

Education Law

McGlinchey Stafford's Education Law team offers innovative, industry-focused legal services to all sizes and types of educational institutions, including charter schools, charter school management organizations, private schools, parochial schools, alternative schools, universities, and other higher educational institutions.

With a network of nationwide offices, our Education Law team delivers value with our depth of knowledge, effective communication, and focus on quick response. We have team members with depth in a number of subjects and staff matters with diverse personnel.

Our team includes a former Deputy Assistant Attorney General and Chief of Staff of the Civil Rights Division, U.S. Department of Justice (DOJ), and a former United States Attorney for the Middle District of Louisiana.

Our experience and practice have put us at the forefront of a broad spectrum of highly specialized education industry issues, including civil rights, litigation, labor and employment, education funding/loan financing programs, intellectual property licensing, lobbying, federal consent orders, regulatory assistance, and transactional and corporate guidance. As examples, we have represented the governor of North Carolina in high-profile litigation involving sex discrimination and transgender bathroom issues in schools. Our team has represented Harvard University in a Title VI civil rights inquiry involving the school's admissions policy.

Regarding charter schools specifically, our attorneys are keenly focused on the charter school movement and advise our clients regarding compliance in this evolving area of law. We serve as outside general counsel to charter schools and charter management organizations. We have been involved in landmark decisions, including a recent Louisiana Supreme Court decision that is serving as a sort of test case for charter school systems nationwide. Many of our attorneys have experience serving on the boards of charter schools and therefore uniquely understand the needs of our clients from a client perspective. We provide legal advice to charter school clients on an ongoing basis, counseling on a diverse range of issues with budgets, risk management, and efficiency at the forefront of our approach.

Our Experience

Regulatory

We have extensive experience in regulatory and compliance issues related to educational institutions, including the DOJ and U.S. Department of Education (DOE) civil rights investigations and unitary status issues, Freedom of Information Act (FOIA) requests, and federal consent orders under the Civil Rights Act. We have also advised schools regarding compliance requirements for asbestos removal, lead exposure, and drinking water issues.

Our scope of representation includes:

- DOE Office of Civil Rights and DOJ civil rights investigations
- Compliance with and modification and termination of federal consent orders
- Regulatory matters and compliance issues
- Civil rights issues

Financing

Our compliance team has significant experience working with lenders (including schools themselves), servicers, and other market participants that make credit available to students and their families for education expenses. We advise clients on a broad spectrum of education finance matters, including education lending and servicing issues. We assist clients with educational expense programs, developing tuition payment plans, promoting and administering loan programs, and student loan servicer license requirements.

Cybersecurity and Data Privacy

As cybersecurity and data privacy issues are top of mind for all educational institutions, our Education Law team's experience drafting proactive policies and practices, including evaluating which state and federal laws may apply, allows clients to avoid or mitigate the risk of data breaches. In addition, we have successfully litigated direct and derivative actions—as both plaintiff and defendant—related to data breaches and data incidents.

Cybersecurity is not limited to protecting information, it also covers a spectrum of concerns that clients have but may not always immediately consider, for example: internet of things (IoT) risks; purchasing and maintaining cyber insurance and litigating insurance disputes; cyber-consumer protection with respect to marketing and sales; reviewing and developing website terms of use and online privacy policies; ensuring compliance with e-payment laws and procedures; third-party vendor management; conducting board investigations into cyber issues, breaches, and attacks; and educating boards, officers, and directors about their fiduciary duties with respect to cyber issues.

Related Services

[Commercial Litigation](#)
[Consumer Financial Services Compliance](#)
[Corporate](#)
[Cybersecurity and Data Privacy](#)
[Intellectual Property](#)
[Labor and Employment](#)
[White Collar/Government Investigations Group](#)

Litigation

Our experienced litigators handle cases on behalf of private schools, universities, charter schools, charter school management organizations, and other educational institutions across the country in federal and state courts, while consistently evaluating early resolution options, mediation, and summary judgment to manage expenses. We have extensive experience litigating charter school funding issues, state and federal constitutional issues, and civil rights issues (such as Title IX) applicable to schools and universities. We also represent clients before federal and state Boards of Education and Boards of Ethics.

Labor and Employment

The McGlinchey Stafford team is a national leader in developing labor and employment law issues our education clients are facing around the nation. We are well recognized as effective school representatives in union organizing, collective bargaining, litigation on jurisdiction, and unfair labor practices and decertification.

