

Dear Members of the Little Hoover Institute,

I am a member of the bond oversight committee at City College of San Francisco that oversees our 2001 and 2005 bonds and was asked to address you by Anton Jungherr. Unfortunately your meeting happens at the exact same time as our bond oversight committee meeting and I will not be able to attend so with Mr. Jungherr's encouragement I am sending you my written comment.

In your recent letter calling for input for this hearing, as well as in your press release from 2009, this Commission mentions five points to enhance oversight:

- Mandatory training for bond oversight committee members
- Bolster the capabilities of local bond oversight committees
- Changing the member-appointing authorities
- Better definition in statute of the role and responsibilities of local committees
- Better definition of the purpose and objectives of financial and performance audits

Each of these points that your Commission touches on is still extremely relevant in my experience serving on Bond Oversight in 2016. I will attempt to relate my own experience at CCSF to each of these five points.

Mandatory Training for Bond Oversight Committee Members

YES, this is so important. As an Oversight Committee member starting out there is so much that is confusing and intimidating.

While it is good to have people with some financial training on the committee it is also important to have "normal" people because we are the majority of the voters who will be paying for this funding for the life of the bond. We are the ones with real skin in the game. It is more likely however that these new members will have a steep learning curve.

It might be good for the trustees of the district to receive instruction as well and important that the instruction they receive is from an independent source, i.e. not the administration spending the money or the Bond Counsel hired to oversee the bonds. A thorough understanding of the fiscal and performance audits would be very good. At CCSF, the Trustee who had previously served on a bond oversight committee was the one trustee to ask questions about cost overruns cited in the financial audit. The other trustees seemed to accept the "wellness" of the audit at face value, reassured by the audit that nothing was amiss.

As regular citizens, some of us have no concept of what constitutes a violation of the Brown Act. This came up for our group after one of our members was warned against violating the Brown Act when they copied the rest of the group in a question to the administration about simple meeting logistics. They had not violated the

Brown act however it created fear in some of our members that we might violate the Brown Act and not know it.

Information on how to put a yearly oversight report together would be very good and this instruction is best not left to the administrators of the district or the lawyer who has been overseeing the bond.

During our first meeting Bond Counsel David Casnocha gave us a tutorial, however I was more confused after he spoke than before. Here are some examples transcribed from a video of that meeting:

“The law is that the committee reviews a project list it has to determine whether the funds are being spent on the type of projects that the voters approved”.

And

“But/for test, but/for the bond, the district would not have this individual performing that function. So if you saw in an expense report that evidenced the fact that the district was using bond monies for the payment of employee salaries the oversight committee would ask itself the question is this expenditures in compliance with the but/for test. But/for the bond, would these salaries for this purpose been occurred. If the answer is yes then that’s a lawful bond expense. It’s not commenting on whether that’s a wise use of bond money cuz every dollar that goes for administration doesn’t go for bricks and mortar. That’s generally true just about everywhere”.

When legal counsel was asked about committee members viewing invoices, one of the questions from the CalBOC website “red flag” section, Mr. Casnocha said: “Everybody has the right to see a public document but I don’t think the committee should expect that staff should respond to requests for copies of thousands of invoices and copies of this (?) –it’s not what the role of the committee is. The committee’s general role is did we spend the bond monies on authorized projects? Did we spend the bond monies inappropriately on teacher’s salaries or operating expenses? That’s really the nub of what the law asks you to do”.

My reply was, “I guess there’s the nub and then there’s the nitty gritty”.

Counsel replied: “The nitty gritty is—if you want to view the nitty gritty then you should run for Board of Trustees—for the Board of Trustees that’s their job to worry about that type of nitty gritty. It’s not this groups(?) responsibility”.

Administrator Mark Zacovich then responded with the following explanation: “One of the ways the Board handles that nitty gritty is they hire an independent audit firm to perform these audits and look at the nitty gritty and report back to them. The auditors work for the Board of Trustees because the Board of Trustees can’t get into the nitty gritty because they don’t have the expertise and experience”.

“They hire a professional outside firm to come in and it’s their to to say—is Mark doing his job? Is David doing his job? In terms of all of this accounting all of these payrolls is it all being handled correctly? That’s the job of the Board”.

As a volunteer community member, this type of interaction made it difficult to consider that there was any reason for my being there, and I did not look forward to going back for a second meeting, let alone understand how I was to perform an oversight function.

