

SAN DIEGO UNIFIED SCHOOL DISTRICT
Legal Services

GUIDELINES GOVERNING RELATIONSHIP
WITH OUTSIDE COUNSEL

These guidelines reflect the practices and procedures governing the relationship between SAN DIEGO UNIFIED SCHOOL DISTRICT ("District") and the various attorneys and law firms retained from time to time to represent the District for litigation or other legal services.

The growing complexity of legal services is becoming ever more burdensome and costly. These written guidelines will assist more efficient and cost effective handling of these matters.

CONFIDENTIALITY

In the course of performing services for District, you may have access to confidential, commercial or personal information concerning the practices of District and its employees. We ask that you respect the confidentiality of such information, whether or not such information is subject to the attorney client privilege, and ask that you do not disclose any such information unless you receive prior approval from District or unless required to by subpoena or other legal process. Please notify the District Legal Services Office ("General Counsel") as soon as possible upon receipt of any such subpoena or other legal process.

CONFLICTS

Please notify the General Counsel immediately if you identify any actual or potential conflicts of interest.

NO CONTACTS WITH EMPLOYEES

Please do not contact District employees, other than the General Counsel, and/or the Risk Manager without notification and approval from the Risk Manager. It can be disruptive and often the employees are unsure who you represent or how to respond. If you wish to communicate with a District employee, contact the Risk Manager or his/her designee regarding the matter to discuss and the purpose of the contact. That office will coordinate any necessary meetings.

MEDIA INQUIRIES

Outside counsel may work on District related matters that are of interest to the media, legal profession, or general public. The District employs a communications department, which has responsibility for responding to such inquiries. Outside counsel is not authorized to respond to the media or public on District's behalf without prior specific authorization from the General Counsel or a member of District's communications department. Any requests for information should be referred to our office. Additionally, this office asks you to advise it in advance of any developments or action in District matters in which you are involved that may be newsworthy or create public interest or publicity. We recognize that, from time-to-time, your work for District may be of interest to the legal profession, or the subject of an article, presentation or speech by outside counsel to a professional audience. This office asks that all such opportunities be discussed thoroughly with General Counsel or his/her designee prior to writing about or discussing any District related matters.

LEGAL PERSONNEL

While the General Counsel expects and encourages outside counsel to use its personnel in the most cost-efficient manner appropriate to their expertise, the General Counsel expects outside counsel to be personally involved and thoroughly informed as to its status. In addition, this office expects outside counsel to identify at the outset of the engagement, and on an on-going basis, who will be handling the various aspects of the matter or case, including research, negotiations, drafting, minor and major motions, depositions, and trials. There should be no changes in such personnel assignments, or duration of assignments, without further discussions and agreements.

In connection with the execution and return of the attached receipt and acknowledgment, please attach a current list of lawyers who will be working on District matters along with their current billing rates. Billing rates may not increase without written consent from the General Counsel.

STAFFING AT NEGOTIATIONS, HEARINGS, CLOSINGS, DEPOSITIONS, etc.

The General Counsel expects that normally only one attorney will attend negotiations, hearings, trials, closings, depositions, meetings, etc. This office recognizes that unusual circumstances may arise that require additional staffing. We request that outside counsel use discretion in those circumstances in determining whether additional staff is needed. If you have any questions regarding staffing, please contact General Counsel. This office also believes that quality of service can be damaged by a lack of continuity on a matter. We believe it is best to concentrate knowledge on a case. Secondly, we request that a "team" of not more than three (3) individuals, including partners, associates and

paralegals work on any one matter. On complex matters, which require additional personnel or specialists, outside counsel is required to obtain prior approval from General Counsel before adding someone to the team.

STRATEGIC PLANNING

It is necessary to develop plans, at the outset, for the handling of any matter, rather than simply reacting to events as they occur. The General Counsel, outside counsel, the Risk Manager and the third party administrator ("TPA") should consider various alternative strategies, adopt the one best suited to the District's needs and then mutually reassess the selected strategy in the light of changing circumstances.

RESEARCH

The General Counsel may from time to time request a copy of each memorandum of legal research prepared by outside counsel.

ALTERNATE DISPUTE RESOLUTION

At the inception, as well as at all later stages of litigation, the pros and cons of settlement should be considered by the General Counsel or his/her assigned designee, outside counsel, the Risk Manager or his/her assigned designee and the TPA, taking into account the economics of settlement versus the most probable litigated outcome.

