

Friday Memo
September 25, 2015

Upcoming Events – Bruce Harter

September 26: Getting Ready for College, Richmond Auditorium, 9:0 – 2:00
September 26: Portola Jr. High Celebration, El Cerrito Community Center, 7:00 PM
September 28: Agenda Setting, Superintendent’s Office, 4:30 PM
September 29: Fab Lab Grand Opening, Kennedy, 10:00 AM
September 29: LCAP Committee, Kennedy Library, 6:30 PM
September 30: Joint Board of Education CBOC Meeting, FOC, 6:00 PM
October 9: State of the Schools Breakfast, DeJean, 7:30 AM

CBOC Leadership Recommendations – Bruce Harter

Attached is the recommendation from three Citizens Bond Oversight Committee members, Ivette Ricco, Don Gosney and Anton Jungherr, that was read to the CBOC on Wednesday night. They requested that it be shared with the Board prior to Wednesday’s joint meeting of the CBOC and the Board of Education.

Conflict of Interest – Bruce Harter

There’s been a good deal of discussion and assertions about what constitutes a conflict of interest. Attached is a summary from one our attorney firms Lozano Smith “Ethics in Public Service Fundamentals” that provides the basics. The more complete manual comes from the California Attorney General “[Conflict of Interest](https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/coi.pdf)” and was most recently update in 2010. It is available at: <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/coi.pdf>

Updated Partnership Process- Wendell Greer

The Community Engagement team is piloting a new partnership process for Contracts and MOU’s for the 2015-16 school year. This new process is focused on creating one point of entry for community partners in the District and streamlining partnerships, increasing alignment of services with school site need, ensuring student safety, and creating a detailed inventory of programs and services available to students and families. We have added additional documentation to the process to ensure alignment with student needs and compliance with Education Code around fingerprinting and TB screening.

The new process is being piloted with Community Partners who are planning on providing direct services to students and families that support health and wellness, social/emotional learning, and family engagement. The process applies to partners who are providing both fee-based and in-kind services. Below are the steps partners go through in the new pilot process, and copies of contract forms are also attached.

STEP	Actions
Step 1 <i>Partnership Orientation</i>	Partners attend WCCUSD Partnership Process Orientation to learn overview of process and how to align programs and services with WCCUSD goals, LCAP, and Full Service Community Schools.
Step 2	Submit Form A- WCCUSD Partnership Proposal that provides overview of intended

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<i>Partnership Proposal</i>	partnership with WCCUSD. Agency should complete in collaboration with site administration, where applicable. One proposal should be submitted for each proposed program—multiple sites can be named in one proposal if overall program is the same.
Step 3 <i>WCCUSD Review</i>	WCCUSD reviews proposal for alignment and approves proposal. WCCUSD issues contract packet to Agency Partner.
Step 4 <i>Agency prepares and submits documentation</i>	<p>Submit Form B-WCCUSD Agreement for Special Contract Services that establishes partnership with WCCUSD or specific school(s) for current school year</p> <p>Submit Form-C: Staff Roster with the names of all staff that will be working and copy of negative TB test results not older than one year, and ATI#.</p> <p>Submit Form-D: Contractor Services Agreement for each staff member listed in Form-C.</p> <p>Submit Form-E: Background Check Certificate of Compliance.</p> <p>Submit Form-L: Title IX Compliance Addendum</p> <p>Submit copy of Certificate of Liability Insurance (review page 2 for specifications).</p> <p>Note: Some providers may have additional addendums to contract packet based on data requests, fee based programs, or facility usage needs.</p>
Step 5 <i>WCCUSD Reviews Documentation</i>	<p>The Community Engagement Department will review your documentation to ensure it meets WCCUSD requirements.</p> <p><input type="checkbox"/> Form-B <input type="checkbox"/> Form-C <input type="checkbox"/> Form-D <input type="checkbox"/> Form-E <input type="checkbox"/> Form-K</p> <p><input type="checkbox"/> Form-L <input type="checkbox"/> Certificate of Liability Insurance</p>
Step 6 <i>Badging</i>	The Community Engagement will notify Agencies once contract review and signatures are completed. Staff listed on agency rosters will then need to come to 5100 Potrero Ave, Room 21 to complete the photo and badging process.

No Place For Hate- Wendell Greer

On September 3rd, twenty-six WCCUSD school sites participated in the Anti-Defamation League’s No Place For Hate kickoff orientation and professional development for the 2015-16 school year. ADL’s No Place for Hate initiative provides schools and communities with an organizing framework for combating bias, bullying and hatred, leading to long-term solutions for creating and maintaining a positive climate. No Place for Hate schools receive their designation by:

- § Building inclusive and safe communities in which respect is the goal, and all students can thrive.
- § Empowering students, faculty, administration and family members to take a stand against hate and bullying by incorporating new and existing programs under one powerful message.
- § Engaging schools and communities in at least three anti-bias activities per year, which ADL helps to develop.
- § Sending a clear, unified message that all students have a place to belong.

The twenty-six participating WCCUSD sites will work in collaboration with No Place for Hate to implement educational programming to support climate improvement throughout the year.

Bay Area Flu Study- Wendell Greer

WCCUSD is participating in the Bay Area Flu Study, in collaboration with the Page Family Foundation and Oakland Unified School District. The Bay Area Flu Study is a research project to help learn how to stop the spread of flu. Six WCCUSD Schools (Grant, King, Madera, Ohlone, Shannon, and Verde) have been matched with OUSD schools for the study—parents have been asked to participate in surveys about their perceptions and utilization of flu shots for their students and family. Family participation assists in raising funds for each school site. The Bay Area Flu Study research team is partnering with each school site to encourage parent participation. This partnership, if proven effective, may bring expanded opportunities for flu vaccinations to WCCUSD in the future. For more information, visit www.BayAreaFluStudy.org

Summer Program and Assessment Information – Nia Rashidchi

As a follow-up to the September 16, 2015 Board of Education meeting, this Friday memo provides a more in-depth review of secondary summer learning assessment data.

The 2015 secondary Summer School Program served over 3,400 students. Courses were taught using a blended learning model, which included the integration of technology and online learning with direct instruction. Each student had a tablet for daily use. Core curriculum consisted of *Plato* online courses, Common Core-aligned instructional packets, pacing guides for textbooks, and other online resources such as *EdIStop* and *Newsela*. Students also completed projects using PowerPoint and Excel. The online platform *Plato*, a product of *Edmentum*, provided students with Common Core aligned curriculum at grade level and scaffolds such as text-to- speech, highlighting, tutorials and videos to help students better understand and access the content. It also provides other benefits such as SBAC-like constructed responses and keyboarding practice.

Edmentum staff collaborated with district secondary curriculum and instruction staff to customize courses to meet the needs of our students. We highlighted content which helped students practice essential skills and gain knowledge to help them matriculate to the next course. Pre- and post-assessments were designed to measure students’ progress over the course of the summer program. Data are in attachments to today’s Friday Memo.

General Financial Audit and Bond Financial Audit - Bruce Harter

The Citizens Bond Oversight Committee had requested a legal opinion from Adam Ferber who acts as counsel to the CBOC on the legality of the district combining the general financial audit report with the bond financial audit report. For many years, those reports which were completed by the same firm with separate contracts for each audit were distributed under separate covers. The request for proposal for these audit services specified that two reports would be combined under a single cover with separate sections for the general financial audit report and the bond audit report. Reporting in this fashion would save the district about \$10,000 annually while providing the same content as in the past. The added advantage is that most of the information about the status of the bonds and payment schedules is included in the general financial audit and does not appear in the bond financial audit. Bond Counsel, Nixon Peabody was asked to review the matter. In an effort to ensure transparency the new audit firm, Christy White, has agreed to

produce the reports under separate cover. The reports are generally provided to the Board in January. Attached are both legal opinions.

Pinole Valley High School - Prequalification Thresholds & Outreach Efforts - Lisa LeBlanc

On September 16, 2015, the Board approved Resolution #38-1516 authorizing the development and adoption of a prequalification questionnaire and rating system. One of the criteria set forth in the rating system includes a requirement for a prospective bidder to have constructed a minimum number of California public works projects of a minimum size with a similar scope of work to the type of work for which they are bidding. It was communicated at the Facilities Subcommittee and the Board of Education Meeting that the minimum threshold for a general contractor may be four projects with a contract value of at least \$25 million and for a sub-contractor may be four projects with a contract value of at least \$1 million. Staff has refined the minimum threshold to align more closely with the project. The updated minimum thresholds for a general contractor will be three projects with a contract value of at least \$25 million and one project with a contract value of at least \$50 million. The updated minimum threshold for a sub-contractor will be three projects with a contract value of at least \$2 million. Staff expects that the minimum criteria will not decrease the pool of qualified bidders. The realignment of the thresholds better represent the project size and complexity to attract prospective bidders who have the capacity and experience to perform the proposed scope of work. To that end, the District hosted a successful outreach event for contractors on Thursday, September 24, 2015, to highlight the project and review bidding requirements including prequalification. At this time more than 41 contractors have submitted a request for prequalification materials.

Local Control Accountability Plan (LCAP) and Budget Approval Letter – Sheri Gamba

The Contra Costa County Office of Education has reviewed and approved the 2015-16 budget for our district in accordance with AB1200 and has also approved the Districts LCAP. The letter from the County Superintendent of Schools is enclosed for your review.

Public Records Log – Marcus Walton

Included in this week’s memo is the log of public records requests received by the district. If you have any questions, please contact me.

WCCUSD October Professional Development – Nia Rashidchi

West Contra Costa USD provides abundant professional development opportunities for staff. We think it is important for board members to know about the variety of offerings. This Friday Memo contains the October Professional Development Calendar.

10/1/2015 8:30 AM - 3:00 PM READ 180/System 44 Cadre Day

Location: Korematsu Middle School-RM TBD

- This is session is for READ 180/System 44 teachers only
- These days are designed for the sharing of best practices, working with your peers, and determining next steps in your classroom.

10/1/2015 4:00 PM - 6:00 PM Bell to Bell Teaching & Learning for 1st & 2nd Year Teachers

Location: Pupil Service Center-MPR

In this session, educators will analyze the learning that is currently taking place during the first and last ten

minutes of a lesson and be motivated to enhance or revise their current procedures and systems. Participants will walk away with a toolkit of strategies to improve student investment through a strong start and strong finish to each lesson.

10/1/2015 4:00 PM - 6:00 PM Level 2 SP FAS session

Location: Pupil Services Center- Rm. 7

Second year support providers continue their training in the formative assessment system

10/1/2015 4:00 PM - 6:00 PM Math Pizza and Planning #1 of 3 for Grades Pre K-2

Location: DeJean Middle School Multipurpose Room

Mathematics content and planning support for Grades Pre K-2 teachers

District Objective: Participants will learn about, review, and/or plan using CCSS, SBAC, and benchmark content, pedagogy, and assessment.

10/1/2015 4:00 PM - 6:00 PM Moving Beyond Equity Sticks: Formative Assessment Strategies for the Secondary Classroom

Location: Vista Hills Education Center- Computer Lab

- o Open to all SECONDARY Teachers
- o Formative Assessment is day-to-day, minute-to-minute classroom practice used to inform teaching and learning.
- o This interactive session will provide you with quick and timely assessment strategies that you can use in your classroom tomorrow.

10/1/2015 4:00 PM - 6:00 PM Secondary ELD Monthly Meeting - Departmental Meeting

Location: Pupil Services, Room 2

Topics vary each month to meet participant needs and will include opportunities to: collaborate with colleagues, learn research based strategies, analyze data, communicate needs, get questions answered and plan for effective instruction.

