

New Construction

GENERAL OBLIGATION BONDS

The Governing Board 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.

(cf. 1160 - Political Process)

(cf. 7110 - Determining Needs)

(cf. 7210 - Architectural and Engineering Services)

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

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 agrees 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 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.

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 and 2 above and not for any other purposes

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GENERAL OBLIGATION BONDS (continued)

- including teacher and administrative salaries and other school operating expenses.
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.

(cf. 0450 - Comprehensive Safety Plan)

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 sixty (60) days of the date that the Board enters the election results in its minutes pursuant to Education Code 15274. (Education Code 15278)

(cf. 1220 - Citizen Advisory Committees)
(cf. 9324 - Minutes and Recordings)

The Superintendent/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. The Superintendent/designee shall submit the audits to the independent Citizens Advisory Oversight Committee by March 31 of each year. (Education Code 15286)

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)

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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 resolution shall prescribe the total amount of bonds to be sold and may also prescribe the maximum acceptable interest rate, not to exceed the maximum allowable by applicable law(s), 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 40 years from the date of the bonds. (Education Code 15140, Government Code 53508(f))

Prior to the sale of bonds, the Board shall adopt at a public meeting another resolution that includes all of the following items: (Education Code 15146)

1. Express approval of the method of sale.
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.

After the sale, the Board shall be presented with the actual cost information and shall disclose that information at the Board's next scheduled regular 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)

In connection with the sale of any bonds, capital appreciation bonds (CABs) should only be pursued if it can be demonstrated that their use will result in less debt service than other bond structures or other financial alternatives. Other financing options that should be compared to the potential use of CABs include additional voter approved tax increases. It is further stipulated that the District will not authorize the sale of any form of CABs or Convertible CABs without review by the District's Citizens Advisory Oversight Committee. Defensible assumptions for growth in assessed value shall be used for development of any proposed financing method.

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GENERAL OBLIGATION BONDS (continued)

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)

Management Resources:

CSBA PUBLICATIONS

Legal Guidelines: Use of Public Resources for Ballot Measures and Candidates, Fact Sheet, February 2011

WEBSITES

California School Boards Association: www.csba.org
California Debt and Investment Advisory Commission: www.treasurer.ca.gov/cdiac
California Department of Education: www.cde.ca.gov
California Office of Public School Construction: www.opsc.dgs.ca.gov