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**Attorney General**

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**DEPARTMENT OF JUSTICE**



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March 1, 2011

Wendy H. Wiles  
Robert E. Anslow  
Jeffrey A. Hoskinson  
Bowie, Arneson, Wiles & Giannone  
4920 Campus Drive  
Newport Beach, CA 92660

RE: Poway Unified School District v. All Persons Interested  
Superior Court of California, County of San Diego, Case No. 37-2010-00106255-CU-  
MC-CTL

Dear Ms. Wiles, Mr. Anslow, and Mr. Hoskinson:

As you may have surmised from our inquiries, we have significant concerns with several aspects of the proposed bond issue by Poway Unified School District.

As we understand it, the School District is offering to sell otherwise authorized bonds at a premium in exchange for additional upfront cash. This cash would then be used to pay the costs of bond issuance and interim financing. It is our Office's view that this proposed use of premium for costs of issuance as described in the complaint is not authorized by the law. The law is clear that any premium, even if legitimate, must be deposited into a special fund, applied to pay debt service, and therefore cannot be diverted to pay costs of issuance. *See* Gov. Code, § 29303; Ed. Code, § 15146, subd. (f). Further, the practice of artificially inflating the interest rate to generate premium for unauthorized uses translates into additional bond proceeds over and above what the voters authorized. Thus, by diverting premium to unauthorized uses and by artificially inflating interest rates to generate premium, the School District is not acting consistent with statutory law, and is also incurring debt beyond what the voters authorized in violation of the California Constitution.

While we did not answer the complaint in this matter, we remain concerned with the School District's proposed bond issue. We trust that you will inform your client, bond counsel, and any other appropriate officials of our concerns. Although we are mindful of the costs of

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litigation to school districts and municipalities around the state, we will scrutinize proposed bond issues such as this in the future. Should such practices continue, we may be compelled to intervene.

Sincerely,



CONSTANCE L. LELOUIS

Supervising Deputy Attorney General

For KAMALA D. HARRIS  
Attorney General

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