LITIGATION PLAN AND BUDGET

On all matters in excess of U.S. \$75,000.00 in controversy, or in which you anticipate over U.S. \$75,000.00 in fees and/or permanent disability expenditures, regardless of the amount in controversy, please prepare a litigation plan which describes what you believe to be the key legal and factual issues in

the case and how you intend to address them (e.g., where key evidence is likely to be found and what dispositive motions may be appropriate). The plan should include a description of the over-all approach you recommend. Based on your plan, please prepare a budget for the litigation showing:

- A. Anticipated motions;
- B. Number of expected witness depositions and anticipated costs (including preparation and travel costs for witnesses not in the jurisdiction);
- C. Number and type of expert witnesses and anticipated costs;
- D. Additional discovery costs if an extraordinary number of documents are involved;
- E. Witness interviews and other informal discovery;
- F. Extraordinary research costs if the case or an issue involve matters of first impression or our theory is unique or contrary to existing case law; and
- G. Trial costs including staffing at trial, jury selection, trial time and trial briefs.

Please deliver your plan and budget within thirty (30) days of your engagement on a particular matter.

We recognize that the vagaries of litigation and the petulance of opposing counsel may conspire to destroy any litigation plan or budget. As a result, the plan and budget should be reviewed from time to time and adjusted in accordance with your discussions with the General Counsel, the Risk Manager and the TPA.

SETTLEMENT

Once you have prepared a plan and budget, please give General Counsel or his/her assigned designee, the Risk Manager and/or his/her assigned designee and the TPA, your view of what you think a reasonable settlement of

the case would be at its outset, taking into account your analysis of the likelihood of success on the merits and the potential cost to achieve that result. If you come to believe at any point that settlement is advisable or that settlement discussion would be fruitful, you must inform the above parties immediately.

PROFESSIONAL CONDUCT

This office has selected outside counsel because it believes outside counsel has the necessary experience and qualifications to ably represent District's interests, and the demeanor to represent District before the courts, administrative bodies, and legal profession. District counsel asks that outside counsel behave in a civil and professional manner in all dealings so as not to detract from the District's image and reputation. If you believe opposing counsel is acting unreasonably with respect to such matters as discovery and scheduling, please discuss the situation with General Counsel or his/her assigned designee to avoid time-consuming, expensive, acrimonious, and unproductive exchanges of correspondence and motions.

APPORTIONING TIME

When an attorney performs work on a District matter at the same time as one or more other matters, District should be billed only for the proportionate time spent on the District matter.

BILLING PREPARATION TIME

Time spent preparing invoices or in negotiating billing disputes is not compensable.

BILLING

- A. Frequency. Separate bills should be prepared for each case or matter, which your firm handles on behalf of District. Billing should be submitted on a monthly basis in accordance with the following Billing Guidelines, and within sixty (60) days of completion of the billed services.
- B. Stale charges. This office will reject any charges for attorney time more than 90 days old. While we can understand certain costs for third party services cannot be posted properly, there is no excuse for delays in posted professional time.
- C. Time Increments. Hours of work performed shall be divided into segments no greater than .1 hour.
- D. Details. All billings should be organized in descending order per the TPA requirements to include but not limited to the total number of fees/costs billed for the period and should be accompanied by a description of work done, the time spent by each partner, associate and paralegal on each activity, the hourly charges for each, and a brief itemization of out-of-pocket disbursements.
- E. Cumulative Total By Case. Each case billing should also state the cumulative total of attorney and paralegal hours worked to date for each matter. This is an important piece of information to the District, and bills without this information will not be processed for payment. All bills shall be sent to the TPA for review with copies to the Legal Services Office. Should a dispute arise between the TPA and outside counsel concerning a billing issue, outside counsel shall notify the General Counsel in writing.

