

MANHEIM CENTRAL SCHOOL DISTRICT

SECTION: OPERATIONS

TITLE: LEGAL SERVICES

ADOPTED: August 24, 2004

REVISED:

820. LEGAL SERVICES	
1. Purpose	The purpose of this policy is to ensure that the school district obtains high quality, cost effective legal services, consistent with the Rules of Professional Conduct, which regulate the conduct of lawyers.
2. Authority SC 406 Title 204 Sec. 81.4 Department of Auditor General (Best Practices for School Districts to Follow When Procuring Legal Services, May 2004)	This policy shall apply to any lawyer or law firm appointed by the district to provide legal services, whether as general counsel/solicitor or special counsel. This policy does not apply to legal counsel appointed by an insurance company to defend the district against a claim covered under an insurance policy.
3. Guidelines	<p><u>Appointment of Legal Counsel</u></p> <p>Any legal counsel retained by the district must be appointed by the Board, after consideration of qualifications and with the goal of obtaining the highest quality, cost effective legal services.</p> <p><u>Engagement Letter or Contract</u></p> <p>Legal counsel will be engaged pursuant to the terms of an engagement letter or contract approved by the Board that specifies:</p> <ol style="list-style-type: none"> 1. The scope of services to be rendered (specific project or litigation, or annual engagement for a specific type of services). 2. The basis on which fees and costs will be calculated and charged to the district.

3. Professional liability insurance carried by legal counsel applicable to the services rendered (including name of insurance company, maximum individual claim and aggregate coverage limits, deductible per claim, any material exclusions, policy expiration date, and a commitment to provide a copy of the insurance policy on request).
4. Agreement to adhere to this policy on legal services.
5. Other appropriate terms.

All legal counsel engagement letters or contracts (except those applicable solely to a project expected to be completed within a short period of time) shall be updated and approved by the Board annually at the December reorganizing meeting.

Professional Liability Insurance

Subject to the right of the Board to approve exceptions, legal counsel is required to carry professional liability insurance coverage that generally conforms to the following:

1. Maximum individual claim and aggregate coverage limits shall be at least \$1,000,000 (for legal counsel engaged as bond issue or other financing transaction counsel, the amount shall be at least \$3,000,000).
2. The deductible per claim shall not exceed \$100,000.
3. The company providing the insurance shall be licensed by the Pennsylvania Department of Insurance and rated at least "A" from A.M. Best or another nationally recognized rating agency.

Legal Counsel Role

The role of district legal counsel is to:

1. Provide wise and effective counsel.
2. Provide proactive and preventive legal services.
3. Advise of legal requirements on matters on which consulted.
4. Advise on minimizing risks (legal, financial and other) on matters on which consulted.

5. Assist school officials in accomplishing objectives while complying with legal requirements.
6. Review or draft major contracts.
7. Vigorously prosecute and defend litigation, consistent with school district directions.
8. Provide regular updates concerning the status of legal matters on which representation is provided, and consult with and take direction from the district concerning strategy, options, and staffing, including consideration of the impact of different courses of action on likely success, impacts on individuals affected, and cost.
9. Provide value to the district, including: (a) saving Board and administrator time in dealing with legal issues; (b) preventing legal compliance mistakes that could lead to district embarrassment, liability and expense; (c) producing monetary benefits in excess of legal fees; and (d) enhancing the district reputation.
10. In so doing, do the following: (a) be ethical; (b) be creative; (c) be practical; (d) be inquisitive; (e) be determined; (f) be well informed and well prepared; (g) understand the school community; (h) incorporate in legal advice consideration of business, education, and individual impact; (i) provide judgment and problem-solving experience; (j) maintain professional independence; (k) show concern about school district, School Board, school officials, employees, students, and others; (l) make the Board/administration feel comfortable and confident in addressing legal issues; and (m) be a part of Board/administration team.
11. In so doing, refrain from: (a) being unnecessarily combative; or (b) making or recommending decisions that are purely non-legal policy decisions.
12. Attend School Board or committee meetings or executive sessions on request.

