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OCTOBER 28, 2025

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MEMORANDUM

TO: Santa Clara Valley Water District, Office of District Counsel and Board of Directors

FROM: Jenica D. Maldonado, Partner
Rahi Azizi, Of Counsel

RE: **Executive Summary – Investigation of Ethics Complaint Made by Santa Clara Valley Water District Employee Complainant 1 against Chief Executive Officer Rick Callender**

EXECUTIVE SUMMARY

I. INTRODUCTION

On October 25, 2024, the Santa Clara Valley Water District (“District”) received an email from District employee Complainant 1, indicating that the employee wanted to make a complaint. On November 4, 2024, during an Equal Employment Opportunity (“EEO”) intake interview, Complainant 1 made various allegations against Chief Executive Officer Rick Callender (“Callender”). Complainant 1 also continued to make new allegations against CEO Callender in later investigatory interviews. Some of these allegations, if sustained, could violate the District’s AD-2.11 policy on Ethics and Business Conduct (the “Ethics Policy”) and other District policies implicating the ethics of District employees.¹

¹ During the EEO intakes and in subsequent interviews, Complainant 1 also made allegations against Callender that potentially implicated District policy AD-2.8 titled “Anti-Discrimination, Harassment, Abusive Conduct, and Retaliation Policy” (the “Discrimination Policy”). We have prepared a separate Executive Summary and Investigative Report addressing potential violations of the Discrimination Policy. This Executive Summary and the corresponding Investigative Report address only those allegations implicating the Ethics Policy and other ethics-related policies cited herein.

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In early November 2024, the District retained our firm, Atkinson Andelson Loya Ruud & Romo (“Firm”), and the principal authors of this memorandum, Partner Jenica Maldonado and Of Counsel Rahi Azizi (“we,” “our,” “us,” or the “Investigators”), to conduct a confidential attorney-client privileged investigation into Complainant 1’s allegations. For efficiency, the District’s Board of Directors instructed us to prioritize the allegations of harassment and retaliation over allegations of unethical behavior, and to deliver two separate reports. While all interviews and the investigation covered both topics (i.e., harassment/retaliation and ethics), the report writing was split into two: one report for the harassment and retaliation allegations, and one report for alleged violations of the District’s policies governing employee ethics; this Executive Summary addresses the latter.

During this investigation, Complainant 1 sat for interviews eight separate times (including the initial EEO intake), most recently on June 13, 2025. In these interviews, Complainant 1 expanded on the allegations made during the EEO intakes and made new allegations throughout the interviews. This pattern of continuous new allegations impacted our ability to complete the interview process as the scope of Complainant 1’s allegations kept expanding. We also considered voluminous written materials Complainant 1 submitted in support of the claims, including text and Meta Messenger (“Messenger”) exchanges, photos, journal entries, and a written “matrix” of complaints submitted by Complainant 1 through their union representative.

We are currently preparing a comprehensive report (“Investigative Report”) that summarizes the evidence we considered and sets forth our findings of fact (i.e., whether the facts, as alleged by Complainant 1, are or are not likely to be true, applying the preponderance of evidence standard) and, as to the factual findings sustained, whether such facts constitute a violation of District policy. In the interim, we provide this Executive Summary.

II. SUMMARY OF ALLEGATIONS

A. Complainant 1’s Allegations

We received numerous complaints from Complainant 1 about events that occurred over a period of years. Complainant 1 often could not identify dates for alleged incidents and made sweeping allegations regarding Callender’s conduct. This Executive Summary focuses on Complainant 1’s material allegations of unethical behavior—allegations that, if sustained, support a violation of District policy.

Complainant 1’s material allegations of Callender’s unethical behavior are as follows:

1. Callender encouraged Complainant 1 to use Meta Messenger to communicate with him and deleted his Meta Messenger conversations.
2. Callender directed staff to use District time to plan non-District events. Complainant 1 alleged that when working with Callender more closely, Callender used about 30% to 40% of

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Complainant 1's time (approx. 10-20 hours per week) for NAACP-related tasks, not District-related tasks.

3. In or about October of 2024, Callender directed staff to use District funds to pay for extra tickets to a NAACP event.
4. Callender's work calendar, which previously contained multiple events, now has holes where NAACP events used to be, prior to January 2023. Complainant 1 alleged the intentional deletion of parts of his calendar. When deleted parts of Callender's calendar were restored to respond to a PRA request, Complainant 1 alleged that Witness 2 and Co-worker 1 deleted those parts again.
5. Callender allowed the NAACP to host events on District property.
6. At least once, Callender contacted Complainant 1 on a weekend for a NAACP task (looking for a NAACP agenda).
7. Callender used his position as CEO to provide his friends with opportunities to work with the District as consultants.

