

# CITIZENS' OVERSIGHT COMMITTEE PASADENA UNIFIED SCHOOL DISTRICT

*Clifton B. Cates III – Chair*  
*Quincy Hocutt – Vice Chair*  
*Steven Cole*  
*Geoffrey Commons*  
*Glenn DeVeer*  
*Joelle Morisseau-Phillips*  
*Willie Ordonez*  
*Mikala Rahn*  
*Gretchen Vance*  
*Diana Verdugo*  
*Jenifer Wang*



Pasadena, California

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*Patrick Cahalan – Board Liaison*

May 11, 2017

Dr. Brian McDonald  
Superintendent, Pasadena Unified School District  
351 S. Hudson Avenue  
Pasadena, California 91109

Dear Dr. McDonald:

The Citizens' Oversight Committee has directed me to write to you to raise two unresolved problems that are impeding the Committee's ability to perform its statutory oversight functions: (1) the failure of the Facilities Department to provide essential information about the status of Proposition TT-funded projects and (2) the poor quality of administrative support provided by the Facilities Department to the Committee for the last several months. I hope that with your assistance we can resolve these problems so that both the Facilities Department and the Committee can perform their respective duties more easily, efficiently, and pleasantly.

## 1. Request for Information

Although the Facilities Department produces massive amounts of data pertaining to Proposition TT-funded projects, no one report shows all the basic information that the Committee, the Board of Education, and the public need to know about the status of each project. As part of its oversight function, the Committee has therefore undertaken to generate such a report, one which will be an executive summary of all TT-funded

projects. This report will include for each project the following information in one place, in easily understandable format, and juxtaposed to permit comparison:

- The original amount budgeted
- The current budget as approved by the Board
- When any changes to the budget were approved by the Board
- The amounts expended or committed to date
- Percentage of project completion
- Estimated date of completion
- Estimated remaining cost of completion
- Estimated total cost of construction
- How such estimated total cost compares with the most recently budgeted amount
- Identification of contractors and program managers

A particularly significant feature of the report is that it will permit easy comparisons between what was planned, where a project now stands, and where it is headed. For example, if a project is estimated to be 50% complete but 90% of the budgeted amount has already been spent or committed, further scrutiny is probably warranted. Similarly, if the Board has approved a budget of \$15 million for a project but the total cost is now estimated to be \$20 million, where is the authority for spending the additional \$5 million?

The Committee is not asking the District to generate another report. This is something that the Committee will do itself based on information supplied by the District. Providing that information should entail little effort, because the information is already in the possession of or readily available to the District. But only the District can provide it, particularly the information pertaining to budgeting and percentage of completion.<sup>1</sup>

## 2. Administrative Support of the COC by the District

Section 15280(b) of the Education Code requires the District to “. . . provide the citizens’ oversight committee with any necessary technical assistance and [to] provide administrative assistance in furtherance of its purpose and sufficient resources to publicize the conclusions of the citizens’ oversight committee.” Under section 7.1 of the Committee’s bylaws, such administrative support includes preparation of agendas,

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<sup>1</sup> The Committee realizes that percentage of completion requires an estimate, but estimates are commonplace for construction projects and can be made by the project manager. Any reasonable, consistently applied method chosen by the District will suffice.

minutes, and reports. Section 7.2 of the bylaws provides that “[d]istrict staff shall attend all Committee proceedings in order to report on the status of projects and the expenditure of bond proceeds.”

In the Committee’s opinion, administrative assistance provided by the Facilities Department since February has been unsatisfactory. Most problematic has been the Chief of Facilities’ failure to attend Committee meetings and his substitution of a staff member who, while complaisant and cooperative, does not have the authority to speak on behalf of the Facilities Department or the knowledge to answer many of the Committee’s questions. The attendance of the Chief of Facilities at our meetings is essential. This problem may have been rendered moot given the Chief’s recent announcement that in future he will usually attend the meetings. We on the Committee sincerely hope that he does.

