

Santa Monica-Malibu Unified School District

Citizens' Bond Oversight Committee Role and Responsibilities

Board of Education

General Powers

- **Permissive Code:** May initiate and carry on any program, activity, or act in any manner which is not in conflict with, inconsistent with, or preempted by any law and which is not in conflict with the purposes for which school districts are established. (Ed. Code § 35160.)
- **Delegation:** May execute any powers delegated by law to it or to the District and shall discharge any duty imposed by law upon it or upon the District and may delegate to an officer or employee of the District any of those powers or duties. (Ed. Code § 35161.)
 - The Board of Education (“Board”), however, retains ultimate responsibility over the performance of those powers or duties so delegated. (Ed. Code § 35161.)

School Facilities

- Provide Facilities for the Education of Children.
 - Evaluate school facilities needs and determine when new facilities are needed.
 - Approve additions or alterations to existing buildings.
 - Approve the reconstruction of existing buildings.
 - Approve the construction of new school facilities.
 - Select and acquire sites.

Method of Financing

- For Proposition 39 bond measures:
 - **Types of Projects:** Determine scope, locations, and schedule of projects and that bond proceeds would only be spent on appropriate types of projects. (Ed. Code § 15100.)
 - **List of Projects:** Provide a list of the specific school facilities projects to be funded with bond proceeds. (Cal. Const., Art XIII A, § 1(b)(3)(B).)
 - The list should be specific enough that voters know what they are voting for. However, certain generalities should be maintained to provide the District flexibility as the needs of the District vary.
 - **Evaluate Needs:** Certify that the District has evaluated safety, class size reduction, and information technology needs in developing the project list. (Cal. Const., Art. XIII A, § 1(b)(3)(B).)

Appoint a CBOC

- **60 Days:** The Board must establish and appoint members to an independent citizens' bond oversight committee within 60 days of the date the Board enters election results in its Board meeting minutes. (Ed. Code § 15278(a).)
- **Members:** Must consist of a minimum of 7 members:
 - Each member must serve for a minimum of 2 years without compensation; and
 - Members cannot serve for more than 3 consecutive terms. (Ed. Code § 15282(a).)

Appoint a CBOC

- CBOC must include at least one member satisfying each category:
 - Active in a business organization;
 - Active in a bona fide taxpayers' organization;
 - Active in a senior citizens' organization;
 - Parent or guardian of a child enrolled in the District; and
 - Parent or guardian of a child enrolled in the District and active in a PTO or school site council. (Ed. Code § 15282(a).)
- If the statutorily-required categories are not satisfied, the District shall start the CBOC while it continues to diligently seek members to satisfy the categories.

Appoint a CBOC

- Board may not appoint to the CBOC:
 - An employee or official of the District;
 - A vendor, contractor, or consultant of the District; and
 - Persons who have a conflict of interest:
 - Persons with a contractual interest related to the District or the CBOC (Gov. Code § 1090 et seq.)
 - Persons who hold an office which is inconsistent, incompatible, in conflict with, or inimical with service on the CBOC (Gov. Code § 1125 et seq.).
(Ed. Code § 15282.)

CBOC Bylaws

- The Board may establish policies and regulations for the CBOC by adopting Bylaws.
- The Bylaws cannot contradict or provide more authority than applicable statutes or District policies and regulations.
- The Bylaws may address the following:
 - CBOC's purpose and duties
 - Member selection, composition, terms, and replacement
 - Meeting rules and procedures
 - Number/Frequency of meetings
 - Member and District attendance at meetings

Implement Bond Program

- Perform the following:
 - **Bond Program Generally:** Authorize the bond program budget, scope, schedule and locations. (Ed. Code § 15100.)
 - **Consultants:** Approve the selection of architects, engineers and other consultants as needed. (Ed. Code § 17266; Gov. Code § 4529.10 et seq.)
 - **Design Approval:** Obtain all requisite approvals of the design of facilities improvement projects. (Ed. Code §§ 17267, 17268.)
 - **Contracts & Change Orders:** Authorize all contracts and all changes to contracts. (Ed. Code § 35200, Public Contract Code § 20111, 20118.4.)
 - **Completion:** Accept all completed projects.

Implement Bond Program

- **Project List:** Ensure that bond funds have been expended only on projects included in a list of the specific school facilities projects to be funded. (Cal. Const., Art. XIII A § 1(b)(3)(C).)
- **Appropriate Expenditure/Staff Salaries:** Ensure that the proceeds from the sale of bonds are used only for the purposes of the construction, reconstruction, rehabilitation, replacement, furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, and not for any other purpose, including teacher and administrator salaries and other school operating expenses. (Cal. Const., Art. XIII A § 1(b)(3).)

Implement Bond Program

- **Performance Audit:** Conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed. (Cal. Const., Art. XIII A § 1(b)(3)(C).)
- **Financial Audit:** Conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of the proceeds have been expended for the school facilities projects. (Cal. Const., Art. XIII A, Sec 1(b)(3)(D).)
- **Technical Assistance:** Without expending bond funds, provide the CBOC any necessary technical assistance and shall provide administrative assistance in furtherance of its purpose, and sufficient resources to publicize the committee's conclusions. (Ed. Code § 15280(a).)

