

# **Tuolumne Utilities District**

## **Guidelines for Conduct**

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## **SECTION 1**

### **Purpose and Scope**

The following written guidelines constitute policies and procedures to be used by the Directors of the Tuolumne Utilities District for the general conduct of business by elected officials.

The policy of the Tuolumne Utilities District is to maintain the highest ethical standards for its Board members. The proper operation of the District requires decisions and policy to be made within the proper channels of governmental structure, that public office not be used for personal gain, and that board members remain objective and responsive to the needs of the public they serve. Accordingly, it is the policy of the District that Board members and District employees shall maintain the highest standard of personal honesty and fairness in carrying out their duties. This policy sets forth the basic ethical standards to be followed by the Board of Directors of the Tuolumne Utilities District. The objectives of this policy are to (1) provide guidance for dealing with ethical issues; (2) heighten awareness of ethics and values as critical elements in Board members' conduct; and (3) improve ethical decision making and values based management.

## **SECTION 2**

### **Responsibilities of Public Office**

Board members are obligated to uphold the Constitution of the United States and the Constitution of the State of California. Board members shall comply with applicable laws regulating their conduct, including conflict of interest, financial disclosure and open government laws. Board members shall strive to work in cooperation with other public officials unless prohibited from so doing by law or officially-recognized confidentiality of their work.

(Government Code Section 1360; Article 20, Section 3 of the California Constitution.)

## **SECTION 3**

### **Fair and Equal Treatment**

Board members, in the performance of their official duties and responsibilities, shall not discriminate against or harass any person on the basis of race, religion, color, creed, age, marital status, national origin, ancestry, gender, sexual orientation, medical condition or disability. A Board member shall not grant any special consideration, treatment or advantage to any person or group beyond that which is available to every other person or group in similar circumstances.

(Article 1, Section 31 of the California Constitution; Age Discrimination in Employment Act of 1967 (29 U.S.C., Section 621-634); Americans with Disabilities Act of 1990 (42 U.S.C., Section 12101 et. Seq.); Fair Employment and Housing Act (Government Code, Section 12900 et. Seq.); Rehabilitation Act of 1973 (29 U.S.C., Section 701 et. Seq.); Title VII of the Civil Rights Act of 1964 (42 U.S.C., Section 2000e et. Seq.); Labor Code Section 1102.)

Provisions of state and federal law require that public officials abide by standards that relate to the fair and equal treatment of the public.

Except as specifically authorized, a Board member shall not use or permit the use of District-owned vehicles, equipment, telephones, materials or property for personal benefit or profit. A Board member will not ask or require a District employee to perform services for the personal benefit or profit of a Board member or employee. Each Board member must protect and properly use any District asset within his/her control, including information recorded on paper or in electronic form. Board members will safeguard District property, equipment, moneys and assets against unauthorized use or removal, as well as from loss due to criminal act or breach of trust.

(Article 16, Section 6 of the California Constitution, Government Code Section 8314; Penal Code Section 424; see *People v. Battin* (1978) 77 Cal.App.3d 635.)

## **SECTION 4**

### **Proper Use and Safeguarding of District Property and Resources**

A Board member shall not have a financial interest in a contract with the District, be a purchaser at a sale by the District, or be a vendor of a purchase made by the District, unless the Board member's participation was authorized under Government Code Sections 1091 or 1091.5, or other provisions of law. A Board member shall not participate in the discussion, deliberation or vote on a matter before the Board of Directors, or in any way attempt to use his/her official position to influence a decision of the Board, if he/she knows, or has reason to know, he/she has a prohibited interest with respect to the matter, as defined in the Political Reform Act, Government Code Sections 81000, and following, relating to conflicts of interest. Generally, a Director has a financial interest in a matter if it is reasonably foreseeable that the Board decision would have a material financial effect (as defined by Fair Political Practices Commission (FPPC) regulations), that is distinguishable from the effect on the public generally, on the District or a member of his or her immediate family or on (a) a business entity in which the Director has a direct or indirect investment in the amount specified in FPPC regulations; (b) real property in which the Director has a direct or indirect investment interest, with a worth in the amount specified in FPPC regulations; (c) any source of income, in the amount specified in FPPC regulations, provided, promised to or received by the Director within 12 months before the Board decision; (d) a source of gifts to the Director in an amount specified in FPPC regulations within 12 months before the Board decision; or (e) a business entity in which the Director holds a position as a director, trustee, officer, partner, manager, employee, or any position of management. An "indirect interest" means any investment or interest owned by the spouse or dependent child of the Director, by an agent on behalf of the Director, or by a business entity or trust in which the Director, or the Director's spouse, dependent child or agent, owns directly, indirectly or beneficially a 10 percent interest or greater. An elected official will not except honoraria, or gifts that exceed the limitations specified in the Fair Political Practices Act or FPPC regulations. Board members will report all gifts, campaign contributions, income and financial information as required under the District's Conflict of Interest Code and the provisions of the Fair Political Practices Act and FPPC regulations.

