

September 30, 2019

Elizabeth Carnes-Flynn
Assistant Attorney General
Division of Open Government
Massachusetts Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Dear Attorney Carnes-Flynn,

I am writing to document a number of concerns regarding the Open Meeting Law complaint mediation with the subcommittee of the Medfield School Committee, currently scheduled for Oct. 11, 2019.

First and foremost, I would not have requested mediation as a possible OML complaint remedy if I did not believe in the spirit of it. As someone who has actively volunteered in our Medfield Public Schools since 1998, and as a non-profit/community affairs professional, I believe in working collaboratively through conflicts.

However, collaboration is a two-way street, and given everything I have learned in the last few weeks, Massachusetts Open Meeting Law mediation as it has currently been structured has become a one-side process that runs absolutely counter to universally accepted Model Standards of Conduct adopted by the American Arbitration Association, the American Bar Association and the Association for Conflict Resolution.

Specifically, and in order of importance as it relates to the Medfield School mediation session on Oct. 11:

- 1) **STANDARD III - Conflict of interest.** At its September 19, 2019 meeting, the Medfield School Committee voted to appoint the OML mediation subcommittee to include our school Business Manager Michael LaFrancesca. Research and documents indicate that Tracy Driscoll, the mediator hired by your office, previously served as chair of the Dedham School Committee when LaFrancesca was employed as the business manager there, with an overlap of approximately four years (2007 to 2011). Dedham School Committee minutes indicate Driscoll and LaFrancesca had a working relationship – an egregious conflict of interest for a mediator, which as of this writing (10 days since the school committee vote on mediation), has yet to be disclosed. Beyond LaFrancesca participating in mediation, the former chair of a school committee serving as a mediator also presents a conflict of interest given that most of my OML complaints are against Medfield School Committee.
- 2) **STANDARD I: Self-determination.** In an August 21, 2019 e-mail sent by proposed mediator Tracy Driscoll (see enclosed), it was stated that beyond my legal counsel, if I wanted to have another person in attendance, both parties would need to agree prior to the mediation. However, I was never given the same power to approve/disapprove of participation by LaFrancesca, the superintendent, or two vs. one school attorneys. And despite my e-mail question of the Committee on August 30, 2019 to cover my attorney fees beyond a certain point in mediation, the question was never presented to the actual Committee on September 19 as part of the deliberation and vote to enter into mediation.
- 3) **STANDARD IV: Lack of clarity on moderator competency/qualifications.** When the mediator appointment was first announced, the only information shared about her qualifications was via two separate phone calls with Carrie Benedon in which she first relayed that she had “the perfect mediator in mind” but then when asked about her qualifications and experience, I was only told that the proposed mediator had attended a MA-AGO training session, and had also been selected by someone else in MA-AGO as an OML mediator. There was nothing else that was shared regarding experience, skills, activities or other qualities necessary for a mediator, and nothing could be found via basic research with regard to association with a recognized program or other credentials.

4) **STANDARD VI: Quality of the Process (with Respect as a requirement).** Over the last several weeks, I have perceived actions by the Medfield Superintendent to be intimidation and retaliatory in nature, evidenced by my name on Sept. 19 executive session agenda item related to mediation and litigation, when no such litigation existed. He also posted on the school website deceptive documents with my name on the file related only to Public Records Appeals without the full, documented history of what transpired (i.e., lack of his RAO response). I also believe the Committee was fully aware of all the appeals long before the Sept. 19, 2019 meeting, so there was no valid reason to share that information in a public meeting unless it was designed to intimidate and retaliate against me. No citizen exercising his/her legal rights should be subjected to this kind of behavior, and I've stated as such publicly to the superintendent and school committee, yet he continues with these unprofessional actions.

I only suggested mediation because I believed it would in fact be neutral and could be beneficial. However, the mediation process as it is now structured is marked by an extreme conflict of interest, and an imbalance of power that favors School Committee rights over my own as a Medfield citizen seeking enforcement of the law – both of which are unacceptable.

And mediation or not, I allege that virtually every one of the eight complaints I submitted to MA-AGO many months ago are not only blatantly in violation of OML (especially with regard to superintendent contract as voted on March 11, 2019), but also intentional.

Ultimately, my OML complaints are about protecting Medfield citizens and standing up for what is right after learning that fundamentally, funds for superintendent compensation have been stolen from students. At more than \$230,000 in salary alone for FY20, the Medfield Superintendent of Schools is now among the highest paid superintendents in Massachusetts. The doubling of his retirement contribution and extended terms was approved after a nearly 6.2% FY 2019 school budget increase the year before, and in the midst of a statewide school funding crisis. And beyond OML, I allege there have been other illegal actions not only by our superintendent, but by a School Committee that has been abdicating its budget and policy-making responsibility to the Medfield community for many years.

Given the information I have documented and shared here, I cannot sign a mediation agreement for October 11, 2019 based on the way mediation is being handled, especially with regard to a direct conflict of interest. I also will not participate in any mediation until I receive documents from my September 12, 2019 Public Records Request of the Division of Open Government.

Respectfully,



Christine McCue Potts
7 Curve St., Medfield, MA

cc: LOSB