

**JOINT POWERS AGREEMENT**

**FOR LEGAL**

**AND**

**LABOR RELATIONS SERVICE**

**(Revised)**

**(October 2004)**



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## **SCHOOLS LEGAL SERVICE**

### **JOINT POWERS AGREEMENT FOR LEGAL AND LABOR RELATIONS SERVICES REVISED**

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## **SCHOOLS LEGAL SERVICE**

### **JOINT POWERS AGREEMENT FOR LEGAL AND LABOR RELATIONS SERVICES REVISED**

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This Revised Joint Powers Agreement for Legal and Labor Relations Services ("Agreement") is entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (sections 6500, et seq.) of the California Government Code effective July 1, 2004. This Agreement is between the various public agency educational entities named on the attached Schedule 1 incorporated by reference into this Agreement ("Participants") and the County Superintendent of Schools of the County of Kern, State of California (the "Administrative Agency").

#### **RECITALS**

This Agreement is based on the following facts and understandings of the parties.

A. The Participants consist of public school and community college districts under the jurisdiction of district governing boards, county boards of education, county superintendents of schools, regional occupational programs, county committees on school district organization, and other public agency educational entities.

B. California Education Code section 35041.5 permits the governing boards of school and community college districts, county boards of education, and county superintendents of schools to appoint and compensate legal counsel. Current law permits such entities to retain and compensate bargaining specialists.

C. The Participants have need of legal counsel to advise them in the preparation and conduct of litigation and administrative proceedings, and to advise them in other matters related to the conduct of their business. The Participants have need of labor relations services to assist them in the preparation and conduct of collective bargaining and related matters pursuant to Government Code section 3540 and following.

D. Chapter 5, Division 7, Title 1 (beginning with section 6500), of the California Government Code permits two or more public agencies to jointly exercise any power common to them.

E. Some or all of the parties to this Agreement entered into a Joint Powers Agreement establishing Schools Legal Service to provide legal counsel to public agency educational entities beginning in 1976, and labor relations services upon merging with Schools Employer-Employee Relations Service in 1979.

F. The Participants reaffirm their previous finding that they have similar requirements, problems and issues that can best be served and/or resolved by legal counsel and bargaining specialists acting in concert for them, and, where the structure and operations of the educational entity require it, acting to provide specialized attention. The parties find that this results in efficiency of school administration within desired and practical time lines. Accordingly, the parties to this Agreement have determined and reaffirm that it is in their best interest and in the public interest that they join together for the purpose of providing legal services and labor relations services to the Participants, along with related support services.

G. Since the establishment of Schools Legal Service, there have been changes in the composition of the Board of Directors. The purpose of this Agreement is to modify and reorganize the prior joint powers agreement, replacing it entirely with this Agreement.

H. This Agreement, together with any notices concerning the fees for services approved by the Board of Directors and distributed to Participants, shall constitute the written agreement required by Business and Professions Code section 6148.



## TERMS

Based on the Recitals and the mutual promises of the parties, the parties agree as follows:

1. **Continuation of Services.** This Agreement is intended to continue the existing Schools Legal Service program, including its legal and labor relations components. The terms of all prior joint powers agreements shall be superseded by the terms of this Agreement as of its effective date.

2. **Term of This Agreement.** The term of this Agreement begins on July 1, 2004, and continues from year to year after that unless terminated by agreement of the parties.

3. **Administrative Agency.** The Kern County Superintendent of Schools shall act as the Administrative Agency for Schools Legal Services, and shall exercise the powers authorized by this Agreement.

4. **Governing Board.**

A. **Composition of Governing Board.** Schools Legal Service shall be governed by a Board of Directors consisting of 20 members, 18 of which shall be elected by the Board of Directors as described in subparagraph 1, and 2 of which shall be designated as described in subparagraph 2.

