



Analysis of District Legal Services

Folsom Cordova Unified School District

Budget Advisory Committee Presentation – April 20, 2022

Board Presentation – April 28, 2022

Overview



- ▶ The FCUSD Board has requested an analysis of the District's legal cost and usage to determine if in-house counsel would create a financial savings and/or benefit
 - ▶ This information will be first reviewed by the Budget Advisory Committee (BAC) at the April 20th meeting
- ▶ This presentation will review the historical cost for legal services by major department with the intent to identify areas where there is high cost and commonality of needs
 - ▶ Staff will also look at type of legal services used, compare with neighboring districts, and make a recommendation on next steps

Legal Usage by Department & Staff Type



Legal Firm Services (Hours) by Staff Type (YTD)					
	AALRR	FFF	Kingsley Bogard	Lozano Smith	Grand Total
Associate (Senior Associate)	66.00	223.50	163.20	49.30	502.00
Paralegal	10.75	8.90	5.20	0.00	24.85
Partner (Senior Partner)	60.25	380.60	150.00	14.90	605.75
Grand Total	137.00	613.00	318.40	64.20	1,132.60

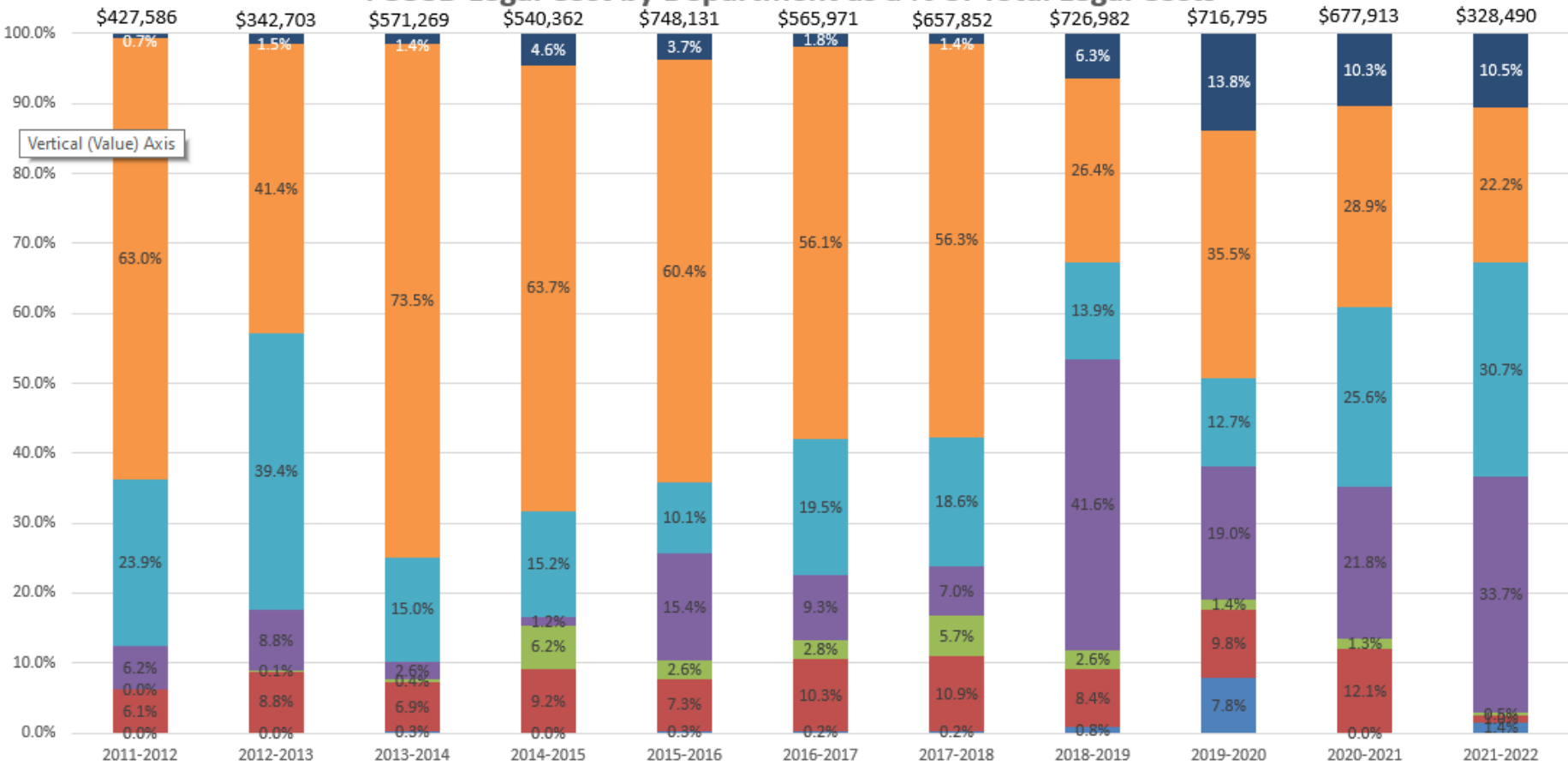
Legal Firm Services (Hours) by Department (YTD)					
	AALRR	FFF	Kingsley Bogard	Lozano Smith	Grand Total
Attendance Due Process (ADP)	0.00	0.00	11.10	0.00	11.10
Business Services	0.00	5.70	0.00	0.00	5.70
Curriculum & Instruction (C&I)	0.00	0.00	0.00	2.40	2.40
Facilities	0.00	476.00	0.00	0.00	476.00
Human Resources (HR)	0.00	0.00	269.60	0.00	269.60
Special Education (SPED)	137.00	129.40	0.00	2.00	268.40
Superintendent/Board	0.00	1.90	37.70	59.80	99.40
Grand Total	137.00	613.00	318.40	64.20	1,132.60

