

West Contra Costa USD

Board Policy

Citizens Bond Oversight Committee (CBOC)

BP 7214.2

Facilities

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.

As a result of the passage of Proposition 39, language was added to the Education Code requiring school districts passing a bond designated as a Proposition 39 bond to establish a Citizens' Oversight Committee (the "Committee" or "CBOC") to actively review and report on uses of bond proceeds to ensure that they are spent only on school facilities improvements allowed under each bond measure and not for any other purpose. The Committee shall be established within sixty (60) days of the date that the Board enters the election results in its minutes. A school district may also establish a voluntary bond oversight committee for a general obligation bond adopted by a two-thirds (2/3) vote of the electorate.

The Board of Education, through this policy outlines the bylaws for which the Committee shall operate.

WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT CITIZENS' BOND OVERSIGHT COMMITTEE BYLAWS

Adopted by the Governing Board of the District on _____ ##, 2021

Section 1. Committee Established. The West Contra Costa Unified School District (the "District") was successful at elections conducted (i) on March 5, 2002 (the "2002 Bond Election") in obtaining authorization from the District's voters to issue up to \$150 million aggregate principal amount of the District's general obligation bonds (the "2002 Authorization"), (ii) on November 8, 2005 (the "2005 Bond Election") in obtaining authorization from the District's voters to issue up to \$400 million aggregate principal amount of the District's general obligation bonds (the "2002 Authorization"), (iii) on June 8, 2010 (the "2010 Bond Election") in obtaining authorization from the District's voters to issue up to \$380 million aggregate principal amount of the District's general obligation bonds (the "2010 Authorization"), (iv) on November 6, 2012 (the "2012 Bond Election") in obtaining authorization from the District's voters to issue up to \$360 million aggregate principal amount of the District's general obligation bonds (the "2012 Authorization"), and (v) on March 3, 2020 (the "2020 Bond Election" and, together with the 2002 Bond Election, the 2005 Bond Election, the 2010 Bond Election, and the 2012 Bond Election, the "Elections") in obtaining authorization from the District's voters to issue up to \$575 million aggregate principal amount of the District's general obligation bonds (the "2020 Authorization" and, together with the 2002 Bond Authorization, the 2005 Bond Authorization, the 2010 Bond

Authorization, and the 2012 Bond Authorization, the “Existing Authorizations”). Each Election was conducted under Proposition 39, chaptered as the Strict Accountability in Local School Construction Bonds Act of 2000, at Section 15264 *et seq.* of the Education Code of the State (“Prop. 39”). Pursuant to Section 15278 of the Education Code, the District is obligated to establish this Citizens’ Bond Oversight Committee (the “Committee”) in order to satisfy the accountability requirements of Prop. 39.

In adoption of this new Board Policy, the Board of Education (the “Board”) of the District recognizes that a future Board may call an election under Prop. 39 wherein the voters in the District may authorize an issue of general obligation bonds, and should such a measure be approved by the requisite fifty-five percent (55%) of such voters, it is referred to herein as a “Future Authorization.” The Existing Authorizations and any Future Authorization are collectively referred to herein as the “Authorizations.”

The Board hereby establishes the Committee, to be known as the “Citizens’ Bond Oversight Committee,” which shall have the duties and rights set forth in these Bylaws. The Committee does not have independent legal capacity from the District.

Section 2. Purposes. The purpose of the Committee is to inform the public at least annually concerning the expenditure of bond proceeds as set forth in Prop. 39, and these Bylaws are specifically made subject to the applicable provisions of Prop. 39 as to the duties and rights of the Committee. The Committee shall be deemed to be subject to the *Ralph M. Brown Public Meetings Act* of the State of California and shall conduct its meetings in accordance with the provisions thereof. The District shall provide necessary administrative support to the Committee as shall be consistent with the Committee’s purposes, as set forth in Prop. 39, but without expending bond funds on such support.

The proceeds of general obligation bonds issued pursuant to the Authorizations are hereinafter referred to as “bond proceeds.” The Committee shall confine its review of District expenditures specifically to expenditures of bond proceeds generated under the Authorizations. Regular and deferred maintenance projects and all monies generated under other sources shall fall outside the scope of the Committee’s review.

Section 3. Duties. To carry out its stated purposes, the Committee shall perform only the following duties:

- 3.1 **Inform the Public.** The Committee shall inform the public concerning the District’s expenditure of bond proceeds. In fulfilling this duty, all official communications of the Committee to either the Board or the public shall come from the Chair acting on behalf of the Committee. The Chair shall only release information that reflects the consensus view of the Committee.
- 3.2 **Review Expenditures.** The Committee shall review expenditure reports produced by the District to ensure that (a) bond proceeds were expended only for the purposes set forth in the applicable Authorization; and (b) no bond proceeds have been used for teacher or administrative salaries or other operating expenses, except

for salaries of bond facilities project administrators paid pursuant to the November 2001 and February 2003 resolutions validated by the Judgment of Validation in the Superior Court of California, Contra Costa County Action No. N03-0216, and in accordance with the guidance of California Attorney General Opinion No. 04-110, dated November 9, 2004.

