

Category: 100  
Number: 121

Subject: **ELECTED OFFICIALS LEGAL REPRESENTATION**

1. PURPOSE: The purpose of this policy is to:
  - 1.1 Formulate a written County policy and define a clear policy direction for the Elected Officials with respect to legal representation;
  - 1.2 Avoid conflicts and needless disputes between the various branches of government;
  - 1.3 Communicate to County Elected Officials and others the formal Board of Commissioners' policy with respect to retention of legal counsel for Elected Officials; and
  - 1.4 Assist in the general management of the County.
2. AUTHORITY: Saginaw County Board of Commissioners.
3. APPLICATION: This policy shall apply to all Saginaw County Elected Officials.
4. RESPONSIBILITY: The Saginaw County Board of Commissioners shall be responsible for the implementation of and adherence to this policy.
5. DEFINITIONS: NONE
6. POLICY: Under the laws of the State of Michigan, it is the sole authority of the County Board of Commissioners to retain legal counsel for Elected County Officials. Under MCL Section 49.73 it states:
  - 6.1 The County Board of Commissioners of a County shall employ an attorney to represent elected county officers, including the sheriff, prosecuting attorney, clerk, treasurer, county surveyor, county executive, register of deeds, drain commissioner, mine inspector, public works commissioner, and judges of the county district, probate and circuit courts in civil matter, as a defendant, when neither the prosecuting attorney nor corporation counsel is able to represent the particular officer.
  - 6.2 Legal advice, counsel, or court action shall be required under this section only in a case which involves an official act or duty of the office of the county officer.
  - 6.3 The attorney shall receive reasonable compensation as shall be determined by the Board of Commissioners.

- 6.4 It is in the sole discretion of the County Board of Commissioners to determine the terms and conditions of employment of legal representation for Elected County Officials. The County Board of Commissioners shall provide legal representation for Elected County Officials, pursuant to MCL 46.79 when the Elected Official is a named defendant in any litigation in any State or Federal Court. If the Elected Official is not a named defendant, the Board of Commissioners, at its discretion, may authorize counsel but it is not mandatory.
- 6.5 It is the policy of the Saginaw County Board of Commissioners to require all Elected Officials including District Court, Circuit Court and Probate Court judges to submit a request for outside legal representation to the County Controller's Office. In that request, the Elected Official should explain the need for retaining counsel and why Civil Counsel or the Prosecutor cannot handle this particular matter. The County Controller shall meet with the County Civil Counsel to determine why the Civil Counsel cannot handle the legal problem addressed and determine whether the Saginaw County Prosecutor's Office will be able to handle the legal problem. If it appears that neither the County Civil Counsel, nor the Saginaw County Prosecutor will handle this matter and there is a definite need for outside legal counsel the Controller shall take appropriate action based upon the time constraints place by statute.
- 6.6 If the County Board of Commissioners approves the retention of counsel the Controller is authorized to pay the attorney a reasonable fee. If, however, the County Board of Commissioners does not approve retention of counsel, the attorney shall be paid by the respective requesting Elected Official. An Elected Official may recommend to the Board of Commissioners which legal counsel they would prefer to represent them, however, the final decision as to legal representation rests with the Saginaw County Board of Commissioners.

7. ADMINISTRATIVE PROCEDURES: NONE

8. CONTROLLER/CAO LEGAL COUNSEL REVIEW: The Controller/CAO has determined that this policy as submitted to the Board of Commissioners contains the necessary substance in order to carry out the purpose of the policy. County Civil Counsel has determined that this policy as submitted contains content that appears to be legal activities of the Saginaw County Board of Commissioners.

Approved as to Substance:  
Saginaw County Controller/CAO

Approved as to Legal Content:  
Saginaw County Civil Counsel

ADOPTED: November 23, 1999