

The Subcommittee for the Purpose of Soliciting and Reviewing RFPs from potential Consulting Legal Firms met on Wednesday, December 6, 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 8:31AM.

Approve Meeting Minutes from November 17, 2023

Motion by Ms. Bent, seconded by Dr. Ahern, and the Committee voted, unanimously, to approve the Meeting Minutes of November 17, 2023.

Motion by Ms. Bent, seconded by Dr. Ahern, and the Committee voted, unanimously, to recess until Mirick O'Connell arrives. Meeting in recess starting at 8:31AM.

Mr. Judge reopened the meeting at 9:03AM. Michael Joyce joined the meeting.

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

- Ms. Patterson stated the interview with Mirick O'Connell will be reschedule for next week. No questions will be asked today to keep the integrity of the process.
- Mr. Joyce thanked everyone for understanding and their flexibility.
- Motion by Ms. Bent, seconded by Dr. Ahern, and the Committee voted, unanimously, to recess until Murphy, Hesse, Toomey & Lehane arrives. Meeting in recess starting at 9:07AM.

Murphy, Hesse, Toomey & Lehane, LLP Interview (Mary Ellen Sowyrda, Sarah Spatafor, Andrew Waugh)

- Mr. Judge opened the meeting at 9:30AM. Ms. Sowyrda, Ms. Spatafor, and Mr. Waugh joined the meeting.
- Mr. Waugh introduced himself. He has experience in everything except Special Education Law. He is a Partner at the firm with 30 years of experience.
- Ms. Spatafor introduced herself. She grew up on the Cape and has been working in Labor and Employment law in schools for over a decade. She has done consulting work with the Town of Barnstable. She has experience in collective bargaining and employee issues. She takes a proactive approach to avoid unnecessary litigation.
- Ms. Sowyrda is a Partner at the firm and the head of the Special Education group at the law firm with 30 years of experience. Her focus is to help her clients understand the law and the application of the law.
- Ms. Bent asked question #1 (the questions are attached at the end of these Minutes).
 - Mr. Waugh stated he takes his lead from the client. The point of contact depends on the client, as some like it to be the Superintendent, Chair, and/or principals. He works in a preventative manner. He has had clients for decades and has relationships with administrative team and School Committee members. They have attorneys in the office that specialize in Title IV, investigations, etc.
 - Ms. Spatafor stated the firm does trainings for the client. They want the district to know enough about an issue that they know to call the principal or Superintendent when something is happening.
 - Ms. Sowyrda endorsed the idea of training. These are the things a client will keep running up against and the firm will do a training on that subject. Her point of contact is often Directors of Special Education. Her focus is to make sure the client is complying with the law.
 - Mr. Waugh stated he deals with the MTA all the time. He knows the players on the Cape and has relationships with the representatives.
- Mr. Judge asked question #2.
 - Ms. Spatafor stated she responds to emails and messages within 24 hours. She and Mr. Waugh handle the general education matters and Ms. Sowyrda handles the Special Education side. There will be multiple attorneys assigned to an issue.
 - Ms. Sowyrda stated she has her cell phone with her at all times so she can address items in a timely manner. It is usually the same day.
- Dr. Ahern asked question #3.
 - Ms. Sowyrda spoke about discipline with a Special Education student. She will often contact the lawyer for the family, as there is value of working together. She takes into consideration the needs of the child and the school and tries to avoid going to litigation.
 - Mr. Waugh gave an example of alcohol in a classroom attributed to a teacher. He was able to negotiate a settlement agreement prior to arbitration.

