

Davis Joint USD

Board Bylaw

Attorney

BB 9124

Board Bylaws

~~The Board of Education~~The Governing Board recognizes the complex legal environment in which 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 as appropriate.

(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 ~~General~~Legal Counsel

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

1. Render legal advice to the Board and ~~/or~~ the Superintendent or designee.
- 2.— Serve the Board and ~~/or~~ 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 ~~relating to placing~~for the voting of these measures ~~on the ballot.~~
4. Perform other administrative duties as assigned by the Board and ~~/or the~~ Superintendent or designee.
- 5.— ~~Function as a clearinghouse for specialized legal services provided to the district by separate attorneys or firms.~~

~~Retaining General Counsel~~

Retaining Legal Counsel

When the district is seeking ~~general representation or ongoing~~ legal advice or representation, the Superintendent or ~~Superintendent's~~ designee may 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; and fee-arrangements, including alternative cost opportunities; fees; and experience of attorneys at the firm who will provide legal services.

The Board and Superintendent shall annually evaluate the performance of the firm and/or ~~attorney(s)~~attorneys providing ~~general counsel~~legal services ~~with respect to~~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 ~~the General Counsel~~legal counsel without initiating ~~and an~~ RFP.

The Board ~~or Superintendent~~ may also contract for temporary, specialized legal services without initiating an RFP when ~~either~~ a majority of the Board, or the Superintendent determines that the unique demands of a particular issue or emergency situation so ~~require~~requires.

(cf. 2121 - Superintendent's Contract)

Contacting Legal Counsel

At his/her discretion ~~any, the~~ Board ~~member~~president or ~~the~~ Superintendent may confer with ~~the General Counsel, district legal counsel~~ subject to ~~the restrictions on Board member contact set forth below and any additional~~any limits or parameters established by the Board. In ~~the~~ addition, the Superintendent or Board ~~President~~president may contact district legal counsel to provide the ~~General Counsel to request the provision of~~Board with legal information or advice ~~to the Board~~ when so directed by a majority of the Board. _____

~~Individual Board members may seek periodic advice from the General Counsel on matters that require only an insignificant amount of the General Counsel's time. On matters or questions requiring more than an insignificant amount of the General Counsel's time, authorization by a majority of the Board is required. Projects and requests that require substantial legal research, legal analysis, or more than a limited written product will be considered significant with respect to the General Counsel's time. Questions regarding potential conflicts of interest and evaluation of the superintendent shall not be subject to time limitations.~~
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 Session Purposes and Agendas)

Legal Reference:

EDUCATION CODE

35041 Administrative adviser

35041.5 Legal counsel
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

Management Resources:

CSBA PUBLICATIONS

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

Maximizing School Board Leadership: Boardsmanship, 1996

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/Legal/CaliforniaCouncilOfSchoolAttorneys.aspx>

National School Boards Association: <http://www.nsba.org>

State Bar of California: <http://www.calbar.ca.gov>

Bylaw DAVIS JOINT UNIFIED SCHOOL DISTRICT

adopted: September 1, 2011 Davis, California

revised: