an Ethics Committee provides programmatic direction to the Ethics Office and assists the Ethics Officer in strategic development and goal setting.

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[1] San Francisco Water Power Sewer ("SFWPS") provides services and operates under the San Francisco Public Utilities Commission ("SFPUC").

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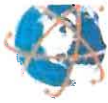
Other Recommendations Include (without limitation):

- Filling the vacant Ethics Officer role;
- Developing the Ethics Office as a Standalone Department by separating other programs that do not immediately relate to ethics (e.g. Office of the CEO, Support and Communications, Diversity and Inclusion ("D&I") and Equal Employment Opportunity);
- Establishing a direct report function between the District Counsel and the Ethics Officer;
- Establishing an Ethics Committee responsible for programmatic direction of the Ethics Office;
- Establish process where Ethics Committee regularly meets with Board and provides updates, and addresses any urgent issues;
- Creation and implementation of a Whistle Blower and standalone Anti-Retaliation Policy;
- Augmenting the hotline mechanism for anonymous ethics reporting by engaging third party to receive and monitor ethics complaints;
- Effective communication of ethics policies through physical posting in communal areas;
- Strengthening of partnerships between HR, Legal, Internal Audit and Ethics Office through quarterly meetings;
- Establish Annual Compliance confirmation process; and
- Review Ethics Policy on an annual basis and augment policies as needed.

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Section I: Introduction

A. *Overview of Santa Clara Valley Water District*[2]

The Santa Clara Valley Water District ("District") is the primary water resource agency for County of Santa Clara. The District manages an integrated water resources system for over 1.9 million residents in 15 cities with a focus on providing clean and safe water, flood protection, and stewardship of streams. Its overall annual budget is approximately $315 million and its staff consists of about 750 employees.

A seven-member Board of Directors governs the District. The elected directors serve four-year terms and appoint the Chief Executive Officer (CEO). The CEO serves as the District's day-to-day executive manager. Other Board-appointed staff include the District Counsel and Clerk of the Board.

B. *The District's Office of Ethics & Corporate Governance*

The District's Office of Ethics & Corporate Governance ("Ethics Office") was established by the CEO in July of 2013. Its mission is to "provide Executive-level focus and accountability for core District programs that promote transparency and trust in service to the public."[3]

The Ethics Office administers the District's Ethics Program which promotes "full compliance with all applicable ethics laws; provides ethics advice and guidance to support District staff in demonstrating the highest standards of ethical conduct in all District interactions; develops and monitors policies to support a strong culture of ethics and accountability; and ensures alleged breaches of ethics laws or policies are addressed and resolved in an impartial, consistent and effective manner."[4] The Ethics Office handles consultations, interventions, and investigations of ethics complaints. The Ethics Office also administers ethics training for applicable employees within the District as required by California state legislation.[5]

In a recent informational publication, the Ethics Office noted key milestones it accomplished during fiscal year 2014. These include:
- Deployment and analysis of the 2014 Workforce Satisfaction Survey;
- A staff-supported Value and Ethics Cross-Functional Team appointed by the CEO;
- Engagement of Employee Resource Groups;
- Development of the first performance framework for the Board;
- Development of a Transparency Audit and Benchmarking Review as commissioned by the Board;
- Facilitation of annual Governance Policy Work Study sessions;
- 100% District compliance with sexual harassment prevention training; and
- Formulation of a Master Plan for Diversity and Inclusion.

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[2] Information collected from *Director of Ethics and Corporate Governance* a document published by Neher & Associates and provided by SCVWD to SOAProjects; *available at* http://www.executivesearchneher.com/brochures/SCVWD-DirEthicsCorpGov.pdf

[3] *Office of Ethics and Corporate Governance*, SCVWD informational brochure.

[4] *Id.*

[5] *See* AB 1234 *available at*
http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_1201-1250/ab_1234_bill_20051007_chaptered.html

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C. Compliance with State Ethics Training Requirements for Local Government Agencies

A key function of an organization's Ethics Office is to ensure that California's semiannual ethics training requirements are met per Government Code section 53235 ("AB 1234"). The AB 1234 requirements apply to the District, as it qualifies as a local government agency that employs public officials. As discussed below, while confirming the District's full compliance with AB 1234 is beyond the scope of our engagement, it appears that California's required ethics topics are addressed in the training materials provided.

The California Attorney General has provided an outline of uniform guidance for ethics training of public officials.[6] The uniform guidance addresses two primary areas for ethics training including:

1) General ethics principles (Gov. Code, § 53235, subd. (d)); and
2) A brief summary of specific laws concerning conflicts of interests, perquisites of office and government transparency. For in-person training, the ethics law portion of any course should be delivered by California-licensed who is knowledgeable about California's ethics laws.[6] For self- study courses, the Office of Attorney General provides approved online materials on its webpage and links to the, the Fair Political Practices Commission (FPPC).[7]

The District provided SOAProjects with a PowerPoint presentation entitled AB 1234 Ethics Training.[8] Senior Assistant District Counsel, Brian C. Hopper presents AB 1234 Ethics Training in-person to applicable District employees on a semiannual basis. Per ethics training requirements, Mr. Hopper is a California- licensed attorney familiar with California's ethics regulations. Employees have the additional option of self-study through online materials provided through the Attorney General and the FPPC websites.[9]

i. *General Ethics Principles*

As provided in the guidelines, the discussion of general ethics principles should include "the manner in which values such as trustworthiness, respect, fairness and responsibility promote public trust in government. It should also include the importance of avoiding even the appearance of impropriety."[10] The AB 1234 training materials identifies five (5) Principles of Public Service Ethics:

1) Public office is a trust; use it only to advance public interests, not personal gain.
2) Make decisions on the merits, free from partiality, prejudice or conflicts of interest.
3) Conduct government openly, efficiently, equitably and honorably so the public can make informed judgments and hold public officials accountable.
4) Honor and respect democratic principles; observe the letter and spirit of laws.
5) Safeguard public confidence in the integrity of government by avoiding appearances of impropriety and conduct unbefitting a public official.[11]

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[6] Bill Lockyer (CA Attorney General), *Ethics Training for Local Government Officials*; available at
http://oag.ca.gov/sites/all/files/agweb/pdfs/ethics/eth_loc_guide_final.pdf [hereinafter "Guidelines"].

[7] *Office of Ethics and Corporate Governance*, SCVWD informational brochure.

[8] These resources are *available at* http://www.caag.state.ca.us and http://www.fppc.ca.gov respectively.

[9] The presentation was provided to SOAProjects and in hard copy format and consists of 109 slides.

[10] These materials are approved by the California Attorney General and are *available at* https://oag.ca.gov/ethics and
http://localethics.fppc.ca.gov/login.aspx.

[11] Guidelines, *supra* note 7 at page 2.

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A high level review of the AB 1234 training material indicates that it covers each point of the Attorney General's guidelines for general ethics principles as provided above.

    ii.   *Brief Summary of Laws*

AB 1234 also mandates a brief summary of California's ethics laws involving conflicts of interests, privileges of office and government transparency. The chart below indicates specific bodies of law cited by the Attorney General in referencing AB 1234 and indicates whether these are addressed in the District's provided training materials.[12]

Body of Laws	Specifically Cited Regulations	Training Materials	
		Covered	Slide(s)
Personal Financial Gain by Public Servants	Laws prohibiting bribery (Pen. Code, § 68).	✓	40-41
	Conflicts of Interest under the Political Reform Act (Gov. Code, §§ 87100, 87103).	✓	10-13
	Contractual Conflicts of Interest (Gov. Code, § 1090 et seq.).	✓	43-50
	Conflicts of Interest and Campaign Contributions (Gov. Code, § 84308).	✓	15-32
	Conflicts of Interest When Leaving Office (Gov. Code, §§ 87406.3, 87407).	✓	51
Claiming Perquisites of Office	Limitations on the Receipt of Gifts (Gov. Code, §§ 86203, 89503, 89506).	✓	55-57
	Honoraria Ban (Gov. Code, § 89502).	✓	70
	Misuse of Public Funds (Pen. Code, § 424); (Gov. Code, § 8314); *Fair Political Practices Commission v. Suitt* (1979) 90 Cal.App.3d 125; *Stanson v. Mott* (1976) 17 Cal.3d 206)	✓	71-72
	Prohibitions against gifts of public funds (Cal. Const., art. XVI, § 6).	✓	73-77
	Mass mailing restrictions (Gov. Code, § 89001).	✓	80
	Prohibitions against acceptance of free or discounted transportation by transportation companies (Cal. Const., art. XII, § 7).	✓	79
	Economic interest disclosure under the Political Reform Act (Gov. Code, §§ 87200 et seq.)	✓	83

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[12] AB1234 Ethics Training; Presented SCVWD Senior Assistant District Counsel.

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| Government Transparency	Brown Act (Gov. Code, §§ 54950 et seq.).	✓	89-95
	Public Records Act (Gov. Code, §§ 6250 et seq.)	✓	96-98
	Common law bias prohibitions.	✓	101
Fair Processes	Due process requirements.	✓	102-103
	Doctrine of Incompatible Offices (Gov. Code, §§ 1099).	✓	104-105
	Competitive bidding requirements for public contracts.	✓	106
	Disqualification from participating in decisions affecting family members (anti-nepotism laws).	✓	22

From a review of the in-person presentation materials provided and self-study option, the District is in compliance with the semiannual ethics training as outlined by the California Attorney General in referencing AB 1234.