Legal Counsel Selection

1. Initial legal counsel engagement is by Board appointment, coordinated and recommended by the Superintendent, Business Administrator, or another appropriate school official.

<p>Auditor General Report, page 5</p>	<p>2. Prior to engagement, prospective legal counsel will be required to provide background information, including: (a) expertise in the area for which engaged; (b) unique accomplishments/examples of excellence; (c) legal service philosophy/guiding principles; (d) responsiveness and availability for Board meetings; (e) resumes of lawyers expected to provide services; (f) proactive services provided; (g) other clients/references; (h) other appropriate information; and (i) proposed engagement letter or contract.</p> <p><u>Criteria for Legal Counsel Recommendation and Approval</u></p> <p>The primary criteria in selecting legal counsel will be the provision of highest quality and cost effective services.</p> <p>1. In determining the provision of highest quality services, the Board will focus on: (a) expertise in the area for which engaged; (b) unique accomplishments/examples of excellence; (c) legal service philosophy/guiding principles; (d) responsiveness; (e) background of lawyers expected to provide services; (f) proactive services provided; (g) prior services provided to the district and other clients/references; and (h) other appropriate information.</p> <p>2. In determining the provision of cost effective services, the Board will focus on: (a) reasonableness of total fee charges in relation to services rendered and results produced; and (b) efforts or procedures to minimize overall costs by providing proactive or preventive services, recommending procedures that reduce lawyer or administrator time spent on legal matters, use of paralegals where appropriate, focusing on the critical path to resolve issues in the most efficient manner possible, collaborating with other lawyers in the same firm to avoid duplication of work and provide best possible advice in the most efficient manner, and spreading costs on common issues among multiple clients.</p> <p><u>District General Counsel/Solicitor</u></p> <p>The following special provisions apply to the district general counsel/solicitor:</p> <p>1. The district general counsel/solicitor shall have expertise in all relevant areas, including the following (except where special counsel is retained for specified areas):</p> <ul style="list-style-type: none">• School Code and all related state and federal statutes and regulations affecting school districts.• No Child Left Behind Act (or comparable comprehensive federal education statutes).• Employment and personnel matters.
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<p>65 Pa. C.S.A. 1101 et seq</p>	<ul style="list-style-type: none">• Labor negotiations and related labor law issues.• Student discipline, expulsion, and other student matters.• Religion in public schools.• Free speech and other state and federal constitutional law issues.• Americans with Disabilities Act and other state and federal laws relating to discrimination and accommodation in public schools.• School finance, taxes, and tax collection systems.• School construction projects.• Sunshine Law.• Right-to-Know Law.• Ethics Act.• Intergovernmental cooperation.• Real estate and environmental matters.• Superintendent, Business Administrator, and administrator contracts.• General contract, bidding, and procurement issues.• Litigation, including general, construction, student, tax litigation, and tax assessment appeals.• Labor arbitrations.• Special education. <p>2. The district general counsel/solicitor shall be the primary source for legal services to the school district and shall provide legal services in all areas, except as assigned to other special counsel.</p> <p>3. When special counsel is required or appropriate, the district general counsel/solicitor shall on request provide recommendations or alternatives for special legal counsel.</p> <p>4. The district general counsel/solicitor shall be required to file a statement of financial interests on or before May 1 of each year, pursuant to the Public Official and Employee Ethics Act.</p> <p><u>Special Counsel</u></p> <p>The district will retain special counsel when district general counsel/solicitor has a conflict of interest or when it is determined that the best interests of the district require special counsel due to need for special expertise, geographic location of legal proceedings, other reasons recommended by district general counsel/solicitor, or other reasons as determined by the School Board.</p>
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<p>4. Delegation of Responsibility</p>	<p><u>Periodic Evaluation and Appointment of Legal Counsel</u></p> <ol style="list-style-type: none">1. The Superintendent (in consultation with the Business Administrator and other appropriate school officials) shall periodically review legal services and make a recommendation for reappointment of previously appointed legal counsel, or consideration of the possible selection of alternate or additional legal counsel.2. The periodic legal counsel review should include: (a) evaluation of the legal counsel performance according to a procedure appropriate in relation to the services rendered; (b) input from other administrators and Board members as appropriate; and (c) request from legal counsel for an updated engagement letter. If the evaluation process results in areas of concern, a meeting should be held with legal counsel to discuss areas of concern. If significant concerns remain, the administration will start a process for consideration of alternate counsel through RFPs, interviews, or other appropriate means. <p><u>Coordination and Direction of Legal Services</u></p> <ol style="list-style-type: none">1. The school district is the client of a lawyer providing legal services to the district. Accordingly, in providing services, a lawyer has responsibility to consider the interests of the school district as an entity and all constituents including the School Board, school administrators, school employees, and district residents and taxpayers.2. The Superintendent and Business Administrator shall be responsible for coordinating and overseeing legal services provided to the district, and shall generally be the primary contact with legal counsel. However, legal counsel is ultimately responsible to, and in the case of any conflict takes direction from, the School Board as the governing body of the school district.3. The Superintendent, Business Administrator, and School Board President (or other school official designated by the School Board) have authority to contact legal counsel for consultation or to request services. Building principals and other administrators may request services from legal counsel after approval from one of the named officials or where circumstances require immediate advice.4. Except for general counsel/solicitor advice on new legal developments that impact or require district action, legal counsel shall not perform services except as requested by the School Board or an authorized school official.
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Legal Fees and Other Charges

