

Industry

Education

Mirick attorneys provide high-quality, cost-effective representation to primary and secondary schools, including municipal and regional school districts, charter schools, collaboratives and private schools, and institutions of higher education to support them in educating their students.

Charter Schools

Public charter schools in Massachusetts face an ever-expanding set of increasingly complex legal obligations.

At Mirick, we partner with our charter school clients to provide timely, cost-efficient advice and representation to assist them in delivering educational services to their students. We are one of few Massachusetts firms that can meet all of charter schools' legal needs in-house from labor and employment to school building leases and construction projects to students' rights, policies, and discipline.

Labor and Employment

Our School Law Team advises our clients on all labor and employment matters. We regularly assist them with issues involving labor relations and personnel issues.

- Union avoidance
- Election campaigns and written majority authorizations
- Collective bargaining
- Grievance arbitration

Related People

Nicholas Anastasopoulos

Amanda Marie Baer

Ashlyn E. Dowd

Brian R. Falk

Corey F. Higgins

Stephen F. Madaus

Kimberly A. Rozak

Massiel L. Sanchez

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Jonathan R. Sigel

Cheryl A. Spakauskas

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Jemmie Martinez

Related Services

Business Litigation

Commercial Litigation

Employment Litigation

**Labor, Employment and
Employee Benefits**

Litigation

Public and Municipal Law

**Real Estate and Environmental
Litigation**

- Unfair labor practices
- Discipline
- Leaves of absence
- Reductions-in-force
- Managing employees with medical conditions
- Sexual harassment investigations
- Wage and hour laws
- Drafting of employment policies
- Employment agreements for non-union employees
- Employee benefits

Mirick has become a statewide leader in representing charter schools at which employees have chosen to unionize. We represent and advise charter schools in all aspects of labor relations from union avoidance efforts to election campaigns to collective bargaining and litigation. We have prevailed at arbitrations involving both contract interpretation and disciplinary grievances, and accomplished the removal of non-performing employees in a manner that avoided legal action against the client.

Our attorneys represent clients when they are the subject of governmental investigations and defend them against claims before state and federal agencies and courts and in arbitration, including:

- United States Department of Education
- Massachusetts Department of Elementary and Secondary Education
- Massachusetts Department of Labor Relations
- American Arbitration Association
- Massachusetts Commission Against Discrimination
- Equal Employment Opportunity Commission
- United States Department of Labor
- Massachusetts Attorney General's Office
- state and federal courts

General Counsel

As General Counsel, we routinely advise our charter school on issues such as:

- Board of Trustee Policies & Bylaws
- Interpretations of Chapter 71, including charter school provisions
- Open Meeting Law
- Public Records Law
- Conflict of Interest Law
- public procurement requirements and the budget process

Serving as General Counsel, we have recently advised charter schools regarding their public comment policies and interpretation of their Bylaws and have negotiated vendor contracts such as school bus service and food service contracts.

Student Rights, Policies and Discipline

We advise our clients on issues of student rights, student discipline and student handbooks. As well, we routinely advise clients on matters involving:

- Bullying
- Allegations of sexual harassment against other students
- Student records
- Discipline for violence
- Drug/alcohol use
- Absenteeism
- Participation in student activities

Our recent engagements include the expulsion of students for the use of drugs on a school field trip, the analysis of a school's potential liability for students' participation in an out-of-state trip and the determination of the permissible scope of student drug testing.

Real Estate and Construction

Our Team has extensive experience in advising charter schools regarding site acquisition, leases, and construction projects. We advise clients on complex real estate transactions and the intricacies of public sector governance of land and building acquisition. We also counsel clients on all aspects of public construction projects, review bid documents and draft and negotiate contracts with architects, construction contractors, and vendors. We also represent our clients in defending bid protests, project closeout issues and, when necessary, pursue warranty claims and surety payment on performance bonds.

We have recently advised and represented clients in connection with both new building and school renovation/expansion projects as well as school leases.

Higher Education

At Mirick, we believe that learning about a client and its educational mission is essential to effectively representing institutions of higher learning. We make the effort to understand our clients and the issues they face daily in their operations so we can anticipate and address potential legal issues before they become problems.

Our attorneys represent colleges and universities on a wide range of issues, including labor, employment and employee benefits, intellectual property, faculty matters, student affairs, land use, corporate governance, general litigation, and planned giving.

