

# MONTHLY OPINION REPORT

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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 JULY 2022

#### **22-701 requested by Yolo County District Attorney Jeff W. Reisig**

1. Does the district attorney have a right to have a Penal Code section 904.6 grand jury for criminal matters, and must the court impanel such 904.6 grand jury upon the district attorney's request?

2. Do the prosecution's discovery obligations under *Brady* and Penal Code section 1054 include criminal grand jury material?

(Assigned to Deputy Attorney General Catherine Bidart.)

## OPINIONS ISSUED OR CONCLUDED DURING JULY 2022

### Opinion No. 22-501 (issued July 20, 2022)

#### *Question Presented and Conclusion:*

May the Orange County Board of Supervisors enact new supervisorial district boundaries that become effective before the next regularly scheduled election, such that supervisors are assigned to represent different constituents than those who elected them?

For election-related purposes, the Elections Code provides that the county's supervisorial district boundaries do not change after redistricting until the next regularly scheduled supervisorial election for that district. Until then, a supervisor remains electorally accountable to constituents in the district that elected that supervisor, and the board of supervisors may not prohibit a supervisor from representing those constituents. Nonetheless, the board of supervisors may direct a supervisor to also represent constituents according to the new district boundaries.

## OPINIONS PENDING

### Opinion Requests

- 22-701** 1. Does the district attorney have a right to have a Penal Code section 904.6 grand jury for criminal matters, and must the court impanel such 904.6 grand jury upon the district attorney's request? 2. Do the prosecution's discovery obligations under *Brady* and Penal Code section 1054 include criminal grand jury material? (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? (Nolan)
- 22-502** 1. Where a school district governing board has adopted by-trustee area elections and a vacancy is created in a seat held by a member elected at-large prior to the adoption of by-trustee area elections, must an individual live within a specific trustee area in order to be appointed or elected to fill the vacancy, and if so, how is the trustee area determined? 2. Where a school district governing board has revised the boundaries of its trustee areas following the decennial census, do the revised boundaries apply where a vacancy occurs during the term of a governing board member elected prior to revision of the boundaries or would the boundaries in effect at the time of the previous election be used to determine eligibility to fill the vacancy? (Duncan Lee)
- 22-402** Is the governing body of an entity that employs a lobbyist and advocates on behalf of member school districts, and whose membership consists of substantially all the school districts in the county, a "legislative body" under the Brown Act when: 1) the administrators of the school districts created the entity

- consistent with standing school board policies; 2) the school boards have delegated their statutorily-authorized lobbying duties to the entity; and 3) the school boards authorize their districts to enter into yearly membership agreements with the entity, which provide that the entity will lobby state and federal policymakers collectively on the districts' behalf, preclude the districts from taking lobbying positions adverse to or in conflict with the entity, and require the school districts to pay yearly dues? (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)
- 21-401** May a district attorney provide criminal defense counsel or a self-represented criminal defendant an unredacted copy of a witness's or victim's state summary criminal history information during the criminal discovery process? (Medeiros)
- 20-1001** May a district attorney provide criminal defense counsel the defendant's unredacted state summary criminal history information during the criminal discovery process? (Medeiros)
- 19-301** Is a paid victim advocate for sexually exploited youth a mandated reporter under the Child Abuse and Neglect Reporting Act (CANRA)?

Quo Warranto Matters

- 22-603** May a person be lawfully appointed to fill a vacancy on the Arcadia city council if more than thirty days have passed since the vacancy occurred, or must the city council call a special election to fill the vacancy in that circumstance? (Bidart)

## 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.

For all other inquiries, please contact Stephanie Grimes, Staff Services 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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