- ▶ The District works primarily with four legal firms (*with Department*)
 - ▶ Atkinson, Andelson, Loya, Ruud & Romo (AALRR) – *SPED*
 - ▶ Fagen, Friedman, & Fulfrost LLP (FFF) – *Business, Facilities, SPED, & Superintendent/Board*
 - ▶ Kingsley Bogard - *ADP, HR, & Superintendent/Board*
 - ▶ Lozano Smith – *C&I, SPED, & Superintendent/Board*
- ▶ Year-to-date (YTD) - 98% of legal services used are with an associate or partner level attorney
 - ▶ Only 2% of services are with a paralegal



Historical Cost Analysis

FCUSD Legal Cost by Department as a % of Total Legal Costs



Legal costs have averaged annually \$598K over the last 10 years

- Costs have increased and averaged \$700k over the last three years

Based upon historical data the greatest use of legal services are in the areas of:

- Special Education
 - Average 49.5% of legal cost - \$296k
- Human Resources
 - Average 18.1% of legal cost - \$108k
- Facilities
 - Average 14.7% of legal cost - \$88k

Superintendent/Board (105)	\$3,006	\$5,144	\$7,979	\$24,646	\$28,034	\$10,053	\$9,371	\$46,038	\$98,844	\$69,951	\$34,560
Special Education (128)	\$269,247	\$141,970	\$419,608	\$343,983	\$451,938	\$317,619	\$370,062	\$191,684	\$254,548	\$195,741	\$72,870
Human Resources (106/116)	\$102,341	\$135,142	\$85,757	\$82,270	\$75,613	\$110,546	\$122,325	\$101,202	\$90,948	\$173,600	\$100,928
Facilities (Inc. Bond Program) (121)	\$26,546	\$30,029	\$14,666	\$6,330	\$115,500	\$52,355	\$46,146	\$302,096	\$136,417	\$147,819	\$110,584
Curriculum & Instruction (117/118)	\$201	\$243	\$2,007	\$33,455	\$19,742	\$16,048	\$37,394	\$19,079	\$10,077	\$8,981	\$1,509
Business Services (112)	\$26,245	\$30,175	\$39,652	\$49,616	\$54,921	\$58,248	\$71,482	\$60,842	\$69,967	\$81,822	\$3,379
Attendance & Due Process (132)	\$-	\$-	\$1,600	\$62	\$2,383	\$1,102	\$1,073	\$6,041	\$55,994	\$-	\$4,661

Department Needs Analysis - SPED



- ▶ Special Education
 - ▶ Legal services used primarily for due process filings
 - ▶ Due process filings for special education are administrative hearings
 - ▶ Time consuming and District uses several attorneys to support the requirements of these cases
 - ▶ Additional use of legal is for questions regarding unique or rare issues
 - ▶ Example is for a deaf/hard of hearing issue and specific law that in-house counsel would likely not be able to answer due to specialty of issue
 - ▶ Department has trained staff using Alternative Dispute Resolution (ADR) so that the majority of disputes and legal issues can be handled internally which helps to control legal costs

