

Kevin Minor: 0:01

Greetings and welcome to the NASPO Pulse podcast, your go-to source for all things state procurement. I'm your host, Kevin Minor, and I am thrilled to introduce you to season four of the NASPO Pulse. We're doing it, it's back, we're here and we've got our finger on the pulse. We're bringing you new episodes every month that you can find on the NASPO Pulse blog, Apple Podcasts, Spotify, Google or wherever you get your podcast. As we kick off the new year, we're excited to have my friend and colleague, Megan Smith, join us today.

Kevin Minor: 0:38

Megan is the new Director of Legal Education and Senior Legal Counsel at NASPO. She'll be talking to us about her new role as director of legal education, tips for communicating with state attorney generals, as well as lawyers embedded in the field of procurement, and the Bipartisan Infrastructure, Investment and Jobs Act. But that's not all folks. We've got more exciting episodes in store for you. This year, we'll be diving into the most pressing issues in state procurement and bringing you expert perspectives from industry leaders. So, whether you're a procurement professional or just curious about how state government works, tune in and take the pulse of public procurement with us. Thanks for tuning in. Let's take that pulse. Megan, hi, how are you today?

Megan Smyth: 1:30

Hi Kevin, I'm doing great. How are you?

Kevin Minor: 1:32

I am doing well. We really appreciate you taking the time to be on with us today. You are the director of legal education with NASPO, which is a brand new role here. Before we begin, can you just tell us a little bit about your experience in law and what brought you to this point in your career?

Megan Smyth: 1:52

Absolutely. Thank you for having me. I'm excited to talk to everyone about this new role and legal education at NASPO. So thanks for having me. And yeah, so I went to law school out of Transylvania University in Lexington, Kentucky, which is, fun fact, the oldest college west of the Allegheny Mountains in the United States.

Kevin Minor: 2:17

States.

Megan Smyth: 2:18

The 16th oldest college in the United States.

Kevin Minor: 2:21

So wow, fun fact, the more you know.

Megan Smyth: 2:24

Indeed Transylvania University. I was a philosophy major, a poli-sci and comms minor. I then went to law school at the University of Kentucky. I graduated in 2008 and I've spent about eight years practicing civil defense litigation all over the Commonwealth. I tried cases all over the state, uh, in insurance law, pharmacy, malpractice, employment law, um various different areas. But it was great, it was really fun. I really enjoyed it. I'm really thankful for that experience, but litigation takes a lot out of you, so it was time to move on after about eight years of that.

Kevin Minor: 3:03

Right, I bet. And um, spoiler alert Megan and I, we, uh, I've known you for six years now. We've worked together, and I did not know that you were a philosophy major, so that is something new for me.

Megan Smyth: 3:18

Well, my parents were really concerned about what I was going to do with that, so they were happy when I went to law school, I think and put it to practice.

Kevin Minor: 3:27

Hey, I have a sociology bachelor's degree in sociology, so my parents were also happy when I went to grad school and did something else besides that. I had a philosophy class in college and I learned that I did not like philosophy after that class. It's so subjective and then you're graded on your interpretation for it, and I didn't. I never understood that.

Megan Smyth: 3:49

I guess that's fair. I mean to be so. I got into it because I just found it really super interesting. But then I found out that it actually philosophy majors statistically do better in their first year of law school than any other college majors, because we're taught to think like lawyers, think as philosophy majors. So interesting how to break down an argument into its pieces. What pieces are good, what pieces are bad?

Kevin Minor: 4:17

How can I argue against this Like that kind of lays the foundation for for being a lawyer, lawyer so I don't know if it did help me, but that's the rumor well, I mean another fun fact in the time that I've known you, I have never won an argument or a civil discussion with you.

Megan Smyth: 4:36

So that's true come on.

Kevin Minor: 4:38

I think so. I'm not sure. If it did, it wasn't memorable. So, Megan, tell us a little bit about this new role. The title is director of legal education and senior legal counsel. How did this come about?

Megan Smyth: 4:55

Yeah, so I know that that title sounds incredibly pretentious and there's a reason for that.

Kevin Minor: 5:00

It's a lot, it's a mouthful.

Megan Smyth: 5:03

Yeah, so I mean I'm a lawyer, so you know pretension, I guess comes a little an ounce of pretension.

Kevin Minor: 5:07

Sure, we'll excuse it, we'll excuse it. Yeah, we'll excuse it.

