

**RESOLUTION NO. 3543**

**EXHIBIT "A"**

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**SWEETWATER UNION HIGH SCHOOL DISTRICT CITIZENS' OVERSIGHT COMMITTEE  
POLICY AND REGULATIONS**

GENERAL OBLIGATION BONDS -The Sweetwater Union High School District Citizens' Oversight Committee Policy and Regulations.

I. Adoption of Policy and Regulations -Legal Authority.

1.0 This Sweetwater Union High School District ("District") Citizens' Oversight Committee Policy and Regulations ("Policy and Regulations") is adopted and established by the Board of Trustees ("Board") of the District pursuant to the provisions and requirements of Article 2 of Chapter 1.5 of Part 5 of Division 1 of Title 1 of the California Education Code 15264 et seq., (hereinafter the "Law") and pursuant to Education Code Section 35160. This Policy and Regulations shall apply to the District and the Oversight Committee (as defined below).

II. Background.

2.0 On November 7, 2000, California voters approved Proposition 39, the Smaller Classes, Safer Schools and Financial Accountability Act (School Facilities; 55% Local Vote; Bonds, Taxes; Accountability Requirements). The central purpose and legislative intent of Proposition 39 was to ensure that the expenditures of bond measures are in strict conformity with the law; that taxpayers directly participate in the oversight of bond expenditures; and that members of the oversight committees alert the public to any waste or improper expenditure of school construction bond money.

The text of Proposition 39 includes various accountability requirements as further discussed herein. In an effort to increase voter approval for Proposition 39, the California Legislature passed, and Governor Davis signed, Assembly Bill 1908 ("AB 1908"), which provides additional requirements relative to school district general obligation bond elections conducted pursuant to Proposition 39. Those requirements include provisions requiring school districts that are successful in Proposition 39 bond elections to establish and appoint a citizens' oversight committee, as required by the Law. This Policy and Regulations was adopted by the District pursuant to the Law in order to provide procedures for the District Citizens' Oversight Committee ("Oversight Committee") and to address related matters.

III. Definitions.

3.0 Unless the context clearly requires otherwise, or a term is differently defined within this Policy and Regulations, the terms defined in this Section III shall, for all purposes of this Policy

and Regulations, have the meaning(s) herein specified:

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"AB 1908" means Assembly Bill 1908 of the California 2000 Legislative Session, being Chapter 44 of Statutes of 2000.

"Board" means the Board of Trustees of the District.

"Bonds" means the general obligation bonds of the Sweetwater Union High School District as authorized by the approval of the bond Proposition ("Proposition O") at the Election by the voters within the District and issued pursuant to State law.

"Oversight Committee" means the Sweetwater Union High School District Citizens' Oversight Committee formed and appointed by the Board pursuant to the requirements of the Law, and this Policy and Regulations.

"District" means the Sweetwater Union High School District.

"Election" means the general obligation bond election on Proposition O held within the boundaries of the District on November 7, 2006, pursuant to the provisions of Proposition 39 and applicable State law.

"Law" means Article 2 of Chapter 1.5 of Part 5 of Division 1 of Title 1 of the California Education Code (being Education Code Sections 15278 et seq.).

"Proposition 39" means Proposition 39, the smaller classes, safer schools and Financial Accountability Act (school facilities; 55% local vote; bonds, taxes; accountability requirements) as approved by the California electorate on November 7, 2000.

#### IV. Establishment of Oversight Committee.

4.0 The Board shall establish the Oversight Committee and initially appoint seven (7) members to the Oversight Committee, not more than sixty (60) days after the Board's certification of the Election results in accordance with the purpose, parameters, policies and regulations set forth in California Law and herein. The Board, in its discretion, may increase the number of members of the Oversight Committee at any time, provided that the Oversight Committee shall always have an odd number of members, provided that the maximum number of members of the Oversight Committee shall not exceed eleven (11).

#### V. Purpose of Oversight Committee.

The Board shall appoint members to the Oversight Committee in order to at least meet the membership requirements of Education Code Section 15282(a).

5.0 Statutory Purpose. The purpose of the Oversight Committee shall be to inform the public, at least annually in a written report, concerning the expenditure of Proposition O Bond proceeds. In carrying out this purpose the Oversight Committee shall:

- (a) Actively review and report on the proper expenditure of Proposition O Bond proceeds;
- (b) Advise the public as to whether the District is in compliance with the requirements of Article XIII A, Section 1(b)(3) of the California Constitution, which provides that:
  - (i) Bond proceeds may be expended only for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities as approved by the voters and as identified in the school facilities project list prepared for Proposition O;
  - (ii) No Bond proceeds are used for any teacher or administrative salaries or other school operating expenses;
  - (iii) Annual independent performance audits must be performed by an independent consultant selected by the District; and
  - (v) Annual independent financial audits must be performed by an independent consultant selected by the District.

