



## *Mt. Diablo Unified School District*

### **CASE MANAGEMENT AND BILLING STANDARDS**

#### **I. INTRODUCTION AND OVERVIEW**

This document is intended to establish the Case Management and Billing Standards for parties providing legal services to the Mt. Diablo Unified School District ("District"). The District expects its hired legal counsel (hereinafter "District legal counsel") to provide it with high quality, cost-effective, and ethical legal services in accordance with these Standards.

In providing legal advice, District legal counsel will take into account the District's educational mission and goals and the best interests of the safety, well-being, and educational needs of its students. Providing legal advice in the dynamic and fast-changing education environment involves a variety of areas including, but not limited to, general legal consultation and advisory services, compliance with applicable laws including the California Constitution, Education Code and Title 5 of the California Code of Regulations, student issues, special education, personnel issues, collective bargaining, property issues including acquisition and disposal, business issues, school construction, compliance with the Brown Act and public entity law generally. It is expected that District legal counsel will be trained for and have expertise in these areas for which they provide services to the District and apply these Standards in providing the District with the best legal services possible to meet the needs of its students.

District legal counsel fees and expenses should accurately reflect the cost of the work necessary to defend, resolve or address District legal matters, whether within the context of day-to-day District operations or in a formalized dispute resolution setting. The District will pay only the reasonable and necessary fees and expenses incurred by legal counsel in accordance with these Standards.

The District reserves the right to review and to audit all bills for legal fees, costs, and other disbursements submitted by District legal counsel. This review includes the right to examine and to audit both the billing records and supporting documents and the corresponding documents contained in legal counsel's files concerning District legal matters.

Questions regarding these Case Management and Billing Standards should be directed to the office of the Mt. Diablo Unified School District Office of General Counsel.

#### **II. LEGAL MATTER INTAKE AND ASSESSMENT**

The District (primarily Associate General Counsel) and District legal counsel share responsibility for developing effective and sound approaches to District legal matters in a timely manner.

All cases and legal matters should be initially assessed as soon as possible for the purpose of determining potential liability, response and resolution. On matters for which the District may have possible liability, it is the District's goal to resolve those matters as expeditiously and economically as possible. On cases that do not appear to involve District liability, it is the District's goal that District legal counsel maintains a thorough and firm defense to same keeping in mind the economic cost of defending such suits.

The District and District legal counsel shall agree on the approach to a case or legal matter, including the steps necessary to bring it to an appropriate resolution. All strategies, approaches, handling, and resolution of cases and legal matters shall be presented to the Associate General Counsel and the District's Governing Board in accordance with applicable laws and District policy and procedure. If District legal counsel is requested to be involved in settlement negotiations, settlement authority must be obtained from the District's Associate General Counsel or Governing Board or both in compliance with applicable laws and District policy and procedure.

### **III. STAFFING REQUIREMENTS**

Staffing of District cases or legal matters shall be as follows:

- Unless instructed otherwise, District legal counsel shall designate one partner-level attorney who shall have primary contact and responsibility for management of each District case or legal matter for which legal services are requested subject to approval by Associate General Counsel.
- Ideally, one associate-level attorney and one paralegal will be assigned to a matter in addition to the partner level attorney to work on a District case or legal matter for which legal services are requested. District legal counsel may assign other attorneys or paralegals in lieu of those assigned persons if necessary for economy or efficiency, but with advance approval of Associate General Counsel or Chief of HR or ratification within two weeks of the use of alternate attorneys or paralegals. In the absence of a pending dispositive motion, hearing or trial, the District expects that only the partner, one associate, and one paralegal would be working on a matter.
- In staffing District legal matters, District legal counsel shall assign work to their staff that can perform the work in the most cost-effective manner. District legal counsel shall endeavor wherever possible to strike a balance between the efficiency that a more experienced lawyer brings to a given task and the advantages of having a task performed by a junior lawyer or a paralegal. Duplication of effort among attorneys and paralegals is not permitted and will not be compensated.
- In order to achieve the best level of efficiency and value, the roles and responsibilities of District legal counsel staff members should be clearly defined and appropriate to each individual's qualifications, level of experience and billing rate. District legal counsel should delegate work to subordinates wherever possible to achieve efficiency and cost-effectiveness without compromising quality.
- District legal counsel shall make every effort to have the same attorneys and staff work on a case or legal matter through to its conclusion.