- 3.3 Annual Report. At least one time annually, commencing with the end of the first fiscal year in which any bond proceeds are expended, and continuing through the end of the fiscal year in which bond proceeds have been spent in full, the Committee shall prepare an annual written report, the findings of which shall be summarized and included in the agenda to the Board in public session, which annual written report shall include the following:
- (a) A statement indicating whether the District is in compliance with the requirements of Article XIII A, Section 1(b)(3) of the California Constitution; and
 - (b) A summary of the Committee's proceedings and activities for the preceding year.
 - (c) Annual reports shall be posted on the District's website in accordance with Sections 7 and 8 hereto.
- 3.4 Duties of the Board and Authorized Officers. Either the Board or the Superintendent, Associate Superintendent, Business Services, Associate Superintendent, Maintenance and Operations, or the designee of any of them (each, an "Authorized Officer"), as the Board shall determine, shall have the following powers reserved to it, and the Committee shall have no jurisdiction over the following types of activities:
- (a) Approval of contracts,
 - (b) Approval of change orders,
 - (c) Expenditures of bond funds,
 - (d) Handling of all legal matters,
 - (e) Approval of project prioritization, project plans and schedules,
 - (f) Approval of all deferred maintenance plans, and
 - (g) Approval of the sale of bonds.
- 3.5 Authorization Projects Only. In recognition of the fact that the Committee is charged with overseeing the expenditure of bond proceeds, the Board has not charged the

Committee with responsibility for:

- (a) Projects financed through the State of California, developer fees, certificates of participation, lease/revenue bonds, the general fund or the sale of surplus property without bond proceeds shall be outside the oversight of the Committee.
- (b) The establishment of priorities and order of construction for bond projects shall be outside the oversight of the Committee.
- (c) The selection of architects, engineers, soils engineers, construction managers, project managers, CEQA consultants and such other professional service firms as are required to complete the project based on District criteria shall be outside the oversight of the Committee.
- (d) The approval of the design for each project including exterior materials, paint color, interior finishes, site plan and construction methods (modular vs. permanent) which shall be outside the oversight of the Committee.
- (e) The selection of independent audit firm(s), performance and financial audit consultants and such other consultants as are necessary to support the activities of the Committee shall be determined by the Superintendent/Designee as approved by the Board.
- (f) The appointment or reappointment of qualified applicants to serve on the Committee, subject to legal limitations, shall be based on criteria adopted by the Board's and shall be outside the oversight of the Committee.
- (g) The bond issuance process and all decisions concerning the timing, terms, or structure of a bond issuance or refunding shall be outside the participation of the committee. The Committee may review the district's bond issuance documents upon the conclusion of a bond sale if desired.

Section 4. Authorized Activities.

4.1 In order to perform the duties set forth in Section 3, the Committee may engage in the activities authorized under Education Code Section 15278 subsection (c), including:

- (a) Receive and review copies of the District's annual independent performance audit and annual independent financial audit, required by Article XIII A of the California Constitution.

- (b) Inspect school facilities and grounds for which bond proceeds have been or will be expended, in accordance with any access procedure established by an Authorized Officer. Visits to job sites require that the Committee member(s) be accompanied by a representative of the District and require that all safety measures in effect at the job site be followed.
- (c) Review copies of deferred maintenance plans developed by the District.
- (d) Review efforts by the District to maximize bond proceeds by implementing various cost-saving measures.

Section 5. Membership.

5.1 Number.

The Committee shall consist of at least seven (7) members appointed by the Governing Board upon the recommendation of an Authorized Officer from a list of candidates submitting written applications, and based on criteria established by Prop. 39, to wit:

- One (1) member shall be the parent or guardian of a child enrolled in the District.
- One (1) member shall be the parent or guardian of a child enrolled in the District and active in a parent-teacher organization, such as the P.T.A. or a school site council.
- One (1) member active in a business organization representing the business community located in the District.
- One (1) member active in a senior citizens' organization.
- One (1) member active in a bona-fide taxpayers association.
- Two (2) members of the community at-large.

5.2 Qualification Standards.

- (a) To be a qualified person, Committee members must be at least 18 years of age.
- (b) As specifically prohibited by Education Code Section 15282, the Committee may not include any employee or official of the District or any vendor, contractor or consultant of the District.
- (c) Preference will be given applicants who reside within District

boundaries; however, residency within District boundaries is not a necessary qualification.

