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Date: May 5, 2016

To: Dr. Demond Means, OSPP Commissioner

cc: Chris Abele
Raisa Koltun

From: Paul Bargren *PB*
Corporation Counsel

Re: OSPP Questions

You had asked whether the Opportunity Schools and Partnership Program would be able to engage in an agreement with Milwaukee Public Schools in order to achieve a number of outcomes. I'll address each in turn.

A. Retain the employment of current MPS staff by making the staff members employees of OSPP (in order to meet Wis. Stat. § 119.9002(5)(b)1)?

OSPP would enter into an employment services agreement with MPS. Under such an agreement, the designated staff would not be employees of OSPP but would remain civil service employees of MPS and could remain members of MTEA, if applicable. Under this arrangement, the designated staff's duties at MPS would be to work at the OSPP school as directed by OSPP. MPS would assign administrators and teachers to OSPP consistent with the assignment procedures of the MPS Employee Handbook.¹ The Handbook appears to offer sufficient flexibility for MPS to select and assign appropriate personnel for the OSPP school.

As we have discussed, the Commissioner would operate the OSPP school as "an individual or group not currently operating a school." § 119.9002(2)(d)1. In that capacity, the Commissioner would have the authority under § 119.9002(3)(a) to enter into such a contract with MPS as part of the "operation and general management of the school."

B. Is the Opportunity Schools and Partnership Program able to submit an RFP proposal per the statute to operate a school?

¹ "Employees may be assigned or reassigned to a position within their classification or certification at the District's discretion. The District will consider employees' requests for assignments, reassignments, and seniority when making assignments. If an employee does not receive an assignment or transfer based upon seniority, he or she may request an explanation. Assignments shall not be made in an arbitrary, capricious, or discriminatory manner." Handbook at page 21. <http://mps.milwaukee.k12.wi.us/MPS-English/OHC/Employment-Relations/EmployeeHandbookDec22015Final.pdf>

Yes. § 119.9002(2)(b) requires the Commissioner to develop an RFP process and solicit proposals from individuals and eligible groups for operating eligible schools identified under OSPP. § 119.900s(2)(c) then authorizes the Commission to “make a determination regarding the entity that will operate the school.”

There are no further requirements set out, not for drafting the RFP and not for selecting the entity that will operate. There are, for example, no requirements to select the lowest-cost bidder, or the provider offering a certain curriculum or structure. As Commissioner, you are free to draft an RFP that embodies features you deem important to the school you envision, and then you are free to select the entity that best fulfills them, including yourself.

C. Transfer the per pupil dollar amount from OSPP to MPS?

Yes. Under § 119.9005(1), the per pupil money goes to the Commissioner on behalf of the school operator. Then, as the operator of the school, you would designate that the money be transferred to MPS to fulfill the obligations of the employment services agreement. § 119.9002(3)(a) (“operation and general management”).

D. Preserve the membership of employees in unions?

Since under the employment services contract the staff at the OSPP school will remain MPS employees, their union membership rights will be the same as any other MPS employees.

E. Reserve governance input (to be negotiated) with the MPS Board of Directors?

As Commissioner, you are free to make such arrangements as you see fit for input or advice with the MPS Board. These would be documented in an intergovernmental agreement with the MPS Board.

Please be sure to let me know if you have additional questions.