(Government Code Sections 87100 and following.)

## **SECTION 5**

### **District Consultants**

The Board establishes guidelines for the selection and approval of District consultants unless otherwise delegated to the General Manager. Thereafter, the General Manager has full charge

and control of the administration and implementation of the consultant's contract with the District. Members of the Board will deal with matters relating to District consultants or legal counsel through the General Manager or his delegated representative, and not through other District employees. Members of the Board will refrain from making requests directly to District consultants or legal counsel to undertake analyses, perform work assignments, change the priority of work assignments, or otherwise incur additional cost or interfere in any way with contract administration without authorization by the Board. Members of the Board may, however, request factual information or make inquiries regarding the consultant's work, schedule, or performance from the General Manager, preferably by submitting the request in writing. Members of the Board may also request advice, factual information, or make inquiries to the District's consultant or legal counsel where cost may be incurred provided the member has consulted with the Board prior to the request. This is not intended in any way to prevent any Board member or Board Committee from conducting an investigation of the District's consultant, legal counsel, or General Manager to insure the proper performance of District's business, but such an investigation requires Board consultation prior to its initiation.

## **SECTION 6**

### **Directors' Compensation and Expense Reimbursement**

The members of the Board of Directors shall fully comply with the provisions of the Board's "Policy on Directors' Compensation and Expense Reimbursement" as set forth in this section.

#### **A. Compensation for Attendance at Conferences and Meetings**

Board members shall be compensated at the standard meeting per diem determined by the Board consistent with applicable law for attendance at meetings of the Board, including Board committee meetings, and for each day's service rendered as a member of the Board as approved by the Board; provided, however, that pursuant to Water Code Section 30507, such compensation shall not be paid for more than a total of six days in any calendar month. Such compensation shall be provided in addition to any reasonable and necessary reimbursement for meals, lodging and travel expenses incurred in attending any conference, meeting or approved event. Compensation shall be paid only if the Board member submits a written form that sets forth the date, location and District purpose of the meeting for which compensation is requested.

In order for a Board member to be paid a lawfully-established per diem for a meeting, or for reasonable and necessary travel time to and from a meeting, the meeting must be: (1) a "meeting" as defined in subdivision (a) of Government Code Section 54952.2 of the Brown Act; (2) committee meetings of the public agency; or (3) other meetings as approved by the Board related to or informing the Board member on matters within the jurisdiction of the statutory powers of the public agency, provided that such other meetings deal with substantive issues and consume more than a minor amount of the Board member's time.

#### **B. Directors Expenses**

1. *General Principles.* Each member of the Board of Directors is encouraged to participate in those outside activities and organizations that in the judgment of the Board further the interests of the District. Expenses incurred by Board members in connection with such activities are reimbursable, when authorized in advance by the Board or subsequently ratified by the Board President. The following rules apply:

- a. All expenses must be reasonable and necessary, and Directors are encouraged to exercise prudence in all expenditures.

