



Fagen Friedman & Fulfroost LLP

Measure BB Citizens' Bond Oversight Committee

**Hacienda La Puente Unified
School District
March 1, 2017
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Overview

- Part I: Bond Committee Duties, Goals, Best Practices
- Part II: Ralph M. Brown Act Review



Part I: Bond Committee Basics

- Bond election conducted during November 2016 election
 - Proposition 39, Strict Accountability in Local School Construction Bonds Act of 2000
- Education Code requires formation of CBOC to satisfy Prop 39 accountability requirements.



Bond Measure BB

- Upgrade/repair all neighborhood school classrooms
- Retain/attract quality teachers by:
 - renovating all science, technology, engineering, art/math labs/classrooms and athletic facilities
 - Ensuring drinking water safety
 - Repairing, constructing, equipping/acquiring educational facilities to prepare students for college and 21st century vocational jobs/careers



Bond Committee Duties

- Inform the Public
- Review Bond Expenditures
- Annual Reporting



Bond Committee Membership



- Term & Duration
- Conditions of Membership
- Attendance
- Actions & Decisions
- Committee Support



Bond Committee Responsibilities & Activities

- Facilitate Efficient & Economical Use of Bond Expenditures
- Provide Oversight on District Accountability
- Comply with Brown Act



Items Outside of CBOC Responsibilities

- The Committee *shall not*:
 - Participate in the actual bond sale or issuance process
 - Negotiate or select contractors or consultants
 - Inspect job sites without prior permission from the Superintendent
 - Contact District contractors or consultants without prior permission from Superintendent
 - Direct staff of the District



Items Outside of CBOC Responsibilities

- District has *not* charged CBOC with responsibility for:
 - Projects financed through State of California
 - Establishment of priorities/order of construction
 - Selection of consultants and professional service firms, such as architects, engineers and independent audit firms
 - Design approvals



Part II: The Brown Act



Citizens' Oversight Committees

- Subject to Ralph M. Brown Act open meeting law
- Committee's purpose is to aid in the conduct of the people's business



What is a Meeting?

- The Brown Act applies to “meetings” of a legislative body.
- All meetings of a legislative body are public and official business must be transacted at a public meeting
 - Exception: Closed Session
- Majority of members gather at the same time and place to hear, discuss or deliberate upon any item within the subject matter jurisdiction of the legislative body.



Serial Meetings Prohibited!

- Serial Meetings: Communications outside formal meetings, each of which involve less than a quorum, but collectively encompass a majority.
- Communications of any kind *cannot* be used by a majority of members to discuss, deliberate or take action on any item of business that is within the subject matter jurisdiction of the Committee.
(Gov. Code, § 54952.2.)



The Meeting Agenda

- Goal: facilitate public awareness and access to the Committee's business
- Requirements for Regular Meeting:
 - Must be posted 72 hours in advance
 - Must include time and place of meeting
 - Must identify the business being discussed or transacted
 - Must be posted in location accessible to public and on CBOC website.



Closed Session

- Brown Act includes statutory exceptions that permit meetings in closed session (not open to public)
- Meeting may only be closed if there is a specific statutory exception that applies



Public Participation and Comment

■ Regular Meetings:

- Subject to reasonable regulations, the public must be allowed to speak on any subject on the agenda (open or closed session) or within the subject matter jurisdiction of the legislative body.



Robert's Rules of Order

- Designed to provide structure and order to legislative bodies' public meetings.
- Addresses, among other topics:
 - Quorum
 - Voting
 - Rights of committee members to make motions



Bond Committee Ethics

- Financial Conflicts of Interest
- Incompatible Activities
- Ethics Policy Statements



Political Reform Act

- In California, the principal statutory framework under which conflicts of interest are addressed is the Political Reform Act of 1974 ("PRA"), codified at California Government Code section 81000 *et seq.*
- If any provision of the PRA conflicts with other laws or administrative regulations passed by an agency, the PRA controls. (Govt. Code § 81013)



Political Reform Act

- Government Code section 81002 states, in part:
 - The people enact this title to accomplish the following purposes: . . .
 - (c) Assets and income of public officials which may be materially affected by their official actions should be disclosed and in appropriate circumstances the officials should be disqualified from acting in order that conflicts of interest may be avoided.



Political Reform Act

- A conflict of interest arises when the official actions of a public official could potentially result in a material financial benefit to that official.
- The PRA provides, in pertinent part:
 - No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

(Govt.Code § 87100)



Limitation on / Reporting of Gifts

- What's the point?
 - To Prevent Improper Influence
 - Notice to the Public Official, Employee and to the Public of Potential Conflicts



Why Should You Care?

- Increased scrutiny on perceived “pay to play” and the appearance of impropriety
- Violation of the PRA can result in criminal penalties, FPPC prosecution, and/or removal from office
- Conflict of Interest rules are far more complicated than they should be



Who is Covered by the Rules?

- Public Officials
- “Official” includes a public official, agency official, candidate, . . . state or local public employee who is designated, or is required to be designated under Section 87302, in the official’s agency’s conflict of interest code.



District's Conflict of Interest Code

- Governing Board Members
- Superintendent
- Assistant/Associate Superintendent
- Purchasing Agent
- Executive Director
- Director
- Principal
- Director of Facilities
- Program Administrator
- Personnel Commissioners
- Consultants
- Chief of Police and Safety



What is a “Gift”?

- A gift is a payment made by any person of any thing of value,
 - tangible or intangible
 - real or personal property
 - a good or service that provides a personal benefit to an official
- A gift includes
 - Forgiveness of a debt or obligation
 - Rebate or discount in the price of anything of value unless the rebate or discount is offered in the ordinary course of business without regard to official status.



What Gifts are “Reportable”?

- An official must report gifts received *from a source subject to disclosure* if the cumulative value is \$50 or more within a reporting period.
 - Is the gift from a *source identified in the disclosure category* under the official’s conflict of interest code?
 - Is the gift (or are the gifts) valued at \$50 or more (in the aggregate)?



What Gifts are “Reportable”?

- When a gift is given through an intermediary, both the source of the gift and the intermediary must be disclosed. (See Govt. Code § 87210, 87313, and Title 2, CCR 18945.3.)



What do I report?

- Acceptance of Gifts
 - Any gift worth \$50 or
 - Aggregation of gifts from a single donor worth \$50 together
- Donor and intermediary (if there is one)
 - Name
 - Address
 - Business Activity



Manner of Reporting – Form 700

- When?
 - Assuming Office (30 Days)
 - Annually (April 1)
 - Leaving Office (30 days)



Questions to Ask

- Did the gift come from a source listed in the conflict-of-interest code?
- Is this gift/benefit available to the public generally or just to a select few?
- Is this gift/benefit related to my position?
- What is my relationship with the person offering the gift?



Completing the Form 700

- Forms available on Fair Political Practices Commission website



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