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**FRESNO COUNTY BOARD OF EDUCATION**

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**Board Bylaws  
ATTORNEY**

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

The County Superintendent shall appoint 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. (Education Code 35041.5.)

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

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

The County Board may employ or contract with any qualified legal counsel other than in-house legal counsel for the provision to the County Board of special services and advice in legal matters in any of the following situations (Education Code 1042; 86 Ops.Cal.Atty.Gen. 57):

1. When in-house legal counsel has a conflict of interest or has failed to render timely advice in a particular manner.
2. The services being sought by the County Board are in addition to those usually, ordinarily, and regularly obtained from in-house legal counsel.
3. The County Board desires to obtain a second legal opinion from that provided by in-house legal counsel in a particular matter.

In such situations, the County 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.)

The County Board may consult with the legal counsel on matters affecting the County Board 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.

Adopted: 10/20/2011

Amended: 11/15/2018

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**Legal Reference**

Education Code

1042 County boards; authority

35041.5 Legal counsel

Government Code

814-895.8 Liability of public entities and public employees

995-996.6 Defense of public employees

53060 Contracting with persons for special services

Attorney General Opinions

86 Ops.Cal.Atty.Gen. 57 (2003)

**Management Resources**

Websites

California County Boards of Education: <http://www.theccbce.org>

California County Superintendents Educational Services Association: <http://ccsesa.org>

Education Legal Alliance: <http://www.csba.org/Advocacy/EducationLegalAlliance.aspx>