5.1 The Oversight Committee shall undertake and accomplish those matters expressly stated in, or directly provided by District Resolution No. 3543, State law and this Policy and Regulations.

#### VI. Oversight Committee Composition.

6.0 (a) The Oversight Committee shall consist of nine (9) members and at no time consist of less than seven (7) members, subject to the provisions of Sections 4.0 and 7.0(d) hereof and any vacancies which may occur.

- (b) The Oversight Committee may not include any employee or official of the District or any vendor, contractor or consultant of the District.
- (c) The Oversight Committee shall include all of the following:
  - (i) One (1) member who is active in a business organization representing the business community located within the District;
  - (ii) One (1) member who is active in a senior citizen's organization;
  - (iii) One (1) member who is active in a bona fide taxpayer association;
  - (iv) One (1) member shall be the parent or guardian of a child enrolled in the District; and
  - (v) One (1) member shall be both a parent or guardian of a child enrolled in the District and active in a parent-teacher organization, such as the Parent Teacher Association or school site council.

(d) Five (5) members of the Oversight Committee must satisfy the requirements set forth in VI, Section 6.0, (c)(i-v) hereof.

The five (5) members appointed pursuant to VI, Section 6.0, (c)(i-v), must individually represent one of the five (5) groups set forth in Section 6.0, (c)(i-v) hereof. One member may represent more than one (1) of the groups, so long as the remaining four (4) members individually, distinctly and separately satisfy the remaining four (4) groups. In making the appointments of the remaining and additional Oversight Committee members the Board may, in its discretion, consider the various factors set forth in Section 7.0(d) hereof. The Board may remove an Oversight Committee member during his or her tenure consistent with the provisions of applicable law and as set forth in this Policy and Regulations in Section 7.2 hereof.

(e) In addition to the foregoing, a majority of the members of the Oversight Committee shall possess skills and/or experience in one or more of the following areas:

(i) large scale construction operations;

(ii) municipal/public finance matters; iii) multiple years' experience with agency/entity budgeting (which may include public agency or public entity budgeting);

(iv) project management; and/or

(v) other qualified professionals.

## VII. Oversight Committee Appointments, Term and Vacancies.

### 7.0 Appointments.

(a) The initial members of the Oversight Committee shall be appointed by the Board not more than sixty (60) days after the Board's certification of the Election results as required by the Law. Appointments shall be discussed and made in open session in accordance with Government Code Section 54957. The appointment(s) shall be made either at a regularly scheduled meeting of the Board, or at a special meeting of the Board, the time, place and date of which shall have been announced at a regularly scheduled meeting of the Board. At the time of making any such appointment(s), information concerning the qualifications of the Oversight Committee candidates to be considered by the Board (subject to redaction of personal information, such as addresses, phone numbers and e-mail addresses) shall be available to members of the public.

(b) The Board will solicit applications for appointment to the Oversight Committee and may require candidates for membership on the Oversight Committee to submit information on a stated form. Important information regarding the application form and the application process will be posted on the District's website at [www.sweetwaterschools.org](http://www.sweetwaterschools.org) (or such other internet address as shall be utilized from time to time). Notwithstanding Section 7.1(a) hereof, the Board may, in its discretion, solicit applications for membership to the Committee in advance of an actual Proposition 39 general obligation bond election date as may be necessary or desirable to have adequate applicants to fill all of the required positions on the Committee and to have adequate time in which to fully and completely consider all of the applicants and their corresponding information.

(c) The Board has authorized the Superintendent, or the Superintendent's designee(s), to review applications submitted to the District for Oversight Committee membership and make recommendations to the Board to assist the Board in appointing Oversight Committee members. Committee members shall also be part of the evaluation process and participate in the selection of its new Committee members.

(d) In making its appointments, the Board shall satisfy the necessary statutory membership requirements on the Oversight Committee as set forth in Section 6.0(c) hereof. [In making its appointments to the Oversight Committee the Board may, in its sole discretion, consider various factors applicable to each candidate, including, but not limited to, (i) residency within the boundaries of the District, (ii) whether the candidate is a registered voter within the District, and (iii) the professional and educational background of any prospective Oversight Committee member, which may include experience in construction, property, facilities management or finance matters or other factors which tend to support or complement the purposes of the Oversight Committee]. The Oversight Committee shall initially have seven (7) members; however, the Board retains the right to appoint additional members to the Oversight Committee provided that the Oversight Committee shall always have an odd number of members. In the event that the Law is amended to require a different or greater number of Oversight Committee members, the Board shall, within the time set by California law, take action to appoint appropriate Oversight Committee members as shall be required.