### **IV. REPORTING REQUIREMENTS**

#### **A. Reporting Requirements for Routine and Advisory Matters**

It is not necessary to provide the District with formal reports such as acknowledgment letters or initial evaluations for legal work performed on day-to-day legal matters, such as one-time legal



questions or advisory work, or work performed under general legal advice matter identifiers that do not warrant a separate matter identifier. For day-to-day advisory matters, District legal counsel shall keep the appropriate District administrator and Associate General Counsel informed of the progress and resolution of the matter, and shall provide such information to the District in writing only when requested. The District shall determine the time to be spent on the task and what form the reporting or communication shall be presented (i.e. telephone, e-mail, or letter). Also, reporting shall be accomplished in accordance with the reporting requirements set forth below.

## **B. Reporting Requirements for Formal Claims, Proceedings or Lawsuits**

For those District legal matters involving substantial and formalized legal issues and disputes, such as formal claims filed with the District, lawsuits, administrative proceedings, and the like, the following reporting requirements shall apply;

At a minimum, District legal counsel are to provide written reports to the District as follows: (1) to acknowledge case or matter referral; (2) to provide an initial evaluation of the case or matter; and (3) to report to the District regarding significant developments in a case or matter.

### **1. Acknowledgment of Case or Matter Referral**

Once the District refers a case or legal matter to counsel, District legal counsel should send a letter to the Associate General Counsel acknowledging such referral. The letter should also advise the District and Associate General Counsel as to the manner in which the case or legal matter is to be staffed including the specific personnel who will be staffing the matter. Any matters of immediate concern to the District, or information that may result in early resolution of a case or matter should also be addressed in the acknowledgment letter.

### **2. Initial Case or Matter Evaluation**

District legal counsel shall provide the District with an initial preliminary case or matter evaluation within thirty (30) days of referral from the District unless otherwise agreed upon with Associate General Counsel. In providing the initial evaluation, District legal counsel should send an initial report and/or hold a conference call with the Associate General Counsel and provide the following information to the District:

- a. A preliminary evaluation of liability and damages and a brief discussion of the legal issues presented, including a summary of claims presented, where appropriate.
- b. A preliminary Litigation Plan, to the extent appropriate and available, providing the following:
  1. Identify each significant activity District legal counsel proposes to initiate; e.g., investigation, motions, discovery, legal research, etc.
  2. Identify-discovery and motions that have been, or are likely to be, initiated by other parties.
  3. Estimate of the completion date for each activity.
  4. The estimated cost of each activity included in a comprehensive litigation budget.
  5. Discussion of the potential for early disposition of the case or legal matter by settlement and recommendations with respect to arbitration, mediation or direct settlement negotiations.



6. Discussion of when dispositive motions such as motions to dismiss or motions for summary judgment may be appropriate and the potential success of dispositive motions prior to, or after, the commencement of discovery. If this information is unknown at the time of this report, this discussion will be presented prior to the filing of any dispositive motion.
7. An estimate of the probable trial or administrative hearing date.
8. Number and type of witnesses and the anticipated costs.
9. Additional discovery costs if an extraordinary number of documents are involved.
10. Witness interviews or formal discovery.
11. Track costs including trial staffing, travel time, jury selection and trial briefs.

District legal counsel shall adapt the above requirements as appropriate to the type of matter involved, such as for an administrative hearing, jury trial, court trial, board hearing, grievance arbitration, or special education complaint. In the event of there being a question as to the need for or the format or content of a Litigation Plan or similar document in a given matter, District counsel shall consult with and come to an agreement with the Associate General Counsel regarding same.

### **3. Significant Case or Matter Developments**

District legal counsel are required to report to the Associate General Counsel regarding case status and developments including without limitation significant case or matter developments. District legal counsel will communicate with and apprise the Associate General Counsel as soon as practicable when significant case or matter developments occur including without limitation the following:

- a. The filing of supplemental or amended claims (e.g., tort claims, amended grievances, unfair practice charges)
- b. Settlement communications
- c. Deposition summaries
- d. Pre-trial reports
- e. Expert reports
- f. Settlement options
- g. Dispositive motions
- h. Updated evaluations of liability and damages
- i. Updated Litigation Plans
- j. Trial Reports: unless otherwise agreed to with the Associate General Counsel, sixty (60) days before the scheduled trial date District legal counsel will submit a report to the District detailing the issues, the evidence and an analysis of same, along with any other information requested by the District in the report.
- k. Case updates
- l. Research memoranda
- m. Legal briefs
- n. All pleadings and amended pleadings filed by the District or opposing party
- o. Releases
- p. Orders of Dismissal
- q. Final Judgments
- r. Expert reports

- s. Medical reports
- t. Substantive correspondence

Unless otherwise requested, the District should not be copied with:

- a. Deposition transcripts
- b. Correspondence concerning scheduling or logistics

District legal counsel will consult with Associate General Counsel on the appropriate means of communication regarding a case or matter, whether by e-mail, fax or regular mail. District legal counsel will arrange with the Associate General Counsel the form of communication to be used on a District legal matter. District legal counsel must have the capability of providing properly formatted documents in Microsoft Word format useful for and capable of being read on PC computers. If used as a means of communication, e-mails must be compatible with District e-mail systems and capable of being opened and read by same.

