

Apple Valley Foothill County Water District

POLICY HANDBOOK

POLICY TITLE: Legal Counsel and Auditor
POLICY NUMBER: 1045

1045.1 The Board of Directors shall appoint a Legal Counsel to assist the Board and District in all applicable issues and activities.

1045.2 Legal Counsel shall be the legal adviser of the District, including the Board as a whole, the General Manager and department heads. Legal Counsel shall perform such duties as may be prescribed by the Board of Directors. Such duties include, but are not limited to, providing legal assistance necessary for formulation and implementation legislative policies and projects; represent the District's interests, as determined by the District, in litigation, administrative hearings, negotiations and similar proceedings; and to keep the Board and District staff apprised of court rulings and legislation affecting the legal interest of the District. Legal Counsel is required to review and approve as to form District legal documents, i.e. contracts, agreements, etc. The Legal Counsel shall present and report on all legal issues and Closed Session items before the Board. The Legal Counsel shall serve at the pleasure of the Board and shall be compensated for services as determined by the Board.

- a) The Legal Counsel reports to the Board as a whole but is available to each Director for consultation regarding legal matters particular to that Board member's participation. No Board member may request a legal opinion of legal counsel without concurrence by the Board, except as such requests relate to questions regarding that member's participation. The Legal Counsel shall be available to the District General Manager for consultation on applicable issues and activities.

1045.3 The District Auditor shall be appointed by the Board by a majority vote in a public meeting. The Board shall determine the duties and compensation of the Auditor. The Auditor shall serve at the pleasure of the Board. Selection of the Auditor shall be done in a noticed public meeting and at least every five years.

- a) The Board may appoint a committee to oversee the work of an independent auditor, who will report to the Board to conduct an annual audit of the District's books, records, and financial affairs in accordance with state law and the Finance Committee Charter for Audit Compliance. The Chief Financial Officer/General Manager will install and maintain an accounting system that will completely, and at all times, show the financial condition of the District.

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POLICY TITLE: Overview of the General Manager's Role

POLICY NUMBER: 1050

1050.1 The General Manager is an employee of the District and has an employment agreement which specifies his or her terms of employment. The General Manager is the administrative head of the District under the direction of the Board of Directors. He or she shall be responsible for the efficient administration of all the District's affairs which are under the General Manager's control. The General Manager plans, organizes, directs, coordinates and evaluates all District operations, programs, and resources in accordance with short and long range goals, policy statements, and directives from the Board.

1050.2 The General Manager's Duties

The District's General Manager shall be responsible for:

- a) The implementation of policies established by the Board of Directors for the operation of the District;
- b) The planning, direction, and coordination of the day-to-day operations of the District through the appropriate department heads or managers including administration, financing, maintenance, engineering, human resources, and others to effect operational efficiency;
- c) The appointment, supervision, discipline, and dismissal of the District's employees, consistent with the employment policies established by the Board of Directors;
- d) Attend and participate in District Board meetings, prepare and present reports as necessary, represent the Board before external organizations including other agencies, governmental and regulatory entities, business and community groups;
- e) The supervision of the District's facilities and services; and
- f) The supervision of the District's finances.

1050.3 The District's General Manager serves at the pleasure of the Board. The Board will provide policy direction and instruction to the General Manager on matters within the authority of the Board during duly-convened board meetings. Members of the Board will deal with matters within the authority of the General Manager through the General Manager and not through other District employees. Members of the Board will refrain from making requests directly to District employees (other than the General Manager) to undertake analyses, perform other work assignments, or change the priority of work assignments. As members of the public, Directors may request non-confidential, factual information regarding District operations from District employees. If requesting public records, Directors must follow the District's Request for Public Records Policy.

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CARRIED: _____

ABSENT: _____

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POLICY TITLE: Legislative Advocacy Policy

POLICY NUMBER: 1055

1055 **Purpose**

The purpose of the policy is to guide Apple Valley Foothill County Water District officials and staff in considering legislative or regulatory proposals that are likely to have an impact on Apple Valley Foothill County Water District, and to allow for a timely response to important legislative issues. Although the expenditure of public funds for the purpose of supporting or opposing a ballot measure or candidate is prohibited,¹ the expenditure of public funds is allowed to advocate for or against proposed legislation or regulatory actions which will affect the public agency expending the funds.²

The purpose for identifying Legislative Advocacy Procedures is to provide clear direction to Apple Valley Foothill County Water District staff with regard to monitoring and acting upon bills during state and federal legislative sessions. Adherence to Legislative Advocacy Procedures will ensure that legislative inquiries and responses will be administered consistently with “one voice” as to the identified Advocacy Priorities adopted by the Board of Directors. The Legislative Advocacy Procedures and Advocacy Priorities will provide the Apple Valley Foothill County Water District General Manager, or other designee, discretion to advocate in Apple Valley Foothill County Water District best interests in a manner consistent with the goals and priorities adopted by the Board of Directors. This policy is intended to be manageable, consistent, and tailored to the specific needs and culture of Apple Valley Foothill County Water District.