(1) **Elected Directors.**

a. **Nomination Categories.** The superintendent or chief administrative officer of each Participant may nominate a superintendent (or equivalent) employed by Participant for membership on the Board. Nominees shall be categorized and grouped for election according to student enrollment or attendance (calculated as determined by the Board).

Unless changed by amendment of this Agreement, the following categories shall be used:

I. Three members to be selected from nominees from Participants with student enrollment in excess of 10,000 as reported in official Kern County Superintendent reports for the immediately preceding fiscal year.



ii. Four members to be selected from nominees from Participants with student enrollment between 1,800 and 9,999 as reported in official Kern County Superintendent reports for the immediately preceding fiscal year.

iii. Four members to be selected from nominees from Participants with student enrollment between 901 and 1,799 as reported in official Kern County Superintendent reports for the immediately preceding fiscal year.

iv. Four members to be selected from nominees from Participants with student enrollment less than 901 as reported in official Kern County Superintendent reports for the immediately preceding fiscal year.

v. Three members to be selected without regard to student enrollment, one to be selected from nominees employed by Participants in each of the following areas: (1) San Luis Obispo and Santa Barbara Counties, (2) Mono and Inyo Counties, and (3) Eastern Kern County (i.e., the territory comprised of Sierra Sands, Mojave, Muroc, Southern Kern and Tehachapi Unified School Districts).

b. **Term.** The term of office for each elected Board member shall be three years. A Board member may serve multiple terms if duly elected as provided in this subparagraph. Any directors in office prior to the effective date of this Agreement shall serve out their terms.

c. **Successors and Designees.** If a superintendent elected to the Board of Directors is succeeded by a new or acting superintendent, the new or acting superintendent automatically assumes the former superintendent's seat on the Board for the remainder of the term. A superintendent elected as a Board member may designate, in writing, an assistant superintendent from the same educational entity (or equivalent) to serve in the superintendent's place on the Board for the remainder of the term unless revoked by the superintendent, in writing.

d. **Nomination and Election Procedure.** The Administrative Agency shall inform the Participants eligible to nominate Board members of any vacancy on the Board of Directors for seats filled by election, and those Participants eligible to nominate a board member for the vacant seat shall have 30 days from the date of notification by the Administrative



Agency to submit nominations. The Administrative Agency shall distribute a ballot for election of the board seats with nominees appropriately grouped and categorized. Each Participant located in Kern or San Luis Obispo County shall be eligible to vote for Board member nominees in the Participant's student attendance category for those Board seats described in Section 4(A)(1)(a)(I-iv). For those Board seats described in Section 4(A)(1)(a)(v), each Participant in the geographical area described shall be eligible to vote for Board member nominees in the Participant's area. The election shall be held as soon as reasonably possible after the Administrative Agency receives valid nominations.

The nominee receiving the highest number of votes in each category shall be deemed elected. In the event of multiple vacancies in a category, the nominee receiving the second highest number of votes shall be deemed elected to the second vacancy, and so on.

(2) **Designated Directors.** Two members of the Board of Directors shall be designated by the Kern County Superintendent of Schools. These designated directors shall serve at the pleasure of the appointing authority.

B. **Meetings.** The Board of Directors shall hold regular meetings on a least a quarterly basis, with notice and quorum requirements as provided in the Rules of Procedure of the Board of Directors of Schools Legal Service.

C. **Scope of Powers.** The Board of Directors shall be wholly separate and apart from the governing boards of the parties to this Agreement and Schools Legal Service shall be wholly separate and apart from those parties. The Board of Directors shall have the power and authority to require the Administrative Agency to exercise any power or duty common to the parties to this Agreement for the purpose of implementing and maintaining Schools Legal Service, provided that the power or duty is consistent with this Agreement and in furtherance of the stated objectives of this Agreement. The Board of Directors shall adopt appropriate further Rules of Procedure not inconsistent with the terms of this Agreement for the orderly transaction of its business and for the furtherance of the objectives of this Agreement. The powers and authority of the Board of Directors shall continue until termination of this Agreement.

