



# Outside Counsel Policy

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## I. PURPOSE

To provide guidance to the Board of Retirement (Board) and ACERA Staff (Staff) when retaining outside legal counsel to provide advice regarding legal issues that relate to ACERA's business.

## II. ASSUMPTIONS

- A. Article XVI, Section 17 of the California Constitution provides that the Board shall have plenary authority and fiduciary responsibility for investment of monies and administration of ACERA.
- B. The Board recognizes that there are times when it may be prudent for the Board or Staff to utilize specialized expertise of outside legal counsel.
- C. Use of outside legal counsel for specialized matters is an industry norm and best practice. The expense of retaining outside legal counsel is a prudent cost of administering ACERA.

## III. POLICY GUIDELINES

- A. The Board may, by majority vote at a noticed meeting, engage the services of outside legal counsel to provide advice to Staff or the Board on any matter related to ACERA's business.
- B. The Chief Executive Officer and the Chief Counsel may engage the services of outside legal counsel to provide advice to Staff or the Board on any matter related to ACERA's business, and will promptly inform the Board when any new outside counsel is engaged.

The Chief Executive Officer and the Chief Counsel may also retain other providers of legal services including investigators, arbitrators, mediators and fact finders as they deem necessary to protect and advance ACERA's interests.

- C. When the Board Chair determines that the Chief Executive Officer and the Chief Counsel have a conflict of interest on a matter for which the Board Chair determines the Board needs advice from outside counsel, the Board Chair may engage the services of outside counsel to advise the Board Chair and/or the Board.
- D. Legal advice must always be disseminated to and discussed by Trustees in compliance with the Brown Act.
- E. The Chief Counsel shall direct and provide oversight for outside legal counsel by assessing work performance, responsiveness and reasonableness of bills, except when the Chief Executive Officer determines that he or she should take over such functions (e.g., the Chief Counsel has a conflict of interest regarding the matter for which legal advice is sought or is unavailable).
- F. The budget reports provided to the Board shall include the costs for outside legal counsel.

#### IV. POLICY REVIEW

The Governance Committee shall review this policy at least every three (3) years to ensure it remains relevant and appropriate.

#### V. POLICY HISTORY

- A. The Board adopted this policy on October 19, 2006<sup>1</sup>.
- B. The Board updated this policy, with revisions, on August 19, 2021.

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<sup>1</sup> The Policy was reviewed, without revisions, on July 17, 2008; September 16, 2010; April 19, 2012; and September 20, 2018.