

### Legal Assistance

The State Board or individual State Board members may request legal opinions from the Attorney General and/or the General Counsel's Office by forwarding their request to the Commissioner. The Commissioner is responsible for preparing the question and necessary background information and forwarding the question to the Attorney General and/or General Counsel. The Commissioner shall provide all Board members with copies of the request. Any written opinion provided by the Attorney General or General Counsel's Office as a result of a question by any Board member shall be provided by the Commissioner to all of the members of the Board.

This policy does not restrict individual Board members from directly requesting an Attorney General's opinion, but they should, as a courtesy, provide copies of such requests to the other Board members and Commissioner.

The General Counsel's Office represents the Department and not individual Board members or staff members. The General Counsel or one of his or her assistant attorneys shall serve as legal advisor to the Board and Commissioner at State Board meetings. When the General Counsel's Office will be representing the Commissioner of Education in a contested case in which the Board is the decision maker, the Commissioner will notify the Board President and Attorney General, so that the Board may secure alternate legal representation from the Attorney General's Office or another source approved by the Attorney General.

The primary role of the General Counsel's Office shall be to provide day-to-day legal assistance to the Department, including the Board, Commissioner and staff. The Commissioner and General Counsel are responsible for making certain that the Board is fully informed of all pending legal matters and legal issues affecting the Department.

Individual Board members may obtain general legal information directly from the General Counsel's Office. The Commissioner will be kept informed of the essence of conversations between Board members and General Counsel's staff, except when such staff is representing the Board in a contested case in which the Commissioner is party, or as otherwise directed by the Board. When requested, the General Counsel's Office will outline the strongest legal arguments on each side of an issue before the Board for any Board member.

Board Action History

- 12/10/76 – Prior LDCC  
(Attorney General Relations)
- 12/7/84 – Prior 9125 BOP  
(Renumbered LDCC, text unchanged.)
- 12/8/95 – Prior B4  
(Complete revision, adding details about Attorney General opinion requests and role of Agency Legal Counsel's Office.)
- 5/12/00 – Prior B4  
(Added additional details about Attorney General opinion requests.)
- 9/7/06 – B4  
(Replaced Agency Legal Counsel title with General Counsel.)

Cross-References

- 84-205 – Attorney General Opinions.