BED BATH & BEYOND INC
Form DFAN14A
April 26, 2019

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

(Rule 14a-101)

INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of The Securities Exchange Act of 1934

(Amendment No.)

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material Under Rule
14a-12

BED BATH & BEYOND INC.
(Name of Registrant as Specified in Its Charter)

legion partners holdings, llc

Legion partners, l.p. i

legion partners, l.p. ii

legion partners special opportunities, l.p. xii

legion partners, llc

legion partners asset management, llc

macellum advisors gp, llc

macellum home fund, lp

macellum management, lp

ancora catalyst institutional, lp

ancora catalyst, lp

merlin partners institutional, lp

ancora merlin, lp

ancora special opportunity fund

ancora/thelen small-mid cap fund

ancora advisors, llc

christopher s. kiper

raymond t. white

jonathan duskin

frederick disanto

victor herrero amigo

theresa r. backes

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jeffrey a. kirwan

jeremy i. liebowitz

jon lukomnik

cynthia s. murray

martine m. reardon

hugh r. rovit

joshua e. schechter

alexander w. smith
(Name of Persons(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

Fee paid previously with preliminary materials:

Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.

(1) Amount previously paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

Legion Partners Holdings, LLC, Macellum Advisors GP, LLC and Ancora Advisors, LLC, together with the other participants named herein (collectively, the "Participants"), has filed a preliminary proxy statement and an accompanying WHITE proxy card and intends to file a definitive proxy statement and an accompanying WHITE proxy card with the Securities and Exchange Commission to be used to solicit proxies for the election of their slate of director nominees at the 2019 annual meeting of shareholders of Bed Bath & Beyond Inc., a New York corporation (the "Company").

Item 1: On April 26, 2019, Legion Partners Holdings, LLC ("Legion Partners Holdings" together with its affiliates, "Legion Partners"), Macellum Advisors GP, LLC (together with its affiliates, "Macellum"), and Ancora Advisors, LLC (together with its affiliates, "Ancora" and, together with Legion Partners and Macellum, "the Investor Group") issued a presentation outlining the Investor Group's Strategic Plan for the Company, a copy of which is attached hereto as Exhibit 1 and is incorporated herein by reference:

Item 2: On April 26, 2019, the Investor Group issued the following press release:

INVESTOR GROUP ISSUES DETAILED STRATEGIC PLAN FOR BED BATH & BEYOND

Highlights the significant potential of Bed Bath and strategic steps required to implement modern retail strategies and drive $5.00 per share in annual EPS

Recent board changes not coupled with a strategic plan and existing initiatives show little evidence of success

CEO Steven Temares must be immediately replaced to avoid further destruction of shareholder value

Investor Group's highly-qualified, experienced director nominees with deep retail expertise are committed to implementing the urgent and significant change needed at the Company

NEW YORK – 4/26/2019 – Legion Partners Holdings, LLC ("Legion Partners Holdings" together with its affiliates, "Legion Partners"), Macellum Advisors GP, LLC (together with its affiliates, "Macellum"), and Ancora Advisors, LLC (together with its affiliates, "Ancora" and, together with Legion Partners and Macellum, "the Investor Group") today released a comprehensive presentation outlining the Investor Group's Strategic Plan for Bed Bath & Beyond Inc.'s

(NASDAQ: BBBY) ("Bed Bath" or the "Company"). The plan outlines the path forward to modernizing Bed Bath's retail practices and delivering a significant earnings per share improvement which could drive $5.00 per share of annual earnings – a level that Bed Bath achieved just a few short years ago.

The complete presentation can be found at https://restorebedbath.com/.

The Investor Group's Strategic Plan includes the following highlights:

- **Revamp executive management** – recruiting a top-flight CEO to lead Bed Bath going forward and instill a world-class winning culture. We plan to launch a search in the near term to address this key position.

- **Reverse sales weakness** – fixing the merchandise over-assortment problem through a detailed SKU rationalization process as well as developing a merchandise architecture that will better resonate with customers. Making the in-store experience something that drives traffic to the stores will be a major priority.

- **Turn around Company culture** – increase focus on employee training and education to improve motivation; empower employees to better use technology and improve customer experience.

- **Significantly expand gross margins** – improve vendor relations and drive profits by establishing a direct sourcing strategy and private label program as well as fixing mix issues created by the Company's shift to commoditized and lower margin products.