A major aspect of the administrative support that the District is required to provide is preparation of Committee meeting minutes. However, this task does not rest solely on the shoulders of the District. It is a collaborative venture. Last September the Facilities Department and the Committee agreed that a representative of the Department would provide a verbatim transcript and a first draft of the minutes and that the Committee would take it from there. That system worked reasonably well until February, when Facilities ordered a new, inexperienced staff member to perform those functions. Through no fault of his own and despite his best efforts, which were considerable, he could not do so.

The Committee complained about this state of affairs, and the Chief of Facilities has now proposed that the Facilities Department provide a private stenographer to transcribe Committee meetings. While this approach would certainly fulfill the Facilities Department’s obligation, one can reasonably ask whether the \$600 to \$1000 cost per meeting is a wise expenditure of limited funds, particularly since this function was previously performed by a Facilities staff member at no additional cost.

By law the cost of such administrative support by a private stenographer cannot be paid out of Proposition TT funds. The Chief of Facilities has advised me that the cost would be paid out of remaining Proposition Y funds. I have not researched the matter, but I wonder whether the Proposition Y ballot measure had a restriction similar to that contained in the Proposition TT ballot measure. If it did, then Proposition Y funds cannot legally be used to pay for a private stenographer.

### 3. Conclusion

I realize that there is an inherent tension between those who oversee and those who are overseen. I also realize that the Facilities Department has an important job to do. But so does the Committee. We have no choice. It is what the law requires.

In order to foster a more cooperative and productive working relationship between the Facilities Department and the Committee, I am happy to entertain your suggestions and to meet with you in person, preferably sooner rather than later.

Sincerely,

Clifton B. Cates  
Chair, Citizens' Oversight Committee

P.S. The Committee has directed me to send copies of this letter to all members of the Board of Education.

# CITIZENS' OVERSIGHT COMMITTEE PASADENA UNIFIED SCHOOL DISTRICT

*Clifton B. Cates III – Chair*  
*Quincy Hocutt – Vice Chair*  
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*Jenifer Wang*



Pasadena, California

May 20, 2017

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*Kimberly Kenne – Board Liaison*

Dr. Brian McDonald  
Superintendent, Pasadena Unified School District  
351 S. Hudson Avenue  
Pasadena, California 91109

Dear Dr. McDonald:

As you requested in your email to me of May 15, 2017, on behalf of the Citizens' Oversight Committee I am directing the following questions and requests for information to you.

## 1. New items

For the current fiscal year ending June 30, 2017, would you please furnish to the Committee copies of all Board Reports that do *not* end with the suffix “-F” and that request Proposition TT funding. The Committee regularly receives from the Facilities Department Board Reports that end in “-F;” we do not need those. What we seek are reports like Board Report No. 114-B, which seeks the expenditure of Proposition TT funds on District legal expenses. So far that is the only such non-F Board Report that the Committee has seen.

We would also like you to furnish the Board Report(s) that requested prior funding for Contract RC690:16:17, the legal services contract between the District and the law firm Atkinson, Andelson, Loya, Ruud & Romo. If any of the appropriation sought was to be paid from Proposition TT funds, the Committee would like to know the amount and the basis on which charges to Proposition TT funds was made.

The total cost of all projects shown on the “Spend-out Plan” released by the Facilities Department last month is approximately \$126 million, which equals the amount of remaining Proposition TT bond proceeds. Those projects include \$2.3 million for the rehabilitation or upgrade of three running tracks. However, not included in the Spend-out Plan are the associated architectural fees. The Spend-out Plan also makes no provision for the roughly \$4 million total cost of the compensation of Facilities Department personnel that is being charged to Proposition TT. Discrepancies like this call into question the validity of the other numbers on the Plan and make it difficult for the Committee to monitor effectively the expenditure of Proposition TT funds.

## 2. Pending Requests for Information or Assistance

The Committee is still awaiting the ten key pieces of information described in my letter of March 23 to the Chief of Facilities and in my letter of May 11 to you. Having *all* of this information is essential in order for the Committee to be able to produce the budget and project status report for the District, the Board, and the public. I think that we may be making some progress on this score, but the progress is glacial, and we still have no firm commitment when all the information requested will be provided—or even that it will be provided.