Megan Smyth: 5:13

So, anyway, I am still a legal, an attorney, for NASPO, I can still represent the organization, I still do contract review and other things that a general counsel would do, and I can back up the other members of the legal team, but my main focus is legal education. So we tried to get the title to reflect that and so that when I go to speak to people they understand what, what exactly I do. So that's where the title came about, but director of legal education is the main focus.

Kevin Minor: 5:42

Yeah, I was going to say that sounds kind of like of like the more juicier part of that title. So explain to us a little bit about how exactly that came about and what does that role entail?

Megan Smyth: 5:54

Yeah, so I would say my time here. It's been a natural evolution toward more legal content and that's as we've grown as an organization, as we've really developed our research department. We've started to see those intersections that NASPO members have with other associations members and with other executives in the state, other agency heads, for example the CIOs, the chief information officers. We realized a huge intersection with them and did a project with them. It's the same with the attorneys.

Megan Smyth: 6:33

And they have the American Bar Association as their representation and we have an MOU with them. We have a relationship with them and we together work on projects such as revising the model procurement code, which is a huge undertaking. But NASPO has been focused on legal for a while. We've done the Law Institute now for nine years. 2023 will be our 10th year anniversary for the Law Institute.

Kevin Minor: 7:01

Wow, congratulations, wow.

Megan Smyth: 7:02

Thank you. Yeah, so eight of those I've been involved in, so I'm really proud of that and really excited for the two, and that's really involved.

Kevin Minor: 7:09

That's not to interrupt you, but that's really evolved quite a bit just over the past five years, right.

Megan Smyth: 7:15

It has. It went from 50 attorneys in a room in Asheville, North Carolina, to almost 200 last year.

Kevin Minor: 7:24

Oh, wow.

Megan Smyth: 7:25

In Charleston.

Kevin Minor: 7:26

That's insane and we have a. We have a great episode with Megan and McCall Ginsberg from Georgia and you need to go back and listen to that. That is talking more about the Law Institute.

Megan Smyth: 7:38

Yes, and so Law Institute has real, as you said, really grown out. Of that has come this interest, not only from the attorneys who represent the procurement offices and advise the procurement offices in the States, but from our chief procurement officer. There was a chief procurement officer who came to Law Institute this year who said to me when it was over oh my gosh, I'm so glad I came. I didn't know that I would understand everything, I didn't know that everything would apply to me and I didn't know that I would learn so much here. And I said that's the best thing anyone said about this conference to me Thank, you Please tell all your friends like.

Kevin Minor: 8:18

Say that to everybody you know, For the record.

Megan Smyth: 8:21

Yes, it's true, and so we want to reach out to both CPOs and the attorneys who support the procurement offices in the states and bring them together in a place where they can collaborate, cross, educate one another and form

relationships that will help them weather the terrible storms that come sometimes in state government.

Kevin Minor: 8:42

Sure Well, and so that's, I mean, I think that's part of the reason that this new legal education role right has has that's one of the things that has come out of all those conversation is an actual dedicated employee to education.

Megan Smyth: 8:59

Yes, yes, so my role. So now I get to focus on this full time. So and that's something that we've never done so I will be able to focus on our academic relationships. So we have currently a relationship with George Washington Law School in in DC. They have an LLM which is like a master's of law. It's equivalent to that, an LLM in government procurement law, which is rare, one of the only, as we know, the only program in the country right now. Others are working on one, but that is a relationship that I hope will lead to other relationships with other law schools and that we encourage law schools to start teaching procurement law to their attorneys.

Megan Smyth: 9:47

It's part of contract law. It's a lot of contracts, but you could do a very specific class on either government contracting, public sector government and public sector contracting, or whatever it would be. It would be a new elective for law students to choose as they move through their coursework.

Kevin Minor: 10:10

And, just a side note, we're also going to get a staff member to keep up with all the acronyms, because I've already lost track.

Megan Smyth: 10:18

Yes, I try to. I try to say those out when I come to them, but please correct me if I got too alphabet soupy on you.

Kevin Minor: 10:26

So why is you touched on it a little bit? But why is it so important that we have legal education, for that NASPO can offer its members education, for that NASPO can offer its members, sure.

Megan Smyth: 10:44

So I think it's important to realize that when we say that I'm director of legal education, it's not just legal education for the lawyers, right, it's not. I'm not director of CLE, which is the acronym for continuing legal education, which is what all lawyers have to take every year.

Megan Smyth: 10:58

So in most states, for those who don't know, attorneys are required by their bar, whoever licensed them, to continually educate themselves so that you know the new law coming out, that you don't get stale in your practice, that you understand the new rulings that have come down from the Supreme Court, et cetera, et cetera.

