

Solano Community College Board of Trustees

Response to the Citizens' Bond Oversight Committee (CBOC) Report for July 2014 to December 2015

Introduction

This report serves as a response to the Solano Community College Citizens' Bond Oversight Committee's (CBOC) recent report to the Solano Community College (SCC) Board of Trustees presented at the September 7, 2016 Board meeting. The Board is compelled to clarify the relationship of the CBOC to the Board and the District, respond to opinions included in the Report and address inaccuracies. While the Board is not required to accept or deny the CBOC Report, the Board wishes to provide accurate information regarding the role of the CBOC and their primary purpose as outlined in the Education Code. Additionally, the purview and legal authority of the CBOC was addressed in the August 5, 2015 Response to Grand Jury Report by Mark W. Kelley of Dannis, Woliver, and Kelley (DWK).

Role of the CBOC

The role of the CBOC is specified in the Education Code, Article 2, sections 15278, 15280, and 15282. Included in this article and sections are the establishment and appointment of members to and the purpose of the CBOC; public meetings, technical assistance, and performance audits related to Bond expenditures; and, membership. The governing board of the district makes the appointments to the CBOC described as, "an independent citizens' oversight committee" (Ed. Code 15278(b)). Their purpose shall be to, "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." The CBOC's responsibility as outlined by the Ed. Code is to inform the public or, "actively review and report on the proper expenditure of taxpayers' money for school construction."

As noted above, the function of the CBOC is essentially an audit function: to review and report on how bond funds are spent. The CBOC is not meant to operate as an advisory body to the bond program. First, performing an audit function on decisions that have been affected by CBOC advice would create an inherent conflict of interest; and second, the SCC Board of Trustees has established other advisory bodies to the program, whose input and expertise should not be replaced or diluted by the input of the CBOC. The CBOC also does not have a role in determining audits or responding to audit findings; they are entitled to receive the financial and performance audits for the preceding year at the same time they are submitted to the District.

Responses to Specific Items in the CBOC 18-month Report

Role of the CBOC. The Ed. Code is specific about the role of the CBOC and members may not apply their personal interpretation to the definition of "independent" or determine the law's intent of a CBOC. Defining independent or interpreting intent are outside the scope of a CBOC.

Activity of the CBOC. The Report outlines activity for July 2014 to December 2015 and was provided to the District at its September 7, 2016 Board of Trustees meeting. This presentation came after numerous requests from staff, including the Superintendent/President who on two occasions attended the CBOC's public meetings and was told that staff was not needed, for information on the progress of the report.

Oversight Opinion. The CBOC was advised by legal counsel of their responsibility, their scope and authority. Their request to meet with the Bond auditor before and during the audit is not within their right or authority per Ed. Code 15286. Audits for Bonds are conducted in accordance with the Government Auditing Standards issued by the Comptroller General of the United States for financial and performance audits. The CBOC made requests of the District to meet with auditors during the fall 2014 semester and was advised that the audit was not available. In January 2015, the District scheduled a meeting for the CBOC to meet with the auditors to review their report. The CBOC declined the meeting.

The Report outlines duties in the Ed. Code as to what shall be included in an annual report; 1) Compliance Statement- indicating whether the District is in compliance with the requirements of Paragraph 3 and, 2) Summary of CBOC Activities- the CBOC's proceedings and activities for the preceding year. The bylaws of the CBOC govern what shall be included in an Annual Report (section 4.3.1, p. 9).

CBOC Scope of Authority

CBOCs are established by Ed. Code and are put in place by Boards. A CBOC is not "independent of" the Board that created it but is an "independent committee," the meaning of that term being, among other things, that its members may not be SCC employees or contractors (Ed. Code 15278(b)). As with any committee appointed by a public entity, the CBOC must comply with the Brown Act, is comprised of specific representatives as outlined by law, and its members are appointed by and can be removed by the Board of Trustees who is also responsible for the CBOC Bylaws. The CBOC's plan to transition to a more independent body as documented in the Report and presentation, is out of compliance with Ed. Code.

Summary

The Board appreciates the CBOC members' participation and acknowledges that they serve without compensation. The Board acknowledges that the Report presented to the Board at its September 7, 2016 meeting did not comply with the Ed. Code regarding the contents of an annual report and included factual errors and omissions. The SCC Board of Trustees will continue to provide appropriate staff support so that future annual reports may address the topics required by the Ed. Code.