The process of creating our report has also been a struggle. Prior to our last bond oversight committee meeting the District led by VP of Finance Ron Gerhardt, prepared a draft oversight report.

The District allowed our Ad Hoc Report Committee to view the draft and suggest changes—some of these changes were not allowed until we pushed for them in our public meeting. This report, which the district plans to print as a brochure and widely distribute, is scheduled on the agenda for approval at our meeting on September 22.

But it is not the Oversight Committee’s report, it is still a report created by the District that we have been “allowed” input into.

In general, giving us as much understanding of our rights as citizens in this process will do much to help us navigate any pressure we may encounter from the District to do things a different way.

Bolster the capabilities of local bond oversight committees

Thanks to the CalBOC website training video and materials on their website, I have gotten some sense of my role in bond oversight though many of the things that training has encouraged me to question have seemed difficult to implement.

The brochure that the District created as our draft Committee report lists the projects from the project list of the bonds we are overseeing but does not list the other expenses for projects that are not on the project list. I mention this because it seems that these other expenses should also be reported however to do this, on the report created by the District seems a very daunting task. Finding non-project list costs would suggest that in the compliance opinion our oversight committee would need to state that the school is not in compliance for the areas that are not included on the project list.

If something is our right and duty but we are told repeatedly it is not then what can we do?

Again I think this goes back to educating as many people as possible on the importance of this oversight. One person asking a question does not carry the same weight that 200 people do if it is they that are asking the question.

Change the member-appointing authorities

For the three years prior to the present group I serve with, the CBOC did not release a report. That group was unable to meet a quorum during this prior period. The school, at that time was under the direction of the state appointed Special Trustee, and the Special Trustee who appointed all the members of the CBOC himself. No announcements calling for members were sent out during that time.

When my group addressed the oversight report it was after a three-year period without a report. Several of us have repeatedly expressed concern that there is no “bridge” of the gap to explain what has happened in that time period.

For the Oversight group that I belong to, announcements were sent out into the community calling for volunteers and this gave us a larger committee.

The selection process for members must cast a wide net for volunteers.

Better definition in statute of the role and responsibilities of local committees

It would be very useful to have independent guidance regarding the instructions in the locally written bylaws versus the mandates written into the language of Prop 39.

This was the very first challenge to our Oversight Committee and this challenge began a month before our first meeting when our Bond Oversight Committee Bylaws were rewritten by the District’s bond Counsel. Much of what had been removed from our bylaws was language from Prop 39 and the older version of our bylaws had much more instruction for us on how to do our job.

The revised bylaws were approved a month later by our Board of Trustees.

Earlier in that same day when our Oversight Committee was presented these yet unapproved revised bylaws our members asked in a variety of ways if we could send a letter of recommendation to the board that they give us time to review the bylaws as a group before they were changed. The District and bond counsel told us that we could not because that action item had not previously been noted on the District prepared agenda.

The discussion to get to that outcome was unpleasant and it would have been very good if there were some independent authority that would have been able to advise us because it felt as though the new bylaws were being rushed right past us.

Better definition of the purpose and objectives of financial and performance audits

A few months ago the District's administration made themselves available for a conference call to answer questions our Ad Hoc Report Committee had about the Financial Audit and although one of our members who is an accountant was not able to participate in that conversation, having this time was very helpful and very appreciated.

That conference call informed us of the existence of a list of non-bid purchase orders that pertained to bond spending. There is no mention of these non-project list expenses in the financial audit, which gave the school a good clean report on bond spending.

The Performance Audit and its importance was something that was discussed at the CalBOC seminar. This was the first time I had heard of the Performance Audit and I was surprised to find that our Performance Audit was attached to the end of the Financial Audit and that it had been passed by the Board of Trustees a few months earlier.

Does the State make explicit what should be contained in the performance and financial audits? The financial audit should at least list each project and the total paid from the bond. It seems as though ours does, however if spending has been done on other areas of school maintenance not named in the project list then shouldn't this be named with an amount quoted as well?

Eyes and ears on the ground.

This is a great way to describe what local Bond Oversight Committees can be but I believe we enter this volunteer position very confused and if we do have tools we aren't being given enough awareness of how to use them.

Educating the local oversight committees will allow them to truly do this job. Educating as many as possible, as I said earlier will make it a lot easier to truly oversee the bonds. If something "doesn't look right" to hundreds of people and they can name the problem that is probably the most powerful oversight possible.