The Board of Directors shall act in coordinating the legal and labor relations services provided for under this Agreement between the Participants and the Administrative Agency. The Board shall also hear appeals and/or complaints from the Participants relative to the services available or provided under this Agreement.



The Board shall also present recommendations to the Administrative Agency concerning employment of personnel for appropriate consideration and implementation.

Pursuant to Government Code Section 6509, the exercise of the powers of the Board of Directors shall be in accordance with the manner of exercising such powers by the County Superintendent of Schools of Kern County, except as otherwise provided in this Agreement.

**5. Scope of Legal Services.** Schools Legal Service shall provide such educational legal services needed and requested by the Participants (the basic scope of which are set from time to time by the Board of Directors), including the services set forth in subparagraph A and excluding those in subparagraph B.

**A. Included Services.**

(1) Advice and consultation on educational entity matters by telephone, office visits and correspondence.

(2) Preparation of formal legal opinions.

(3) Providing a general informational service to the Participants on legal matters of interest to educational entities.

(4) Informing the Participants of, and assisting them in complying with, new requirements of the law.

(5) Conducting workshops for the information of administrators and board members on personnel and student matters, as well as other topics.

(6) Representing individual Participants at appropriate administrative hearings involving such Participants, such as hearings on employee dismissals or reductions in staff, student expulsion appeals, due process hearings in special education cases, and other similar matters.

(7) Representing Participants in the defense of appropriate litigation, except litigation brought by a Participant against another public educational entity unless approved by the Board of Directors.

(8) Representing Participants before other governmental agencies and the Legislature.



(9) Preparation and review of contracts.

(10) Performing other related services.

**B. Excluded Services.** Notwithstanding subparagraph A, the following legal services shall not be provided:

(1) Advice and representation in proceedings for which legal representation or legal fees are available under an insurance or self-insurance plan, unless authorized in specific cases.

(2) Advice and representation in worker's compensation matters.

(3) Advice and representation in bankruptcy matters.

(4) Advice and representation concerning bond issues (other than initial review of documents created by bond counsel).

Schools Legal Service shall also have the right to decline to provide advice and representation of Participants in matters the scope or complexity of which is in the opinion of Schools Legal Service beyond its resources or its subject matter competency, as well as advice and representation in District-initiated litigation.

Representation of Participants in matters arising out of the Education Employment Relations Act (Government Code section 3540 and following) or arising out of a collective bargaining agreement shall be treated as labor relations services as described in paragraph 6 below.

**C. Attorney-Client Relationship.** Nothing in this Agreement shall be construed to intervene in, or otherwise violate, the attorney-client relationship which recognizes the privileged nature of information, the elements of confidentiality and the attorney's independent professional legal judgment in matters affecting an individual Participant or Participants. It is agreed that the individual relationship between the Administrative Agency and Schools Legal Service is also an attorney-client relationship subject to the attorney-client privilege. All Participants recognize that the Administrative Agency, in coordinating this service, and the attorneys and bargaining specialists in rendering legal services, shall not interfere with the policy-making functions of individual educational entities unless expressly requested to do so.

Schools Legal Service agrees to keep each Participant informed of all developments related to its representation of such Participant. Each Participant



agrees to be truthful with the attorneys and negotiators assigned by Schools Legal Service to handle their matters, and to keep them informed of all developments related to Schools Legal Service's representation of such Participant.

**6. Scope of Labor Relations Services.** For those Participants which execute a negotiations addendum, Schools Legal Service shall provide labor relations services needed and requested by the Participants (the basic scope of which are set from time to time by the Board of Directors), including the following:

A. Negotiating on behalf of public school employers with their employees and/or employee organization representatives including such matters as:

- reviewing and recommending public school employer policies, rules, and regulations related to the collective bargaining process;
- assisting in the development of negotiations procedures and bargaining positions;
- training managers and supervisors in the implementation of negotiated labor agreements; and,
- assisting in establishing programs to communicate with public school employers' constituencies.