1. Except for bond issues, other financing transactions, and other matters as specifically agreed, legal counsel will render monthly bills for services and costs. Periodic bills should: (a) clearly identify each attorney or non-attorney staff person (timekeeper) performing the services for each entry; (b) indicate the amount of time expended by each timekeeper (broken down by task if working on more than one matter); (c) provide sufficient detail to readily allow the district to determine the necessity for and reasonableness of the time expended and the services performed; (d) in summary form, indicate the current hourly rate of each timekeeper, the total time billed by each timekeeper, the product of the total time and hourly rate for each timekeeper, and the total fee charged; and (e) provide a separate section detailing the expenses associated with the legal services and billed to the district. Legal counsel shall provide prior notice of increases in hourly rates of timekeepers expected to perform work for the district.
2. Legal counsel may charge for expenses incurred in connection with legal representation. Such expenses may include, but are not limited to, court filing fees, stenographer and transcript costs, investigation expenses, expert fees and expenses, long distance telephone charges, photocopying expenses, messenger services, process service fees, computer research expense (in excess of flat rate paid by the firm), and travel expense. The district shall not be billed for overhead or general administrative costs (including such things as rent, electricity, local telephone charges, secretarial or clerical services, secretarial or clerical overtime not approved in advance by the district, charges for word processing, or time spent preparing bills).
3. The Business Administrator or designee is responsible for review of all periodic or transaction legal bills.
4. Review of reasonableness involves determination whether the amount charged for each item is appropriate considering: (a) the issues involved; (b) the time that was and should have been required; (c) the nature of service provided; (d) the quality of service provided; and (e) the result produced. Review of legal bills should also include a review to determine if any of the charges might be covered by errors and omissions insurance.
5. If the Business Administrator or designee has questions after review of legal bills, the Business Administrator should discuss the questions with legal counsel.
6. The district may disallow, in whole or in part, any charges that are unsupported, not reasonable or cost effective, or do not conform with this policy.

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| | <p>7. Legal counsel shall maintain and retain for three (3) years adequate documentation to support all aspects of each legal bill, including fees and expenses. Such documentation will be provided to the district on request.</p> |
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