B. Applicable District Policy

Complainant 1's allegations against Callender implicate certain District policies governing ethical behavior. We have excerpted the relevant provisions of the District policies below.

a. Ethics and Business Conduct AD-2.11

POLICY STATEMENT

All employees of the Santa Clara Valley Water District (Valley Water) are accountable to the public and are required to demonstrate the highest standards of personal integrity, honesty, and business and professional conduct with each other and with the individuals and communities they serve. Their actions as individuals, and collectively as an organization, must comply with all applicable laws and must align with the public service values that underpin their work.

Valley Water requires that:

1. Employees' actions and decisions must always be made in the public's interest and not for personal gain;
2. Conflicts of interest, and actions which create a perception of conflict of interest, must be avoided;
3. Employees must conduct themselves in a manner which engenders public trust in government; and

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4. Employees seek guidance from the Ethics & Equal Opportunity Program (EEOP) staff in the event of any questions or uncertainty regarding compliance with the requirements contained herein.

This policy sets forth the minimum standards for ethical conduct to be followed by the employees of Valley Water. This same standard applies to temporary workers, student interns and limited-term employees.

Employees shall govern themselves in accordance with the following specific policies. These are summaries of the requirements for each specified area, and the full requirements are set forth in the referenced Valley Water policies, state statutes, or state regulations. Those requirements are incorporated by reference as if set forth fully herein.

A. Responsibilities of Public Service

Public service is a privilege and is the foundation of Valley Water's work. The principles on which Valley Water's ethics policies are based include the following ethics-related provisions of Valley Water's Values Statement:

- a. We are entrusted to serve the public and are responsible for carrying out Valley Water mission for the benefit of the community.
- b. We take pride in our work and are accountable and trusted to carry out our responsibilities safely with honesty and integrity.

The conduct of Employees in their official and private affairs should be above reproach. With respect to their official duties, Employees must never allow personal or private financial considerations to enter their decision-making process. Employees should also be cognizant of appearances and avoid carrying out their duties in a manner which gives any appearance of a conflict of interest even where an actual conflict of interest may not exist as a matter of law.

[...]

F. Use of Public Funds/Valley Water Property

Except where expressly permitted by written Valley Water policy (e.g., incidental issuance or receipt of non-work related e-mail: Ad 7.5 - Information Management Electronic Mail (E-Mail)), Employees shall not use Valley Water funds or resources (including staff time) for personal use or personal gain. Additionally, Employees shall not use Valley Water funds or resources for non-Valley Water purposes. The Ethics Officer – in consultation with the Office of District Counsel and/or the CEO - shall evaluate whether any violation of this section should be referred to law enforcement.

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b. Records Management Policy AD-7.11

1. POLICY STATEMENT

[...]

1.2.4 The District shall have the right to inspect District records in any format, media or location at any time for any reason.

[...]

1.5 Records – Retention

1.5.1 Records shall be kept for the minimum periods listed in the District's Board of Directors adopted records retention schedules (see RMC webpage for link to current version), although copies of original records may be disposed of when no longer required.

[...]

1.5.4 Records shall be destroyed only in the ordinary course of business, in accordance with the Board-adopted records retention schedules, this policy and procedure and in full compliance with applicable local, state, and federal laws and regulations.

[...]

3. SCOPE, ASSUMPTIONS & EXCEPTIONS

These policies apply to all District records, whether public or confidential, from the time the records are created or received, through their use, distribution and storage, to their disposition, regardless of format, media, storage device, location, or method of transmission. Electronic communications in any format, including text messages, voicemails, e-mail attachments and images, are included. This includes records pertaining to the conduct of the District's business prepared or received on personal equipment such as cell phones and home computers.

All District staff (full time, part-time, intermittent, temporary or contract) and directors are expected to conform to the requirements of these policies.

[...]

District Staff – All employees (full time, part-time, intermittent, temporary or contract, and directors) are responsible and accountable for keeping accurate, orderly, and complete records of their District activities during the normal course of business. District staff are responsible for following District-wide and unit-specific records procedures, and shall safeguard against the unauthorized removal, alteration, or destruction of original District records. [...] Staff shall not destroy records prior to the expiration of the appropriate retention periods delineated on

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the records retention schedules, or when records are required to be held pursuant to a legal matter such as an audit, claim, litigation, public records request, etc.

