

**GENERAL OBLIGATION BONDS**

The Board of Trustees recognizes that school facilities are an essential component of the educational program and that the Board has a responsibility to ensure that the district's facilities needs are met in the most cost-effective manner possible. When the Board determines that it is in the best interest of district students, it may order an election on the question of whether bonds shall be issued for school facilities.

The Board shall determine the appropriate amount of the bond in accordance with law.

When any project to be funded by bonds will require state matching funds for any phase of the project, the ballot for the bond measure shall include a statement as specified in Education Code 15122.5, advising voters that, because the project is subject to approval of state matching funds, passage of the bond measure is not a guarantee that the project will be completed. (Education Code 15122.5)

**Bonds Requiring 55 Percent Approval by Local Voters**

The Board may decide to pursue the authorization and issuance of bonds by approval of 55 percent majority of the voters pursuant to Article 13A, Section 1(b)(3) and Article 16, Section 18(b) of the California Constitution. If two-thirds of the Board agree to such an election, the Board shall vote to adopt a resolution to incur bonded indebtedness if approved by a 55 percent majority of the voters. (Education Code 15266)

The bond election may only be ordered at a primary or general election, a statewide special election, or a regularly scheduled local election at which all of the electors of the school district are entitled to vote. (Education Code 15266)

Bonded indebtedness incurred by the district shall be used only for the following purposes: (California Constitution Article 13A, Section 1(b)(3) and 1(b)(3)(A))

1. The construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities
2. The acquisition or lease of real property for school facilities
3. The refunding of any outstanding debt issuance used for the purposes specified in items #1-2 above

The proposition approved by the voters shall include the following accountability requirements: (California Constitution Article 13A, Section 1(b)(3))

1. A requirement that proceeds from the sale of the bonds be used only for the purposes specified in items #1-2 above, and not for any other purposes including teacher and administrative salaries and other school operating expenses

**GENERAL OBLIGATION BONDS** (continued)

2. A list of specific school facility projects to be funded and certification that the Board has evaluated safety, class size reduction, and information technology needs in developing that list
3. A requirement that the Board conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed
4. A requirement that the 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

If a district general obligation bond requiring a 55 percent majority is approved by the voters, the Board shall appoint an independent citizens' advisory oversight committee. This committee shall be appointed within 60 days of the date that the Board enters the election results in its minutes pursuant to Education Code 15274. (Education Code 15278)

The Superintendent or designee shall ensure that the annual, independent performance and financial audits conducted pursuant to items #3 and #4 above are issued in accordance with the U.S. Comptroller General's Government Auditing Standards. He/she shall submit the audits to the citizens' oversight committee by March 31 of each year. (Education Code 15286)

The Board shall provide the citizens' oversight committee with responses to all findings, recommendations, and concerns addressed in the performance and financial audits within three months of receiving the audits. (Education Code 15280)

The Board may disband the citizens' oversight committee when the committee has completed its review of the final performance and financial audits.

**Bonds Requiring 66.67 Percent Approval by Local Voters**

The Board may decide to pursue the authorization and issuance of bonds by approval of 66.67 percent majority of the voters pursuant to Education Code 15100 and Article 13A, Section 1(b)(2) of the California Constitution. If a majority of the Board agrees to such an election, or upon a petition of the majority of the qualified electors residing in the district, the Board shall adopt a resolution ordering an election on the question of whether to incur bonded indebtedness if approved by a 66.67 percent majority of the voters. (Education Code 15100)

The bond election may be ordered to occur on any Tuesday, except a Tuesday that is a state holiday or the day before or after a state holiday, is within 45 days before or after a statewide election unless conducted at the same time as the statewide election, or is an established election date pursuant to Elections Code 1000 or 1500. (Education Code 15101)

**GENERAL OBLIGATION BONDS** (continued)

Bonds shall be sold to raise money for any of the following purposes: (Education Code 15100)

1. Purchasing school lots
2. Building or purchasing school buildings
3. Making alterations or additions to school building(s) other than as may be necessary for current maintenance, operation, or repairs
4. Repairing, restoring, or rebuilding any school building damaged, injured, or destroyed by fire or other public calamity
5. Supplying school buildings and grounds with furniture, equipment, or necessary apparatus of a permanent nature
6. Permanently improving school grounds
7. Refunding any outstanding valid indebtedness of the district, evidenced by bonds or state school building aid loans
8. Carrying out sewer or drain projects or purposes authorized in Education Code 17577
9. Purchasing school buses with a useful life of at least 20 years
10. Demolishing or razing any school building with the intent to replace it with another school building, whether in the same location or in any other location

Except for refunding any outstanding indebtedness, any of the purposes listed above may be united and voted upon as a single proposition by order of the Board and entered into the minutes. (Education Code 15100)

The Board may appoint a citizens' oversight committee to review and report to the Board and the public as to whether the expenditure of bond revenues complies with the intended purposes of the bond.

