

CITIZENS' BOND OVERSIGHT COMMITTEE TRAINING

Livermore Valley
Joint Unified District
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Presented by:
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Proposition 39: The Smaller Classes, Safer Schools, and Financial Accountability Act

- Passed in 2000
- 55% Voter Approval
- Citizens' Oversight Committee
(Ed. Code, § 15278.)

The Purpose of the Committee

- To INFORM the public
- To ADVISE the public
- To REVIEW and REPORT on expenditures (Ed. Code, § 15278(b).)

The Purpose of the Committee

- “[T]he purpose of the Committee is to inform the public and the Board regarding the expenditure or Measure J bond proceeds. The Committee shall actively review and report on the proper expenditure of taxpayers’ money for school construction, and advise the public as to whether the District is in compliance with the requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.”
 - Citizens’ Bond Oversight Committee Bylaws (“Bylaws”)

The Committee Shall Do the Following:

- Actively review and report on the proper expenditure of taxpayers' money.
- Review expenditures for consistency with the bond language.
- Review expenditures for consistency with the California Constitution.

(Art. XIII A, § 1(b).)

The Committee Shall:

- Provide oversight for:
 - Helping ensure that bond revenues are used only for construction, reconstruction, rehabilitation, or replacement of school facilities.
 - May include furnishing and equipping schools or the acquisition or lease of real property.
 - Helping ensure that Measure J bond proceeds are not used for teacher/administrative salaries unrelated to construction under the bond.

(Bylaws, Section 3.)

What is “ENSURING”?



The Committee Shall:

- Review copies of the annual, independent performance audit.
- Review copies of the annual, independent financial audit.
- Inspect facilities and grounds to make sure bond revenues are expended in compliance with the California Constitution.

(Bylaws, Section 4.2.)

What is a “PERFORMANCE AUDIT”?

- Purpose: to show that bond funds are spent only on projects listed in the bond measure.
(Cal. Const. Art. XIII A, §1(b)(3)(C).)

What is a “PERFORMANCE AUDIT”

- Audit must be conducted in compliance with Generally Accepted Government Auditing Standards (“GAGAS”) (Ed. Code §15286.)

The Committee Shall:

- Review efforts by the District to maximize Measure J bond proceeds by implementing cost saving measures, including:
 - 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.

(Bylaws, Section 4.2.4)

The Committee Shall:

- Issue regular reports of the results of these activities - at least one report per year. (Ed. Code, § 15280(b).)
- In addition, the Committee may prepare, approve, and distribute other progress reports of its activities, findings, and recommendations to the Superintendent, the Board, and the public.
- Posted on District website. (Bylaws, Section 4.1.4.3)

Not Within the Committee's Scope:

- No decision-making authority generally.
- No authority to participate in the District's actual bond sale and issuance process or to make decisions regarding time, terms, or structure of bond issuance.
- No authority to determine how bond funds shall be spent.

Not Within the Committee's Scope:

- The Committee looks backward, not forward.
 - No authority to select or participate in the negotiation or bid process for contractors or consultants for bond projects.
 - No involvement in project planning, implementation, etc.

Not Within the Committee's Scope:

- Committee should not “inspect” job sites or construction projects without the prior permission of the Superintendent or their designee.
 - Safety issues
 - Requirement to register with school office
- Committee should not contact District contractors or consultants without prior permission of the Superintendent or other authorized District representative.
- Committee cannot appoint replacement members or fill vacancies; that is the Board's responsibility.

District's Support of the Committee

- The governing board of the District shall provide the Committee with:
 - Any necessary technical assistance and administrative assistance in furtherance of the Committee's purpose.
 - Sufficient resources to publicize the conclusions of the Committee.
 - Responses to any and all findings, recommendations, and concerns addressed in the annual, independent financial and performance audits.
- No bond funds may be used to pay any of these expenses. (Ed. Code §15280)

Committee Selection

- The Committee shall consist of a minimum of 7 members and no more than 15 members, appointed by the Board after an open and public recruitment process.
- Employees, officials, vendors, contractors, or consultants of the District are not eligible for voting or active membership on the Committee.
- Committee members shall serve for a term of 2 years, and for no more than 3 consecutive terms.
(Bylaws, Section 9, 10.)

