

**West Contra Costa Unified School District
Board Policy
Citizens' Bond Oversight Committee
BP 7214.2
Facilities**

1. BACKGROUND INFORMATION

Proposition 39, approved by California voters in the General Election of November 7, 2000, provides that the Governing Board of a school district may pursue the authorization and issuance of general obligation bonds passed by a vote of 55 percent or more of the electorate instead of a two-thirds majority.

As a result of the passage of Proposition 39, language was added to the California Education Code requiring school districts passing a bond designated as a Proposition 39 bond to ensure all the following are realized:

- (a) Vigorous efforts are undertaken to ensure that all expenditures of bond revenues are in strict conformity with the law.
- (b) Taxpayers directly participate in the oversight of bond expenditures.
- (c) The members of the oversight committee promptly alert the public to any waste or improper expenditure of bond revenues.
- (d) That the unauthorized expenditures of bond revenues are vigorously investigated, prosecuted, and that the courts act swiftly to restrain any improper expenditures.

In furtherance of the Legislature's intent, school districts passing a bond designated as a Proposition 39 bond must establish and appoint members to an independent citizens' oversight committee ("Bond Oversight Committee," "Committee," or "CBOC") to actively review and report on uses of bond revenues to ensure that they are spent only on school facilities improvements allowed under each bond measure and not for any other purpose. The Bond Oversight Committee must be established within sixty (60) days of the date that the school district's governing board enters the election results in its minutes. A school district may also establish a voluntary oversight committee for any general obligation bond adopted by a two-thirds (2/3) vote of the electorate. California Education Code Sections 15278 through 15288 govern the establishment and operation of the Bond Oversight Committee.

2. PURPOSE OF POLICY

West Contra Costa Unified School District ("District") voters have approved multiple Proposition 39 School Bond Measures. In accordance with legal requirements, the District has established an independent Bond Oversight Committee to provide oversight for these ballot measures.

The purpose of this policy is to (a) ensure the District meets its legal requirements related to the use of Prop 39 bond proceeds; (b) establish the policies and procedures for the form, operation, appointment and related matters of the Bond Oversight Committee; and (c) establish the District's commitment to support the Committee's efficient and effective operation.

3. COMMITTEE PURPOSE

The purpose of the Bond Oversight Committee shall be to inform the public concerning the expenditure of bond revenues. The Committee shall actively review and report on the proper expenditure of taxpayers' money for school construction. The Committee shall advise the public as to whether the District is in compliance with the requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution. The Committee shall convene to provide independent oversight for, but not be limited to, both of the following:

- 3.1. Ensuring that bond revenues are expended only for the purposes described in paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.
- 3.2. Ensuring that, as prohibited by subparagraph (A) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, no funds are used for any teacher or administrative salaries or other school operating expenses.

4. COMMITTEE DUTIES & AUTHORIZED ACTIVITIES

The Bond Oversight Committee is charged by State law to ensure that bond proceeds are spent only for construction, reconstruction, rehabilitation or replacement of District facilities, including the furnishing and equipping of facilities or the acquisition or lease of real property, in compliance with the specific projects listed in the District's bond measures. The Committee shall ensure that no funds are expended for teacher or administrator salaries or other operating expenses.

- 4.1. Bylaws. Committee bylaws establish the operational rules to manage the operation of the Committee. These bylaws and operational rules shall be in compliance with this Board Policy and all applicable laws.
- 4.2. Authorized Activities. The Committee is authorized by law to engage in any of the following activities:
 - 4.2.1. Committee Reports. The Committee shall issue regular reports on the results of its activities. The Committee is required to issue an annual report in accordance with Education Code section 15280, subsection (b). The reports will be available on the Committee's and District's websites.
 - 4.2.2. Annual Performance Audit. Receive and review copies of the District's annual independent performance audit required by subparagraph (C) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.
 - 4.2.2.1. The firm performing the annual performance audit shall deliver the draft audit report to the Committee, or any subcommittee appointed for this purpose, at the same time the draft reports are provided to the District. The draft audit will be

available to the Committee for review and comment in advance of the publication of the final audit report no later than March 31 of each year.