**Certificate of Results**

If the certificate of election results received by the Board shows that the appropriate majority of the voters are in favor of issuing the bonds, the Board shall record that fact in its minutes. The Board shall then certify to the county board of supervisors all proceedings it had in connection with the election results. (Education Code 15124, 15274)

**GENERAL OBLIGATION BONDS** (continued)

**Resolution Regarding Sale of Bonds**

Following passage of the bond measure by the appropriate majority of voters, the Board shall pass a resolution to issue the sale of bonds. The Board shall have the option to sell bonds according to Education Code or Government Code and will state the option in the resolution. The resolution shall prescribe the total amount of bonds to be sold and may also prescribe the maximum acceptable interest rate, not to exceed eight percent, and the time(s) when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds (Education Code 15140) OR shall not be more than 40 years from the date of the bonds [Government Code 53508(f)]

In passing the resolution, the Board shall consider each available funding instrument, including, but not limited to, the costs associated with each and their relative suitability for the project to be financed.

Prior to the sale of bonds, the Board shall disclose, as an agenda item at a public meeting, either in the bond issuance resolution or a separate resolution, available funding instruments, the costs and suitability of each, and all of the following information: (Education Code 15146; Government Code 53508.9)

1. Express approval of the method of sale (i.e., competitive, negotiated, or hybrid)
2. Statement of the reasons for the method of sale selected
3. Disclosure of the identity of the bond counsel, and the identities of the bond underwriter and the financial adviser if either or both are utilized for the sale, unless these individuals have not been selected at the time the resolution is adopted, in which case the Board shall disclose their identities at the public meeting occurring after they have been selected
4. Estimates of the costs associated with the bond issuance including, but not limited to, bond counsel and financial advisor fees, printing costs, rating agency fees, underwriting fees, and other miscellaneous costs and expenses of issuing the bonds

When the sale involves bonds that allow for the compounding of interest, such as a capital appreciation bond (CAB), items #1-4 above and the financing term and time of maturity, repayment ratio, and the estimated change in the assessed value of taxable property within the district over the term of the bonds shall be included in the resolution to be adopted by the Board. The resolution shall be publicly noticed on at least two consecutive meeting agendas, first as an information item and second as an action item. The agendas shall identify that bonds that allow for the compounding of interest are proposed. (Education Code 15146)

**GENERAL OBLIGATION BONDS** (continued)

Prior to adopting a resolution for the sale of bonds that allow for the compounding of interest, the Board shall be presented with the following: (Education Code 15146)

1. An analysis containing the total overall cost of the bonds that allow for the compounding of interest
2. A comparison to the overall cost of current interest bonds
3. The reason bonds that allow for the compounding of interest are being recommended
4. A copy of the disclosure made by the underwriter in compliance with Rule G-17 adopted by the federal Municipal Securities Rulemaking Board

After the sale, the Board shall be presented with the actual issuance cost information and shall disclose that information at the Board's next scheduled meeting. The Board shall ensure that an itemized summary of the costs of the bond sale and all necessary information and reports regarding the sale are submitted to the California Debt and Investment Advisory Commission. (Education Code 15146; Government Code 53509.5)

**Post-Issuance Tax Compliance Procedures For Tax-Exempt and Tax-Advantaged Bonds**

The purpose of these Post-Issuance Tax Compliance Procedures is to establish policies and procedures in connection with tax-exempt bonds and other tax-advantaged bonds (e.g. “build America bonds” or tax credit bonds such as Qualified School Construction Bonds) (collectively, “Bonds”) issued by the Evergreen School District (the “Issuer”) so as to ensure that the Issuer complies with all applicable post-issuance requirements of federal income tax law needed to preserve the tax-exempt or other advantaged status of the Bonds.

