

## CSBA Sample County Board Bylaw

### Bylaws of the Board

BB 9124

#### ATTORNEY

The County Board of Education recognizes that the complex legal environment in which it discharges its functions creates the need for sound and dependable legal services and advice. The Board shall arrange to obtain legal services and advice in accordance with law.

Note: Education Code 35041.5 requires the Board and the County Superintendent to appoint the same legal counsel. In a county office without a serving legal counsel the Board and the County Superintendent should work together in appointing and setting the compensation for a legal counsel, whether as an employee or as an independent contractor.

The Board and the County Superintendent shall together appoint a legal counsel and fix the compensation to be paid to the legal counsel. The legal counsel shall be admitted to practice law in California and shall not be required to have any certification qualification.

The duties of the legal counsel shall include: (Education Code 35041.5)

1. Rendering legal advice to the Board, the County Superintendent, and other officers and employees as appropriate;
2. Serving the Board and the County Superintendent in the preparation and conduct of litigation and administrative proceedings;
3. Performing other administrative duties as assigned by the Board or County Superintendent.

Note: In addition to the joint authority of the Board and County Superintendent to appoint a legal counsel, Education Code 1042 authorizes the Board to employ or contract with any qualified person to furnish the Board with special services and advice in legal matters. An example of a situation necessitating the use of this authority is where the legal counsel jointly appointed by the Board and County Superintendent determines that a conflict of interest would result if he/she were to represent or advise both the Board and the County Superintendent on a particular issue.

The Board may employ or contract with any qualified person for the provision to the Board of special services and advice in legal matters. The Board shall fix the compensation to be paid for

the special service or advice, and may pay such compensation from any available funds.  
(Education Code 1042)

Note: Though in practice individual Board members may seek clarification and guidance on issues affecting the operations of the Board, Board members should note that the legal counsel represents the Board and not individual Board members. Any advice or opinion given such individual Board members may therefore be shared with the whole Board and the County Superintendent.

The Board may consult with the legal counsel whenever a majority of its members deem such consultation necessary. The Board may consult with the legal counsel as a group or by authorizing a specific Board member to consult with the legal counsel on behalf of the Board.

Legal Reference:

EDUCATION CODE

1042 County boards: authority

1302 Increases of salary or bonus of employees by county superintendent of schools

35041.5 Legal counsel: Relieving duties of county counsel and district attorney

GOVERNMENT CODE

814-895.8 Liability of public entities and public employees

995-996.6 Defense of public employees

53060 Miscellaneous

(7/01) 11/01

Policy Reference UPDATE Service