(e) Any appointee to the Oversight Committee shall be required to comply with the requirements and limitations of Section 6.0, 7.1, 7.2 and 8.2 hereof.

#### 7.1 Term.

(a) The citizens' oversight committee shall consist of at least seven members who shall serve for a minimum term of two years without compensation and for no more than three consecutive terms.

(b) The term of office of an Oversight Committee member shall end upon the completion of their initial or subsequent two-year term or, in the event that a vacancy for that Oversight Committee member's position is determined by the Board as set forth in this Policy and Regulations.

(c) The term of office of a member of the Oversight Committee may end prematurely in the event that the Oversight Committee terminates pursuant to the provisions set forth in Section 11.0 hereof.

#### 7.2 Vacancies.

(a) Determination of Vacancy. The Superintendent on behalf of the Board may determine that an Oversight Committee member's seat on the Oversight Committee has become vacant under any of the following circumstances:

(i) Resignation of that Oversight Committee member submitted in writing to the Superintendent (which shall be effective upon its receipt by the Superintendent);

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**Comment [1]:** CALBOC indicates the would be illegal if in effect after January 1, 2013. This change implements this legislative change effective 01/01/13.

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**Comment [2]:** CALBOC said that clause d of this section is also illegal pursuant 15282 (a) of the Education Code-See Attachment 1

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**Deleted:** (d) Beginning with appointments in 2012, terms shall end on April 30 . Approximately half of the committee ... [1]

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(ii) Death, or a legal determination of the incapacity, of that Oversight Committee member;

(iii) Conviction of a violation of Government code Section 1090 et seq. or other applicable conflict of interest laws (see Section 8.3);

(iv) Conviction of any crime resulting in imprisonment; or (v) As may otherwise be prescribed or required by law. The power to make determinations as to vacancies on the Committee is expressly reserved to the Board.

(b) In the event that any vacancy on the Oversight Committee occurs, by way of resignation or otherwise, the Board shall appoint a replacement Oversight Committee member for each vacancy (provided that the statutory minimum number of Oversight Committee members shall be maintained) to serve for the remainder of the unexpired term of the vacating Oversight Committee member in a manner consistent with applicable law.

(c) In the event a vacancy is determined, such Oversight Committee position shall remain vacant until the Board appoints a new Oversight Committee member for that position. Following the determination of the vacancy on the Oversight Committee, the Board shall follow the procedures set forth in Section 7.0 hereof to fill such vacancy within a reasonable period of time. The power to fill vacancies on the Oversight Committee is expressly reserved to the Board.

(d) In making appointments to fill vacancies as set forth in this Section VII, the Board shall make appointments such that the five (5) representative groups, as set forth in Section 6.0(c) and (d) hereof, shall be maintained.

#### VIII. Service on Oversight Committee.

8.0 Service Without Compensation. As set forth in the Law, members of the Oversight Committee shall serve without compensation.

8.1 Non-Liability for District Debts. The private and personal property of the Oversight Committee members shall be exempt from execution or other liability for any debts, liabilities or obligations of the District or the Oversight Committee, and no Oversight Committee members shall be personally liable or responsible for any debts, liabilities or obligations of the District or the Oversight Committee except where expressly set forth in California law.

8.2 Conflicts of Interest and Prohibited Actions. It is the express desire and intention of the Board that members of the Oversight Committee shall not be, or have, any financial interest in the matters which they review. All Oversight Committee members shall be subject to the following requirements:

(a) Each member, as a condition of membership on the Oversight Committee, may be requested to sign a certification declaring that he or she has no conflict of interest as to the issues which shall be before the Oversight Committee.

(b) Each member shall expressly be subject to the limitations and requirements of Article 4 of Division 4 of Title 1 of the California Government Code, being Government Code Sections 1090, et seq.

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(c) Each member shall expressly be subject to the limitations and requirements of Article 4.7 of Division 4 of Title 1 of the California Government Code, being Government Code Sections 1125, et seq.

(d) Each member shall perform his or her duties in an impartial manner, free from bias caused by his or her own financial interests or the financial interests of persons who have supported him or her. Each Oversight Committee member is obligated to discharge his or her responsibilities with integrity and fidelity.

