

OBTAINING LEGAL SERVICES

The Monterey County Board of Education (County Board) and the Monterey County Committee on School District Organization (County Committee) recognize that the complex legal environment in which they discharge their functions creates the need for sound and dependable legal services and advice. The County Board and the County Committee, with the help of the Monterey County Superintendent of Schools (County Superintendent), shall obtain the legal counsel as needed.

(cf. 3320 - Claims and Actions against the Monterey County Office of Education (MCOE)
(cf. 3400 - Management of MCOE Assets/Accounts)
(cf. 4312.1 - Contracts)
(cf. 9000 - Role of the Board)
(cf. 9260 - Legal Protection)

Government Code (GC) 53060 exempts contracts for legal services from the bidding requirements of the Public Contract Code. The County Board and the County Committee shall consider the individual's or firm'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 attorney must be admitted to practice law in California.

The County Board or County Committee may appoint an outside counsel in addition to a counsel engaged by Monterey County Office of Education (MCOE) to provide unrestricted, independent advice to the County Board or County Committee when:

- 1) MCOE's counsel has a conflict of interest;
- 2) MCOE's counsel has failed to render timely advice in a particular matter;
- 3) The services being sought are in addition to those usually and regularly obtained from MCOE's counsel; or
- 4) The County Board desires a second opinion.

The County Board may consult with the legal counsel whenever a majority of its members deem such consultation necessary. The County Board may consult with the legal counsel as a group or by authorizing a specific County Board member to consult with the legal counsel on behalf of the County Board. Individual County Board members other than the County Board president may not seek advice from MCOE legal counsel on matters of MCOE business unless so authorized by a majority of the County Board.

(cf. 9200 - Limits of Board Member Authority)
(cf. 9321 - Closed Session Purposes and Agendas)

For those occasions when legal assistance is needed for the County Board's or County Committee's official business before the County Board or County Committee can meet and act to grant authority, the County Superintendent, with approval of the County

Board President for County Board business or the approval of the County Committee Chair for County Committee business, shall obtain the needed legal service. In such cases the County Board or County Committee shall be informed as soon as feasible.

The annual MCOE budget shall contain funding for anticipated expenses of legal services.

Legal Reference:

EDUCATION CODE

1040 *Authority; county boards of education*
1042(d) *Additional powers; county board authority*
35041.5 *Legal counsel*
35160 *Authority; county boards of education*
35200-35214 *Liabilities*
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*
53060 *Authority to contract for legal and other services*

Adopted: 3/16/94

Revised: 8/2002; 08/21/13