



# Policy 6.04

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## ETHICS POLICY OF THE EBMUD BOARD OF DIRECTORS

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### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT BOARD OF DIRECTORS TO:

Promote ethical behavior in the conduct of District business.

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**Purpose and Scope** The proper operation of EBMUD requires that Board members remain objective and responsive to the needs of the public, make decisions within the proper channels of governmental structure, and not use public office for personal gain. To further these objectives, certain ethical principles govern the conduct of each member of the East Bay Municipal Utility District Board of Directors.

This policy promotes awareness of ethics, integrity and fidelity as critical elements in Board members' conduct and in achievement of the EBMUD mission. It references relevant policies, practices, and procedures that provide the legal framework and operational guidelines for addressing ethical issues.

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**Responsibilities of Public Office** EBMUD Board members are dedicated to the concepts of effective and democratic government by responsible elected officials. They:

- Uphold the Constitution of the United States and the Constitution of the State of California, and carry out the laws of the nation, the state and local governmental agencies;
- Comply with applicable laws regulating their conduct, including open government, conflict of interest, and financial disclosure laws;
- Fulfill all applicable training requirements, including attending two (2) hours of ethics (AB 1234) training every two (2) years; and,
- Work in full cooperation with other public officials, unless they are legally prohibited from doing so.

*[Government Code Section 1360; Government Code 53235; Article 20, Section 3 of the California Constitution.]*

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**Fair and Open Processes Involving the Public** EBMUD Board members promote fair and open public processes. Board members, and persons elected but who have not yet assumed office as members of the Board, fully comply with California's open meeting law for public agencies (the Brown Act).

*[Government Code Sections 54950 and following; and 54952.1 and 54959.]*

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**Fair and Equal Treatment** EBMUD Board members promote diversity and equality in personnel matters and in contracting, consistent with state and federal laws.

- Board members, in performance of their official duties and responsibilities, will not discriminate against or harass any person on the basis of race, color, religion, religious creed, sex, gender, gender identity, gender expression, national origin, ancestry, age for individuals over forty years of age, marital or domestic partnership status, disability (mental or physical including AIDS and HIV), medical condition (including genetic characteristics or cancer), genetic information, sexual orientation, military and veteran status, family or medical leave status, pregnancy disability leave status, or any other status protected by federal, state and/or local laws.
- Board members will not grant any special consideration, treatment, or advantage to any person or group beyond that available to every other person or group in similar circumstances.
- Board members will cooperate in achieving the equal opportunity objectives of EBMUD.

*[See, e.g., Article 1, Section 31 of the California Constitution; Age Discrimination in Employment Act of 1967; Americans with Disabilities Act Amendments Act of 2008; Fair Employment and Housing Act; Rehabilitation Act of 1973; Title VII of the Civil Rights Act of 1964; California Labor Code Section 1102. See also EBMUD's Policy 2.25, Equal Employment Opportunity (EEO); Policy 1.03, Contract Equity Program; Policy 2.26, Prevention of Sexual Harassment in the Workplace; and Policy 2.02, Accommodation for Individuals with Disabilities in the Workplace.]*

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**Proper Use and  
Safeguarding of  
EBMUD Property  
and Resources**

EBMUD Board members exercise responsible management of District property and resources in the conduct of District business.

- Board members will safeguard EBMUD property, equipment, moneys, and assets against unauthorized use or removal, as well as from loss including criminal acts or breach of trust.
- A Board member will not ask or require an EBMUD employee to perform services for the personal benefit or profit of a Board member or employee.
- Each Board member will protect and properly use any EBMUD asset within his or her control, including information recorded on paper or in electronic form.
- Board members will maintain written records, including expense accounts, in sufficient detail to reflect accurately and completely all transactions and expenditures made on EBMUD's behalf.
- Board members will adhere to District policies.

