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Is a member of a citizens' bond oversight committee required to file a Statement of Economic Interests?

# Citizens' Bond Oversight Committee Background

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- Prop 37, passed in 2000 amended the California Constitution to require a 55% voter approval—rather than the two-thirds approval requirement in effect at the time—and specified accountability requirements for school construction bond measures.
  - Accompanying legislation requires the governing board of a school district to establish an independent citizens' oversight committee whenever a school construction bond measure is approved pursuant to Prop 39.

# CBOC Members

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- Members of a citizens' oversight committee are appointed, serve for a term of at least two years, and for no more than three consecutive terms.
  - Members of the committee are uncompensated
  - Citizens' oversight committees are required to include members representative of certain groups; for example, a committee must include at least one member "active in a business organization representing the business community located within the school district or community college district," a person "active in a senior citizens' organization," parents, etc.

# Prohibited from CBOC

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An employee or official of the school district or community college district shall not be appointed to the citizens' oversight committee. A vendor, contractor, or consultant of the school district or community college district shall not be appointed to the citizens' oversight committee. Members of the citizens' oversight committee shall, pursuant to Sections 35233 and 72533, abide by the prohibitions contained in Article 4 (commencing with Section 1090) and Article 4.7 (commencing with Section 1125) of Chapter 1 of Division 4 of Title 1 of the Government Code.

Edu Code 15282(b)

# CBOC Purpose

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The purpose of the citizens' oversight committee shall be to **inform the public** concerning the expenditure of bond revenues. The citizens' oversight committee shall actively **review and report** on the proper expenditure of taxpayers' money for school construction. The citizens' oversight committee shall **advise the public** as to whether a school district or community college district is in compliance with the requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution [(i.e., Prop 39)]. . .

California Education Code 15278(b)

# CBOC Duties – Receive, Review, Inspect, Report

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In furtherance of its purpose, the citizens' oversight committee may engage in any of the following activities:

- (1) Receiving and reviewing copies of the annual, independent performance audit...
- (2) Receiving and reviewing copies of the annual, independent financial audit ...
- (3) Inspecting school facilities and grounds to ensure that bond revenues are expended ...
- (4) Receiving and reviewing copies of any deferred maintenance proposals or plans developed by a school district or community college district, ...
- (5) Reviewing efforts by the school district or community college district to maximize bond revenues by implementing cost-saving measures, including, but not limited to, all of the following:
  - (A) Mechanisms designed to reduce the costs of professional fees.
  - (B) Mechanisms designed to reduce the costs of site preparation.
  - (C) Recommendations regarding the joint use of core facilities.
  - (D) Mechanisms designed to reduce costs by incorporating efficiencies in schoolsite design.
  - (E) Recommendations regarding the use of cost-effective and efficient reusable facility plans.

California Education Code 15278(c)

# Who files an SEI?

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- Statutory filers (Section 87200) – public officials identified by statute
  - Code filers (Section 87300) – any officer, employee, member, or consultant designated in the agency’s conflict of interest code (“designated employee”)

# Designated Employee standard

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- Makes, or participates in making decisions which may foreseeably have a material effect on a financial interest.
- A public official **makes** a governmental decision if the official authorizes or directs any action, votes, appoints a person, obligates or commits the official's agency to any course of action, or enters into any contractual agreement on behalf of the official's agency." (Regulation 18704(a))
- A public official **participates in** a governmental decision if the official provides information, an opinion, or a recommendation **for the purpose of affecting** the decision without significant intervening substantive review. (Regulation 18704(b))
- "Designated employee" does not include "any unsalaried member of any board or commission which serves a solely advisory function . . . ." (Section 82019(b)(1).)



# CBOC Members

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- Members do not authorize or direct any action, vote, appoint a person, obligate or commit their agency to any course of action, or enter into any contractual agreement on behalf of the agency.
- Members do not participate in decision as they do not provide information, an opinion, or a recommendation for the purpose of affecting a governmental decision.
- Duties are to inform the public about the expenditure of bond revenue, not make decisions about bond revenue spending or make recommendations to the school districts.
- The “advisory function” they perform is informing *the public* not advising an agency.