Overcoming the logjam that has prevented progress in improving bond oversight

In the Community College system there is a “pool” of administrators, many of them former Chancellors who move from one Community College District to another. In addition, Chancellors of Community Colleges throughout the state are being given more power. The Chancellors are now being referred to as CEOs. Giving Chancellors more power to make unilateral decisions allows an opportunity for decisions to be made with less input from the community and the people using the facilities.

Punishing a school when those responsible have moved onto another community college to administer the bonds there makes no sense and is not an effective way to stop misspending of bond money.

The same administrators spending the bond money are not always at the school during the time the bonds are voted on or projects completed. Out of the “pool” of potential Chancellors who “float” from College to College, City College has had four of these administrators in the Chancellor position since 2012 when Chancellor Griffin left because of a life threatening illness.

The keynote speaker at the recent CalBOC conference was Tim Schaefer, Deputy Treasurer for Public Finance of the State of California. When asked what happens to a school if the person who is not complying with Prop 39 is the Trustee installed as result of a state takeover, his response was to state that my school, CCSF, had a Special Trustee as the result of a FCMT report and said to talk to him at the break if I still had questions (unfortunately he left before the break).

So it is with some concern that any criticism of CCSF at this point could place more punishments upon the school that I give you the next example which is an example of the trail one “pool” of administrators traveled before administering the bond money at CCSF:

One of the people who helped create the FCMT report that Deputy Treasurer Schaefer was referring to currently is the VP of Finance at City College, Ron Gerhardt. Formerly he was the VP of Finance at Compton College.

Also from Compton College during the time it was struggling for accreditation and ultimately closed was the person chosen by Special Trustee Agrella as our permanent Chancellor, Art Tyler. Tyler was demoted from his position as Chancellor at City College after about a year with no explanation to the community and was put in charge of facilities along with Fred Sturner, another person previously at Compton College. Art Tyler is also credited with the refinancing of the CCSF bonds. The firm that is currently creating CCSF’s Facilities Master Plan document also was at Compton College working on bond projects. In addition, this firm, tBP Architecture shows up on the non-bid purchase orders for multiple projects during the period our group is in charge of reporting on for non-bid purchase orders whose

combined worth is over \$924,000. In addition, the auditor from Rancho Cucamonga who performed the audits at CCSF that our group is working with is also the auditor who created audits for Compton College.

Fred Sturner, Art Tyler and Robert Agrella are no longer with the school. Also the VP of Finance from our first meeting Mark Zachovik, former Chancellor from San Diego filled in when VP of Finance Ron Gerhardt left at the same time as Art Tyler was demoted. Ron Gerhardt has returned and currently is our VP of Finance.

The 38 million dollars in matching state funds that was returned to the state by Special Trustee Agrella when he cancelled one of the projects on our project list, was used at another community college in a project overseen by Fred Sturner.

None of these facts are an indication of misdeeds however they are a good example of how intertwined the execution of bond spending is at the CEO and upper management level between different communities and their colleges.

Suggestions for improving bond oversight at the state level

Remove the incentive for administrators and others to benefit from the use of bonds. Allowing administrators to be paid from the bond fund—especially if spending is allowed on items not specifically listed on the project list—opens the door for an administrator to create work and income for themselves. Because administrators shift from one school to another they are able to move from bond to bond whether consciously or by virtue of the system as it now stands.

If spending is not allowed on items that do not appear on the project list then the administrator who authorized the spending should have some sort of consequence. If spending is allowed on items that don't appear on the project list then there should be a clear protocol for reporting this. Perhaps there is a protocol but as the member of a Bond Oversight Committee I am not yet aware of one.

If money is spent the audit should show this. Perhaps even more importantly the audit should show whose decision was responsible for spending choices and what project the money was spent on.

Further recommendations (and questions)

Usually the Board of Trustees at a Community College would be the ones ultimately responsible for spending but when the Financial and Performance audits are

minimal in the information they describe, how can a Board member know from looking at them that there has been a violation?

How are the lawyers consulted in bond issues regulated? Administrators and Board members rely on their advise as to what is proper in the handling of the bonds, but perhaps sometimes what they are hearing from counsel is not what is proper but what instead is more difficult to prove illegal.

Is there some type of independent advocate who can help Bond Oversight Committees when administrators and lawyers are pressuring them? This is something that I as an Oversight Committee member would welcome and I consider the CalBOC group to be a champion in this vein.

Thank you for taking the time to consider this very important matter.

Sincerely,
Christine Hanson