- 4.2.2.2. The District will provide the Committee with the District's formal written management response to all findings, recommendations and concerns addressed in the performance audit within three months of receiving the audits as required by Education Code 15280 subsection (a)(2).
- 4.2.3. Annual Financial Audit. Receive and review copies of the District's annual independent financial audit required by subparagraph (C) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.
- 4.2.3.1. The firm performing the annual bond financial audit shall deliver the draft audit report to the Committee, or any subcommittee appointed for this purpose, at the same time the draft reports are provided to the District. The draft audit will be available to the Committee for review and comment in advance of the publication of the final audit report no later than March 31 of each year.
 - 4.2.3.2. The District will provide the Committee with the District's formal written management response to all findings, recommendations and concerns addressed in the financial audit within three months of receiving the audits as required by Education Code 15280 subsection (a)(2).
- 4.2.4. Inspections. Inspect school facilities and grounds to ensure bond proceeds are expended in compliance with the requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.
- 4.2.4.1. Committee members' inspections or site visits must be coordinated with the CBOC Liaison. Committee member visits to any bond project job site must be conducted in accordance with all safety measures in effect at the job site and Committee members must be accompanied by a representative of the District.
- 4.2.5. Deferred Maintenance. Receive and review copies of any deferred maintenance proposals plans or reports developed by the District.
- 4.2.6. Cost Saving Measures. Review efforts by the District to maximize bond revenues by implementing cost-saving measures, including, but not limited to the following as required by Education Code section 15278.5:
- 4.2.6.1. Mechanisms designed to reduce the costs of professional fees.
 - 4.2.6.2. Mechanisms designed to reduce the costs of site preparation.
 - 4.2.6.3. Recommendations regarding the joint use of core facilities.
 - 4.2.6.4. Mechanisms designed to reduce costs by incorporating efficiencies in school site design.
 - 4.2.6.5. Recommendations regarding the use of cost-effective and efficient reusable facility plans.

4.3. Matters not within Committee's Review. Consistent with the requirements of law including Education Code Sections 15282, subsection (b), the Committee shall serve a review function and shall not replace or impede the activity and discretionary decision making of the elected Board members, District staff or advisory committees. The Committee shall **not** have authority to:

4.3.1. Participate in any bond sale and issuance process or make decisions concerning the timing, terms or structure of a bond issuance, except that the Committee may review the District's plans for any bond sale and may review bond issuance documents upon the conclusion of a bond sale if desired.

4.3.2. Determine how bond proceeds will be spent.

4.3.3. Select contractors or consultants for bond projects or participate in the negotiation or bid process for such contractors and consultants.

4.3.4. Approve construction contracts and/or change orders.

4.3.5. Approve construction plans and/or schedules.

4.3.6. Require the District to prepare reports or conduct audits more frequently than those required by law.

5. **BOND OVERSIGHT COMMITTEE MEMBERSHIP**

In accordance with Education Code section 15278, subsection (a), the District's Governing Board shall establish and appoint members to the Committee.

5.1. Number. The Bond Oversight Committee shall consist of a minimum of seven (7) members and no more than eleven (11) members appointed by the Board. Five (5) members must represent distinct constituencies as mandated by Education Code section 15282:

5.1.1. one representative of the local business community;

5.1.2. one person active in a senior citizens' organization;

5.1.3. one person active in a bona fide taxpayers' organization; and

5.1.4. the parent or guardian of a child who is enrolled in the District;

5.1.5. the parent or guardian of a child enrolled in the District and active in a parent- teacher organization, such as the Parent Teacher Association or school site council.

Other members, selected by the Governing Board, will be selected at-large and based upon the applicant's professional and/or practical experience, recognition or contributions to the community; the diversity of expertise of the Bond Oversight Committee as a whole; and representation of the Committee from various communities within the District.

5.2. Prohibited Persons. The following persons shall not be appointed to the Committee pursuant to Education Code section 15282, subsection (b):

5.2.1. Employees or officials of the District; and

5.2.2. Vendors, contractors, or consultants of the District.

If, while serving on the Committee a member becomes one of the above-identified persons, the member's service on the Committee shall immediately and automatically terminate.

A Committee member cannot be removed, except for cause, i.e., illegal activity or violation of District or State regulations.

Any vacancy resulting from the termination or dismissal of a member shall be filled by the Board pursuant to its appointment process.

5.3. Term. Committee members shall serve for a term of two (2) years. Members of the Committee may be appointed by the Board for no more than three (3) consecutive terms as specified by Education Code 15282, subsection (a). Committee members that have served three (3) consecutive terms shall not be appointed to the Committee again for at least two (2) years following the date the member last served as a Committee member. Members shall serve without compensation.

5.3.1. Existing Committee members that intend to serve an eligible consecutive term shall reapply to the Board for consideration pursuant to the Board's process for appointing Committee members.

5.3.2. If an existing Committee member represents one of the distinct constituencies mandated by Education Code section 15282 and during the member's term no longer qualifies for that constituency (e.g., ceases to be active within a taxpayers' organization or ceases to have a child enrolled in the District), the member shall be allowed to complete the current term, but shall not be appointed to serve any subsequent term as a representative of that constituency.

5.3.3. The Board shall use reasonable efforts to fill vacancies on the Committee within sixty (60) calendar days of being notified of such vacancy. The Board shall fill any vacancy pursuant to the Board's process for appointing Committee members. Any person appointed to fill the vacancy shall complete the remaining term for that member position.