10/2/2015 3:30 PM - 5:30 PM Elementary ELD - Train the Trainers

Location: Pupil Services, Room 2

Advanced strategies for your ELD practice (intended for teachers who attended the ELD monthly meetings in the 2014-2015 school year)

10/6/2015 3:30 PM - 5:30 PM EL's With Disabilities

Location: Pupil Services Center MP Room

Training for Special Education Teachers, Psychologists, Speech Therapists and Special Education Itinerant Teachers

10/6/2015 4:00 PM - 6:00 PM Intro to mentoring

Location: Potrero Campus-Portable 35

Level 1 SP's (New SP's) begin their journey of learning how to mentor their PT

10/6/2015 4:00 PM - 6:00 PM Secondary Science Fair Meeting #1 of 2

Location: Pinole Middle School, Room BSL2

Science meeting for all science teachers! Agenda includes district secondary science fair planning and other items.

10/6/2015 4:00 PM - 6:00 PM VAPA Committee Meeting

Location: Secondary Educational Services-Portable #27

This session is designed for VAPA Committee Members only.

10/8/2015 8:30 AM - 3:30 PM Master Schedule Training

Location: Crespi Middle School Learning Lab

Master Schedule training will focus on making the schedule work for pathway academies. One AP and one counselor from each high school are being asked to attend; the same workshop will be given on October 20th for the other AP and counselor at each high school. Middle School administrators and counselors are also welcome; those with pathways and/or SLCs will find it especially helpful. Hands-on tools and practice for "taming" the master schedule will be covered.

10/8/2015 4:00 PM - 6:00 PM Build Rationale for 1st & 2nd Year Teachers

Location: Pupil Service Center-MPR

In this session, educators will identify the positive impact that providing rationale can have on their students' investment and trust in their teacher. Participants will walk away from the session being able to recognize and avoid the common pitfalls that teachers often fall into when explaining the "why" to their students and plan stronger rationale into upcoming lesson plans.

10/8/2015 4:00 PM - 6:00 PM Level 1 SP FAS session

Location: Potrero Campus- Portable 35

First year SP's learn formative assessment system for their work with PT's.

10/10/2015 CLASS Training

Location: TBD

For Preschool and TK Teachers

10/12/2015 8:00 AM - 9:00 AM CLASS Training

Location: TBD

For Preschool and TK Teachers

10/12/2015 8:00 AM - 3:00 PM DRDP Tech Training

Location: TBD

Preschool, Transitional Kindergarten Instructional Aides and new SH teachers.

10/12/2015 8:45 AM - 12:00 PM Hot Zone- Behavioral Strategies for Students with ADHD

Location: Crespi Junior High School

Classified Training Day for all permanent special education paraprofessionals.

10/13/2015 8:30 AM - 11:30 AM Promoting Positive Classroom Behavior

Location: Pupil Services Center

For all general education teachers and special education teachers for grades Preschool - 5th

10/13/2015 4:00 PM - 6:00 PM Level 3 SP FAS session

Location: Potrero Campus- Portable 35

Experienced support providers deepen their working knowledge of the formative assessment system and continue to refine their coaching skills.

10/14/2015 3:30 PM - 5:30 PM Job Alike Meetings

Location: Pupil Services Center

Teachers have the opportunity to meet with like groups during breakout sessions.

10/14/2015 4:00 PM - 6:00 PM VAPA Pizza and Planning

Location: Pupil Service Center-MPR

Support for Art Integration and Instruction through Common Core State Standards. K-12 Teachers are welcome!

10/15/2015 3:30 PM - 5:30 PM TBE/DLI Monthly Departmental Meeting

Location: Pupil Services, Room 2

Topics vary each month to meet participant needs and will include opportunities to: collaborate with colleagues, learn research based strategies, analyze data, communicate needs, get questions answered and plan for effective instruction.

10/15/2015 4:00 PM - 6:00 PM Level 1 SP FAS session

Location: Potrero Campus- Portable 35

New support providers continue to develop skills and working knowledge of the formative assessment system

10/15/2015 4:00 PM - 6:00 PM Students on Task, Engaged & Accountable for 1st & 2nd Year Teachers

Location: Pupil Service Center

This session will provide educators with an opportunity to analyze the ways in which their current behavior management systems are motivating their students to engage authentically (beyond all students being on task). Participants will leave this session with multiple strategies to increase student investment in their classroom the next day.

10/16/2015 9:00 AM - 3:00 PM Learning Foundations & Curriculum Framework, Vol. 3 - Physical Science

Location: Hs Lordships

For Pre-K and TK Teachers and Administration.

10/17/2015 9:00 AM - 3:30 PM Equitable Classroom Symposium Year 1 PT's

Location: Serra Adult Education-MPR

Full-day professional development for year1 PT's to deepen their understanding of identity safety

10/19/2015 4:00 PM - 6:00 PM ED Specialist SP session

Location: Potrero Campus-Portable 35

ED specialist SP's deepen their understanding of the ED Specialist inquiry

10/19/2015 4:00 PM - 6:00 PM Exploring the New CA ELD Standards

Location: Pupil Services - Multi-Purpose Room

An opportunity for ELD instructors to explore the new CA ELD Standards.

10/20/2015 8:30 AM - 3:30 PM Master Schedule training will focus on making the schedule work for pathway Master Schedule Training

Location: Vista High School, TTL 1 (Portable)

Master Schedule training will focus on making the schedule work for pathway academies. One AP and one counselor from each high school are being asked to attend; the same workshop was given on October 8th for the other AP and counselor at each high school. Middle School administrators and counselors are also welcome; those with pathways and/or SLCs will find it especially helpful. Hands-on tools and practice for "taming" the master schedule will be covered.

10/20/2015 4:00 PM - 6:00 PM ILP 1 workshop

Location: Pupil Services Center-MPR

Year 1 PT's and their SP's develop the individualized learning plan that guides their inquiry for the year.

10/20/2015 4:00 PM - 6:00 PM SDAIE Monthly Meeting

Location: Kennedy High School, Rooms

Collaboration and strategies to support ELs in the content areas. Topics vary to meet participant needs and will include opportunities to: collaborate with colleagues, learn research based strategies, analyze data, communicate needs, get questions answered and plan for effective instruction.

10/22/2015 4:00 PM - 6:00 PM Growth Mindset #2: Going Deeper-Building Our Practice...The GM Teacher for 1st/2nd Year Teachers

Location: Pupil Service Center

This 2nd session will go deeper into Growth Mindset practices. (1st session was Growth Mindset 101 at the New Teacher Orientation on August 19, 2015)

Students who have a growth mindset do better in school. Educators will learn more about the research and **powerful practices that can be used in class the next day:**

Topic 1 - Teach about the growth mindset, download a growth mindset lesson plan & help parents learn what a growth mindset is and why it is important.

Topic 2 - Learn how to talk to students about the brain

Topic 3 - Learn more about the power of praise; it's about the process not the person & help parents learn to promote a growth mindset at home through the types of praise they give their kids.

10/22/2015 4:00 PM - 6:00 PM Math Pizza and Planning #1 of 3 for Grades 3-5

Location: Alvarado Adult School Multipurpose Room

Mathematics content and planning support for Grades 3-5 teachers

District Objective: Participants will learn about, review, and/or plan using CCSS, SBAC, and benchmark content, pedagogy, and assessment.

10/23/2015 12:00 PM - 11:00 PM School Community Worker (SCOW)

Location: Serra MPR

School Community Worker (SCOW) Staff Development

10/24/2015 8:15 AM - 3:00 PM Effective Reading Intervention

Location: Pupil Services Center

Effective Reading Intervention all Elementary NSH and RSP Teachers. Phonics for Reading, Rewards, Six Minute Solution and Read Naturally.

10/26/2015 3:30 AM - 5:00 PM Writing Calibration, Grades K-6

Location: Vista Hills, Rooms 7, 8, 10

Bring students' writing assessments

K-6 teachers, please come to this supportive session to collaboratively score samples of student writing with your grade-level colleagues. Bring Writing Benchmark 1 student writing samples with you to the session.

10/27/2015 4:00 PM - 6:00 PM ILP 1 workshop REPEAT

Location: Pupil Services Center-MPR

Year 1 PT's and their SP's develop their individualized learning plan that guides their inquiry for the Year.

10/28/2015 8:15 AM - 3:00 PM Elementary Treasures ELD Hybrid

Location: Pupil Services, Room 2

Support with how to structure and manage Hybrid ELD classes.

10/28/2015 3:30 PM - 5:30 PM Learning Center/RSP Meeting

Location: Pupil Services Center

Elementary RSP teachers only

10/29/2015 8:15 AM - 3:00 PM Treasures ELD Training- Elementary RSP/NSH

Location: Pupil Services, Room 7

Support with how to structure and manage Elementary RSP/NSH classes.

10/29/2015 8:30 AM - 3:00 PM DBQ Project Training for MS History Teachers

Location: TBD

Join us for 2 days of intensive training DAY 2 of 2

All middle school history teachers will complete training during Fall 2015. Participants will learn the DBQ Project's highly-scaffolded methodology for teaching students to **read and analyze primary source documents and write evidenced-based essays aligned with Common Core**. Teachers in the DBQ Project Pilot reported high student engagement and greater success in writing. You will be ready to implement the strategies in class the next day!

10/29/2015 3:30 PM - 5:30 PM STAR Reading/Early Literacy Core Progress K-8

Location: Vista Hills

Come and learn how to use the tools available in Renaissance Learning that will allow you to effectively plan for small group instruction!

Prerequisite knowledge:

- know how to log-in to Renaissance Learning
- know how to give an assessment to your students (and have given the assessment to your class)
- know how to find/read a summary report of your students' assessment results

Skills you will gain:

- how to access the instructional planning report to create small groups for ELA
- understand the Core Progress Learning Progression tool and the wide variety of resources that it offers
- know how to use the Core Progress Learning Progression tool to develop weekly and monthly lesson plans

10/30/2015 8:30 AM - 3:00 PM DBQ Project Training for MS History Teachers

Location: TBD

Join us for 2 days of intensive training DAY 2 of 2

All middle school history teachers will complete training during Fall 2015. Participants will learn the DBQ Project's highly-scaffolded methodology for teaching students to **read and analyze primary source documents and write evidenced-based essays aligned with Common Core**. Teachers in the DBQ Project Pilot reported high student engagement and greater success in writing. You will be ready to implement the strategies in class the next day!

Ivette Ricco
2826 Simas Avenue
Pinole, CA 94564-1131
ivettericco@gmail.com

Don Gosney
929 Lassen Street
Richmond, CA 94805-1030
dongosney@comcast.net

Anton Jungherr
121 Ash Court
Hercules, CA 94547-1153
ajungherr@aol.com

WCCUSD Board President Todd Groves
WCCUSD Board Member Randall Enos
WCCUSD Board Member Madeline Kronenberg
WCCUSD Board Member Valerie Cuevas
WCCUSD Board Member Liz Block

September 23, 2015

At the request of the WCCUSD's Governance Board we were invited to attend their meeting on Monday September 21. The discussion revolved around the size of the Citizens Bond Oversight Committee (CBOC), the makeup of the CBOC and even the scope of the CBOC.

The following comments are a review of some of the ideas, comments and recommendations presented by the three of us. Between the three of us, we have more than 15 years of experience serving on the WCCUSD CBOC. Although currently members of the CBOC we were not at this meeting representing the CBOC and these comments do not reflect those of the CBOC. We attended as private citizens with experience serving on the CBOC.

