



JACQUELINE P. MINOR – GENERAL COUNSEL

June 15, 2015

To: Bernard McCune, Deputy Chief, Postsecondary Readiness
Measure N Commission

From: Jacqueline P. Minor, General Counsel

A handwritten signature in black ink, appearing to be "JPM", written over the "From:" line.

Re: What Administrative Costs Are Permissible Uses of Measure N

Measure N authorizes the District to expend up to 10% of the Measure N funds for program administration. Measure N places a hard cap of 10% of the measure proceeds in each year to administer the Measure N program. As a part of the Measure N Commission oversight responsibilities, the Commission may review the expenditures allocated to Measure N program administration both to ensure that the funds were in fact spent on Measure N-related costs, and to make certain that the expenditures do not exceed the 10% cap.

In determining what expenditures are related to the administration of Measure N, in addition to the language of Measure N, I reviewed Attorney General Opinion No. 04-110. The Attorney General has put forth a "but-for" test to determine the permissible use of bond funds for administrative purposes that applies in this case. Applying this test, the question is: would the District have incurred a cost "but for" Measure N. If the District would not have incurred the cost but for Measure N, the cost is a proper administrative charge against the Measure N fund. Thus, for example if an administrator spends 10% of his/her time working supporting schools developing their Measure N plans, that portion of the administrator's salary would be a proper administrative charge. Another example is the annual independent audit, which the District would not need to prepare "but for" Measure N. Thus, as provided in the language of Measure N, the audit is a permissible use of Measure N.¹

The 10% cap on administrative expenses is however a firm cap. Any administrative costs that meet the but for test still may not exceed the 10% cap on administrative costs.

Let me know if you need further assistance.

¹ Measure N provides that

"No more than ten percent (10%) of measure proceeds each year shall be used by the Oakland Unified School District to administer the College & Career Readiness For All Fund, including, but not limited to project staffing, school quality reviews, independent audit services, and an evaluation of the Fund's progress toward achieving its stated purpose, goals, and allowable uses."