

# MODESTO CITY SCHOOLS

## Board Bylaw

BB 9124

### BOARD OF EDUCATION

#### Attorney

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) – N/A*

*(cf. 3400 - Management of District Assets/Accounts)*

*(cf. 4312.1 - Contracts) – N/A*

*(cf. 9000 - Role of the Board)*

*(cf. 9260 - Legal Protection) – N/A*

#### 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

BB 9124(a)

**BOARD OF EDUCATION****Attorney**

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 and Superintendent shall ~~annually~~ evaluate, as necessary, 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.

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) – N/A*

**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.

→ Any Board member may a request of the Superintendent to confer with legal counsel on any issue. The Superintendent has discretion to forward the request to legal counsel without the consent of the majority of the Board. A Board member may also request the Board President confer with legal counsel.

**BB 9124(b)**

## **BOARD OF EDUCATION**

### **Attorney**

*(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. 2014*

##### **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>*

---

**ADOPTED:**