- b. This policy is intended to result in no personal gain or loss to a Director.
  - c. Reimbursement shall be made only for expenses that qualify as reimbursable expenses under the District Travel Expense Limitation Policy.
  - d. The most-economical mode and class of transportation reasonably consistent with scheduling requirements shall be used. In the event a more-expensive class of transportation is used, the reimbursable amount shall be limited to the cost of the most-economical class of transportation available. Reimbursement for use of personal vehicles shall be at the rate approved by the Board in Exhibit A of the Travel Expense Limitation Policy.
  - e. Expenditures for food and lodging shall be moderate and reasonable, as provided in Exhibit A of the Travel Expense Limitation Policy.
  - f. Upon incurring these expenses, Directors may submit a request for reimbursement, accompanied by evidence of payment of such expenses or receipts for all amounts, consistent with the requirements of the District Travel Expense Limitation Policy.
  - g. All requests for reimbursement shall be submitted to the District's Controller within five (5) days after the expenses were incurred or expenditures made. Requests for reimbursement shall be submitted on a Travel Reimbursement form provided by the District, and shall (1) state the District-related purpose for the expenditure; and (2) be accompanied by receipts evidencing each expense or other documentation deemed satisfactory by the Controller. Expenditures that are improper or otherwise not properly accounted for, or not consistent with the prohibition against gifts of public funds set forth in the California Constitution, shall not be reimbursed or accepted by the District. Where such improper expenses have been paid by the District, they shall be promptly refunded to the District or deducted from monies otherwise due a Director.
  - h. To implement the reporting requirements of Government Code Section 53065.5, the District shall prepare a list of the amount and purpose of each expense reimbursement made to each Director for the preceding fiscal year, which shall be available to the public.
2. *Travel / Transportation Expenses.* The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements must be used, using the most direct and time-efficient route. Directors shall be reimbursed for expenses, incurred in traveling to and from conferences, meetings and other events that are attended on behalf of the District in their capacity as Directors. Travel expenses shall include round-trip airfare, actual reasonable expenses for ground transportation to and from airports and hotels, car rental, and/or mileage reimbursement (as provided in Exhibit A of the Travel Expense Limitation Policy) for use by Directors of privately-owned vehicles in the conduct of District business.
  3. *Overnight Accommodations.* No reimbursement claim or request for overnight accommodations shall be approved for expenses incurred within the District's service area. Reasonable accommodation expenses incurred out of the service area as provided in Exhibit A of the Travel Expense Limitation Policy shall be reimbursed only when the expense has been pre-approved by the Board or the President of the Board. Accommodation expenses for guests or family members shall not be reimbursed. Where reasonably possible, accommodations shall be obtained in proximity to the conference or meeting site.

4. *Meal Expenses.* Directors shall be entitled to receive reimbursement for the reasonable cost of meals, including tips as provided in Exhibit A of the Travel Expense Limitation Policy.
5. *Use of District Credit Cards.* The distribution or use of credit cards issued in the District's name by Board members is prohibited. No more than four specified staff members approved by the General Manager shall be issued credit cards. All credit cards issued in the District's name shall be used only for District business. Credit card expenses must be reasonable and necessary to the furtherance of District business. Each credit card statement shall be reviewed by the Controller.

(Water Code Sections 20200 and following; Government Code Section 53065.5.)

6. *Telephone/Fax/Cellular.* Officials shall be reimbursed for actual telephone and fax expenses incurred on District business. Telephone bills should identify which calls were made on District business. For cellular calls when the official has a particular number of minutes included in the official's plan, the official can identify the percentage of calls made on public business.
7. *Airport Parking.* Long-term parking should be used for travel exceeding 24-hours.
8. *Reports to Governing Board.* At the following regular Board meeting, each Director shall briefly report on meetings attended at District expense. If multiple officials attended, a joint report may be made.

*In connection with all issues arising out of compensation and expenses, it is appropriate that elected Directors pose this series of questions.*

- *Does the law allow me to use public resources in this manner?*
- *How does this particular expenditure benefit the public's interest as opposed to my own personal interest?*
- *Is my motivation for an expense a desire to personally curry favor with the would-be beneficiary of an expense?*
- *How would I feel if a particular expenditure were reported in the local newspaper? How about a political hit piece?*
- *How would my next-door neighbor feel about my spending his or her tax dollars this way? Would he/she feel resentful?*
- *Am I making a spending decision out of a sense of reward or entitlement?*

*Questions Source: Institute of Local Self Government*

## **SECTION 7**

### **Soliciting Political Contributions**

Board members are prohibited from soliciting political funds or contributions at District facilities and/or from District employees. A Board member shall not accept, solicit or direct political contributions or support from: (a) District employees, officers, consultants or contractors; or (b) vendors or consultants who have a material financial interest in a contract or other matter while

that contract or other matter is pending before the District. A Director shall not use the District's seal, logo, letterhead or other indicia of the District's identity, or facsimile thereof, in any solicitation for political contributions.

