



POLICY COMMITTEE MEETING OF THE BOARD OF TRUSTEES

February 13, 2019

5:00 PM

AGENDA

The Policy Committee is not a decision-making body and only makes recommendations to the Board.

Policy Committee Meetings are accessible to people with disabilities. Individuals who need special assistance or a disability-related modification or accommodation (including auxiliary aids or services) to participate in this meeting; or who have a disability and wish to request an alternative format for the agenda, meeting notice, agenda packet or other writings that may be distributed at the meeting, should contact District Manager Chindi Peavey at least five working days before the meeting at (650) 344-8592. Notification in advance of the meeting will enable the District to make reasonable arrangements to ensure accessibility to this meeting and the materials related to it.

Public records that relate to any item on the open session agenda for a Policy Committee meeting are available for public inspection. Those records that are distributed less than 72 hours prior to the meeting are available for public inspection at the same time they are distributed to all Policy Committee members. The Policy Committee of the Board has designated the office of the San Mateo County Mosquito and Vector Control District, located at 1351 Rollins Road, Burlingame, for the purpose of making those public records available for inspection.

1. CALL TO ORDER.

2. PLEDGE OF ALLEGIANCE.

3. ROLL CALL.

- Chairperson Kati Martin will take roll call. _____
- Robert Riechel, City of San Bruno _____
- Ed Degliantoni, City of San Mateo _____
- Donna Rutherford, City of East Palo Alto _____
- Carolyn Parker, City of Brisbane _____
- Kat Lion, City of Redwood City _____



4. PUBLIC COMMENTS AND ANNOUNCEMENTS.

- This time is reserved for members of the public to address the Policy Committee of the Board relative to matters of the Committee not on the agenda. No action may be taken on non-agenda items unless authorized by law. Comments will be limited to five minutes per person (ten minutes where a translator is being used).

5. REGULAR AGENDA

District Policy Manual

- A. **District Policy 6060 Fraud** – *consider recommending the Board adopt the 2017 sample policy on Fraud Prevention from the California Special Districts Association in place of the District Policy 6080.*

6. ADJOURNMENT

Review of District Policy 6080 Fraud Prevention

BACKGROUND

The District's policy on Fraud Prevention was issued in July of 2013 and needs to be updated. The District Manager reviewed the policy with the Finance Director and legal counsel. District General Counsel Alexandra Barnhill recommended that the District consider adopting the California Special Districts Association sample policy which was published in 2017. Labor counsel reviewed the CSDA policy of 2017 and approved it, if language was added to prevent conflict with the District's Employee Manual. The CSDA sample policy solves the problems with the District's current policy on Fraud Prevention.

Problems with the current fraud policy

The organization of the policy is confusing with some things repeated in different parts of the policy. Therefore the policy needs to be reorganized, placing all of the definitions in one place, all discussion of investigation in another etc.

Currently, the policy calls for the entire Board or the Board officers or the Finance committee to be responsible for investigating fraud. But fraud investigations are best conducted by an outside investigator or small group of 1 to 3 members.

There need to be clear provisions for who conducts the investigation, who is responsible for responding to a report of fraud.

It should be clearly laid out that the Board or at least the Board officers, be informed immediately when irregularities are found indicating fraud. The Board should receive reports on what is being done and what the results of the investigation are. Investigation of financial fraud should be done by an independent investigator or auditor.

If the manager is suspected of fraud, District counsel should be the one to whom it is reported and would then arrange for an investigation to be conducted.

Some of the provisions in the current policy on Fraud Prevention may conflict with or duplicate policies on discipline in the Employee manual. The District's labor counsel Yvonne Everett has reviewed the CSDA policy and recommended adopting it with the addition of the following language:

“to the extent there is a conflict between this policy and the Employee Manual and/or applicant collective bargaining agreement, the Employee Manual and/or the collective bargaining agreements will take precedence/control.”

Staff Recommendation:

District staff and legal counsel recommend adopting the 2017 sample policy with the addition of the following to the end of the policy: “to the extent there is a conflict between this policy and the Employee Manual and/or applicant collective bargaining agreement, the Employee Manual and/or the collective bargaining agreements will take precedence/control.”

Attachments

1. CSDA Sample policy on fraud prevention (2017)
2. Current District Policy 6080 Fraud Prevention issued in 2013



POLICIES AND PROCEDURES

TITLE: Fraud Prevention

NUMBER: 6080

6080.10 The District fraud policy is established to facilitate the development of controls that will aid in the detection and prevention of fraud against the District. It is the intent of the District to promote consistent organizational behavior by providing guidelines and assigning responsibility for the development of controls and conduct of investigations.