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Section II: Review and Assessment of Existing Organizational Structure

A. *Ethics Office Reporting Structure*

As provided in the District's organizational structure materials below,[13] as of August 2015, the Office of Ethics and Corporate Governance ("Ethics Office") in which the Director of Ethics & Corporate Governance ("Ethics Officer") sits, reports directly to the Office of the CEO. As of the date of this report, no further changes to the Ethics Office structure have been reported.

Figure 2.0: District Reporting Structure
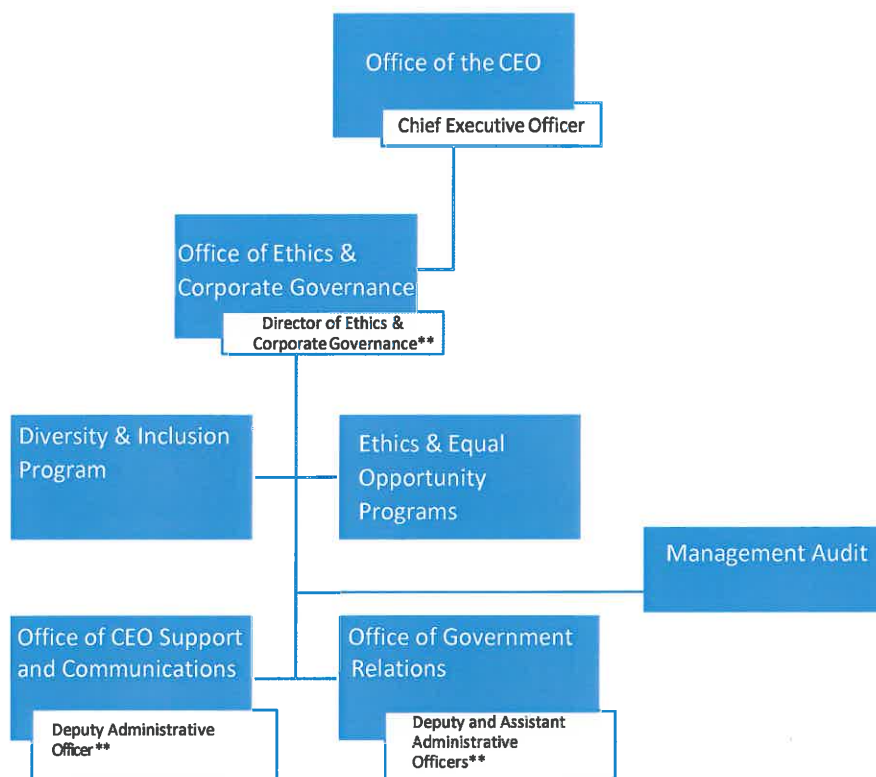
*** As of the date of this report, the Deputy Administrative Officer role under the Office of CEO Support and Communications is vacant. Under the Office of Government Relations, the Assistant Administrative Officer role is vacant.*

Furthermore, as provided below, the Diversity and Inclusion Program, and Ethics and Equal Opportunity Programs fall under the purview of the Ethics Office, along with the Office of CEO Support and Communications, the Office of Government Relations, and Management Audits. At present the Ethics Officer role is vacant.

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[13] SCVWD Internal Organizational Structures provided by the District.

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B. Motivation and Purpose behind the Ethics Office Evaluation

On June 9, 2015 the District held a Board Meeting during which the Directors addressed the issue of the Ethics Office reporting structure. The Board resolved to refer the matter back to staff to review best practices, analyze changes in programs, and staff assignments, and to return to the Board with more information. The above Board inquiry prompted the District to publish a Request for Proposals (RFP), forming the basis of this Ethics Office Evaluation.

C. Scope and Methodology of Ethics Office Evaluation

This Ethics Office Evaluation assesses and reviews the Ethics Office current organization structure so as to assist in determining the appropriate placement of the District's Ethics Office and the reporting structure of the Ethics Officer. Our evaluative report utilizes benchmarking and supplementary techniques in formulating a recommendation of the placement of the Ethics Office on the basis of industry-wide practices and standards. The primary goal of this exercise is to determine the most effective structure for the Ethics Office.

In order to benchmark the District's Ethics Office structure and Ethics Officer reporting lines, SOAProjects collected data, reviewed available documentation, interviewed key District Staff,[14] and surveyed seven comparable local and governmental agencies; five of these agencies are the District's traditional comparator agencies while two have been included for best practice purposes.

The agreed-upon tasks, subtasks, and timeline are provided below in Figure 3.0:

Figure 3.0: Project Overview with Completion Dates

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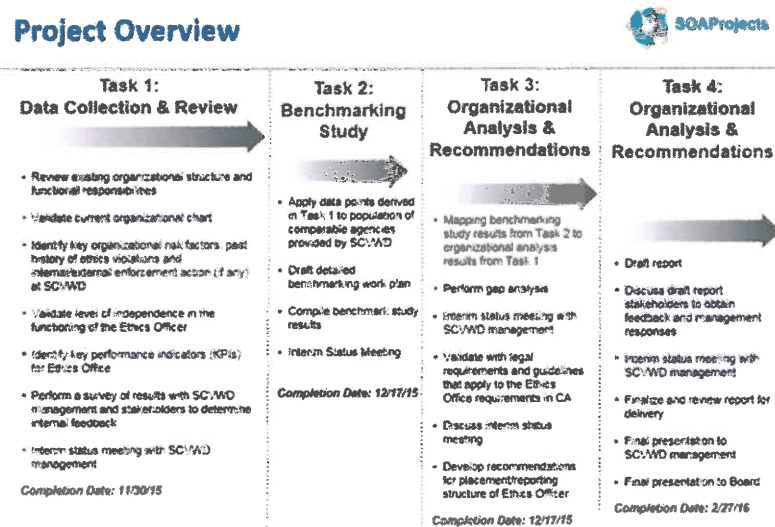
[14] Candice Kwok-Smith (Program Administrator) and Anna Noriega (Program Administrator) [hereinafter District Staff].

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i. *Selection of Comparator Agencies*

The District maintains a list of twelve comparator agencies that it has determined as a suitable comparative population for benchmarking purposes. Per District Staff explanations, these agencies are traditionally used for benchmarking projects due to a number of factors including but not limited to: overall mission; geographic proximity; target populations; comparable programs; and/or functional similarities.

Below is a full list of the District's traditional comparator agencies:

Agency	Type	Website
Alameda County Water District	Water Agency	http://www.acwd.org/
City of Palo Alto	City	http://www.cityofpaloalto.org/
City of San Jose	City	http://www.sanjoseca.gov/
City of Sunnyvale	City	http://sunnyvale.ca.gov/
Contra Costa County Water District	Water Agency	http://www.ccwater.com/
East Bay Municipal Utility District	Water & Utilities	https://www.ebmud.com/
Marin Municipal Water District	Water Agency	https://www.marinwater.org/
Metropolitan Water District	Water Agency	http://www.mwdh2o.com
San Diego County Water Authority	Water Agency	http://www.sdcwa.org/
San Francisco Public Utilities Commission	Water & Utilities	http://www.sfwater.org/
Sonoma County Water Agency	Water Agency	http://www.scwa.ca.gov/
Zone 7 Water Agency	Water Agency	http://www.zone7water.com/

The District also named County of Santa Clara and Valley Transportation Authority (VTA) for consideration based on the factors provided above, namely geography and customer population.

Agency	Type	Website
County of Santa Clara	County	http://sccgov.org
Valley Transportation Authority	Transportation	http://www.vta.org/

The District Staff members conducted due diligence of publicly available information, made initial contact with comparator agency representatives, explained the goal and purpose of the District's Ethics Office Evaluation and asked if the agency would be interested in participating in a benchmarking survey. Based on the feedback received, the District Staff identified five (5) agencies to consider for the Ethics Office Evaluation. District Staff also provided an excel document which named the agency, identified a contact person, and indicated whether or not the respective agency housed an Ethics Office, supported an Ethics Program, and/or had an Ethics Officer role designation.

The agencies selected were:
* City of San Jose; ("San Jose")

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- Metropolitan Water District; ("Metropolitan")
- San Francisco Public Utilities Commission ("SFPUC");
- County of Santa Clara; ("Santa Clara") and
- Valley Transportation Authority ("VTA").

Several comparator agencies were not selected for various reasons, namely:

1) These agencies did not have an Ethics Office or Ethics Officer designation and thus their inclusion would not contribute to a comprehensive set of constructive data; or
2) Those were too small to yield productive data; or
3) Those agencies on the list either declined to participate or failed to respond; or
4) At least two of those agencies were a division of a larger organization already taking part in the survey.[15]

In an effort to add value to the selection process, SOAProjects independently collected data on the ten predominant comparator agencies.[16] The chart contained in Appendix I provides key comparator agency data including:

1) Population size;
2) Whether the agency houses an Ethics Office;
3) Functions and reporting lines; and
4) Notes and links for further reading.

SOAProjects also did independent research of other public agencies and recommended the inclusion of an additional two-comparator agencies, Alameda Health System (AHS) and the City of Oakland due to their developed ethics programs.

Agency	Type	Website
Alameda Health System (AHS)	County	http://alamedahealthsystem.org
City of Oakland ("Oakland")	City	http://www2.oaklandnet.com/Government/o/CityAdministration/d/PublicEthics/index.htm

District Staff approved of the inclusion of these agencies in the Ethics Office Evaluation to allow for a wider set of data for evaluative purposes.

ii.   *Web-Distributed Questionnaire*

In order to capture an accurate depiction of the existence and functional characteristics of an Ethics Office and Ethics Officer role designation within the comparator agencies, SOAProjects developed a 27-question survey to distribute to the participating agency representatives. The District reviewed and approved the

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[15] Zone 7 Water Agency falls under the purview of Alameda County Water District; San Diego County Water Authority is a member agency of Metropolitan Water District.