Overnight mail, couriers and other means of express mail delivery are to be avoided unless absolutely necessary, required and approved by Associate General Counsel. Duplicative or repetitive facsimile copies will not be compensated or reimbursed.

District legal counsel shall promptly provide the District will copies of any and all documents in counsel's file, including billing records, regarding a District case or matter upon request for same by the District.

#### **4. Regular Consultation**

After submission of the initial evaluation, District legal counsel and the District will discuss and mutually agree upon the proposed activities outlined in the preliminary Litigation Plan. Thereafter, District legal counsel shall keep the Associate General Counsel regularly apprised and informed about the status of ongoing District legal matters. All other decisions about a District legal matter, including without limitation the resolution of same, shall be subject to prior approval by the Associate General Counsel and the Governing Board in accordance with applicable laws and District policy and procedure.

### **V. BILLING**

#### **A. Billing Procedures**

##### **1. Frequency of Billing**

Bills for legal services shall be submitted on a monthly basis. Final bills on a case or matter are to be submitted within fifteen (15) days after the conclusion of a case or matter. Special billing arrangements may be agreed to in certain cases or matters subject to prior written approval from the Associate General Counsel.

##### **2. Billing and Payment Processes**

If there is a dispute or disagreement relative to a cost or fee reduction the dispute shall be appealed to the Associate General Counsel within thirty (30) days of District legal counsel receiving notice of the reduction. If District legal counsel is dissatisfied with the decision of Associate General Counsel, they retain the right to appeal any fee disputes to the

District Governing Board. If District legal counsel is dissatisfied with the decision of the Governing Board, they have the right to elect arbitration pursuant to the fee arbitration procedures of the State Bar of California as set forth in California Business & Professions code section, 6200 et seq.

### **3. Formatting**

- a. District legal counsel wishing to submit bills for legal services by electronic means may do so upon obtaining prior written consent to same from the Associate General Counsel. All such billing shall be in a form and format as specified by the District and must be capable of being opened, read, and processed by the District's computer system and software.
- b. District legal counsel submitting hard copy (paper) bills for legal services on paper must comply with the following format requirements:
  - **Heading.** The first page of the bill must state (1) legal counsel's IRS identifier number; (2) case or matter identifier information; (3) District control number information; and (4) legal counsel's control number information,
  - **Body.** No block billing; that is, the bill must include daily entries showing (1) the date the work was performed; (2) the initials of the person performing the work or providing the service; (3) a description of the work performed (single activities); and (4) the actual time spent on the activity, broken down as to tenths (.10) of an hour,
  - **Closing Summary.** The closing summary of the bill must include: (1) the full name of each attorney/paralegal who worked on the case or matter in the billing period; (2) the status of each such timekeeper (i.e. partner, associate, paralegal); (3) the hourly rate of each timekeeper; and (4) the total hours and total amount charged for each timekeeper during the billing period.

### **4. Important Payment Notice**

The District shall not reimburse District legal counsel for time spent filing, file indexing, proofreading, typing, revising and/or court filing any bills or invoices, unless approved in advance by Associate General Counsel. Unless approved in advance by Associate General Counsel, the District shall not pay for any secretarial overtime or associated expenses, office supplies, telephone calls associated with invoice or bill preparation.

### **B. Charges for Services**

1. **Time Charges.** All charges for services by attorneys and paralegals must be itemized based upon the actual time spent and broken down in one-tenth (.10) hour increments.
2. **Block Entries.** "Blocked" or grouped entries for activities are not permitted and will not be compensated. Time spent on each activity shall be separately itemized.
3. **Activity Descriptions.** Descriptions of activities performed on a legal matter should inform the District of the nature, purpose and/or subject of the work performed and the specific activity or project to which it relates.

Activity descriptions should not be overly lengthy or technical and the use of legal jargon is discouraged.