6080.20 This fraud policy applies to any irregularity, or suspected irregularity, involving employees as well as consultants, vendors, contractors, outside agencies doing business with employees of such agencies, and/or any other parties with a business relationship with the District.

6080.21 Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position/title, or relationship to the District. When appropriate the County's legal department will be notified of suspected fraud.

6080.30 Management is responsible for the detection and prevention of fraud, misappropriations, and other irregularities.

6080.31 Fraud is defined as the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his or her injury.

6080.32 Each member of the management team will be familiar with the types of improprieties that might occur within his or her area of responsibility, and will be alert for any indication of irregularity.

6080.33 Any irregularity that is detected or suspected must be reported immediately to the District Manager and Board President, who coordinates all investigations with the County Counsel and other affected agencies, both internal and external.

6080.40 The terms defalcation, misappropriation, and other fiscal irregularities refer to, but are not limited to the following.

6080.41 Any dishonest or fraudulent act.

6080.42 Forgery or alteration of any document or account belonging to the District.

6080.43 Forgery or alteration of a check, bank draft, or any other financial document.

6080.44 Misappropriation of funds, securities, supplies, equipment, or other assets of the District.

6080.45 Impropriety in the handling or reporting of money or financial transactions.

6080.46 Disclosing confidential and proprietary information to outside parties.

6080.47 Accepting or seeking anything of material value from contractors, vendors, or persons providing services/materials to the District. Exception: Gifts less than \$50 in value.

6080.48 Destruction, removal, or inappropriate use of records, furniture, fixtures, and equipment.

6080.49 and any similar or related irregularity.

6080.50 Irregularities concerning an employee's moral, ethical, or behavioral conduct should be resolved by District Directors with specific direction, if necessary, from the Finance Director who directs the District's Human Resource Programs.

6080.51 If there is any question as to whether an action constitutes fraud, contact the Finance Director or the District Manager, or County Counsel.

6080.60 The Finance (Audit) Committee (Trustees) has the primary and initial responsibility for the investigation of all suspected fraudulent acts as defined in this policy.

6080.61 The Finance (Audit) Committee (Trustees) may utilize whatever internal and/or external resources it considers necessary in conducting an investigation.

6080.62 If an investigation substantiates that fraudulent activities have occurred, the Finance (Audit) Committee (Trustees) will issue reports to appropriate designated personnel and, if appropriate, to the Board of Trustees, and/or District Executive Committee, County Counsel, and/or the District Attorney's Office.

6080.63 Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be

made in conjunction with legal counsel and senior management, as well as the desired final depositions of the case.

6080.64 If suspected fraud or other wrongdoing involves programs funded in whole or in part with federal funds, additional responsibilities, such as special reporting and disclosure to the awarding agency, may apply to the District. It is the policy of the District to fully comply with all additional reporting, disclosure and other requirements pertaining to suspected acts of fraud as described in award documents.

6080.70 The Finance (Audit) Committee (Trustees) and the Finance Director will treat all information received confidentially.

6080.71 Any employee who suspects dishonest or fraudulent activity will notify the Finance Director or the Finance (Audit) Committee Chair or the District Manager, immediately, and will not attempt to personally conduct investigations or interviews/interrogations related to any suspected fraudulent act.

6080.72 Investigation results will not be disclosed or discussed with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of persons suspected but subsequently found innocent of wrongful conduct and to protect the District from potential civil liability.

6080.73 The Finance (Audit) Committee (Trustees) is authorized to conduct closed sessions at which such matters may be discussed.

6080.80 Trustees on the Finance (Audit) Committee will have the following authority for investigation of suspected fraud.

6080.81 Free and unrestricted access to all District records and premises.

6080.82 The authority to examine copy and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who may use or have custody or any such items or facilities when it is within the scope of their investigation.

6080.90 Great care must be taken in the investigation of suspected improprieties or irregularities so as to avoid mistaken accusations or alerting suspected individuals that an investigation is under way.

6080.100 An employee who discovers or suspects fraudulent activity will contact the Finance Director or the Chair of the Finance (Audit) Committee (Trustees), or District Manager, immediately.

6080.101 The employee or other complainant may remain anonymous.

6080.102 All inquiries concerning the activity under investigation from the suspected individual(s), his or her attorney or representative(s), or any other inquirer should be directed to the Finance (Audit) Committee (Trustees), District Manager, or County Counsel.