IX. Oversight Committee Activities and Meetings.

9.0 Activities of the Oversight Committee. In furtherance of its specifically enumerated purposes, the Oversight Committee may engage in any of the following activities relating solely and exclusively to the expenditure of the Proposition O Bond proceeds as set forth in Section IX of the Policy and Regulations:

(a) Receive and review copies of the annual performance audit(s) conducted by an independent consultant selected by the District to ensure that Proposition O bond funds have been expended on the specific projects identified in the District's Proposition O School Facilities Project list;

(b) Receive and review copies of the annual financial audit(s) conducted by an independent consultant selected by the District to ensure that Proposition O bond funds have been expended on the specific projects identified in the District's Proposition O School Facilities Project list.

(c) Inspect school facilities and grounds, during normal District business hours, and subject to state laws concerning campus security, to ensure that Proposition O Bond proceeds are expended for the purposes set forth in the bond Proposition approved by the voters;

(d) Receive and review copies of all deferred maintenance proposals or plans developed by the District;

(e) Review efforts by the District to maximize Proposition O Bond revenues by implementing cost-saving Propositions, including, but not limited to:

(i) Mechanisms designed to reduce the cost of professional fees;

(ii) Mechanisms designed to reduce the costs of site preparation;

(iii) Recommendations regarding the joint use of core facilities;

(iv) Mechanisms designed to reduce costs by incorporating efficiencies in school site design; and

(v) Recommendations regarding the use of cost-effective and efficient reusable plans.

(f) As appropriate, report on and/or provide comments (which may be written or oral) to the Board and/or public upon any activities listed among subsections (a)-(e) above, or any other matters as are within the Oversight Committee's purview.

(g) The Oversight Committee shall issue written regular reports of the results of its activities. The Oversight Committee must issue at least one (1) written report each year or fiscal year ("Annual Report"), as may be applicable. Annual Reports shall summarize the activities and



accomplishments of the Oversight Committee for the prior year (or Fiscal Year, as may be applicable), related issues affecting the authorized bond projects, financial status and progress towards completion of the authorized bond projects. Each Annual Report shall be published and sent to all publications and other forms of media within the District, elected officials within the District and interested parties who request a copy of such Annual Reports. Oversight Committee members may append minority reports to an Annual Report should there be dissenting views.

The Annual Report shall advise the public as to whether the District is in compliance with the requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution. All recommendations made by the Committee to the Board of Education shall be placed on the next Board agenda. The Board shall respond to the Committee's recommendation(s) within sixty (60) days after receipt of the recommendation (s).

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#### 9.1 Brown Act Compliance; Public Records.

(a) Regular meeting dates, time, and place shall be established by the Oversight Committee and published/posted in accordance with the Ralph M. Brown Act (being Government Code Sections 54950 et seq.) and applicable District posting procedures. All Oversight Committee proceedings shall be open to the public and shall be subject to the provisions of the Ralph M. Brown Act. The Oversight Committee may adopt rules and regulation guidelines or similar procedures as may be necessary or desirable in order to comply with the requirements of the Ralph M. Brown Act. The Board has requested that the Committee or subcommittees thereof, meet on a basis which is not less frequent than quarterly.

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Comment [3]: See Education Code Section 15278 (b) for the above language-See Attachment 1

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(b) All documents received by the Oversight Committee, Oversight Committee minutes and reports issued by the Oversight Committee shall be a matter of public record and shall initially be available on the Committee's website at [www.sweetwaterschools.org].

9.2 Rules of Procedure and Decorum. The Oversight Committee may establish rules for the conduct of the Oversight Committee's proceedings. These rules may be enacted by motion or resolution. The rules must be congruent with fundamental concepts as to public agency notice and hearings.

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9.3 Attendance at Board Meetings. Members of the Oversight Committee may be requested to attend the meeting(s) of the Board where the annual financial audit and performance audit, prepared pursuant to the provisions of Proposition 39, are presented to the Board.

9.4 Limitations on Activities. The Board hereby sets forth the following limitations on the actions and activities of the Oversight Committee (although the Oversight Committee may review documents relating to such activities):

(a) The Oversight Committee has no authority to participate in the District's Bond issuance process or Bond sale, or to make decisions regarding the terms, timing or structure of the Bond issuance;

(b) The Oversight Committee does not have the authority, once the Bonds are issued and sold, to determine how the Bond funds shall be expended;

(c) The Oversight Committee members do not have the authority to solicit, select or participate

in the negotiation or bid process for contractors or consultants for Bond financed projects (however, Oversight Committee members may be invited to witness bid openings, Board approval of contracts or similar actions for Bond financed projects);

(d) The Oversight Committee members do not have the authority to control, comment upon and have no power of approval over or upon design, architectural or engineering considerations or matters relating to facilities funded or constructed with bond proceeds;

(e) The Oversight Committee, and its members, may enter upon, tour, and inspect District job sites, project boundaries and construction projects at any time consistent with campus security, public safety and interference concerns with contractors.