Committee Officers

- The Superintendent shall appoint the initial Chair. Thereafter, the Committee shall elect a Chair and a Vice-Chair.
- Chair Duties:
 - Call meetings
 - Establish agenda
 - Attend or appoint another member to attend Board meetings where Measure J issues are placed on the agenda.

(Bylaws, Section 13.)

Limits on Committee Members

- Members of the Committee must abide by Government Code provisions which prohibit public officials from having a financial interest in any contracts made in their official capacity. (Ed. Code, § 35233; Gov. Code, §§ 1090, *et seq.*)
- Committee members may also be subject to the Political Reform Act of 1974 and its conflict of interest provisions. (Gov. Code, §§ 81000, *et seq.*)

Committee Rules and Procedures

- Agendas for Committee meetings shall be prepared by the Chair and District staff.
 - All items must appear on the agenda.
- Actions may be undertaken at a meeting only if a quorum of seated members is present.
- An action item may be approved by a simple majority of Committee members in attendance.
- Members may not vote by absentee or proxy.
- Minutes shall be made available on District's website.

(Bylaws, Section 6.)

Removal from Office

- The Board may remove any Committee member, for cause including:
 - failure to attend 2 consecutive Committee meetings without reasonable excuse, or
 - failure to comply with the prohibition against conflict of interest.
- A motion to remove a member must be placed on the agenda and approved by not less than two-thirds of the members present
- Vacancies on the Committee may only be filled by the Board through an application process.

(Bylaws, Section 11, 12.)

Subcommittees

- The Committee may, with a majority vote, form or disband subcommittees.
 - to perform specific duties, such as site inspections or issuing specific reports.
- The Chair shall appoint all subcommittee members.
- Subcommittee meetings may proceed only when a quorum is present.
- All standing subcommittees must fully comply with the Brown Act.
(Bylaws, Section 7.)

Committee Meeting Procedures

- All Committee proceedings must be open to the public and are subject to the provisions of the Brown Act. (Gov. Code, §§ 54950, *et seq.*)
(Ed. Code §15280(b).)

Brown Act Requirements

- Committee follows Brown Act. (Bylaws, Section 6.6)
- That actions and deliberations be taken openly and in public.
- Meetings must be in public unless a closed session is specifically permitted by law.
- Agendas and Committee packets must be made available upon request.
- Agenda must be posted on District's website.
- Votes of each member must be identified in the minutes.
- No absentee voting. (Bylaws, Section 6.4)

What is a “Meeting”?

- Any congregation of a majority of the members of the Committee when discussing Committee business.
- Even if no action is taken and no concurrence reached.

What isn't a "Meeting"?

- The following scenarios are not "meetings" under the Brown Act:
 - Individual Contact
 - Public Conferences
 - Community Meetings
 - Other Local Agency Meetings
 - Social Gatherings
 - Attendance at Standing Committees as Observer Only

Prohibited Serial Communications

- “[A] serial meeting is a series of communications, each of which involves less than a quorum of the legislative body, but which taken as a whole involves a majority of the body’s members.” (Attorney General’s Brown Act Handbook)

“Meetings” Can Occur Through the Use of Intermediaries

- “For example, a chain of communications involving contact from member A to member B who then communicates with member C would constitute a serial meeting of a five-person body.”
- “Similarly, when a person acts as the hub of a wheel (member A) and communicates individually with the various spokes (members B and C), a serial meeting has occurred.”