Labor and Employment

Recognizing that employees are an integral part of a college or university's academic mission and core operations, our attorneys represent institutions of higher education in all facets of labor and employment law. We handle employment litigation, negotiate, and administer collective bargaining agreements, including the defense of unfair labor practice charges, and provide day-to-day advice and training on human resource-related issues and employee benefits.

Representative Matters:

- Obtained a jury verdict in favor of an institution against a former dean who alleged breach of contract and gender discrimination

- Obtained a ruling in an institution's favor at Public Hearing before the Massachusetts Commission Against Discrimination on claims of gender discrimination and sexual harassment
- Advised an institution in formulation of collective bargaining strategy and successfully negotiated multiple collective bargaining agreements achieving institution's goals
- Represented an institution during a union organizing campaign and defended related unfair labor practice allegations
- Successfully defended institutions in grievance arbitrations involving, by way of example, discipline, job classifications, promotions, reassignments, transfers, reductions-in-force, subcontracting, hours of work, safety, and overtime
- Advised institutions on managing leaves of absence, discipline, employees with disabilities, conducting layoffs, litigation avoidance, wage and hour compliance, independent contractor classification, OSHA compliance, hiring and pre-employment drug testing and background checks

Compensation and Employee Benefits

We provide legal services to clients with respect to the laws that affect executive compensation arrangements and work force benefit programs. The Group has knowledge and experience advising public and private colleges and universities in the following areas:

- Designed and implemented an institution's executive compensation plans, including 457 deferred compensation arrangements; workforce retirement plans, including qualified retirement plans such as 403(b) and 401(k) plans; welfare benefit plans, including health care, section 125 cafeteria, and "wrap" plans; and fringe benefit plans, including educational assistance and tuition reduction plans
- Counseled an institution on administration, operation, interpretation and reporting and disclosure requirements of executive compensation and workforce benefit plans
- Advised plan sponsors within an institution regarding fiduciary liabilities under ERISA
- Counseled institutions with respect to HIPAA's portability, privacy and security rules, COBRA, USERRA, FMLA, Medicare and other group

health plan Federal mandates, including The Genetic Information Nondiscrimination Act of 2008, Michelle's Law, The Children's Health Insurance Program Reauthorization Act of 2009

- Performed audit for institution on existing plans for compliance of Internal Revenue Service and Department of Labor rules and regulations

Student Affairs

Our attorneys counsel and represent institutions of higher education in matters of student affairs, including claims of discrimination, student rights, discipline, and compliance with state and federal disability laws.

- Representative Matters:
- Defended an institution against allegations of discrimination by Department of Education's Office for Civil Rights
- Defended decision to expel students for incidents of misconduct, including plagiarism, violence, and illegal drug use
- Drafted student handbooks and codes of conduct
- Advised institutions regarding compliance with FERPA

Real Estate and Environmental Law

Mirick has a long history of providing institutions of higher education with a full range of services associated with the acquisition, permitting, leasing, financing, and development of real property.

Representative Matters:

- Represented an institution in obtaining necessary zoning permits and approvals for a new dormitory and in negotiations with abutters to the dormitory site
- Represented an institution in the acquisition of an existing building, including conducting negotiations, performing due diligence regarding existing licenses, analyzing title and survey issues and financing
- Represented an institution in connection with a bond financing and the negotiation of contracts for the construction of a new dormitory

- Represented an institution in the acquisition of property, including the negotiation of ground leases

Corporate Governance

We counsel colleges and universities in all matters related to the business of running an institute of higher learning, including contract disputes and debt financings for facilities expansion. We assist colleges and universities with organizational matters such as tax-exempt status issues and unrelated business taxable income, liability issues facing boards of trustees, the proper exercise of trustee fiduciary duties, and “mini-Sarbanes-Oxley” compliance, including the creation and management of audit committees and the establishment of conflict of interest policies and procedures.

Representative Matters:

- Representing institutions in various day-to-day business matters, such as negotiating and drafting contracts
- Advising Boards of Trustees on corporate governance and fiduciary duty issues
- Advising institutions as creditors in bankruptcy proceedings
- Representing institutions in obtaining project financing
- Negotiated numerous joint-venture agreements on behalf of an institution

Litigation

Institutions of higher education are increasingly involved in litigation, whether as a plaintiff or a defendant. Our litigators provide high quality, cost-effective litigation, and strategic counseling services for our clients.