6080.103 No information concerning the status of an investigation will be given out.

6080.1031 The proper response to any inquiry is "I am not at liberty to discuss this matter."

6080.1032 Under no circumstances should any reference be made to "the allegation", "the crime", "the fraud", "the forgery", "the misappropriation", or any other specific reference.

6080.104 The reporting individual should be informed of the following.

6080.1041 Do not contact the suspected individual in an effort to determine facts or demand restitution.

6080.1042 Do not discuss the case, facts, suspicions, or allegations with anyone unless specifically directed to do so by the District Legal Counsel or the Finance (Audit) Committee (Trustees).

6080.110 If an investigation results in a recommendation to terminate an individual, the recommendation will be reviewed for approval by the Finance Director (Human Resources), the District Legal Counsel, and the District Manager, before any such action is taken.

6080.1101 The Finance (Audit) Committee (Trustees) does not have the authority to terminate an employee.

6080.1102 The decision to terminate an employee is made only by the District Manager.

6080.1103 Should the Finance (Audit) Committee (Trustees) believe the District Management's decision inappropriate for the facts presented, the facts will be presented to the District Executive Committee for review and decision.

6080.120 The District Manager is responsible for the administration, interpretation, and application of this policy.

6080.1201 The District Policy Committee will review this policy annually and propose revisions to the full Board of Trustees as they feel are needed.

6080.130 Revisions to this Policy can only be made by the affirmative vote of a majority of the District Board of Trustees present and voting as a properly agendized meeting.

Issued: July 10, 2013

Legal Review:



POLICY TITLE: Asset Protection and Fraud in the Workplace
POLICY NUMBER: 2105

2105.1 Purpose and Scope: To establish policy and procedures for clarifying acts that are considered to be fraudulent, describing the steps to be taken when fraud or other dishonest activities are suspected, and providing procedures to follow in accounting for missing funds, restitution and recoveries.

2105.2 The [DISTRICT] is committed to protecting its assets against the risk of loss or misuse. Accordingly, it is the policy of the [DISTRICT] to identify and promptly investigate any possibility of fraudulent or related dishonest activities against the [DISTRICT] and, when appropriate, to pursue available legal remedies.

2105.3 Definitions:

- a) Fraud – Fraud and other similar irregularities include, but are not limited to:
1. Claim for reimbursement of expenses that are not job-related or authorized by District policy;
 2. Forgery, falsification, or unauthorized alteration of documents or records (including but not limited to checks, promissory notes, time sheets, independent contractor agreements, purchase orders, budgets, etc.);
 3. Misappropriation of District assets (including but not limited to funds, securities, supplies, furniture, equipment, etc.);
 4. Inappropriate use of District resources (including but not limited to labor, time, and materials);
 5. Improprieties in the handling or reporting of money or financial transactions;
 6. Authorizing or receiving payment for goods not received or services not performed;
 7. Computer-related activity involving unauthorized alteration, destruction, forgery, or manipulation of data or misappropriation of District-owned software;
 8. Misrepresentation of information;
 9. Theft of equipment or goods;
 10. Any apparent violation of federal, state, or local laws related to dishonest activities or fraud;
 11. Seeking or accepting anything of material value from those doing business with the District including vendors, consultants, contractors, lessees, applicants, and grantees. Materiality is determined by the District's Conflict of Interest Code which incorporates the Fair Political Practices Commission's regulations;
 12. Any other conduct, actions or activities treated as fraud or misappropriation under any federal or state law, rule or regulation.



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- b) Employee – In this context, employee refers to any individual or group of individuals who receive compensation, either full- or part-time, including members of the Board of Directors, from the [DISTRICT]. The term also includes any volunteer who provides services to the [DISTRICT] through an authorized arrangement with the District or a District organization.
 - c) Management – In this context, management refers to any manager, supervisor, or other designated individual who manages or supervises District's resources or assets.
 - d) Internal Audit Committee – In this context, if the claim of fraud involves anyone other than the District's General Manager, the Internal Audit Committee shall consist of the General Manager, the District's Legal Counsel and any other persons appointed to the Internal Audit Committee by the General Manager. If the claim of fraud involves the District's General Manager, the Internal Audit Committee shall consist of the President of the Board of Directors of the District, the District's Legal Counsel and those persons appointed to the Internal Audit Committee by the President of the Board. Nothing contained in this policy shall be construed as requiring the General Manager or the President of the Board to appoint other persons to the Internal Audit Committee. Individuals appointed to the Internal Audit Committee by the General Manager or the President of the Board other than the District's Legal Counsel shall serve at the pleasure of the General Manager or the President of the Board.
 - e) External Auditor – In this context, External Auditor refers to independent audit professionals who perform annual audits of the District's financial statements and are appointed by the District's Board of Directors.