[...]

Public Record - Any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics, except as privileged or exempt from disclosure under the laws of the State of California.

Record - A record consists of information, regardless of storage medium or format, detailing the transaction of business. Records include books, papers, completed forms, maps, photographs, machine-readable materials, and other documentary materials, regardless of physical form or characteristics, made or received by the District in connection with the transaction of public business and preserved or appropriate for preservation by the District as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the District or because of the value of data in the record. Any method of recording data may be used to create records: handwritten notes, electronic files, sound files, video, photographic film, etc. The determination about whether a document is a record shall be based on the content (not the media, method of distribution, or storage device). For example, e-mail systems may contain both records (such as correspondence) and non-records (such as unsolicited advertisements). Further, a document that contains content pertinent to District business matters may be a District record even if created or transmitted by use of a personal device (such as a cellphone, personal computer, or private e-mail account). Documents created by other entities that are delivered to the District for business purposes may also be records. For example, a letter from the City of San Jose to the SCVWD Board of Directors requesting an action, or providing a response to a District request, may constitute a District record. Documents created by other entities may also be non records (such as reference works, advertisements, etc.).

c. Santa Clara Valley Water District Records Retention Schedules

This document is in chart form, but provides for a retention period of until "no longer required" for calendars, as long as the calendar events are "not retained in the 'Regular Course of Business'. GC §60201, GC §6254." It also provides for a retention period of 2 years for routine correspondence, including "(e.g. Administrative, Chronological, General Files, Letters, Memorandums, Miscellaneous Reports, Reading, Working Files, etc. Does NOT include Regulatory Agency Correspondence)."

d. Procurement: Executive Limitations, EL-5

With respect to purchasing and contracts activities, use a fair, open and expeditious process and stay within the Board's authorized expenditures.

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Further, a BAO shall:

[...]

5.4. Not allow any sponsorship greater than \$5,000, unless authorized by the Board. *See BAO Interpretation*

5.5. Not allow for any sponsorships, contributions, or memberships that do not have a nexus to the District's mission, vision or Board governance policies.

[...]

e. BAO Interpretation of Policy No. EL-5

[...]

5.5. Not allow for any sponsorships, contributions, or memberships, that do not have a nexus to the District's mission, vision, or Board governance policies.

I-EL-5.5.a. Maintain a procedure to consistently review sponsorship requests to determine if there is a sufficient nexus to the District's mission, vision, or Board governance policies

[...]

f. Information Technology Computer and Electronic Communications, AD-7.2

1. POLICY STATEMENT

[...]

- "Valley Water business" shall be conducted on computer or communications equipment provided by Valley Water. Personal equipment such as laptops, desktops, Personal Digital Assistant (PDA), tablets etc., shall not to be used for Valley Water business unless approved by the employee's manager/supervisor and IT.
- Employees connecting a computer to the Valley Water network are required to abide by the standards set by IT.
- All computer hardware and software shall be reviewed and approved by IT prior to purchase.
- All computer hardware and peripherals shall be installed by IT.
- All software and licenses will be delivered to IT.

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g. Community Partnering Sponsorships Process

[...]

2. POLICY

EL- 5.5. Non-procurement financial commitments and Non-consultant agreements: The BAO shall not make a non-procurement financial commitment or non-consultant agreement unless authorized by the Board or one of the following exemptions is applicable:

- 5.5.2. Sponsorships not exceeding \$10,000.
- 5.5.3. Sponsorships, contributions, or memberships that have a nexus to Valley Water's mission, vision, or Board governance policies.

[...]

8. PROCEDURE

1. Requestor can access Valley Water website and link for Community Partnering Sponsorship Application or can contact OGR Local Government Relations Staff with request for Sponsorship Application.
2. OGR Local Government Relations Staff sends the Requestor a Community Partnering Sponsorship Application (F640D47) immediately, or within 24 hours upon initial request of the Sponsorship Application.
3. Requestor submits the completed application and any supporting documents to OGR Local Government Relations Staff at least three weeks prior to the date of the sponsored event/program/project.

[...]

- OGR Local Government Relations Staff conducts analysis and provides a recommendation within 72 hours of receiving a completed application and supporting documents from the Requestor, and completes the Community Partnering Sponsorship Staff Analysis form(F640D47).
 - Process for sponsorship request evaluation, if staff recommendation is to approve request:
 1. OGR Local Government Relations Staff routes completed Staff Analysis to OGR SPA.

