

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

**RESOLUTION No. 2023 - 13**

**A Resolution of the Board of Directors of the Bay Area Air Quality Management District Establishing an Executive Leadership Continuity Policy**

**RECITALS**

WHEREAS, the Bay Area Air Quality Management District (Air District) recognizes the need to ensure executive leadership continuity in the event of a vacancy or the inability of the incumbent to fulfill their duties in positions reporting directly to the Board of Directors; and

WHEREAS, on November 2, 2022, the Air District’s Management Auditor Sjoberg Evashenk presented an Audit Report to the Board of Directors, which included Recommendation 1.9 calling for the implementation of executive leadership succession protocols; and

WHEREAS, the Air District aims to implement protocols that ensure executive leadership continuity in accordance with the recommendations provided;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Bay Area Air Quality Management District hereby establishes the Executive Leadership Continuity Policy as provided in Attachment 1 to this Resolution.

The foregoing resolution was duly and regularly introduced, passed and adopted at a regular meeting of the Board of Directors of the Bay Area Air Quality Management District on the Motion of DIRECTOR GONZALEZ, seconded by DIRECTOR HUDSON, on the 5<sup>th</sup> day of JULY, 2023 by the following vote of the Board:

AYES: BRIAN BARNACLE, JOHN J. BAUTERS, KEN CARLSON, NOELIA CORZO, JOELLE GALLAGHER, JOHN GIOIA, JUAN GONZALEZ, DAVID HAUBERT, LYNDA HOPKINS, DAVID HUDSON, DAVINA HURT, TYRONE JUE, SERGIO LOPEZ, MYRNA MELGAR, NATE MILEY, RAY MUELLER, KATIE RICE, VICKI VEENKER, SHAMANN WALTON, STEVE YOUNG.

NOES: NONE.

ABSTAIN: NONE.

ABSENT: MARGARET ABE-KOGA, ERIN HANNIGAN, OTTO LEE, MARK ROSS.

DocuSigned by:

*John Bauters*

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John J. Bauters

Chairperson of the Board of Directors

ATTEST:

DocuSigned by:

*Lynda Hopkins*

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Lynda Hopkins

Secretary of the Board of Directors

## **ATTACHMENT 1 – Executive Leadership Continuity Policy**

The Board of Directors establishes the following policy and protocols to ensure continuity of Executive Leadership in the event that the Executive Officer/APCO or District Counsel positions become vacant or the incumbent is unavailable or unable to perform their duties.<sup>1</sup>

### **4.1 Continuity of Executive Officer/APCO Leadership**

**4.1.1 Anticipated Inability to Perform Duties:** If the Executive Officer/APCO (EO) anticipates that they will be unable to perform their duties for a period of time, the EO may, after informing the Chairperson of the Board, appoint any employee meeting the minimum qualifications of the then-current EO classification specification to serve as Acting EO during that period, up to a maximum of 21 working days. The EO shall promptly communicate this Acting EO appointment to all other Deputies and other appropriate Air District staff. The employee appointed to serve as Acting EO shall not receive an increase in pay during the Acting EO assignment. Should this period extend beyond 21 days, the EO may extend the appointment or appoint an alternate employee meeting the minimum qualifications of the then-current EO classification specification, with the written approval of the Chairperson of the Board. The extension of this appointment shall not exceed a total of 60 days without Board approval.

### **4.1.2 Unanticipated Inability to Perform Duties:**

**4.1.2.1 Emergency Appointment of Acting EO:** In the event that (i) the EO is unable to perform their duties, (ii) no Acting EO has been appointed under Subsection 4.1.1 above; and (iii) and an urgent need arises for action by the EO, another member of the executive team shall serve as Acting EO according to the following order of priority:

- i. Chief Operating Officer
- ii. Deputy of Finance and Administration
- iii. Deputy of Engineering and Operations
- iv. Deputy of Community and Equity
- v. Deputy of Science and Policy
- vi. Deputy of Governmental Affairs

The highest-priority employee from the priority list above who is able to perform the duties of the EO shall serve as Acting EO upon confirming that there is an urgent need for action and confirming that

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<sup>1</sup> The numbering in this policy starts with 4 for convenience so that this policy of the Board of Directors can be incorporated directly into an implementation document of the Air District's Human Resources Division.

the EO and any higher-priority employees are unable to perform the EO duties, after making all reasonable efforts under the circumstances to contact and confer with the EO, all other employees from the priority list, the DC, and the Board Chair in accordance with the Continuity of Executive Leadership Procedures. That employee shall serve as Acting EO until such time as the EO or a higher-priority employee becomes able to perform the EO duties, or the Chairperson or the Board appoints a different person to serve as Acting EO. Any person who serves as Acting EO under this Subsection 4.1.2.1 shall take all reasonable steps to notify Air District staff and Board members promptly upon beginning their Acting EO service, and shall explain the circumstances authorizing their Acting EO service under this policy (without revealing any employee privacy or other confidential information). As soon as practicable, but not later than seven (7) days after the circumstances arise that create the need for Acting EO service under this Subsection 4.1.2, the Chairperson shall either affirm the Acting EO's appointment as Acting EO under this Policy or appoint an alternate qualified Air District employee to serve as Acting EO, to the extent that circumstances still require an Acting EO. A person serving as Acting EO shall not receive any increase in salary during their Acting EO service.