**General**

Ultimate responsibility for all matters relating to Issuer financings and refinancings rests with the Superintendent or designee (the “Responsible Officer”).

**Post-Issuance Compliance Requirements****External Advisors/Documentation**

The Responsible Officer and other appropriate Issuer personnel shall consult with bond counsel and other legal counsel and advisors, as needed, throughout the Bond issuance process to identify requirements and to establish procedures necessary or appropriate so that the Bonds will continue to qualify for the appropriate tax status. Those requirements and procedures shall be documented in an Issuer resolution(s), Tax Certificate(s) and/or other documents finalized at or before issuance of the Bonds. Those requirements and procedures

**GENERAL OBLIGATION BONDS** (continued)

shall include future compliance with applicable arbitrage rebate requirements and all other applicable post-issuance requirements of federal tax law throughout (and in some cases beyond) the term of the Bonds.

The Responsible Officer and other appropriate Issuer personnel also shall consult with bond counsel and other legal counsel and advisors, as needed, following issuance of the Bonds to ensure that all applicable post-issuance requirements in fact are met. This shall include, without limitation, consultation in connection with future contracts with respect to the use of Bond-financed assets and future contracts with respect to the use of output or throughput of Bond-financed assets.

Whenever necessary or appropriate, the Issuer shall engage expert advisors (each a “Rebate Service Provider”) to assist in the calculation of arbitrage rebate payable in respect of the investment of Bond proceeds.

**Role of the Issuer as Bond Issuer**

Unless otherwise provided, unexpended Bond proceeds shall be held by the Issuer, and the investment of Bond proceeds shall be managed by the Responsible Officer. The Responsible Officer shall maintain records and shall prepare regular, periodic statements to the Issuer regarding the investments and transactions involving Bond proceeds.

If the documents governing the Bonds provide for Bond proceeds to be administered by a trustee or any other agent, including a County official (as used herein, a “Trustee”), such Trustee shall provide regular, periodic (e.g., monthly) statements regarding the investments and transactions involving Bond proceeds.

**Arbitrage Rebate and Yield**

Unless the applicable Tax Certificate sets forth that bond counsel has advised the Issuer arbitrage rebate will not be applicable to an issue of Bonds:

1. The Issuer shall engage the services of a Rebate Service Provider, and the Issuer or the Trustee shall deliver periodic statements concerning the investment of Bond proceeds to the Rebate Service Provider on a prompt basis;
2. Upon request, the Responsible Officer and other appropriate Issuer personnel shall provide to the Rebate Service Provider additional documents and information reasonably requested by the Rebate Service Provider;
3. The Responsible Officer and other appropriate Issuer personnel shall monitor efforts of the Rebate Service Provider and assure payment of required rebate amounts, if any, no later than 60 days after each 5-year anniversary of the issue date of the Bonds, and no later than 60 days after the last Bond of each issue is redeemed; and

**GENERAL OBLIGATION BONDS** (continued)

4. During the construction period of each capital project financed in whole or in part by Bonds, the Responsible Officer and other appropriate Issuer personnel shall monitor the investment and expenditure of Bond proceeds and shall consult with the Rebate Service Provider to determine compliance with any applicable exceptions from the arbitrage rebate requirements during each 6-month spending period up to 6 months, 18 months or 24 months, as applicable, following the issue date of the Bonds.

The Issuer shall retain copies of all arbitrage reports, investment and expenditure records, and trustee statements as described below under “Record Keeping Requirements.”

**Allocation of Bond Proceeds**

Within the proper timelines, which are currently no later than 18 months after expenditure or the project’s placed in service date, but in no event after 5 years from the date of issuance of the applicable issue of new money bonds, the Issuer will allocate Bond proceeds to expenditures for rebate and private use purposes.

