

Chapter XVII

Article III

BOND PROGRAM MONITOR

17300 **Retention of the Bond Program Monitor**

The Los Angeles Community College District Board of Trustees and Chancellor authorize the retention of a consultant to ensure that its capital program funded by Proposition A, Proposition AA, and Measure J (“Bond Program”) is performing with the utmost integrity and in furtherance of that objective authorize the Bond Program Monitor to investigate and report on circumstances involving action or inaction by an employee, contractor, consultant, or Trustee that the Bond Program Monitor reasonably suspects may involve or aid and abet in the occurrence of misconduct constituting fraud, corruption, a violation of a non-discretionary law, rule or regulation, an abuse of discretion in the exercise of a right or authority granted under a discretionary law, rule, or regulation, gross mismanagement or other actions or inactions occurring in the context of an evident deliberate or reckless disregard of an actual or probable waste or abuse of District funds.

Adopted 01-12-11
Amended 05-01-13

17300.1 **Reporting**

A. General Reporting

The Bond Program Monitor shall report directly to the Board of Trustees, but be directed and supervised on a day-to-day basis by the Chancellor. To the extent that reports reflect matters under investigation for which a final determination has not been made, such reports shall be treated as confidential pursuant to the “deliberative process” exception of the California Public Records Act.

Adopted 01-12-11
Amended 05-01-13

B. Executive Briefings

As determined by the District, the Bond Program Monitor shall provide periodic briefings and reports to keep executive management for the District apprised of important undertakings by the Bond Program Monitor, their outcomes, and other matters that warrant attention, including timely advice to the Chancellor if any employee, official, contractor, consultant or Trustee attempts to impede or obstruct any investigation or other activity of the Bond Program Monitor.

C. Semiannual Reports

The Bond Program Monitor shall make semiannual reports on its activities, which shall be available to the public and, not later than three days after issuance of any report that is publicly available, post that report on the Bond Program Monitor website. Such website shall include a service that allows an individual to request automatic receipt of information relating to any public report, or portion thereof, by means of electronic transmittal of the information, or notice of the availability of the information, without further request.

Adopted 01-12-11
Amended 05-01-13

17300.2 Generally Authorized Activities

The Bond Program Monitor is authorized to interview witnesses, take testimony, and demand the production of any information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence the Bond Program Monitor deems material, relevant, and reasonably related to any investigation of misconduct related to the Bond Program.

Adopted 01-12-11
Amended 05-01-13

17301 Powers and Duties

The Bond Program Monitor shall have the following powers and duties:

- A. to plan, direct, and monitor day-to-day operations of the Bond Program insofar as may involve the detection, prevention, occurrence, or report of misconduct, or the threat of misconduct, related to the Bond Program;
- B. to receive and with integrity, objectivity, independence, and confidentiality, investigate complaints concerning incidents of possible misconduct, related to the Bond Program; and
- C. to evaluate the policies and procedures governing the Bond Program, as well as where appropriate, the performance of work related to the Bond Program, in order to develop recommendations on revisions that would facilitate prevention and detection of possible misconduct related to the Bond Program;

Adopted 01-12-11
Amended 05-01-13

17302 Whistleblower Hotline

The Bond Program Monitor is directed to maintain a toll-free “Whistleblower Hotline” and a post office box for anonymous reporting, for the purpose of receiving citizen and employee reports of misconduct related to the Bond Program. Unless the caller consents to disclosure, the identity of any individual providing such reports shall to the maximum extent allowed by applicable law be kept confidential and any persons involved in the reporting should not be alerted until an investigation is complete and a corrective action is recommended by the Bond Program Monitor and approved by the District. All reports received shall be prioritized and investigated according to the nature and urgency of the allegation and the credibility of the report. The hotline and post office box will be publicized in a manner reasonably designed to reach all employees, contractors, and consultants, including, without limitation, by posting informative notices at locations where employees congregate and providing links on the websites maintained by the District (including, without limitation, the Bond Program website) and the Bond Program Monitor.

Adopted 01-12-11
Amended 05-01-13

17303

Investigation Reports and Other Documentary Material

A. Public Summary

Upon conclusion of an investigation into possible misconduct, and in the interest of accountability, the Bond Program Monitor shall prepare a written report on the investigation as appropriate and such report shall be released to the public, subject to any redactions needed to protect witnesses. The Bond Program Monitor's investigation reports should be provided to the Chancellor and the Board of Trustees, and may also be provided to parties affected by or involved in the investigation, if appropriate.

B. Investigatory Materials

In light of the purpose of the Bond Program Monitor as stated in Board Rule 17300, the records of the Bond Program Monitor are presumptively deemed investigatory records exempt from disclosure under the California Public Records Act. However, materials provided to the Board of Trustees for a matter that will be discussed in public session must be made available contemporaneously to the public as required by the Ralph M. Brown Act. Materials that relate to potential or existing litigation, employee privacy or other matters exempt from disclosure or subject to a lawful closed session discussion shall not be subject to public disclosure except as required by law.

