Bylaws of the Board

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. (cf. 3320 - Claims and Actions Against the District) (cf. 3400 - Management of District Assets/Accounts) (cf. 4312.1 - Contracts) (cf. 9000 - Role of the Board) (cf. 9260 - Legal Protection)

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 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 advising or representing school districts in California; fees; and experience of attorneys at the firm who will provide legal services.

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. (cf. 2121 - Superintendent's Contract)
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 Superintendent or Board president 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 may not seek advice from district legal counsel on matters of district business unless so authorized by a majority of the Board. (cf. 9200 - Limits of Board Member Authority) (cf. 9321 - Closed Sessions Purposes and Agendas)

Legal Reference:

CALIFORNIA EDUCATION CODE
35041 Administrative adviser
35041.5 Legal counsel: Relieving duties of county counsel and district attorney
35161 Powers and duties of governing board
35200-35214 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