

The July 26th Statement from the Board

At a special meeting Thursday July 26, the Orange County Board of Education (OCBE) made a decision to take several steps to remedy a unilateral action by the Orange County Superintendent of Education (OCSE) to appoint a General Counsel without the co-approval of the OCBE.

By law the General Counsel advises both the OCBE and OCSE, and the California education code 35041.5 expressly stipulates that the OCBE and OCSE “shall appoint the same” in-house counsel.

The OCBE believes that the OCSE’s unilateral action violates state law as well as basic notions of agency collaboration and shared governance. Given the importance of the General Counsel position to the OCBE’s work and its ability to serve the members of this community, the OCBE concluded decisive action was necessary to fully understand, address, and resolve this potentially conflictual and unjust situation.

Accordingly, at Thursday’s meeting, the OCBE resolved to make a formal demand that the OCSE remedy its legally unauthorized action and, in the event it fails to do so, to subsequently seek the intervention of the judiciary by filing an appropriate action in court requesting an order determining the parties’ respective rights, remediating the violation, and awarding other suitable assistance and support. The OCBE also formally authorized an earlier request for information from the OCSE made approximately one month ago regarding the OCSE’s action.

The OCBE prefers to avoid litigation if that can be accomplished, and it will attempt to do so in good faith. However, if the OCSE will not agree to remedy its unilateral action and acknowledge and cooperatively implement the co-equal right of both agencies under state law to appoint the General Counsel, then the OCBE is equally as committed to correcting this action and will seek to protect its governing authority and the right of any client to choose its legal counsel.

The OCBE takes very seriously its duty to serve in guiding the education and well-being of Orange County citizens. Appropriate, ethical, and suitable in-house counsel representation is a crucial role for the OCBE to be able to effectively conduct informed policy and decision making for Orange County citizens. It is our aim to obtain a just and swift resolution of this disagreement between the two governing entities of the OCDE.