



"Leadership in Public School Governance"

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

122 W. WASHINGTON AVENUE, MADISON, WI 53703  
PHONE: 608-257-2622 FAX: 608-257-8386

## **WASB Legal Services Program Summary (July 1, 2020)**

Fee-based attorney-client legal services ("Legal Services") are available to member boards in order to further the purpose of the WASB to aid and assist member boards in performing their lawful functions. The availability of Legal Services promotes the lawful conduct of member boards statewide and facilitates access to Legal Services statewide. Member boards have joined together in the WASB to secure the benefits of common purpose and shared resources. The Legal Services provided by WASB staff attorneys are distinct from the services provided to the common membership of WASB.

WASB Legal Services are limited to the services described herein by WASB policy. WASB Policy 140.10 provides in part:

*Legal Services, however, are limited to the services described in this policy. Legal Services provided under this policy are in the following areas: school law, employment law and collective bargaining. Legal Services also may include district-specific programs, training, and communications for board members and administrators on selected legal issues. Legal Services under this policy do not include representation in state or federal courts, and Legal Services are not available with respect to particular matters in cases where (i) the rights or interests of a member board may be in conflict with those of another member board, with Delegate Assembly resolutions, or with WASB Board Policies; (ii) controversies exist between one or more individual board members and their respective board; or (iii) such representation would otherwise contravene legal or ethical regulations. Legal Services provided under this policy shall be under the supervision of an attorney or attorneys licensed in the State of Wisconsin.*

*School law services may include providing advice on and assistance with intergovernmental agreements, cooperative agreements, policies, vendor contracts, student expulsions, open meetings law, public records law, annual and special school district meetings, and other school and government law matters.*

*Employment law services may include providing advice on and assistance with employment and labor law matters in the following areas; individual employment contracts and job descriptions; employee handbooks; non-renewal, dismissal, and grievance proceedings;*

*investigation of employee misconduct; employment discrimination and family leave complaints; and unemployment insurance claims.*

*Collective bargaining services may include providing advice on and assistance with collective bargaining agreements, negotiations, mediation, job actions, declaratory rulings, union certification elections, unit clarifications, prohibited practices, and statutory and internal grievance procedures.*

Legal Services are available to members boards under the WASB Legal Services Program. All legal fees received for provision of Legal Services under the Legal Services Program are paid into a trust account referred to as the WASB Legal Services Fund, and all costs of provision of Legal Services to member boards are paid from the WASB Legal Services Fund.

Every member board shall be eligible to receive Legal Services under the Legal Services Program, provided: (i) the matter involved qualifies for legal assistance under the provisions of the Legal Services Program; and (ii) the member board accepts the terms of engagement of the Legal Services Program, including payment of legal fees. Legal Services are provided under the Legal Services Program by a Panel of Attorneys selected by the Trustees of the Legal Services Fund (the “Panel of Attorneys”) who are: (i) members of the staff of attorneys with WASB; (ii) licensed to practice law in the State of Wisconsin; and (iii) knowledgeable and experienced in the areas of education and school law.

Charges for Legal Services are set by the Trustees of the Legal Services Fund and the Panel of Attorneys on an annual basis to coincide with the fiscal year of member boards, July 1 to June 30. However, all Legal Services shall be provided by, or under the direction of, a member of the Panel of Attorneys, independent of the Legal Services Fund, its Trustees, or WASB. Member boards receiving Legal Services will be billed for such services and expenses on a monthly basis. Member boards are free to discontinue services under the Legal Services Program at any time, and member boards will only be billed for services provided up to that time.

The members of the Panel of Attorneys regularly communicate with member boards through telephone, fax machine, regular mail, and electronic mail. Member boards having a preferred form of communication should inform the members of the Panel of Attorneys.

Members of the Panel of Attorneys are available to travel to districts to provide district-specific training on selected employment law and human resources issues, such as avoiding discrimination complaints, complying with the FMLA and FLSA, evaluating employees, handling employee discipline, conducting a student expulsion hearing, and effective hiring practices. If a district has distance learning technology, such training sessions can be provided remotely through videoconferencing.