1055.1 **Policy Goals**

- Advocate the Apple Valley Foothill County Water District legislative interests at the State, County, and Federal levels.
- Inform and provide information to the Board of Directors and district staff on the legislative process and key issues and legislation that could have a potential impact on the district.
- Serve as an active participant with other local governments, the California Special Districts Association, and local government associations on legislative and regulatory issues that are important to the district and the region.
- Seek grant and funding assistance for Apple Valley Foothill County Water District projects, services, and programs to enhance services for the community.

1055.2 **Policy Principles**

The Board of Directors recognizes the need to protect Apple Valley Foothill County Water District interests and local control, and to identify various avenues to implement its strategic and long-term goals. It is the policy of Apple Valley Foothill County Water District to proactively monitor and advocate for legislation as directed by the Advocacy Priorities and by the specific direction of the Board of Directors.

This policy provides Apple Valley Foothill County Water District General Manager, or other designee, the flexibility to adopt positions on legislation in a timely manner, while allowing the Board of Directors to set Advocacy Priorities to provide policy guidance. The Board of Directors shall establish various Advocacy Priorities

¹ Cal. Gov. Code § 54964.

² Cal. Gov. Code § 53060.5; *Stanson v. Mott* (1976) 17 Cal. 3d 206.

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and, so long as the position fits within the Advocacy Priorities, staff is authorized to take a position without board approval.

Whenever an applicable Advocacy Priority does not exist pertaining to legislation affecting the Apple Valley Foothill County Water District, the matter shall be brought before the Board of Directors at a regularly scheduled board meeting for formal direction from the Board of Directors. The Board of Directors may choose to establish a standing committee of two Directors, known as the "Legislative Advocacy Committee", with the authority to adopt a position when consideration by the full Board of Directors is not feasible within the time-constraints of the legislative process.

Generally, the Apple Valley Foothill County Water District will not address matters that are not pertinent to the district's local government services, such as social issues or international relations issues.

1055.3 Legislative Advocacy Procedures

It is the policy of Apple Valley Foothill County Water District to proactively monitor and advocate for legislation as directed by the Advocacy Priorities and by the specific direction of the Board of Directors. This process involves interaction with local, state, and federal government entities both in regard to specific items of legislation and to promote positive intergovernmental relationships. Accordingly, involvement and participation in regional, state, and national organizations is encouraged and supported by the Apple Valley Foothill County Water District.

Monitoring legislation is a shared function of the Board of Directors and General Manager or designated staff. The Legislative Advocacy Procedures are the process by which staff will track and respond to legislative issues in a timely and consistent manner. The General Manager, or other designee, will act on legislation utilizing the following procedures:

1. The General Manager or other designee shall review requests that the Apple Valley Foothill County Water District take a position on legislative issues to determine if the legislation aligns with the district's current approved Advocacy Priorities.
2. The General Manager or other designee will conduct a review of positions and analysis completed by the California Special Districts Association and other local government associations when formulating positions.
3. If the matter aligns with the approved priorities, Apple Valley Foothill County Water District response shall be supplied in the form of a letter to the legislative body reviewing the bill or measure. Advocacy methods utilized on behalf of the district, including but not limited to letters, phone calls, emails, and prepared forms, will be communicated through the General Manager or designee. The General Manager or designee shall advise staff to administer the form of advocacy, typically via letters signed by the General Manager, or designee, on behalf of the Board of Directors.
4. All draft legislative position letters initiated by the General Manager or designee shall state whether the district is requesting "support", "support if amended", "oppose", or "oppose unless amended" action on

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the issue, and shall include adequate justification for the recommended action. If possible, the letter should include examples of how a bill would specifically affect the district, e.g. “the funding the district will lose due to this bill could pay for X capital improvements.”

