

ATTORNEY

The Governing Board recognizes the complex legal environment in which school districts operate and desires reliable, high-quality, legal advice at reasonable rates. In order to meet the district's legal needs, the Board may contract with county counsel, attorneys in private practice, or appoint legal counsel as a district employee or independent contractor. The Board also supports pursuing collaborative legal efforts with other agencies and districts in order to promote the District's interests.

Duties of Legal Counsel

The District's legal counsel may: (Education Code 35041.5)

1. Render legal advice to the Board and the Superintendent or designee;
2. Serve the Board and the Superintendent or designee in the preparation and conduct of district litigation and administrative proceedings;
3. Render advice on labor relations and employee negotiations;
4. Render advice on school bond and tax increase measures and prepare the forms necessary for voting of these measures;
5. Perform other administrative duties as requested by the Board and Superintendent or designee.

Retaining Legal Counsel

- A. When the District is seeking legal advice or representation, the Superintendent or designee shall initiate a Request for Proposals (RFP) to advertise and solicit proposals for legal services. In evaluating the proposals, the Board and Superintendent shall consider the firm's or attorney's background, experience, and reputation in education law, experience in advising or representing school districts in California, fees, and experience of attorneys at the firm who will provide legal services.
- B. The Board may also contract for temporary, specialized legal services without initiating an RFP when a majority of the Board determines that the unique demands of a particular issue or emergency situation so requires.

Annual Evaluation of Legal Counsel

The Board and Superintendent shall annually evaluate the performance of the firm and/or attorneys providing legal services in such areas as efficiency and adequacy of advice, results obtained for the district, reasonableness of fees, and responsiveness to and interactions with the Board, administration, and community. Upon a successful evaluation, the Board may renew the agreement with legal counsel without initiating an RFP.

Contacting Legal Counsel

The Board president or Superintendent may confer with the District's legal counsel at his/her discretion subject to any limits or parameters established by the Board. In addition, the Board president or Superintendent may contact district legal counsel to provide the Board with desired legal information or

advice when so directed by a majority of the Board. The Board also may authorize a specific member to confer with legal counsel on behalf of the Board. Individual Board members other than the Board president may not seek advice from district legal counsel on matters of District business unless so authorized by a majority of the Board.

Legal Reference:

EDUCATION CODE

- 35041 Administrative adviser
- 35041.5 Legal counsel
- 35161 Powers and duties of governing board
- 35200-35241 Liabilities, especially:
 - 35204 Contract with attorney in private practice
 - 35205 Contract for legal services

GOVERNMENT CODE

- 814-895.8 Liability of public entities and public employees
- 995-996.6 Defense of public employees
- 26520 Legal services to school districts
- 53060 Special services and advice

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting laws, rev. 2007

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

Selecting and Working with a School Attorney. A Guide for School Boards, 1997

WEB SITES

- CSBA: <http://www.csba.org>
- California Council of School Attorneys: <http://www.csba.org/LegislationAndLegal>
- National School Boards Association: <http://www.nsba.org>
- State Bar of California: <http://www.calbar.ca.gov>

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