

REGULATION

MONTGOMERY COUNTY PUBLIC SCHOOLS

Related Entries: BOA, BOA-EA
Responsible Office: Superintendent of Schools
Chief Operating Officer

Management of Legal Services

I. PURPOSE

To define the nature and scope of a legal services management system and the roles and responsibilities of school system staff members; and to establish procedures for: (1) contracting with outside counsel pursuant to the policy and the selection process established by the Board; (2) appraisal of legal services; and (3) cost control, reference, recordkeeping, and reporting functions

II. BACKGROUND

The purposes of a management system for legal services are threefold: (1) to ensure a continuing high quality of legal counsel and representation for the school system in a cost-effective manner; (2) to achieve stability and predictability in the cost of legal services; and (3) to provide prompt access by the Board of Education, the superintendent, and school system managers to legal opinions and judicial or quasi-judicial decisions.

Legal services management includes all internal matters relating to legal services for the school system. It comprises a process for the selection and approval of new outside counsel; budgeting and renewal of contracts for services; standardizing and monitoring billing practices of retained counsel; and periodic systematic appraisal of legal services. It includes a process for authorizing direct access of certain members of the superintendent's staff to retain counsel; a centralized reference and reporting system for efficient retrieval of legal opinions, decisions, and reports provided to the school system; a recordkeeping system; a quality and cost control capability; and cost analysis to provide information on the services requested and their cost.

III. DEFINITION

The term legal service includes any advice, counsel, or representation provided to the Board of Education and the superintendent (or the superintendent's designees) by an attorney who has been admitted to practice before the Maryland Court of Appeals (or before an equivalent

court in another jurisdiction of the United States, when appropriate) or by any member of the attorney's firm as authorized by the attorney.

IV. PROCEDURES

A. Selection and Approval of Outside Counsel

In consultation with the Board of Education, and in cooperation with the Board office, the chief operating officer will:

1. Manage the process of selection and approval of new outside counsel
2. Initiate contractual agreements with counsel, including the following:
 - a) Negotiating each attorney's fee schedule
 - b) Notifying those attorneys whom the Board will continue to retain, by letter as of June 1 biennially, of the Board's intent to renew its Agreement
 - c) Initiating agreements with newly selected and approved attorneys for formal Board approval, on or about July 1

B. Role of the General Counsel to the Board of Education of Montgomery County

In all legal matters referred by the Board, the superintendent, or other authorized administrators of the school system, the general counsel will be responsible for the following:

1. Working cooperatively with the Board, the superintendent and staff, and with other counsel to:
 - a) Assure consistency of legal position
 - b) Avoid duplication of cost and effort
 - c) Oversee assignment of matters to legal service providers (except for matters concerning Special Education)
 - d) Generally ensure that the school system is receiving high quality legal service at reasonable cost and provide periodic assessment to the superintendent, Board of Education, and attorneys

2. Working closely with appropriate school staff members and administrators in preparing opinions, administrative appeals, grievances, and other matters, and keeping the Board, superintendent, and appropriate staff members advised about all pending matters being handled for the school system
3. Providing the following services:
 - a) Consultation with the Board, the superintendent, and appropriate administrative staff members on strategies and alternative courses of action
 - b) Advice to the superintendent and the Board of Education about obtaining any final authorization that may be needed before instituting any legal action
 - c) Notification to the superintendent and Board when a legal matter has significant policy or administrative implications, with appropriate recommendations
 - d) Supervision of all matters being handled for the school system or, when appropriate, delegation to other qualified firm attorneys and legal assistants whose rates may be lower in an effort to reduce legal costs to the school system

C. Role of the Chief Operating Officer and MCPS Managers

1. Planning for Use and Budgeting of Legal Services

Program managers shall be responsible for projecting the annual needs of his/her office for legal services. The chief operating officer will prepare a budget that reflects legal services needs. Input will be sought from program managers and the ombudsman/staff assistant.

The chief operating officer shall be responsible for coordinating the following functions on behalf of the Board of Education and at the direction of the superintendent:

- a) Managing the selection and approval process for counsel
- b) Managing the renewal of agreements with attorneys by June 1 biennially

- c) Reviewing briefs, legal memoranda, or legal correspondence prepared for the Board and/or the superintendent and recommending changes

2. Contacting Attorneys

- a) Authorized persons

In addition to the superintendent, the executive staff members or their designees, are authorized to contact attorneys. All other MCPS staff members must request authorization from the chief operating officer.

- b) Approved Attorneys

When acting as agents of the school system, MCPS staff members may contact only those attorneys who have been selected and approved by the Board of Education. However, in an unusual situation, the chief operating officer may authorize contacting another attorney.

- c) Verification of Invoices

Account managers are required to verify the entry for such services when the attorney submits a detailed invoice.

- d) Budget Control

The chief operating officer monitors expenditures on a monthly basis. All invoices are sent out by the Office of the Chief Operating Officer for program managers to review and approve prior to payment.

Each designated program manager shall be responsible for monitoring and controlling the costs for legal services used within his/her office.

- e) Appraisal of Legal Services

The quality of legal service will be assessed periodically.

D. Fiscal Management

The chief operating officer will be responsible for the following activities:

1) Budgeting

Consolidating budget requests, supplying justification and supporting documents, and monitoring costs in comparison with the budget on a monthly and annual schedule

2) Reviewing Expenditures

Receiving and reviewing invoices, discussing charges with attorneys where appropriate, and managing the verification process

3) Meeting quarterly with general counsel, chief of staff, and the deputy superintendents to review ongoing cases that have system implications and/or major expense; and require direction be provided to general counsel

4) Reporting

Preparing an analysis of financial reports, including monthly legal fees report to the Board of Education

Regulation History: New Regulation, October 26, 1988; revised February 24, 2005.