- **Implement cost cutting** – conducting an extensive reassessment of the increases in expenses over the last five years, including the explosion of the Company's advertising budget, seemingly endless array of initiatives that have failed to produce meaningful results and extensive use of consultants.

- **Improve inventory** – increasing inventory turns which would result in a substantial release of cash tied up in slow moving goods.

- **Fix capital allocation** – reviewing all non-core businesses and assessing their value as part of the business or their potential value to other parties. Excess cash created could be applied to share or debt repurchases, both of which are significantly accretive given discounted trading levels. Lastly, the increase in capital expenditures will be addressed.

Above all, the Investor Group's director nominees have the relevant experience and commitment to execute on these priorities and hold management accountable for delivering results.

The Investor Group released the following statement in conjunction with the Strategic Plan, "The Board changes announced earlier this week by Bed Bath are not nearly enough and appear hastily constructed. We believe CEO Steven Temares must be terminated as soon as possible and new directors must be added to the Board that have direct experience in the following areas: customer-centricity, retail operations, sourcing, supply chain, private label, marketing, branding, e-commerce, and turnarounds. That is why we carefully selected our nominees to address the long list of issues at Bed Bath which have led to prolonged poor performance and destruction of shareholder value. We look forward to discussing the details of our plan and our nominees' ability to drive material value creation at the Company over the coming weeks."

About Legion Partners

Legion Partners is a long-term-oriented activist fund focused on producing superior risk-adjusted returns for clients. Legion Partners' investment strategy is concentrated on North American small cap equities, utilizing deep fundamental research and long-term shareholder engagement to drive superior performance over time.

About Macellum

Macellum has substantial experience investing in consumer and retail companies and assisting such companies in improving their long-term financial and stock price performance. Macellum's historical investments include: Collective Brands, GIII Apparel Group, Hot Topic, Charming Shoppes and Warnaco, among other companies. Macellum prefers to constructively engage with management to improve its governance and performance for the benefit of all stockholders, as it did with Perry Ellis. However, when management is entrenched, Macellum has run successful proxy contests to effectuate meaningful change, including at The Children's Place, Christopher & Banks and most recently at Citi Trends.

About Ancora Advisors

Ancora Holdings, Inc. is an employee owned, Cleveland, Ohio based holding company which wholly owns three separate and distinct SEC Registered Investment Advisers, Ancora Advisors, Inc., Ancora Family Wealth Advisors, LLC and Ancora Retirement Plan Advisors, Inc. and Inverness Securities LLC, a broker dealer. Ancora Advisors, LLC specializes in customized portfolio management for individual investors, high net worth investors, investment companies (mutual funds), pooled investments (hedge funds/investment limited partnerships), and institutions such as pension/profit sharing plans, corporations, charitable & “Not-for Profit” organizations, and unions. Ancora Family Wealth Advisors, LLC is a leading, regional investment and wealth advisor managing assets on behalf families and high net-worth individuals. Ancora Retirement Plan Advisors, Inc. specializes in providing non-discretionary investment guidance for small and midsize employer sponsored retirement plans.

CERTAIN INFORMATION CONCERNING PARTICIPANTS

Legion Partners Holdings, LLC, a Delaware limited liability company ("Legion Partners Holdings"), Macellum Advisors GP, LLC, a Delaware limited liability company ("Macellum GP"), and Ancora Advisors, LLC, a Delaware limited liability company ("Ancora Advisors") together with the participants named herein, has filed a preliminary proxy statement and accompanying WHITE proxy card and intends to file a definitive proxy statement and accompanying WHITE proxy card with the Securities and Exchange Commission ("SEC") to be used to solicit votes for the election of their slate of highly qualified director nominees at the 2019 annual meeting of shareholders of Bed Bath & Beyond Inc., a New York corporation (the "Company").

LEGION PARTNERS HOLDINGS, MACELLUM GP, AND ANCORA ADVISORS STRONGLY ADVISE ALL SHAREHOLDERS OF THE COMPANY TO READ THE PROXY STATEMENT AND OTHER PROXY MATERIALS AS THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION. SUCH PROXY MATERIALS WILL BE AVAILABLE AT NO CHARGE ON THE SEC'S WEB SITE AT http://www.sec.gov. IN ADDITION, THE PARTICIPANTS IN THIS PROXY SOLICITATION WILL PROVIDE COPIES OF THE PROXY STATEMENT WITHOUT CHARGE, WHEN AVAILABLE, UPON REQUEST.

