

ITEM NUMBER: 7(c)

To: KPPCSD Board of Directors
From: Anthony Constantouros, General Manager
Ann Danforth, General Counsel
Date: April 25, 2019
Subject: Consideration of New Policy 3000 and 4000

I. BACKGROUND

The governing documents of any organization must continually evolve to meet changing conditions, circumstances and expectations of the Board. The District's Policies and Procedures Manual (PPM) is no exception. On November 16, 2017, the consulting firm Public Management Group (PMG) identified the existing manual's deficiencies as an obstacle to improving the District's administrative operations in the initial Review of District Administrative and Support Services. The current manual has many outdated policies, does not conform to state / federal law, is unclear if the Board approved some policies and it includes numerous items that simply are not appropriate for a Board Policy Manual. For example old job descriptions, employment agreements and the Police MOU are in the manual, are no longer used and simply not proper items for the manual. The Personnel section lacks many policies that ensure conformance with state / federal law—a prime example is the Equal Employment—Discrimination and Harassment Policy and Procedures.

The most basic purpose of the PPM is for the duly elected Board of Directors to clearly articulate how they want to function as a District. It provides policy guidance and articulates some of the procedures necessary to effectuate those policies. It puts the Board in the District "driver seat" and promulgating the PPM is a basic role of an elected governing body. It provides continuity of direction for the District as management, staff and Board members come and go. PMG previously shared that troubled public agencies have one factor in common, the lack of clear policy direction and engagement from their governing body. This creates a situation where one or two people can greatly change and potentially harm that public agency—absent clear policy parameters.

The Board accepted the report and asked PMG to proceed to further develop its recommendations. Then-Board President Sherris Watt suggested that the District use the California Special District Association (“CSDA”) Model Policy and Procedures Manual as a template for an updated manual.

On August 9, 2018, the consultant, now known as Management Strategies Group (MSG), presented its recommended staffing model to address the shortcomings reported out in 2017. While some recommendations attracted a considerable amount of testimony, the Board ultimately approved the report. The report’s recommendations regarding the need for an updated manual did not attract comment and in fact, work on the new PPM was already under way.

II. THE PROCESS

Policy 1010 of the existing Policy Manual governs the adoption or amendment of new policies. The required process is as follows:

- A. Any director or the General Manager may initiate the process by submitting a written draft of the proposed amendment to each director and the Manager and request that the item be placed on the next agenda. **Status:** The Manager placed the item on the April 25 Agenda and will complete this step by distributing the draft new policies to the directors with the agenda packet.
- B. The Board must consider the new or amended policy at a regular meeting before it may adopt the proposal at a separate regular meeting. The Board must receive the draft with the agenda packet at least three days before the meeting. **Status:** The Board will receive the draft on Monday, April 21, three days before the regular April 25 meeting and will consider the draft at said meeting.
- C. The Board must adopt the proposal by 4/5 vote of the entire Board at a regular meeting. **Status:** If the Board decides to proceed with the proposed draft changes, staff will place the item on the agenda for the Board’s regular May 23 meeting.

III. ISSUES

The proposed new policies contain a number of departures from the existing manual. This report describes the most significant changes.

One non-substantive change may cause some initial confusion. To facilitate Board and public understanding of this large and important document, we are taking major sections of the proposed new PPM in stages for Board consideration and adoption. However, by doing so, we have to take interim steps with the current manual’s numbering system, until the entire new PPM is approved by your Board and completely replaces the current PPM. This is because the new PPM is based on the

CSDA model and we are using that model's numbering to facilitate future maintenance. But that numbering is not entirely compatible with the number of the current PPM.

For example, the current PPM has Policy Series 3000 OPERATIONS that covers four primary topics. We are proposing that you renumber this section to Policy Series 6000. It is a change in numbering only. We propose that you approve a new Policy Section 3000 – Personnel Management. Staff will return with the new OPERATIONS policies at a later date.

A. Policy 3000

The new Policy 3000 will eventually cover all personnel management related policies for the District. The current Policy Series 2000 – Personnel does not adequately cover best practices, state/federal law compliance and it includes extraneous information e.g. old agreements that are not used by the District. The current condition of this manual adds risk to the District. However, there are two key provisions in the current Series 2000 that refer to the Executive Officer and Board Secretary that need to stay until we replace the language at a future date. Thus, we are keeping the Series 2000 as an interim step and adding Policy 3000 – Personnel Management

The items that we propose to add include basic best practices for a public agency and to ensure the District conforms with state/federal law. Given the small size of the District, it cannot fund a full time Human Resources (HR) professional; thus, we have focused on installing policies to help guide staff in following good HR practices. Much of public agency HR practices are restricted by law. The past conflict in the District and the high use of outside attorneys has a common thread—the District's HR practices. This is one step toward improving District practices.