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2. OGR SPA reviews staff recommendations, suggests any needed changes, continues routing to DAO for further evaluation and approval.
3. DAO reviews staff recommendations, suggests any needed changes, continues routing to CEA for further evaluation and approval signature.
4. CEA reviews staff recommendations, suggests any needed changes, provides signature to confirm sponsorship determination and final award amount.
5. OGR Local Government Relations Staff notifies Requestor via email that the sponsorship request has been approved and includes the final award amount and corresponding sponsorship benefits.
6. OGR Local Government Relations Staff prepares a Check Request (FC 1483) for sponsorship and submits on Infor to Accounting upon receipt of the invoice.

III. FINDINGS

A. Standard of Proof and Findings Cited Herein

The standard of proof we applied in making our findings was whether, after weighing the evidence gathered, the alleged conduct more likely than not occurred. This is commonly known as the “preponderance of the evidence” standard. Under this standard, exercising our reasonable discretion as investigators, we only sustained a factual allegation if the preponderance of evidence showed the allegation was more likely than not to be true. Even though this standard mirrors the burden of proof in civil litigation, it bears noting we have made no legal findings or conclusions. Rather, our investigation is limited to determining whether the Respondent’s alleged conduct more likely than not violated any of the District’s workplace policies.

As a threshold matter, we questioned Callender extensively about Complainant 1’s allegations. We presented him with screenshots of the texts, emails, and messages Complainant 1 provided to us, and gave him multiple opportunities to dispute the authenticity of this evidence and other records germane to this investigation. Callender was represented by counsel during his interview—specifically, Lori Costanzo of Costanzo Law Firm.

This Executive Summary does not present all factual findings rendered. Instead, here, we cite only some of these findings to illustrate the evidence on which we relied to reach our ultimate conclusions on whether a policy violation occurred.

B. Credibility Determinations

While we did sustain some of Complainant 1’s allegations, we also found they lacked credibility—perhaps out of self-interest—in other areas. The timing of Complainant 1’s complaint vis-à-vis a poor performance review seemed significant. Although Complainant 1’s allegations spanned

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years, they only complained after an adverse employment action, suggesting they reacted to a legitimate unfavorable performance evaluation with their complaint. Written evidence and their own testimony corroborate that Complainant 1 did not report the alleged ethical violations until months or years after their occurrence. Complainant 1 also made additional allegations after making their initial complaint and failed to explain why they did not report this conduct initially. While acknowledging that human memory is fallible, the piecemeal complaints suggested Complainant 1 piled on as much as they could to bolster their complaint in the face of their unfavorable performance review, rather than that they genuinely felt this behavior constituted an ethical violation.

C. Summary of Findings of Fact

We sustain some of Complainant 1's factual allegations and do not sustain others. Although, as discussed within, Complainant 1's motivations as to the timing of their complaint are suspect, Complainant 1 corroborated many of their allegations with written evidence that allowed us to substantiate their claims.

Callender admitted to using Meta Messenger to communicate with staff. Given that we have multiple examples of Callender's use of Meta Messenger alongside his own admissions, we sustain this finding. He also admitted to deleting his own Meta Messages for "organization." Complainant 1 alleged that both Callender and Respondent 2 encouraged Complainant 1 to regularly delete Meta Messages. However, we could only corroborate this allegation with respect to Respondent 2. Therefore, we sustain a finding that it is more likely than not that Callender used Meta Messenger and encouraged his staff to do the same but, because of a lack of corroborating evidence, we cannot make such a finding that Callender instructed other District employees to delete their Messenger messages.

Many of Complainant 1's allegations involving ethical violations concerned work that they did for the NAACP at Callender's direction. Callender is a member of the Board of Directors of the NAACP and serves as the President of the California/Hawaii NAACP State NAACP Conference. From 2000 to 2008, he served as the President of the San Jose-Silicon Valley branch of the NAACP. Like with many other organizations (e.g., the Chamber of Commerce), the District supports the NAACP by sponsoring specific NAACP events and by purchasing an annual membership as an organization in the NAACP. Through this annual membership, District employees can access NAACP resources and gain other benefits.

Callender admitted that Complainant 1, at his direction, worked on matters related to the NAACP when he (Callender) was Chief of External Affairs. However, he could not recall what specific matters Complainant 1 worked on or what percentage of their time was spent on NAACP-related tasks. Complainant 1 alleged that they spent 30% to 40% of their time when Callender was Chief of External Affairs working on NAACP matters. Witness 1, who also performed NAACP-related tasks at Callender's direction, testified that they (Witness 1) spend about 15% to 20% of their work on NAACP-related tasks.

