

LEGAL SERVICES

Authorization

The Board recognizes that the increasing complexity of ESD 113 operations frequently requires procurement of legal services. Consequently, it shall retain any use of the assigned assistant attorney general and may also retain client relationship(s) with private sector attorney(ies) for the purpose of systematically securing such services.

A decision to seek legal advice or assistance on behalf of the ESD 113 shall normally be made by the Superintendent, based upon his/her judgment. Such action shall occur when it is consistent with approved policy or standard practice and it meets an obvious need of the ESD 113. It may also take place as a consequence of formal Board directions.

All requests for legal opinion, advice, assistance, or response on any ESD matter from the Attorney General assigned to the ESD 113, Attorney General's Office, or private counsel shall be approved in advance by the Superintendent.

Much of the legal assistance to the ESD 113 may be considered routine and not necessitate specific Board approval or prior notice. However, when the administration concludes that unusual types or amounts of professional legal service may be required, the Board directs the administration to so advise it.

Defense/Indemnification

The ESD 113 shall defend, hold harmless, and indemnify the Superintendent, administrators, supervisors, and personnel from any and all demands, claims, suits, actions, and legal proceedings brought against them in their individual capacity, or in official capacity as agents and employees of the ESD 113, provided the incident arose while they were acting within the scope of employment.

The Superintendent is authorized, pursuant to RCW 28A.320.060, to purchase insurance to cover any action, claim, or proceeding instituted against any director, officer, or employee of the ESD 113 arising out of the performance or failure of performance of duties for the ESD. Furthermore, the ESD 113 will hold personally harmless any director, officer, or employee for any expenses connected with the defense, settlement, or monetary judgments within the policy limits of the insurance covering such action, claim, or proceeding.

Pursuant to RCW 28A.320.100, the Board may, for any actions, claims, or proceedings and any defense costs and liability arising therefrom which may not be within the policy limits of or covered by insurance, grant on a case-by-case basis requests for defense, including payment for the cost of defense attorney fees, settlements, or monetary judgments; provided that the costs of defense and/or judgment against any director, officer, or employee shall not be paid in any case where the court has found that such director, officer, or employee was not acting in good faith or within the scope of their employment with or duties for the ESD 113.

Reference:

RCW 28A.310.220

RCW 28A.320.060

RCW 28A.320.100