The participants in the proxy solicitation are Legion Partners Holdings, Legion Partners, L.P. I, a Delaware limited partnership ("Legion Partners I"), Legion Partners, L.P. II, a Delaware limited partnership ("Legion Partners II"), Legion Partners Special Opportunities, L.P. XII, a Delaware limited partnership ("Legion Partners Special XII"), Legion Partners, LLC, a Delaware limited liability company ("Legion LLC"), Legion Partners Asset Management, LLC, a Delaware limited liability company ("Legion Partners Asset Management"), Christopher S. Kiper, Raymond T. White, Macellum GP, Macellum Home Fund, LP, a Delaware limited partnership ("Macellum Home"), Macellum Management, LP, a Delaware limited partnership ("Macellum Management"), Jonathan Duskin, Ancora Catalyst Institutional, LP, a Delaware limited partnership ("Ancora Catalyst Institutional"), Ancora Catalyst, LP, a Delaware limited partnership ("Ancora Catalyst"), Merlin Partners Institutional, LP, a Delaware limited partnership ("Merlin Institutional"), Ancora Merlin, LP, a Delaware limited partnership ("Ancora Merlin"), Ancora Special Opportunity Fund, a series of the Ancora Trust, an Ohio business trust ("Ancora Special Opportunity"), Ancora/Thelen Small-Mid Cap Fund, a series of the Ancora Trust, an Ohio business trust ("Ancora/Thelen"), Ancora Advisors, LLC, a Nevada limited liability company ("Ancora Advisors"), Frederick DiSanto, Victor Herrero Amigo, Theresa R. Backes, Joseph Boehm, David A. Duplantis, John E. Fleming, Sue Ellen Gove, Janet E. Grove, Jeffrey A. Kirwan, Jeremy I. Liebowitz, Jon Lukomnik, Cynthia S. Murray, Martine M. Reardon, Hugh R. Rovit, Joshua E. Schechter and Alexander W. Smith.

As of the date of this press release, Legion Partners I directly beneficially owns 3,452,124 shares of Common Stock, including 898,000 shares underlying long call options, Legion Partners II directly beneficially owns 199,952 shares of Common Stock, including 52,000 shares underlying long call options, Legion Partners Special XII directly beneficially owns 982,000 shares of Common Stock, including 200,000 shares underlying long call options, and Legion Partners Holdings directly beneficially owns 200 shares of common stock of the Company ("Common Stock") in record name and as the sole member of Legion Partners Asset Management and sole member of Legion LLC, Legion Partners Holdings may also be deemed to beneficially own the 3,452,124 shares of Common Stock beneficially owned directly by Legion Partners I, including 898,000 shares underlying long call options, 199,952 shares of Common Stock beneficially owned directly by Legion Partners II, including 52,000 shares underlying long call options, and 982,000 shares of Common Stock beneficially owned directly by Legion Partners Special XII, including 200,000 shares underlying long call options. As the general partner of each of Legion Partners I, Legion Partners II and Legion Partners Special XII, Legion LLC may be deemed to beneficially own the 3,452,124 shares of Common Stock beneficially owned directly by Legion Partners I, including 898,000 shares underlying long call options, 199,952 shares of Common Stock beneficially owned directly by Legion Partners II, including 52,000 shares underlying long call options, and 982,000 shares of Common Stock beneficially owned directly by Legion Partners Special XII, including 200,000 shares underlying long call options. As the investment advisor of each of Legion Partners I, Legion Partners II and Legion Partners Special XII, Legion Partners Asset Management may be deemed to beneficially own the 3,452,124 shares of Common Stock beneficially owned directly by Legion Partners I, including 898,000 shares underlying long call options, 199,952 shares of Common Stock beneficially owned directly by Legion Partners II, including 52,000 shares underlying long call options, and 982,000 shares of Common Stock beneficially owned directly by Legion Partners Special XII, including 200,000 shares underlying long call options. As a managing director of Legion Partners Asset Management and managing member of Legion Partners Holdings, Mr. Kiper may be deemed to beneficially own the 3,452,124 shares of Common Stock beneficially owned directly by Legion Partners I, including 898,000 shares underlying long call options, 199,952 shares of Common Stock beneficially owned directly by Legion Partners II, including 52,000 shares underlying long call options, 982,000 shares of Common Stock beneficially owned directly by Legion Partners Special XII, including 200,000 shares underlying long call options and 200 shares of Common Stock beneficially owned directly by Legion Partners Holdings. As a managing director of Legion Partners Asset Management and managing member of Legion Partners Holdings, Mr. White may be deemed to beneficially own the 3,452,124 shares of Common Stock beneficially owned directly by Legion Partners I, including 898,000 shares underlying long call options, 199,952 shares of Common Stock beneficially owned directly by Legion Partners II, including 52,000 shares underlying long call options, 982,000 shares of Common Stock beneficially owned directly by Legion Partners Special XII, including 200,000 shares underlying long call options and 200 shares of Common Stock