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Witness 1 testified that they felt the work they performed supporting the NAACP interfered with their ability to complete District-related tasks in a timely manner. Witness 1 also testified that Callender wore “two hats”: the District CEO hat, and the NAACP conference president hat. Complainant 1 made similar allegations. While, as noted herein, we find Complainant 1’s credibility suspect, we did find Witness 1 to be credible.

Based on a preponderance of the evidence standard, the Investigators cannot determine the exact amount of time that Complainant 1 or Witness 1 spent on NAACP-related tasks versus District-related work. Nor can the Investigators determine by a preponderance of the evidence the exact nature of the work that Complainant 1 or Witness 1 performed in supporting the NAACP. The NAACP champions many causes that are germane to the District’s mission (e.g., environmental justice, access to clean water, legislative lobbying, diversity in the workplace, etc.) and the District sponsors many events hosted by the NAACP. The NAACP, however, also supports causes that arguably have no nexus to the District’s mission (e.g., the decriminalization of cannabis) and Callender is the President of the entire California/Hawaii Conference of the NAACP, not just those NAACP programs that are related to the environment or workplace diversity. Thus, it is plausible that Callender instructed both Complainant 1 and Witness 1 to perform work for the NAACP that had no connection to the District. Based on the evidence presented to us, however, we cannot determine, based upon the preponderance of evidence standard, whether that instruction in fact occurred at discrete times, the amount of time devoted in such instances, or that the work itself had no nexus to the District’s mission.

Additionally, Complainant 1 alleged that Callender used group task-planning software paid for by the District (Basecamp) to manage NAACP tasks. Complainant 1 provided screenshots of the Basecamp account that included NAACP members and tasks. These screenshots did not include specific details about the tasks, so we could not determine if they had a nexus to District goals. Thus, we could not determine if Callender used Basecamp for NAACP tasks without a nexus to the District, even though we found that District funds were used to purchase the Basecamp software. Therefore, due to the lack of corroborating evidence, we cannot say it is more likely than not that Callender used District resources for non-District purposes.

We also received testimony from both Complainant 1 and Witness 3 implicating Callender in a decision to purchase extra tickets to a NAACP-hosted event that the District sponsored. The District received a fixed number of tickets for the event through its sponsorship of the event or membership in the NAACP. Callender originally reserved tickets from that group of included tickets. However, testimony informs us that Callender returned the reserved tickets and had his staff purchase additional tickets to the same event, even though no other District employee had expressed interest in using the returned tickets; we find this description of events to be plausible. Testimony from Complainant 1 and Witness 3, as well as emails on the subject, supported a separate but similar and thus, relevant, finding that Respondent 2 reserved tickets from the group of included tickets, then returned the reserved tickets and bought additional tickets using District funds. In reaching this conclusion, we relied on both the testimony of Complainant 1 and Witness 3 as well as corroborating documentary evidence. We do not have such corroborating

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documentary evidence with respect to Callender. Nonetheless, because we found it more likely than not that District funds were used to purchase extra tickets for Respondent 2, we find it plausible that Callender did the same. However, we cannot sustain a finding that Callender did so due to lack of evidence.

Complainant 1 further alleged that events from Callender's calendar have been deleted, providing documentary evidence supporting this allegation. Complainant 1 also alleged that Witness 1 told Complainant 1 that after Witness 1 worked with Witness 4 to restore Callender's missing calendar events, Witness 2 and Co-worker 1 physically came to Witness 1's desk and deleted the restored calendar events again.² Upon review, we did note that there were empty spaces on those calendar dates identified by Complainant 1. We cannot say, however, that based on a preponderance of the evidence provided to us that it is more likely than not that Callender deleted calendar entries or, if he did, to what those entries related.

Callendar admitted that he hosted NAACP events on District property, such as the NAACP annual strategic planning meeting. We do, therefore, find it more likely than not that District property was used for NAACP events at Callender's direction. We cannot determine, however, the exact nature of the business conducted at these events and whether they had a nexus to the District.