As MSG was doing their due diligence for this PPM, they learned that the Police Department has their own Operations Manual that includes a Personnel Section—policies that have not been reviewed by the District Board. A cursory review of the Police Personnel section suggests there are some voids that need to be addressed in the future. Due to the interplay of that PPM with the terms of the Police Officer Association MOU, it was decided that for this first phase, the new Section 3000 will apply only to non-sworn staff and the Chief of Police at this time. To include sworn staff will require substantial work and meet and confer obligations.

Key areas that we propose to add include: clarity on prohibited conduct and potential for discipline; continued affirmation of non-sworn and the Chief's "at will" employment status; a robust policy (and procedure) on equal employment opportunity and related position on Discrimination, Harassment and Retaliation; a Grievance Policy as an avenue to address employee concerns; a uniform and professional system for hiring and evaluating employees; travel reimbursement policies; an Internet, E-Mail and Electronic Communications policy; policies governing the health and safety of our employees; a Drug and Alcohol policy; procedures to guide accommodation for employees with a disability; and, other miscellaneous HR policies and procedures.

Simply said, much of these additions are commonly found in public agencies to ensure conformance with the law. Taken together they reduce risk and help provide the conditions for a motivated and high-performing workforce

B. Policy 4000

Policy 4000 would replace the existing Policies 4000 and 5000 in their entirety.

1. Policy 4020: The current Policy 4060 establishes three standing committees, for Solid Waste, Emergency Preparedness and Finance. Although all of these committees involve critical functions of the District, the Finance Committee is by far the most active on an on-going basis. The proposed new Policy 2020 would keep the Finance Committee as a standing committee and allow the Board to use temporary advisory committees for Solid Waste, Emergency Preparedness and other issues on an as-needed basis.
2. Policy 4110: This Policy clarifies the process for placing items on the Board agenda. Agenda preparation is one of the critical functions of a public agency's chief executive. The agenda must reflect the Board's stated priorities. Moreover, the General Manager must provide the Board with enough information about each agendized item to enable the Board to have a productive discussion. Compiling this information requires a significant time. This is not a good use of District resources unless the Board has some interest in discussing the issue in question. With these considerations in mind, the new policy provides the following options for placing an item of the Board's agenda:
 - a. In the normal course, the General Manager is responsible for creating the agenda in coordination with the Board President.
 - b. Any director may request that the General Manager agendize an item by providing a written report on the item for the agenda packet two business days before the closing of the agenda for the next meeting (agendas must be posted 72 hours in advance so for a regular Thursday meeting, the deadline would be the prior Thursday).
 - c. If the General Manager does not believe that the item is sufficiently germane to the District's then-current workload, two collaborating directors may request that the item be placed on an upcoming agenda. The General Manager shall so agendize the item but shall have the discretion to allocate District resources to said item as practicable given the District's then-priorities.
 - d. Any member of the public can ask that a matter be agendized by asking an individual director, or two collaborating directors, to request it (as provided in Section 41102) or by asking that it be agendized during the public comment period of any regular meeting, which issue

shall be decided by the consensus of the Board. This latter option is not a part of the Policy but is contained within the Brown Act.

3. Policy 4140: Board minutes have proved to be a controversial issue recently. In prior years, the District Board has adopted summary minutes. These were expensive to prepare. Staff has tried different alternatives, all of which have attracted criticism from various quarters. The proposed draft policy would require minutes that meet all of the requirements of the Brown Act and other applicable law. These would be action minutes. The policy also requires that the District maintain recordings of its meetings on its website for five years. Persons interesting in reviewing only a portion of the recording can fast-forward through the other portions. Staff recognizes that this will not satisfy everyone but believes that only a small minority of residents actually benefit from creating and maintaining the more detailed minutes.

IV. CONCLUSION AND RECOMMENDATION

Staff recommends that the Board discuss the proposed new Policies 3000 and 4000, make any desired changes and direct staff to return with an appropriate resolution repealing the current Policies 4000 and 5000 and adopting the new Policies 3000 and 4000. As an interim step, the resolution should also change the current Policy Series 3000 – OPERATIONS to Policy Series 6000. This last recommendation is a change in numbering only and does not otherwise change the policy narrative.

**Exhibits: Summary of Numbering Changes
Draft Policies 3000 and 4000**