[16] These exclude the agencies listed *supra* in note 21 and East Bay Municipal Utilities District who declined to participate.

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final version of the questionnaire.

The survey was conducted online using the Survey Monkey tool.[17] SOAProjects provided access to the survey via a web link included in an email invitation to participate. SOAProjects explained the purpose of the survey and highlighted the secure nature of the Survey Monkey tool. For control group purposes, the District also completed the survey.

Survey Question Types	Covered Subject Matter Categories
✓ Yes or No ✓ Dropdown List Selection ✓ Multiple Choice ✓ Summary Explanation ✓ Descriptive Explanation	✓ Ethics Officer and Reporting Lines ✓ Written Policies ✓ Roles & Duties ✓ Ethics Communications

In a few instances, SOAProjects followed up with agency representatives to get further clarification and elaboration of specific responses. As approved by the District, SOAProjects has shared the results of the survey with participants.[18]

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[17] Survey Monkey is an online tool for creating and administering surveys as well as managing and analyzing data. Local government agencies across the United States consistently employ Survey Monkey for benchmarking evaluations. *See* https://www.surveymonkey.com/mp/government-surveys/; Local water agencies including WateReuse California (WRCA) and the California Urban Water Agencies have used the service for benchmarking as well. An example water agency survey is *available at* https://www.surveymonkey.com/r/JY5BN5W.

[18] Appendix II contains a copy of the survey as distributed to agency representatives.

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Section III: Benchmarking Study Results

The sections below detail District and comparator agency responses to the distributed questionnaire. As addressed above, the responses include a total of eight agencies: four (4) of which have an Ethics Officer role designation and four (4) agencies, which do not have the role). The survey information provided below is current as of the time of this writing and based on responses to the web-distributed survey.

Agencies with an Ethics Officer
- Santa Clara Valley Water District ("District") as the control group
- Alameda Health System ("AHS")
- City of Oakland ("Oakland")
- Metropolitan Water District of Southern California ("Metropolitan")

Agencies without an Ethics Officer
- City of San Jose ("San Jose")
- County of Santa Clara ("Santa Clara")
- San Francisco Public Utilities Commission ("SFPUC")
- Valley Transportation Authority ("VTA")

A. Existence of Ethics Officer and Reporting Lines

The District, Metropolitan, AHS, and City of Oakland have an Ethics Officer role designation. Within the respondent agencies, there are various titles that represent the Ethics Officer role (e.g. the District's Director of the Office of Ethics and Corporate Governance; Compliance Officer for AHS; and Executive Director of the Public Ethics Commission for Oakland).

The City of San Jose, County of Santa Clara and VTA do not have an Ethics Officer or equivalent role designation.

The San Francisco Public Utilities Commission ("SFPUC") does not have an official Ethics Officer or Ethics Office, however the Assurance and Internal Controls Director manages ethics issues along with Human Resource (HR) counterparts. There are other San Francisco city and county departments that provide significant oversight and enforcement of ethics (e.g., San Francisco Ethics Commission, Office of the City Attorney, Controller's Whistleblower Program, etc.) Although SFPUC does not have an Ethics Officer, select charts provided include SFPUC's survey responses as supplemental information.

Figure 4.0 Ethics Officer Reporting Lines

Direct Reporting
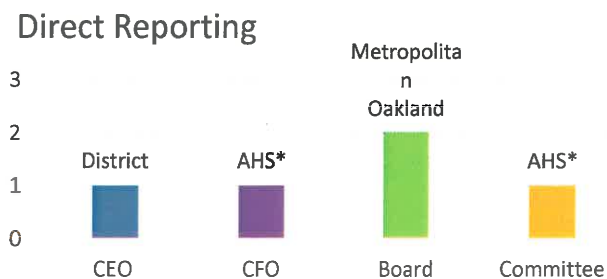
* At AHS the Ethics Officer jointly reports to the Chief Financial Officer (CFO) and to an Audit and Compliance Committee.

Although not pictured, the Assurance and Internal Controls Director of SFPUC reports to the Assistant General Manager of Business Services & the CFO. The ethics-related counterparts within HR report to the HR Director, who reports to the General Manager of SFPUC.

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Figure 5.0: Does Ethics Officer/Equivalent(s) Communicate Directly with Board

Requested Items and Updates

No Direct Reporting

Direct Reporting

0 1 2 3 4

The District's Ethics Officer reports to the Board only on requested items and provides updates throughout the year.

Ethics Officers for Metropolitan, AHS, and City of Oakland have direct lines of communication to their respective Boards.

For SFPUC the Assurance and Internal Controls Director does not communicate to the Board.

Figure 6.0: Divisions & Roles Reporting to the Ethics Officer

Agency	Divisions	Roles

SCVWD	✓ No reporting divisions
	✓ Reporting units:
	  o Government Relations
	  o Office of CEO Support and Communications
	  o Diversity & Inclusion
	  o Management Audit
	  o Ethics & Equal Opportunity Programs
		✓ Program Administrators for Diversity and Inclusion, Management Audits and Ethics & Equal Opportunity Program
		
		✓ Unclassified staff for Government Relations and Office of CEO Support and Communications

AHS	✓ Compliance ✓ HIPAA Privacy ✓ Internal Audit	✓ Compliance ✓ HIPAA Privacy Officer ✓ Corporate Compliance Manager ✓ Internal Audit Project Manager
City of Oakland	✓ Enforcement Unit ✓ Education/Engagement Unit	✓ Deputy Director/Enforcement Chief ✓ Investigator ✓ Ethics Analyst II (IT/Data) ✓ Ethics Analyst I ✓ Administrative Assistant

Metropolitan	✓ Standalone office
	✓ No other reporting divisions
		✓ 2 Analysts and 1 Senior Analyst position
		✓ Proposed restructuring currently pending:
		  o 1 Investigator;
		  o 1 Attorney Analyst
		✓ 1 Deputy Ethics Officer

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Figure 7.0: Roles that Assist Ethics Officer (where applicable)

District	Metropolitan	City of Oakland
• District Counsel primarily • Others where needed: Labor Relations, Administration, HR, and Unclassified	• General Counsel • Where there is a disagreement over procedure, Audit and Ethics Committee determines	• Commission Staff • Deputy City Attorney

Figure 8.0: Summary of Ethics Officer Responsibilities

District	• Administers Ethics Program; • Receives, manages, and resolves complaints and issues related to ethics, harassment and discrimination; • Recommends work policies and programs that promote ethical values; • Leads development of ethical strategies, business plans, programs, ordinances, policies, procedures, decisions; • Oversees the review and analysis of proposed federal, state and local legislative, administrative and regulatory actions that may impact the District; and • Advises and confers with CEO, COO, & CAO for ethics programs and related matters. • Manages audits, Diversity & Inclusion Program, Communications, Government Relations, Mandatory Training, Reasonable Accommodations, Equal Employment Opportunity (EEO), and Office of CEO Support
AHS	• Investigates potential compliance violations; • Maintains compliance and ethics hotline; • Designs and hosts live compliance and ethics trainings; • Develops corporate policies relating to compliance as needed; • Investigates potential HIPAA violations; and • Performs compliance reviews to ensure programs are effective.
City of Oakland	• Executive Director reports to the Commission and is responsible for managing Commission operations and staff of 5 who provide education, outreach, disclosure of campaign finance and conflict of interest data, audits/detection, and enforcement of the laws in the Commission's jurisdiction.
Metropolitan	• Drafts internal rules regarding conflicts of interest, political activity, gifts, lobbying etc; • Advises and educate about these rules; • Investigates potential violations; • Maintains ethics hotline; • Designs and hosts live ethics trainings; • Hosts live sexual harassment prevention training (for directors only); and • Administers District's Statement of Economic Interest (SEI)/Form 700 filing officer duties.

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B. *Roles & Duties*

The figures below detail and illustrate substantive responses to queries regarding:

- Functional responsibilities of roles where there is no Ethics Officer; and
- General escalation and investigative processes involving ethical complaints within the comparator agencies.

As is reflected, each organization has separate processes and distinct roles and functions that contribute to overall ethical governance of the respective local agency.

