
From: Casnocha, David
Sent: Tuesday, March 25, 2008 8:59 AM
To: 'mcalagari@ohlone.edu'
Subject: FW: Bond Expenditures for Staff Expenses

Dear Mike: You have asked me to confirm the approving oral advice I have provided the District with respect to the District's ability to use bond money to pay the salary/overhead of District employees who are assigned various tasks in connection with the District's bond projects. The primary legal authority for using bond money to support District employees' work on bond projects is Attorney General Opinion 04-110, issued on November 9, 2004. In reviewing Prop 39, the AG concluded that Prop 39's prohibition from using bond proceeds for "teacher and administrator's salaries and other school operating expenses" was not applicable to district employees "who perform administrative oversight work on construction projects authorized by a voter approved bond measure." Examples of reimbursable costs include "monitoring contracts and project funding, overseeing construction progress, and performing overall project management and accounting that facilities timely completion of the construction project." The Attorney General applies a "but for" test to the qualification of expenses for reimbursement. If "but for" the bond, the District would not have incurred the expense, places that expense in a positive position for reimbursement. To my knowledge, there have been no legal challenges to this interpretation, and this approach is being followed by districts which have passed a Prop 39 bond. The reimbursement of staff expenses is also appropriate in the circumstances in which the reimbursement reflects their past work on qualified bond projects. A paper trail supporting the reimbursement allocations would be advisable. If you need any further details on this issue, please do not hesitate to contact me. Best, David Casnocha

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TO BE PUBLISHED IN THE OFFICIAL REPORTS

OFFICE OF THE ATTORNEY GENERAL
State of California

BILL LOCKYER
Attorney General

OPINION	:	No. 04-110
	:	
of	:	November 9, 2004
	:	
BILL LOCKYER	:	
Attorney General	:	
	:	
DANIEL G. STONE	:	
Deputy Attorney General	:	
	:	

THE HONORABLE MANNY DIAZ, MEMBER OF THE STATE ASSEMBLY, has requested an opinion on the following question:

May a school district use Proposition 39 school bond proceeds to pay the salaries of district employees who perform administrative oversight work on construction projects authorized by a voter approved bond measure?

CONCLUSION

A school district may use Proposition 39 school bond proceeds to pay the salaries of district employees to the extent they perform administrative oversight work on construction projects authorized by a voter approved bond measure.