B. Representing public school employers in the resolution of mediation, fact-finding, or other impasse proceedings.

C. Providing advice and assistance in the event that employees withhold services or engage in other concerted activities.

D. Providing assistance in processing grievances that arise out of a collective bargaining agreement including such matters as:

- suggesting appropriate first and second level grievance responses;
- assisting with intermediate grievance dispute resolution processes; and,
- representing the public school employer in arbitration hearings.

E. Representing public school employers before the Public Employment Relations Board including such matters as:

- representation and unit determination cases;
- unfair labor practice cases; and,
- public notice matters.



F. Providing a bargaining information program for public school employers.

G. Providing workshops and programs for managers and supervisors of public school employers regarding labor relations and the administration of collective bargaining agreements.

H. Performing other related services.

7. **Payments by Participants.** Each Participant shall pay to the Administrative Agency on behalf of Schools Legal Service in two equal installments due on or before September 1 and February 1 of each fiscal year an amount computed in accordance with subparagraphs A.1, B.1 and B.2 below. Participants may be invoiced for additional legal and labor relations fees and costs incurred under this Agreement and not reflected in subparagraphs A.1, B.1 and C.2, and will pay the amounts stated in such invoices to the Administrative Agency within 35 days of receipt of the invoice.

A. **Legal Services Fees and Costs.**

(1) **Annual Fee for Legal Services.** For the legal services described in paragraph 5, each Participant shall pay an annual fee based on categories of student enrollment (or such other basis determined by the Board) as shown on the Schools Legal Service rate schedule approved from time to time by the Board of Directors. The annual fee shall be a nonrefundable retainer. In exchange for the annual fee, Participants will receive access to legal services up to a pre-determined number of hours. At the discretion of the Board of Directors after reviewing the projected income and expenditure needs for the ensuing year, the fees and rates for legal services may be adjusted.

(2) **Additional Fees and Costs for Legal Services.** In addition to the annual fee, Participants exceeding the predetermined hours of legal service shall pay for further legal services at an hourly rate as determined by the Board of Directors. Each Participant shall also pay directly or reimburse Schools Legal Service for any costs advanced on behalf of the Participant, such as court reporter fees, investigator fees, arbitration fees, expert fees, transcript fees, and necessary travel and lodging.

B. **Labor Relations Fees and Costs.**

(1) **Annual Fee for Full Complement of Services.** For the full complement of labor relations services described in Paragraph 6, each Participant shall pay an annual fee based on the size of the educational entity



and the applicable number of bargaining units (or such other basis determined by the Board) as shown on the Schools Legal Service rate schedule approved from time to time by the Board of Directors. In exchange for the annual fee, Participants will receive access to labor relations services up to a predetermined number of hours. At the discretion of the Board of Directors after reviewing the projected income and expenditure needs for the ensuing year, the fees and rates for labor relations services may be adjusted. Participants which execute a multi-year collective bargaining agreement shall be required to pay the applicable annual fee each year a multi-year agreement is in effect.

2. **Annual Fee for Advice-Only.** As an alternative to the full complement of labor relations services, a Participant may elect to receive a limited portion of those services on the same basis as for the full complement of services, excluding at-the-table negotiations and all direct representation functions, referred to as "Advice-Only" services. Payment for Advice-Only labor relations services shall be based on an annual fee as shown on the Schools Legal Service rate schedule approved from time to time by the Board of Directors, for which electing Participants shall receive access to labor relation services up to a predetermined number of hours.

3. **Additional Fees and Costs for Labor Relations Services.** In addition to the applicable annual fee, Participants exceeding the predetermined hours of labor relations services shall pay for additional labor relations services at an hourly rate as determined by the Board of Directors. Each Participant shall also pay directly or reimburse Schools Legal Service for any costs advanced on behalf of the Participant, such as court reporter fees, investigator fees, arbitration fees, expert fees, transcript fees, and necessary travel and lodging.