Many of our comments and recommendations presented here we are in complete agreement with while others reflect individual opinions. Being as inclusive as we can, we are including both.

SIZE OF THE CBOC

The West Contra Costa County Grand Jury Report 1514 strongly suggested that the size of the CBOC is a hindrance to the effectiveness of the CBOC and even diminishes the prospects of the CBOC having a quorum when they meet. The report strongly suggested that the size of the CBOC be reduced dramatically.

We disagree with this part of the Grand Jury report and believe that the data the Grand Jury used to determine their findings was inaccurate and flawed.

First, over the past 28 meetings of the CBOC there has been a quorum. Considering the volunteer makeup of the CBOC, the fact that these volunteer members often have busy lives with a multitude of commitments that can pull them away from the CBOC meetings, it's remarkable that it's been nearly two and a half years since the CBOC has failed to have a quorum.

JOINT STATEMENT TO THE WCCUSD BOARD OF EDUCATION

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The Grand Jury opined that the effectiveness of the CBOC might be enhanced if the size of the CBOC were to be reduced.

We disagree with that assessment, too. The WCCUSD is spread out over five diverse cities and also includes several very distinct geographic areas outside of the cities. Kensington, El Sobrante, North Richmond, East Richmond, Rollingwood, Tara Hills—there is little about these areas that are similar with the exception that they are all affiliated with the WCCUSD.

The size of this Bond Program demands that there be a diversity of opinions being voiced so that the voices of the entire community can be heard.

As it stands right now the one meeting per month that the CBOC holds takes about two and a half hours. Some of those meetings deal specifically with regular administrative items such as accepting minutes, roll call, Board Liaison reports, reports from staff, public comment and a few other items. Listening to the CBOC members as they voice their own opinions about the issues is a relatively small percentage of the time spent each month so reducing the number of members might reduce the meeting time by maybe ten minutes. It's not the number of CBOC members that determines the amount of time spent discussing the issues—it's the individual members and the issue being discussed that matters. If the Board were to choose to reduce the size of the CBOC by eliminating those members who sit in silence, how will that make the meetings more efficient or shorten them? When the Board eliminates positions on the CBOC, how will they know that they've removed those persons responsible for those extra ten minutes of meeting time?

We believe that the size of the CBOC—at 19 members—works as is and there's no valid reason for reducing the size. Although there was strong opinion voiced by Board Member Cuevas to reduce the size down to 15, we heard no substantive arguments justifying that reduction except to bow to the wishes of the Grand Jury. We believe that if changes are to be made to the CBOC that there should be an actual reason to affect the changes.

RECOMMENDATION:

Unless there can be demonstrated a very specific reason to reduce the size of the CBOC, then leave it at its current size of 19 members.

We recommend that the Board implement a better outreach effort to solicit applicants to fill vacancies on the CBOC. Announcements can be made in a number of ways including the use of:

JOINT STATEMENT TO THE WCCUSD BOARD OF EDUCATION

Ivette Ricco

Don Gosney

Anton Jungherr

- The WCCUSD Reporter
- Board meetings
- PTA Meetings (with their own means of reaching out to their members)
- Announcements at City Council meetings
- Site Council meetings
- Site Committee meetings
- The use of various listserves representing communities (Richmond has one for many of their 37 neighborhood councils)
- Social media sites
- Online news sites such as the Richmond Standard, Radio Free Richmond and the various 'Patch' news sites for the smaller cities (El Cerrito, Pinole and Hercules)
- CBOC and WCCUSD web sites

MAKE-UP OF THE CBOC

Prop 39 dictates that five members of the CBOC must include:

- One member active in a business organization representing the business community located within the district;
- One member active in a senior citizens' organization;
- One member active in a bona fide taxpayer's organization;
- One member who is the parent or guardian of a child enrolled in the district; and
- One member who is both a parent or guardian of a child enrolled in the district and active in a parent-teacher organization.

The California Education Code also requires at least two more members of a bond oversight committee. The Ed Code does **not** require more nor does it limit the number of members of a CBOC nor does it direct how members are selected. What it does state, however, is that the final selection must be by an action of the School Board.

When the District first set up a CBOC after the Prop 39 regulations were approved by the voters, the Board chose to have members represent specific organizations. These included representatives from each of the five cities, representatives from the two County Supervisors who represented those parts of the District not included in the five city limits, nominees from each of the five Board members, one representative from Local 1 and another from the Building Trades Council.

Part of the reason for this distribution was the need to have a buy-in from groups and organizations when bond measures were placed on the ballot. The Board believed that if these groups felt that they had a seat at the table they would be more likely to support bond ballot measures.

JOINT STATEMENT TO THE WCCUSD BOARD OF EDUCATION

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It's important to make clear that since the CBOC is an advisory committee, they have no power to affect policy. This is 100% in the hands of the elected Board members.

When arguments are made that there is a conflict of interest because a CBOC member has been nominated by a particular Board member, it's critical that the previous point of fact be brought forth: the CBOC has no impact on policy. So how would any perceived conflict of interest manifest itself? When anyone suggests that a CBOC member that was nominated (not appointed) by a board member has a conflict of interest—as if they take their marching orders from the person who nominated them—that's as much as accusing that CBOC member of being corrupt. That's insulting to every person who has served on the CBOC. Furthermore, if the CBOC member is corrupt because they were nominated by a Board member, wouldn't it stand to reason that the Board member must also be corrupt for setting up such a scenario? Hasn't every Board member—even those suggesting this corruption—nominated a community member to serve on the CBOC?

It's very easy to point a finger and accuse someone of having a conflict of interest but when it comes time to show just cause for such an accusation, can the accuser follow through? We've not seen it yet.

The conflict of interest accusers seem to think that the only CBOC members that might be eligible to wear that hat would be those that were nominated by fellow Board members. What about those nominated by a City or even the mandated positions? We've seen time and time again where those nominations were made not to serve the interests of the District but to serve the specific interests of the nominators.

Anyone can make an accusation and they're rarely called to task to back up their accusations.

Concerns have been expressed about how the District can rebuild the trust. We have to accept that we live in polarized times and there will always be people who, when they don't get their way, will go to almost any lengths to tear down the existing bodies, people and programs until they get their way. No matter what the Board does, some of these people will always exist and there's nothing that can be done with them. They will always be against whatever they disagree with.

One way to remove the perception of a conflict of interest is to immediately make all of the non-mandated CBOC positions At Large positions. Don't wait until their

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terms expire—do it now.

We've seen too many representatives who are on the CBOC only because it will make them look good when they run for office. They're seat warmers and add nothing to the mix. By making these seats At Large, we can expect that we'll get applicants who want to serve instead of those serving their own interests.

When vacancies occur, ensure that applicants fill out an application form. This is currently the policy of the Board but the Board does not always follow this rule. When Don Gosney was admitted back onto the CBOC earlier this year, his nomination was approved **and then he was asked to submit an application.**

Expand the application form so the Board and the public can know more about the applicant.

Have the Facilities Subcommittee review the applications and give a report back to the full Board.

Include the completed applications in the Board agenda packet so the public can appreciate the transparency of the process.

There has been talk about requiring the CBOC to have members with specific skills—even to the point of requiring that specific seats on the CBOC be reserved for people with experience in accounting, construction, legal, education and others. This would be a mistake. Many of our CBOC members already possess a multitude of these skills and requiring specific skills to serve in specific seats would add yet another level of bureaucracy to the selection process. Who amongst the Board is qualified to determine the skill levels of an applicant with construction skills, legal skills finance skills, et al?

Lastly, we need to keep in mind that the appointment terms expire at different times of the year. It's not like the Board where the terms expire at specific times of the year.

This means that seats will become vacant throughout the year and filling those vacancies will be an ongoing effort. Over the next couple of years it appears as if there will be six vacancies per year. [Doing the math this leaves a third of the CBOC unaccounted for. Because of some very recent actions, we now have five vacancies to fill and one more seat expires this year (in December).]

JOINT STATEMENT TO THE WCCUSD BOARD OF EDUCATION

Ivette Ricco

Don Gosney

Anton Jungherr

RECOMMENDATIONS:

Immediately transform **all** non-mandated CBOC seats to At Large positions.

Amend the application form to include more information demonstrating skills that would benefit the CBOC and the District.

Use the Facilities Subcommittee as a vetting tool to review the applications. This may include an interview with the applicant.

Have the Facilities Subcommittee report to the full Board and the public with what they've learned about the applicant.

Require the applicant to attend a CBOC meeting so they have a better understanding of what the CBOC does and what will be required of them.

Include the application in the Board's agenda packet so the public can learn more about the applicant.

SCOPE OF THE CBOC

The CBOC knows, but must sometimes be reminded, that they are an advisory board and they do not have the ability to set policy or direct that anyone do anything. The role of the Board is to set policy and they are the only persons afforded that authority.

As mentioned earlier, the WCCUSD encompasses a vast and diverse group of citizens and to think that those diverse groups can be adequately represented by a smaller CBOC would be folly. The needs of the people in Hercules are not the same as those of the people of Richmond and neither are the same as those in Kensington.

We have a wide disparity in the level of education of our differing geographic areas, different economic dynamics and different cultural backgrounds. They all deserve potential representation and there really isn't a one-size-fits-all way of looking at things.

The voters have spoken about what they want. They've entrusted the Board to implement what they've approved at the ballot box. Props 39, however, has required that there be community oversight to ensure that the Board—and the District staff working under them—follows the mandates of the community and spends the bond money efficiently, wisely and without waste.

This requires that a diverse set of eyes review the actions of the Board to ensure that they are meeting the demands of the community. This requires the study of the expenditures, the plans, the schedules, the quality of the work performed, and the finances to ensure that what the Board and the District is doing matches what the voters have approved.

JOINT STATEMENT TO THE WCCUSD BOARD OF EDUCATION
Ivette Ricco *Don Gosney* *Anton Jungherr*

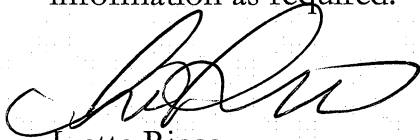
The CBOC does **NOT** have the authority to direct the Board to do anything. They can advise them, they can suggest and they can lobby but the CBOC must always understand their role.

This role must—and this needs to be bold faced and in capital letters—be **INDEPENDENT** of the Board and the District. The Grand Jury report touched on this. The Board and District staff cannot erect roadblocks to prevent the CBOC from performing their assigned tasks. At the very least, the CBOC needs access to documents and this must be accomplished in a timely fashion. They must have control of their meeting agendas. They must have control of their web site.


Having a Board Liaison attend the CBOC meetings is important but there have been liaisons that think they have a voice and vote on the CBOC and such should not be the case.

We believe that the CBOC is on the right track right now and, if provided the opportunity, will continue to serve the needs of the community by representing their interests. These interests should, of course, be the same as those of the Board and District staff so there should never be a conflict.

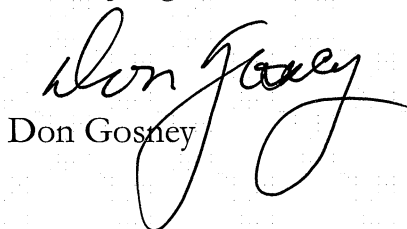
We appreciate the opportunity to address the Governance Committee as well as the Board about these important issues and welcome the opportunity to provide further information as required.



