The Board of Education 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) [2]
(cf. 3400 - Management of District Assets/Accounts) [3]
(cf. 4312.1 - Contracts) [4]
(cf. 9000 - Role of the Board) [5]
(cf. 9260 - Legal Protection) [6]

Duties of Legal Counsel

The district’s legal counsel may: (Education Code 35041.5) [7]

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, [General Counsel at the direction of] the Superintendent or designee shall [oversee the process of initiating a Request for Proposals (RFP)] initiate a Request for Proposals (RFP) to advertise and solicit proposals for legal services. In evaluating the proposals, the Board, and Superintendent, [and General Counsel] 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, and Superintendent, [and General Counsel] shall annually evaluate the performance of the firm and/or attorneys providing legal services 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 legal counsel without initiating an RFP. [Regardless of continued satisfactory evaluation, an RFP process shall be initiated at least every three years].

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) [8]

Contacting Legal Counsel

At his/her discretion, the Board president or Superintendent may confer with district legal counsel 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) [9]
(cf. 9321 - Closed Session Purposes and Agendas) [10]

Legal Reference:

EDUCATION CODE
35041 Administrative adviser [11]
35041.5 Legal counsel [7]
35161 Powers and duties of governing board [12]
35200-35214 Liabilities, especially: [13]
35204 Contract with attorney in private practice [14]
35205 Contract for legal services [15]

GOVERNMENT CODE
814-895.8 Liability of public entities and public employees [16]
995-996.6 Defense of public employees [17]
26520 Legal services to school districts [18]
53060 Special services and advice [19]

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

WEB SITES
CSBA: http://www.csba.org [20]
California Council of School Attorneys: http://www.csba.org/LegislationAndLegal/Legal/CaliforniaCouncilOfSchoolA... [21]
National School Boards Association: http://www.nsba.org [22]
State Bar of California: http://www.calbar.ca.gov [23]