- a. Support – legislation in this area advances the district’s goals and priorities.
 - b. Oppose – legislation in this area could potentially harm, negatively impact or undo positive momentum for the district, or does not advance the district’s goals and priorities.
5. The General Manager may also provide a letter of concern or interest regarding a legislative issue without taking a formal position on a piece of legislation. Letters of concern or interest are to be administered through the General Manager or designee.
 6. When a letter is sent to a state or federal legislative body, the appropriate federal or state legislators representing the Apple Valley Foothill County Water District shall be included as a copy or “cc” on the letter. The appropriate contacts at the California Special Districts Association and other local government associations, if applicable, shall be included as a cc on legislative letters.
 7. A position may be adopted by the General Manager or designee if any of the following criteria is met:
 - a. The position is consistent with the adopted Advocacy Priorities;
 - b. The position is consistent with that of organizations to which the district is a member, such as the California Special Districts Association; or
 - c. The position is approved by the Board of Directors or the Legislative Advocacy Committee.
 8. All legislative positions adopted via a process outside of a regularly scheduled Board Meeting shall be communicated to the Board of Directors at the next regularly scheduled Board Meeting. When appropriate, the General Manager or other designee will submit a report (either written or verbal) summarizing activity on legislative measures to the Board of Directors.

1055.4 Advocacy Priorities

Revenue, Finances, and Taxation

Ensure adequate funding for special districts’ safe and reliable core local service delivery. Protect special districts’ resources from the shift or diversion of revenues without the consent of the affected districts. Promote the financial independence of special districts and afford them access to revenue opportunities equal to that of other types of local agencies. Protect and preserve special districts’ property tax allocations and local flexibility with revenue and diversify local revenue sources.

Support opportunities that allow the district to compete for its fair share of regional, state, and federal funding, and that maintain funding streams. Opportunities may include competitive grant and funding programs. Opportunities may also include dedicated funding streams at the regional, state, or federal levels that allow the district to maximize local revenues, offset and leverage capital expenditures, and maintain district goals and standards.

Governance and Accountability

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Enhance special districts' ability to govern as independent, local government bodies in an open and accessible manner. Encourage best practices that avoid burdensome, costly, redundant or one-size-fits all approaches. Protect meaningful public participation in local agency formations, dissolutions, and reorganizations, and ensure local services meet the unique needs, priorities, and preferences of each community.

Oppose additional public meeting and records requirements that unnecessarily increase the burden on public resources without effectively fostering public engagement and enhancing accountability of government agencies.

Promote local-level solutions, decision-making, and management concerning service delivery and governance structures while upholding voter control and maintaining LAFCO authority over local government jurisdictional reorganizations and/or consolidations.

Human Resources and Personnel

Promote policies related to hiring, management, and benefits and retirement that afford flexibility, contain costs, and enhance the ability to recruit and retain highly qualified, career-minded employees to public service. As public agency employers, support policies that foster productive relationships between management and employees.

Maintain special districts' ability to exercise local flexibility by minimizing state mandated contract requirements. Oppose any measure that would hinder the ability of special districts to maximize local resources and efficiencies through the use of contracted services.

Infrastructure, Innovation, and Investment

Encourage prudent planning for investment and maintenance of innovative long-term infrastructure. Support the contracting flexibility and fiscal tools and incentives needed to help special districts meet California's changing demands. Promote the efficient, effective, and sustainable delivery of core local services.

Prevent restrictive one-size-fits-all public works requirements that increase costs to taxpayers and reduce local flexibility.

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ABSENT: _____

ABSTAIN: _____

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POLICY TITLE: Digital Signature Policy

POLICY NUMBER: 1060

1060.1 Policy. It is the policy of the Apple Valley Foothill County Water District to accept electronic signatures affixed to documents in which a signature is required or used, provided that: (1) the electronic signatures are “digital” signatures that comply with the requirements of California Government Code Section 16.5 and applicable State regulations,¹ (2) the signatories are willing and wanting to utilize digital signatures, and (3) the digital signatures are created by technologies authorized by the California Secretary of State and made available by the District. Signatories may digitally sign the following types of documents:

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The use, or the District’s acceptance, of a digital signature is at the option of the District and the signer(s). Nothing in this Policy requires the District to use or permit the use of a digital signature or accept the submission of a document containing a digital signature.

1060.2 Definitions. “Digital Signature” means an electronic identifier and type of “electronic signature,” created by computer, intended by the party using it to have the same force and effect as the use of a manual signature.²

- a) “Digital Signature Certification Authority” means an entity authorized by the Secretary of State to issue digital certificates that are required for a digital signature under California law.
- b) “Digital Signature Provider” means an entity that provides document signing services using digital technology.
- c) “Electronic Signature” means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.³

¹ Cal. Code Regs., tit. 2, § 22000 *et seq.*

² Cal. Gov. Code, § 16.5(d).

³ Cal. Civ. Code, § 1633.2(h).

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1060.3 Electronic Signatures. The use of electronic signatures is authorized by two California statutes, the Uniform Electronic Transactions Act (“UETA”), codified at Civil Code Section 1633.1 *et seq.*, and Government Code Section 16.5.

The UETA provides that a signature may not be denied legal effect or enforceability solely because it is in electronic form.⁴ The UETA applies to a transaction only when the parties have agreed to conduct the transaction by electronic means, which is determined based on the “context and surrounding circumstances, including the parties’ conduct.”⁵

Government Code Section 16.5 applies to public entities⁶ such as the District, and authorizes any party to a written communication with a public entity, in which a signature is required or used, to affix a signature by use of a digital signature that complies with the requirements of Section 16.5.⁷ Digital signature transactions involving public entities that are subject to the UETA are also subject to the more particular requirements of Government Code Section 16.5.⁸ The use of a digital signature will have the same force and effect as the use of a manual signature if, and only if, the digital signature embodies the five attributes⁹ discussed in Section 1060.4 below.

1060.4 Digital Signatures. Government Code Section 16.5 and State regulations require that a digital signature: (i) be created by a technology deemed acceptable for use by the State of California and (ii) embody the following five attributes:

- 1) It is unique to the person using it;
- 2) It is capable of verification;
- 3) It is under the sole control of the person using it;
- 4) It is linked to data in such a manner that if the data are changed, the digital signature is invalidated; and
- 5) It conforms to regulations adopted by the Secretary of State, codified at Chapter 10 of Division 7 of Title 2 (commencing with Section 22000) of the California Code of Regulations.¹⁰

⁴ Cal. Civ. Code, §§ 1633.7(a)-(b).

⁵ Cal. Civ. Code, § 1633.5(b)

⁶ “‘Public entity’ includes the state, the Regents of the University of California, the Trustees of the California State University and the California State University, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the State.” Cal. Gov. Code, §§ 16.5(a) & 811.2 (emphasis added).

⁷ Cal. Gov. Code, § 16.5(a).

⁸ See Cal. Civ. Code, § 1633.3(e).

⁹ Cal. Gov. Code, § 16.5(a).

¹⁰ Cal. Gov. Code, § 16.5; 2 C.C.R. § 22002.

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1060.5 Digital Signature Technologies

The Secretary of State allows public entities to utilize digital signatures that are created using either “Public Key Cryptography” or “Signature Dynamics” technologies, provided that the digital signatures are also created consistent with the provisions of Section 22003 of the California Code of Regulations.

Public key cryptography (“PKC”) is a form of cryptography that generally allows users to communicate securely and reliably verify the identity of an entity via digital signatures. PKC signatures are affixed to documents using software enhancements to existing applications and web browsers and are capable of immediate third-party verification.

Signature dynamics uses the individual’s handwritten signature. Unlike PKC signatures, signature dynamics signatures require additional hardware to create the signatures. An electronic drawing tablet and stylus are used to record the direction, speed, and coordinates of a handwritten signature—essentially, taking a snapshot of a person’s signature. This type of digital signature does not offer encryption, confidentiality, or the level of security that is inherent in PKC signatures. PKC allows for third-party verification of the signature by Digital Signature Certification Authorities approved by the State, while signature dynamics signatures require additional steps (including handwriting analysis) to verify the signer of a document (similar to a non-notarized, paper-based signature). A formal handwriting analysis of a signature dynamics signature may be lengthy. However, some degree of certainty can be obtained by a lay comparison of manual handwritten signatures that may already be on file with the District.

The District shall only contract with digital signature providers that offer their digital signature services with a certificate issued by a Digital Signature Certification Authority. District staff shall only accept digital signatures created by PKC or signature dynamics technologies. As advised by the Secretary of State, District staff shall consider the following issues and other issues when identifying the appropriate technology to use for each document that includes a digital signature component:

- Are the documents containing signatures going to be transmitted over an "open" or a "closed" network?
- Does the signature on the document need to be verified?
- How much time and resources can be allocated to verification?
- Does the signature need to be compared to a manual signature on paper or can a digital certificate adequately provide one-stop verification?
- Will immediate verifiability reduce the potential of fraud?
- Will the documents containing digital signatures need to be reproduced for public access to the records?
- Will the documents containing digital signatures need to be utilized by another local, state or federal agency? If so, is the technology compatible with the other agency's needs?

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However, whenever a document requires immediate absolute verification of a signature, District staff shall only use and accept digital signatures created by PKC technology.

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