Our team advises, counsels, and litigates a full range of employment issues for clients in the education realm. From organizing policies, procedures, and workforce teams to defending schools and their educators in individual or class claims, including representing leadership of several charter schools throughout the unionization process, civil rights, and employment law claims by teachers, staff, administration and students, our counsel is focused on the specific needs of each particular school and school system throughout the process to arrive at an optimal outcome. From Title VII to Title IX, the Americans with Disability Act, Wage and Hour, FMLA, drug testing and other federal and state laws, our team can advise on issues ranging from hire to separation and has successfully litigated the most sophisticated of individual and class claims.

In addition to these practice areas, our services include:

- Labor and employment advice, counsel and litigation defense regarding Title VII of the Civil Rights Act, Rehabilitation Act of 1973, Fair Labor Standards Act (FLSA), Occupational Safety and Health Administration (OSHA), and federal and state law issues
- Labor relations, tenure, employment contracts, faculty handbooks, employment policies and procedures, harassment, and discrimination
- Employee benefits advice and litigation, employment offer letters, and executive compensation
- OSHA and workplace safety
- Title VI and Title IX compliance

Intellectual Property

Our team offers a full range of IP services that anticipates the unique needs of the education industry, including:

- Patent application matters for university foundations and patent/IP licensing drafting, negotiation, and dispute resolution
- Logo and brand management; trademark clearance and registrations
- Software development and licensing agreement negotiations and drafting

Corporate/Transactional

Our Education Law team helps clients by providing contract and policy review, negotiating vendor agreements, and preparing public bid and contract documents. We handle negotiations of charter applications with school boards. We have experience advising clients on contractor power purchase agreements, owner-architect agreements, and RFP responses for material suppliers to universities. We also assist clients with acquisition, construction, and leasing property for schools, as well as with commercial real estate matters, contract drafting issues, and property purchases. We also advise clients on industry-related tax issues and planning.

Our team's corporate/transactional experience in this industry is full-service and includes:

- Government contracts
- Charter applications
- Public bid procedure
- Commercial real estate matters, property purchases, and commercial leases
- Facilities construction and financing issues
- Corporate governance
- Formation of foundations and other corporate entities
- Student issues including special education, including the Individuals with Disabilities Education Act (IDEA); student handbooks; drug and alcohol policies; student privacy; and discipline issues
- Student and technology issues, including the application of bullying, harassment, and privacy laws in the context of social networking and texting/sexting
- Ethics and conflicts laws
- Open meetings laws
- Student records, including Family Educational Rights and Privacy Act (FERPA)
- Board policies, procedures, handbooks, and manuals

Professionals



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Experience

Defended Louisiana School Employees' Retirement System in multiple constitutional and statutory challenges to the funding of retirement systems and calculations of member benefits.

Defended the State of Louisiana and its agencies against constitutional and statutory challenges in education matters.

Iberville Parish v. Louisiana Department of Education

The Louisiana Supreme court upheld State funding to Charter Schools.

Parents Against Testing Without Teaching v. Board of Elementary and Secondary Education, 2000 31267 (5th Cir. 2001)

Jay O'Brien successfully defended the State Board of Education against constitutional challenges to Louisiana's LEAP test. The LEAP test established minimum requirements for 4th and 8th grade students in order to obtain promotion to the next grade.

Recent Publications

September 25, 2018

U.S. Fifth Circuit Holds that Louisiana Charter Schools are Subject to the NLRA

On September 21, 2018, the U.S. Fifth Circuit Court of Appeals ruled that a Louisiana charter school is subject to the National Labor Relations Act (NLRA) like most other privately controlled employers.

McGlinchey Education Law Alert

March 16, 2018

Louisiana Supreme Court Issues Landmark School Decision

The Louisiana Supreme Court issued a landmark decision on March 13, 2018, upholding the constitutionality of the allocation of state and local Minimum Foundation Program (MFP) funding to New Type 2 charter schools pursuant to La. Const. art. VIII, § 13. *Iberville Parish Sch. Bd. v. Louisiana State Bd. of Elementary & Secondary Educ.*, No. 2017-C-0257 slip op. (La. March 13, 2018).

McGlinchey Labor & Employment Alert

Recent News

January 3, 2019

McGlinchey Stafford Promotes Three New Members in 2019
McGlinchey News Release