Complainant 1 alleged that Callender contacted them during non-business hours to work on NAACP-related tasks. They specifically testified that Callender video-called on a weekend because he was looking for a NAACP meeting agenda. While we do not have a specific message or document to corroborate this allegation—due to the interaction occurring over a video-call—given Callender's demonstrated and admitted propensity for contacting staff after hours and on weekends and his extensive work for the NAACP, we find it plausible that this occurred. However, due to a lack of corroborating evidence, we cannot sustain a finding that this actually happened or that the NAACP meeting agenda for which Callender was purportedly looking had no nexus to the District.

Callender admitted that he had prior personal relationships with consultants that were later hired to perform work for the District. For example, Callender knew Consultant 1 through the National NAACP. Consultant 1 had also performed limited services for the District (Callender stated that Consultant 1 "provided the LT retreat for me") and, therefore, was known to the District. Consultant 1 later contracted with the District to provide mediation services. Callender recalled that Consultant 1 competed and won the Request for Proposal, so Callender directed the District to retain Consultant 1. However, Callender did not decide who won the RFP, and "probably" only had to sign the final contract. Therefore, we find it more likely than not that Callender did refer consultants or job applicants with whom he had a prior relationship to the District. We do not find,

² Due to the late timing of Complainant 1's allegation in this regard, the Investigators were unable to re-interview Witness 1 regarding Complainant 1's allegation that they (Witness 1) told Complainant 1 that Witness 2 and Co-worker 1 deleted calendar events. Witness 2 and Co-worker 1 were not respondents in this investigation and whether they deleted calendar entries did not impact the investigation outcome with respect to Callender.

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however, that Callender was involved in the decision to hire them for District work. Instead, evidence points to Callender making use of his extensive network to source applicants for RFPs, rather than cherry-picking his friends for lucrative District contracts. Based on a preponderance of the evidence, we do not find that Callender manipulated the District's RFP process for the benefit of his friends.

Our findings are summarized as follows:

1. Callender encouraged Complainant 1 to use Meta Messenger to communicate with him. – **Sustained.**
2. Callender directed staff to delete messages from Meta messenger – **Not sustained.**
3. Callender directed staff to use District resources for non-District events. – **Not sustained.**
4. In or about October, 2024, Callender directed staff to use District funds to pay for extra tickets to a NAACP event. – **Not sustained.**
5. Callender's work calendar, which previously contained multiple events, now has holes where NAACP events used to be, prior to January 2023. – **Not sustained.**
6. Callender used District property to host NAACP events. – **Sustained.**
7. At least once, Callender contacted Complainant 1 on a weekend for a NAACP-related task (looking for an NAACP agenda). – **Not sustained.**
8. Callender used his position as CEO to provide his friends with opportunities to work with the District as consultants. – **Not sustained.**

D. Summary of Findings of Potential Policy Violations

We evaluated whether any of the sustained findings of fact would violate District policy. We note that the relevant policies do not have a specific time limitation for bringing complaints, in contrast to the three-year period in the District's Anti-Discrimination, Harassment, and Retaliation Policy.

a. Use of Meta Messenger and Deleting Communications and Calendar Events

The Ethics Policy requires that "Employees must conduct themselves in a manner which engenders public trust in government." The Policy Statement requires "the highest standards of personal integrity, honesty, and business and professional conduct with each other and with the individuals and communities they serve." The District also has a Records Management Policy (AD-7.11) and Retention Schedule which provide that "[s]taff shall not destroy records prior to the expiration of the appropriate retention periods delineated on the records retention schedules," with the retention

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schedule requiring keeping routine administrative communications for two years (the “Records Management Policy”). The policy applies to text messages and Meta Messenger messages, even if on personal devices or accounts, which pertain to the conduct of District business. Calendar events can be retained until no longer required, per the District’s Record Retention Schedule.

Pursuant to Records Management Policy AD-7.11, subsection 3 (SCOPE, ASSUMPTIONS & EXCEPTIONS) (emphasis added), “[a] record consists of information, regardless of storage medium or format, *detailing the transaction of business.*” Furthermore, the Records Management Policy explains that a “record” is one that is “made or received by the District in connection with the *transaction of public business* and preserved or appropriate for preservation by the District as *evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the District* or because of the value of data in the record.” Thus, determining what falls under the definition of a “record” requires an employee to exercise his or her judgment regarding what constitutes the “transaction of public business” and what is “evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the District.” We have been informed that, in practice, District employees routinely delete messages that do not contain substantive information. For example, a message saying, “schedule a meeting at 1:00 p.m. with John Doe” would not be considered a “record” while one asking for John Doe’s opinion on the sponsorship of a particular event would be a “record.”

Callender admitted to deleting communications with staff on Meta Messenger for “organization.” However, because he deleted communications, we do not know the exact content of those messages. We did not find any evidence that would lead to a conclusion that, when he deleted Messenger messages, Callender had any specific intent to destroy any particular evidence of the District’s business. Nonetheless, we do find the practice problematic.

Whether he intended to remove evidence of conversations or not, deleting his communications with staff can create the appearance of impropriety, which can in turn impact the public’s trust in the organization. If a Public Records Act (“PRA”) Request sought a responsive conversation, but Callender could not provide it because he had deleted the conversation, a reasonable person could suspect that he tried to destroy evidence. If he has been intentionally deleting communications to avoid producing them in response to a PRA request or to otherwise hinder transparency, this would significantly impact the public’s trust in the District, especially as the CEO of the organization. Due to his leadership position, Callender should understand that his conduct should be beyond reproach, and he should understand the importance of complying with record retention policies to avoid legal liability. His behavior in this regard is troubling. Regardless of his motivations, at minimum, this practice creates the appearance of impropriety and does not align with conducting oneself in a manner that engenders public trust.

We cannot, however, find that Callender’s behavior more likely than not violated the District’s Records Management Policy. Such policy allows District employees to exercise their own discretion to determine what records must be kept and what may be deleted. Callender’s testimony that he cleaned up his message inbox indicates that he believed that these messages did not fall under the definition of a “record” that must be preserved. Without copies of the exact messages

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that were deleted, we cannot sustain a finding, under the preponderance of evidence standard, that Callender violated the District's Records Management Policy.

We also find that the possible deletion of calendar events on Callender's District calendar is potentially improper. Complainant 1 alleged that events, including NAACP events, were somehow deleted from Callender's District calendar. We note that we did confirm that there were empty blocks of time on his calendar where entries could have been deleted, but could not confirm beyond Complainant 1's testimony that entries existed in those blocks of time. The Investigators were unable to corroborate Complainant 1's allegations in this regard with documents or witness testimony and, therefore, we cannot find that it is more likely than not that Callender intentionally deleted some of his calendar entries. We also cannot sustain a finding that Callender deleted calendar entries that fell under the definition of a "record" that must be preserved.

We further note that District Policy AD-7.2, Information Technology Computer and Electronic Communications, provides that IT shall review and approve all software, and all software and licenses will be delivered to IT. While we did not investigate whether the use of Meta Messenger was approved by IT, we do flag Callender's use of the application and encouragement for others to use the application as a potential violation of AD-7.2.

b. Use of District Funds/Resources

Per section F of the District's Ethics and Business Conduct policy, "Employees shall not use Valley Water funds or resources (including staff time) for personal use or personal gain. Additionally, Employees shall not use Valley Water funds or resources for non-Valley Water purposes."

As part of our analysis, we considered the District's membership and sponsorship programs, as discussed in Procurement: Executive Limitations, EL-5, BAO Interpretation of Policy No. EL-5, and the Community Partnering Sponsorships Process documents cited in Section II(B) above. The District holds memberships in various organizations, including the NAACP and the Chamber of Commerce. In exchange for a membership fee, the organization (e.g., the NAACP) usually provides some benefit to the District and/or District employees, such as a limited number of tickets to organization events, logo or ad space in the organization's promotional materials, and opportunities to staff promotional tables or spread awareness about the District at the organization's events. The District also runs a sponsorship program under which the District provides a certain amount of money to sponsor a particular event. The District can provide up to \$10,000 per sponsorship without Board approval. An organization must apply for sponsorship and then District employees analyze the application to determine the nexus between the organization or event and the District's mission.

The District both has a membership in the NAACP and has sponsored NAACP events. The District's annual NAACP membership fee is \$28,000. In addition to annual membership, the District also provides funds to sponsor specific NAACP events. For example, the District sponsored the National NAACP convention in Las Vegas. As part of that convention, the NAACP

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Environmental Climate Justice Program held an event at which an EPA administrator participated in a panel at the Springs Preserve outside of Las Vegas.

Callender also has a personal relationship with the NAACP. He is a member of the Board of Directors of the NAACP and serves as the President of the California/Hawaii NAACP State Conference. From 2000 to 2008, Callender also served as the President of the San Jose-Silicon Valley branch of the NAACP.

