

# INDEPENDENT OVERSIGHT COMMITTEES

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# Oversight Committee Basics

- In 2000, Proposition 39 lowered the vote threshold for school and community college district bonds to 55%.
- The lower threshold came with several accountability measures, including:
  - Increased specificity in the ballot measure,
  - Independent financial and performance audits, and
  - An independent citizens oversight committee.
- The goal was to “make it easier to pass school bonds, and **to ensure that district boards actually spent the bond proceeds on the projects the voters approved.**” *Foothill DeAnza v. Emerich* 158 Cal.App.4<sup>th</sup> 11, 23.



# Oversight Committee Basics

- The goal is to ensure the district board spends bond proceeds on the projects voters approved. But how?
- In two steps: (1) analysis, and (2) communication.
  - Analysis: The committee will receive and review copies of the annual independent performance and financial audits looking specifically for any instances where the District, in the auditor’s opinion, failed to spend bond funds on voter-approved projects. The committee may also conduct site visits to ensure the projects are of the type voters approved.
  - Communication: The committee will inform the public by reporting on the proper expenditure of bond funds, and specifically whether the District is in compliance.



# Oversight Committee Basics

- The committee shall review the two annual independent bond audits (note: these are different than the District's primary audit), and may conduct site visits.
- The committee should be familiar with the Bond Project List – the portion of the measure required by Proposition 39 that sets forth the specific types of projects authorized by voters.
- The committee should be on the lookout for impermissible expenditures on teacher salaries and other operating expenses (but see Cal. Ops. Atty. Gen 04-110).



# Oversight Committee Basics

- The committee should produce at least one annual report (Cal. Ed. Code Section 15280).
- The annual report, plus any reports received, the audits, the committees minutes, and other relevant documentation shall be available on the District's website.
- The committee may make oral reports to the Board from time to time.
- The committee speaks with one voice and absent delegation by a majority vote of the committee, the Chair speaks for the committee.



# Brown Act Basics

- It is the intent of the law that [public agencies'] deliberate and act in open view of the public.
- A “meeting” is any gathering of a majority of members to hear, discuss, or act on any item within the body’s jurisdiction.
- Regular meetings must be set in advance, held within the jurisdiction of the local agency, and an agenda must be posted at least 72 hours in advance.
- The agenda must briefly describe each item of business and be posted in a location freely accessible to the public and on the agency’s website.
- No action or discussion may be undertaken on items not appearing on the agenda.



# Brown Act ... It has Teeth!

- “The Legislature hereby finds and declares that complete, faithful, and uninterrupted compliance with the [Brown Act] is a matter of overriding public importance.
- The Committee can cure Brown Act Violations by issuing a letter promising to cease and desist from repeating the violation.
- If the Committee doesn’t do so and the District is forced by a court to issue such a letter, the District could be on the hook for court costs and attorney’s fees.
- Faithful compliance with the Brown Act is an integral element of the code of conduct (see #5), and failure to comply is grounds for removal (see Bylaws section 3.4(C)(2)).



# Brown Act: Remote Meetings

- Generally meetings should be in person.
- Members may join remotely if
  - the agenda includes each location, and
  - each location is accessible to the public, and
  - agendas are posted at each location, and
  - a quorum is present within the agency’s jurisdiction.
- A special exception exists for emergencies:
  - Members may appear remotely in an emergency up to two times in a given year if the committee makes a finding of just cause AND the member participates with audio AND video.





# Brown Act Wrap Up

- The Brown Act is serious business
- Consult with Mark (who has access to counsel if need be) to ensure compliance.
- Expect the District will look on non-compliance with disfavor and may exercise its removal remedies.
- If noncompliance is discovered, it's important to remedy *ASAP* to avoid litigation that could be costly for the District.



# Bylaws

- Bylaws for CBOCs follow statute while filling in some of the operational blanks.
- CBOCs may not direct how bond dollars are spent, participate in the bond sale, require additional audits, hire its own lawyers (§2). These restrictions are implied by statute, but made explicit by the bylaws.
- The Board is responsible for appointing members to the committee (§3.2), removing members for cause (§3.4(b)), providing administrative support (§4.5), amend the Bylaws (8.0).
- Faithful observance of the Bylaws is an essential element of the code of conduct.



# Working Together as a Committee

- The committee's scope is limited to the purposes and activities discussed previously.
- The committee's charge is retrospective, not prospective: the committee has no power to direct the District or its employees or the expenditure of bond proceeds.
- The committee works according to bylaws adopted by the Board and may suggest, but not adopt, changes thereto.
- The committee should meet regularly with advance notice to ensure quorum.
- A committee member who can not attend meetings regularly should resign.
- The most effective committees are cooperative not antagonistic.



# Dos and Donts

## Dos:

- Know the project list
- Ask questions
- Participate actively
- Know the bylaws
- Keep it professional
- Cooperate with each other
- Be conscientious of staff time
- Have fun

## Don'ts

- Lose sight of the committee's charge
- Allow the mission/scope to creep
- Create busy-work for staff
- Forget about the public
- Get your blood pressure up
- Forget what you don't know



Thank you for your time!