

Board Bylaws
ATTORNEY

BB 9124 (a)

The Governing Board 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 also supports pursuing collaborative legal efforts with other agencies and districts 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 (RFP) 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 firm's, attorney's, and/or entity's background, experience, and relevant legal reputation; experience advising or 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); efficiency and adequacy of advice; results obtained for the district; reasonableness of fees; and 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

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BB 9124 (b)

emergency situation requires such representation.

Contacting Legal Counsel

The Board president 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, Board president, 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 may not seek advice from district legal counsel on matters of district business unless so authorized by the Superintendent, the Board president, or a majority of the Board.

Legal Reference:

State

- Ed. Code 35041: Administrative adviser
- Ed. Code 35041.5: Legal counsel
- Ed. Code 35161: Board delegation of any powers or duties
- Ed. Code 35200-35214: Liabilities
- Ed. Code 35204: Contract with attorney in private practice
- Ed. Code 35205: Contract for legal services
- Gov. Code 26520: Legal services to school districts
- Gov. Code 26529: District Attorney
- Gov. Code 53060: Special services and advice
- Gov. Code 814-895.8: Liability of public entities and public employees
- Gov. Code 995-996.6: Defense of public employees

Management Resources

- CSBA Publication: The Brown Act: School Boards and Open Meeting Laws, rev. 2019
- State Bar of California Publication: California Rules of Professional Conduct
- Website: CSBA District and County Office of Education Legal Services
- Website: State Bar of California
- Website: California Council of School Attorneys
- Website: CSBA

Bylaw Adopted: 12/13/23

ORCUTT UNION SCHOOL DISTRICT
Orcutt, California