Figure 9.0: Party Responsible for Handling Ethical Issues Where There is No Ethics Officer

San Jose	Santa Clara	SFPUC	VTA
City Manager	County Counsel	HR City Attorney, Citywide roles as necessary (e.g. SF Dept. of HR)	Director of Business Services General Counsel, or Auditor General

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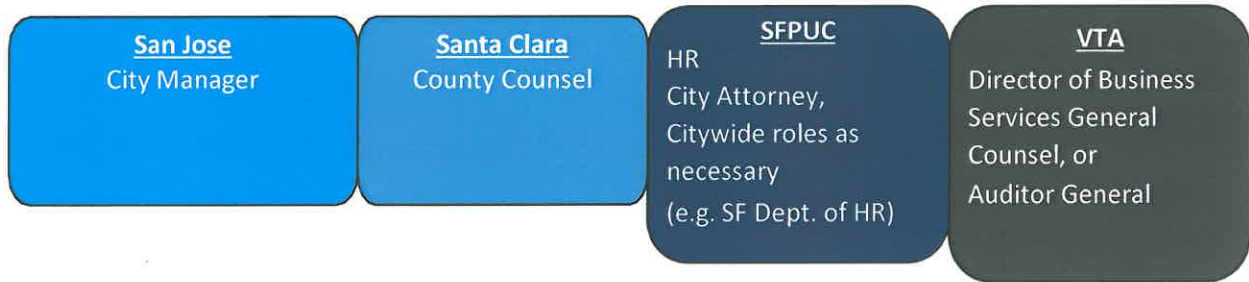
Figure 10.0: General Escalation Process for Reporting Ethical Violations

District	Employees can report any ethical concern to their management chain, report anonymously through email, or contact their respective union or the Equal Employment Opportunity (EEO) office. Where the complaint is sustained after an investigation, it is referred to HR, the District Counsel, or Labor Relations.
AHS	Employees report to direct management; If it is not resolved, the issue is escalated to higher management. Employees may also directly contact the Compliance Officer by phone, email corporate hotline or web reporting tool.
City of Oakland	The process is under review currently; At present ethic issues are subject to legal analysis by the City Attorney, then escalate as necessary.
City of San Jose	Concerns raised at the department level can be escalated to the Office of Employee Relations, to which the City Manager has delegated the task of handling ethics-related issues. Concerns may be escalated to the City Manager on a case-by-case basis.
Metropolitan	All stakeholders are encouraged to file ethics complaints where needed. Office of Ethics makes an initial determination about whether, if true, the allegations constitute a violation. Any investigation subject or the General Counsel can challenge the Office's determination; Where there is an impasse, the matter can be brought before a Committee of the Board's Audit and Ethics Committee for a final determination. If the investigation moves forward, a report is presented to an ad hoc Committee and then to either the relevant Department Head to take appropriate action or to the Board's Executive Committee if the subject is a director. The Executive Committee makes final disposition on the matter and can impose (limited) disciplinary measures against a
County of Santa Clara	Employees/Supervisors contact County Counsel regarding specific ethics issues; e.g., conflicts of interest. Deputy County Counsels, acting as legal advisors to departments of the County, look independently at whether any particular matter gives rise to an ethical issue.
SFPUC	Employees report suspected ethical violations to their supervisors, Human Resources, or via hotline. Reports can also be made anonymously and do not have to follow 'reporting relationships'. Controller's Office website allows anonymous whistleblowing. Assurance and Internal Controls will occasionally field reports of suspected ethical violations and route to the appropriate contacts.

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Figure 11.0: Complaints against Board Members & CEO

Board Member or CEO Complaints
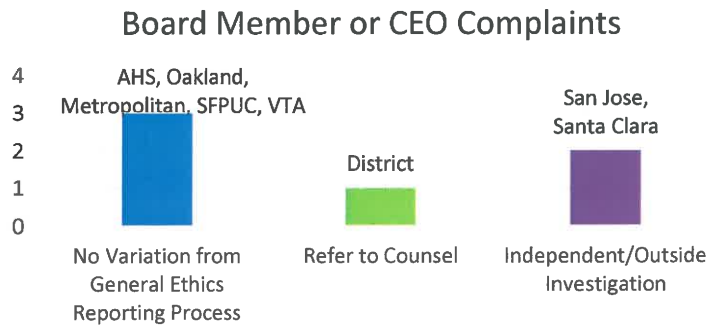
Figure 12.0: Complaints against Ethics Officer

District	Referred to District Counsel.
AHS	Directed to Audit and Compliance Committee, CFO, or General Counsel.
Metropolitan	Complaints would likely be investigated by the General Counsel's office and reviewed by the Audit and Ethics Committee or Executive Committee.
City of Oakland	Referred to City Attorney.

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Figure 13.0 Are Ethics Complaints Reported to the Board?

District	San Jose	Metropolitan	Oakland
Complaints are not routinely reported to the Board. However, if a complaint requires board attention, (e.g. rises to the level of potential litigation) this is discussed during a closed session board meeting.	Complaints are confidential. Only shared on a need to know/right to know basis.	Complaints are summarized in monthly reports to the Board.	After an investigation, staff either dismisses or proposes closure, settlement or public hearing at the board meeting.

Santa Clara	SFPUC	VTA	AHS
If complaint rises to board level, it is reported confidentially; If litigation is initiated, this is discussed in closed session.	No set requirement/ procedure for internal reporting of violations to the Board. The general public can voice concerns in various forums inclusive of the SFPUC Commission meetings, Board of Supervisors meetings, along with correspondence (in various forms) to city senior/executive personnel.	The Auditor General reviews all calls/emails from a 3rd party ethics Hotline and determines best course of action. All the calls/emails are reported to the Board on a quarterly basis by category (fraud, harassment, customer service) total number and whether the claims are open or have been closed. No specifics are shared with the Board.	Complaints are directed to the Audit and Compliance Committee, CFO, or General Counsel.

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Figure 14.0: How are corrective measures taken, processed, and implemented?

District	San Jose	Metropolitan	Oakland
Complaints with merit are investigated and corrective measures are implemented as appropriate by respective management. In terms of discipline of a sustained complaint, Labor Relations works with the respondent's management chain to enact corrective measures. Ethics office is not involved in disciplinary actions.	Corrective measures may be taken through the disciplinary process varying from informal discipline to formal discipline, which involves holding a Skelly hearing and potentially an evidentiary hearing in front of the Civil Service Commission.	Ethics Office only makes recommendations to staff.	Commission can suggest employee disciplinary action or can require remedial action such as training, forfeiture of funds, etc.

County of Santa Clara	SFPUC	VTA	AHS
In the Whistleblower program context, each report where an allegation is sustained must also include an explanation of the corrective measures employed.	The SFPUC Human Resources Department will review, investigate and address (as needed) reported suspected ethics violations (or respond to inquiring oversight departments or commissions, when applicable). A specific protocol is followed.	Complaints are investigated, corrective measures are implemented as appropriate on a case-by-case basis.	Compliance Officer and Compliance Manager review all complaints to ensure proper assignment and timely resolution. Investigation is conducted based on the type of issue and the area of the organization.

Figure 15.0: Methods for Receiving Ethics Complaints

Email	District	AHS	SFPUC					
Hotline	San Jose	AHS	Metropolitan	Oakland	SFPUC	District (internal extension)		
Writing	District	AHS	San Jose	Metropolitan	County of Santa Clara	Oakland	SFPUC	VTA
In Person	District	AHS	San Jose	Metropolitan		Oakland	SFPUC	VTA
Online	County of Santa Clara	AHS	District	SFPUC				

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C. *Written Policies*

The figures below detail how often the comparator agencies review and update their Ethics Compliance policy; itemize other applicable internal policies; and provide the frequency and type of employee ethics training.

Figure 16.0: Agency Review and Update of Ethics Compliance Policy

Figure 17.0: Internal Policies

Currently Existing Policies	SCVWD	AHS	City of Oakland	City of San Jose	Metropolitan	County of Santa	SFPUC	VTA
Ethics Compliance	X	X	X	X	X	X	X	X
Whistleblower	-	X	X	X	X	X	X	-
Nepotism	X	-	X	X	X	X	X	X
Revolving Door	-	-	X	X	X	X	-	-
Common Law & Contractual Conflicts of Interest	X	X	X	X	X	X	X	X
Political Activities	X	-	X	X	X	X	X	X
Outside Employment	X	-	X	X	X	X	X	X
Gifts	X	X	X	X	X	X	X	X
Incompatible Activities	X	-	X	X	-	X	X	X

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Figure 18.0: Visibility of Policies

Physical Posting of Policies
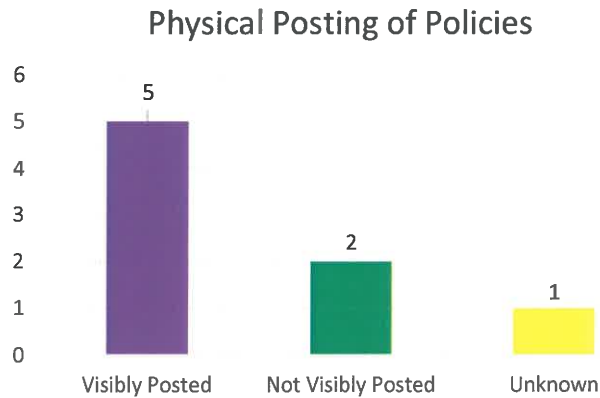
In the context of this survey, visibility of policies refers to a physical posting of internal policies in a public or communal place within the organization's headquarters. This includes but is not limited to: bulletin boards, break-rooms, cafeterias, and other accessible areas for employees. AHS, Metropolitan, City of San Jose, County of Santa Clara and SFPUC have posted their policies so that they are visible to employees. While policies are provided on company-wide intranet and website, the District and City of Oakland do not physically post their internal policies. The VTA respondent is uncertain as to whether the policies are visibly posted.