2105.4 It is the District's intent to fully investigate any suspected acts of fraud, misappropriation, or other similar irregularity. An objective and impartial investigation will be conducted regardless of the position, title, and length of service or relationship with the District of any party who might be or become involved in or becomes the subject of such investigation. An employee being investigated for fraud may request representation by a representative of any recognized bargaining unit that represents the employee.

2105.5 Each department of the District is responsible for instituting and maintaining a system of internal controls to provide reasonable assurance of the prevention and detection of fraud, misappropriations, and other irregularities. Management staff should be familiar with the types of improprieties that might occur within their areas of responsibility and be alert for any indications of such conduct.

2105.6 For claims of fraud not involving the General Manager, the General Manager or an Internal Audit Committee appointed by the General Manager shall have primary responsibility for investigation of activity covered by this policy. For claims of fraud involving the General Manager, the President of the Board or an Internal Audit Committee appointed by the President shall have primary responsibility for investigation of activity covered by this policy. The District's General Counsel shall advise the Committee, the General Manager or the Board President on all such investigations.



2105.7 Throughout the investigation, the Internal Audit Committee will inform the General Manager of pertinent investigative findings

2105.8 An employee will be granted whistle-blower protection when acting in accordance with this policy so long as her or she has not engaged in activity that violates this policy. When informed of a suspected impropriety, neither the District nor any person acting on its behalf shall:

- a) Dismiss or threaten to dismiss an employee providing the information,
- b) Discipline, suspend, or threaten to discipline or suspend such an employee,
- c) Impose any penalty upon such an employee, or
- d) Intimidate or coerce such an employee.

Violations of this whistle-blower protection policy will result in discipline up to and including termination.

2105.9 Upon conclusion of the investigation, the results will be reported to the General Manager or, if the investigation involves the General Manager, the Board President, who shall advise the Board of Directors.

2105.10 Following review of investigation results, the General Manager or the Board President, as the case may be, will take appropriate action regarding employee misconduct. Disciplinary action can include termination, referral of the case for criminal prosecution, or both.

2105.11 The General Manager or the General Counsel will pursue every reasonable effort, including court-ordered restitution, to obtain recovery of District losses from the offender, other responsible parties, insurers, or other appropriate sources.

2105.12 Procedures:

2105.12.1 Board of Directors Responsibilities

- a) If a Board Member has reason to suspect a fraud has occurred, he or she shall immediately contact the General Manager or the Board President, if the activity involves the General Manager, and the District's Legal Counsel.
- b) The Board Member shall not attempt to investigate the suspected fraud or discuss the matter with anyone other than the General Manager or Board President, as the case may be, and the District's Legal Counsel.
- c) The alleged fraud or audit investigation shall not be discussed with the media by any person other than the General Manager or the Board President after consultation with the District's Legal Counsel and any Internal Audit Committee appointed as to the matter.

2105.12.2 Management Responsibilities

- a) Management staff are responsible for being alert to, and reporting fraudulent or related dishonest activities in their areas of responsibility.



- b) Each manager should be familiar with the types of improprieties that might occur in his or her area of responsibility and be alert for any indication that improper activity, misappropriation, or dishonest activity did occur or is occurring.
- c) When an improper activity is detected or suspected, management should determine whether an error or mistake has occurred or if there may be dishonest or fraudulent activity.
- d) If a manager determines a suspected activity may involve fraud or related dishonest activity, he or she should contact his or her immediate supervisor or the District's General Manager. If the activity involves the General Manager, it shall be reported to the Board President or the District's Legal Counsel.
- e) Managers should not attempt to conduct individual investigations, interviews, or interrogations other than as directed by the General Manager or General Counsel. However, manage staff are responsible for taking appropriate corrective actions to implement adequate controls to prevent recurrence of improper actions.
- f) Management staff should support the District's responsibilities and cooperate fully with the Internal Audit Committee, other involved departments, and law enforcement agencies in the detection, reporting, and investigation of criminal acts, including the prosecution of offenders.
- g) Management staff must give full and unrestricted access to all necessary records and Personnel to those responsible for identifying, investigating and remedying fraud and related dishonest acts. All District assets, including furniture, desks, and computers, are open to inspection at any time. No District officer, agent or employee has a reasonable expectation of privacy in District property and other resources to preclude such inspection.
- h) In dealing with suspected dishonest or fraudulent activities, great care must be taken. Therefore, management staff should avoid the following:
 - 1) Incorrect accusations;
 - 2) Alerting suspected individuals that an investigation is underway;
 - 3) Treating employees unfairly; and
 - 4) Making statements that could lead to claims of false accusations or other offenses.
- i) In handling dishonest or fraudulent activities, managers have the responsibility to:
 - 1) Make no contact (unless requested) with the suspected individual to determine facts or demand restitution. Under no circumstances should there be any reference to "what you did", "the crime", "the fraud", "the misappropriation", etc;
 - 2) Avoid discussing the case, facts, suspicions, or allegations with anyone outside the District, unless specifically directed to do so by the General Manager; and
 - 3) Avoid discussing the case with anyone inside the District other than employees who have a need to know such as the General Manager, Internal Audit Committee, the District's Legal Counsel or law enforcement personnel.
 - 4) Direct all inquiries from the suspected individual, or his or her representative, to the General Manager, the Board President, or the District's Legal Counsel. All inquiries by an attorney of the suspected individual should be directed to the General Manager or the District's