- 5.3 Ethics: Conflicts of Interest. The prohibitions contained in Article 4 (commencing with Section 1090) and Article 4.7 (commencing with Section 1125) of Chapter 1 of Division 4 of Title 1 of the Government Code (the “Conflicts Laws”) apply to members of the Committee. As provided therein, members of the Committee shall not be financially interested in District contracts within the meaning of State law, or engage in any activity for compensation that is in conflict with such member’s duties described herein. The Committee is established to inform the public regarding the expenditure of bond proceeds. Committee members are not public officials of a government agency with decision-making authority within the meaning of the Political Reform Act of 1974, and the Committee is not a decision-making authority. By accepting appointment to the Committee, each member agrees to comply with the Committee Ethics Policy attached as “Appendix B” to these Bylaws, and to complete and file with the District’s business official each year the Fair Political Practice Commission Form 700 Statement of Economic Interests.
- 5.4 Term. Except as otherwise provided herein, each member shall serve a term of two (2) years, commencing on the date of the first meeting of the Committee. No member may serve more than three (3) consecutive terms. A former Committee member who has not served on the Committee for at least one-year may reapply to the Committee and such future term shall not be considered “consecutive”. Should the Board approve the appointment, such member may be reappointed to the Committee pursuant to the process described in Section 5.5 below. As part of the initial appointment of the new Citizens’ Bond Oversight Committee, the District shall select three (3) members to serve for an initial one (1) year term and the remaining four (4) members to serve an initial two (2) year term.
- 5.5 Appointment. Members of the Committee shall be appointed by the Board through the following process:
- (a) the District shall notify the public through its customary forums that it is accepting applications for Committee members, which may include posting at school sites, advertising in the local newspapers, and posting notice on the District’s website, as well as the solicitation of local groups for applications;
 - (b) applications shall be made available at the District office and/or through the District’s web site;
 - (c) an Authorized Officer will review the applications which have been submitted by the stated deadline; and
 - (d) an Authorized Officer will make recommendations to the Board with respect to appointment. Appointments shall be made by the Board at an open meeting

and recorded in the minutes.

- 5.6 Removal; Vacancy. The Board may remove any Committee member for cause, which includes failure to attend two consecutive Committee meetings without reasonable excuse or for failure to comply with the Committee Ethics Policy. Upon a member's removal, the seat shall be declared vacant. The Board, in accordance with the established appointment process shall fill any vacancies on the Committee. The District shall make best efforts to fill vacancies within 90 days. Members whose terms have expired may continue to serve on the Committee until their successor has been appointed. In the event the District is unable to appoint members meeting the criteria listed in Section 5.1, the Committee may proceed with one or more vacancies.
- 5.7 Compensation. The Committee members shall not be compensated for their services.
- 5.8 Authority of Members.
- (a) Committee members shall not have the authority to direct staff of the District;
 - (b) individual members of the Committee retain the right to address the Board as an individual or, on behalf of the Committee if said member has been authorized to do so by an Authorized Officer; and
 - (c) the Committee shall have the right to request and receive only copies of any public records relating to Authorization-funded projects.

Section 6. Meetings of the Committee.

- 6.1 Regular Meetings. The Committee shall meet at least once per year, but no more frequently than quarterly, unless needed, as an Authorized Officer deems it necessary for the Committee to discharge its duty. At the end of each meeting, the Authorized Officer shall identify the next approximate meeting date. Members of the Committee may request an Authorized Officer to include an item on the agenda for an upcoming meeting, however the agenda for any meeting of the Committee shall be determined by an Authorized Officer of the District.
- 6.2 Location. All meetings shall be held within the West Contra Costa Unified School District, located in Contra Costa County, California. To increase the access of the meetings to the public, the meetings shall utilize telecommunications options, to the extent allowable under the law.
- 6.3 Procedures. All meetings shall be open to the public in accordance with the *Ralph M. Brown Act*, Government Code Section 54950 *et seq.* Meetings shall be conducted according to such additional procedural rules as the Committee may adopt. A majority of the number of Committee members shall constitute a quorum

for the transaction of any business.

Section 7. District Support.

7.1 Technical and Administrative Support. As provided by Education Code Section 15280, the District shall provide to the Committee necessary technical and administrative assistance in furtherance of its purposes and to publicize its conclusions. Such support shall include:

- (a) preparation of and posting of public notices and agendas as required by the *Brown Act*, ensuring that all meetings notices and agendas are provided in the same manner as meetings of the District Board;
- (b) provision of a meeting room, including any necessary audio/visual equipment;
- (c) preparation and copies of any documentary meeting materials, such as agendas, minutes and reports;
- (d) providing bond expenditure reports produced by the District for review at each meeting; and
- (d) retention of all Committee records and reports, and
- (e) providing public access to Committee meeting minutes and reports on an Internet website maintained by the District.

