
Pinellas County Schools**MEMO**

To: School Board Members
From: James A. Robinson, School Board Attorney *Jim Robinson*
Date: February 13, 2008
RE: Request for School Board Direction on the Working Relationship of the Superintendent with the Office of School Board Attorney

I am writing to seek your action in resolving a fundamental breakdown in the working relationship between the Office of School Board Attorney and Dr. Wilcox. I had hoped and worked for a private resolution of this strained relationship without Board intervention consistent with my 2007 Annual Improvement Plan. Unfortunately, recent events have demonstrated that this cannot occur.

On Saturday, February 9, 2008, Dr. Wilcox sent me the following e-mail in response to one I sent to him regarding police activities on school campuses and urging that he confer with me on the subject (the full e-mail exchange is attached as "Attachment 1"):

From: Wilcox Clayton - Superintendent
Sent: Sat 2/9/2008 3:23 PM
To: Robinson Jim
Subject: Re: FYI from Chief Deputy Gaultieri

Jim ... I lack any confidence in you and your ability to give me advice that is competent. You have repeatedly and consistently demonstrated that you do not understand the context within we work each day and where your loyalties are placed- I personally believe they are not in the best interest of the district, the leadership team (meaning the board and I) or the larger district, rather I believe your interests and motivations are all about you and maintaining your employment.

I do not believe you are sincere in your offers of help and assistance, not based on perception, but on my experiences with you and your repeated behaviors which are at best inconsistent with your words and worst case perhaps designed to promote "Jim" rather than what needs to happen or should happen within the scope and intent of the law. Honestly, I had hoped you would offer your resignation after securing only a 4-3 renewal with my stated opposition - meaning that fully 50 percent of the leadership team was unhappy with your service- hardly a mandate and clearly raises a question as to your ability to adequately represent the interests of your client half of whom were uncomfortable or openly opposed to your contract extension..

School Board Members
February 13, 2008
Page 2 of 3

I know you say you represent the board- and 4-3 is all you need - but the reality is your presence is a distraction and creates a disquieting effect on the entire organization. You and I both know that and this email chain is evidence of the distraction. All this to say - I have and had sought competent legal counsel and will rectify any deficiency in my comments- though you should know that my comments were carefully constructed to create a common understanding from which we can address situations like DCF investigations and policing procedures - a process which has already begun. In addition - I should point out that which you must not be aware of - I spoke to these exceptions at the SAA meeting and had it addressed at our levels meetings which followed.

At this time I hope you will keep this a quiet and personal response but I am fully prepared to make it a very public conversation if you chose. Absent that I will seek your advice only in limited circumstance and work professionally with in matters for which you have responsibility. I will continue to work with and enjoy the r relationship I have with David and Laurie.

In an e-mail to me dated October 11, 2007, just days before the vote on my contract extension, Dr. Wilcox pledged to work with me and the School Board should the Board extend my contract over his objections. Unfortunately, that pledge has not been honored. The above-quoted e-mail is a perfect example. There have been numerous other instances demonstrating Dr. Wilcox's failure to honor his pledge. For example, contract issues that fall within my jurisdiction have been kept from me. Dr. Wilcox has declined my requests for meetings, and his commitment to standing Monday morning meetings has been honored more in the breach than in the observance. He has shown a lack of understanding of the role and importance of legal counsel in this organization. In short, he has withheld his cooperation and endeavored to marginalize the Office of School Board Attorney.

The personal attack he launches against me is of no consequence. What is of consequence is his utter disregard for the Board's choice of School Board Attorney and the emptiness of his pledge to work with me and the Board should my contract be extended.

Dr. Wilcox's request that I "keep this a quiet and personal response" is impossible. I am bound to report this to you since I rely on Dr. Wilcox's cooperation in order to fulfill my duties as School Board Attorney and general counsel. The Board alone has the authority to direct Dr. Wilcox to cooperate with me and the Legal Department fully and in good faith toward this end.

Functions of the Legal Department. For more than a decade prior to Dr. Wilcox's arrival, the Legal Department functioned well with the Superintendent and Administration in accordance with the design established by the School Board in the School Board Attorney's contract, job descriptions, and Board policy (all attached as "Attachment 2"). The functions of the Legal Department may be summarized as follows. The School Board Attorney is hired by and reports directly to the School Board. School Board Policy 2.08, *School Board Attorney*, provides that the School Board Attorney acts as general counsel to the School Board and the District. The job descriptions for the positions of School Board Attorney, Assistant School Board Attorney, and Staff Attorney provide for a legal department with the School Board Attorney as Department

School Board Members

February 13, 2008

Page 3 of 3

head. The School Board Attorney's major function as set forth in the job description is as follows:

Provides pro-active legal services to the School Board and the school district Superintendent. Assists the Board and the Superintendent in the legal performance of their duties...

Under duties and responsibilities, the School Board Attorney is "responsible for advising the Superintendent and School Board on all legal matters relating to the operations of the district." The Assistant School Board Attorney's major function is to assist the School Board Attorney in rendering legal services. Likewise, the Staff Attorney's major function is to "cooperate with and assist the School Board Attorney in rendering legal services and supplying legal advice on matters affecting the school system."

With the exception of the prosecution of employee discipline cases and student expulsions, we, in fact, are supposed to operate as one Department. While I am ultimately responsible for providing legal advice to the School Board and Superintendent, it is intended that the three of us routinely consult each other to ensure that we give the best possible advice, and that no matter which attorney is called upon, the advice given will be consistent.

Proposal. Dr. Wilcox's failure to cooperate in good faith materially and wrongfully interferes with my ability to fulfill my duties and responsibilities. It is within the Board's power alone to rectify the situation by directing Dr. Wilcox to work in good faith with the School Board Attorney consistent with the Board's design for the Legal Department as expressed in the School Board Attorney's contract, the job descriptions for the three attorney positions, and School Board policy.

It is imperative that the function of the Legal Department be restored as the Board intended in order that the best legal interests of the Board be fully protected. To achieve this end, I propose that the Board utilize the services of a facilitator to meet with Dr. Wilcox and me to work toward the development of a working protocol consistent with the Board's expectations that both parties cooperate and assist one another in the fulfillment of their respective duties and responsibilities. I look forward to your response.

JAR

Attachments

cc: Clayton M. Wilcox, Ed. D., Superintendent
David Koperski, Assistant School Board Attorney
Laurie A. Dart, Staff Attorney
Board Office