The Committee is still awaiting a substantive response to its request that that the Committee be listed on the main directory of the PUSD’s website (the red task bar at the top) rather than under “About PUSD.” It should be as easy as possible for anyone searching for information about the Committee to find that information. At present the Citizens’ Oversight Committee is one of the many entries under the heading “About PUSD,” which is not an accurate description of who we are and is certainly not an obvious place to search.<sup>1</sup> Surely, adding another heading to the main task bar cannot be a major operation.

Finally, the Committee is still awaiting an answer to the fundamental question about the April Spend-out Plan: how were all these numbers derived? Many differ significantly from the last approved budget.<sup>2</sup> However, the Committee realizes that this critical issue is currently being addressed by the Facilities Committee and will shortly be addressed by the entire Board. The Committee will therefore take and analyze the

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<sup>1</sup> In their letter to me of May 17, three members of the Board of Education acknowledged that issue: “We have requested your requests for changes in the PUSD website but are still looking for the best ways to address those concerns.”

<sup>2</sup> Example: The Spend-out Plan proposes spending approximately \$6.9 million on Norma Coombs. The existing budget provides only \$4.6 million. What explains the difference?

information that emerges from the Board's investigations and will ask for additional information only as necessary to explain any remaining significant discrepancies.

On behalf of the Committee, I thank you in advance for your cooperation.

Sincerely,

/s/ Clifton B. Cates  
Chair, Citizens' Oversight Committee



**PASADENA UNIFIED SCHOOL DISTRICT**  
**OFFICE OF THE SUPERINTENDENT**

July 12, 2017

Clifton B. Cates, III  
Chair, Citizens Oversight Committee  
Pasadena Unified School District

Dear Mr. Cates:

After carefully reading both of your letters from July \_\_, 2017, and approved Board Report 113-B from the May 25, 2017, board meeting, I do not see any objectionable language. You may be objecting to language in the contract which is merely boiler-plate and does not relate to the work requested of Atkinson, Andelson, Loya, Ruud & Romo. Additionally, we are well aware that Measure TT funds cannot be spent on non-Measure TT legal matters. As such, we are attaching a document that lists all of the legal expenditures thus far charged to the Measure TT fund.

We appreciate the valuable role that you and the Citizens Oversight Committee play in ensuring that we are good stewards of the public funds related to this bond measure. We, however, object to efforts to micromanage staff and to create issues where none exist.

Thank you for bringing this matter to my attention. I look forward to working with you in a productive and collegial manner.

Sincerely,

Brian McDonald, Ed.D.  
Superintendent

Enclosure



# CITIZENS' OVERSIGHT COMMITTEE PASADENA UNIFIED SCHOOL DISTRICT

*Clifton B. Cates III – Chair*  
*Quincy Hocutt – Vice Chair*  
*Steven Cole*  
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*Jenifer Wang*



Pasadena, California

July 16, 2017

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*Kimberly Kenne – Board Liaison*

Mr. Roy Boulghourjian  
President, Board of Education  
351 South Hudson Avenue  
Pasadena, CA 91109

Re: Illegal Board-approved expenditures of Proposition TT funds

Dear Mr. Boulghourjian:

In its letter to you of May 23, 2017, the Citizens' Oversight Committee explained why it had disapproved Board Report 114-B, which sought an additional \$200,000, payable entirely from Proposition TT funds, for legal services rendered and to be rendered to the District by the law firm Atkinson, Andelson, Loya, Ruud & Romo. The problem was that the authorization was not limited to Proposition TT-related school construction legal services but allowed Proposition TT funds to be used for general legal services.

The District's response was simply to reword the language of Board Report 114-B and resubmit it to the Board as Board Report 113-B. There was no other change—to the underlying contract or to the contemplated use of TT funds. The Board then approved Board Report 113-B, which the District may now follow.

