

Bylaws of the Board

Attorney

The Board of Education recognizes the complex legal environment in which districts operate, the need to provide legal representation for the District, and the importance of reliable, cost effective high-quality legal advice and services.

In order to meet the District's legal needs, the Board may appoint legal counsel and fix and order paid legal counsel's compensation as an employee or as an independent contractor. (Education Code 35041.5)

The Board may enter into independent contractor services agreements with county counsel, law firms, attorneys in private practice, and other public or private legal services entities. (Education Code 35204, 35205; Government Code 26520, 26529)

The Board also supports pursuing collaborative legal efforts with other districts as well as other government agencies as appropriate.

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 school bond and tax increase measures and prepare the necessary forms for the voting of these measures.
4. Perform other administrative duties as assigned by the Board and Superintendent or designee.

Retaining Legal Counsel

When the District is seeking legal advice or representation, the Superintendent or designee shall identify prospective attorney(s), firm(s), and/or legal services entity(ies).

The District may, but is not required to, initiate a Request for Proposals to advertise and solicit proposals for legal services. In evaluating the prospective attorney(s), firm(s), and/or entity(ies), the Board and Superintendent may consider the attorney's, firm's, and/or entity's background, experience, and relevant legal reputation; experience advising and representing school districts in California; fees; and experience of attorneys at the firm who will provide legal services.

Any attorney representing the District shall be admitted to practice law in California. (Education Code 35041.5)

The Board and Superintendent shall periodically evaluate the performance of the firm(s) and/or attorney(s); the efficiency and adequacy of advice; the results obtained for the District; the reasonableness of fees; and the responsiveness to and interactions with the Board, administration, and community.

The Board may use such evaluation(s) to determine whether to renew any current agreement(s) for legal services.

The Board may also contract for specialized legal services, as appropriate, when a majority of the Board determines that the unique demands of a particular issue or emergency situation require such representation.

Contacting Legal Counsel

The Board President or designee, or Superintendent or designee, may, at their discretion, confer with District legal counsel subject to any limits or parameters established by the Board. In addition, the Board President or designee, or Superintendent or designee, may contact District legal counsel to provide the Board with legal information or advice when so directed by a majority of the Board.

Individual Board members other than the Board President or designee may not seek advice from District legal counsel on matters of District business unless so authorized by a majority of the Board in open session.

Legal Reference:

EDUCATION CODE

35041 Administrative adviser

35041.5 Legal counsel

35161 Board delegation of any powers and duties

35200-35214 Liabilities

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

26529 District Attorney

53060 Special services and advice

ORANGE UNIFIED SCHOOL DISTRICT

Orange, California

Adopted: (7-88 10-92 7-96 12-05 4-12) 9-24