Megan Smyth: 11:17

So while CLE, the continuing legal education, is something that we do, that specifically is for the attorneys, that doesn't mean that that exact same coursework wouldn't be beneficial to any state procurement employee and also definitely the chief procurement officers, because you understand the procurement lingo and you can learn the legal lingo. So I think that that's where that education piece really crosses over between our members, our state members in the procurement office, and the attorneys. The attorneys may be embedded in the procurement office with our state procurement officials, embedded in the procurement office with our state procurement officials, or they may be in the attorney general's office, and if they're in the attorney general's office, they're often assigned to procurement as one of their areas, and so they need education in procurement in order to, you know, do good work in that area. So we want to help them, support the central procurement office by educating them on

procurement specific topics. So Law Institute actually provides roughly between 13 and 15 hours of very specific continuing legal education on state procurement and there's really no place else you can find that.

Kevin Minor: 12:37

And those courses and that education that is accessible by everyone.

Megan Smyth: 12:44

So that's part of what I want to work on. Thank you for that amazing segue that I did not pay you for.

Kevin Minor: 12:49

Hey, it's like we didn't plan that out beforehand.

Megan Smyth: 12:54

Part of my job is going to be taking some of the materials that we've had at Law Institute and making them available to everybody. So for many years we've been recording a lot of these sessions, so I have video of many of these experts subject matter experts. We've brought in procurement attorneys, our CPOs, and I'm going to work on editing these videos and making some of our PowerPoints and our materials available to everyone from our research page on the NASPA website so that these can benefit everybody, because there were maybe 100, 150 people in the room when we had these sessions and they can benefit way more people than that if we use the technology available to us.

Megan Smyth: 13:40

So that is one of my efforts moving forward.

Kevin Minor: 13:44

So why now, right? Why, at this particular moment, has you know Delbert Singleton, who's the 2023 NASPO president? Why is this one of the big initiatives for him this year?

Megan Smyth: 14:00

Yeah, great question, so a lot of things. I can point to one in specificity, if you would like. Please point to as many as you'd like, as many of you know, if you've been watching the news or not.

Megan Smyth: 14:15

I try not to anymore, but yes yes, unfortunately, maybe that may be better for you. Recently, congress passed the Bipartisan Infrastructure, investment and Jobs Act For short, we're all just calling it the Infrastructure Act and that's going to allocate \$550 billion with a B over a decade for infrastructure in the United States. That includes roads, bridges, rail, water storage, public transit, clean drinking water, so replacing all the lead pipes, airports, port infrastructure, electric vehicles. It goes on and on and on. So that's so much money. That is so much money To think about how much money that is. If you had a million dollars and you spent a dollar every second, you'd run out of money in two weeks.

Megan Smyth: 15:08

A million dollars, dollar every second run out of money in two weeks. If you had a billion dollars and you spent a dollar every second, you'd run out of money in 32 years.

Kevin Minor: 15:19

Wow, second, you'd run out of money in 32 years. Wow, wow, that is such a that that I that that blows my mind 550 billion dollars so we got a couple years worth of so allocating the money, passing this bipartisan law?

Megan Smyth: 15:36

that's one thing. Now, now, what now? What so? Now, what? Right Now, the states and the localities and municipalities around the country have to implement the actual work that needs to be done. So they're building, designing the new assets, they're hiring people, they're preparing for the allocation and the accounting of the funds, they're issuing bid requests. It goes on and on. That's why you need your attorney, right? Sure, that use of federal money always comes with strings attached. So the Attorney General, Merrick Garland, issued a memo to all executive offices back in June of 2022. So almost six months ago now.

Kevin Minor: 16:19

Wow, doesn't feel like that long.

Megan Smyth: 16:21

Correct and he gave very specific bullet point tips for ensuring compliance when using the money from the infrastructure act, that kind of proactive risk management, which is what that is, which is making sure that we're doing things up front to prevent problems on the back end. That only happens when there's good communication between legal and procurement. So if I'm representing, the procurement office is my client.

Megan Smyth: 16:51

I get a memo like that from my attorney general. I'm going to share that with them. I'm going to say, hey, this came across my desk and I thought this would be useful for you. That kind of thing is only going to happen when there's already an open channel of communication and you feel comfortable and you have a good relationship, and so that's one of that's. What NASPO is focused on is convening everybody we are a convener and then helping them to work together. So that's a big part of my focus is not just the actual education content but, the relationship building and the collaboration.