In the opinion of the Citizens' Oversight Committee and the opinion of its independent counsel, the use of Proposition TT funds, past or future, to defray legal

expenses for anything other than those directly related to Proposition TT-sanctioned activities is illegal. The Committee strongly urges the Board of Education to rescind its approval of Board Report 113-B, limit the authorization as necessary to insure compliance with the California Constitution and Education Code, and restore to the Proposition TT account any illegal expenditures already made.<sup>1</sup>

Sincerely,

/s/ Clifton B. Cates  
Chair, Citizens' Oversight Committee

cc: All members of the Board of Education  
Brian McDonald

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<sup>1</sup> Dr. Brian McDonald's letter to me of July 12, 2017, a copy of which was sent to you, misses the essence of the Committee's objection: that Board Report 113-B permits the illegal expenditure of Proposition TT funds. The accompanying spread sheet does not show the reason for the legal services; it merely shows the District's allocation of the fees to various schools and "7-11 Committees." As such, Dr. McDonald's letter is entirely nonresponsive to the Committee's concern.

**CITIZENS' OVERSIGHT COMMITTEE  
PASADENA UNIFIED SCHOOL DISTRICT**

*Clifton B. Cates III – Chair  
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Mikala Rahn  
Gretchen Vance  
Diana Verdugo  
Jen G. Wang  
James Vitale  
Leslie Cross  
Francis Boland  
Camille Dudley  
Mike Mohit*



Pasadena, California

August 14, 2017

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*Kimberly Kenne – Board Liaison*

VIA EMAIL AND FIRST CLASS MAIL

Ms. Hilda Ramirez Horvath  
Coordinator, Office of Communications  
Pasadena Unified School District  
351 South Hudson Avenue  
Pasadena, CA 91109

Re: Public Records Act Request

Dear Ms. Horvath:

I. Request for Information

The Pasadena Citizens' Oversight Committee (the "Committee") hereby requests that pursuant to Government Code sections 6250 through 6276 the Pasadena Unified School District (the "District") identify and make available for inspection by the Chair or Vice Chair of the Committee the following information. Note that for the present the Committee is not requesting that the District provide copies of the information requested.

## II. Specific Information Sought

The information sought consists of all writings<sup>1</sup> described below that were created in or that pertain to the District's fiscal years ended June 30, 2016 or June 30, 2017:<sup>2</sup>

- Certain Board Reports. All Board Reports whose numerical designations do not end with the suffix "F" and that request any funding from the proceeds of the school construction bonds authorized by Proposition TT ("TT funds").<sup>3</sup>
  - All writings showing the action taken by the Board of Education on such Board Reports
  - All writings showing expenditures made by the District pursuant to such Board Reports including the dates, amounts, payees, and reasons for such expenditures
  - All writings that constitute communications within the District or between the District and the Board of Education ("Internal Communications") pertaining to such Board Reports
- Payment of District legal fees out of TT funds.
  - All non-privileged writings referring to legal services rendered to the District for which payment was made out of TT funds. Such writings include, but are not limited to, those that

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<sup>1</sup> "Writing" shall have the same meaning as in Government Code sec. 6252 and in the District's "Access to District Records," AR 1340.

<sup>2</sup> Note that writings "pertaining to" either of these two fiscal years can include writings generated in other fiscal years.

<sup>3</sup> Board Reports 113-B and 914-F are attached as examples of the types of reports that are sought and not sought, respectively.

- Show the nature or purpose of the legal services rendered, such as the bills rendered by the lawyers or law firms to the District
    - Show the dates, amount, and payees
  - All writings showing the action taken by the Board of Education concerning such payments
  - All Internal Communications pertaining to such payments
- Compensation of Facilities Department employees paid out of TT funds.
  - All writings describing the duties of Facilities Department employees any part of whose duties included working on TT-funded projects
  - All writings showing the percentage of the compensation of all Facilities Department employees charged to TT funds
  - All writings reflecting information on which the Facilities Department relied in charging those percentages to TT funds.
  - All writings showing the action taken by the Board of Education on the Facilities Department's practice of charging any portion of its employees' compensation to TT funds.
  - All Internal Communications pertaining to such payments

### III. Coordination with Superintendent

The information sought pertaining to the payment of District legal fees and Facilities Department employee compensation out of TT funds has been the subject of

several prior written requests by the Committee, the latest one of which was a letter dated July 24, 2017 to Dr. Brian McDonald. The Committee has not yet received a response from him, but you may wish to check with him to see if he has already assembled any of the information that we request in this letter.