Ivette Ricco



Anton Jungherr



Don Gosney

Cc: Dr. Bruce Harter, WCCUSD Superintendent of Schools
Lisa LeBlanc, WCCUSD Associate Superintendent, Operations and Bond Program

ETHICS IN PUBLIC SERVICE FUNDAMENTALS

The rules governing ethics are designed to ensure open government and fairness. The rules are complex, and sometimes technical. New rules are adopted every year. The purpose of these "Ethics In Public Service Fundamentals" is to summarize the basic ethics principles, alert public officials to issues they need to be aware of, especially legislative body members, and to learn to know when to ask questions; this is not intended to be a comprehensive summary or review of all applicable laws. If a red flag is raised, the reader is urged to consult with the applicable regulating authority, such as the Fair Political Practices Commission or California Attorney General's Office, or seek legal counsel. There are also a multitude of resources on ethics and conflicts of interest available on the internet from the following organizations:

- Institute for Local Government, www.ca-ilg.org. (The ILG prepared a number of publications on public service ethics.)
- California Fair Political Practices Commission, www.fppc.ca.gov. (The FPPC created numerous Fact Sheets.)
- California Attorney General, www.ag.ca.gov/publications. (The AG prepared a Conflict of Interest Publication last updated in 2010.)
- California School Boards Association, www.csba.org. (The CSBA prepared a July 2010 Fact Sheet on Conflict of Interest for governing board members.)

Some local officials are required to receive biennial ethics training. These include elected and appointed officials of local agencies who receive compensation or reimbursement for expenses incurred as part of their official duties. Currently local agencies required to receive the training include cities, counties, and special districts, but not school districts. (Government Code §§ 53234, 53235.) Many local agencies require training for all officials that file Form 700 Statement of Economic Interests.

We recommend that training be provided for all locally elected officials, appointed members of boards and commissions that have decision making authority or whose advisory recommendations are regularly accepted, and anyone with significant decision making authority, especially those having authority over financial matters and contracts for construction, goods or services. These individuals are usually the ones who file the Form 700. We also recommend the training for school districts. Our Firm regularly provides public agency ethics training and we can tailor the training to specific agency needs.

1. Be Alert to Decisions That May Have a Economic Effect.

The California Political Reform Act, Government Code section 87100 et seq., and 2 California Code of Regulations section 18700 et seq., sets forth the rules governing financial conflicts of interest. Public officials, both at the state and local level, may not

participate in a decision if the official's financial interests might be materially affected by the decision. Participation includes using the official's position to influence the decision. (Government Code § 87100; 2 California Code of Regulations §§ 18700 - 18702.4.)

There are five types of economic interest to be concerned with from which a conflict may arise:

- Business entities, including an investment of \$2,000 or more, an employee, or management. (2 California Code of Regulations §§ 18703.1, 18704.1, 18705.1.)
- Real property interest of \$2000 or more. A conflict of interest is presumed if the official owns or leases residential property within 500 feet of the boundaries of the property subject to the decision. For commercial property interests, the business entity rules apply. (2 California Code Regulations §§ 18703.2, 18704.2, 18705.2.)
- Sources of income, including a spouse's income, of \$500 or more within the preceding 12 months. (2 California Code of Regulations §§ 18703.3, 18704.1, 18705.3.)
- Sources of gifts of \$460¹ or more within the preceding 12 months. (2 California Code of Regulations §§ 18703.4, 18704.1, 18705.4.)
- Personal financial effect, including effect on spouse or immediate family member, such as a loan, of \$250 or more within any 12-month period. (2 California Code of Regulations §§ 18703.5, 18704.5, 18705.5.)

A conflict of interest will exist with regard to a particular government decision if it is sufficiently likely that the outcome of the decision will have an important impact on an individual's economic interest and a significant portion of the jurisdiction does not also feel the important impact on their economic interests. The impact can be positive or negative. (2 California Code of Regulations §§ 18707 et seq.)

2. If a Conflict of Interest Exists Do Not Participate and Disclose.

If a public official has a disqualifying conflict of interest, the official must refrain from any participation in the decision making process. This includes discussing with or attempting to influence staff or colleagues. (2 California Code of Regulations §§ 18702 et seq.)

¹ \$460 is the number in effect at the time of preparation of this Handbook. The number is adjusted on a biennial basis.

Legislative body members must identify the nature of the conflict in open session and leave the room prior to the legislative body taking action on the item. If the item is on the consent calendar the legislative body member need not leave the room. (Government Code § 87105; 2 California Code of Regulations § 18702.5.)

A public official may speak as a member of the public even if the official has a personal interest in the matter, but must leave the dais and speak as a member of the public. (Government Code § 87105; 2 California Code of Regulations § 18702.5(d)(3).)

3. If Any Member of the Legislative Body Has a Financial Interest in a Contract, the Agency May Not Enter into That Contract.

Government Code section 1090 prohibits public officials from being financially interested in contracts. It prohibits participating in the development, negotiation, or execution of the contract and applies to both oral and written contracts. If any member of a legislative body has a financial interest in the contract, the legislative body may not enter into the contract. Abstention does not cure the conflict.

This rule applies to employees that have contract authority. Employees may not negotiate or enter into a contract if the employee has a financial interest in the contract. (*Los Angeles Memorial Coliseum Commission v. Insomniac, Inc.* (Jan. 27, 2015) ___ Cal.App.4th ___).

There are exceptions for “remote interests” as defined by statute and essential goods and services, provided the official recuses him or herself and does not directly or indirectly participate in the making of the contract. (Government Code §§ 1091; 69 Ops.Cal.Atty.Gen. 102 (1986).) The remedy for violating Section 1090 is harsh: the contract is void and unenforceable, the public official faces criminal charges, and if convicted the official is forever banned from holding public office. (Government Code §§ 1092, 1097.)

4. Public Officials Should Not Negotiate for Future Employment with Someone That Is Doing Business with the Agency.

Public officials may not participate in decisions involving future employers. This applies whenever the official is negotiating or has an arrangement concerning prospective employment. (Government Code § 87407.) Thus, public officials who are negotiating for future employment automatically disqualify themselves from participating in any decisions involving that future employer.

5. Be Aware of Gifts, Including Tickets to Events and the Payment of Travel Expenses, from Any Source That Totals \$460* or More.

Public officials need to be aware of receiving gifts. Gifts do not always have bows, and can include meals, tickets to events, and travel expenses. Given the number of

rules and complexities revolving around the gift rules, the rules are presented here only in general terms.

Elected officials and executive heads of public agencies, as well as those officials with significant decision making authority, need to be aware of gifts from all sources. For others, they should be aware of gifts from sources that do business with the agency.

There are three concepts to be aware of: disqualification; reporting; and prohibition.

- Disqualification: The threshold for disqualification, as noted above, is \$460* from a single source in any 12-month period.
- Reporting: The threshold for reporting gifts on the Form 700 Statement of Economic Interests is \$50 from a single source in any calendar year.
- Prohibition: The threshold for a prohibition on receiving gifts is \$460* from a single source in any calendar year.

There are various exceptions to the gift reporting and prohibition rules. These include: gifts from family members; gifts exchanged among friends at holidays and birthdays as long as not disproportionate in value; gifts from persons in dating relationships; bereavement offerings, acts of neighborliness and human compassion; and wedding gifts. Wedding gifts must be reported at 50% value, but there is no limit. Further, gifts not used and returned within 30 days, donated to the public agency or a non-profit organization, or for which the official reimburses the donor the fair market value of the gift, are not reportable.

(Government Code §§ 82028, 87207, 89503; 2 California Code of Regulations §§ 18703.4, 18940 et seq.)

Public agencies should adopt local policies regarding the acceptance of gifts, tickets, and travel expenses. (Government Code § 53232 et seq., 89506; 2 California Code of Regulations §§ 18944, 18944.1, 18944.2, 18950.1 et seq.)

Note: elected and non-elected officials cannot accept free or discounted transportation from transportation carriers. (Cal.Const.Art. XII, § 7.) The rule does not apply to employees. Whether one is an “employee” or an “appointed official” is sometimes subject to debate. Generally, appointed members of boards and commissions as well as department heads should be considered appointed officials. There is no distinction for personal or public business and the penalty is forfeiture of office.

6. Do Not Use Agency Resources for Personal Benefit.

The personal or political use of public resources is prohibited. This includes staff time and agency equipment, and includes the support or opposition of candidates or local ballot measures. Authorized expenditures should be made pursuant to the agency's reimbursement policy and may only be for actual and necessary expenses. A misuse of public funds will occur when it is not authorized or for a public purpose, or when personal benefit is not merely incidental. (Penal Code § 424; Government Code § 8314; 2 California Code of Regulations § 18901.1; *Stanson v. Mott* (1976) 17 Cal.3d 206.)

7. Timely Complete Form 700 Statement of Economic Interest Disclosure Forms.

The filing of a Form 700 Statement of Economic Interest requires public officials to disclose economic interests that might give rise to a disqualifying conflict of interest. It provides the public with the ability to ensure its elected and appointed officials are free from bias. The Form 700 should be filed upon assuming office, annually while in office, upon a change in position leading to a different reporting obligation, and upon leaving office. Each local agency is required to have its own local conflict of interest code that sets forth which officials and employees need to file. Elected officials and executive heads of agencies are statutorily required to file. (Government Code §§ 87200 et seq., 87300 et seq.; 2 California Code of Regulations §§ 18730 et seq.)

8. Elected Officials Must Report Substantial Charitable Fundraising Efforts.

Elected officials must disclose donations they solicit for charitable, legislative, or governmental purposes when the amount received amounts to \$5,000 or more from a single source in a calendar year. There is no disqualification, only a reporting obligation. (Government Code § 82015(b)(2)(B)(iii).)

9. Avoid Bias in Decision Making.

There is a common law prohibition against participating in decisions where personal loyalties are present. As a decision-maker, the public expects public officials to be impartial and avoid favoritism. Under the common law doctrine, "[A] public officer is impliedly bound to exercise the powers conferred on him with disinterested skill, zeal, and diligence and primarily for the benefit of the public." (*Noble v. City of Palo Alto* (1928) 89 Cal.App. 47.) Such doctrine "strictly requires public officers to avoid placing themselves in a position in which personal interest may come into conflict with their duty to the public." (67 Ops.Cal.Atty.Gen. 369 (1984).)

The most common example of common law bias arises in the context of due process hearings. Public hearings must be conducted in accordance with due process principles. Public officials may not be tempted by their personal or financial interest even if there is no conflict under state law.

If a situation arises where a common law conflict of interest exists as to a particular transaction, the official must disqualify him or herself from taking any part in the discussion or vote regarding the particular matter. (26 Ops.Cal.Atty.Gen. 5 (1955).)

The purpose of the conflict laws is to prevent even the appearance of impropriety. (*Thomson v. Call* (1985) 38 Cal.3d 633.)

10. Do Not Hold Incompatible Offices and Avoid Incompatible Activities.

Public officials may not simultaneously hold two public offices that are incompatible. Incompatibility is defined as a significant clash of duties or loyalties of office. Acceptance of the second office results in a forfeiture of the first office. (Government Code § 1099.) Examples of incompatible offices include:

- City council member and school board member.
- Planning commissioner and school board member.
- City manager and school board member (but not the assistant city manager or city clerk).
- City council or county board of supervisor member and fire chief.
- Public utility district member and county board of supervisor member.