Department Needs Analysis - HR



▶ Human Resources

- ▶ Department is typically working with three to four attorneys on ongoing issues including:
 - ▶ Negotiations
 - ▶ Employee discipline matters
 - ▶ Due process, formal complaints, Title IX, and investigations
 - ▶ Other areas include staff trainings, Public Employment Relations Board (PERB) items, restraining orders, and serving of papers
- ▶ HR uses legal to help draft letters and responses on issues that could be provided by support staff but would require a high level of knowledge in personnel issues
 - ▶ But due to the volume and timeliness requirements of active items it would be unrealistic to assume that a single employee could take on all the HR needs

Department Needs Analysis - Facilities



- ▶ Facilities
 - ▶ Legal needs include land acquisition, construction contract review, request for proposals (RFPs), facility/site leases, joint-use, easement and consultant agreements
 - ▶ Construction legal issues include stop notices, contractor substitutions, notice of completion, mediation/arbitration and alternative delivery document preparation
 - ▶ Also, there are specialized issues such as sale of property, tax rate, developer fee, cell tower contracts and more
- ▶ With the anticipated growth and new construction, it is anticipated that needs will be high for the foreseeable future
 - ▶ Costs for these services will be paid from facility funds (FD 20-35)
 - ▶ Bond related legal issues are handled by legal counsel that is funded from the bond issuance costs
- ▶ Due to the complexity and varying legal needs of the facility department, staff does not believe in-house counsel would be able to provide the level of services needed

In-House Legal Counsel Services



- ▶ Staff contacted neighboring districts to find out their method for legal support
 - ▶ Districts with In-House Legal – San Juan, Sac City, SCOE
 - ▶ Districts shared that the majority of work is in relation to due process issues, contract review, special education, and board questions
 - ▶ Any specialized issues require outside legal counsel
 - ▶ No In-House Legal Counsel – Elk Grove, Galt Joint, Natomas, Twin Rivers
 - ▶ Elk Grove had in-house counsel and moved toward a different model
 - ▶ As legal matters became more specialized and more prevalent it was determined that general in-house counsel could not provide the support and expertise needed in all of the specialized areas (i.e. SPED, contracts, construction, HR, negotiations, land acquisition, and so much more)
 - ▶ EGUSD created a legal compliance position that helps with coordinating legal items, contract issues, and creation of letters/documents (i.e. clearing house to help prioritize issues)
- ▶ Cost for in-house counsel is projected at \$250k-\$300k and this does not include any additional administrative or ongoing support costs.

Cost Savings Measures



Cost Savings

- ▶ Free legal HR support– Patti Eyres
 - ▶ FCUSD is a member of two insurance Joint Powers Authorities (JPA) - Schools Insurance Authority (SIA) and Schools Insurance Group (SIG) which provide legal support and trainings through Patti Eyres
- ▶ Training of staff on common legal issues and appropriate actions
 - ▶ District continues to offer training opportunities for staff to mitigate areas of potential legal concerns including:
 - ▶ SPED - Alternative Dispute Resolution (ADR)
 - ▶ HR – Workplace/management/personnel issues
 - ▶ Facilities/Business – Contracts/MOU language
 - ▶ Department uses templates for some agreements (Lease Lease-back, construction documents, easements) so legal review costs are minimized
 - ▶ SIA provides training and will review district contracts to mitigate liability
- ▶ District staff has created a higher level of capacity within the team to handle many legal issues and compliance items

Summary of Analysis & Conclusion



Summary

- ▶ District legal costs are projected to be approximately \$700k in 2022-2023
- ▶ Over 90% of the costs are in support of special education, human resources and facility needs
 - ▶ SPED issues are specialized and need focused support
 - ▶ HR issues are vast and often have specific timelines that must be met, this requires legal support that can act quickly and respond to unexpected needs
 - ▶ Facility issues require specialized and need focused support
- ▶ Staff has implemented measures and increased capacity to help minimize legal costs were possible
- ▶ Costs for in-house counsel is projected at \$250k-\$300k and this does not include any additional administrative or ongoing support costs.

Staff Conclusion

- ▶ *The addition of in-house legal support and ancillary costs are not warranted, as it would not create sufficient support/benefit or financial savings*

Next Steps

- ▶ *Analysis of current staffing in HR, SPED and ADP departments in relation to capacity to ensure compliance in critical areas, which minimizes potential high cost litigation issues*
- ▶ *Business/Fiscal staff will continue to monitor legal cost and usage; if factors change that show a benefit for in-house legal counsel, staff will communicate to the Superintendent for next steps*

Questions?