If you have any questions, please feel free to contact me via email or telephone.

Sincerely,

/s/ Clifton B. Cates  
Chair, Citizens' Oversight Committee  
(626) 796-7018

# CITIZENS' OVERSIGHT COMMITTEE PASADENA UNIFIED SCHOOL DISTRICT

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Pasadena, California

July 16, 2017

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*Kimberly Kenne – Board Liaison*

Dr. Brian McDonald  
Superintendent, Pasadena Unified School District  
351 S. Hudson Avenue  
Pasadena, California 91109

Dear Dr. McDonald:

Your letter to me of July 12, 2017 overlooks the fatal flaw inherent in Board Report 113-B. It authorizes illegal as well as legal expenditures of Proposition TT funds. The authorization must therefore be rescinded by the Board and must not be used by the District as justification for paying legal fees other than those directly related to Proposition TT-related activities.

Your table entitled "CONTRACT RECORD" does not show the reason for the legal services provided to the District; the table merely shows the District's own allocation of payments among various schools. If you wish to demonstrate that the District has been fully complying with the law when it comes to the payment of legal fees, you should be willing to let the Committee review the bills from your law firm, and the Committee hereby requests the opportunity to do so.

The Citizens' Oversight Committee is hardly "micromanaging" your staff. Rather, we are warning you that a broad type of TT expenditures is illegal. We share your desire to work together in a productive and collegial manner, but the *sine qua non* for such a

relationship is the District's and the Board's faithful compliance with the law.

Sincerely,

/s/ Clifton B. Cates  
Chair, Citizens' Oversight Committee





**PASADENA UNIFIED SCHOOL DISTRICT**  
**OFFICE OF COMMUNICATIONS AND COMMUNITY ENGAGEMENT**  
351 South Hudson Avenue • Pasadena, California 91109  
(626) 396-3606 • Fax (626) 795-5309

September 1, 2017

VIA EMAIL AND U.S. MAIL

Clifton B. Cates III, Chair  
Citizen's Oversight Committee  
725 S. El Molino Ave.  
Pasadena, CA 91106

Re: Public Records Request dated August 14, 2017

Dear Mr. Cates:

The District responds to the above referenced request for records as follows:

- I. Certain Board Reports. All Board Reports whose numerical designations do not end with the suffix "F" and that request any funding from the proceeds of the school construction bonds authorized by Proposition TT ("TT funds").  
**District Response: The District is prepared to produce responsive documents.**
  - a. All writings showing the action taken by the Board of Education on such Board Reports.  
**District Response: The District is prepared to produce responsive documents.**
  - b. All writings showing expenditures made by the District pursuant to such Board Reports including the dates, amounts, payees, and reasons for such expenditures.  
**District Response: The District is prepared to produce responsive documents.**
  - c. All writings that constitute communications within the District or between the District and the Board of Education ("Internal Communications") pertaining to such Board Reports.  
**District Response: Without waiving the deliberative process privilege, the District is prepared to produce responsive documents.**
- II. Payment of District legal fees out of TT funds.
  - a. All non-privileged writings referring to legal services rendered to the District for which payment was made out of TT funds. Such writings include, but are not limited to, those that show the nature or purpose of the legal services rendered, such as the bills rendered by the lawyers or law firms to the District. Show the dates, amount, and payees.  
**District Response: Given the role of the Citizen's Oversight Committee and without waiving the attorney-client privilege with respect to statements made in law firm invoices, the District is prepared to produce responsive documents.**
  - b. All writings showing the action taken by the Board of Education concerning such payments.

**District Response: The District is not in possession of any responsive documents.**

- c. All Internal Communications pertaining to such payments.

