

In addition to obtaining legal representation from qualified counsel in relation to formal legal proceedings and legally-complex transactions, the Board of Education recognizes that the increasing complexity of school district operations may on occasion require the procurement of professional legal services from attorneys who act in an advisory capacity to the Board and/or administration on specific issues. Unless otherwise arranged for in writing and with the consent of the District, when any attorney is engaged to provide legal services for the District, the District and not any individual person(s), officers, or employees shall be the attorney's client.

The Board may designate such attorneys and/or law firms as the Board deems prudent to serve as initial points of contact in connection with specific needs or circumstances. However, nothing prevents the Board or District from securing the services of any other attorney or firm when doing so is determined to be in the best interest of the District. Further, the services of any attorney representing or providing legal advice to the District shall be coordinated with the District's insurer(s) when appropriate.

The Superintendent, or his/her administrative-level designee is authorized to engage the District's designated legal counsel on behalf of the District on such matters as he/she deems advisable in order to protect the interests of the District, or whenever he/she has been directed to do so by the Board. However, unless legal counsel renders specific advice on behalf of the District stating that the rights and interests of the District would be compromised by deferring action until after specific authorization is obtained in advance (e.g., due to a statute of limitations expiring), the Superintendent shall not authorize legal counsel to file or commence, in any court or before any agency, any formal legal action or proceeding on behalf of the District in which the District acts as the plaintiff, complainant, or petitioner without advance authorization from the Board or the annual meeting.

Any time the Superintendent or his/her designee exercises the authority granted in the previous paragraph, he/she shall promptly advise the Board (1) regarding the existence or initiation of non-routine matters, including the receipt of any statutory notice of claim or the initiation of any formal legal proceeding in any court or before any state or federal agency; (2) any time he/she concludes that there is a likelihood that the District may incur substantial legal fees or costs that are not within established budgetary parameters for reasonably-expected legal services; and (3) with respect to such other matters or circumstances as the Superintendent deems prudent.

Except when acting as an authorized designee of the Superintendent, other administrators, employees, and agents of the District are not authorized to initiate or engage the services of legal counsel on behalf of the District except as expressly directed to do so by the Superintendent, Board President, or official Board action.

Individual Board members are generally not authorized to initiate or engage the services of legal counsel on behalf of the District unless there is official Board action authorizing or directing them to do so. However, the Board President is authorized to initiate or engage the services of the District's legal counsel if there is a need for legal advice relating to the employment or performance of the Superintendent, if the President is performing his/her statutory duties related to the defense and prosecution of legal actions, or if the President determines that immediate action is otherwise needed to protect the interests of the District. Notwithstanding such authority and the need to exercise judgment with respect thereto, the Board expects the President (1) to consider whether it would be practical to bring the matter before the Board before taking action unilaterally, and (2) to work with legal counsel to determine the earliest

appropriate time to inform the remaining Board members of a decision to engage legal counsel on behalf of the District.

Unless otherwise directed by the Board, individual Board members and authorized District employees may, in their official capacities and in the interests of the District, seek general legal information from membership associations that provide such services, provided that such inquiries do not result in the unauthorized disclosure of confidential District information or cause the District to incur any additional specific fees or charges. Further, any such inquiry for legal information that is submitted pursuant to Board or District organizational membership that is paid for by the District should be undertaken with the expectation that the organization may disclose the nature of the inquiry and/or response to other Board members or to appropriate administrators.

Nothing in this policy shall be interpreted to create or give rise to any third-party rights.

### Legal References:

#### Wisconsin Statutes

- [Section 19.85\(1\)\(g\)](#) [authority to meet in closed session to confer with legal counsel with respect to litigation]
- [Section 120.10\(14\)](#) [annual meeting power to direct legal proceedings in which the district is interested]
- [Section 120.13\(9m\)](#) [school board power to retain legal services]
- [Section 120.15](#) [board president duties; defend and prosecute actions on behalf of district]

### Cross References:

WASB PRG 142 Sample Policy 3

### Adoption/Revision Dates:

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