(f) The Oversight Committee, and its members, may contact District consultants or contractors as needed to carry out its independent oversight role.

#### X. Technical and Administrative Support.

10.0 Statutory Requirement. The Board, without any use of Proposition Q Bond proceeds, shall provide the Oversight Committee with:

(a) All reasonable necessary technical assistance and reasonable administrative assistance in furtherance of the Oversight Committee's purpose; and

(b) Sufficient resources to prepare and publicize the Oversight Committee's conclusions, all documents received by the Oversight Committee, minutes from the Oversight Committee's meetings and reports issued by the Oversight Committee (including establishing, operating and updating the Oversight Committee Internet Website).

(c) The Board and Committee shall mutually agree to a Memorandum of Understanding in regards to the type, manner or means of technical and administrative assistance the District will provide to assist the Oversight Committee in achieving its purpose.

(d) The Board may also appoint or designate District staff to provide reasonable technical and administrative assistance to the Oversight Committee. The Board shall also consider any recommendations or suggestions made by the Oversight Committee members regarding the technical and administrative support.

10.3 Oversight Committee Internet Website. Education Code Section 15280 (b) requires minutes of the proceedings of the citizens' oversight committee and all documents received and reports issued shall be a matter of public record and be made available on the Committee's internet website. The cost to operate, maintain and update the Oversight committee Internet Website shall be the responsibility of the District.

The Oversight Committee Internet Website may be included within an existing website operated by the District or may be operated separately. The following documents and information shall generally appear on the applicable internet website located at [www.sweetwaterschools.org](http://www.sweetwaterschools.org) (or some other internet address which may be determined and designated in the future) which shall be updated from time to time:

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**Comment [4]:** The current clause prevents the CBOC from being independent.

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- (a) Minutes of Oversight Committee meetings;
- (b) Reports issued by the Oversight Committee; and
- (c) Documents formally received by the Oversight Committee.

10.4 Presentation of Reports. Reports, including the annual report of the Oversight Committee and recommendations of the Oversight Committee shall be presented to the Board. Oversight Committee recommendations for specific actions shall be forwarded to the Board and appropriate District staff members.

### 11.0 Audit Reports

11.1 In order to effectively receive and review by March 31 of each year the preceding fiscal year annual performance and annual financial audit as provided for in Sections 9.0 (a) and (b) above the Oversight Committee shall:

(a) Review and comment on the Request for Proposal for auditing services, including the require for the audits to be conducted in accordance with Government Auditing Standards, published by the Comptroller General of the United States.<sup>1</sup>

(b) Participate in the selection process for the auditor.

(c) Participate in the entrance conference with the auditor and District.

(d) Participate in the preparation of the scope of the performance audit including Government Auditing Standards Chapter 7, Field Work Standards for Performance Audits.<sup>2</sup>

(e) Receive directly from the auditor draft copy and final copy of each audit report at the same time as delivered to the District. All subsequent draft reports will track changes.

(f) Receive directly from the auditor progress reports at the same time as delivered to the District.

(g) Participate in the exit conference with the auditor and District.

(h) Have the auditor presented the audit to the Oversight Committee for acceptance prior to presenting to the Board of Education for acceptance.

<sup>1</sup> This is a requirement of Education Code Section 15286.

<sup>2</sup> Government Auditing Standards, July 2007 Revision, published by the Comptroller General of the United States, Chapter 7, Field Work Standards for Performance Audits, pages 122 through 159.

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(i) Mutually agree with the District in March of each year on the time line for preparation of that fiscal year's audit reports.

(j) Participate with the District in a yearly review of the auditor's performance.

X.1 The Auditor for the District's General Fund shall not performance the Proposition O performance audit.

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### 12.0 Oversight Committee Bylaws

12.1. The Oversight Committee shall establish bylaws to manage the operation of the Committee. The bylaws shall be in compliance with this Policy and Regulations and all applicable laws. By reference to these Policies and Regulations, the Sweetwater Unified High School District and the Bond Oversight Committee Adopt the California League of Bond Oversight Committee Standards provided as Attachment 1 to this document.

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### 13.0 Joint Meeting with the Board of Education

13.1 The Oversight Committee shall hold joint meetings with the Board of Education during March, June, September and December of each year.

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Adopted: July 24, 2006. Amended: April 16, 2012. Amended xxxxxx

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