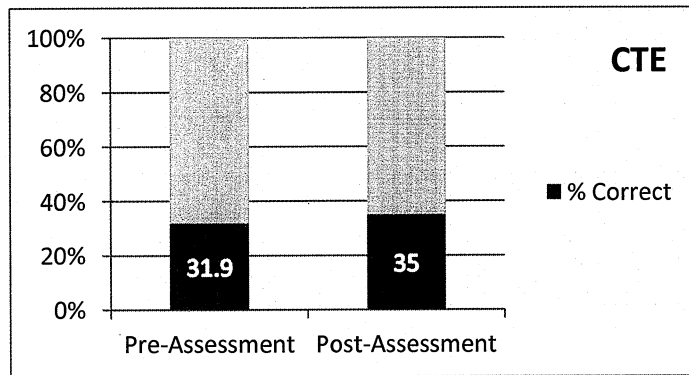
There is also a statutory prohibition on engaging in incompatible activities. (Government Code § 1125 et seq.). A “local agency officer or employee shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a local agency officer or employee or with the duties, functions, or responsibilities of his or her appointing power or the agency by which he or she is employed.” (Government Code § 1126(a).)

**West Contra Costa Unified School District
Summer School Testing Data 2015
Middle School Extended Learning**

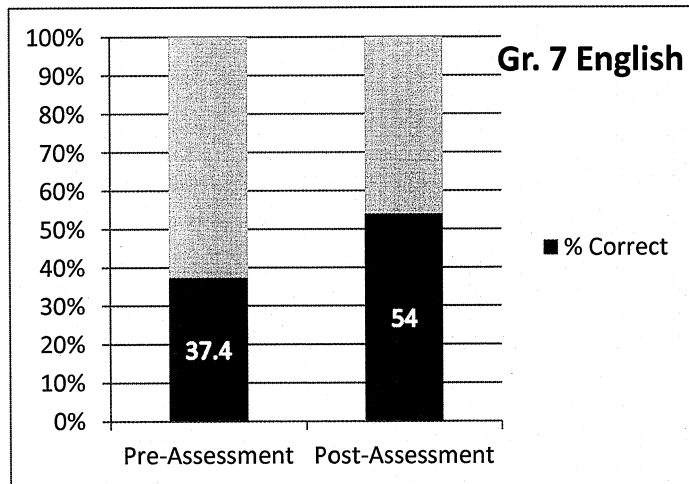
Middle school summer learning is an intervention and extension program. *Plato* courses included grade 7 and 8 English and an exploratory Career Tech Education course. English Learner students received instruction in English Language Development (ELD) in place of the *Plato* English course. Additionally students participated in FOSS (Lawrence Hall of Science) hands-on science classes.

Middle School Pre- and Post-Assessment Data:

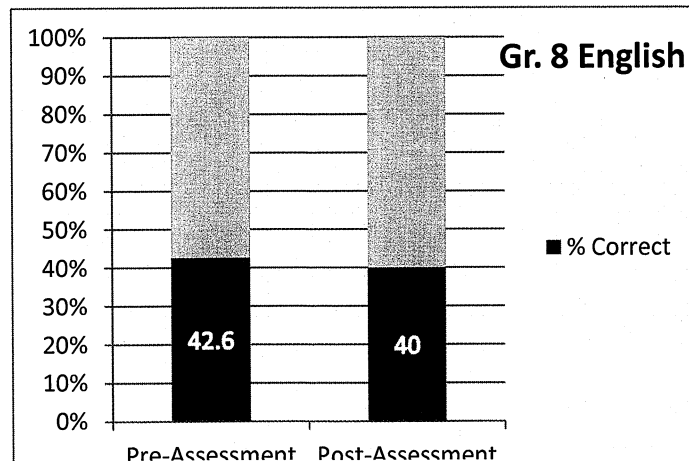
CTE Career Explorations
+3.1% change
n = 194



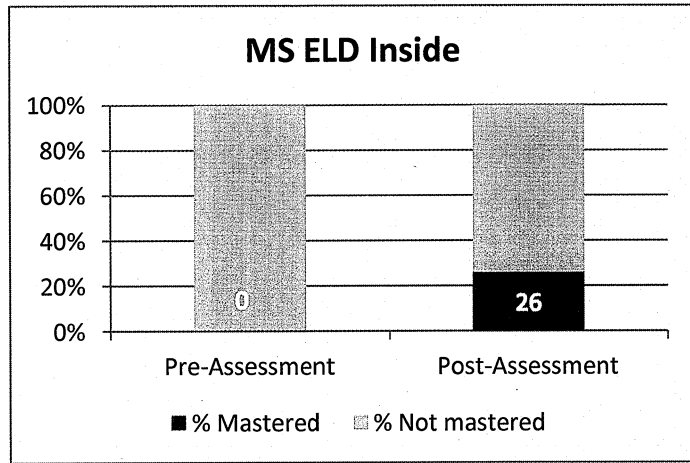
Grade 7 English
+16.6% change
n = 118



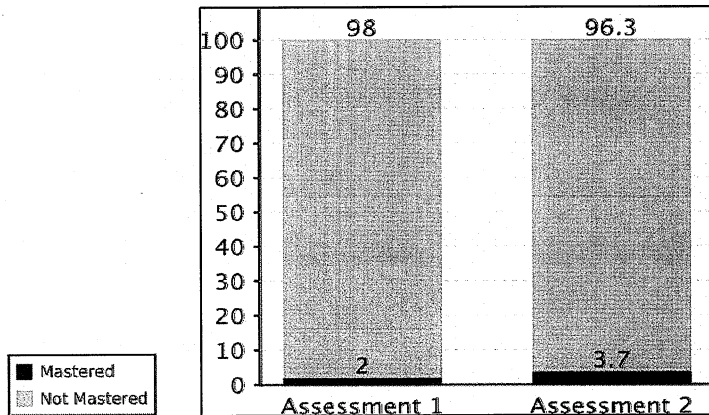
Grade 8 English
-2.6% change
n = 65



MS ELD Inside
 +26% change
 n = 44



FOSS Science
 +1.7% change
 n = 299



Percent of Students by Performance Level

Assessment 1		Assessment 2	
	% #		% #
3-Meets or exceeds standard	2 % 6	3-Meets or exceeds standard	4 % 11
2-Approaching standard	23 % 68	2-Approaching standard	37 % 111
1-Needs intervention	75 % 225	1-Needs intervention	59 % 177
Total # Tested	299	Total # Tested	299

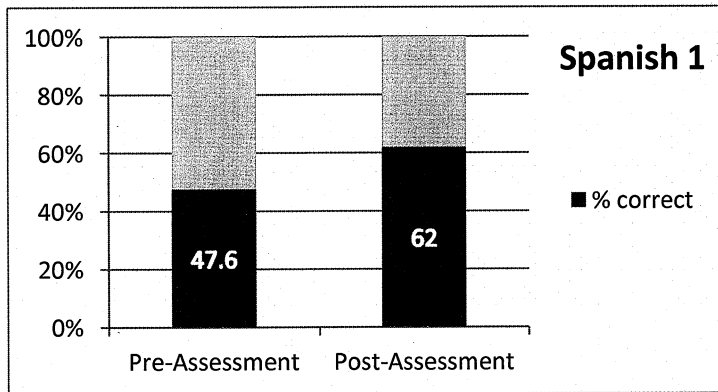
**West Contra Costa Unified School District
Summer School Testing Data 2015**

High School Summer Learning

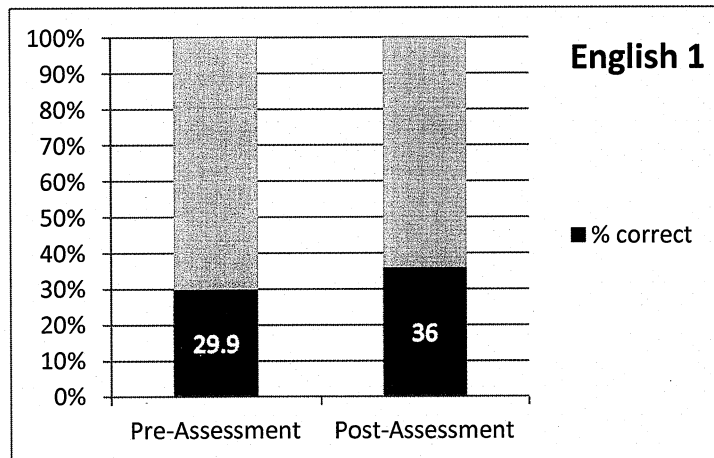
The High School Summer program is for credit recovery. Courses included English 1, 2 and 3, History Foundations, US History, World History, Spanish 1, Algebra 1, Geometry, Biology, Chemistry, and ELD 1 – 4. Students earned 12,579 credits enabling 116 to graduate.

High School Pre- and Post-Assessment Data:

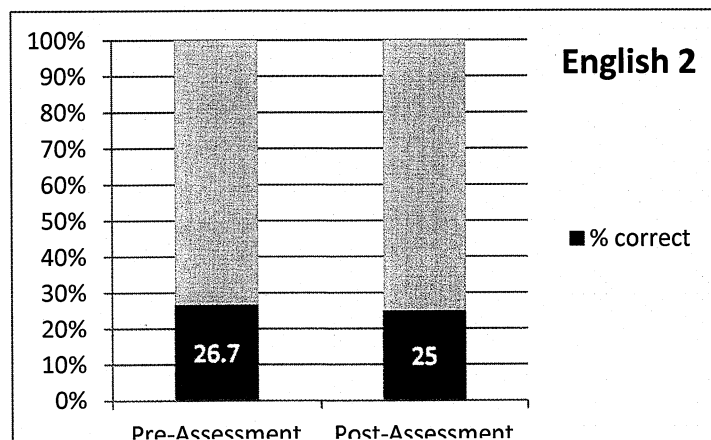
Spanish 1
+14.4% change
 $n = 27$



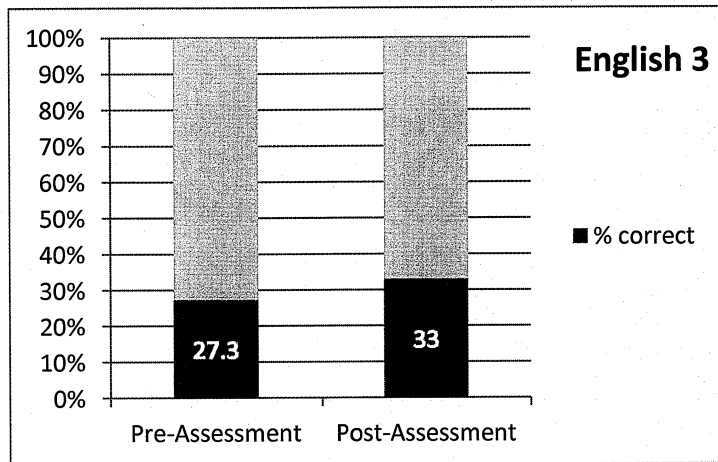
English 1
+6.1% change
 $n = 165$



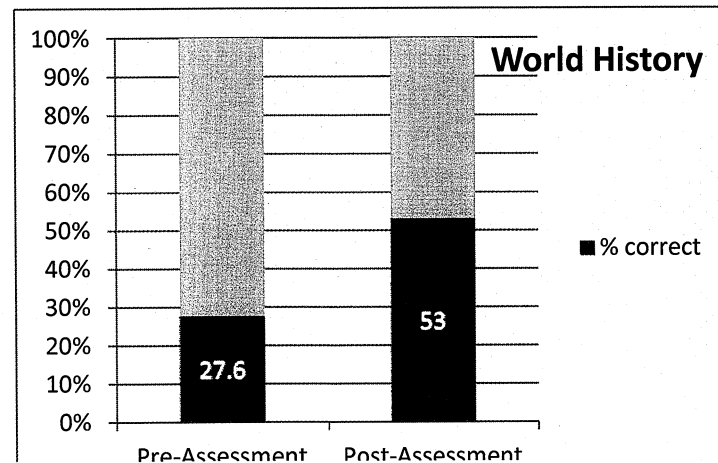
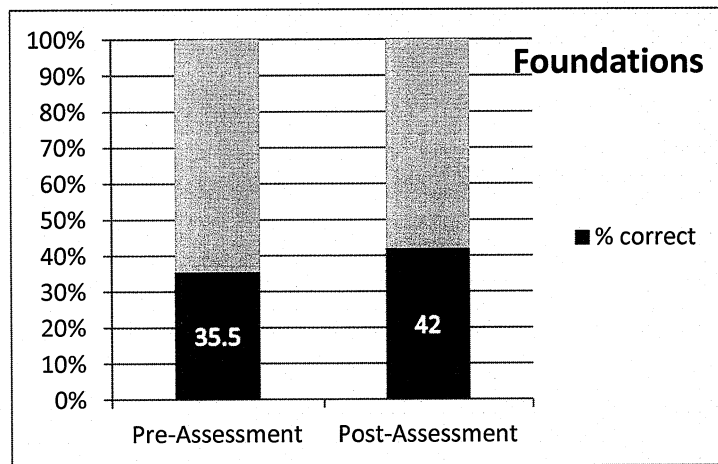
English 2
-1.7% change
 $n = 141$