Adopted 01-12-11
Amended 05-01-13

17304

Duty of Vigilance and Cooperation

It shall be the duty of every employee, contractor, consultant, and Trustee to extend full cooperation and all reasonable assistance to the Bond Program Monitor and his/her designees in connection with any Bond Program Monitor investigation, and all Trustees, employees, contractors, consultants are expected to be vigilant in preventing and reporting fraud, abuse, and corruption.

Adopted 01-12-11
Amended 05-01-13

17305 Retaliation Prohibited

No employee, contractor, consultant, student or Trustee shall retaliate against, punish, or penalize any person for complaining to, cooperating with, or assisting the Bond Program Monitor in the performance of his or her duties. Any employee, contractor, consultant, student or Trustee who violates the provisions of this section shall be subject to disciplinary action, in accordance with the due process provisions associated with his or her position.

Adopted 01-12-11

Amended 05-01-13

17306 Referrals of Investigations

Upon making a preliminary determination that alleged misconduct may involve possible criminal conduct, the Bond Program Monitor, in consultation with the Chancellor, may refer complaints regarding such misconduct to the appropriate law enforcement authority. In the event that the Chancellor is the alleged wrongdoer, the Bond Program Monitor shall consult with the Board President.

Adopted 01-12-11

Amended 05-01-13

17307 Conflicts of Interest

The Bond Program Monitor, and its staff members, must be free both in fact and appearance from person, external, and organizational impairments to its objectivity and independence. Consistent with the foregoing, all allegations against the Bond Program Monitor or its staff for violations of the provisions of these rules and any matters that the Bond Program Monitor determines cannot be objectively and independently investigated by the Bond Program Monitor shall be submitted directly to the Chancellor and, if appropriate, to proper law enforcement authorities. The Bond Program Monitor and its staff shall submit to periodic background checks and shall submit such conflict of interest disclosures and certifications as may be requested by the District in order to confirm compliance with this requirement.

Adopted 05-01-13

17308

Legal Counsel

The Bond Program Monitor shall retain, at the expense of the District, its own legal counsel, who shall not be a legal counsel contemporaneously retained by the District on any other matters, to advise the Bond Program Monitor on legal matters related to performance of its functions under these rules and who shall be free of any conflicts of interest. Such legal counsel is not retained to provide advice to the Bond Program Monitor on matters relating to the Bond Program Monitor's legal or contractual duties to the District or on questions that may arise between the District and the Bond Program Monitor relating to the adequacy of the Bond Program Monitor's performance. Such legal counsel shall be deemed to be in a direct and confidential client-attorney relationship with the District, and not with the Bond Program Monitor individually, and the District shall be deemed the holder of all related legal privileges.

Adopted 05-01-13

17309

Internal Principles, Policies, and Procedures

The Bond Program Monitor and its staff shall act with integrity and exercise objectivity and professional skepticism and avoid circumstances that would cause a reasonable and informed third party to believe that the Bond Program Monitor or its staff is not capable of exercising objectivity and impartial judgment or that the Bond Program Monitor's work has been compromised. Consistent with the foregoing, the Bond Program Monitor shall (1) develop internal rules and procedures for conduct of investigations and for external quality assurance reviews of investigations and other activities of the Bond Program Monitor, (2) identify and assess threats to its independence of objectivity from both external and internal sources, (3) evaluate the significance of threats identified and prioritize them in a manner consistent with the Bond Program Monitor's obligations under these rules or as other directed by the Chancellor or Trustees, (4) apply safeguards as necessary to eliminate the threats or reduce them to an acceptable level, (5) not use confidential information for personal gain or in any other manner that is detrimental to the legitimate interests of the District, and (6) establish criteria for the conduct of investigations before commencing investigations, and (7) prepare an "Investigative Manual" that described the principles, policies, and procedures to implement and govern the Bond Program Monitor's performance of its duties and responsibilities under these rules.

Adopted 05-01-13

17310 Auditing and Management Functions

It is not the function of the Bond Program Monitor to perform management functions, to give recommendations on management decisions, to evaluate budgets, to set policy, to design internal management controls affecting routine management functions, to perform functions assigned to the District's auditors performing financial or performance audits (internal or external), or to issue interpretations of or legal determinations on existing policies, rules, or regulations of or governing the Bond Program. Notwithstanding the foregoing, however, the Bond Program Monitor in performing the duties and obligations provided for under these rules shall review, assess, and recommend enhancements to the functions and duties of the District's auditors and to the District's program management policies and procedures that will facilitate the prevention, detection, and reporting of misconduct related to the Bond Program.

Adopted 05-01-13

17311 Training Programs

The Bond Program Monitor shall develop and document special awareness and training initiatives designed to alert the District to systemic weaknesses in its programs or procedures that make them vulnerable to misconduct related to the Bond Program.

Adopted 05-01-13