*[Article 16, Section 6 of the California Constitution; Penal Code Section 424. See also EBMUD Policy 7.04, Access to District Property; Policy 7.06, Pardee Conference and Lodging Facility Use; Policy 7.11, Use of District Bay Area Facilities; Policy 4.14, Reimbursement of Director Expenses; Policy 4.20, Use of District Technology Resources; Procedure 418, Gifts, Personal Loans and Tickets.]*

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**Use of Confidential Information**

Board members will safeguard confidential information.

Board members will not disclose information that legally qualifies as confidential to unauthorized persons without approval of the Board of Directors. This includes information that (1) has been received for, or during, a closed session Board meeting, (2) is protected from disclosure under the attorney/client or other evidentiary privilege, or (3) is not disclosable under the California Public Records Act.

A Board member may make 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 necessary to establish the alleged illegality of a District action. Prior to disclosing confidential information, however, a Board member will first bring the matter to the attention of either the President of the Board or the full Board, in a lawful and appropriate manner, to provide an opportunity to cure an alleged violation.

*[California Government Code Section 54963; Government Code Section 1098]*

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**Conflict of Interest**

Board members avoid both actual conflicts of interest and the appearance of conflicts of interest with the District.

- A Board member will not have a financial interest in a contract with the District, or be purchaser at a sale by the District or a vendor at a purchase made by the District, unless his or her participation is legally authorized.
- A Board member will not participate in the discussion, deliberation or vote on a matter before the Board, or in any way attempt to use his or her official position to influence a decision of the Board, if he or she has a prohibited interest with respect to the matter under California law.
- A Board member will not accept any honoraria.
- A Board member will not accept gifts that exceed the limitations specified in California law. 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 Regulations.
- A Board member will not recommend the employment of a relative to the District or to any person known by the Board member to be bidding for or negotiating a contract with the District.

*[Government Code sections 87100 and following; California Government Code Sections 1090 and following; 81000 and following; 87105 and 89502; Penal Code Sections 68 and 70, and EBMUD Conflict of Interest Code.]*

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**Soliciting Political Contributions**

Board members will not solicit political funds or contributions of in-kind services at EBMUD facilities or use EBMUD equipment.

- A Board member will not solicit or direct a political contribution or in-kind services from District officers, employees, consultants or contractors, or from vendors or consultants that have a material financial interest in a contract or other matter while that matter is pending before EBMUD.

- A Board member will not use EBMUD's seal, trademark, stationary, or other indicia of EBMUD's identity or facsimile thereof in any solicitation for political contributions.

*[California Government Code Section 3205 and EBMUD Campaign Finance Reform Ordinance.]*

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**Incompatible  
Offices**

Except as expressly permitted by law, Board members appointed or elected to another public office, the duties of which may legally require action contradictory or inconsistent with the interests of the first entity, will resign from the former Board.

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

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**Board Member-  
General Manager  
Relationship**

The Board sets District policy and the General Manager is responsible for execution of policy.

- 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 when it pertains to the functions of the General Counsel.

*[Municipal Utility District Act (MUD Act), Sections 11883, 11937 and 11939.]*

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**Exercise  
Responsible  
Financial  
Management**

The Board ensures the District exercises responsible financial management.

- The Board ensures that EBMUD maintains a system of auditing and accounting that completely and at all times shows the financial condition of the District in accordance with generally accepted accounting principles and legal requirements.
- The Board retains an independent auditor who conducts an annual audit of the District's books, records and financial affairs. The auditor will meet with the Board's Finance/Administration Committee at the conclusion of the audit each year to review the audit results and recommendations.

*[Municipal Utility District Act, Section 11889.]*

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**Improper Activities  
and the Reporting  
of Such Activities;  
Protection of  
Whistleblowers**

The Board ensures that EBMUD maintains a healthy and transparent work environment.