(Attorney General’s Brown Act Handbook)

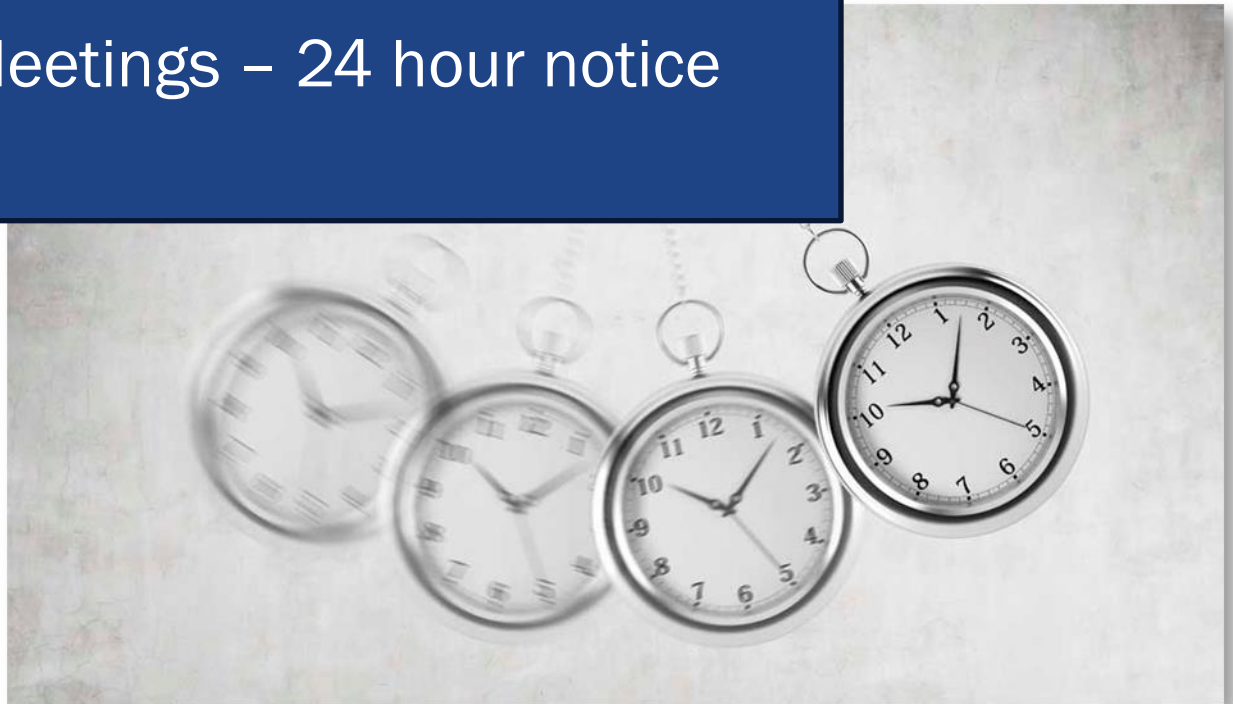
Serial Meetings Can Occur Through the Use of Technology

- Telephone
- Email
- Text message
- Chat room
- Social media



Meetings

- Regular Meetings – 72 hour notice
- Special Meetings – 24 hour notice



Public Participation

- A Committee meeting is a meeting of the Committee held in public, not a meeting of the public held in front of the Committee.



Public Participation

- Public comment
- Recording / photography
- Disruptions



Public Participation

- Committee may:
 - Place equal time limits on all speakers.
 - Request at the meeting that a consent item be discussed.
 - Request that Committee vote to place matter on future Agenda.
 - Clear room in event of disorderly conduct pursuant to Government Code Section 54957.9.
 - Limits on responding to public comment. (Bylaws, Section 6.7.1)

Committee Website

- The following matters of public record must be posted on the District website:
 - Minutes of the Committee proceedings
 - Documents received by the Committee
 - Reports issued by the Committee(Ed. Code, § 15280 (b).)
- The cost to operate, maintain and update the website is the responsibility of the District.

Termination

- The Committee shall automatically terminate and disband at the earlier of the date:
 - All bond proceeds have been expended; or
 - All projects funded by Measure J bond proceeds are complete.

(Bylaws, Section 14.)

Questions





Lozano Smith
ATTORNEYS AT LAW

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