English 3
 +5.7% change
 n = 83



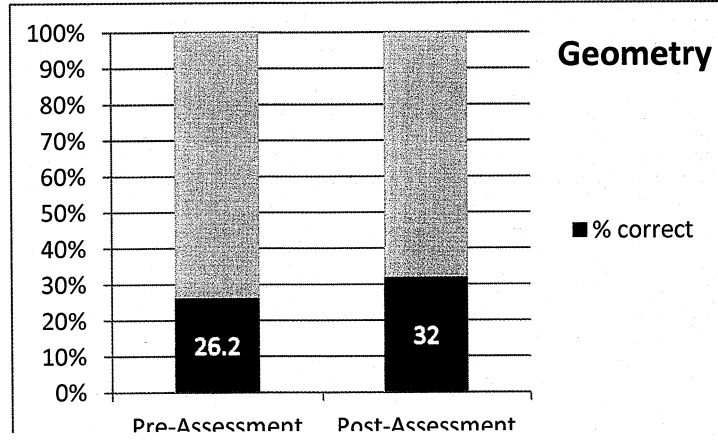
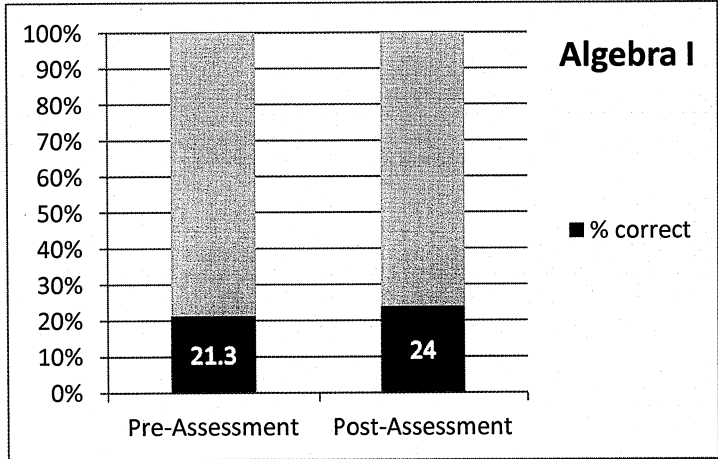
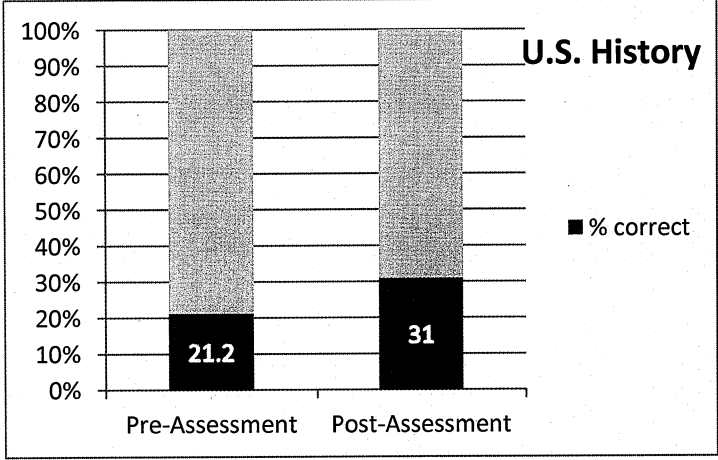
Foundations
 +6.5% change
 n = 75



World History
 +25.4% change
 n = 97

U.S. History
 +9.8% change
 n = 51

Algebra I
 +2.7% change
 n = 174

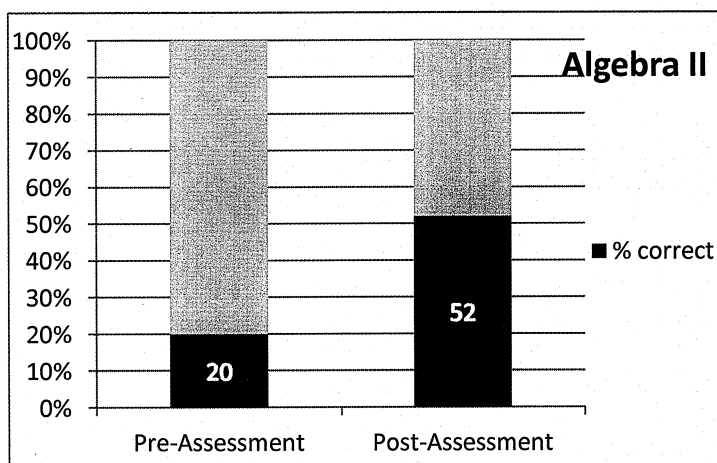


Geometry

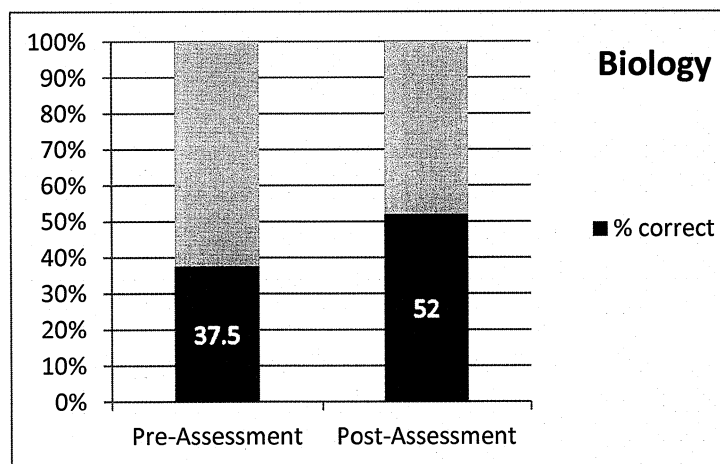
+5.8% change

 $n = 209$ **Algebra II**

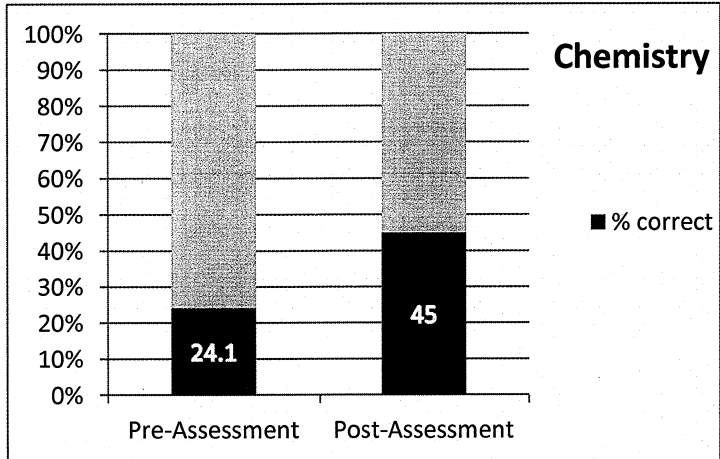
+32% change

 $n = 48$ **Biology**

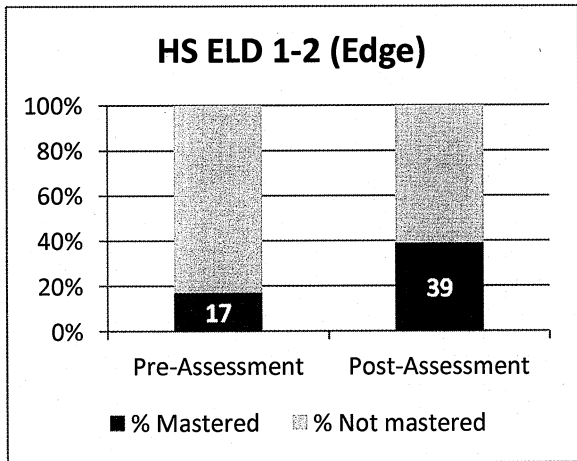
+14.5% change

 $n = 139$ 

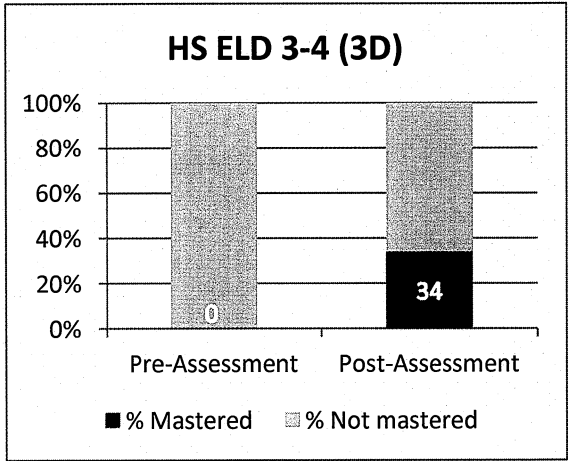
Chemistry
 +20.9% change
 n = 134



HS ELD 1-2 (Edge)
 +22% change, n = 33



HS ELD 3-4 (English 3D)
 +34% change, n = 74



Overall the 2015 summer program provided our students with further exposure and practice with essential skills and concepts. Feedback from students indicated that they embraced the opportunity to engage with technology on a daily basis in an educational learning environment. The data indicates the need for increased differentiation and implementation of instructional practices that engage students and are aligned with Common Core expectations throughout the school year.

Law Office of
Adam S. Ferber

www.ferberlawoffice.com
1180 Brown Ave. Suite 100
Lafayette, CA 94549
(510) 508-2500
ferber@ferberlawoffice.com

This communication is confidential and intended to be distributed only to the Citizens Bond Oversight Committee and its senior staff. It is protected from compelled disclosure by the Attorney Client and Attorney Work Product Privileges.

September 16, 2015

Ms. Ivette Ricco, Chair
West Contra Costa Unified School District
Citizens' Bond Oversight Committee
C/o West Contra Costa Unified School District
1400 Marina Way South
Richmond, CA 94804

Re: Annual Bond Audit Reports

Dear Chair Ricco:

On behalf of the Citizens' Bond Advisory Committee, you have requested that I provide my opinion concerning the following question:

Can the West Contra Costa County Unified School District satisfy its legal obligation to provide two annual audits required by Article XIII A, Sections 1(b)(3) (C) and (D) of the California Constitution by including their preparation and presentation as part of in its regular annual audit?

In my opinion, the answer is no.

My reasoning follows.