**4.1.2.2 Board Appointment of Interim or Acting EO:** As soon as practicable after the EO becomes unable to perform their duties, but not later than sixty (60) days thereafter, the Board shall convene in open session to appoint an Interim or Acting EO who meets the minimum qualifications of the then-current Classification Specification for EO position, to the extent the EO continues to be unable to perform their duties. If the candidate EO is a current employee of the Air District, the Acting EO shall be paid at Step E of the Deputy Executive Officer Classification, but not less than ten percent (10%) greater than the employee's current salary. If the candidate is not a current employee of the Air District, the Board shall authorize an appropriate salary in an employment contract with the Interim EO.

**4.1.3 Removal of the EO by Board:** If the Board terminates the EO's employment contract or suspends the EO from active duty, or if the Contract with the EO expires before a new EO is appointed, then unless the Board has taken action to appoint an acting/interim EO within 24 hours of the removal of the EO, the Chairperson shall appoint a current employee as Acting EO with an initial salary at Step E of the Deputy Executive Officer Classification, but not less than 10% greater than the appointee's current salary. As soon as practicable, but no later than sixty (60) days from the EO's termination/ suspension/contract expiration, the Board shall convene in open session to appoint an Interim EO who meets

the minimum qualifications of the then-current Classification Specification for EO position. If the Interim EO is a current employee of the Air District, the Interim EO shall be paid at Step E of the Deputy Executive Officer Classification, but not less than ten percent (10%) greater than the appointee's current salary. If the Interim EO is not a current employee of the Air District, the Board shall authorize an appropriate salary in an employment contract with the Interim EO.

## **4.2 Appointment and Salary Setting for the Acting District Counsel**

**4.2.1 Anticipated Inability to Perform Duties:** If the District Counsel (DC) anticipates that they will be unable to perform their duties for a period of time, the DC may, after informing the Chairperson of the Board, appoint any employee meeting the minimum qualifications of the then-current DC classification specification to serve as Acting DC during that period, up to a maximum of 21 working days. The DC shall promptly communicate this Acting DC appointment to the APCO, Deputies, and other appropriate Air District staff. The employee appointed to serve as Acting DC shall not receive an increase in pay during the Acting DC assignment. Should this period extend beyond 21 days, the DC may extend the appointment or appoint an alternate employee meeting the minimum qualifications of the then-current DC classification specification, with the written approval of the Chairperson of the Board. The extension of this appointment shall not exceed a total of 60 days without Board approval.

### **4.2.2 Unanticipated Inability to Perform Duties:**

**4.2.2.1 Emergency Appointment of Acting DC:** In the event that (i) the DC is unable to perform their duties, (ii) no Acting DC has been appointed under Subsection 4.2.1 above; and (iii) an urgent need arises for action by the DC, then another Air District attorney shall serve as Acting DC according to the following order of priority:

- i. Senior Assistant Counsel
- ii. Acting Senior Assistant Counsel
- iii. Assistant Counsel

The highest-priority Air District attorney from the priority list above (or in the event there are multiple attorneys in a category, the one with the longest tenure in that category) who is able to perform the duties of the DC shall serve as Acting DC upon confirming that there is an urgent need for action and confirming that the DC and any higher-priority Air District attorney are unable to perform the DC duties, after making all reasonable efforts under the circumstances to contact and confer with the DC, all other Air District attorneys, the APCO, and the Board Chair in accordance with the Continuity of

Executive Leadership Procedures. That Air District attorney shall serve as Acting DC until such time as the DC or a higher-priority Air District attorney becomes able to perform the DC duties, or the Chairperson or the Board appoints a different person to serve as Acting DC. Any person who serves as Acting DC under this Subsection 4.2.2.1 shall take all reasonable steps to notify Air District staff and Board members promptly upon beginning their Acting DC service, and shall explain the circumstances authorizing their Acting DC service under this policy (without revealing any employee privacy or other confidential information). As soon as practicable, but not later than seven (7) days after the circumstances arise that create the need for Acting DC service under this Subsection 4.2.2, the Chairperson shall either affirm the Acting DC's appointment as Acting DC under this Policy or appoint an alternate qualified Air District employee to serve as Acting DC, to the extent that circumstances still require an Acting DC. A person serving as Acting DC shall not receive any increase in salary during their Acting DC service.

4.2.2.2 **Board Appointment of Interim or Acting DC:** As soon as practicable after the DC becomes unable to perform their duties, but not later than sixty (60) days thereafter, the Board shall convene in open session to appoint an Interim or Acting DC who meets the minimum qualifications of the then-current Classification Specification for DC position, to the extent the DC continues to be unable to perform their duties. If the candidate DC is a current employee of the Air District, the Acting DC shall be paid at Step E of the Senior Assistant Counsel Classification, but not less than ten percent (10%) greater than the employee's current salary. If the candidate is not a current employee of the Air District, the Board shall authorize an appropriate salary in an employment contract with the Interim DC.

**4.2.3 Removal of the DC by Board:** If the Board terminates the DC's employment contract or suspends the DC from active duty, or if the Contract with the DC expires before a new DC is appointed, then unless the Board has taken action to appoint an acting/interim DC within 24 hours of the removal of the DC, the Chairperson shall appoint a current employee as Acting DC with an initial salary at Step E of the Senior Assistant Counsel Classification, but not less than 10% greater than the appointee's current salary. As soon as practicable, but no later than sixty (60) days from the DC's termination/suspension/contract expiration, the Board shall convene in open session to appoint an Interim DC who meets the minimum qualifications of the then-current Classification Specification for DC position. If the Interim DC is a current employee of the Air District, the Interim DC shall be paid at Step E of the Senior Assistant Counsel Classification, but not less than ten percent (10%) greater than the appointee's

current salary. If the Interim DC I s not a current employee of the Air District, the Board shall authorize an appropriate salary in an employment contract with the Interim DC.