**District Response: Without waiving the deliberative process privilege, the District is prepared to produce responsive documents.**

III. Compensation of Facilities Department employees paid out of TT funds.

- a. All writings describing the duties of Facilities Department employees any part of whose duties included working on TT-funded projects.

**District Response: The District is prepared to produce responsive documents.**

- b. All writings showing the percentage of the compensation of all Facilities Department employees charged to TT funds.

**District Response: The District is prepared to produce responsive documents.**

- c. All writings reflecting information on which the Facilities Department relied in charging those percentages to TT funds.

**District Response: The District is prepared to produce responsive documents.**

**See the documents to be produced in response to III. a.**

- d. All writings showing the action taken by the Board of Education on the Facilities Department's practice of charging any portion of its employees' compensation to TT funds. District Response:

**The District is not in possession of any responsive documents.**

- e. All Internal Communications pertaining to such payments.

**District Response: The District is prepared to produce responsive documents.**

Availability of Responsive Documents

The responsive documents will be available for viewing on or after September 6, 2017. Please contact the undersigned to set up a time to view the documents.

Very truly yours,



Hilda Ramirez Horvath  
Coordinator, Communications & Community Engagement

## ANALYSIS OF BOARD REPORTS 1233 through 1238

Date: 09-18-17

Board Report Item	DESCRIPTION	TT COSTS	Argument FOR Approval	Argument AGAINST Approval	COC RECOMMENDATION
1233-F	This BR approved the delegation of authority from the Board of Education to the Chief of Facilities regarding the substitution of Sub-contractors on construction projects	?			The Board approved this BR . It was not submitted by Facilities to the COC for review or comment.
1234-F	Blair High currently is seeking bids for the resurfacing of its running track. This BR is to procure the synthetic track material and installation, which is being excluded from the current bid proposals.	\$296,283 with costs split between TT and other funding, with the split currently unknown.	The "California Multiple Award Schedule" bid process provides for competitive pricing for the surfacing material and installation.	The project is # 13 on the priority list and is budgeted at \$900,000. There is no mention as to how much of that budget this particular cost is, or how much of this cost is charged to Measure TT.	APPROVAL
1235-F	This is a change order with G2K Construction for Washington Elementary. The original budget was \$14,439,000. Eight previous change order brought the total to \$15,715,000.	\$104,340	This is change order # 9, representing unforeseen conditions and architect/district requested scope changes. The District claims 80% complete and this brings total change orders to 9.6%.	Several items seem as if they would have been included in the original design, e.g. framed soffit to conceal piping, rough in plumbing for a fire sprinkler system. This is Priority Item # 1, but this change now takes the contract over the budgeted amount by \$100,000.	APPROVAL
1236-F	This proposal extends the construction schedule ADMINISTRATION by the architect, due to the extended construction schedule, through December 31, 2017.	\$54,000	An assumption is that the work can not continue without architectural support, and the project is behind schedule.	This points up the need for Facilities to provide a Construction Status Report so that the Board and the COC are aware of progress of the construction project. One reason for extension was failure of the main contractor to manage the sub-contractors. Another reason given was poor soil conditions - at an 80% completion point ?? The architect stated that the multiple reasons for delay would most likely continue. QUESTION: Is this amount included in the construction budget of \$15,715,000 ?	APPROVAL
1237-F	This is a change order for replacement of the Cooling Tower at Sierra Madre Elementary School. This BR also requests an "acceptance as complete." This is a change order to the contract to include waterproofing on the existing concrete pad. This condition was not known when the original bid was made.	\$7,000	The cooling tower is leaking and undoubtedly needs replacement. The lowest bid was \$154,000 which is approximately the budget on the project.	Although a small amount, this BR does not indicate what <u>new</u> total expenditure this change order will produce. This is item # 6 on the Priority List with a total budget of \$150,000.	APPROVAL
1238-F	This BR requests approval to reject all bids for the McKinley re-piping and installation of a new sump pump	\$0	The only bid received as \$597,000 which was deemed too high. The intent is to wait for the winter when the bidding climate will be better	NONE. This was priority item # 24 and the budget allocated was \$45,000.	APPROVAL