Background

On November 7, 2000, California voters passed the School Facilities Local Vote Act of 2000, or "Proposition 39."¹

Proposition 39 was an amendment to Section 1 of Article XIII A of the California Constitution. Its primary impact was to reduce the threshold to pass local California school district bond issues from a two-thirds supermajority vote to a 55 percent supermajority vote, subject to certain conditions. Among the conditions were requirements: (1) that a school district governing board "... conduct an annual,

independent performance audit to ensure that funds have been expended only on the specific projects listed; and (2) that a school district governing board “... conduct an annual, independent financial audit of the proceeds of the bonds until all of those proceeds have been expended for the school facilities projects.”

Since the enactment of Proposition 39, the West Contra Costa County Unified School District (“the District”) has issued a total of \$1,440,000,000 in bonds pursuant to Article XIII A, Section 1. As required by law, upon the authorization of its first bond measure the District established the Citizens Bond Oversight Committee (“the Committee”) pursuant to Education Code Sections 15278 and 15282. Among other things, the Committee receives and reviews copies of both the annual independent performance audit and the annual financial audit.

Since the authorization of its first bond measure, the District has prepared and presented to the Committee one discrete annual performance audit and one discrete financial audit annually.

The preparation of two individual, separate audits is widespread in California and is considered a “best practice” by California’s Fiscal Crisis & Management Team (FCMAT).

The District has given the Committee notice that, effective with its Fiscal Year 2015-16, it intends to discontinue its practice of preparing and presenting each of the two audits separately and, instead, to include both audits in the annual District-wide audit required by Education Code Section 41020.

The Committee has asked whether the District’s inclusion of the formerly separate audits in its annual budget complies with the requirements of Article XIII A, Section 1.

Applicable Rules of Statutory Construction

Since it does not appear that either a California court or an authoritative advisory agency has interpreted the Constitutional language, this opinion addresses the likelihood that a court would require the District to continue to conduct its performance and financial audits concerning these bond funds as it has. Put another way, would a court likely prohibit the District from folding the two audits into its annual District-wide financial audit?

In considering such a question, it appears likely that a court would rely extensively on the two principal rules that govern the interpretation of the language of a statute or a Constitutional provision that are set out below. The overall goal of the court’s inquiry would be to ascertain the intent of the legislation (or, in this instance, the constitutional amendment) so that its purpose may be effectuated.ⁱⁱ The role of a court in interpreting

and applying a legislative enactment is to achieve, as nearly as possible, the objective of the legislature.ⁱⁱⁱ

Read as a Whole the Plain Meaning the Language of Article XIII A, Section 1 Governs

If there is no ambiguity in the language of the statute or a constitutional provision, then the legislature (or, in this case, the electorate) is presumed to have meant what it said, and the plain meaning of the language governs. If the words used unequivocally express the legislature's intent, that intent is controlling. The meaning of a statute, in the first instance, must be sought in the language in which the statute is framed, and if that is plain, the sole function of the courts is to enforce it according to its terms. Thus, where no ambiguity exists, and the language permits only one construction, the intent of the legislature in enacting a statute is to be gathered from the words and language employed read as a whole, according to the usual and ordinary import of the language employed, and in context with the nature and obvious purpose of the statute without further judicial construction. [Citations in original omitted]

Legislative intent should be gathered from the whole act rather than from isolated parts or words. Courts should thus construe all provisions of a statute together, significance being given when possible to each word, phrase, sentence, and part of the act in pursuance of the legislative purpose. The meaning of a statute may not be determined from a single word or sentence. Its words must be construed in context, keeping in mind the nature and obvious purpose of the statute where they appear so as to make sense of the entire statutory scheme. No part or provision of a statute should be construed as useless or meaningless, and none of its language rendered surplusage. The same rules apply in construing a particular section of a statute when codified. The courts presume that every word, phrase, and provision of a statute was intended to have some meaning and perform some useful function, and this presumption applies with equal force to words added by amendment. A construction implying that words were used in vain should be avoided. These principles apply with added emphasis to an amendatory statute enacted to abolish an evil or improve a practice prevailing under the earlier statute. [Citations in original omitted]¹

The Influence of Proposition 39's Historical Background and Evident Objective

If the legislative purpose and intent cannot be ascertained from the ordinary and proper meaning of the statutory language itself, the statute may then be read in light of its historical background in an attempt to ascertain the most reasonable interpretation of the measure. To the end that the legislative intent be correctly

¹ 58 Cal. Jur. 3d Statutes §113

ascertained, a statute is to be read in the light of its historical background and evident objective. Thus, where there is doubt as to the legislative intent, recourse thus may be had to the legislative history or purpose underlying its enactment. [Citations in original omitted]²

As revealed in the legislative history and background for the enactment of the statute, the purpose or object sought to be achieved, as well as the evil to be prevented, are important factors in ascertaining the legislative intent. Once the legislature has expressly declared its intent, the courts must accept that declaration unless the statute is challenged as having departed, in its scope and effect, from the declared legislative design in contravention of constitutional provisions, in which event it is said that the courts must inquire into the real rather than ostensible purpose. [Citations in original omitted]³

Discussion

Read as a Whole, the Plain Meaning of the Words of Article XIII A, Section 1 Is that Separate Annual Bond Audits Are Required

As would a judicial interpretation of the provisions of Article XIII A, Section 1 in accordance of the foregoing rules, this opinion is concerned with ascertaining the intent of the electorate that approved Proposition 39, so as to achieve, as nearly as possible, the objective of the electorate. That intent, initially, is to be derived from the words and language employed, read as a whole, according to the usual or ordinary import of the language employed, read as a whole, and in context with the nature and obvious purpose of the Section.

In this instance, considered in its entirety, the meaning of Article XIII A, Section 1 is clearly evident. California voters voted to permit a school district, among other entities, to issue bonds upon a 55% vote of the voters of the district, “only” if four clearly articulated “accountability requirements” were met. (See Endnote i) The usual and ordinary import of the term “accountability” therefore is influential. In this case it can best understood as follows:

...[T]he concept of decision-maker *accountability*—when used in its most commonly understood sense—is *not* equivalent, or even tantamount, to the qualitatively distinct notion of decision-maker disempowerment. Rather, accountability as an institutional phenomenon—when understood in its proper sociological sense—essentially denotes a manifest requirement imposed upon a decisional authority-holder A “to give an account of themselves” to B: that is, to provide normatively cognizable *reasons* in attempted support of their decisions or

² 58 Cal. Jur. 3d Statutes §112

³ *Ibid*

conduct. For this purpose, B may be either a distinct individual or collective beneficiary of A's decisions (if the relevant relation is discrete or private in nature), or—alternatively—someone perceived as being affected by A's decision in a broader sense (which is more likely where the relevant relation is indiscrete or public in nature). Moreover, contrary to popular supposition, authority and accountability are *not* mutually offsetting organizational governance qualities. On the contrary, they are inherently *interdependent* phenomena, in the sense that, within complex but freely constituted private organizations—including business corporations—decisional authority is structurally *unsustainable* if not accompanied by effective mechanisms for ensuring the accountability of authority-holders to the recognized beneficiaries of their discretionary decisions.^{iv} (Emphasis supplied)

In light of the material expansion of taxing authority provided to school districts and others pursuant to Article XIII A, Section 1, it appears likely that a court would extend this view of “accountability” to the District in this instance, and construe all four “accountability requirements” strictly, including the two presently under discussion.

(C) A requirement that the school district board, community college board, or county office of education conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed.

(D) A requirement that the school district board, community college board, or county office of education conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects.”

In doing so, it also appears that a court would also take into account the likely adverse effects on Section 1's “accountability requirements” if the foregoing individual audits were folded into the annual District-wide audit undertaken pursuant to Education Code Section 41020. Among other reasons, this would be because of the sheer expansiveness of such an audit, which requires that “... the governing board of each local educational agency shall ... provide for an audit of the books and accounts of the local educational agency, including an audit of income and expenditures by source of funds ...”^v and extends to items as granular as “student body and cafeteria funds.”^{vi} Among other things, were the District permitted to include Section 1 performance and financial audits in its annual overall audit, the task of finding and understanding these two audits in, presumably, a much more extensive and complex District audit could be considerably more complicated, and the specific information much less accessible to members of the public, among many others.

With this possibility in mind, had the drafters of Proposition so chosen, they could have nonetheless specified the annual District audit as the repository for the Section 1 audits. They did not.

Instead, the language under examination specifies two separate audits, each set forth in a separate sub-section of Section 1, and each requiring “an annual independent” audit. The indefinite article “an” is used to refer to a particular member of a group or class, as in “an opera” or “an adjective.” (edufind.com; see also, grammarly.com) The word “an, as used in the Proposition appears to mean plainly that each report is individual, separate, and not part of any other document.

The Historical Background and Legislative Objective of Article XIII A, Section 1
Indicates that Discrete Audits Would be Required

Assuming *arguendo*, that the intent of the electorate concerning the requirement of financial and performance audits cannot be determined from “...the words and language employed by Article XIII, Section 1, read as a whole, according to their usual and ordinary import, and in context with the nature and obvious purpose of the statute,” this opinion also considers the legislative history and background of Proposition 39, the purpose or object that it sought to be achieve, and the evil it sought to prevent. This can be determined by examining the most influential and compelling document that was prepared to explain the Proposition, and to argue for and against its passage.

That document is the ballot measure itself, as set forth in “The Official Voter Information Guide” published by the California Secretary of State on August 14, 2000, that was sent to California registered voters. The ballot title itself is instructive:

School Facilities. 55% Local Vote, Taxes, Accountability Requirements.
Initiative Constitutional Amendment and Statute. (Emphasis supplied)

This title appears to treat accountability requirements at least as equal to the balance of the items in the title.

And, the ultimately prevailing proponents of the Proposition stated the following in their arguments in support of the measure:

Passing Prop. 39 will:

Hold Administrators accountable for spending school bond construction money:

- Prohibit using funds for administration or bureaucracy.
- Require school administrators to produce a detailed list of specific school construction and repair projects to be funded.
- Require schools to undergo two rigid, independent financial and performance audits every year.
- Require bonds to be passed by a tough 55% supermajority vote.

...

This initiative helps fix classroom overcrowding and provides much needed repairs of unsafe and outdated schools. It mandates the strictest accountability requirements to ensure that bond funds are spent only on schools and classrooms, protecting taxpayers. (Emphasis supplied)

It therefore appears that the drafters of the Measure, and the voters who passed it, understood and expected that the accountability measures provided for were to be of the strictest kind. Conversely, especially in light of the expansion of taxing authority accorded to school districts, it appears that the drafters wished to avoid the "evil" of less than the strictest accountability requirements including any possible obfuscation or concealment, however inadvertent. Since the passage of the Measure, this appears to have been borne out by, among other things, the widespread use of separate audits by California school districts, FCMAT's opinion that best practice is served by separate audits, and the District's own preparation of separate audits over the past 14 years.

Conclusion

Based on the foregoing discussion, it is my conclusion that the West Contra Costa County Unified School District cannot satisfy its legal obligation to provide two annual audits required by Article XIII A, Sections 1(b)(3) (C) and (D) by including their preparation and presentation as part of in its regular annual audit.

I hope this information is helpful. Please feel free to contact me should you have any additional questions or concerns.

Sincerely yours,

Adam S. Ferber

Adam S. Ferber

ⁱ § 1. Ad valorem tax on real property; maximum amount; application; school facilities
Effective: November 8, 2000

Sec. 1. (a) The maximum amount of any ad valorem tax on real property shall not exceed One percent (1%) of the full cash value of such property. The one percent (1%) tax to be collected by the counties and

apportioned according to law to the districts within the counties.

