



Pennsylvania Association of School Administrators

Proud Leadership for Pennsylvania Schools

PASA Legal Services Policy

I. Introduction

The Pennsylvania Association of School Administrators (“PASA”) Legal Services Program supports PASA members who are Commissioned Officers (i.e. District Superintendents, Assistant District Superintendents, Intermediate Unit Executive Directors and Assistant Executive Directors) by providing access to legal counsel regarding relationships with Boards, employment contracts, separation agreements, and certain other employment-related issues. This policy is designed to improve legal assistance and services for PASA members by clarifying eligibility requirements, available legal services, limitations of the program, and the process for accessing services. This policy replaces all previous PASA policies regarding legal services. This policy should not be construed to create any right, benefit, substantive or procedural, enforceable at law or equity, by any party against PASA, its officers, staff members, attorneys or any other person. PASA’s General Counsel is responsible for the overall supervision and administration of the PASA Legal Services Program in accordance with this policy.

II. Who Is Eligible for PASA Legal Services?

The following persons are eligible to request assistance from a PASA attorney for legal services in accordance with this policy:

- A. PASA members who are Commissioned Officers (i.e. District Superintendents, Assistant District Superintendents, Intermediate Unit Executive Directors and Assistant Executive Directors);
- B. Pennsylvania administrators who are being considered for appointment to their first commissioned position and are requesting employment contract assistance; and
- C. Administrators who are relocating from another state and moving into a commissioned position in Pennsylvania and are requesting employment contract assistance.

III. What Services Are Available through PASA's Legal Services Program?

A. PASA's legal services program provides access to direct legal assistance as follows:

1. **Consultation Services.** PASA attorneys are available to consult with PASA members who are Commissioned Officers regarding job-related legal questions related to the meaning and implications of employment contract language, statutory requirements for employment contracts, duties and responsibilities, evaluations, performance standards, Board relationships, renewals, PSERS retirement, exit strategies, severance limitations and termination issues. Such assistance is available by telephone or in-person and may include counseling, explanation of legal rights and responsibilities, and discussion of strategic considerations regarding specific situations. When appropriate and depending upon the circumstances, PASA may provide members with a referral to other resources.
2. **Employment Contract Services.** PASA attorneys are available to provide PASA members who are commissioned officers with legal advice on employment contracts drafted by their employers and are also available to negotiate and prepare employment contracts directly on behalf of commissioned officers. Employment contract services are also available to PASA members and non-members who are being considered for appointment to their first commissioned position and to administrators who are relocating from another state and moving into a commissioned position in Pennsylvania. In these situations, it is PASA's expectation that everyone who utilizes PASA legal services will become a PASA member as soon as they are appointed to a commissioned position in Pennsylvania.

The primary purpose of this service is to provide members with information and legal advice regarding the meaning and impact of contract language so that members can make the best informed decision for their individual circumstances. Such services from PASA's attorneys may include an initial analysis of a draft contract prepared by an employer's attorney, provision of sample contract language, negotiation with employer's attorney, preparation of an employment contract that meets both statutory requirements and the individual needs of a member, including compensation, fringe benefits, retirement benefits as well as other contractual provisions representing

best practices and those required by the Pennsylvania Public School Code.

3. **Non-Litigation Dispute Resolution.** PASA attorneys are available to provide PASA members who are commissioned officers with assistance regarding the informal resolution of issues and employment disputes with their Boards. Such assistance may include discussion of alternative solutions to litigation, explanation of legal rights and responsibilities, development of exit strategies, and correspondence and communication with Board attorneys.
4. **Separation Agreements.** PASA attorneys are available to assist PASA members who are commissioned officers with the negotiation and preparation of separation agreements, severance agreements, and retirement agreements. Such services may include a discussion of information regarding member rights and responsibilities, a review and feedback on a proposal from the Board's attorney, preparation and negotiation of a separation agreement.

B. Conditions to the PASA Legal Services Program include:

1. PASA Legal Services will be considered upon request. Although PASA will endeavor to provide legal services under this policy on a "first come-first served" basis, if requests for legal services surpass available resources or capacity, PASA reserves the right to decline, limit, suspend or discontinue legal services. In such situations, PASA may work with members to identify appropriate referrals for representation through a bar association referral service or to a private attorney from a list of attorneys who have been referred to PASA and/or have provided services to PASA members in the past.
2. Except as otherwise set forth in this policy, access to PASA legal assistance is available only to those PASA members who are commissioned officers and such assistance once approved shall continue only to the extent and duration that the applicant continues as a PASA member.
3. The provision of PASA legal assistance shall not be predicated upon the race, creed, color, gender, age, marital status, sexual orientation, gender identity or disability of the PASA member.
4. PASA provided legal assistance does not necessarily constitute an endorsement of the particular case or situation of the individual.

IV. How to Access PASA Legal Services

A. To obtain direct legal services or representation, the member must:

1. Review PASA Legal Services Policy (on the PASA website).
2. Confirm payment of all required dues for PASA membership.
3. Contact a PASA attorney to discuss needs and request for assistance.
4. Request PASA legal assistance – complete and submit necessary forms.
5. Forward relevant documents for review.
6. If and when approved for PASA legal assistance, review and execute a Representation Agreement with a PASA Attorney and agree to be bound by the scope, terms and conditions of representation as set forth in the representation agreement and this PASA Legal Services Policy, and to follow the direction of PASA’s legal counsel, as appropriate.