(Government Code Section 3205.)

## **SECTION 8**

### **Incompatible Offices**

Any Board member appointed or elected to a public office of another public entity, the duties of which may require action contradictory or inconsistent with the interests of the first entity (as determined under applicable law), shall resign from the former office.

(Generally, 73 Cal.Op.Atty. Gen. 357 (1990). See also Government Code Section 53227, under which an employee of a special district may not be sworn into office as an elected or appointed member of the Board of the same special district unless he/she resigns as an employee.)

## **SECTION 9**

### **Board Member - General Manager Relationship**

- A. The primary responsibility of the Board is to set policy and provide oversight for the District. The Board has a duty to ensure that the General Manager is operating the District according to law and the policies approved by the Board. The Board will annually review the job performance of the General Manager. The General Manager (a) has full charge and control of the construction, maintenance and operation of the water and wastewater systems and other facilities of the District; (b) has full power and authority to employ and discharge employees and assistants, consistent with District policy and other provisions of law; (c) prescribes the duties of employees and assistants, consistent with District policy; and (d) fixes and alters the compensation of employees and assistants, subject to approval by the Board. The Board shall, after considering the recommendation of the General Manager, appoint the District's Controller (who shall report to the General Manager). The Controller shall install and maintain a system of auditing and accounting that shall completely and at all times show the financial condition of the District in accordance with generally accepted accounting principles and legal requirements. The Board shall retain and periodically review the work of an outside auditor as an independent contractor of the District (other than the Controller), who shall report to the Board, to conduct an annual audit of the District's books, records and financial affairs.
- B. The General Manager serves at the pleasure of the Board. The Board shall provide 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 shall deal with matters within the authority of the General Manager through the General Manager, and not through other District employees, except as it pertains to the functions of the Controller. Members of the Board shall refrain from making requests directly to District employees or District consultants (rather than to the General Manager) to undertake analyses, perform other work assignments or change the priority of work assignments. Members of the Board may request non-confidential, factual information regarding District operations from District employees.

(Water Code Sections 30580 through 30582 relating to a County Water District.)

## **SECTION 10**

### **Improper Activities and the Reporting of Such Activities; Protection of "Whistle Blowers"**

- A. The General Manager has primary responsibility for: (1) ensuring compliance with the District's Personnel Policy, and ensuring that District employees do not engage in improper activities; (2) investigating allegations of improper activities; and (3) taking appropriate corrective and disciplinary actions. The Board has a duty to ensure that the General Manager is operating the District according to law and the policies approved by the Board. Board members are encouraged to fulfill their obligation to the public and the District by disclosing to the General Manager to the extent not expressly prohibited by law, improper activities within their knowledge. Board members shall not interfere with the General Manager's responsibilities in identifying, investigating and correcting improper activities, unless the Board determines that the General Manager is not properly carrying out these responsibilities.
- B. A Board member shall not directly or indirectly use or attempt to use the authority or influence of his or her position for the purpose of intimidating, threatening, coercing, commanding or influencing any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the General Manager or the Board any information that, if true, would constitute: a work related violation by a Board member or District employee of any law or regulation; gross waste of District funds; gross abuse of authority; a specified and substantial danger to public health or safety due to an act or omission of a District official or employee; use of a District office or position or of District resources for personal gain; or a conflict of interest of a District Board member or District employee.
- C. A Board member shall not use or threaten to use any official authority or influence to effect any action as a reprisal against a District Board member or District employee who reports or otherwise brings to the attention of the General Manager any information regarding the subjects described in this section.

(Labor Code Section 1102.5 and following; Government Code Sections 53298 and 53298.5.)

## **SECTION 11**

### **Compliance with the Brown Act**

The members of the Board of Directors, and persons elected but who have not yet assumed office as members of the Board, shall fully comply with the provisions of the State's open meeting law for public agencies (the Brown Act).

(Government Code Sections 54950 and following, and 54952.1 and 54959.)