Kevin Minor: 17:29

Yeah, yeah. So I mean because this is going to apply not only to, you know, general councils for the state, but also for procurement offices and for NASPO members. So what are some tips you can give to AGs and states and what are some ways that procurement professionals can communicate better?

Megan Smyth: 17:55

So I think that one key point is for everyone to understand in this situation that we're not magicians, and I mean that in two ways. Attorneys are not magicians, in that we're not doing anything magical that you are not capable of.

Kevin Minor: 18:13

Sure.

Megan Smyth: 18:13

We went to school for three years. We speak a language you don't speak, that's it. So think of us as an interpreter, right? It's not that you don't speak a language. We speak a language you don't speak, that's it. So think of us as an interpreter, right? It's not that you don't speak a language. You speak a language, you just don't speak that one. So I think that's a good way to look at your attorney as an interpreter for you into a world that you are unfamiliar with. Not so much working miracles.

Megan Smyth: 18:36

Right, correct, we are not miracles.

Kevin Minor: 18:39

OK.

Megan Smyth: 18:39

Second, we aren't magicians, in that if you bring us a raging inferno of a problem at 5 pm on a Friday, we're not going to be able to put that out by 5.05 and everybody can go home. We need to know on Monday morning that there was a problem and we needed to know the Monday before that or the Monday before that. We needed to know that there was a smoldering tiny fire before there was a big giant.

Kevin Minor: 19:10

Before the forest fire yeah, exactly.

Megan Smyth: 19:12

And so in those two ways, we're not magicians, we're not doing anything special, but we can't fix everything overnight. So I would encourage everyone to think of their attorney in that way and, and you know, maybe bring them a wizard hat.

Kevin Minor: 19:29

You know? Side note, it's probably a good thing. I don't know a lawyer who also practices alchemy.

Megan Smyth: 19:35

That sounds terrifying to me it does sound terrifying. That's too much power alchemy?

Kevin Minor: 19:39

That sounds terrifying to me. That does sound terrifying. That's too much power.

Megan Smyth: 19:42

That's too much for any one person. For any one person. Yeah, with much power, as we know comes much responsibility.

Kevin Minor: 19:51

So, Megan, we have a couple tips and I'm sure that if our listeners have any more questions, they can reach out to you and we'll make sure that we have your contact information in the show notes for this episode. But what are some resources? Information in the show notes for this episode, but what are some resources? What are some things that are already there, Solid, tangible things that I can hold and read and look at? What are some resources that NASPO offers that you can point to?

Megan Smyth: 20:11

So if you are one of the attorneys embedded in the procurement office or you're in the AG's office and you support procurement, you can attend the law institute.

Megan Smyth: 20:21

You just need to get in contact with your chief procurement officer and make sure that you're on the list, that you're on their radar and that you want to attend the law institute. There's also the NASPO network. If you are an attorney embedded again in the procurement office or in the AG's office, you can get access to our attorney network, which is an internal, password secured chat area where you can ask questions to fellow attorneys, you can read conversations between others, you can search back through conversations that have been happening over the years and it's a really great resource for just a hey guys, this came across my desk. Has anyone else dealt with this problem, which is a favorite question of lawyers everywhere. To other lawyers, that's, our favorite thing to say is hey, I have this case, what do?

Megan Smyth: 21:13

you know that's very important resource for us. So research materials such as GovWin, procurement IQ and everything that's on the NASPO research and innovation page the survey results that we take of the states each

year. There's a ton of basic information on there that will help you. There's even a link to every state's procurement code on our website, so that's helpful.

Kevin Minor: 21:39

Oh great.

Megan Smyth: 21:41

And the ProcurementU courses that are now all free, which is amazing.

Kevin Minor: 21:49

Shameless plug.

Megan Smyth: 21:50

I'm not even for me. For them, yay, procurementu.

Kevin Minor: 21:52

We love them here Absolutely.

Megan Smyth: 21:54

And we are going to be developing, hopefully, some specific legal courses for ProcurementU. But before we get to that, there's Procurement U. But before we get to that there's Procurement 101, for example, which we had all of our attorneys who attended our boot camp this year at Law Institute so those are new attorneys one to three years of practice. They took Procurement 101 before they came to Law Institute to prep for that boot camp class. So we can use the Procurement you coursework to educate the attorneys on the basics of procurement.

Kevin Minor: 22:22

Now, did you find that, that they found that helpful.