Figure 19.0: Frequency of Employee Ethics Training

Training Frequency
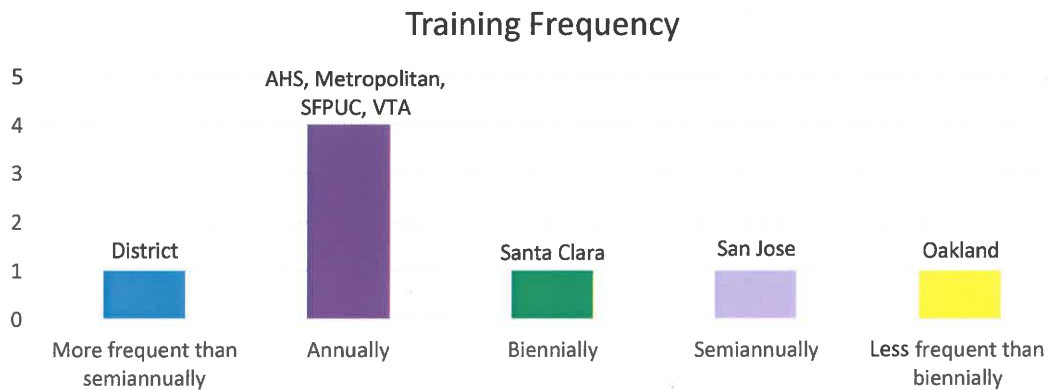
All comparator agencies provide semi-annual ethics training as mandated by AB 1234. Some training is provided on an as-needed basis (i.e. new hire on-boarding). The types of training available are detailed in Figure 20.0 below.

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Figure 20.0: Ethics Training Available to Staff, Management, Board of Directors

District	✓ Statutorily mandated training pursuant to AB 1234 ✓ Training is provided for each new hire and promotion category that is required to file on an on-going basis ✓ Form 700, Statement of Economic Interests ✓ Gift Giving (provided annually near the holidays) ✓ Benefits ✓ Outside Employment
AHS	✓ Standards of Conduct ✓ False Claims Act ✓ Compliance Reporting ✓ Conflict of Interest ✓ Non-Retaliation ✓ Unlawful Discrimination
City of Oakland	✓ Statutorily mandated training pursuant to AB 1234
City of San Jose	✓ Statutorily mandated training pursuant to AB 1234 ✓ Training is a part of new director and new employee orientations, and subject to our current
Metropolitan	✓ Statutorily mandated training pursuant to AB 1234 ✓ Ethics training is provided as part of new director and new employee orientations, and subject to staff resource restriction ✓ Ethics office additionally targets small groups of employees with presentations intended to address specific ethics issues related to their areas ✓ Provides general presentations to help employees in the field understand the goals and purpose of the ethics office
County of Santa	✓ Statutorily mandated training pursuant to AB 1234
SFPUC	✓ Statutorily mandated training pursuant to AB 1234 ✓ New employees are provided in-person training for ethics-related policies ✓ In-person training is conducted by the San Francisco City Attorney's Office ✓ Online training for Fraud Awareness and Prevention ✓ Annual distribution and requested acknowledgement to all employees for the SFPUC Statement of Incompatible Activities ✓ Regular follow-up and expectation for completion of Form 700 Statement of Economic Interests for all applicable employees
VTA	✓ Statutorily mandated training pursuant to AB 1234 ✓ Ethics presentation by General Counsel during New Employee Orientation ✓ Gifts and Gratuities training to staff in specific departments provided annually ✓ Board of Directors Orientation is provided annually

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Section IV: Proposed Options with Pros and Cons

Placement of the Ethics Office and Ethics Officer Reporting Structures

As is evident from the survey results of the comparator agencies, there is not a universally adopted reporting structure for Ethics Officers within local government agencies in California. Applicable state and federal regulations, such as AB 1234 or other guidelines promulgated by the Fair Political Practices Commission (FPPC), do not mandate a certain reporting structure; nor is a specific Ethics Officer role designation required. For the City of San Jose, County of Santa Clara, VTA, and the District's other comparator agencies,[19] roles such as the City Manager, County Counsel, Director of Business Services, General Counsel, or Auditor General have ethics-related duties in the absence of an Ethics Officer role.

Of the respondent comparator agencies that have an Ethics Officer, the direct reporting lines vary; the District's Ethics Officer reports to the CEO; the Ethics Officers for and AHS report to the CFO; and Metropolitan and City of Oakland Ethics Officers report to the Board. In addition to reporting directly to the CFO, some roles may also report to committees or Committees of the Board of Directors (e.g. at AHS, the Ethics Officer reports to the Audit and Compliance Committee). At SFPUC, there are also ethics- related counterparts within Human Resources.

The sections below detail different reporting structure options and provide substantive pros and cons of each. Several comments apply to multiple scenarios; we simply offer them to generate internal discourse on the topic.

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[19] *See* chart provided on page 10.

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	Pros
	Accountability and Action Where an Ethics Officer reports directly to the CEO, it is less likely that important ethics initiatives remain stagnant. This could occur where there are too many process owners involved and where reporting lines and structures are not clear and direct. Delay and inactivity can also occur where majority approval is required, as in the case of board resolutions. In an area as crucial as ethics and compliance, it is important to ensure that progress and important programs are actively maintained and streamlined to promote timely effectiveness. **Empowerment** The CEO, particularly one that heads a local government agency, is an everyday leader who can impact and foster a culture of ethical compliance. Thus, an Ethics Officer with a direct line to the CEO has the power to influence, promote, and advise on key initiatives for advancement of ethical compliance within the organization as a whole.
	Cons
Office of the CEO: *Ethics Officer Reporting to the CEO*	**Potential Lack of Independence** Independence is a central tenet of best practices for any ethics or compliance officer role designation.[20] In essence, the ethics officer must have "sufficient authority and independence to oversee the integrity of the compliance program." Factors that impact independence include but are not limited to: reporting line, board access, escalation procedures, an independent budget, and an adequate staff to properly manage the overall compliance program.[21] Where the Ethics Officer reports directly to the CEO there is a potential risk for lack of independence. If this scenario occurs, there may not be a value in the Ethics Program, if the CEO is not interested in fostering a culture of ethical compliance (as mentioned above), and/or is under investigation for ethical violations. Without an independent committee or supplemental reporting structure, an unwilling or incapable CEO may disempower an Ethics Officer. **Conflicts of Interest** A conflict of interest occurs where the Ethics Officer reports to the CEO and an ethical violation involves the CEO, a member of his or her office, an ally, a supporter, etc. In this scenario, it is necessary for the Ethics Officer to go outside of traditional reporting lines, so as to guard against undue influence from his or her supervising role. Although there may be controls in place for this occurrence, such as the involvement of in-house counsel or an outside investigator, the juxtaposition of the Ethics Officer, his or her duties, and the reporting relationship with the CEO imposes a considerable burden.

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[20] *See* Donna Boehme, *Structuring The Chief Ethics And Compliance Officer And Compliance Function For Success: Five Essential Features Of An Effective CECO Position* in SOCIETY OF CORPORATE COMPLIANCE AND ETHICS: THE COMPLETE COMPLIANCE AND ETHICS MANUAL, 2d Ed. (2010) *available at* http://compliancestrategists.com/csblog/wp-content/uploads/2014/04/CECO_Success_excerpt-copy-1.pdf
[21] *Id.* at 237.
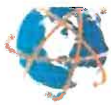
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	Pros
Office of the CFO/COO: *Ethics Officer Reporting to the CFO/COO*	**Involvement in Strategic Meetings** Another key tenet of best practices for Ethics Compliance programs allows the Ethics Officer to have "a seat at the table."[24] In reporting to the CFO/COO, the Ethics Officer would be involved in budget reviews, strategic planning meetings, disclosure committee meetings, operational reviews, and risk and crisis management meetings. The Ethics Officer's involvement emphasizes the importance of ethics and compliance in all related areas of the organization. **Allocation of Resources** Generally, the Chief Operating Officer (COO) and Chief Financial Officer (CFO) are responsible for managing an organization's day-to-day operations and financial planning respectively. If the Ethics Officer reports to the COO or CFO, this could increase the emphasis and awareness of the resources needed for the effective functioning of the Ethics Office (e.g. number of staff, program funding, etc.).
	Cons
	Additional Layers of Reporting Within the District, as with most comparable organizations, the COO/CFO reports to the CEO, who reports to the Board. If the Ethics Officer were to report to the COO/CFO, this would add an additional layer of reporting and bureaucracy. Additional reporting lines could delay important Ethics Office initiatives and complicate existing reporting relationships.

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	Pros
	Impartiality If the Ethics Officer role were a standalone position that reported directly to the Board of Directors this would allow for impartiality and the avoidance of potential conflicts of interest. Each board or committee member would be informed and knowledgeable about the current state of Ethic Office affairs, and have the power to vote on the best course of action for the organization as a whole.
	Cons
Standalone Office: *Ethics Officer Reporting to Board*	**Strained Timeliness and Efficiency** As with any large public governmental agency, the Board of Directors do not typically hold daily or even weekly meetings. The District, for example, generally holds its board meetings twice a month. An agenda for a typical local agency Board meeting could amount to several pages and allocate time for public comment. Thus, timeliness and efficiency could be strained if the Ethics Officer needed to report and get approval from the Board before taking necessary actions under his or her purview. **Public Nature of Board Meetings** While there are closed session Board meetings, the typical Board meeting of the District and comparable agencies is open to the public. Citizens can request to comment at the meetings. Many agencies make board meeting sessions available online and provide written minutes. An Ethics Officer who reports directly to the board, usually recounts the latest events and developments pertaining to the Ethics Office. For ethical violations, especially those involving key staff, agencies may prefer to keep such matters private.

