I

AMEND CHAPTER XVII, ARTICLE III OF THE BOARD RULES

The following motion is presented by Trustees Veres, Santiago, and Park:

Amend Chapter XVII, Article III of the Board Rules as follows:

OFFICE OF THE INSPECTOR GENERAL
BOND PROGRAM MONITOR

17300 Establishment Retention of the Office of Inspector General Bond Program Monitor

The Los Angeles Community College District board of Trustees and Chancellor authorize the creation retention of the Office of Inspector General a consultant to ensure that its capital program funded by Proposition A, Proposition AA, and Measure J ("Bond Program") is performing with the utmost of integrity, and in furtherance of that objective authorize efficiency and when the Inspector General 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, has a violation of reasonable suspicion that a non-discretionary law, rule or regulation, an abuse of discretion in rule or district policy has been or is being materially violated by someone affiliated with 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 and its Bond Program.

17300.1 Reporting

A. General Reporting

The Inspector-General 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.

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.

17300.2 Generally Authorized Activities

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

17301 Powers and Duties

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

A. To plan, direct, and conduct investigations and audits designed to promote accountability to the public and to insure the economy, efficiency, effectiveness, and integrity of the Bond Program; undertake 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 misfeasance, malfeasance or violations of laws, rules or regulations by any officer, employee or appointee in any department or contractor firm directly responsible related to the Bond Program; and

C. To investigate the performance of LACCD employees and contract staff, appointees performing work related to the Bond Program, in order to detect and prevent misconduct within the programs and operations 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;

D. To promote integrity in the administration of the programs and operations, identify any potential for misconduct therein, and make recommendations to the Board of Trustees and Chancellor for policies and methods for the prevention of misconduct;

E. To report to the Chancellor and Board of Trustees concerning results of investigations undertaken by the Office of Inspector General.
17302  Creation of Whistleblower Hotline

As soon as practicable after appointment of the Inspector General, the Inspector General Bond Program Monitor is directed to create and maintain a toll-free "Whistleblower Hotline" and a post office box for anonymous reporting, for the purpose of receiving citizen and employee reports of public corruption and misconduct related to the Bond Program. Unless the caller consents to disclosure, the identity of any individual placing a call or submitting a complaint to the hotline providing such reports shall to the maximum extent allowed by applicable law be kept confidential during and after the investigation of any complaint made by the caller, unless the caller consents to disclosure or due process of law otherwise requires disclosure of the caller's identity 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.

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 Inspector General Bond Program Monitor shall prepare a written report on the investigation as appropriate and such report shall be released to the public as a summary of the report ("Public Summary"); public, subject to any redactions needed to protect witnesses. The Bond Program Monitor's investigation reports should be provided Public Summary shall be delivered to the Chancellor and the Board of Trustees, and may be forwarded also be provided to parties affected by or involved in the investigation, if appropriate.

B. Investigatory Materials

In light of the purpose of the Inspector General Bond Program Monitor as stated in Board Rule 17300, the records of the Inspector General 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 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.

17304  Duty of Vigilance and Cooperation in Investigations

It shall be the duty of every employee, contract professional contractor, consultant, and or Trustee Board Member to cooperate with extend full cooperation and all reasonable assistance to the Inspector General 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 undertaken pursuant to this Article.
17305  Retaliation Prohibited

No employee, contractor, consultant, vendor, student, or Trustee shall retaliate against, punish, or penalize any person for complaining to, cooperating with, or assisting the Inspector General Bond Program Monitor in the performance of his or her duties. Any employee, contractor, consultant, vendor, 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.

17306  Reports and Referrals of Investigations

Upon making a preliminary determination that alleged misconduct may involve possible criminal conduct, the Inspector General 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.

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.

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.
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 otherwise 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.

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.

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.

**Background:** The Office of Inspector General ("OIG") was created by a Board initiative in March 2010 in response to allegations of misconduct in the Bond Program. Unlike such offices for other agencies, there was no legislative direction regarding the framework of the OIG. The current contract was terminated for convenience in order to allow for a reexamination of the scope of the office. In consultation with a qualified technical expert, revisions were developed for the charge of the OIG to focus the operation on fraud or misconduct, in order to minimize unintended overlap with management and the performance auditor. These revisions were reviewed by an ad hoc committee appointed by the Board President and are now recommended to the full Board for adoption.