**Use of Bond Proceeds**

The Responsible Officer and other appropriate Issuer personnel shall:

1. Monitor the use of Bond proceeds, the use of Bond-financed assets (e.g., facilities, furnishings or equipment) and the use of output or throughput of Bond-financed assets throughout the term of the Bonds (and in some cases beyond the term of the Bonds) to ensure compliance with covenants and restrictions set forth in applicable Issuer resolutions and Tax Certificates;
2. Maintain records identifying the assets or portion of assets that are financed or refinanced with proceeds of each issue of Bonds;
3. Consult with Bond Counsel and other professional expert advisers in the review of any contracts or arrangements involving use or sale of Bond-financed facilities to ensure compliance with all covenants and restrictions set forth in applicable Issuer resolutions and Tax Certificates;
4. Maintain records for any contracts or arrangements involving the use or sale of Bond-financed facilities as might be necessary or appropriate to document compliance with all covenants and restrictions set forth in applicable Issuer resolutions and Tax Certificates; and

**GENERAL OBLIGATION BONDS** (continued)

5. Meet at least [annually] with personnel responsible for Bond-financed assets to identify and discuss any existing or planned use or sale of Bond-financed, assets or output or throughput of Bond-financed assets, to ensure that those uses are consistent with all covenants and restrictions set forth in applicable Issuer resolutions and Tax Certificates.

All relevant records and contracts shall be maintained as described below.

**Record Keeping Requirements**

Unless otherwise specified in applicable Issuer resolutions or Tax Certificates, the Issuer shall maintain the following documents for the term of each issue of Bonds (including refunding Bonds, if any) plus at least three years:

1. A copy of the Bond closing transcript(s) and other relevant documentation delivered to the Issuer at or in connection with closing of the issue of Bonds;
2. A copy of all material documents relating to capital expenditures financed or refinanced by Bond proceeds, including (without limitation) construction contracts, purchase orders, invoices, trustee requisitions and payment records, as well as documents relating to costs reimbursed with Bond proceeds and records identifying the assets or portion of assets that are financed or refinanced with Bond proceeds;
3. A copy of all contracts and arrangements involving private use of Bond-financed assets or for the private use of output or throughput of Bond-financed assets; and
4. Copies of all records of investments, investment agreements, arbitrage reports and underlying documents, including trustee statements.

**Bond Anticipation Notes**

Whenever the Board determines that it is in the best interest of the district, it may, by resolution, issue a bond anticipation note, on a negotiated or competitive-bid basis, to raise funds that shall be used only for a purpose authorized by a bond that has been approved by the voters of the district in accordance with law. (Education Code 15150)

Payment of principal and interest on any bond anticipation note shall be made at note maturity, not to exceed five years, from the proceeds derived from the sale of the bond in anticipation of which that note was originally issued or from any other source lawfully available for that purpose, including state grants. Interest payments may also be made from such sources. However, interest payments may be made periodically and prior to note maturity from an increased property tax if the following conditions are met: (Education Code 15150)



**GENERAL OBLIGATION BONDS** (continued)

1. A resolution of the Board authorizes the property tax for that purpose.
2. The principal amount of the bond anticipation note does not exceed the remaining principal amount of the authorized but unissued bonds.

A bond anticipation note may be issued only if the tax rate levied to pay interest on the note would not cause the district to exceed the tax rate limitation set forth in Education Code 15268 or 15270, as applicable.

*Legal Reference:*

EDUCATION CODE

7054 *Use of district property, campaign purposes*

15100-15254 *Bonds for school districts and community college districts*

15264-15288 *Strict Accountability in Local School Construction Bonds Act of 2000*

17577 *Sewers and drains*

17584.1 *Deferred maintenance, reports*

47614 *Charter school facilities*

ELECTIONS CODE

324 *General election*

328 *Local election*

341 *Primary election*

348 *Regular election*

356 *Special election*

357 *Statewide election*

1302 *School district election*

15372 *Elections official certificate*

GOVERNMENT CODE

1090-1099 *Prohibitions applicable to specified officers*

1125-1129 *Incompatible activities*

8855 *California Debt and Investment Advisory Commission*

53580-53595.5 *Bonds*

54952 *Definition of legislative body, Brown Act*

CALIFORNIA CONSTITUTION

Article 13A, Section 1 *Tax limitation*

Article 16, Section 18 *Debt limit*

COURT DECISIONS

*San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School District, (2006) 139 Cal.App.4th 1356*

ATTORNEY GENERAL OPINIONS

88 *Ops.Cal.Atty.Gen. 46 (2005)*

87 *Ops.Cal.Atty.Gen. 157 (2004)*

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Policy  
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**EVERGREEN SCHOOL DISTRICT**  
San Jose, California