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	Pros
Standalone Office: *Ethics Officer Reporting to Ethics Committee*	**Joint Ownership of Ethics Program** An internal Ethics Committee would share the responsibility of overseeing the agency ethics program. For the Ethics Officer this provides a forum and cross-functional collaboration to generate and uphold ethics policies. The Committee could include the agency's in-house counsel, Human Resources Director, and other related personnel. The Ethics Officer reports directly to the committee members, receives feedback, and plans new directives accordingly. **Enhanced Ability to Act and Address Current Issues** Since a typical Ethics Committee has far less participants than the average Board of Directors, meetings can happen more timely and more topics can be covered in shorter timeframe. This frees up more time for Ethics Officer and members of his or her office to engage the employee population and ensure that ethics policies are followed. **Privately Held Meetings** The ability to have private meetings is especially advantageous in the context of ethics violation, investigations and other compliance related matters. It should be noted that private meetings for applicable local government entities may only occur where a quorum is not present. **Streamlined Communication to the Board** The members of the Ethics Committee could generate a joint report on a quarterly basis to foster streamlined and consistent communication to the Board. If committee members agree that a specific matter is time-sensitive and requires immediate attention, they could request a special Board meeting in closed-session.
	Cons
	Development of Additional Processes The creation of an Ethics Committee necessitates the development of new processes. Namely choosing the members and head of the Ethics Committee, deciding the length of each term, determining the schedule and frequency of meetings and other administrative matters.

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	Pros
	Legal Expertise and Oversight
	An agency's in-house counsel should be familiar and connected to all aspects of legal processes within the organization. This affords a greater opportunity to understand the scope and responsibilities of the Ethics Officer position and the legal requirements (such as ethics training) that fall under the Ethics Officer purview. Thus, the District Counsel would be in a position to offer insight and guidance as well as effective managerial influence over the Ethics Officer.
Legal Department:	**Cons**
Ethics Officer Reporting to General/District Counsel	**Conflicting Obligations**
	Even if the agency's counsel has a thorough knowledge of applicable ethics regulations and a dynamic understanding of the legal processes in different departments, the role has a dissimilar focus than that of an Ethics Officer, which could impose significant conflict. An example is the best practice principle of transparency.[22] Where an Ethics Officer would feel obligated to draft and distribute a report on recent ethical violations, the District Counsel has the legal obligation to maintain confidentiality and uphold attorney-client privilege. Without, an Ethics Committee these conflicting obligations could cause strain in the Ethics Officer-District Counsel reporting relationship.

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[22] *See* Erica Salmon-Byrne and Jodie Frederickson, *The Business Case for Creating a Standalone Chief Compliance Officer Position*, Ethisphere White Paper *available at* http://ethisphere.com/the-business- case-for-creating-a-standalone-chief-compliance-officer-position/.

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Section V: Recommended Option and Implementation Plan

Per the completion of the benchmark survey, we recommend that the Ethics Officer report directly to the District Counsel on a day-to-day basis with monitoring of programmatic goals by an Ethics Committee. This Committee should periodically issue status updates and reports to the Board of Directors. Based on the organizational structure of the District, the Ethics Officer classification should be at the Deputy level. The Ethics Committee should be composed of senior-level District employees, ideally this would include a senior member of the legal department, human resources, and other offices with ethics-related functions.[23] The Ethics Officer would report to the body and receive input on key aspects of the District's Ethics Program and affiliated developments. The Ethics Officer, upon advice and feedback from the Committee, would provide reports to the Board of Directors on a consistent basis. This reporting structure follows best practices[24] and increases ownership over the Ethics Program and engagement at the top levels of the organization.

The respondent comparator agencies that have an Ethics Officer do not designate the Chief Executive Officer as the role's day-to-day direct report. The AHS Ethics Officer reports jointly to the CFO and an Audit and Compliance Committee, while the Metropolitan and City of Oakland Ethics Officers report directly to the Board. Per discussions with District Staff, day-to-day reporting to the Board would pose significant challenges; it would require restructuring and changes in policy. Additionally, the District has requested that we identify a direct report rather than a dual or joint reporting structure.

As such, we considered the District Counsel as the best case for the purposes of day-to-day reporting and an Ethics Committee for programmatic direction. There are additional advantages for the District Counsel as the Ethics Officer's direct report, as discussed above; namely expertise in ethics compliance regulations such as AB 1234, familiarity with all aspects of legal processes and litigation matters within the organization, and a heightened duty of confidentiality to its client, the District. Where a potential conflict of interest arises, the Ethics Officer would have the opportunity to engage the Ethics Committee.

The Ethics Committee should not act as a mechanism that filters the independent judgment of the Ethics Officer but rather as a forum to discuss the implementation of key strategies for the advancement of ethics. Generally, the Ethics Committee should be kept abreast of ongoing ethics investigations. Key discussion and implementation topics include: culture, accountability, values, performance criteria, training and communication plans, resource allocation, policies, and general matters arising from investigations, and disciplinary actions.[25]

The following table summarizes the District's current Ethics Office, Recommendations and Best Practices.

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[23] An Ethics Committee is addressed in the District's Code of Ethics section Ad-2.11. However, this committee is no longer active.

[24] *See* data pertaining to Metropolitan Water District *available at* http://www.mwdh2o.com/WhoWeAre/Management/Ethics-Officer; *See also* Boehme, *supra* note 22.

[25] *See* Boehme, *supra* note 22.

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Covered Areas	Assessment Criteria	Current State Analysis	Recommendations	Best Practices
Ethics Officer and Reporting Lines	Is there an Ethics Officer in the organization?	• Four of eight organizations have an active Ethics Officer. SCVWD does have a designated position but it has been vacant since July 2015.	• To fill the vacant Ethics Officer position.	• A separate and independent Ethics Officer should be the agent for the board's fiduciary obligations to provide oversight and accountability.
Ethics Officer and Reporting Lines	Is the reporting structure of Ethics Officer consistent with similar organizations included in the benchmark study?	• None of the organizations surveyed reported to the CEO. • For the three of four organizations that do have an Ethics Officer, the reporting structures vary. Ethics Officers report to (1) Audit and Compliance Committee and CFO jointly; (2) Board of Directors; and (3) Public Ethics Commission (Independent City board). • SCVWD currently does not have a Designated Board Member and/or Committee to actively oversee ethics function.	• The District Counsel should have direct functional oversight over the Ethics Officer role. • SCVWD should create an Ethics Committee to actively participate and direct Ethics Office initiatives, advise on program implementation, and develop strategy objectives. • The Ethics Committee should have an open line of communication to the Board of Directors. • The Ethics Committee should provide progress reports on the implementation of Ethics Office programs to the Board of Directors. • For example, the Ethics Committee could monitor the progress and implementation of The Value and Ethics Final Report Recommendations. • The Board may request status updates on an as-needed basis.	• Ethics Office should report to an independent oversight board or committee; Committee should review complaints and dispositions with Ethics Officer's guidance. • Some boards or committees have a rotating chairperson; generally every 3 years. • Provide outside training to the Board or Ethics Committee on recent trends and risks. • If there are ongoing or recurring litigation matters, consider embedding Compliance and Ethics within the Legal Department for day-to-day reporting. Attorney-client privilege may be affected, oversight by Board or Ethics Committee is key. Where Ethics Officer reports to, General Counsel or Legal Department, it is important to implement safeguards to minimize filtering of concerns or issues.

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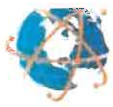| Covered Areas	Assessment Criteria	Current State Analysis	Recommendations	Best Practices
				• Ethics Officer has responsibilities that entail monitoring, and responding to allegations of misconduct by, senior management and staff; independence and the ability to operate free of undue influence is critical.
Ethics Officer and Reporting Lines	Responsibilities under the purview of the Ethics Officer	• Unrelated units and related staff report to the Office of Ethics and Corporate Governance: Government Relations, Office of CEO Support and Communications, Diversity and Inclusion, Management Audits, Ethics & Equal Opportunity Programs (including Reasonable Accommodations and EEO mandatory training)	• The Ethics Office should be a standalone department. • Separate Office of CEO Support and Communications, Diversity and Inclusion, Equal Employment Opportunity Programs from the Ethics Office. • For the three other agencies that have an Ethics Officer, the responsibilities appear to focus on Compliance, Risk Detection/Audits, Lobbying, Conflict of Interest, Privacy, Internal Audits, Fraud Detection and Awareness, Compliance Training, ethics policy drafting, etc. • Consider Management Audit as a function of the Ethics Office. • Reassess the org structure and ensure that the functions reporting to the Ethics office are relevant to the Ethics Office objectives and independence.	• Ethics Office should be an independent function with Ethics and Corporate Governance-related functions reporting to it.

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Covered Areas	Assessment Criteria	Current State Analysis	Recommendations	Best Practices
Ethics Officer and Reporting Lines	Does Ethics Officer have direct line of communication with the Board?	• Per SCVWD, "the Director of Ethics & Corporate Governance is responsible for reporting to the Board on requested items, and does provide updates throughout the year pertaining to the areas, which report into that office." The Director role has been vacant since mid-2015.	• Support direct communication between Ethics Office and the Board.	• Best practice is for Ethics Officer to report directly to the Board or at least have open lines of communication.
Roles and Duties	Board Oversight of Ethics Function	• Board does not have oversight of ethics issues. It appears that the Ethics Office does not have routine and established communication with the Board. Ethics Office will only provide updates to the Board on requested items or functions reporting to Board.	• Establish formal Board oversight of Ethics function and include formal meetings and communication.	• Establish formal Board oversight of Ethics function and include formal meetings and communication.

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Roles and Duties	Day to Day Oversight	• No Ethics Officer since July 2015. • The four agencies that do not have an Ethics Officer have County Counsel, City Manager, or Audit General handle the typical responsibilities of an Ethics Office.	• Appoint an Ethics Officer to have day-to-day responsibility for overseeing the management of compliance and reputational risks. This should be the agent for the board's fiduciary obligations to provide oversight and accountability. It requires someone with an uncommon breadth of experiences who can design the necessary risk architecture, assess business and cultural risks across a variety of functions and develop training.	• It is best practice to designate an independent Ethics Officer who handles Ethics Related issued on the organization.