- Ms. Spatafor spoke about collective bargaining and the time a client did not take her advice, which led to a grievance and arbitration. She then put a plan in place that was good for the district and the union.
- Ms. Bent asked question #4.
 - Ms. Sowyrda gave an example of a Zoom with a school district and making sure they were not making procedural errors. She realizes they were during the meeting and asked for a break. She texted the others and was able to explain how they had made mistakes. They came back to the meeting and the mistakes were acknowledged. This helped to gain trust on the other side.
 - Mr. Waugh stated the law firm represents the School Committee and not the Superintendent. Occasionally the Superintendent and School Committee do not see eye to eye. When parties sit down and talk, they can move forward.
 - Ms. Spatafor spoke about student discipline and the additional steps the district needs to take before removing a student. Key steps are sometimes missed in the process.
- Mr. Judge asked question #5.
 - Mr. Waugh stated any noteworthy developments in the law are included in their client alerts where a summary of the change is included. The Education Law Group, which consists of 12 members, has meetings in the office every couple of weeks to talk about any issues they are seeing out there, to problem solve, and discuss trainings for clients.
 - Ms. Sowyrda stated there is expertise across disciplines in those group meetings. There are issues that could go across several areas including Special Education, discipline, employees, etc.
 - Ms. Spatafor stated in those meetings they speak about what is going on with union negotiations. They currently have 4 or 5 active negotiations and they speak often about what advice they are giving their clients and the trends in bargaining.
- Dr. Ahern asked question #6.
 - Mr. Waugh stated last November, Massachusetts amended the law to 37H ¼. Overnight it was slipped into a bill. It states before a district can suspend a student, there has to be alternative measures taken. There were many workshops last November with administrators and handbook language had to be changed mid-year.
 - Ms. Spatafor stated the firm sets up trainings with their clients on the new concepts and how to handle them.
 - Ms. Sowyrda stated every time the law changes, the firm needs to do something. One example was Covid and Special Education and how do districts do what needs to be done within the law.
- Ms. Bent asked question #7.
 - Ms. Sowyrda stated with training, they would bring in an expert on AI within a school setting. They will also research a topic and consult with others.
 - Ms. Spatafor stated the attorneys in the firm share information with what is going on in Labor and Employment. They will speak with other law firms to see what they are dealing with.
 - Mr. Waugh stated on the litigation side, there are a number of attorneys in the firm who are litigators that can assist.
- Mr. Judge asked question #8.
 - Ms. Spatafor stated it depends on who the target is. They can do the investigation in house with attorneys that are not working with you.
 - Mr. Waugh stated outside investigations are becoming more common based on the subject matter. He gave an example of an issue that led to an outside counsel doing the investigation. A lot of administrators are uncomfortable doing investigations. He has been doing a lot of training with administrators to make them more comfortable.
 - Ms. Sowyrda agreed with administrators feeling uncomfortable. They want to make sure they are following the proper steps and process.
- Dr. Ahern asked question #9.
 - Ms. Spatafor stated this firm does represent the Town of Barnstable. She has worked with Human Resources since Covid. They do work with other Towns that have in-house counsel. They can support the in-house counsel. Sometimes it is good to have an outside perspective. They will do whatever is needed.
 - Ms. Sowyrda stated they do what they are asked to do. Usually the in-house counsel is happy to have someone who is an expert on a subject to give advice and rationale
 - Mr. Waugh stated his job is to give the best advice. If there is a different perspective in-house, then it is up to the district to decide what to do.
- Ms. Bent asked question #10.

- Mr. Waugh stated there are experts in the firm on building projects with a statement of interest through the RFP process. He has worked with school clients that have gone through the process.
- Ms. Spatafor stated they would train the School Committee and staff on the ethical considerations when it comes to these issues.
- Mr. Judge asked question #11.
 - Ms. Spatafor stated this is not something they tend to need. The firm has a lot of depth internally. They sometimes use outside investigations and auditors. They have had no fallouts or issues with outside firms.
 - Mr. Waugh stated for outside investigators, they will be hired by the firm or the district. They have never had an issue.
- Mr. Waugh stated he would love to represent Barnstable. The firm represents other districts on the Cape, so they know the microeconomy the Cape deals with. He knows the issues the Cape is dealing with and has a wealth of experience.
- Ms. Spatafor stated this feels personal to her. She would love to have a relationship with the Town. She has worked with the Town of Barnstable and with other Cape schools and towns.
- Ms. Sowyrda asked if there has been a different model for in-house counsel after Bill Butler passed away. Mr. Judge stated Barnstable has the same model. Dr. Ahern stated Barnstable has in-house counsel and has a firm on retainer as needed. The in-house attorney does contracts and investigations. Ms. Sowyrda stated this is a model she is familiar with and has worked with in-house counsel.
- Ms. Patterson stated there are two more interviews and they are hoping to have a recommendation by the end of next week for the School Committee.

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

Meeting adjourned at 10:30AM.

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?