

MEMORANDUM

Regarding Citizens' Oversight Committee

The purpose of this memorandum is to explain the functions which the citizens' oversight committee is required to perform in connection with a general obligation bond issue of a school district held under the provisions of Proposition 39, which provides for the issuance of general obligation bonds following 55% voter approval. This memorandum describes the minimum level of activity which the Citizens' Oversight Committee must perform, in order to discharge its statutory duties.

Background. California's Proposition 39 was a successful initiative measure which appeared on the November 7, 2000 ballot. The measure made certain amendments to the California Constitution and provisions of the California Education Code. The primary impact of Proposition 39 was to permit school districts and community college districts to issue general obligation bonds with a 55% vote under Article XIII A of the California Constitution, provided that the measure presented to the voters includes certain accountability requirements. The specific projects to be funded with the proceeds of the bonds and the accountability requirements are typically set forth in the "FULL TEXT OF MEASURE," which is presented to the voters.

District's Reporting Requirements. Proposition 39 contains two specific reporting requirements applicable to the District's general obligation program, as follows:

1. "A requirement that the ... school district board ...conduct an **annual, independent performance audit** to ensure that the funds have been expended only on the specific projects listed."
2. "A requirement that the ... school district board ...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."

These two audit functions are a duty of the District and clearly must be prepared by an organization which is "independent" of the District. These audit functions are not specifically made the responsibility of the Committee. The purpose of the performance audit is to identify what facilities the bond proceeds have been spent on, relative to the description of authorized facilities contained in the "FULL TEXT OF BALLOT MEASURE." The purpose of the financial audit is to review how the bond proceeds have been spent, i.e. the manner in which the expenditure program has been undertaken, including a review of the amount and purpose of individual expenditures. We recommend that the independent party undertaking the annual performance and financial audits on behalf of the District be instructed by the District to ensure that sufficient detail is contained in these reports to enable the Committee, described in more detail below, to perform its functions described below.

Citizens' Oversight Committee's Legal Duties. The implementing legislation (Sections 15278 through 15282 of the Ed. Code) adopted in connection with Proposition 39 states:

"The purpose of the citizens' oversight committee shall be to inform the public concerning the expenditure of bond revenues."

The law further sets forth the mandatory functions of the Committee as follows:

1. *Actively review and report on the proper expenditure of taxpayers' money for school construction.*
2. *Advise the public as to whether the District is in compliance with the Section 1(b)(3) of Article XIII A.*
3. *Convene to provide oversight for both of the following:*
 - (a) *ensuring that bond revenues are expended only for the purposes described in Article XIII A, Section 1(b)(3), and*
 - (b) *ensuring that no funds are used for any teacher or administrative salaries or other school operating expenses.*
4. *Issue regular reports on the results of the Committee's activities, which report shall be issued at least once a year.*

Note that, as required by law, all Committee proceedings must be open to the public, and the same public notices which are provided for School Board meetings shall be provided for Citizens' Oversight Committee meetings. Minutes of all Committee proceedings and all documents received and reports issued are a matter of public record and must be made available on the District's internet web page.

Committees: Discharging its Duty. In order to discharge its duties, it is clear that, at a minimum, the Committee must receive and review the District's annual performance audit and annual financial audit, which is to be prepared annually by an independent party, as described above. More typically, Committees meet quarterly, and at such meetings, an officer of the District is present to provide a report on recent project expenditures which Committee members may hear and review. Pursuant to its review of the annual reports and other reports which may be provided by the District, the Committee should have the information it needs to advise the public at its public meeting as to whether bond proceeds have been spent on bond projects approved by District voters in compliance with the Constitution, and that such proceeds have not been used for teacher or administrator salaries, or for operating expenses. By law the Committee must issue a report at least once a year regarding its activities and findings. The report must be made available via the District's web site.

Membership. The Committee shall consist of a minimum of 7 members appointed by the District Board based on criteria established by Proposition 39, as follows:

- One (1) member active in a business organization representing the business community located in the District.
- One (1) member active in a senior citizen's organization.
- One (1) member active in a bona-fide taxpayers association.
- One (1) member shall be a parent or guardian of a child enrolled in the District.

- One (1) member shall be both a parent or guardian of a child enrolled in the district and active in a parent-teacher organization or school site council.
- Two (2) members of the community at-large appointed by the Board.

District employees or officials are prohibited by law from serving on the Committee. In addition, vendors, contractors and consultants of the District are prohibited from serving on the Committee. Appointed Committee members will be required to acknowledge an ethics policy statement.

In general, Bylaws adopted by the District Board will govern appointment, and provide that the members of the Committee will be appointed by the District Board through the following process: (a) appropriate local groups with members which may meet the above criteria will be solicited for applications; (b) the Superintendent or such officer's designee will review the applications; (c) the Superintendent or his designee will make recommendations to the Board; and (d) the District Board will confirm its selection and appointment by resolution.

Additional Considerations. Additional provisions and detail regarding the Committee's duties may be set forth in Bylaws adopted by the School District, which govern the Committee, and each Committee member is advised to review. It is common for Bylaws to provide that, in addition to being posted on the internet for the public to review, the Committee's annual report shall be presented to the District Board during a regular, open meeting. In addition, while an annual meeting of the Committee is the minimum requirement, once bonds have been issued, the Committee may determine to establish a regular meeting schedule to review expenditure reports provided by the District, for instance, on a quarterly basis. An annual organizational meeting may be required under the Bylaws, at which the District Superintendent or designee appoints the initial Chair of the Committee, and a meeting schedule is adopted by the members.

Timing. Following a successful 55 percent election under Proposition 39, the Elections Official has 28 days to provide a certified statement of the results of the election to the District Board. Once this statement is received, the District shall put on its next agenda a resolution certifying the results which is recorded in the District's official Board minutes. Following entry of the election results on the Board's minutes, the District has 60 days to appoint members to the Citizens' Oversight Committee.