beneficially owned directly by Legion Partners Holdings. Macellum Home directly beneficially owns 446,415 shares of Common Stock, including 89,500 shares underlying long call options. As the investment manager of Macellum Home, Macellum Management may be deemed to beneficially own the 446,415 shares of Common Stock beneficially owned directly by Macellum Home, including 89,500 shares underlying long call options. As the general partner of Macellum Home, Macellum GP may be deemed to beneficially own the 446,415 shares of Common Stock beneficially owned directly by Macellum Home, including 89,500 shares underlying long call options. As the sole member of Macellum GP, Mr. Duskin may be deemed to beneficially own the 446,415 shares of Common Stock beneficially owned directly by Macellum Home, including 89,500 shares underlying long call options. Ancora Catalyst Institutional directly beneficially owns 244,195 shares of Common Stock, including 83,700 shares underlying long call options, Ancora Catalyst directly beneficially owns 18,380 shares of Common Stock, including 6,300 shares underlying long call options, Merlin Institutional directly beneficially owns 235,455 shares of Common Stock, including 81,000 shares underlying long call options, Ancora Merlin directly beneficially owns 27,121 shares of Common Stock, including 9,000 shares underlying long call options, Ancora Special Opportunity directly beneficially owns 20,000 shares of Common Stock and Ancora/Thelen directly beneficially owns 96,780 shares of Common Stock. As the investment advisor to each of Ancora Catalyst Institutional, Ancora Catalyst, Merlin Institutional, Ancora Merlin, Ancora Special Opportunity, Ancora/Thelen and certain separately managed accounts, including accounts held by owners and employees of Ancora Advisors of which Ancora Advisors has sole voting and dispositive power over (collectively, the “SMAs”), Ancora Advisors may be deemed to beneficially own the 244,195 shares of Common Stock beneficially owned directly by Ancora Catalyst Institutional, including 83,700 shares underlying long call options, 18,380 shares of Common Stock beneficially owned directly by Ancora Catalyst, including 6,300 shares underlying long call options, 235,455 shares of Common Stock beneficially owned directly by Merlin Institutional, including 81,000 shares underlying long call options, 27,121 shares of Common Stock beneficially owned directly by Ancora Merlin, including 9,000 shares underlying long call options, 20,000 shares of Common Stock beneficially owned directly by Ancora Special Opportunity, 96,780 shares of Common Stock beneficially owned directly by Ancora/Thelen and 1,184,127 shares of Common Stock held in the SMAs. As the Chairman and Chief Executive Officer of Ancora Advisors, Mr. DiSanto may be deemed to beneficially own the 244,195 shares of Common Stock beneficially owned directly by Ancora Catalyst Institutional, including 83,700 shares underlying long call options, 18,380 shares of Common Stock beneficially owned directly by Ancora Catalyst, including 6,300 shares underlying long call options, 235,455 shares of Common Stock beneficially owned directly by Merlin Institutional, including 81,000 shares underlying long call options, 27,121 shares of Common Stock beneficially owned directly by Ancora Merlin, including 9,000 shares underlying long call options, 20,000 shares of Common Stock beneficially owned directly by Ancora Special Opportunity, 96,780 shares of Common Stock beneficially owned directly by Ancora/Thelen and 1,184,127 shares of Common Stock held in the SMAs. As of the date hereof, John E. Fleming directly beneficially owns 5,000 shares of Common Stock. As of the date hereof, none of Frederick DiSanto, Victor Herrero Amigo, Theresa R. Backes, Joseph Boehm, David A. Duplantis, Sue Ellen Gove, Janet E. Grove, Jeffrey A. Kirwan, Jeremy I. Liebowitz, Jon Lukomnik, Cynthia S. Murray, Martine M. Reardon, Hugh R. Rovit, Joshua E. Schechter or Alexander W. Smith own beneficially or of record any securities of the Company.

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Source:

Legion Partners Holdings, LLC, Macellum Advisors GP, LLC and Ancora Advisors, LLC

Item 3: On April 26, 2019, the Investor Group posted the following materials to https://restorebedbath.com: