

# MONTHLY OPINION REPORT

## CALIFORNIA ATTORNEY GENERAL'S OFFICE



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**February 1, 2023**

The Attorney General's Opinion Unit is responsible for researching and drafting the formal opinions of the Attorney General. This Monthly Opinion Report lists all of the questions that are currently under consideration for formal opinions.

The Attorney General welcomes and solicits the views of all interested persons concerning the issues raised in any question submitted for an opinion. Views should be in writing and directed to the deputy assigned to prepare the opinion. Contact information for deputies is included at the end of this report. All views submitted before publication will be considered, but early submissions are greatly preferred. All submissions will be treated as public records subject to disclosure under the Public Records Act.

For more information about the Opinion Unit, or to retrieve a copy of a published opinion, please see our website at <http://oag.ca.gov/opinions>.

### **NEW QUESTIONS ASSIGNED DURING JANUARY 2023**

#### **22-1201 requested by Senator Bill Dodd**

Given that California wineries applying for a direct shipper license in another state are often asked to provide a criminal record check in connection with that application, if a California winery owner or manager obtains a criminal record check from the California Department of Justice, would furnishing that criminal record check—or notification no such record exists—to another state's alcohol control agency constitute a violation of California Penal Code sections 11121, 11125, 11142, or 11143?

(Assigned to Deputy Attorney General Susan Duncan Lee.)

## OPINIONS ISSUED OR CONCLUDED DURING JANUARY 2023

### **Opinion No. 22-803 (issued January 26, 2023)**

#### *Question Presented and Conclusion:*

LYNN BOONE applies to this office for leave to sue DEIDRE DUHART in quo warranto to remove Duhart from her public office as a member of the Compton City Council on the ground that Duhart did not receive the requisite number of votes under the Compton City Charter to be appointed to that office. As a separate matter, Boone alleges that the Compton City Attorney took certain improper and *ultra vires* actions in declaring Duhart's appointment to be valid.

We conclude that there is no substantial question of law regarding Duhart's appointment to the City Council, and that it is therefore not in the public interest to authorize the proposed quo warranto action challenging her appointment. In addition, we conclude that the alleged actions of the Compton City Attorney in this matter do not give rise to an action in quo warranto. Consequently, the application for leave to sue is DENIED.

### **Opinion No. 22-1001 (issued January 26, 2023)**

#### *Question Presented and Conclusion:*

The DISTRICT ATTORNEY OF LOS ANGELES COUNTY has applied to this office for leave to sue DAVID ARGUDO in quo warranto to remove him from his public office as a member of the La Puente City Council. The application asserts that Argudo, while serving on the La Puente City Council, assumed a second and incompatible public office as a member of the La Puente Valley County Water District Board of Directors, in violation of Government Code section 1099, and by doing so forfeited his seat on the La Puente City Council.

We conclude that there is a substantial legal issue as to whether Argudo is simultaneously holding incompatible public offices. Consequently, and because the public interest will be served by allowing the proposed quo warranto action to proceed, the application for leave to sue is GRANTED.

## OPINIONS PENDING

### Opinion Requests

- 22-1201** Given that California wineries applying for a direct shipper license in another state are often asked to provide a criminal record check in connection with that application, if a California winery owner or manager obtains a criminal record check from the California Department of Justice, would furnishing that criminal record check—or notification no such record exists—to another state's alcohol control agency constitute a violation of California Penal Code sections 11121, 11125, 11142, or 11143? (Duncan Lee)
- 22-701** 1. Does Penal Code section 904.6 require a court to impanel a grand jury at the district attorney's request? 2. Do the prosecution's discovery obligations under *Brady* and Penal Code section 1054.1 include criminal grand jury materials? (Bidart)
- 22-602** Does the State Bar of California have the jurisdiction to regulate non-attorney legal document assistants who are not engaged in the practice of law? (Kentfield)
- 22-402** Is the governing body of the San Bernardino County District Advocates for Better Schools (SANDABS), a lobbying association within the meaning of Government Code section 53060.5, a "legislative body" within the meaning of the Brown Act, Government Code section 54952? (Medeiros)
- 21-1001** 1. May a county adopt policies to address the environmental impacts of pesticides in a Local Coastal Program without violating Food and Agricultural Code section 11501.1? 2. May a county adopt ordinances to regulate pesticides in the coastal zone to implement Local Coastal Program requirements? (Duncan Lee)

### Quo Warranto Matters

- 22-1101** Are certain members of the Tulare Lake Basin Water Storage District Board of Directors—appointed by the Kings County Board of Supervisors in March 2021—lawfully holding their offices, or were their seats required to be filled by an election conducted under Water Code section 41000 et seq.? (Kentfield)
- 22-1002** Has David Marquez vacated his seat on the Moreno Valley City Council due to unexcused absences from council meetings for the time periods specified in Government Code section 36513? (Duncan Lee)
- 22-802** May Paul Keefer serve simultaneously as a member of the Sacramento County Board of Education and as the President, Chief Executive Officer, and Executive Director of the Pacific Charter Institute, a charter management organization which operates charter schools in Sacramento and other California counties? (Medeiros)

## CONTACT US

The Opinion Unit invites comments on the questions posed in pending opinion requests. To share your views, please contact the deputy assigned to prepare the opinion. Deputies can be reached at the following email addresses and telephone numbers:

Catherine Bidart, Deputy Attorney General:  
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To submit an opinion request, please contact Mollie Lee, Senior Assistant Attorney General, at [Mollie.Lee@doj.ca.gov](mailto:Mollie.Lee@doj.ca.gov) or (415) 510-4439.

To submit a quo warranto application, please contact Marc J. Nolan, Supervising Deputy Attorney General, at [Marc.Nolan@doj.ca.gov](mailto:Marc.Nolan@doj.ca.gov) or (213) 269-6392.

For all other inquiries, please contact Stephanie Grimes, Associate Governmental Program Analyst, at [Stephanie.Grimes@doj.ca.gov](mailto:Stephanie.Grimes@doj.ca.gov) or (916) 210-6005.

You may also contact the Opinion Unit at the following address:

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