





BPC Policy No. 022

SUBJECT: POWERS AND FUNCTIONS OF PORT ATTORNEY

PURPOSE: To delineate policy on the exercise of powers and functions of the Port Attorney

POLICY STATEMENT:

- 1. The Port Attorney shall be directly responsible to the Board of Port Commissioners (Board).
- 2. Consistent with established California statutes, case law, Rules of Professional Conduct and established District practice, the Port Attorney represents the Board as a collective body. The Port Attorney has no attorney-client privilege as to any individual Commissioner. The Port Attorney has no right of legal representation as to any individual Commissioner or employee outside of the official duties owed to the San Diego Unified Port District (District).
- 3. The Port Attorney shall serve as chief legal officer for the District. The Port Attorney shall lead, plan, organize and direct the activities of staff of the Port Attorney's office. In the absence of the Port Attorney, the Assistant Port Attorney may fill the responsibilities of the Port Attorney on a temporary basis.
- 4. The Port Attorney shall exercise executive responsibility for achieving legal objectives of the District by working with subordinate attorneys and staff to develop legal strategies and legal representation.
- 5. The Port Attorney shall furnish to Commissioners, the Executive Director and his staff all the legal assistance necessary to the performance of their duties as prescribed under the District Act and Board of Port Commissioners' Policies.
- 6. The Port Attorney shall be responsible for appointment of attorneys and staff.
- 7. The Port Attorney shall draft, approve or direct the approval of ordinances, resolutions, agreements and contracts prior to submission to the Board for

Page 1 of 3

- action, and prepare or revise ordinances or resolutions as requested by the Board.
- 8. The Port Attorney shall provide legal advice to District executives and staff on a wide range of law and regulations, including employment, environment, real estate, construction, maritime, tort liability, public records requests, conflicts of interest and public agency powers, obligations and limitations, direct or conduct research and write or review opinions regarding the duties, powers, functions and legal and regulatory requirements, and enforce District ordinances and regulations through hearings and court proceedings.
- 9. The Port Attorney shall be responsible for the conduct of all legal matters and proceedings involving the District before all courts, tribunals and administrative agencies. For matters not requiring legal counsel, appropriate District personnel may be authorized to appear before administrative agencies by the Board or Executive Director.
- 10. When, in the opinion of the Port Attorney, it is desirable to retain outside legal counsel in connection with District legal matters, the Port Attorney shall recommend such appointments and advise the Board as to the attorneys to be recommended and retained. The Port Attorney shall be responsible for directing the work of retained outside counsel.
- 11. The Port Attorney shall resolve claims filed against the District on an administrative level in a prompt fashion consistent with State law (California Government Code Section 900 et seq.). The Port Attorney shall promptly apprise the Board of significant new or potential claims, and/or settlement of any such claims within the settlement authority that has been delegated to the Port Attorney.
- 12. The Port Attorney shall perform all duties of attorney for special districts imposed by the California Constitution, general law of the State, California State Bar and the general policies of the District.
- 13. The Port Attorney shall serve as legal counsel to the Personnel Advisory Board.
- 14. The Port Attorney shall be responsible for keeping the Board and District informed on the status of threatened and existing litigation affecting the District. The Port Attorney shall also be responsible for advising the Board and the District as to any legislation or other legal matters that may affect the District.

BPC Policy No. 022

Page 2 of 3

15. Pursuant to the District's Code of Ethics, the Port Attorney and/or designated attorney staff shall serve as the Ethics Officer. The Port Attorney shall interpret the District's Code of Ethics in reference to State laws and obtain assistance from the Fair Political Practices Commission where formal conflicts of interest opinions and determinations are desired.

RESOLUTION NUMBER AND DATE: 2008-143, dated August 5, 2008 (Supersedes BPC Policy 022, Resolution 2004-15, dated February 3, 2004; Resolution 81-328, dated October 6, 198; Resolution 68-298 dated December 3, 1968; and Resolution 63-93, dated March 28, 1963)

BPC Policy No. 022

Page 3 of 3

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COPY 53891

Re Amendment of BPC Policy	No. 022,
Powers and Functions of Port	Attorney

RESOLUTION 2008 - 143

BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

That Board of Port Commissioners Policy No. 022, Powers and Functions of Port Attorney, as amended, a copy of which shall be placed on file in the office of the District Clerk, is hereby adopted.

sw 8/5/08