

IMPERIAL IRRIGATION DISTRICT RESOLUTION NO. 7-2022

A RESOLUTION OF THE IID BOARD OF DIRECTORS EXPRESSING ITS DISAPPROVAL OF THE CONDUCT OF DIRECTOR GONZALEZ, DISTRICT 4.

WHEREAS, the Imperial Irrigation District (“IID”) Board of Directors (“Board”) sets standards of conduct for IID employees and members of the Board through its adopted Policy and Procedures Manual; and

WHEREAS, IID Policy 1071, *Standards of Conduct for Board of Directors*, (Policy 1071) adopts certain standards specific to IID Directors for the purpose of promoting awareness regarding the nature of ethics, integrity, and fidelity essential in the role as IID Director; and

WHEREAS, Policy 1071 provides that IID Directors shall comply with all applicable laws regulating their conduct and prohibits IID Directors from discriminating against or harassing any person on the basis of race or national origin; and

WHEREAS, violations of the standards contained in Policy 1071 by a Director may give rise to the adoption of a resolution by the full Board expressing disapproval of the conduct in question; and

WHEREAS, the Board has also adopted standards for social media use through the Policy 1230, *Social Media* (Policy 1230). Policy 1230 sets forth the Board’s expectations for social media use involving or impacting the IID; and

WHEREAS, Policy 1230 encourages employees when posting opinions on matters related to IID to explicitly state that the expressed opinion is their own and has not been approved by IID; and

WHEREAS, Policy 1230 prohibits internet postings by IID employees on IID’s social media that are defamatory, discriminatory, or harassing. Defamation can take the form of either libel or slander, with libel constituting “false and unprivileged publication by writing, printing, picture, effigy, or other fixed representation to the eye, which exposes any person to hatred, contempt, ridicule, or obloquy, or which causes him to be shunned or avoided, or which has a tendency to injure him in his occupation” (Civil Code sections 44, 45); and

WHEREAS, Policy 1230 encourages IID employees when utilizing social media to strive for accuracy and when appropriate, include links to sources of information. IID further reserves the right to require the suspension or removal of factually erroneous or inappropriate postings related to or referencing IID, even if made during non-working hours and/or with personal equipment, as such postings could have an adverse effect on IID's legitimate governmental interests; and

WHEREAS, the Board has also adopted an ethics policy, IID Policy 1548, *Ethics Policy*, (Policy 1548), which sets forth certain ethical standards for both IID employees and IID Directors. Policy 1548 specifically prohibits a Director from utilizing his/her government position, title, or authority in a manner that could reasonably be construed to imply that IID sanctions or endorses the Director's personal activities; and

WHEREAS, IID Director for Division 4, Director Javier Gonzalez, maintains a public social media account on Facebook entitled "Imperial Irrigation District Div. 4 Javier Gonzalez" (Facebook Account). The Facebook Account is neither authorized nor maintained by IID. Nevertheless, the manner in which it has been and is currently maintained may cause confusion to members of the public as to whether it is an official IID or IID-endorsed account. The cover picture of the Facebook Account contains a picture of a train with the words "Imperial Irrigation District" and "4" written on the train, which is a specific reference to IID. The Facebook Account is also linked to the IID's official webpage, "IID.com." Lastly, the Facebook Account contains Director Gonzalez's official IID email address; and

WHEREAS, on March 9, 2022, Director Gonzalez posted a statement on his Facebook Account in which he alleged that there was a "critical national security threat" involving IID projects and energy contracts. The statement referenced the national origin of certain unnamed individuals and companies four times. No substantive evidence was provided in this post to substantiate any claims regarding any critical national security threat or other types of violence, fraud, or illegal activity; and

WHEREAS, on March 9, 2022, Director Gonzalez posted a second statement on his Facebook Account. Director Gonzalez posted that it was "scary" that certain people and companies were involved in IID energy projects. The second statement again referenced the national origin of certain individuals and companies. Further, Director Gonzalez referenced certain companies being "shell" companies and provided various photographs of project groundbreaking events and webpages of companies. No substantive evidence was provided in this post to substantiate any claims regarding any critical national security threat or other types of violence, fraud, or illegal activity that would typically induce fear. Based on the statements made and lack of supporting evidence, these statements are potentially defamatory; and

WHEREAS, on March 10, 2022, IID staff contacted Director Gonzalez regarding the posts to his Facebook Account and due to the potentially discriminatory and defamatory nature of the posts, requested that the posts be removed from his Facebook Account. Director Gonzalez removed some of the language from his posts. However, references to national security threats and the national origins of people and companies, as well as pictures of specific people and companies remained; and