7.2 Copies of Bond Audits. Pursuant to Education Code Section 15286, the District shall submit a copy of its annual bond financial audit and performance audit, prepared each fiscal year, to the Committee at the same time such audits are submitted to the Governing Board, and in any event no later than March 31 of each year. In addition, pursuant to Education Code Section 15280(a)(2), if findings, recommendations or concerns are identified in such audits, within three months of receiving the audits, the District shall provide the Committee with responses to such findings.

7.3 Staff Support. A member of the District staff shall attend Committee meetings in order to report on the status of projects and the expenditure of bond proceeds.

Section 8. Reports. The Committee must produce at least one annual report as referenced in Section 3.3. In addition, the Committee may report to the Board from time to time in order in order to inform the Board on the activities of the Committee. Any such reports shall be in writing and shall summarize the proceedings and activities conducted by the Committee. Such reports shall also be made available on the District's internet web site.

Section 9. Officers. An Authorized Officer shall appoint the initial Chair for purposes of

conducting the first meeting of the Committee. At the first meeting, the Committee shall elect by majority vote of its members a Chair and a Vice-Chair, who shall act as Chair only when the Chair is absent. The Chair and Vice-Chair shall serve in such capacities for a term of one year and may be re-elected by vote of a majority of the members of the Committee.

Section 10. Amendment of Bylaws. These Bylaws may only be amended by the Board of Trustees of the District. Any amendment to these Bylaws shall be approved by a majority vote of the Board.

Section 11. Termination. The Committee shall automatically terminate and disband concurrently with the Committee's submission of the final Annual Report which reflects the final accounting of the expenditure of all bond proceeds under the Authorizations.

Legal Reference

EDUCATION CODE

15278-15288

CALIFORNIA CONSTITUTION

Article, XIII A, Section 1 (b)

Article, XVI, Section 18 (b)

GOVERNMENT CODE

Article 4 (commencing with Section 1090)

Article 4.7 (commencing with Section 1125) of Chapter 1 of Division 4 of Title 1

Section 54950

POLITICAL REFORM ACT OF 1974

Legal Reference:

Judgment of Validation in the Superior Court of California, Contra Costa County Action No.

N03-0216,

California Attorney General Opinion No. 04-110, dated November 9, 2004.

Policy WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

adopted: _____, 2021 Richmond, California

These bylaws shall replace the current BP 7214.2 upon adoption

CITIZENS' BOND OVERSIGHT COMMITTEE ETHICS POLICY STATEMENT

This Ethics Policy Statement provides general guidelines for Committee members in carrying out their responsibilities. Not all ethical issues that Committee members face are covered in this Statement. However, this Statement captures some of the critical areas that help define ethical and professional conduct for Committee members. The provisions of this Statement were developed from existing laws, rules, policies and procedures as well as from concepts that define generally accepted good business practices. Committee members are expected to strictly adhere to the provisions of this Ethics Policy.

POLICY

- **CONFLICT OF INTEREST.** A Committee member shall not make or influence a District decision related to: (1) any contract funded by bond proceeds, or (2) any construction project which will benefit the Committee member's outside employment, business, or a personal finance or benefit an immediate family member, such as a spouse, child or parent.

- **OUTSIDE EMPLOYMENT.** A Committee member shall not use his or her authority over a particular matter to negotiate future employment with any person or organization that relates to: (1) any contract funded by bond proceeds, or (2) any construction project. A Committee member shall not make or influence a District decision related to any construction project involving the interest of a person with whom the member has an agreement concerning current or future employment, or remuneration of any kind. For a period of two (2) years after leaving the Committee, a former Committee member may not represent any person or organization for compensation in connection with any matter pending before the District that, as a Committee member, he or she participated in personally and substantially. Specifically, for a period of two (2) years after leaving the Committee, a former Committee member and the companies and businesses for which the member works shall be prohibited from contracting with the District with respect to: (1) bidding on projects funded by the bond proceeds; and (2) any construction project.

- **COMMITMENT TO UPHOLD LAW.** A Committee member shall uphold the federal and California Constitutions, the laws and regulations of the United States and the State of California (particularly the Education Code) and all other applicable government entities, and the policies, procedures, rules and regulations of the West Contra Costa Unified School District.

- **COMMITMENT TO DISTRICT.** A Committee member shall place the interests of the District above any personal or business interest of the member.