All files, communications and information relating to the provision of Legal Services to, and the representation of, member boards are confidential, and are maintained at all times under the control of the Panel of Attorneys in a secure location separate and apart from all other paper and electronic files of WASB, and in accordance with all legal and ethical rules.

The following charges for Legal Services are effective **July 1, 2020**. Legal Services clients will be informed in writing of future changes to these charges.

- The hourly charge for Legal Services performed by Attorney Robert Butler, Attorney Barry Forbes, Attorney Dan Mallin, Attorney Ben Richter and Attorney Scott Mikesh is two hundred dollars (\$200.00) per hour. The hourly charge for travel time to and from the District for Mr. Butler, Mr. Forbes, Mr. Mallin, Mr. Richter, and Mr. Mikesh is one hundred twenty-five dollars (\$125.00) per hour.
- The hourly charge for Legal Services performed by Paralegal Sally Sweitzer (such as data services and office preparation) is one hundred and twenty (\$120.00) dollars per hour.
- For those schools that are more than two (2) hours from Madison, the maximum travel time charged will be four (4) hours round trip. Mileage reimbursement will be charged at the applicable Internal Revenue Service business standard mileage rate (57.5¢ per mile effective January 1, 2020). Other expenses, including filing fees, court reporter fees, transcript fees, hotels, meals, and photocopies (at 10¢ per copy or 25¢ per copy for color photocopies) will also be charged.

### **Additional Services Offered by WASB**

#### General Legal Information

In addition to providing Legal Services under the Legal Services Program, WASB staff attorneys provide member boards with general legal information as a member service (no additional fee).

Member boards can contact WASB staff counsel seeking general legal information without incurring an additional charge. This usually takes the form of an administrator, board member, or attorney representing the district asking a WASB staff attorney general questions. Member boards typically communicate with WASB staff attorneys by telephone or email. The WASB staff attorney response to the question typically does not involve investigation of the facts and circumstances surrounding the question or additional legal research. The provision of such general information under such circumstances to board members and others is understood not to create an attorney-client relationship between the WASB and the member board or individual making the inquiry. This general legal information does not constitute the provision of Legal Services to the requestor.

Where Legal Services are being provided by a member of the Panel of Attorneys to a client member board under the Legal Services Program, the attorney will endeavor to provide client member boards with some general legal information without charging the client member board, although an attorney-client relationship is understood to exist whenever services are provided within the scope of representation sought by the client member board.

#### Policy Consulting

Detailed policy consulting services are provided as part of the Legal Services under the Legal Services Program. Sometimes such work is very narrowly defined to involve a review of only the documents that a member board provides, with the goal of providing a timely and cost-effective response. Policy consulting services involving the review of individual policy documents without

expectation from the member board of comprehensive Legal Services are examples of limited scope representation. The Panel of Attorneys will ask that member boards consent to limited scope representation in writing following the specific request of the member board for such limited scope representation.

Other policy services provided by WASB do not constitute legal advice and any member board purchasing such policy services may wish to obtain independent legal counsel with respect to the purchase of such services. The purchase of such policy services is offered by WASB outside of the Legal Services program, and members of the Panel of Attorneys do not represent member boards with respect to the purchase of such services, except for the detailed policy consulting services described in the preceding paragraph.

### **Other Considerations**

In addition to providing Legal Services under the Legal Services Program, members of the Panel of Attorneys also represent WASB with respect to legal issues. WASB employs the members of the Panel of Attorneys and pays at least part of their salaries and benefits. WASB does not exercise any control over or attempt to regulate or influence in any way the professional judgment of the members of the Panel of Attorneys with respect to the provision of Legal Services.

It is important to note that in both the provision of member board service legal information and Legal Services, the WASB is providing information and/or services to the member board or district and not to the individual board member or administrator.

Questions regarding the WASB Legal Services Program should be directed to Barry Forbes or Bob Butler at the WASB Madison office.