Megan Smyth: 22:26

Yeah, we got really good feedback on all of the bootcamp sessions, which were all sort of one-on-one level introductions to protesting, uh, protest contracting basics, um and again. Just procurement 101, what is an RFP, what is an RFQ, what are all the that alphabet soup, right, because the attorneys have to learn that lingo as well. So it goes both ways.

Kevin Minor: 22:53

So you, you touched on it a little bit, uh, but I think it's important for us to reiterate that non-lawyers in procurement can ask you questions too, and are the other piece of this conversation. We talked about a lot of resources for the lawyers. What are some things that, megan, that you would encourage non-lawyers and procurement professionals and NASPA members to ask you or to talk to their legal team about?

Megan Smyth: 23:25

I would say that most lawyers I know love coffee, and if you went down to the attorney who represents your procurement office's office and said hey, I'd like to buy you a cup of coffee and pick your brain and you share with them an issue that you're having. They will want to help you, they will be excited about coffee, they will probably pay for it and and you will start a friendship and a relationship with someone who can really help you when you get in a corner.

Kevin Minor: 23:58

Excellent.

Megan Smyth: 23:59

And don't be afraid of them. So form a relationship with that attorney, just like you would any other coworker that you have. Don't think of it as I only see the attorney when I'm in trouble quote unquote or when something has gone terribly wrong. Make it a positive interaction so that you have a good feeling about each other and that your first interaction isn't oh no, yeah.

Kevin Minor: 24:26

Well, I mean, that's the thing we joke and that's a, you know, the stereotypical lawyer relationship. But I think it's important that we do break that taboo and that lawyers aren't looked at as you know the adversarial role, right.

Megan Smyth: 24:42

Yes, that you're not. When you go see the attorney, you're not getting sent to the principal's office.

Megan Smyth: 24:46

You're getting sent to the counselor's office, like that's. My favorite moniker for attorneys is counselor. I've always loved that one, because that, I think, gets to the root of what we really do, which is giving our clients the best advice we can, all the information that we have, equipping them to make the best decision that they possibly can. That is our role, and I want to help the attorneys do that the best they can and I want to help the procurement office receive that information in the best way that they can Hence the new title and the new role.

Megan Smyth: 25:23

Indeed.

Kevin Minor: 25:25

Indeed, it's all starting to make sense. This is great counseling. Thank you very much.

Megan Smyth: 25:31

You're welcome.

Kevin Minor: 25:33

Megan, before we go, and thank you so much for talking with us today, and we're going to put all the resources that you mentioned in the show notes. We're going to put all the resources that you mentioned in the show notes. We're going to have all that accessible and I'm sure that Megan is more than willing to. If you want to reach out to her, we'll go ahead and put her NASPO email in the show notes, like we said, and I'm sure that she's more than willing to have a conversation with you. Have questions, Megan, before we go, what is some advice that you would give our listeners, and this doesn't necessarily have to be professional advice. It can be any kind of advice that you have.

Megan Smyth: 26:10

Life advice. My favorite life advice tends to come from Maya Angelou, because I find that she says things in a way very succinct but yet powerful. And one of my favorites is people may not always remember exactly what you said, but they remember how you made them feel and I think that's a good reminder to always be kind, and no matter what you're saying, or to just be kind to everyone and generous, and that will usually come back to you.

Kevin Minor: 26:46

Well, I don't remember what you just said, but it felt really nice.

Megan Smyth: 26:53

Oh, Kevin.

Kevin Minor: 26:54

Sorry, we probably shouldn't. I couldn't help myself. We probably shouldn't. No, that was good. Was that good? We'll keep that.

Megan Smyth: 26:57

It couldn't help myself. We probably shouldn't. No, that was good. No, that was good. Was that good? We'll keep that. It was funny. Yeah, I thought it was funny.

Kevin Minor: 27:04

Megan is the well. We're friends, so it's okay we can do that. Megan is the Director of Legal Education and Senior Legal Counsel for NASPO. Megan, thank you so much for joining us today.

Megan Smyth: 27:18

Thank you, Kevin. Thank you for having me. This was a delight.

Kevin Minor: 27:22

All right, folks. That's a wrap for today's episode of the NASPO Pulse podcast. I hope you enjoyed our conversation with Megan Smith, director of Legal Education and Senior Legal Counsel at NASPO. It was an absolute pleasure to have Megan on the show and to hear her valuable insight on some of the latest developments and challenges facing public procurement. Thanks for tuning in and for being part of our community. You know we appreciate your support. We'll be back next month with another amazing episode. I'm Kevin Miner. Until next time.