

PERSONNEL

CONSULTANTS/SPECIAL COUNSEL

Employment of Special Counsel

In order to implement GO/4124 in accordance with the Ad Hoc\_Committee Report as accepted by the Board of Directors (March 12, 1993), the following structures and procedures are established:

- A. An Ad Hoc Committee for Employment of Special Counsel will be appointed by the President to serve concurrently with the term of the President.
  1. The committee is responsible for:
    - a. Establishing criteria to be used in judging the appropriateness of a particular firm to a particular Association need. Criteria include fee schedules, location of firm, venue of matter. Experience in the needed area and quality of legal services are primary considerations. There should be no conflict of interest discernible.
    - b. In the event another firm or a pool of firms needs to be selected, the following shall be the process or selection. Over the summer following the bi-annual election of officers (except initial committee), the committee, on behalf of the Association, will advertise in New Jersey Law Journal and/or New Jersey Lawyer for attorneys with expertise in the general areas in which a need for outside counsel may arise. Interested firms will be requested to write to NJSBA to secure a proposal package containing requirements and criteria. The Association will specifically constrain outside counsel regarding rates, charges, reporting timelines, and updating mechanisms to keep the Association informed. Outside counsel must be informed and agree that it is inappropriate for the counsel to advertise that NJSBA is a client; a listing in Martindale-Hubbell is acceptable. Sample protocol letters and reporting and update forms for this process are at GO/4124E.
    - c. The committee will screen completed proposals and select an appropriate number (three or four firms per identified area of non-recurring need) to present to the Board of Directors at its September meeting for approval and placement in Association files on an approved attorney list. One firm may be selected for more than one area, but no firm may be the sole option.
    - d. Convening to select a firm when called by the President or at the direction of the Board of Directors. Applying the criteria from 'a' above to the matter at hand, the committee will recommend the most appropriate firm to the Board of Directors. The confirmation letter to the selected firm will be copied to the Board of Directors. The confirmation letter to the selected firm will include the following parameters:
      - Charges for "review," "in-house conference" or "follow-up" are unacceptably vague and will be referred back to outside counsel for more specific explanation.
      - Time charges should cover no more than one activity. Block charges for several activities will be referred back to outside counsel for correction.

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CONSULTANTS/SPECIAL COUNSEL

- Charges for “preparation of instructions” will not be allowed. This usually covers training for a junior associate. The Association should not be charged for such training.
- Standard time charge is 1/10 of an hour. Outside counsel bills should be divided into that fraction.

Employment of Special Counsel (continued)

- d. Meeting quarterly during the period when outside counsel is being used to review the bills of that counsel. The outside counsel will send all bills to the President and Executive Director. The Executive Director will give a copy of each bill to the General Counsel for review to ensure it follows appropriate and usual legal billing practices.
  - e. When requested by the President, advising the Board of Directors, Executive Committee and/or Executive Director, through the President or Executive Director, on issues related to the use of outside counsel.
2. The committee will be composed of: One officer, two Board of Directors members, two local district board members (at large), President ex officio. At least one of these should be an attorney, because attorneys should be able to recognize and understand whether the billing practices of the outside counsel were usual and acceptable and have a basis for recognizing whether a firm’s reputation is based on solid ability and experience.

B. Establishing the need for employment of an outside counsel

2. NJSBA’s areas of non-recurring need for outside counsel are most probably: taxes, real estate, insurance, employment, litigation.
3. Determination that in-house counsel are not able to handle the matter due to unusual complexity; time intensiveness of matter, or conflict of interest.
4. Criteria to be used when selecting outside counsel include: Quality of legal services, experience in the needed area, proposed billing rates, and geographic location.

C. Process

1. Initiating authority
2. Committee makes recommendation to Board of Directors.
3. An engagement letter (see GO/4124E) is sent to the outside counsel wherein the parameters are set down for working with the Association.

**N E W J E R S E Y S C H O O L B O A R D S A S S O C I A T I O N**

**GOVERNANCE & OPERATIONS**

**FILE CODE: GO/4124R**

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3. The President may consult with an outside counsel without the approval of the Board of Directors. Expenses thus incurred shall not exceed \$5,000. This amount is not so small as to hamper or restrict the consultation, but is not so large that prior authority of the Board of Directors would be essential.
  
- C. Consideration of reports and recommendations: The President and Executive Director will receive all copies of reports from outside counsel in a manner and within timelines set out in the engagement letter, keep each other informed, and inform the Board of Directors in a regular and timely manner of the progress of the matter.

Revised: October 6, 2000