District Staff

Staff Responsibilities: CBOC

- Report to Board.
- Provide administrative and technical assistance to the CBOC including:
 - Administrative and technical assistance for compliance with the Brown Act. (Gov. Code § 54950 *et seq.*; Ed. Code § 15280.)
 - Assistance with the preparation of regular reports on committee activities, with at least one report issued each year. (Ed. Code § 15280(b).)
 - Making all documents and minutes available on the District's Internet website. (Ed. Code § 15280(b).)

Staff Responsibilities: Carry Out Bond Program

- **Solicit/Recommend Consultants:** Under the Board's direction, select consultants for recommendation to the Board. (Gov. Code § 4529.10 *et seq.*)
- **Recommend Program Items:** Recommend to the Board the budget, scope, schedule and locations of Bond program work.
- **Oversee Design:** Oversee and assist in the design of bond program work to meet the District's needs.
- **Bidding/Procurement:** Oversee and implement the bidding and other procurement of construction projects. (Pub. Contract Code §§ 100-9203; 20101-20118.4; 22030-22355.)

Execution of Bond Program

- **Recommend Award:** Recommend to the Board the award of contracts to the low responsive, responsible bidder for each formally bid contract or the best value / qualified respondent for each lease-leaseback contract. (Pub. Contract Code § 20111; Ed. Code § 17406.)
- **Manage Construction:** Oversee and implement the performance of bond-funded construction projects.
- **Solicit Auditors:** Under Board direction, implement selection of financial and performance auditors. (Cal. Const., Art. XIII A, § 1(b)(3)(C) and (D).)

CBOC

- CBOC's role is to:
 - Inform the public concerning expenditure of bond revenues. (Ed. Code § 15278(b).)
 - Alert the public to any waste or improper expenditure of school construction bond money. (Ed. Code § 15264(c).)
 - Actively review and report on the expenditure of taxpayers' money for school construction. (Ed. Code § 15278(b).)
 - Advise the public as to whether the District is in compliance with accountability requirements.

CBOC Responsibility: Advise the Public

- CBOC must advise the public as to whether the District is in compliance with the following accountability requirements:
 - **Appropriate Expenditure/Staff Salaries:** That the proceeds from the sale of bonds be used only for the purposes of the construction, reconstruction, rehabilitation, or replacement, furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, and not for any other purpose, including teacher and administrator salaries and other school operating expenses.
 - In compliance with Attorney General Opinion 04-110, issued on November 9, 2004

CBOC Responsibility: Advise the Public

- **District Needs.** That the District has provided a list of the specific school facilities projects to be funded and certification that the Board has evaluated safety, class size reduction, and information technology needs in developing that list.
- **Performance Audit.** That the Board has conducted an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed.
- **Financial Audit.** That the Board has conducted 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.

(Cal. Const., Art. XIII A § 1(b)(3).)

CBOC Responsibility: Permitted Activities

- **Audits:** Receive and review copies of the annual, independent performance audit and financial audit (Ed. Code §§ 15278(c)(1)&(2)) at the same time they are submitted to the school district, no later than March 31 of each year. (Ed. Code § 15286.)
 - The District shall provide the CBOC with any “responses to any and all findings, recommendations, and concerns” addressed in those audits. (Ed. Code § 15280(a)(2).)
- **Inspection:** Inspecting school facilities and grounds to ensure that bond revenues are expended only for the purposes of 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. (Ed. Code § 15278(c)(3)). This is subject to District policies.
- **Deferred Maintenance:** Receive and review copies of any deferred maintenance proposals, plans, or reports developed by the District. (Ed. Code § 15278(c)(4).)

CBOC Responsibility: Permitted Activities

Cost Saving Measures:

- Review efforts by the District to maximize bond revenues by implementing cost-saving measures, including, but not limited to, all of the following:
 - Mechanisms designed to reduce the costs of professional fees.
 - Mechanisms designed to reduce the costs of site preparation.
 - Recommendations regarding the joint use of core facilities.
 - Mechanisms designed to reduce costs by incorporating efficiencies in school site design.
 - Recommendations regarding the use of cost-effective and efficient reusable facility plans. (Ed. Code § 15278(c)(5).)

- CBOC does not have the authority to perform duties that are the responsibility of the Board/District:
 - Participate in District's actual bond sale and issuance process.
 - Make decisions regarding the timing, terms, or structure of a bond issuance.
 - Select, or participate in the negotiation or bid process for contractor or consultants for bond projects.
 - Visit construction sites without prior permission of the Board who reserves the right to determine frequency and timing of visits.
 - Contact District contractors or consultants without prior permission of the Board.
 - Regular and deferred maintenance projects and all monies generated under other sources fall outside the scope of the CBOC's review.

CBOC Meeting Requirements: Brown Act

- CBOC must conduct all business and meetings in compliance with the Brown Act (Gov. Code § 54950 et seq.)
- Purpose of the Brown Act:
 - To keep the public informed of the actions, debates and views of locally elected representatives; and
 - To provide the procedural framework for local legislators to meet, debate, act and listen collectively to their constituents.

CBOC Responsibility: Reporting Requirements

- The CBOC shall have the following reporting requirements:
 - Issue regular reports on the results of its activities (meeting minutes);
 - Issue a report at least once a year (annual report);
 - Make available on the District website the minutes of all CBOC proceedings, and all documents received and reports issued. (Ed. Code § 15280(b).)

QUESTIONS

Thank You

Santa Monica-Malibu Unified School District

Citizens' Bond Oversight Committee

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