- A. If a member of the Board believes that he/she may be disqualified from participation in the discussion, deliberations or vote on a particular matter due to a conflict of interest, the following procedure will be followed: (a) if the Director becomes aware of the potential conflict of interest before the Board meeting at which the matter will be discussed or acted on, the Director shall notify the General Manager and the District's legal counsel of the potential conflict of interest, so that a determination can be made whether it is a disqualifying conflict of interest; (b) if it is not possible for the Director to discuss the potential conflict with the General Manager and the District's legal counsel before the meeting, or if the Director does not become aware of the potential conflict until during the meeting, the Director shall immediately disclose the potential conflict during the Board meeting, so that there can be a

determination whether it is a disqualifying conflict of interest; and (c) upon a determination that there is a disqualifying conflict of interest, the Director shall (1) not participate in the discussion, deliberation or vote on the matter for which a conflict of interest exists, which shall be so noted in the Board minutes; and (2) leave the room until after the discussion, vote and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters. The Director may speak on an uncontested matter during the time the general public speaks on the issue.

- B. A Board member shall not recommend the employment of a relative by the District. A Board member shall not recommend the employment of a relative to any person known by the Board member to be bidding for or negotiating a contract with the District.
- C. A Board member who knowingly asks for, accepts or agrees to receive any gift, reward or promise thereof for doing an official act, except as may be authorized by law, may be guilty of a misdemeanor under Penal Code Section 70.

(Government Code Sections 1090 and following, 81000 and following, and 87105; Penal Code Sections 68 and 70.)

All District Board members shall receive training on the Brown Act every four (4) years. Within the first year of taking office, newly elected Board members will be expected to attend training on the Brown Act and Board orientation. The District Secretary shall maintain records of the training for at least five (5) years after the Board member receives the training.

## **SECTION 12**

### **Use of Confidential Information**

- A. A Director is not authorized, without approval of the Board of Directors, to disclose information that qualifies as confidential information under applicable provisions of law to a person not authorized to receive it, that (1) has been received for, or during, a closed session meeting of the Board; (2) is protected from disclosure under the attorney/client or other evidentiary privilege; or (3) is not required to be disclosed under the California Public Records Act.
- B. This section does not prohibit any of the following: (1) making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts to a district attorney or grand jury that are necessary to establish the alleged illegality of an action taken by the District, an elected official or employee; (2) expressing an opinion concerning the propriety or legality of actions taken by the District in closed session, including disclosure of the nature and extent of the allegedly illegal action; or (3) disclosing information acquired by being present in a closed session that is not confidential information. Prior to disclosing confidential information pursuant to (1) or (2), above, however, a Board member shall first bring the matter to the attention of either the President of the Board or the full Board, to provide the Board an opportunity to cure an alleged violation.
- C. A Director who shall fully and knowingly disclose for pecuniary gain confidential information received by him/her in the course of his/her official duties may be guilty of a misdemeanor under Government Code Section 1098.

(California Government Code Section 54963.)

## **SECTION 13**

### **Changes in Compensation**

Changes in the compensation of Board members shall require the approval of the Board during an open meeting of the Board held at least 60 days prior to the effective date of the change.

(Water Code Sections 20200 and following.)

## **SECTION 14**

### **Candidate's Statement**

A Board member shall not include false or misleading information in a candidate's statement for a general District election filed pursuant to Section 13307 of the Elections Code.

(Elections Code Section 13313.)

## **SECTION 15**

### **Ethics Training**

All District Board members shall receive training required by subdivision (a) of Section 53235 of the California Government Code every two (2) years. All newly elected Board members shall receive training no later than one (1) year from the first day of service with the District. The District Secretary shall maintain records of the training for at least five (5) years after the Board members receives the training. These records shall include: a.) the date(s) the Board members satisfied the requirements of this policy and b.) the entity that provided the ethic training.

(Government Code Section 53235.)

## **SECTION 16**

### **Violation of Ethics Policy**

A perceived violation of this policy by a Board member should be referred to the President of the Board or the full Board of Directors for investigation and consideration of any appropriate action warranted. A violation of this policy may be addressed by the use of such remedies as are available by law to the District, including but not limited to: (a) adoption of a resolution expressing disapproval of the conduct of the Board member who has violated this policy; (b) injunctive relief; or (c) referral of the violation to the District Attorney and/or the Grand Jury. Board members will be in violation of this policy should they neglect to attend the necessary training in the required allotted time as stated in Sections 11 and 15.