



SAN DIEGO COMMUNITY COLLEGE DISTRICT

Procedure
2003.1

February 14, 1996

LEGAL SERVICES

This procedure details the legal services provided to the District by San Diego County Counsel under a contractual arrangement. It authorizes to District staff the necessary counsel, advice, and representation relating to the official business of the District and prescribes the channels through which the service is administered.

FUNCTION

1. Advice and Counsel
Understanding the concept of advice is dependent upon understanding a distinction between management decision and legal counsel/advice.
 - a. Management decision is primarily the selection of one course of action from among the options available. It is a subjective decision resulting from the use and evaluation of information.
 - b. Legal counsel/advice are more objective evaluations measuring potential courses of action against the authorizations and the constraints of law.
 - c. The distinction and the interrelationship between management decision and legal counsel/advice is not always clear. However, all District managers should strive to use the elements of advice and counsel as a resource in the decision making process and not as the decision-maker.
2. Representation is provided for the interests of the District as a public entity and for individual District employees/officers. Representation for individual employees/officers is limited to matters arising within the scope of their employment. In this circumstance the individual interest is construed to be an extension and a part of the interest of the District. The District therefore reserves the prerogative to pursue or not pursue an issue and to effect settlement at any time.
3. Litigation (to contest through judicial proceedings) is a facet of representation. It involves the District as broadly defined above (Paragraph 2). When the District interest is involved in litigation, staff responsibility concerning review, evaluation, recommendation and the exercise of administrative prerogatives are delegated to the Assistant Chancellor - Human Resources and Administrative Services. Administrative prerogatives include all prerogatives not reserved to the Board by policy or law.
4. "Legal Process" includes subpoenas, writs or orders of any kind issued by a court of competent jurisdiction. Legal process may be accepted for the District

only by the President of the Board, the Chancellor, and the Assistant Chancellor - Human Resources and Administrative Services. An individual District employee may be served legal process as an individual in his own right or as a named individual concurrent with service to the District. However, service on the District as a public entity must be served on one of the officers listed above.

- a. If a named individual is served and the District interest is involved (See Paragraph 2 above), contact Legal Counsel as directed by paragraph under REGULATION below.
- b. If legal process is served for the purpose of providing information from or copies of student records, see Procedure 3001.1, STUDENT RECORDS, RELEASE, CORRECTIONS AND CHALLENGE.

REGULATION

1. Direct contact for legal service is authorized for:

Chancellor Presidents and Assistant Chancellors
Legal Services Manager

In emergency only:
Docket and Support Services Supervisor
Board Recording Secretary

2. All other requests for legal service shall be authorized through the employees' authority line by the appropriate official listed in Paragraph 1 above.

IMPLEMENTATION

1. Legal service is generally sought by management decision levels. Informal, verbal, or written contact is encouraged between the Presidents, Assistant Chancellors, and the technical specialists authorized in the section above under REGULATION and the District's legal counsel.
 - a. A telephone call may be used to secure routine information such as a "yes" or "no" answer or to authorize a subordinate to contact legal counsel concerning a particular problem.
 - b. A personal visit to legal counsel may be required to discuss complex matters (an appointment is required).
 - c. A formal request for a legal opinion should be used when the issues involved will become or could become a part of the official documentation of District Business. Use SDCCD Form 2003.1 (Attachment 1).
2. Contract approval as to form and legality (required prior to execution).
 - a. Must be sent to legal counsel with a request for approval as to form and legality. Use SDCCD Form 2003.1a (Attachment 2).
 - b. Contracts may be returned without action if they contain omissions or errors; e.g., blanks not filled in, inconsistent dates, etc.
 - c. When you believe the contract will be or has been repeatedly used, in its essential form, it will be to the District's advantage to indicate this on the SDCCD form 2003.1a. Also, forward to County Counsel a copy of any similar and previously approved contracts/agreements. County Counsel

may then prepare a standard-form contract. Contracts prepared in standard form will receive more rapid review and approval.

FORMS/REFERENCES

SDCCD Form 2003.1, REQUEST FOR LEGAL SERVICE

SDCCD Form 2003.1a, REQUEST FOR REVIEW OF CONTRACT/AGREEMENT

SDCCD Policy 1001.32

(Forms are stocked and issued by LEGAL SERVICES.)

SUPERSEDES:

Procedure 2003.1, 12/2/85