

McLane Middleton offers multidisciplinary depth and knowledge in all facets of education law. The firm's education law practice group represents K-12 independent schools and colleges in New England, and provides consultation and training services to schools and school associations nationwide and internationally.

We have extensive experience in understanding and mitigating against all risks facing educational institutions. We thrive when responding to legal and compliance challenges, always with a school's own mission and culture in the mix as we partner to problem-solve with our clients.

Because education law requires multidisciplinary depth and knowledge, attorneys in the group are drawn from a wide range of legal areas, including business, administrative, employment, health care, immigration, litigation, and taxation law. Our focus and dedication to the needs of this industry is unparalleled.

Representing colleges and independent schools in all aspects of operations, the education group advises on a wide range of issues, from administration, employment and fiscal matters to risk management, managing and defending personal injury claims, training, regulatory compliance and immigration issues. We have significant experience counseling schools on risk management issues, including conducting training programs on such matters as reporting laws, sexual harassment, hiring and firing, performance management, and professional boundaries for teachers. Our attorneys conduct internal investigations and should the need for litigation arise, McLane Middleton's seasoned litigation attorneys represent schools before federal and state courts, as well as governmental agencies.

Examples of the broad spectrum of services we provide to our education clients include:

### **Risk Management and Counseling**

We provide day-to-day counseling assistance on every aspect of school operations affecting both students and employees. We help our clients with faculty performance management, boundary challenges, leaves of absence, investigations, layoffs and furloughs, and terminations. For students (and parents), we help schools address health issues, safety for travel and activities, all types of misconduct, and tuition challenges. We also assist in drafting student and employee policies and forms including handbooks, enrollment agreements, activity and travel waivers, and employee contracts and offer letters.

### **Crisis Response**

McLane Middleton is experienced at dealing with virtually every kind of crisis a school might face, including natural disasters and pandemics, to serious misconduct toward students and employees, including alumni reports of sexual abuse that surface in the current day.

#### **Manchester**

900 Elm Street  
Manchester, NH 03101  
(603) 625-6464

#### **Woburn**

300 TradeCenter  
Woburn, MA 01801  
(781) 904-2700

#### **Concord**

11 S. Main Street  
Concord, NH 03301  
(603) 226-0400

#### **Portsmouth**

100 Arboretum Drive  
Newington, NH 03801  
(603) 436-2818

#### **Boston**

45 School Street  
Boston, MA 02108  
(617) 523-7935

We assist schools in responding to, identifying, and investigating financial misdealing and other types of fraud. Our information security and privacy team is on-call to handle data breaches and cybercrime. When necessary, the firm partners with its network of nationally recognized communications experts to help our clients manage media and social media exposure, as well as the communication needs within its own school community.

### **Consulting and Investigations**

We understand that the quality of an investigation will enhance our clients' efforts to provide a safe and supportive environment and can reduce the expenses of litigation and reputational harm posed by inadequate responses to allegations of harassment, discrimination, sexual and other misconduct.

The group has extensive experience investigating and supervising cases involving sexual assault and harassment, boundary violating behavior, reporting and compliance obligations under child protection and school safety laws, new disclosures of past sexual abuse, Title IX violations, and computer-related misconduct.

In addition, the firm handles employment investigations into allegations of discrimination, harassment and other forms of misconduct such as embezzlement and theft. Attorneys in the group are drawn from a wide range of subject area expertise, including government, employment, information technology and data forensics, and reporting and disclosure obligations.

We have experience in conducting trauma-informed interviews and coordinating support services for all parties during investigations.

### **Trainings**

Our education group provides risk management training for administrators, faculty and staff, health center staff and counselors, and students to help prepare them to address the myriad issues that arise during the daily routines at day and boarding schools.

Our attorneys create and tailor workshops to fit the unique needs or interests of the school and can be available at any time during the year, either in-person or via a remote platform, as training needs arise. Our trainings focus on student health and safety, such as preventing and responding to harassment, hazing, bullying, mandatory reporting obligations, student misuse of social media, substance use and abuse, and sexual misconduct.

We train school healthcare providers on high risk issues such as eating disorders, managing psychotropic medications, balancing the need for information sharing, and confidentiality and privacy protections.

We train school business officers and human resources personnel on avoiding wrongful discharge and discrimination claims, hiring to firing strategies, and conducting investigations. We also offer seminars and workshops for boards of trustees on non-profit governance.

### **Expert Witness**

Our attorneys serve as expert witnesses in numerous lawsuits involving the duty of care for child safeguarding applicable to youth-serving organizations, including schools, athletic clubs, and religious institutions. Many of these cases involve sexual misconduct by trusted adults, such as educators or coaches. Other cases involve misconduct by peers of children, including hazing, bullying, and other forms of harassment.