D. **Transfer of Funds for Kern County Participants.** Each Participant located in Kern County authorizes the Administrative Agency to transfer amounts owing under this Agreement from the General Fund of the Participant for payment to the trust fund established by this Agreement.

8. **Services to Non-Participants.** Schools Legal Service may provide the legal services set forth in paragraph 5.A or the labor relations services set forth in section 6 to public agency educational entities not parties to this Agreement under contract for such terms as the Board of Directors shall from time to time approve.

9. **Ministerial Duties of the Administrative Agency.** In addition to coordinating the activity, services and personnel as set forth in this Agreement, Administrative Agency shall perform the following:



A. Designate one of the two members of the Board of Directors which it appoints to act as Chairperson of the Board of Directors and perform related administrative services.

B. Employ all personnel under this Agreement and thereby create an employer-employee relationship between Administrative Agency and the applicable personnel.

C. Provide offices, furniture, equipment, books, supplies and capital equipment necessary for the proper functioning of the applicable personnel. Any such equipment and furnishings purchased by Administrative Agency shall remain the property of Administrative Agency.

D. Make satisfactory budgetary provisions and pay all applicable salaries, wages, benefits, operating costs, travel expenses, workers' compensation and public and professional liability insurance, and capital outlay for the operation of Schools Legal Services and employment of its personnel consistent with the stated purposes of this Agreement.

**10. Addition of Parties to Agreement.** Additional educational entities may be added as Participants after executing an addendum agreeing to be bound by its terms. The addition of new Participants shall not affect the term of the Agreement. The inclusion of additional parties to this Agreement or the withdrawal of some but not all of the parties to this Agreement shall not be deemed a dissolution of Schools Legal Service, nor a termination of this Agreement. In the event of a reorganization of one or more Participants, the successor in interest or successors in interest to the obligations of any such reorganized Participant shall be substituted as a party or as parties to this Agreement.

The amount paid by such entities shall be negotiated by the Board or its designee with each such entity and the amount due for the initial term shall be determined pro rata on a calendar month basis. A Participant shall at any time be entitled to expand the services it is entitled to receive pursuant to the terms of this Agreement by payment of the additional fee required.

**11. Withdrawal.** Any Participant may withdraw from its status as a party to this Agreement (or from only the labor relations service) at June 30 of any given year provided that at least six months prior written notice has been given to the Board of Directors (in other words, by December 31 of the previous year) and provided that at such time the Participant has either discharged, or has arranged to the satisfaction of the other parties for the discharge of, all pending obligations the withdrawing Participant has assumed under this Agreement. The seat of any member of the Board of Directors whose educational



agency withdraws from this Agreement shall be deemed vacant as of the effective date of the withdrawal.

12. **Termination.** Any Participant's status as a party to this Agreement may be terminated by two-thirds vote of the Board of Directors for failure to honor its obligations or abide by the provisions of this Agreement or any individual agreement between the Participant and Schools Legal Service, provided that the attorneys employed by Schools Legal Service shall observe any ethical rules concerning the withdrawal of counsel in any matter in which they represent a terminated Participant.

13. **Restricted Fiscal Account.** The Administrative Agency shall establish a restricted fiscal account in the County School Service Fund of Kern County in which shall be placed all monies received pursuant to this Agreement. Only bona fide and appropriate costs in performing the purposes and services under this Agreement shall be charged to and expended against such restricted fiscal account. The Administrative Agency further agrees to make an annual accounting to the Board of the activity in and status of this restricted fiscal account.

14. **Disposition of Property and Funds.** In the event of the dissolution of Schools Legal Service, the complete recision or other final termination of this Agreement by all Participants, any property interest remaining in Schools Legal Service following a discharge of all obligations shall be disposed of as the Board of Directors shall then determine with the objective of returning to each Participant a proportionate return of the contributions made to such properties by the Participants.

15. **Amendments.** This Agreement may be amended by a majority vote of the Board of Directors. Notice of any amendment shall be provided to each Participant.

