

PENN MANOR SCHOOL DISTRICT

BOARD OPERATIONS GUIDELINE

APPROVED: January 18, 2011

REVISED:

005-BOG-2. SOLICITOR SERVICES

Procuring high quality, cost-effective legal representation is a Board responsibility. These guidelines are established for retaining and monitoring legal services to provide the Board with greater control and input over the legal services rendered and the funds being spent.

The district will determine the duties and scope of the services to be performed by the solicitor and the appropriate fee to be paid.

The district will discuss with the solicitor an appropriate process for providing information to the media.

Retaining Counsel

The initial legal service engagement is a Board process and decision, coordinated by the Superintendent or designee. Thereafter, the current solicitor may be appointed annually, unless the Board seeks a new solicitor.

The Board will use a Request For Proposal (RFP) procedure that is advertised and solicits detailed responses to such inquiries as:

1. Background and experience in education law.
2. Experience advising or representing school districts.
3. Fees, including amounts charged to other school districts over the prior two (2) years.
4. Resumés of attorneys at the firm who will provide legal services to the district.

Prospective individuals and firm must submit a completed questionnaire.

The Board or a Board committee and designated administrators will interview the top candidates.

Attorneys engaged for specialized services generally will be retained in accordance with the established process, except that attorneys previously used for similar services may be retained without completing this procedure.

Attorneys may be retained when an emergency requires circumvention of this process.

Insurance defense counsel will be appointed to represent the district on occasion without completion of this procedure.

District Contact Of Solicitor

The process for contacting the district solicitor will be as follows:

1. The Superintendent will be the official contact person for solicitor services regarding district business.
2. The Board may authorize the Board President to contact the solicitor on matters it deems appropriate. The Superintendent will be informed of such contacts.
3. The Board President may contact the solicitor on matters pertaining to the employment contract and performance of the Superintendent.
4. No Board members shall contact the solicitor on any matter of school business without authorization by official Board action or approval from the Superintendent.
5. No other individual or employee will contact the solicitor and obligate the district for charges that may accumulate.

Fees

The solicitor will submit in writing to the district a clear and understandable explanation of fees and provide notice to the district when the fee arrangement is changed.

The Board and administration will not permit excessive fees to be charged to the district. The factors considered in determining the propriety of a fee include:

1. Whether the fee is fixed or contingent.
2. Time and labor required, novelty and difficulty of the questions involved, and skills required to properly perform the legal service.
3. Likelihood that the acceptance of employment with the district will preclude other employment by the attorney.
4. Fee customarily charged in the locality for similar legal services.
5. Amount involved and the results obtained.
6. Time limitations imposed by the client or the circumstances.
7. Nature and length of the professional relationship with the client.
8. Experience, reputation and ability of the attorney(s) performing the services.

The school district will be billed only for time expended in using an already researched work product, not for the time previously spent creating it.

Scope Of Service

The district will define the duties and scope of the solicitor's representation through a written agreement or a detailed engagement letter.

The Board will convey its expectations and goals relative to the progress of specific matters before legal action is taken, and the solicitor will advise the Board regarding the nature of the matter and what is involved in carrying out the Board's directive.

Duties

The solicitor will attend the regular Board meetings, unless excused by the President, and will attend committee meetings when requested by the Chairperson.

The solicitor's duties will include:

1. Advising and furnishing the Board legal opinions, verbally and in writing, as directed, on all requested matters and questions of law, including interpretations on old and new statutes.
2. Preparing legal instruments including resolutions for any subject, advertising, and all other legal documents as directed by the Board.
3. Commencing and prosecuting all action brought by the Board for all or any account or subject.

The Board may expand or delete assessed duties of the solicitor at its discretion.

Costs

The district will be charged for costs in connection with the solicitor's representation of the district, such as court filing fees, deposition costs, investigation costs, expert fees and expenses, long distance telephone charges, photocopying expenses, messenger services, process service fees, and costs directly attributable to its work for the district, excluding charges for overhead or general administrative costs.

Experts, consultants, special counsel, and other litigation support services will not be procured by the solicitor without prior Board approval. The solicitor will be reimbursed only for actual costs of retaining outside support.

Travel Expenses

The district will communicate to the solicitor that reasonable efforts should be made to minimize travel costs.

Generally, travel expenses within a firm's local and metropolitan area will not be reimbursed if the time in transit is billed.

Any other travel by the solicitor must be approved in advance by the district. Reasonable travel expenses approved in advance may include the cost of transportation by the least expensive means, reasonable hotel accommodations, and transportation expenses while out of town.

Billing

The billing process for solicitor services is based upon retention as well as current charges for additional services rendered. Billing is in accordance with an established and published fee schedule that is generally driven by an hourly rate.

The Board will require legal bills to be submitted monthly to the Superintendent. At a minimum, the bills will:

1. Identify clearly each attorney or non-attorney staff member performing the services for each entry.
2. Calculate separately the time expended by each person.
3. Indicate the amount of time expended by each timekeeper, broken down by task if working on more than one (1) issue.
4. Provide sufficient detail to readily determine the necessity for and reasonableness of the time expended and the services performed.
5. Indicate in summary form the current hourly rate of each timekeeper, total time billed by each, product of the total time and hourly rate for each, and total time charged.
6. Provide a separate section detailing the expenses or costs associated with other legal services.

The district will require the solicitor to maintain adequate documentation to support all aspects of each bill, including fees and expenses, for at least three (3) years after the termination of representation. Such documentation will be made available upon the district's request.

The district reserves the right to reject any fee or expense item when there is insufficient documentation to determine whether the item was necessary and reasonable and will notify the solicitor as to what documentation is needed to support the fee.

Reports

The solicitor will submit to the Board status reports that describe developments and significant facts since the last report and if a case is proceeding in accordance with the case plan and budget.

The solicitor will submit to the Superintendent copies of all orders, opinions, pleadings, briefs and correspondence material relative to an issue currently being handled by the solicitor, and will discuss with the Superintendent all significant issues of strategy and tactics before implementation.

Malpractice Insurance

The district will ensure the solicitor maintains adequate malpractice coverage when representing the district by receiving the name of the insurance carrier, extent and duration of coverage, and any coverage limitations that may affect his/her representation of the district.

The district will be entitled to see a copy of the malpractice insurance, upon request.

Evaluation

The school district will annually review the performance of the solicitor in such areas as adequacy of expertise; results obtained for the district; reasonableness of fees; and responsiveness to and interactions with the Board, administration and public.