Legal Counsel. All inquiries from the media should be directed to the General Manager or the Board President, if the activity involves the General Manager.

- 5) Take appropriate corrective and disciplinary action, up to and including dismissal, after consulting with the [position or department] and Legal Counsel, in conformance with District policy and applicable law.

2105.12.3 Employee Responsibilities

- a) A suspected fraudulent incident or practice observed by, or made known to, an employee must be reported to the employee's supervisor for reporting to the proper management official.
- b) When an employee believes his or her supervisor may be involved in inappropriate activity, the employee shall make the report to the next higher level of management and/or the General Manager. If the activity involves the General Manager, it shall be reported to the Board President or the District's Legal Counsel.
- c) A reporting employee shall refrain from further investigation of the incident, confrontation with the alleged violator, or further discussion of the incident with anyone, unless requested by the General Manager, Internal Audit Committee, the District's Legal Counsel, or law enforcement personnel.

2105.12.4 Internal Audit Committee Responsibilities

- a) Upon assignment by the General Manager or the Board President, an Internal Audit Committee will promptly investigate the fraud.
- b) In all circumstances where there reason to suspect a criminal fraud has occurred, the Internal Audit Committee, in consultation with the District General Manager or the Board President and Legal Counsel, if the General Manager is suspected of involvement in the fraud, will contact the appropriate law enforcement agency.
- c) The Internal Audit Committee shall be available and receptive to relevant, confidential information to the extent allowed by law after consultation with the District's Legal Counsel.
- d) If evidence is uncovered showing possible dishonest or fraudulent activities, the Internal Audit Committee will:
 - 1) Discuss the findings with management and the General Manager;
 - 2) Advise management, if the case involves District staff members, to meet with the [position title] (or his/her designated representative) to determine if disciplinary action should be taken;
 - 3) Report to the External Auditor such activities to assess the effect of the illegal activity on the District's financial statements;
 - 4) Coordinate with the District's risk manager regarding notification to insurers and filing of insurance claims;
 - 5) Take immediate action, after consultation with the Legal Counsel, to prevent the theft, alteration, or destruction of evidence. Such action shall include, but is not limited to:



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- a) Removing relevant records and placing them in a secure location, or limiting access to those records
 - b) Preventing the individual suspected of committing the fraud from having access to the records.
- 6) In consultation with the District Legal Counsel and the local law enforcement agency, the Internal Audit Committee may disclose particulars of the investigation with potential witnesses if such disclosure would further the investigation.
 - 7) If the Internal Audit Committee is contacted by the media regarding an alleged fraud or audit investigation, the Internal Audit Committee will refer the media to the General Manager or Board President, if the activity involves the General Manager.
 - 8) At the conclusion of the investigation, the Internal Audit Committee will document the results in a confidential memorandum report to the General Manager or the Board President for action. If the report concludes that the allegations are founded and the District's Legal Counsel has determined that a crime has occurred, the report will be forwarded to the appropriate law enforcement agency.
 - 9) The Internal Audit Committee shall make recommendations to the appropriate department as to the prevention of future similar occurrences.
 - 10) Upon completion of the investigation, including all legal and personnel actions; all records, documents, and other evidentiary material, obtained from the department under investigation will be returned by the Internal Audit Committee to that department.

2105.13 Exceptions

There will be no exceptions to this policy unless provided and approved in writing by the General Manager or the Board President and the District Legal Counsel. The Board of Directors reserves the right to amend, delete, or revise this policy at any time by formal action of the Board of Directors.