

RULE 181 - DISCLOSURE OF EX PARTE COMMUNICATIONS

A. SCOPE

This Rule shall apply to all communications on quasi-judicial matters pending decision before the Board of Directors. Quasi-judicial matters are applications and hearings that determine rights or obligations of named individuals or of specific property. Examples include, but are not limited to, requests for variances, appeals, and similar matters requiring decision of the Board of Directors based upon specific notice and a hearing record. This Rule shall not apply to communications on quasi-legislative matters. Quasi-legislative matters are decisions of general policy or direction such as ordinances or resolutions.

B. POLICY STATEMENT

Copies of communications, including but not limited to electronically transmitted communications such as email, email attachments, facsimile transmissions and the like made to one or more District Directors and the General Manager will be included in the public record. The General Manager should receive copies of all materials given to District Directors at the same time that they are distributed to one or more Directors.

C. PROCEDURE

All materials transmitted to Directors should clearly indicate that they have also been forwarded to the General Manager. All materials that so indicate are not ex parte communication and do not need to be reported to the General Manager. Any materials that do not so indicate, and all oral and other forms of communications, shall be reported to the General Manager on the ex parte communications disclosure form according to the guidelines shown.

1. Communications subject to this Rule include oral or written communications of a non-procedural nature (i.e., substantive) regarding a matter pending before the Board to one or more Directors. In this use, the term “pending” shall mean any quasi-judicial matter that has been submitted by way of application, variance, or appeal or other process that is to be decided by the Board of Directors, but for which a final decision has not yet been made. Communications include written, telephone, email, facsimile, or other forms of message. Communications exclusively between Directors or exclusively between Directors and District staff shall not be deemed ex parte communications.
2. All oral or written communications, except those dealing solely with procedural matters, regarding a matter pending before the Board that are not made or reported according to the above procedures are prohibited.
3. Directors shall consult the General Manager or District Counsel on any question arising concerning this policy, prior to initiating or receiving any non-disclosed ex parte communication.

RULE 182 - PARTICIPATION PROHIBITION

No Water Management District Board member shall make, participate in making, or in any other way attempt to use his or her official position to influence a District decision about which the member has knowingly had an ex parte communication that has not been reported pursuant to Rule 180.

Rule added by Ordinance No. 99 (11/20/01) and renumbered by Administrative Action

RULE 183 - CONSEQUENCES OF PARTICIPATION WITHOUT DISCLOSURE

If a violation of either Rule 180, Disclosure of Agents, Rule 181, Disclosure of Ex Parte Communications, or Rule 182, Participation Prohibition, occurs and a Water Management District decision may have been materially affected by the violation, the Board may revoke its action on the motion of any Board member (four affirmative votes required to revoke) if such motion is made within twenty four (24) months from the date of that Board action (including the month in which the decision was made). If revocation is ordered, the Board shall thereafter review the administrative record and render its de novo decision on the matter.

As an alternative to Board revocation stated in this Rule, any individual may seek a writ of mandate from a court of competent jurisdiction to require the Water Management District to revoke its action and rehear the matter upon allegation and proof that the prior Water Management District Board decision was materially affected by a violation of either Rule 180, Disclosure of Agents, Rule 181, Disclosure of Ex Parte Communications, or of Rule 182, Participation Prohibition. The action referenced in this paragraph must be filed within twenty four (24) months of the date of that Board action (including the month in which the decision was made).

Rule added by Ordinance No. 99 (11/20/01) and renumbered by Administrative Action