- Such dispute will be reviewed by the General Counsel and the Risk Manager and a final determination shall be made as to the disposition of the dispute.
- F. In the instance where outside counsel is handling more than two cases for the District, outside counsel must, with respect to each case, submit a separate letter to the TPA, copying the Legal Services Office, briefly describing what work has been accomplished within the billing period and the total fees/costs for the billing period.
 - G. Time entries must accurately describe the work done, e.g., "considered" or "analyzed" does not accurately describe a conference between lawyers.
 - H. Segregation. Each case or project should be separately billed and identified.
 - I. Photocopying. The District will pay for the actual cost of photocopying provided by or incurred by outside counsel, not to exceed ten (10) cents per page. All invoices must include the number of copies made and charge per copy.
 - J. Facsimiles. The District will pay for the actual cost of telefaxing charged to outside counsel by your telecommunication provider. The District will not pay a per page fee for sending or receiving telefaxes.
 - K. Telephone Charges. The District will pay for long distance telephone charges, but will not pay for local telephone charges.
 - L. Delivery Services. This office expects that the use of messenger and expedited mail services (e.g. Federal Express, Airborne Express, UPS, etc.) will only be used in exceptional circumstances. When a messenger

- is necessary, this office requires you to use your firm's in-house messenger whenever possible, and at no charge to District counsel. An outside messenger service should be used as a last resort, in which case this office will pay the actual charge for the outside messenger service.
- M. Computer Assisted Research. The District will not pay for computer assisted research unless specifically agreed to in writing and then will not pay for any mark-up. Should this be the case, the District will pay only for the actual cost of computer assisted research. In light of the added expense in using Lexis-Nexis, Westlaw and similar services, this office expects you to use these services judiciously.
- N. Court Costs. The District will reimburse for expenses incurred, but will not be responsible for sanctions or penalties imposed by a court due to the conduct of your firm.
- O. No Lumping of Tasks. Each task performance has its own time entry. The District will not pay for multiple tasks under one entry.

EXPENSE ESTIMATES

For internal control purposes, it is necessary for us to make estimates of current and future costs of all legal services. In most instances this can best be accomplished by discussion with the outside counsel involved, taking into account the then existing strategic plans for the matter, its staffing and the expected workload. When we ask for a forecast we are seeking the best and most accurate current judgment of District counsel and outside counsel, without some additional "factor of safety" added thereto. No project with a cost in excess of \$2,000 should be undertaken without the prior consent of this office.

STATUS MEETINGS/ REPORTS

On at least a quarterly basis, status meetings will be held between outside counsel, General Counsel, Risk Management and the TPA as to the status of selected matters for which outside counsel are engaged. The content of each review shall be collaboratively developed between all involved parties based upon the issues or exposures present in the active cases at the time of the meeting.

On at least a monthly basis, outside counsel should provide a report to General Counsel, with copies to the TPA, as to the status of all matters for which outside counsel are engaged where the anticipated permanent disability exposure is approaching or is in excess of US \$75,000.

TRAVEL

The San Diego Unified School District is a public entity using taxpayer dollars towards the education of our children. The District will pay reasonable travel expenses with prior approval. Therefore, outside counsel should seek the most economical means of travel practicable. Domestic air travel is to be booked at coach rates. International flights may be booked at business class rates depending on the length of travel. To avoid billing the District for unproductive time, this office requests that outside counsel plan travel so that it may work on the matter for which travel is being incurred.

OVERHEAD ITEMS

Telephone equipment, word processing equipment, and support staff services are considered overhead and are not to be included as expense items. The District will not pay for activities that are customarily handled by clerical

personnel, such as copying documents, scheduling depositions, and creating and organizing files, even if those services are performed by a lawyer or paralegal. These are considered overhead items and should not be billed. The District will pay for secretarial and clerical overtime when the nature of the assignment requires overtime or the expense is caused by District.

We have enjoyed excellent relationships with outside counsel for many years and are confident that these guidelines will enhance these relationships. Their central theme is increased communication and discussion between the General Counsel and outside counsel, and the working together of a team, all to the end of providing continued high quality and efficient legal services to the District.

Date:

Attn: Outside Counsel

Re: Receipt and Acknowledgment of Guidelines Governing Relationship With Outside Counsel

This will acknowledge, on behalf of the undersigned law firm, that we have received and reviewed the Guidelines Governing Relationship With Outside Counsel. We know of no reason why our firm cannot comply with the Guidelines, and accept their terms as a condition of the District agreeing to engage us as counsel.

A copy of our current billing rates, and names of all attorneys and paralegals that will work on any matter(s), as set forth in the agreement, is attached. We agree to provide you with a thirty-day (30) advance written notice of a change in attorneys or any applicable billing rate.

If we become aware of any conflict, or of any reason why we cannot comply with the Guidelines, we agree to bring it to your immediate attention.

By: _____

Its: _____