16. **Severability.** Should any portion, term, condition or provision of this Agreement be determined by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or be otherwise rendered unenforceable or ineffectual, the validity of the remaining portions, terms, conditions and provisions shall not be affected that determination.

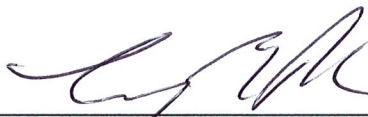
17. **Counterparts.** This Agreement may be signed in multiple counterparts which shall, in the aggregate, be signed by all parties. Each counterpart shall be deemed an original instrument as against any party who has signed it.

18. **Conflict Between Participants.** In the event that two or more parties to this Agreement and/or entities to which services are provided, are unable to resolve a legal issue between or among them without legal proceedings, the party(ies) or entity(ies)

asserting a legal position contrary to or in opposition to the written determination or opinion of Schools Legal Service on the matter at issue shall secure separate legal counsel at its/their own expense and apart from the costs, fees or liabilities for payments as set forth in this Agreement. Schools Legal Service may then continue to represent the party or parties not in opposition to the written determination or opinion of Schools Legal Service.

ADMINISTRATIVE AGENCY

County Superintendent of Schools  
County of Kern

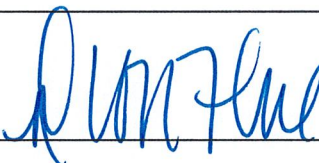
By   
LARRY E. REIDER

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The modifications reflected in this Joint Powers Agreement for Legal and Labor Relations Services were approved by the Board of Directors. Participant's execution of this Agreement was authorized by its governing board or authorized designee.

PARTICIPANT

FAIRFAX SCHOOL DISTRICT  
DISTRICT

By 

DESIREE VON FLUE  
Name of Authorized Signature [printed]

DISTRICT SUPERINTENDENT  
Title [printed]

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# SCHEDULE 1

## **KERN COUNTY**

Arvin Union School District  
Beardsley School District  
Blake School District  
Buttonwillow Union School District  
Caliente School District  
Delano Jt. Union High School District  
Delano Union School District  
DiGiorgio School District  
Edison School District  
El Tejon Unified School District  
Elk Hills School District  
Fairfax School District  
Fruitvale Union School District  
General Shafter School District  
Greenfield Union School District  
Kern County Superintendent of Schools  
Kern High School District  
Kernville Union School District  
Lakeside Union School District  
Lamont School District  
Linns Valley-Poso Flat School District  
Lost Hills Union School District  
Maple School District  
Maricopa Unified School District  
McFarland Unified School District  
McKittrick School District  
Midway School District  
Mojave Unified School District  
Muroc Jt. Unified School District  
Norris School District  
North Kern Vocational Training Center  
Panama-Buena Vista Union School District  
Pond Union School District  
Richland School District  
Rio Bravo-Greeley Union School District  
Rosedale School District

Semitropic School District  
Sierra Sands Unified School District  
South Fork Union School District  
Southern Kern Unified School District  
Taft City School District  
Taft Union High School District  
Vineland School District  
Wasco Union High School District  
Wasco Union School District  
West Kern Community College District  
West Side Regional Occupation Program

## **INYO COUNTY**

Big Pine Unified School District  
Bishop Jt. Union High School District  
Death Valley Unified School District

## **LOS ANGELES COUNTY**

Acton-Agua Dulce Unified School District  
Hughes-Elizabeth Lakes Unified School District

## **MONO COUNTY**

Eastern Sierra Unified School District

## **SAN LUIS OBISPO COUNTY**

Cayucos Elementary School District  
Coast Unified School District  
San Miguel Jt. Union School District  
Shandon Unified School District  
Santa Lucia Regional Occupation Program

## **SANTA BARBARA COUNTY**

Ballard School District  
Blochman Union School District  
College School District  
Los Olivos School District  
Vista del Mar Union School District



