

GOVERNING BOARD POLICY

Antelope Valley Air Quality Management District

Policy No: 02-02

Effective Date: January 15, 2002

Adopted: January 15, 2002

Amended: January 18, 2011

Last Review: February 17, 2015

SUBJECT: AUTHORITY OF DISTRICT COUNSEL

POLICY:

The Governing Board of the Antelope Valley Air Quality Management District (District) is required by statute to appoint legal counsel (Health & Safety Code §41352). The Governing Board has appointed District Counsel to satisfy this requirement. It is the policy of the Governing Board of the District to clearly define and indicate the authority of the District Counsel.

AMPLIFICATION OF POLICY:

A. General

1. The District Counsel generally serves as the legal advisor to the Governing Board, the Executive Director/Air Pollution Control Officer (APCO), District Management and any Boards, Commissions and Committees of the District.
2. The Governing Board can, at its discretion, retain special counsel for specific enumerated purposes. When retained, the special counsel will serve in the legal capacity as enumerated by the Governing Board.
3. The District Counsel shall report to the APCO unless the Governing Board specifically requests or requires action on the part of District Counsel, in which case the District Counsel shall report to the Chair of the Governing Board for the duration and scope of the action requested.
4. The District Counsel is the legal advisor to the District's executive management team.

B. Formal Written Opinions

1. Formal written opinions are maintained and provide a precedent and legal basis upon which District decisions should be based.
2. Formal written opinions may be provided by special counsel regarding the particular purposes for which the special counsel is retained.

3. Governing Board members and the APCO are authorized to request formal written opinions. Governing Board members shall route requests through the Chair of the Governing Board. Other District staff members shall route requests through the APCO.

C. Incurring, Review and Payment of Costs.

1. The District Counsel may incur costs on behalf of the District to the extent authorized by law and Governing Board Policy.
2. The District Counsel is authorized to review and approve claims and requests for reimbursement incurred by Governing Board Members, Hearing Board Members, Members of the Technical Advisory Committee, and the APCO. Such claims and requests for reimbursement shall be reviewed and approved in accordance with current District policy, practice and procedure.
3. The District Counsel is authorized to review and approve bills, invoices or other statements of costs for services performed by outside legal counsel. Such review shall be conducted in consultation with the APCO and in conjunction with any other review required by current District policy, practice and procedure regarding the payment of costs.
 - a. Legal services can be one of the most expensive forms of services. The review by District Counsel is intended to ensure a thorough and proper review of costs for legal services and to allow for recommendations to be made to keep the cost of such services in proportion with the nature of the particular task to be performed.
 - b. Notwithstanding the authorization granted in paragraph 3 above, the Governing Board upon its own motion may authorize payment for any legal services performed by outside counsel retained by the District.

D. Litigation Authority

1. District Counsel is authorized to act on behalf of the Governing Board to direct and control the prosecution and defense of all litigation to which the District is a party unless the Governing Board has retained special counsel for the particular purpose of conducting specific litigation on behalf of the Governing Board or the District.
 - a. Health & Safety Code §40701(b) provides that the District has the power to sue and be sued in its own name in all actions and proceedings in all courts and tribunals of competent jurisdiction. The power to control such litigation generally rests with the Governing Board with the exception of the litigation pursuant to Health & Safety Code §42403(a).