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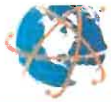| Covered Areas	Assessment Criteria	Current State Analysis	Recommendations	Best Practices
Roles and Duties	Escalation process for reporting ethical complaints	• There are multiple options for raising ethics complaints: "Employees can report any ethical concerns to their management chain, HR, their respective union, or the EEO office" • However, the reporting process is not strictly anonymous, instead of an anonymous hotline, there is an internal extension (x3008), where the caller's number is visible for calls made using a company phone. • There does not appear to be formal protection against retaliation, confidentiality; and employees may find it hard to raise concerns about management to their supervisors.	• The agencies participating in the benchmark study, varied in their reporting of ethical complaints from encouraging employees to report suspected ethical violations to their supervisors, Human Resources, the Controller's Office Whistleblower Program (hotline), direct managers, HR, anonymous whistleblower website. It appears that 3 of the agencies have anonymous hotlines available to employees. • It is pertinent to have anonymous ways for employees, staff, executives, unions' and Board members to report and escalate ethics related complaints.	• It appears that SFPUC is implementing the Best Practices for their reporting of ethical complaints. "Employees are encouraged to report suspected ethical violations to their supervisors, Human Resources, or the Controller's Office Whistleblower Program (hotline). Reports can also be made anonymously and do not have to follow 'reporting relationships'. There is also a website through the Controller's Office that allows for anonymous whistleblowing. Assurance and Internal Controls will occasionally field reports of suspected ethical violations and will immediately route to the appropriate contacts. "
Roles and Duties	Review of Ethics Reports related to ethics issues	• The Board members receive updates on unethical complaints as requested by the Board.	• Summary reports pertaining to all issues should be presented to the Board not only requested items; Board Members might not be aware of some of the key complaints.	• Dashboard reports should be provided to Board on a predetermined and agreed upon timeline (monthly, quarterly, etc.)

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| Roles and Duties | Tools / Process to measure and monitor Ethics Program effectiveness. | • There does not appear to be tools and processes to review and measure the effectiveness of the Ethics Program. | • Identify tools relevant to SCVWD that are needed proactively to measure effectiveness. At a minimum there should be a risk assessment that focuses the board and senior management on significant risks and the highest risk concentration within the organization, and provides the basis for honest consideration of the actions necessary to avoid, mitigate, or remediate those risks.
• Independent internal function with the authority to investigate ethics violations.
• Create and strengthen partnerships with HR, Legal, and Internal Audit by scheduling quarterly meetings. | • Proactive effectiveness reviews include:
-Training and
-Hotline Data
-Employee Surveys
-Risk Assessments
-Audit Results (Internal/ External) including fraud and conflicts of interest.
-Regulatory Findings and/or Exam Results
-Litigation/Criminal Action/Fines
-Employee Disclosures
-Business-Specific Metrics
-Benchmarking Data
• The District has established a process for investigating and implementing corrective actions. There should be continued monitoring and updates of the process. |

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Covered Areas	Assessment Criteria	Current State Analysis	Recommendations	Best Practices
Roles and Duties	Ethics-related complaints reported to the Board and/or other stakeholders within the organization	• Currently the Board is not being updated regularly.	• Six agencies communicate at least some updates to the Board. One agency prepares monthly reports, one agency prepares a quarterly report, two agencies prepare reports for each of the board meetings, and two report on an as-needed basis. • We recommend preparing a dashboard style report that can be presented to the Board and provide a high level summary, yet maintain transparency, confidentially, resolutions, and action items for discussion.	• Metropolitan Water District of Southern California uses the best practice of summarizing complaints in monthly reports to the Board. *See Appendix III for an excerpt.*

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Covered Areas	Assessment Criteria	Current State Analysis	Recommendations	Best Practices
Written Policies	Existence of written policies.	• Infrequent Ethics Policy reviews and updates (less than every two years) • No standalone Anti-Retaliation or Whistleblower policies.	• Review Ethics Policy at least yearly and augment current policies to cover current environment. • Six agencies have Whistleblower policies. It is pertinent that SCVWD add policies on Anti-Retaliation, Whistleblower, and possibly Anti-Bribery, unless policies already exist under a different division/unit.	• Review policies at least every 12 months and update as appropriate.
Written Policies	Written policies not visibly posted	• Written policies are not visibly posted on bulletin boards, in common areas such as break-rooms, cafeterias etc.	• Five of the agencies post their policies in a visible location. Post policies in a highly visible location online and physical form, such as break-rooms.	• Post policies in a highly visible locations (breakrooms, cafeterias etc.) in physical form; Distribute to employees.
Ethics Communication	Communication of issues to the Board	• No established protocol on communication of ethics related complaints and issues to the Board.	• Establish process where Ethics Officer regularly meets with Board and provides updates, including any urgent issues.	• Frequent and predetermined meetings are held for Board updates. A designated Board member is available for urgent discussions and decisions.
Ethics Communication	Ethics Training	• Ethics training is offered in accordance with AB 1234 • Ethics issues are also addressed in materials provided by the Equal Employment Opportunity Office (EEO) and training on Form 700, Statement of Economic Interests.	• Host mandatory ethics trainings for employees at least once a year either via web or in person. Implementation of processes to ensure that all Employees to sign off on Ethics policies and expectations including requirement of compliance.	• Host mandatory annual ethics trainings for employees at least once a year. This can be done independently with a signature, online, in-classroom, etc. • Employees need to be aware of the policy as well as the options for reporting and available resources

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Covered Areas	Assessment Criteria	Current State Analysis	Recommendations	Best Practices
			• Other agencies, conduct ethics training and outreach, through email announcements, videos, ethics orientation, emails to employees with policy updates, and signature of pledge upon hiring.	.
Ethics Communication	Ethics Hotline	• SCVWD has an anonymous, ethics email address and an internal extension (x3008) but completely anonymous Whistleblower Program / Hotline does not exist for ethics violations.	• Set-up an anonymous and confidential Whistleblower Hotline, preferably through a third-party. • Consistently monitor all ethics complaints and seek timely investigation (where needed) and resolution.	• Anonymous and confidential reporting options either by hotline or online should be available. • Ethics help lines are not just for reporting unethical conduct but also allow an organization to provide guidance and interpretation of its expectations when the intent of an ethics policy is unclear. • Additionally it is important to implement Monitoring and Tracking systems. It does not suffice to merely track and monitor employ behavior. It is also critical to assess the extent to which employees accept and internalize the organization's values and ethics code.

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Appendix I

Relevant Information of Comparator Agency List

Agency	Alameda County Water District	City of Palo Alto	City of San Jose	City of Sunnyvale	Contra Costa Water District	Marin Municipal Water District	Metropolitan Water District	San Francisco Public Utilities Commission	Sonoma County Water Agency	County of Santa Clara	Valley Transportation Authority
Population Size	1.5 mil	66,955	1 mil	140,100	1 mil	252,400	19 mil.	852,500	483,900	1.8 mil	1.8 mil
Ethics Office or Equivalent	None	Employee Ethics Hotline	Ethics Commission	None; "Code of Ethics and Conduct is intended to be self-enforcing"	None	Yes; Ethics Officer	Yes; Ethics Officer	Ethics Commission is an independent body established as an Amendment to the City Charter.	No information publicly available.	Ethics Commission	VTA Ethics Hotline Program
Functions/Reporting	N/A	Office of City Auditor (OCA) reports incidents from employee ethics hotline to City Council.	Commission comprised of five members, each serving a four-year. Reports to the City Council and submits annual reports.	Councilmembers should point out to the offending Councilmember infractions of the Code of Ethics and Conduct. If the offenses continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being challenged, then the matter should be referred to the Vice Mayor.	N/A	General Manager responsible for: -ensuring compliance with the District's personnel/administrative policies and procedures -ensuring that District employees do not engage in improper activities -investigating allegations of improper activities -taking appropriate corrective and disciplinary actions. Board ensures that the General Manager is operating the District according to law and the policies approved by the Board. Board Members: -disclose to the General Manager improper activities within their knowledge. -do not interfere with the	Ethics Officer reports directly to the Board and is responsible for developing, implementing and maintaining Metropolitan's ethics policies for employees... General Manager, General Auditor, and the General Counsel are responsible for providing guidance to the Ethics Officer on formulating ethics policies, or revisions thereof, as well as implementation and compliance monitoring issues.	The Ethics Commission consists of five members appointed by the Assessor, Board of Supervisors, Mayor, City Attorney and the District Attorney. Each commissioner serves a term of six years. Each commission member also serves as a committee head to perform different functions. Officers: Chairperson and Vice-Chairperson; Commission Staff: Executive Director and other employees. City Attorney is legal advisor to the commission.	N/A	The Ethics Commission consists of seven (7) members: 5 members (one nomination from each District) and 2 members at-large. The Ethics Commission has authority to independently exercise all powers necessary to regulate, investigate, subpoena records, conduct hearings, and issue orders to enforce the code of ethics.	Auditor General is on the Board of Directors along with General Counsel and CEO. Office of Auditor General submits quarterly ethics complaints in a summary/numerical fashion.
Notes		The Hotline Review Committee is composed of: City Auditor, the City Manager, and the City Attorney. The Committee only meets as needed to review all activity related to the hotline. OCA submits quarterly reports to City Council. Ref: http://www.cityofpaloalto.org/civicax/filebank/documents/30357	Monitors compliance with all campaign and ethics ordinances in the San José Municipal Code. The commission reviews and investigates allegations of violations of the Code and makes recommendations for enforcement action where appropriate. The Ethics Commission also makes recommendations to the council with regard to campaign and ethics regulations and policies. Ref: http://www.sanjoseca.gov/index.aspx?NID=452 https://www.sanjoseca.gov/DocumentCenter/View/4552 http://www.sanjoseca.gov/DocumentCenter/View/2960 7	Sunnyvale City Council, boards and commission members have the primary responsibility to assure that ethical standards are understood and met under Sunnyvale Code of Ethics and Conduct. The chairs of boards and commissions and the Mayor and Council have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention. Ref: http://sunnyvale.ca.gov/Portals/0/Sunnyvale/CodesAndPolicies/CouncilPolicy/2015%20Code%20of%20Ethics%20and%20Conduct.pdf	No information publicly available.	The Board provides policy direction and instructions to the General Manager on matters within the authority of the Board by majority vote of the Board during duly convened Board and Board committee meetings. Members of the Board deal with matters within the authority of the General Manager through the General Manager, except as it pertains to the functions of the General Counsel.	Ethics Officer creates monthly and quarterly reports. Business plans are also available online. Ref: http://mwdh2o.com/WhoWeAre/Management/Ethics-Officer	Commission acts as filing officer for, and auditor of, financial disclosure statements filed by political candidates and committees and designated City and County employees. The Commission provides open access to public records in ethics-related matters. Ref: http://www.sfethics.org/ethics/2009/05/ethics-commission-mission-code-and-Information.html#v; http://www.sfethics.org/files/ethics_bylaws.pdf http://www.sfethics.org/ethics/2009/05/complaints.html#v	No information publicly available.	Meetings are only held on an as needed basis. As available online all seats are vacant. Ref: https://www.sccgov.org/sites/bos/bmc/CASODocs/MaddyReport.html#ETHICS COMMISSION https://www.sccgov.org/sites/bos/Legislation/BOS-Policy-Manual/Documents/BOS_Policy_Manual_Apendix.pdf	Ref: http://santaclaravta.iqm2.com/Citizens/Detail_LegiFile.aspx?Frame=&MeetingID=2135&MediaPosition=&ID=5106&CssClass=