5.4. Solicitation and Appointment of Members.

The Superintendent or CBOC Liaison and the Committee may advertise for and solicit Applicants ("Applicants") for consideration of appointment to the Committee. The District's Bond Oversight Committee Application ("Application") shall be made publicly available to the community on the District's and Committee's website. Applicants can self-nominate by submitting an Application. The Application shall consist of the contact information, membership criteria, personal statement, and an option to provide a resume. If the Applicant is a Committee member applying to serve an additional term, the Application remains the same.

Committee members shall be selected based on merit through a transparent process and appointed pursuant to the following process:

5.4.1. Any Application submitted shall be submitted to and reviewed by the Superintendent or CBOC Liaison and CBOC Chair. If the Application meets the minimum statutory criteria, then the Applicant will be notified that they have been approved as a Candidate ("Candidate"). If the Application does not meet the minimum statutory criteria or the Application is incomplete, then the Applicant will be notified of the status of their Application.

5.4.2. The Selection Committee ("Selection Committee") shall review and may interview all Candidates.

5.4.2.1. The Selection Committee shall include five members: the CBOC Chair and a designated appointee from the CBOC, two members of the Board of Education, and the Superintendent or CBOC Liaison.

5.4.2.2. The Selection Committee shall make recommendations to the Board to assist the Board in appointing Committee members.

5.5. Ethics: Conflicts of Interest. By accepting appointment to the Committee, each member must agree to comply with Articles 4 (commencing with section 1090) and 4.7 (commencing with section 1125) of Division 4 of Title 1 of the California Government Code and the Political Reform Act (Gov. Code §§ 81000 et seq.). Committee members may not hold any incompatible office or position during their term of membership. Committee members shall disclose immediately any possible or potential conflict of interest. A Committee member's failure to disclose any possible or potential conflict of interest when known or when reasonably should be known, will result in the member's removal from the Committee.

6. MEETINGS

6.1. All Committee meetings shall be open to the public and are subject to the California Brown Act (Govt Code section 54950 et seq.). District staff, as designated by the Superintendent or designee, will be responsible for working with the chair of the Committee to prepare and properly notice agendas, minutes and reports of the Committee. No bond funds may be used to pay any of these expenses.

6.2. At its organizational meeting and annually thereafter, the Committee will select a Chair and Vice-Chair/Secretary. Committee decisions will be made by majority vote of a quorum present and shall follow Robert's Rules. For purposes of this Committee, a quorum consists of half of the total membership plus one member. All members shall be entitled to one vote on Committee recommendations.

6.3. The Committee shall meet at least quarterly.

7. DISTRICT SUPPORT

7.1. District will provide technical and administrative assistance in furtherance of the Committee's work. No bond funds shall be used to fund any of these technical and/or administrative expenses. The District's support includes:

7.1.1. Presenting for the Committee's review, financial and project reports that will include project plans, timelines, and cost information. The Committee will also be provided with the annual performance and financial audits that are required by law. District staff shall identify the budget by fund and account code on each Board action precis that recommends the expenditure of bond funds for facility projects.

- 7.1.2. Providing administrative support for Committee and subcommittee meetings, if any, including assisting in preparing agenda packets, meeting logistics, meeting notes and recordings, posting agendas, minutes, and recordings to the Committee website.
 - 7.1.3. The Associate Superintendent of Operations will serve as a CBOC Liaison. The Superintendent and CBOC Liaison may assign such other District staff and professional service providers as needed to assist the Committee in carrying out its duties.
 - 7.1.4. The Committee and Board may hold joint meetings during the first quarter (January through March) and third quarter (July through September) of each year.
 - 7.1.5. The Committee will make reports to the Board in accordance with the District's policy for such matters. All recommendations approved by the Committee shall be presented to the Board of Education.
 - 7.1.6. Providing Committee members training on the Brown Act.
 - 7.1.7. Provide Committee members with expedited access to the District's public records by providing the Committee a specialized process for submitting a Public Records Request pursuant to the California Public Records Act. District staff will publish a monthly report summarizing the previous twelve months of all Committee requests for records.
8. **TERMINATION.** The Board shall terminate the Committee at the earlier date of when: (a) all bond proceeds have been expended; or (b) all projects funded by a bond measure are complete.
 9. **ORDER OF PRECEDENCE.** In the event of a conflict between this policy, any legal or statutory requirement and any Committee bylaw, the following shall be the order of precedence: (1) legal or statutory requirement; then (2) this policy; then (3) Committee bylaws.

Board Policies Relevant to School Bond Construction Program

Board Policy 3400 Management of District Assets/Accounts and Administrative Regulation 3400

Board Policy 7000 Facilities

Legal Reference

EDUCATION CODE

15264-15288

CALIFORNIA CONSTITUTION

Article XIII A, Section 1 (b) Article XVI, Section 18 (b)

Policy WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

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