4. **Compensation.** District legal counsel must obtain prior written consent from the Associate General Counsel prior to implementing any increase in billing rates or other legal services costs to the increases appearing on bills.
5. **In-Firm Conferences.** Unless otherwise agreed upon by the District, only the senior attorney's time will be billable for in-firm conferences on a District case or matter.
6. **Multiple Attendees.** Unless otherwise agreed, District legal counsel should consult with the Associate General Counsel where it is anticipated that more than one attorney's attendance is required at trial, court appearances, meetings, depositions, witness interviews, inspections and other functions. Without prior authorization, only one attorney is compensable.
7. **Depositions.** District legal counsel should consult with the Associate General Counsel before initiating and attending depositions other than that of the plaintiff(s), key witnesses, and other depositions already agreed upon in the initial Litigation Plan or supplement thereto. District legal counsel shall advise the Associate General Counsel of upcoming depositions initiated by other parties that counsel plans to attend.
8. **Legal Research.** District legal counsel should consult with the Associate General Counsel before undertaking a legal research project involving substantial expenditure of time (greater than two (2) hours). The District may determine the length of time spent on research projects. Copies of all research memoranda shall be provided to the Associate General Counsel, either in an opinion letter format or in the motion papers provided as copies in litigation. The District shall not pay for electronic research unless the research is 1) outside legal counsel's basic electronic research package; 2) pre-approved by Associate General Counsel; and 3) specifically described as set forth in V., B, 4.
9. **Motions.** District legal counsel should consult with the Associate General Counsel before drafting or filing any motions not previously identified and approved in the initial Litigation Plan or supplement thereto.
10. **Revising Standardized Forms and Pleadings.** Only the actual time spent in personalizing standardized pleadings, documents, or discovery responses or requests to the case at hand should be billed, rather than the time originally spent drafting such standard language.
11. **Clerical, Secretarial, Paralegal or Administrative Activities.** Clerical, secretarial, paralegal or administrative work is not billable to the District. Examples include, but are not limited to: receipt and distribution of mail, new file set up, maintenance of office and attorney calendars, transcription, copying, posting, faxing, e-mailing, inserting documents into and retrieving documents from the file, maintaining order in the file, stamping documents, updating databases, Bates-stamping, tabbing sub-files and assembling materials.
12. **Travel Time.** Actual time spent for travel to an activity related to the defense of a matter will be reimbursed provided the time is not billed to another file. Travel time from District legal counsel offices to and from the District is generally not reimbursable, unless presence is requested by the District. Associate General Counsel retains the right to negotiate different travel arrangements as needed.

13. **Deposition Summary.** Following every deposition, District legal counsel should provide a brief summary of the witness' testimony to the Associate General Counsel.
14. **Deposition Transcript Summary.** Deposition transcript summaries should not be prepared without prior consultation with the Associate General Counsel.
15. **Expert Witnesses/Outside Consultant Fees.** Fees for expert witnesses or other outside consultants' are subject to prior, written authorization by the Associate General Counsel and will not be reimbursed absent such authorization. The authorization shall specifically state whether District legal counsel will initially pay for expert witness or other outside consultant costs and seek reimbursement for same in their regular billings to the District, or whether the District shall be billed for and pay for the expert witness or outside consultant costs directly.

### C. **Payment for Costs and Expenses**

1. **Internal Expenses.** Unless otherwise agreed, the District will reimburse District legal counsel for internal expenses as set forth in attachment "A".
2. **External Expenses.** Charges for services by outside vendors may not be forwarded directly to the District for payment (but see expert witness outside consultant fees above). If the firm pays external expenses, they will be reimbursed at actual cost. The firm must identify the pre-approved vendor in the regular billing invoices. These expenses must be itemized and include (a) the name of the vendor; (b) the date incurred; and (c) a specific description of the expense. Back-up documentation regarding same will be provided to the District.
3. **Travel Expenses.**
  - a. **Local Travel.** Travel to and from District legal counsel offices to the District generally is not reimbursable, unless otherwise agreed upon by the District. Associate General Counsel retains the right to negotiate alternative travel expense rates.
  - b. **Local Distance Travel.** District legal counsel will consult with the Associate General Counsel if it is anticipated that travel concerning a District legal matter will involve travel outside the local area, an overnight stay, or both, and shall only be reimbursable if authorized in advance by the Associate General Counsel.
  - c. **Automobile Travel.** For automobile travel, the date of travel, person engaging in the travel, destination, purpose of the travel, number of miles traveled, reimbursement per mile and the total cost must be indicated on the invoice. The District will pay the current IRS mileage rate for personal automobile travel.
  - d. **Air Travel.** District legal counsel will consult with the Associate General Counsel prior to making arrangements for air travel. Only economy or coach airfare rates will be reimbursed. Air travel arrangements should be made as early as possible to avoid unnecessary cost. The District will not pay for service fees charged by travel agents. Back-up travel documentation will be provided to the District upon request.
4. **Professional Services.** District legal counsel will consult with the District prior to incurring expenses for experts, consultants, investigators,

temporary attorneys, outside paralegals, or other professional services. The District may determine what court reporting services are to be utilized.