Appendix II

Ethics Office Evaluation - SCVWD Benchmarking Survey

A. Written Policies

1. Are there written ethics policies, procedures and/or standards of conduct for employees and the Board of Directors?

   ○ Yes

   ○ No

   Unknown

2. Select the following written policies that exist within your organization:

   ○ Ethics Compliance

   ○ Whistleblower

   ○ Nepotism

   ○ Revolving Door

   ○ Common Law and Contractual Conflicts of Interest

   ○ Political Activities

   ○ Outside Employment

   ○ Gifts

   Incompatible Activities

3. Are the above policies visibly posted?

   ○ Yes

   ○ No

   Unknown

4. How often is the ethics policy reviewed?

   ○ Annually

   ○ Semiannually

   ○ Biennialiy

   ○ More frequent than provided answers

   ○ Less frequent than provided answers

   ○ Unknown

5. What ethics based training does your organization provide to staff, management and Board?
6. If applicable, in what frequency are employees trained?

- ○ Annually
- ○ Semiannually
- ○ Biennially
- ○ More frequent than provided answers
- ○ Less frequent than provided answers
- ○ Not Applicable

B. Ethics Officer and Reporting Lines

7. Is there an Ethics Officer or equivalent within the organization?

- ○ Yes
- ○ No

8. If there is an Ethics Officer or equivalent, who does he/she report to?
9. What divisions within the organization report directly into the Ethics Office and Officer?
10. What role(s), if any, report to the Ethics Officer or equivalent?
11. What responsibilities fall under the Ethics Officer's purview?
12. Does Ethics Officer have direct line of communication with the Board? Briefly explain

C. Roles and Duties

13. If there is no Ethics Officer, who is responsible for handling ethics-related issues within the organization?
14. If there is an Ethics Officer, are there other roles within the organization that assist with oversight or day-to day management of ethical issues? (e.g. District or General Counsel, Chief Administrative Director etc.)
15. What is the general escalation process for reporting ethical violations within the organization?
16. How are ethics related claims against a Board Member or the CEO handled?
17. How are ethics-related complaints against the Ethics Officer or equivalent handled?
18. Are ethics-related complaints reported to the Board and/or other stakeholders within the organization? If so, what is the process and how often?

D. Ethics Communication

19. How is general information about ethics communicated to your employees?
20. How are complaints received and handled?
21. Who reviews reports related to ethics issues?
22. How are corrective measures taken, processed, implemented?
23. Are ethics based issues and resolutions reported out to the organization?

- ○ No, information is reported only to involved parties and personnel responsible for the resolution process.

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○   Yes, incidents are reported to the organization.

○   Unknown

E. **Ethics Hotline**

24. Is there an ethics hotline for reporting ethical violations?

     ○   Yes

     ○   No

25. In what frequency are complaints received via hotline?
26. How are hotline complaints handled?
27. Do you have other methods of reporting ethical violations (besides a hotline)? Please describe.

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Excerpt from Metropolitan Monthly Report to the Board of Directors

ETHICS OFFICE MONTHLY REPORT
BOARD OF DIRECTORS
Metropolitan Water District of Southern California
For January 2016

FORM 700 FILING SEASON

A new economic disclosure (Form 700) season begins this February. Metropolitan filers, including all directors, will receive via email a link to Metropolitan's electronic filing provider and instructional video on how to use the system.

This year's filings are due April 1, 2016. New employees and directors who filed assuming office statements on or after October 1, 2015 are not required to file annual statements until 2017. As with last year, filers have a choice of filing electronically or manually.

Ethics Office staff members remain prepared to assist with any software issues or any questions related to disclosure of interests and related matters. In light of recent personnel changes, please send any questions or requests for assistance via email to dghaly@mwdh2o.com until further notice.

The FPPC's most current fact sheet which answers many common questions about disclosure is attached to this report. The fact sheet should not solely be relied upon to ensure compliance.

The Ethics Office, while working jointly with the General Counsel's Office, can assist with questions and can research more complex issues. The FPPC also provides advice through its advice hotline (telephone number 866-275-3772) or website (www.fppc.ca.gov)

It is also not too early to start planning for the 2017 disclosure season. Recently enacted legislation (Senate Bill 21) requires that any travel payment reportable as a gift must disclose the destination as well as other details as noted in Form 700, Schedule E. Reporting this additional information for travel payments received in 2015 is permitted but not required.

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PROJECTS AND INITIATIVES

The Ethics Officer and staff remain engaged in several projects and initiatives for review, analysis, and evaluation of various aspects of its activities:

- ❖ Upcoming departmental budget and personnel proposal and review.

- ❖ Design and preliminary implementation of electronic matter management and document management software solution.

- ❖ Amendments to Metropolitan's conflict of interest code (i.e., designated positions and disclosure categories).

- ❖ Monthly director conflict bulletins.

- ❖ Upcoming director training session on avoiding sexual harassment on March 7, 2016.

- ❖ Joint analysis with General Counsel's Office on conflict avoidance in budget review process

MONTHLY ADVICE AND ASSISTANCE

The Ethics Office provides advice, counseling, or other assistance to any director, officer, employee, or contractor regarding application or interpretation of Metropolitan's ethics rules or policies. Absent unusual circumstances, the Office gives its advice in writing.

The Office can provide advice only prospectively, i.e., about future activities. If it becomes apparent that a request for advice or other assistance concerns events that have already occurred, it might be necessary to review the matter as a potential violation. In January 2015, the Office provided analysis and advice in the following areas:

- ❖ Concurrent outside employment.

- ❖ Potential conflicts of interest due to prior employment by proposed vendor.

- ❖ Potential conflicts of interest due to immediate relative's employment by a proposed vendor.

- ❖ Campaign contributions by potential vendors.

- ❖ Holiday gifts from vendors.

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MATTERS ADDRESSED FY 2015-16

	FY 14/15	Jul 2015	Aug 2015	Sept 2015	Oct 2015	Nov 2015	Dec 2015	Jan 2016	Feb 2016	Mar 2016	Apr 2016	May 2016	June 2016	FY 15/16
Ethics Complaints														
Abuse of Authority	14	1	2	4			2	1						10
Political Activities								1						1
Conflict of Interest	1													0
Discrimination					1									1
Economic Disclosure														0
Gifts														0
Misleading Associations														0
Nepotism														0
Outside Employment														0
Outside Scope of Ethics Codes	21						1							1
Revolving Door														0
Whistleblower Protection	3													0
Total Complaints	39	1	2	4	1	0	3	2	0	0	0	0	0	13
														0
Ethics Advice														0
Abuse of Authority	5	2				2								4
Political Activities	2						1	1						2
Conflict of Interest	19	1	2	3	4	3		11						24
Economic Disclosure	15			2										2
Gifts	3		1	2			3							6
Misleading Associations														0
Nepotism														0
Outside Employment	4		1		1									2
Outside Scope of Ethics	5													0
Public Interest				1										1
Revolving Door	5	3												3
Whistleblower Protection														0
Total Questions	60	6	4	8	5	3	4	12	0	0	0	0	0	44
Combined Total	313	7	6	22	6	3	7	14	0	0	0	0	0	57