Mirick litigators are seasoned, experienced trial attorneys. This experience enables us to develop and implement the best strategy to achieve the client’s goals, whether that strategy calls for a quick resolution or a jury trial.

Representative Matters:

- Represented an institution in a suit alleging violation of a joint-venture agreement; obtained judgment in the client’s favor after trial

- Obtained a jury verdict in favor of a research department of an institution in a suit for breach of contract
- Represented an institution in a breach of contract action with a foreign university involving a contract to provide our client's students with study-abroad programs; obtained a favorable settlement through mediation of the dispute
- Defended an institution in a zoning dispute and negotiated a favorable settlement for the client

Planned Giving

Planned giving plays a vital role as institutions of higher learning seek to build or rebuild their endowments. Our attorneys are experienced in all aspects of sophisticated planned giving, such as the creation and management of charitable split interest trusts, gifts of real estate, and the establishment and operation of private foundations, providing counsel to both the institution and individual donors.

Representative Matters:

- Represented an institution receiving a remainder interest in real estate as a donation
- Represented an institution in setting up charitable remainder trusts where the institution was named as both the Trustee and remainder beneficiary
- Preparation of estate plans that incorporate substantial and complex charitable gifts to institutions of higher learning
- Established, served on, and advised a planned giving committee

Primary and Secondary Education

Primary and secondary schools in Massachusetts face an ever-expanding set of increasingly complex legal obligations. At Mirick, we partner with our school clients to provide timely, cost-efficient advice and representation to assist them in delivering educational services to their students. Our school clients include municipal and regional school districts, charter schools, collaboratives, and private schools.

Labor and Employment

We advise our clients on all labor and employment matters. We regularly assist them with issues involving labor relations and personnel issues.

- Collective bargaining
- Grievance arbitration
- Unfair labor practices
- Discipline
- Leaves of absence
- Reductions-in-force
- Compliance with state certification requirements
- Non-renewal of teachers without professional teacher status
- Managing employees with medical conditions
- Sexual harassment investigations
- Wage and hour laws
- Drafting of employment policies
- Employment agreements for non-union employees
- We are one of only a few Massachusetts law firms with an education law practice that also maintains an extensive employee benefits practice.

We represent clients when they are the subject of governmental investigations and defend them against claims before state and federal agencies and courts and in arbitration, including:

- United States Department of Education
- Massachusetts Department of Elementary and Secondary Education
- Massachusetts Department of Labor Relations
- American Arbitration Association
- Massachusetts Commission Against Discrimination
- Equal Employment Opportunity Commission
- United States Department of Labor

- Massachusetts Attorney General's Office
- State and federal courts

We have also successfully negotiated numerous union concessions to help our clients manage their budgets and further their educational vision, prevailed at arbitrations involving both contract interpretation and disciplinary grievances, and accomplished the removal of non-performing employees in a manner that avoided legal action against the client.

General Counsel

As General Counsel, we routinely advise our public school districts on issues such as:

- School Committee Policies
- Interpretations of Chapter 71
- Open Meeting Law
- Public Records Law
- Conflict of Interest Law
- public procurement requirements and the budget process

Serving as General Counsel, we have recently advised clients in connection with amendments to their regional school district agreements, superintendency union agreements and the use of executive session. We have also negotiated vendor contracts such as school bus service and food service contracts.

Student Rights, Policies and Discipline

We advise our clients on issues of student rights, student discipline and student handbooks. As well, we routinely advise clients on matters involving:

- Bullying
- Allegations of sexual harassment against other students
- Student records
- Discipline for violence
- Drug/alcohol use

- Absenteeism
- Participation in student activities

Our recent engagements include the expulsion of students for the use of drugs on a school field trip, the analysis of a school district's potential liability for students' participation in an out-of-state academic competition and the determination of the permissible scope of drug testing at school-related activities.

School Construction

Our lawyers have extensive experience in advising public school districts regarding school building projects from the appointment of an Owner's Project Manager through the resolution of post-construction warranty claims. We counsel clients and draft and negotiate contracts associated with the hiring of architects under the Designer Selection law, the pre-qualification of bidders, and the award of general contracts for construction. We also represent our clients in project closeout issues and, when necessary, pursue warranty claims and surety payment on performance bonds.

We have recently advised and represented clients in connection with both new building and school renovation/expansion projects.