The firm's expert opinions have covered a variety of issues, including: allegations of wrongful hiring, supervision, and retention; the adequacy of policies and procedures; and the sufficiency of response to notice of misconduct, including reporting, investigation and remediation. The firm's attorneys are able to testify on the historical standard of care for child protection and its evolution over recent decades.

### **Governance**

Our attorneys counsel educational institutions on governance matters, including updating bylaws, ensuring compliance with state and federal non-profit regulations and filings, and establishing gift acceptance, conflict of interest, document retention, and whistleblower policies.

Our attorneys have served as board chairs and trustees of independent schools and other non-profit organizations and, as a result, have keen insight into the issues and oversight responsibilities of trustees of independent schools. In addition, our attorneys guide schools through the search and hiring process for heads of school and other senior administrators.

### **Student Issues**

We routinely respond to student and parental complaints about discipline, and provide training on how to prevent hazing, harassment and other misconduct and how to respond to such claims. We advise schools on compliance with mandatory reporting laws and dealing with the police about student criminal behavior.

### **Litigation**

McLane Middleton is a regional leader in litigation involving education institutions. We handle all types of litigation against schools and their employees, including employment, environmental, criminal, construction, and insurance litigation.

**Criminal**

We assist schools in dealing with the police and prosecutors when students are arrested. We assist in arranging for defense counsel for students and, as needed, in dealing with the parents of the arrested students.

**Probate/Cy Pres**

Our education group attorneys assist schools in evaluating whether gifts and bequests require modification due to changed circumstances and obtaining court approval for necessary changes.

**Intellectual Property**

We routinely assist schools with intellectual property matters, such as how to best protect their valuable intellectual property rights as well as how to avoid infringing the rights of others. In the area of trademark protection, we secure U.S. protection/registration of school names and crests/logos (service marks). In addition to protecting the school's name/logo for educational services, we advise and assist schools with expanding trademark protection to various school publications, clothing and other merchandise (trademarks). Federal registration provides important remedies that help protect the school's name and crest/logo from third party misuse and infringement. We also advise schools on copyright matters, including securing copyright ownership and infringement matters. Every day, schools create copyrightable works and use third party protected works. Schools need to know how to secure rights and avoid infringement claims in the copyright area. Learn more about the firm's intellectual property practice group.

**Governance**

Our attorneys counsel several independent schools relating to their governance matters, including updating Bylaws, ensuring compliance with state and federal non-profit regulations and filings, as well as establishing gift acceptance and conflict of interest policies. Our attorneys have served as former board chairs and long-term members of the board of trustees of independent schools and, as a result, have unique insight to the issues and oversight responsibilities of trustees of independent schools. In addition, McLane Middleton attorneys have chaired the search committee for a Head of School, including the creation of the position description, interview and decision making process, as well as the crafting of an employment contract.

**Environmental Issues**

Campus growth and real estate projects can result in environmental issues. Our team has assisted in environmental auditing as well as compliance work including hazardous waste and asbestos issues.

**Health Care**

We assist on a broad array of health care matters, including: compliance with all relevant state and federal laws and regulations for school health care centers; drafting and negotiating employment agreements for health care providers; handling such issues as licensure of facilities and individuals; confidentiality; consent forms; and general risk management regarding the provision of health care services.

**Immigration**

We assist private schools in coping with international faculty and student immigration issues. This includes helping schools to qualify for participation in the Student and Exchange Visitor Program; assisting foreign students with Consular Processing applications for student visas; advising parents and families of foreign students on options for visits; attending graduations; helping obtain non-immigrant visas petitions and green cards for faculty; dealing with summer program visitor visa applications; I-9 compliance; E-verify electronic employment verification program enrollment; and J-1 Exchange Visitor Program sponsorship.

**Corporate Bond Financing**

Our education group has represented New Hampshire private secondary schools and colleges as Institution counsel in public and private bond financings in the New Hampshire Health and Education Finance Authority's annual aggregated tax-exempt bond offerings. We have also represented private secondary schools in NHHEFA public and private single-institution offerings.

**Memberships**

McLane Middleton attorneys are members of NAIS (the National Association of Independent Schools), AISNE (The Association of Independent Schools in New England), PAIS (Pennsylvania Association of Independent Schools), NACUA (National Association of College and University Attorneys), the National School Boards Association, and the New Hampshire Council of School Attorneys.

We are also involved in activities for the Nonpublic School Advisory Council, the New Hampshire School Administrators Association and the New England Association of Schools and Colleges.