WHEREAS, on March 11, 2022, Director Gonzalez, through IID, was sent a cease and desist demand letter (“Demand Letter”) from an attorney representing Sunpin Solar Development, LLC (“Sunpin”). The Demand Letter disputed the statements made by Director Gonzalez on his Facebook Account, and stated that such statements were “false,” “racist,” and “inflammatory.” The Demand Letter demanded Director Gonzalez cease and desist from making any further defamatory statements, delete the posts in question, and publish an unqualified retraction; and

WHEREAS, on March 16, 2022, counsel for IID responded to the Demand Letter on behalf of IID. IID counsel clarified that Director Gonzalez’s statements are solely attributable to Director Gonzalez, as he was acting within his personal capacity and without the authorization of IID. IID counsel further clarified that IID maintains its own official social media pages for official IID communications; and

WHEREAS, on March 18, 2022, Director Gonzalez deleted the specific offending posts and posted on his Facebook Account a retraction, which stated:

“On March 10, 2022, through March 13, 2022, I published a number of social media posts on my personal Facebook page, “Imperial Irrigation District Division 4,” referring to people and companies contracted with IID. In these posts, I stated my concern and belief that “Chinese National communist leaders and Chinese communist companies” were “leading IID projects like the S-Line projects and others” and that this posed a “critical national security threat.” Upon review and further investigation, I have determined that these statements were made without any evidentiary support that I have subsequently been able to find. Consequently, these statements should not be relied upon by any of my Facebook followers and I fully retract them.”; and

WHEREAS, on March 22, 2022, Director Gonzalez posted the following statement on his Facebook account:

“It is clear that those jokers who accuse Javier Gonzalez of racism know very little about our community. They have no ties or community spirit. All of their focus is on money, dirty money and corrupt power. That whining doesn’t happen to the elderly. Instead of hurting me, people now say, “Go and talk Gonzalez about corruption.” [Facebook translation]; and

WHEREAS, on March 23, 2022, Sunpin contacted IID and stated that it believes the March 22, 2022, post by Director Gonzalez violated the intent and purpose of the retraction and that it does “not consider this matter closed and reserves all rights”; and

WHEREAS, after consideration of all comments made for and against the resolution expressing the Board’s disapproval of the conduct of Director Gonzalez, the Board has determined that Director Gonzalez’s conduct warrants a public admonishment; and

WHEREAS, through this Resolution, IID is demonstrating its commitment to maintaining the highest possible ethical standards for both its Board and staff.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE IMPERIAL IRRIGATION DISTRICT, HEREBY FINDS AS FOLLOWS:

- A. Through the posts to his Facebook Account Director Gonzalez has violated Policy 1071 in that his statements are potentially defamatory and discriminate against people and businesses on the basis of national origin, as the statements repeatedly reference critical national security threats due to national origin, without any other basis provided.
- B. Through the posts to his Facebook Account Director Gonzalez has violated the spirit of Policy 1230 in that 1) Director Gonzalez did not state that the expressed opinion was his own and not approved by IID; and 2) Director Gonzalez's statements potentially discriminate against people and businesses on the basis of national origin as the statements repeatedly reference national origin without any other basis for an alleged critical national security threat;
- C. Through the posts to his Facebook Account Director Gonzalez has violated Policy 1548 in that the manner in which Director Gonzalez has constructed his Facebook account and utilized his government position and title could reasonably be construed to imply that IID and his fellow Board members sanction and/or endorse Director Gonzalez's statements contained in the Facebook Account posts referenced above.
- D. After consideration of the nature of the Policy violations, which include potentially discriminatory and defamatory statements, the Board of Directors finds it necessary to disassociate itself from Director Gonzalez's postings to his Facebook Account and adopt a resolution expressing the Board's disapproval of the conduct in question.


NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF DIRECTORS OF THE IMPERIAL IRRIGATION DISTRICT, AS FOLLOWS:

- A. The above recitals are true and correct.
- B. Director Gonzalez actions described above constitute violations of Policies 1071 and 1548, and the spirit of Policy 1230.
- C. The Board of Directors hereby admonishes Director Gonzalez for the actions and policy violations described herein.


PASSED AND ADOPTED this 24th day of March, 2022.



IMPERIAL IRRIGATION DISTRICT



President



Secretary