B. How to Effectively Prepare to Use PASA Legal Services

The following guidelines will help us give you the most prompt, accurate response to your request:

1. Call as soon as possible -- early contact will help us meet your deadline. PASA attorneys can be reached at (717) 540-4448.
2. If a matter is time-sensitive and/or you are under a deadline, let us know. We will try our best to work with you to meet your deadline.
3. During the initial contact, provide PASA attorneys with as many facts as possible.
4. If the inquiry involves interpretation of a contract, it is a good idea to forward the contract and other relevant documents so that PASA attorneys can review it before providing any response or feedback. Potentially relevant documents depending on the specific situation:
 - Current employment contract
 - Previous administrator’s employment contract
 - Administrator Compensation Plan (“Act 93 Agreement”)
 - Evaluation Instrument

- Objective Performance Standards
 - Annual Goals
 - Strategic/Comprehensive Plan
 - Collective Bargaining Agreement
 - Relevant Board Policies
 - Performance Evaluations
5. Let PASA attorneys know the best time and method to reach you. It is important to provide PASA attorneys with **personal contact information** including a personal email address, cell phone number, and home address.
 6. PASA members are welcome to discuss matters in person at PASA's Harrisburg office. Please call in advance so that an attorney will be available to meet with you. If your inquiry involves review of documents, please forward in advance of the meeting, thus providing the attorney time to prepare meaningful comments.
 7. Keep PASA attorneys fully informed until the representation is concluded.
 8. Remember that your employer's attorney is not your advocate or friend in these circumstances. When you have engaged a PASA attorney, please direct all contact with the employer's attorney and discussion of your situation to your PASA attorney.

V. What are the Limitations to PASA Legal Services?

- A. PASA attorneys will **not** provide direct legal services or representation related to the following:
 1. Individuals who are not eligible for services under this policy.
 2. Litigation, including but not limited to, due process hearings, arbitrations, and employment-related litigation.
 3. Criminal acts, charges, indictments, and investigations; federal law issues; matters involving the Equal Employment Opportunity Commission ("EEOC"), the Pennsylvania Human Relations Commission ("PHRC") and/or the Ethics Commission; and professional misconduct proceedings under the Educator Discipline Act.
 4. Issues collateral to employment contract issues, including but not limited to, Workers' Compensation and Unemployment Compensation.

5. Issues not related to the member's employment status or employment contract. Such issues include, but are not limited to, family law, personal injury, tort claims, defamation, libel, and real estate matters.
- B.** PASA attorneys will decline, limit, and/or refer eligible members to outside counsel, and/or condition, suspend and/or terminate legal services and representation in the following circumstances:
1. PASA and/or its attorney(s) have a conflict of interest in representing a member in a particular matter.
 2. Two or more of PASA's members have adverse interests to one another. However, generally, PASA will provide advice and/or representation to the member who first contacts PASA for assistance regarding an issue involving multiple members.
 3. PASA member has retained the services of another attorney.
 4. PASA and/or its attorneys have determined that the member has acted unethically or illegally.
 5. PASA and/or its attorneys have determined that the member's position or demands are frivolous, without merit, unwarranted, designed solely to harass or intimidate, or are in violation of Pennsylvania laws, regulations or rules of procedure.
 6. PASA conditions the legal representation and use of PASA legal services upon the member availing himself or herself at his or her own expense of a counseling and/or treatment program for assistance in dealing with personal problems or conditions, such as substance abuse, emotional distress, etc.
 7. PASA and/or its attorneys have determined that the request for representation or assistance is beyond the scope of this policy.
 8. Available funds or resources are insufficient to provide the requested legal services.

C. Attorney Discretion.

In all aspects of the PASA Legal Services Program, PASA attorneys, under the direction of the PASA General Counsel, shall have the authority and complete discretion to:

1. Exercise independent professional judgment.

2. Provide legal advice and services in accordance with all applicable laws, regulations, administrative rules, court rules and the Pennsylvania Rules of Professional Conduct.
3. Determine the scope, processing and strategy of representation.
4. Reject any and all attempts by PASA's Executive Director, Board of Governors, Executive Committee, Officers or any other PASA member from dictating, regulating or circumscribing the PASA attorney's professional conduct with respect to legal services, advice and representation provided to PASA members under this policy.

VI. Appeal Process

Anyone who has been denied legal services under this policy may appeal the denial of services to the PASA Executive Committee, which will determine if, and to what extent, legal services will be provided to the member. Such an appeal must be made in writing to the PASA Executive Director within 30 days of the initial denial of legal services. The decision of the Executive Committee is final.

VII. Other Support

A. AASA Member Support

Members of the American Association of School Administrators (AASA) may be eligible for reimbursement of certain job-protection legal defense expenses through AASA. For additional information regarding AASA benefits, members must contact AASA Member Services directly at (703) 875-0741.

B. Referrals

In certain circumstances, a PASA attorney may be unavailable or unable to provide assistance on a particular matter or a member may present an issue which is outside of the scope of the PASA Legal Services Program. In these instances, PASA may work with members to identify appropriate referrals for representation through a bar association referral service or to a private attorney from a list of attorneys who have been referred to PASA and/or have provided services to PASA members in the past.

VIII. Reservation of Rights

PASA reserves the right, in its sole discretion, to adjust this policy, to decline legal services, or provide legal services beyond the scope of this policy when, in the determination of PASA's General Counsel, Executive Director, or Executive Committee, it serves the interest of PASA, its members, or public education.

Approved by the PASA Board of Governors on September 17, 2015

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