(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any of the following:

(1) Indebtedness approved by the voters prior to July 1, 1978.

(2) Bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition.

(3) Bonded indebtedness incurred by a school district, community college district, or county office of education for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, approved by 55 percent of the voters of the district or county, as appropriate, voting on the proposition on or after the effective date of the measure adding this paragraph. This paragraph shall apply only if the proposition approved by the voters and resulting in the bonded indebtedness includes all of the following accountability requirements:

(A) A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in Article XIII A, Section 1(b)(3), and not for any other purpose, including teacher and administrator salaries and other school operating expenses.

(B) A list of the specific school facilities projects to be funded and certification that the school district board, community college board, or county office of education has evaluated safety, class size reduction, and information technology needs in developing that list.

(C) A requirement that the school district board, community college board, or county office of education conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed.

(D) A requirement that the school district board, community college board, or county office of education conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects.

(c) Notwithstanding any other provisions of law or of this Constitution, school districts, community college districts, and county offices of education may levy a 55 percent vote ad valorem tax pursuant to subdivision (b).

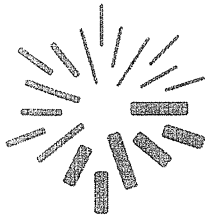
ⁱⁱ Code of Civ. Proc. Sect. 1859

ⁱⁱⁱ *People v. Saucido* (2008) 166 Cal. Ap. 4th, 1303, 1310-11

^{iv} Moore: *The (Neglected) Value of Board Accountability in Corporate Governance* (Harvard Law School Forum on Corporate Governance and Financial Regulation – March 15, 2015)

^v Ed. Code Sect. 41020(b)(1)

^{vi} Ed. Code Sect. 41020(c)



**NIXON
PEABODY**

NIXON PEABODY LLP
ATTORNEYS AT LAW

NIXONPEABODY.COM
@NIXONPEABODYLLP

Lisalee Anne Wells
Counsel
T 213-629-6075
lwells@nixonpeabody.com

Gas Company Tower
555 West Fifth St., 46th Floor
Los Angeles, CA 90013-1010
213-629-6000

September 23, 2015

Dr. Bruce Harter
Superintendent
West Contra Costa Unified School District
1108 Bissell Avenue
Richmond, CA 94801

RE: Opinion from Law Office of Adam S. Ferber dated September 16, 2015

Dear Dr. Harter:

You have forwarded to us a copy of the above-referenced opinion (the "Ferber Opinion"), which was in turn provided to you (despite its recital of confidentiality) by the District's Citizens' Bond Oversight Committee (the "CBOC") in anticipation of a discussion of the Ferber Opinion at the CBOC meeting on September 23rd. You have asked if we agree with the conclusions of the Ferber Opinion respecting the method of preparation and the manner of delivery of the Bond Financial Audit (the "Bond Financial Audit") required under Proposition 39 ("Prop 39"). We do not.

You have provided us with a copy of the existing contract with the District's current primary audit firm, Christy White Associates, a Professional Accountancy Corporation ("CWA"), dated March 20, 2015, pursuant to which CWA agrees to undertake the preparation and delivery of two separate audits for the District for fiscal years ending June 30, 2015, 2016 and 2017. The first of the two separate audits is the annual audit of the District's basic financial statements (the "District Audit"). The second is the Bond Financial Audit and is described as follows:

"In addition, we will also conduct a financial statement audit to include the balance sheet of the 2010 Measure D and 2012 Measure E General Obligation Bonds as of June 30, 2015 ...and the related statements of revenues, expenditures and changes in fund balance" for each of the three fiscal years described above.

We also understand that a separate audit firm, Vavrinek Trine & Day ("VKD"), is under contract to prepare the annual performance audit of the District's bond construction program (the "Performance Audit") in compliance with Prop 39.

Mr. Ferber stated that he was asked by the CBOC if the District could satisfy the audit requirements of Prop 39 if the District sought to include "their preparation and presentation as part of in [sic] its regular annual audit." (Ferber Opin., page 1.) He concluded that the District could not do so without violating Prop 39.

In support of his position, Mr. Ferber includes the text of Prop 39 incorporated in the California Constitution, the supplemental implementing provisions incorporated into the Education Code (A.B. 1908), a discussion of its legislative interpretation, a précis of the legislative history of Prop 39 and, finally, the argument in favor of Prop 39 which was printed in the ballot pamphlet for the November 2000 election cycle.

In fact, there is no language in Prop 39, in any published case law discussing Prop 39, nor in any pronouncement of the Controller of the State of California regarding the administration of bond construction programs under Prop 39 that specifies the manner of delivery of the Bond Financial Audit or the Bond Performance Audit. Section 15286 of the Education Code does require the delivery of these audits to the CBOC "at the same time they are submitted to the school district..." and that such audits be produced in conformance with the Government Auditing Standards of the Comptroller General. We emphasize the distinction between the timing of delivery and the manner of delivery of these Prop 39 audits.

The District's contract with CWA specifically recites that it will conduct the District Audit and the Bond Financial Audit in conformance with the cited requirements of the above-referenced Section 15286; however, the District has advised CWA that it may deliver reports for these two separate audits under a single cover. You have indicated that delivery of both in a single document is a method intended to insure that the public and the CBOC may access all audit information regarding the District more easily. The document containing both audit reports will be available on the District's website, where they may be read independently. Additionally, we understand that the Bond Financial Audit will be contained in a separate appendix that may be separated from the District Audit. You have also advised that the District will continue to comply with the requirement of Prop 39 that the Bond Financial Audit and the Performance Audit be delivered to the District's Board of Education and the CBOC at the same time.

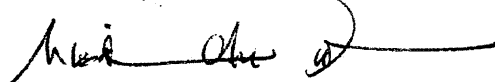
The Ferber Opinion incorrectly suggests that the Bond Financial Audit is being prepared as part of the District Audit; in fact, assuming that CWA will deliver both the District Audit and the Bond Financial Audit as prescribed in their contract, the preparation of these audits will have been conducted separately. We note in this regard that a separate fee is charged by CWA for the Bond Performance Audit, over and above what is charged for the District Audit. Thus, we conclude that the preparation of the Bond Financial Audit complies with the requirement of Prop 39 for an "annual, independent financial audit." (Section 15278, Ed. Code.)

There is no authority for the proposition that delivery of the District Audit and the Bond Financial Audit under a single cover page and auditor's letter contravenes the letter of Prop 39. In our view, the manner of delivery does not make the Bond Financial Audit less "independent" under the law.

We put to one side any discussion of the Performance Audit, although it is alluded to in the Ferber Opinion, inasmuch as we understand it will be delivered by VTD as an entirely separate document from the District Audit and the Bond Financial Audit.

We hope the foregoing responds to your concerns. Please feel free to contact us if there are further questions on point.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lisalee Anne Wells", with a long horizontal flourish extending to the right.

Lisalee Anne Wells



Karen Sakata, Superintendent of Schools

77 Santa Barbara Road Pleasant Hill, CA 94523 (925) 942-3388

September 14, 2015

Bruce Harter, Ph.D., Superintendent
West Contra Costa Unified School District
1108 Bissell Avenue
Richmond, CA 94801

SUBJECT: 2015-16 LCAP and Adopted Budget Report

Dear Superintendent Harter:

In accordance with Education Code sections 52070 and 42127, the Contra Costa County Office of Education has reviewed the Local Control Accountability Plan (LCAP) and adopted budget of the West Contra Costa Unified School District for the 2015-16 fiscal year.

Education Code requires the County Superintendent to approve the LCAP or annual update for each school district after determining all of the following:

- The LCAP adheres to the template adopted by the State Board of Education.
- The budget includes expenditures sufficient to implement the specific actions and strategies included in the LCAP.
- The LCAP adheres to the expenditure requirements for funds apportioned on the basis of the number and concentration of unduplicated students pursuant to sections 42238.02 and 42238.03.

Based on our review, your LCAP is **approved**.

Education Code requires the County Superintendent to approve, conditionally approve, or disapprove the adopted final budget for each school district after doing the following:

- Examine the adopted budget to determine whether it complies with the standards and criteria established pursuant to section 33127 and identify any technical corrections needed to bring the budget into compliance with those standards and criteria.
- Determine whether the adopted budget will allow the district to meet its financial obligations during the current fiscal year and is consistent with a financial plan that will enable the district to satisfy its multi-year financial commitments.
- Determine whether the adopted budget includes the expenditures necessary to implement the LCAP or annual update to the LCAP.

Bruce Harter, Ph.D., Superintendent
September 14, 2015
page 2

Based upon our review of the adopted budget, the District's 2015-16 adopted budget has been approved.

We are requesting that the district provide the following:

- Before the district's Board of Education takes any action on a proposed collective bargaining agreement, the district must meet the public disclosure requirements of Government Code section 3547.5 and the California Code of Regulations Title V, section 15449. **Please submit this to the County Office for review at least ten (10) working days prior to the date the governing board will take action on the proposed bargaining agreements.**

If you have any questions about the LCAP, please contact Pamela Comfort, Deputy Superintendent, at (925) 942-3358. If you have any questions about the adopted budget, please contact Bill Clark, Associate Superintendent of Business Services, at (925) 942-3310.

We appreciate the time and effort that you have put in to the development of your LCAP and budget. This has been an enormous effort and we look forward to working with you this year as you implement your LCAP and budget.

Sincerely,



Karen Sakata,
County Superintendent of Schools

KS:mj

cc: Sheri Gamba, Associate Superintendent, Business Services, WCCUSD

022 15/16

Public Records Request Log 2015-2016
Week Ending September 24, 2015

	Date of Receipt	Requestor	Requested Records/Information	Current Status
6	7/15/15	Fatima Alleyne	#1- District Budget for Administrator Appointments #2- Job Descriptions / Announcements for Teachers and Teacher Aides' appointments posted as Parcel Tax Appointments #3- Health documents for Washington Elementary 5/31 – 6/5/15	Assigned to Attorney
7	7/15/15	Fatima Alleyne	#1- Salaries for Superintendents and Administrators #2- Lozano Smith Attorneys' Invoices 1/2012 – 7/15/15	Assigned to Attorney
18	8/10/15	Sally Kirk	WCCUSD Student Records Policies, Regulations, Guidelines and/or Instructions	9/17/15 Documents & link sent via email 9/24/15 Additional Document mailed COMPLETED
23	9/4/15	Anton Jungherr	2015-16 Legal Service Contracts for Ramsey & Ehrlich; Brag Coffin Lewis & Trapp; and Swanson & McNamara	Information being reviewed
25	9/18/15	Michael Kessler Kessler International	Board of Education Forensic Accounting Investigation	Acknowledgement letter sent In Progress
Public Records Request Log / Ongoing 2014 - 2015				
87	11/18/14	Fatima Alleyne	Washington School Budget / SSC SY 2009 -to- 2013	4/3 and 5/18/15-Contacted Requestor to review documents Requestor to schedule apt. to review
176	3/23/15	Michael Strub Jr. Irell & Manella LLP	CA Healthy Kids Survey / CA School Climate Survey / CA Student Survey / LCAP / Student Information / Suspensions / Expulsions / Employment Information	Extension Invoked In Progress / Ongoing Gathering / Reviewing Documents Documents being sent via email after review
197	5/19/15	Timothy Adams Schoolie	WCCUSD Student Information/Records for the past 5 years	Extension Invoked In Progress / Ongoing Gathering / Reviewing Documents Documents being sent via email after review