We analyze the District's and Callender's involvement with the NAACP and NAACP-hosted events in light of the District's policies prohibiting the use of District "funds or resources (including staff time) for personal use or personal gain" and requiring that District sponsorships must have a "sufficient nexus to the District's mission, vision, or Board governance policies." We are also mindful that an employee's personal interests often align with the work that they do for their employer, thus making it difficult to distinguish between a business purpose and a purely personal one.

In conducting this policy analysis, we note several facts that we find are more likely than not true: (1) The NAACP supports causes that are both related and unrelated to the District's mission; (2) Callender's volunteer position with the NAACP supported the entire organization, not just causes related to employers, water, or the environment; (3) The Chief of External Affairs, not the C.E.O., is in charge of reviewing and approving District sponsorships and memberships; (4) Callender directed District staff to perform tasks for the benefit of the NAACP (Complainant 1 alleges 30-40% of their time while Witness 1 alleges 15-20%); and (5) Callender used District resources—staff time, software, facilities, and money—to support the NAACP. We also find that, more likely than not, Callender did derive a personal, social, and reputational benefit from the District's support of the NAACP. What we cannot find, however, is that Callender's conduct in this regard violated any District policy.

As explained herein, the District receives certain benefits from its membership in the NAACP and sponsorship of events hosted by the NAACP. Although it is possible given his position with the NAACP, we did not find any direct evidence that Callender used District funds or resources to support any NAACP causes that were not at least tangentially related to the District's work. For example, Callender boasted that the NAACP has successfully lobbied for legislation on behalf of the District. We do note, however, that the NAACP's Mission Statement³ does not specifically reference environmental justice or clean water initiatives.

The District's policies in this regard are ambiguous. First, while the District has policies that set limits on the amount of financial support the District is allowed to offer an organization, there do not appear to be any clear policies limiting the amount of time that District staff is permitted to

³ "Our mission is to achieve equity, political rights, and social inclusion by advancing policies and practices that expand human and civil rights, eliminate discrimination, and accelerate the well-being, education, and economic security of Black people and all persons of color." (*NAACP Mission & Vision*, NAACP, <https://naacp.org/about/mission-vision> (last visited Aug. 11, 2025).)

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devote to helping outside organizations. Similarly, the District does not have a specific policy governing the extent to which District property (e.g., facilities or software) can be used to support an organization that the District sponsors or of which the District is a member. Finally, while the Ethics Policy prohibits the use of District resources for “personal use or personal gain,” it does not address a situation where, like here, the District supports an organization that has initiatives which directly benefit the District but also champions other, unrelated causes that may be personally important to a District employee.

In sum, there is no bright line differentiating between what is purely personal and what is exclusively District-related. Therefore, we do not find that Callender’s conduct as it relates to the NAACP and as described herein violated any District policy, including the Ethics Policy.

We also cannot find that Callender violated District policy if he used District funds to purchase more tickets to the October 2024 NAACP event. The District was provided with a certain number of tickets to the event through its membership in the NAACP and its sponsorship of the event. Callender, however, may have directed Witness 1 to purchase an extra ticket for himself and a guest. There is no evidence that these extra tickets were included in the NAACP’s sponsorship application or as part of the District’s NAACP membership. However, it is unclear if the use of District funds to purchase additional tickets outside the tickets provided through the sponsorship or membership would violate District policy. It does seem to be an unnecessary purchase, but the policy is ambiguous. Furthermore, we cannot say that Callender more likely than not used District funds to purchase extra tickets in the first place; we do not have evidence to corroborate this fact with respect to Callender.

For the same reasons described above, we furthermore do not find that Callender violated the District’s Ethics Policy if he video-called Complainant 1 to ask a question about a NAACP agenda over the weekend. While the practice of calling on an employee outside of normal business hours to perform a task that is not obviously related to urgent District matters is unusual and ill-advised, it is impossible to determine if this call was personal, District-related, or even occurred at all. We cannot, therefore, find a policy violation.

c. Use of CEO Privilege to Hire Friends

We do not sustain that Callender used his position to hire friends of his to positions in the District. While Callender confirmed that he knew certain consultants through his work with the NAACP, and that he may have referred their name(s) to the District, we could not confirm it was more likely than not that he influenced their hiring due to his personal connections. The District has a strict policy prohibiting conflicts of interest. However, we cannot affirm that making use of one’s network to share opportunities, without further evidence of influencing the outcome of any potential application or bid, qualifies as a violation of District policy.

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IV. INVESTIGATION REPORT

This Executive Summary does not recite the full range of evidence on which we relied in reaching our findings. A more comprehensive report shall follow.

J.D.M.

R.A.