## **VI. REVIEW OF BILLING AND FILE MATERIALS**

The District reserves the right to review all charges for services and disbursements pertaining to a District matter or case, including without limitation, all charges paid by District legal counsel with respect to same, including those charges pursuant to self-insured retentions or deductibles under the District's insurance policies or otherwise. The District reserves the right to conduct on-site audits and to review District legal counsel's files and/or bills, consistent with District legal counsel's ethical obligations. The on-site audits and reviews will be completed in a manner that will not compromise the attorney-client or work product protection accorded material in the file or communications by and between District legal counsel and the District. District legal counsel agrees to comply with all reasonable requests for information and documents. The District fully reserves all rights to decline to pay or to seek reductions and/or reimbursement with respect to charges that fail to comply with the requirements set forth in these Case Management and Billing Standards, and which are not fully explained or documented by District legal counsel after reasonable inquiry.

## **VII. MISCELLANEOUS**

### **A. Media Communication Policy**

It is the District's policy that all communications with the media regarding a District legal matter shall be controlled by and subject to the prior authorization of the District. District legal counsel are not to respond to any media inquiry involving a District legal matter without obtaining prior authorization from the District Superintendent or Associate General Counsel. Authorization for District legal counsel to respond to media inquiries or discuss a District legal matter with the media shall only be given when such communications are in the District's best interests and require the services of District legal counsel because the communication involves a legal matter. All District legal counsel communications with the media shall be done in an honest and ethical manner and in keeping with the rules of professional conduct.

The District and its affiliates and employees should not be named in any journal article, firm newsletter, video, presentation or other type of communication of a professional, promotional or educational nature without the District's express written permission.

### **B. Confidentiality**

In the course of performing services for the District, District legal counsel may have access to confidential, commercial or personal information concerning the practices of the District and its employees. District legal counsel must preserve and respect the confidentiality of such information, whether or not such information is subject to the attorney-client privilege, and any such information will not be disclosed without receipt of prior approval from Associate General Counsel unless required to by subpoena or other legal processes. Please notify the Associate General Counsel as soon as possible upon receipt of any such subpoena or legal process.

### **C. Conflicts**

Please notify the Associate General Counsel immediately if you identify any actual or potential conflicts of interest. Similarly, if at any time during litigation a conflict of interest develops between or among the District or any of the District's employees being represented, the conflict must be disclosed immediately to Associate General Counsel.

# ATTACHMENT A

## REIMBURSABLE AND NON-REIMBURSABLE INTERNAL EXPENSES

The District will reimburse District's legal counsel's internal expenses as follows:

1. **Photocopying**. The District will reimburse in-house photocopying costs at the actual cost to the firm, up to a maximum of \$.10 per page. In calculating actual cost, secretarial time is not to be considered. The District may request the documentation supporting a firm's requested rate per page.
2. **Postage**. The District will not reimburse for postage. Postage is considered part of District legal counsel's overhead.
3. **Telephone**. The District will reimburse for actual long distance charges directly related to the file. The invoice must indicate the date of the telephone call, the telephone number called and the total cost. Local telephone charges are considered District legal counsel overhead and are not reimbursable. The District will not pay for cellular telephone charges.
4. **Facsimile Charges**. Facsimile charges, with the exception of actually incurred long distance charges, are considered part of District legal counsel's overhead and will not be reimbursed.
5. **Messenger/Courier/Delivery/Express/Overnight Mail Services**. The use of expedited delivery services is discouraged and will be reimbursed only if its use is necessary to the handling of a District legal matter.
6. **Computer Assisted Research**. The District will not pay for computer assisted research. Charges for expenses associated with the use of Westlaw, Lexis, Dialog, Information/America and other computer research databases and Internet access charges are considered part of District legal counsel's overhead and will not be reimbursed.
7. **Court Reporters**. Court reporter costs are reimbursable only where necessary in order to respond to or defend a District legal matter.
8. **Overtime**. The District will not pay for clerical administrative overtime charges. These charges are considered part of District legal counsel's overhead.