

The Subcommittee for the Purpose of Soliciting and Reviewing RFPs from potential Consulting Legal Firms met on Monday, December 11, 2023, in the School Conference Room in the School Administration Building. Present were Mike Judge, Kathy Bent, Sara Ahern, Amber Patterson, and Jen Kruczek.

Mr. Judge called the meeting to order at 8:30AM.

Mirick O'Connell Interview (Marc Terry and Michael Joyce)

- Mr. Terry stated his firm is based out of Worcester with 70 attorneys. They have a breadth of experience with a core group that does School Law. They do not do Special Education work and would partner with Mr. Joyce to cover that area of school law.
- Mr. Joyce stated he is a former general case worker, which led him to want to impact kids in a different manner and he became a third grade teacher. He wanted to impact education in a different way and worked for the US Department of Education in the Civil Rights division. As an attorney he works directly with schools to make sure they are following the law.
- Ms. Bent asked question #1 (the questions are attached at the end of these Minutes).
 - Mr. Terry stated he is here to support his clients and help them do their work better. He believes in preventative work. He would look at collect bargaining agreements to see weaknesses. He works with School Committee's to help with their long-range goals. He makes sure policies are in place and to see if any changes are needed. He offers training on various issues. He works with Administration on workplace investigations. He sends out a series of updates throughout the year when there are changes to the law. He looks to strengthen labor relations while having the best interest of the students and the kids in mind.
 - Mr. Joyce stated he works as a general counsel to the school district. He would work for the district and put the district in a position to make the best decision for the school. He informs the district of the legal compliance and what the effects are of making decisions and the potential consequences. He does trainings and has done half a dozen with Barnstable over the last few years. He believes in creating systems to put principals in a position to succeed. He creates checklists and procedures.
- Mr. Judge asked question #2.
 - Mr. Joyce stated when a complaint comes in, there is a timeline. He speaks to the district about the timeline and when information can be given to him to work though to the end product. He believes in responsiveness and the five-minute phone call. For a district with several civil rights issues, he set up once a month roundtable meetings on topics the administrators were experiencing rather than doing a top down training.
 - Mr. Terry spoke about arbitration and unfair labor practices. When something comes in, he will be in contact with the contact person in the district to let that person know what is going on and what needs to be done for case related work. Most of his work is not case work, but rather the day-to-day preventative work. He will ask when it is needed by or when the next meeting is. He is quick on emails; getting back within minutes if he can.
- Dr. Ahern asked question #3.
 - Mr. Terry stated he might get a call about an employee that the district might have to let go. He will walk the contact through the options and the risks. It is the district's choice and he wants to make sure the district has the information to make the best decision. He worked on a School Committee and worked on the Union side in the beginning of his career.
 - Mr. Joyce stated this is the job they do on a daily basis. He gave an example of a situation where there was a concern from a parent that her African American child might have been disciplined differently because she is African American. He looked into the situation. Each administrator would treat that situation differently with different outcomes. They met with the parent to explain that it was not intentional and set up training to get the administrators on the same page. That conversation rebuilt trust with the parent.
- Ms. Bent asked question #4.
 - Mr. Joyce stated they are dealing with students. He spoke about a Special Education issue with parents looking for an out of district placement. He will ask for a file and does an analysis. He looks at the educational needs of the child and the resources of the district. It will not just be about the legal aspects, but it will also be about what is right for the child. He knows what the administrator wants to hear, but it is his job to help the clients make the best decision. He gave an example of a student moving from public school to vocational school and the Director of Special Education was signing the IEPs for the parent. They looked at all the files that individual touched and spoke to the parents about the IEP. If anything was changed or removed, compensatory services were offered.

- Mr. Terry stated he renders advice for the client to make the decision. It comes down to relationships and being honest, direct, and transparent.
- Mr. Judge asked question #5.
 - Mr. Terry spoke about open and regular communication, preventions, trainings, looking at policies, collective bargaining, processes, and systems.
 - Mr. Joyce spoke about policies, procedures, and systems.
- Dr. Ahern asked question #6.
 - Mr. Terry stated he looks ahead at what issues are coming up. There could be an issue that right now this is the law, but he knows that there is a case sitting on the Supreme Court's desk, so that law could be changing. The firm works quickly to get updates out to their clients.
 - Mr. Joyce stated with Covid no one knew what the rules were especially regarding remote IEPs and service obligations. He had to give advice before there was guidance. The Title IV regulations changed in 2019. He digested the regulations, developed trainings, and created a user-friendly 80-page manual in a complicated area of law.
- Ms. Bent asked question #7.
 - Mr. Joyce stated they have research tools that any firm would have. They have 9 or 10 lawyers with a lot of experience. Part of the job is listening to what clients want.
 - Mr. Terry stated there are daily resources that come in: reports, case law from around the country, and emerging issues. He reads a lot to know what is going and what trends are coming up. He speaks with others in the firm about what they are dealing with and seeing.
- Question 8
 - Mr. Terry stated he has firm criteria around who are the allegations against. He asked if the district has someone on the inside who has the experience to do the investigation. He works with an outside firm regularly.
 - Mr. Joyce stated he recommends third party investigators a lot more recently. Though if the district is using outside resources, they are not building internal capacity. He has investigators to recommend based on what the issue is.
- Question 9
 - Mr. Terry stated he is here to support the district including all the contacts given to the firm. He will speak to the School Committee and Superintendent about protocols as to who to ask.
 - Mr. Joyce stated he has worked with Attorney Moynihan and others in the district and is not territorial. He has no issue working with other counsels or other employees.
- Question 10
 - Mr. Terry stated he does not do the work, but there are colleagues in his firm that do.
- Question 11
 - Mr. Terry stated he partnered with Mr. Joyce on this proposal. They would be two separate firms with relationships with the district. He tends to have districts go directly to outside investigators themselves, but he will recommend people to the district.
 - Mr. Joyce stated he will work with entities to make sure the district gets what they want.
- Mr. Joyce thanked the Committee for the opportunity. He and Mr. Terry made clear what their strengths are and how they can best serve Barnstable. They are client centered. He sought this type of work out and likes the work he does. He is responding to messages at 8:00PM because he values the relationships and wants to help schools achieve their goals. He is always trying to meet the need.
- Mr. Terry stated he has a passion for the work. He found his way to school law and has a connection to the work. He is wired to help. He has been on union side, been a School Committee member, and is involved at a national level with the Council of Attorneys.
- Ms. Patterson stated this is the Committee's last interview. They are going to discuss firms with rankings and will recommend a firm to the School Committee.

Approve Meeting Minutes from November 17, 2023

- Motion by Ms. Bent, seconded by Mr. Judge, and the Committee voted, unanimously, to approve the revised Meeting Minutes of November 17, 2023.

Approve Meeting Minutes from December 6, 2023, 8:30AM Meeting

- The Minutes were not ready for approval.

Approve Meeting Minutes from December 6, 2023, 2:30PM Meeting

- The Minutes were not ready for approval.

Discussion and Recommendation for Outside Counsel for Barnstable Public Schools

- Ms. Patterson stated the Committee heard from all three firms. She asked the Committee to rank the firms as highly advantageous, advantageous, or not advantageous.
- Ms. Bent ranked the firms as follows:
 - Murphy, Hesse, Toomey & Lehane, LLP: advantageous
 - Stoneman, Chandler & Miller LLP: not advantageous
 - Mirick O'Connell: highly advantageous
- Mr. Judge ranked the firms as follows:
 - Stoneman, Chandler & Miller LLP: not advantageous
 - Mirick O'Connell: highly advantageous
 - Murphy, Hesse, Toomey & Lehane, LLP: highly advantageous
- Dr. Ahern ranked the firms as follows:
 - Mirick O'Connell: highly advantageous
 - Stoneman, Chandler & Miller LLP: advantageous
 - Murphy, Hesse, Toomey & Lehane, LLP: highly advantageous
- Ms. Patterson stated Mirick O'Connell was ranked highly advantageous by all three members and looks to be the number one choice. The Committee agreed.
- Ms. Patterson asked the Committee why they ranked Stoneman, Chandler & Miller LLP as they did.
- Ms. Bent stated they gave no concrete examples and she felt they were not appropriate for the district's needs.
- Mr. Judge stated the presentation and interview were very broad and general.
- Ms. Patterson asked the Committee why they ranked Mirick O'Connell as they did.
- Mr. Judge stated he had doubts originally about the two firms submitting one proposal, but he liked that they are smaller. He is not worried about the two firms.
- Ms. Bent liked their balance of meeting the district's needs and being student centered. She liked their backgrounds and that they base their decisions around students.
- Dr. Ahern stated Mirick O'Connell are a good fit for the district's needs. She references their philosophy with policies, procedures, supportive materials, implementation through training, and holding them accountable to execute those trainings. She liked their answers on advice, options, decision making, and on trust and building relationships.
- Dr. Ahern stated she liked Murphy, Hesse, Toomey & Lehane, LLP from a regional standpoint. They know what is happening in the region.
- Ms. Patterson stated it sounded like it is a unanimous decision for Mirick O'Connell. She will write up the recommendation for the January School Committee meeting.
- Dr. Ahern asked about communicating the recommendation to the other firms. Ms. Patterson stated she will follow-up with them to let them know another firm was selected, they are doing reference checks, and they will be put forward in January.
- Ms. Patterson stated she will need copies of everyone's evaluation forms.

Motion by Ms. Bent, seconded by Dr. Ahern, and the Committee voted, unanimously, to adjourn the meeting.

Meeting adjourned at 9:46AM.

Respectfully Submitted,

Jen Kruczek
Executive Assistant

Interview Questions

1. Discuss the strategies that are implemented in the effort to prevent legal issues from arising within a school district?
 - a. What is your philosophy/approach in providing legal counsel to the Superintendent and School Committee in their work and relationship with the local union?
 - b. What is your philosophy/approach in providing legal counsel to the Superintendent and school leaders in their work related to student services, including special education, Civil Rights/Title IX/Bullying investigations, and student discipline?
2. What is your approach to case management, including timelines, documentation, and follow-up with a School District?
3. Provide an example of how you advised school personnel on an issue that minimized legal risks while supporting the educational mission in the best interests of students?
4. Provide an example where you had to make a tough decision that upheld both legal requirements and ethical considerations?
5. How do you plan to work with our school district to ensure legal compliance and address legal concerns?
6. Discuss a situation where you had to quickly learn and apply new legal concepts or statutes to a case?
7. What resources do you utilize when presented with a particularly complicated legal case or to learn about an emerging field that has legal implications, for example, new technologies, like AI?
8. What criteria would you apply in making a recommendation to the District that it should engage with an independent legal firm to conduct an independent investigation?
9. The Town of Barnstable has a Finance Department and a Human Resources Department it shares with Barnstable Public Schools. The Town also has its own legal team - including multiple in-house counselors as well as consulting attorneys in specific fields. How do you foresee supporting the schools with legal guidance given this governance structure? Do you foresee any challenges or tensions and how would you work to navigate those?
10. Can you elaborate about your experience in supporting Districts with school building projects? Are there particular challenges you helped District's navigate successfully that you can share with this team?
11. Discuss your firms' relationships with subconsultant firms.
 - a. Who would be the Town's point of contact?
 - b. What is your philosophy if there is a difference of opinion between firms?
 - c. If there is a falling out between the subconsultant, how is that dealt with?