

MEMORANDUM

TO: Justin M. Wilson
Councilman

FROM: James L. Banks, Jr.
City Attorney

DATE: June 20, 2014

RE: Legal Representation of the Alexandria City Schools

With the recently adopted change to Alexandria City Charter § 11.02(a), the City Attorney is now permitted to legally represent the Alexandria City School Board (ACSB) and the Alexandria City Public Schools (ACPS). It may be useful for you to know that when this charter amendment was being considered, the City Attorney's Office questioned the City and County Attorneys across the Commonwealth to determine if they also represented both the City Council (or County Board of Supervisors) as well as the School Board and School System. Of those offices that responded, approximately half represented both the governing body and the schools while the other half represented only the governing body.

Assuming that ACSB and ACPS now desire to handle most of their legal services with internal resources rather than relying solely upon outside counsel, there are two basic models under which such services can be provided.

1. The School Board and City Council would agree to fund an additional Assistant City Attorney (ACA). The City Attorney would hire, retain, and supervise the new ACA in the same manner as all other ACA's. The City Attorney would seek a candidate with previous experience in representing School Boards and School Systems. The emphasis during the hiring and retention process would be to retain a candidate with experience in those areas unique to public education in the Commonwealth of Virginia. Thereafter the new ACA's primary clients would be ACSB and ACPS. When ACSB or ACPS had need of legal services involving other substantive specialties, the City Attorney would assign those matters to other ACA's as needed. When any matter created a conflict of interest, the City Attorney would retain outside counsel to handle such matter in consultation with the Superintendent of Schools and the City Manager.
2. ACSB and ACPS could hire its own in house Schools Counsel. The City Attorney would assist ACSB and ACPS as requested with designing the job description and qualifications as well as providing any additional guidance during the hiring and retention of the new Schools Counsel. The City Attorney and the CAO would provide support for the Schools Counsel as needed.
3. Whether the position is a new ACA or Schools Counsel to be housed within ACPS, the cost should be the same. The starting salary for a new ACA or Schools Counsel should be \$85,000 to \$110,000, based upon level of experience.

If the position is housed within the City Attorney's Office, ACSB and ACPS would have access to all of the resources and skills of the entire CAO in exactly the same fashion as all other City Departments. Currently the City Attorney has an assigned ACA for each City Department. In addition, when new matters arise that require additional skills outside of the assigned attorney's area of expertise, the City Attorney assigns additional personnel to the matter as needed. For example, when the Fire Department has a legal problem involving procurement matters, the City Attorney will assign it to the ACA who supports Finance and Procurement as the primary assigned attorney with the Fire Department's usual counsel acting as secondary support attorney in the matter. While the City Attorney proposes that the Schools Counsel will receive the same type of support from the CAO for matters outside of the Schools Counsel specific expertise, the assignment and supervision of such work would require more coordination and communication between the City Attorney and Schools Counsel. In addition, should ACSB pursue the Schools Counsel option, the Schools Counsel will likely require an additional support position. Non-legal support needs for a new ACA would be met through existing CAO resources.