



Outside Counsel Policy

I. PURPOSE

To provide guidance to the Board of Retirement (Board) and ACERA Staff (Staff) when retaining outside legal counsel to provide advice regarding fiduciary and other legal issues.

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 the system.
- B. In exercising its plenary authority, the Board has the right to seek fiduciary advice from staff counsel and/or from outside legal sources.
- C. In exercising its fiduciary responsibility the Board recognizes that there are times when it may be prudent for the Board or staff counsel to utilize the specialized expertise of outside legal counsel to provide advice with respect to the Board's fiduciary responsibilities and to protect and advance ACERA's interests in specialized areas of the law.
- D. Use of outside counsel for specialized matters is an industry norm and best practice. Retaining external counsel is an appropriate and prudent cost of administering the retirement plan and assists the Board in fulfilling its fiduciary obligations.

III. POLICY GUIDELINES

- A. On matters related to the Board's fiduciary duty, the Board may engage the services of outside attorneys to provide legal advice regarding fiduciary matters either independently or in conjunction with staff legal counsel.

- B. The Chief Executive Officer and the Chief Counsel may engage the services of outside counsel to provide specialized legal advice to protect and advance ACERA's interests.
- C. 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.
- D. The Chief Counsel shall direct and provide oversight for outside counsel and other legal services assessing work performance, responsiveness and bills.
- E. The budget reports provided to the Board include the costs for outside 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, 2006¹.
- B. The Board updated this policy, with revisions, on September 20, 2018.

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