- The General Manager has primary responsibility for ensuring compliance with the District's personnel policies and procedures, and ensuring that District employees do not engage in improper activities, for investigating allegations of improper activities, and for taking appropriate corrective and disciplinary actions. The Board ensures that the General Manager is operating the District according to law and the policies approved by the Board.
- Board members will disclose to the General Manager, to the extent not expressly prohibited by law, improper activities within their knowledge. Board members will not interfere with the General Manager's responsibilities in identifying, investigating and

correcting improper activities, unless the Board determines the General Manager is not properly carrying out these responsibilities.

- A Board member will not directly or indirectly use or attempt to use the authority or influence of his or her position to intimidate, threaten, coerce, command or influence any other person for the purpose of preventing such person from acting in good faith to 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.

*[Labor Code section 1102.5 and following; Government Code Section 53298 and 53298.5, and EBMUD Equal Employment Opportunity (EEO) Policy 2.25.]*

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**Directors’  
Compensation and  
Expense  
Reimbursement**

EBMUD Board members receive a monthly stipend for their public service and the amount of that stipend is reviewed annually. EBMUD reimburses Board members for actual reasonable and necessary expenses incurred in the performance of duties authorized or requested by the Board.

- EBMUD Board members receive monthly compensation in an amount set at a public meeting of the Board of Directors. Board members must attend a minimum of 50% of their assigned meetings. Meetings include regular business meetings, standing committee meetings, special meetings, retirement board meetings, and closed session meetings. Salary shall not be paid to a director for any month in which he or she has not attended the minimum number of meetings unless the Board President excuses the absence(s) for good cause.
- Any Board member arriving 15 or more minutes late for a Board or Committee meeting will be considered absent from that meeting. Such absences will be taken into account when determining the minimum number of meetings attended for compensation during that period. Committee chairs or presiding officers may excuse late arrivals, at their discretion, due to unforeseen circumstances.
- Each Board member is encouraged to participate in outside activities and organizations that further the interests of the District. Board members do not receive compensation for attendance at non-District activities. Expenses incurred by Board members in connection with such activities are reimbursable, where authorized in advance or subsequently ratified by the Board President. No personal gain or loss to a Board member is intended. The following rules apply:
  - a) All expenses must be incurred in compliance with Policy 4.14, *Reimbursement of Director Expenses*. Any expense that is not specified in Policy 4.14 must be approved in a public meeting by the Board, before it is incurred.
  - b) All expenses must be reasonable and necessary and Board members will exercise prudence in all expenditures, including transportation, food, lodging, telephone, and technology-related charges.
  - c) Each Board member must use government and group rates offered by a transportation or lodging provider when available.
  - d) EBMUD does not provide credit cards to Board members. Upon incurring expenses, Board members will submit a reimbursement request, accompanied by evidence of payment of such expenses that will meet the District’s requirements.

- e) At the next Board of Directors meeting, each official shall briefly report on meetings attended at District expense. If multiple officials attended, a joint report may be made.

*[MUD Act 11908, 11908.1; December 9, 2003 Board motion discussing Board compensation; Policy 4.14, Reimbursement of Director Expenses; Government Code 53232.2.]*

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**Candidate's  
Statement**

A Board member will 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; EBMUD Campaign Finance Ordinance.]*

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**Violation of Ethics  
Policy**

A perceived violation of EBMUD's ethics policy by a Board member should be referred to the Board President for investigation and consideration of any appropriate action warranted. In the case of a perceived violation by the Board President, the matter should be referred to the Board Vice President. A violation of this policy may be addressed by remedies available by law, including but not limited to:

- Adopting a resolution expressing disapproval of the conduct of the Board member who has violated this policy,
  - Injunctive relief, or
  - Referral of the violation to the District Attorney and/or the Grand Jury.
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**Authority**

Resolution No. 33414-04, March 23, 2004.  
As amended by Motion No. 041-05, March 8, 2005  
As amended by Resolution No. 33577-07, January 9, 2007  
As amended by Resolution No. 33883-12, June 26, 2012  
As amended by Resolution No. 35008-16, October 25, 2016

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**References**

See footnotes in above sections.  
References are available for public review in the Office of the District Secretary.  
Resolution No. 35000-16, August 9, 2016

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