

Bylaw 9124: Attorney

Status: DRAFT

Original Adopted Date: 10/16/2007 | Last Revised Date: 10/20/2020 | Last Reviewed Date: 10/20/2020

The Governing Board recognizes the complex legal environment in which districts operate and desires, **the need to provide legal representation for the district, and the importance of** reliable, **cost-effective**, high-quality legal advice at reasonable rates. ~~and services.~~

In order to meet the district's legal needs, the Board may contract with county counsel, attorneys in private practice, or appoint legal counsel **and fix and order paid legal counsel's compensation** as a district 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 agencies and 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 (RFP) to advertise and solicit proposals for legal services. In evaluating the proposals, **prospective attorney(s), firm(s), and/or entity(ies),** the Board and Superintendent shall ~~may~~ consider the firm's or attorney's, **firm's, and/or entity's** background, experience, and **relevant legal** reputation in education law; experience advising ~~or~~ **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 ~~annually~~ **periodically** evaluate the performance of the firm(s) and/or attorneys providing legal services in such areas as **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. ~~Upon a successful~~

The Board may use such evaluation, ~~the Board may~~ **(s) to determine whether to** renew ~~the any current~~ agreement with **(s) for** legal counsel without initiating an RFP ~~services.~~

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

Contacting Legal Counsel

At his/her discretion, the ~~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, the **Board president, or Superintendent or Board president 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.

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

	Description
Ed. Code 35041	Administrative adviser - https://simbli.eboardsolutions.com/SU/Vq05GqcTOi7Lze5Df8sn5A==
Ed. Code 35041.5	Legal counsel - https://simbli.eboardsolutions.com/SU/JMgRHfLyT3TkUslshulOhiTg==
Ed. Code 35161	Board delegation of any powers or duties - https://simbli.eboardsolutions.com/SU/slsh1PplusGg7pf1zBSnE4YBslshMOQ==
Ed. Code 35200-35214	Liabilities - https://simbli.eboardsolutions.com/SU/6BkNJy81QHZDnJLHzKMK0g==
Ed. Code 35204	Contract with attorney in private practice - https://simbli.eboardsolutions.com/SU/irlX4qUNWLSPUpluslWDLQTXw==
Ed. Code 35205	Contract for legal services - https://simbli.eboardsolutions.com/SU/5rr6panc1Wplus7ezW1NtfhKA==
Gov. Code 26520	Legal services to school districts - https://simbli.eboardsolutions.com/SU/PCL8jSEUX60slsholBip5gTwwQ==
Gov. Code 26529	District Attorney - https://simbli.eboardsolutions.com/SU/LdCCxwnN6qy10FsCptHkkg==
Gov. Code 53060	Special services and advice - https://simbli.eboardsolutions.com/SU/7T7sFbIKV6re4lFp43jCg==
Gov. Code 814-895.8	Liability of public entities and public employees - https://simbli.eboardsolutions.com/SU/oDrUWB4B0SplusRs8Jx6ZmWGA==
Gov. Code 995-996.6	Defense of public employees - https://simbli.eboardsolutions.com/SU/3wdDqwwnYONWPBqypbUzBA==

Management Resources References

	Description
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 - https://simbli.eboardsolutions.com/SU/UdykszdmPETuDsishXk6R5akQ==
Website	State Bar of California - https://simbli.eboardsolutions.com/SU/HeXYVIVNHfX4izN0mRp2fg==
Website	California Council of School Attorneys - https://simbli.eboardsolutions.com/SU/esZp2XebReOtGosishZJmM3dA==
Website	CSBA - https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg==

Cross References

	Description
1160	Political Processes - https://simbli.eboardsolutions.com/SU/S8rslshxpyRihAt6o9sKKuY8A==

1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/CfApluscpXRIZplusQj2ImuhfqBA==
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/NaAoUplustL0gdMDg4YyrqkSQ==
1312.3-E PDF(1)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/CGtJ1bS0fJ2qqnQzzY5qbQ==
1312.3-E PDF(2)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/hYsgaF9LHjeplus4tInfVHZyg==
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/ilradJh510f82Bjhbu4vRw==
1340	Access To District Records - https://simbli.eboardsolutions.com/SU/zrxxplusFTeTpg8XDnadUSa6Q==
2121	Superintendent's Contract - https://simbli.eboardsolutions.com/SU/3jnAT52i7xoxtslshnloobqpg==
3311.2	Lease-Leaseback Contracts - https://simbli.eboardsolutions.com/SU/SRMO1ei7iuZfByZF9RVZ4A==
3312	Contracts - https://simbli.eboardsolutions.com/SU/RtEPentWF4fC8KdSsZuiQQ==
3400	Management Of District Assets/Accounts - https://simbli.eboardsolutions.com/SU/lquTQBiyMztolslshn5MKeW7w==
3400	Management Of District Assets/Accounts - https://simbli.eboardsolutions.com/SU/8TrCdaxJyMGDCoGDI8wO9g==
4312.1	Contracts - https://simbli.eboardsolutions.com/SU/ShpXl3Yv7zBIJplusQVkAdpg==
9000	Role Of The Board - https://simbli.eboardsolutions.com/SU/yCFHLIFLUDCtfgpluseQHTjg==
9200	Limits Of Board Member Authority - https://simbli.eboardsolutions.com/SU/0hKRSAtVLHUI2u41Y5PPKQ==
9260	Legal Protection - https://simbli.eboardsolutions.com/SU/gk7CBMGp6zZxp2Pk0Sx2Ag==
9321-E PDF(1)	Closed Session - https://simbli.eboardsolutions.com/SU/JouF3slshhdp1t8S6jR9jTrVg==
9321-E PDF(2)	Closed Session - https://simbli.eboardsolutions.com/SU/R7DIbSlsh4Z8zkiT8c3evrPAg==
9321	Closed Session - https://simbli.eboardsolutions.com/SU/eQxvTE4sunzJru8wB8gc1g==