Hodgson Russ LLP ATTORNEYS

EDUCATION

The goal of the Education Practice at Hodgson Russ is to provide high-quality legal services to help our school clients establish the best possible educational and work environments. Over the past 40 years, our attorneys have advised on the operations and employment matters of school districts and legal issues involving students.

Hodgson Russ operates on the premise that we work first and foremost for the board of education. In the area of employee relations, we generally represent management only. Nevertheless, our approach to labor relations is resolutely non-confrontational. We recognize that the district must work together with employees and their unions for mutual interests to be served. However, there are times when management has to take a firm stand, and members of Hodgson Russ's Education Practice have an excellent reputation as persuasive advocates for school management when dealing with difficult situations.

Hodgson Russ has been awarded a prestigious "Best Law Firms" Metropolitan Tier 1 ranking by *Best Lawyers/U.S. News & World Report* in the Education Law category.

Our attorneys have extensive experience in every aspect of education law, including:

- Administration of collective negotiations agreements in school districts and the Taylor Law
- Capital Project Construction Contracts & Disputes
- Constitutional issues, including due process, search and seizure, and the First Amendment
- Contingency budgets in New York State
- Discipline of classified and certified employees
- Environmental law matters
- Federal and state civil rights laws
- Grievance administration and arbitration
- Litigation
- New York civil service issues
- New York State and federal laws generally affecting public schools
- Public Officers Law
- Regulations and decisions of the New York State Commissioner of Education

Contact

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Professionals

Attorneys

Joshua Agins
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Jordan Einhorn
Asia Evans
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Michael Flanagan
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John Godwin
Thomas Grenke
Julia Hilliker
Elizabeth Holden
Richard Kaiser
Karl Kristoff
Jason Markel
Michael Maxwell
Elizabeth McPhail
Lindsay Menasco
Paul Meosky
Michael Risman
Patricia Sandison
A. Joseph Scott III

- Rehabilitation Act (§504) and Americans with Disabilities Act
- School building construction, closings, sales, and leases
- School finances
- School transportation issues
- Special education
- Student rights and discipline
- Tax issues pertaining to wages and benefits
- Tort liability of school districts and officials

As a full-service law firm, we have attorneys who are well versed in virtually any area of law that affects school districts. From litigation, tax rate proceedings, real estate, and employee relations to construction contracts and bonding, environmental law, and intellectual property, Hodgson Russ attorneys are thoroughly equipped to assist you.

Experience

Hodgson Russ represented special act school district client in the acquisition of a school campus. Our attorneys acted as examining counsel with respect to insuring both the fee title and the related leasehold interests granted to secure bond financing in excess of $5 million.

On behalf of a client acting as the underwriter, Hodgson Russ attorneys reviewed and provided commentary analysis of the preliminary and official statements for a $20 million charter school bond issuance a New York State charter school. We prepared the due diligence questionnaire, drafted the bond purchase agreement, and worked on finalization of the documents required for the transcript verifying the transaction.

Represented a private school in the negotiation of AIA design and construction agreements for approximately $3.2 million construction of new science building.

Represented a charter school client in the negotiation of design and construction contracts, AIA B132-2009 Construction Manager as Advisor, for an approximately $15 million dollar project to construct a new elementary K-5 school.

Represented a public school district client in the negotiation of an approximately $1.7 million energy performance contract.

Jeffrey Stone
Jeffrey Swiatek
Marla Waiss
Sujata Yalamanchili

EDUCATION

Hodgson Russ advised an educational institution with respect to the federal tax issues upon the sale of a building with outstanding tax-exempt bonds. The advice involved an analysis of available IRS remedial actions to preserve the tax-exempt status of the bonds, including a redemption of the bonds and use of the disposition proceeds for an alternative qualifying use.

Hodgson Russ represented a school district in special education litigation spanning multiple years that addressed special education programming and services provided to a student within the district. In the initial litigation, Hodgson Russ was able to have the parents' complaint against the district dismissed in all respects and has continued to defend the district in the parents' appeal to the New York State Education Department Office of State Review.

Hodgson Russ has counseled school district clients through numerous teacher disciplinary matters and has helped negotiate settlements on behalf of school districts to avoid expensive and time-consuming disciplinary hearings.

Under the yoke of a federal class-action lawsuit, a New York State public school district approached Hodgson Russ for help. The suit, filed in the U.S. District Court for the Western District of New York, involved systemic, district-wide special education compliance issues. Over the years, the district was required to expend a considerable time, particularly in the compliance review, and was also required to pay significant fees to the parents' attorneys. A Hodgson Russ team anchored by Ryan Everhart negotiated a settlement with the plaintiffs' attorneys. District Court Judge John T. Curtin ended the federal court's jurisdiction over the district as well as any entitlement the plaintiffs' attorneys had to the district's student records and additional attorney's fees.

Represented school district in alleged "sick building" case commenced by a group of students and teachers against contractors and manufacturers where plaintiffs sought to recover damages for illnesses allegedly caused by exposures to hazardous substances upon return to school following a renovation project. Successfully argued novel interpretation of CPLR 205(a) on appeal to the Appellate Division, which reversed the lower court's denial of motions to dismiss the complaint for repeated failure of plaintiff to comply with court-ordered discovery. Defended plaintiff's appeal of Appellate Division's Order to the Court of Appeals, which affirmed this dismissal based on the CPLR 205(a) argument.

Hodgson Russ's bond counsel, real estate, environment and energy, and education law attorneys work together to assist school districts in capital improvement projects, including school districts' evaluation of environmental impacts under the State Environmental Quality Review Act (SEQRA). The dozens of projects we have worked on include improvements such as new school buildings and sports facilities, additions to existing campuses, roadways, and reconstruction and renovation work.

Provided legal assistance on approximately nine matters for several school districts with a total capital project value of approximately $66 million dollars.

Hodgson Russ obtained summary judgment in federal court litigations brought by former school board members. The cases represented a variety of constitutional issues as well as interpretations of education law.

Hodgson Russ successfully obtained summary judgment in a federal court action in which a parent alleged that the school district violated the Individuals With Disabilities Education Act for a number of years. In this case, the court rejected the parents' multimillion-dollar demand for monetary damages and affirmed the principle that special education claims become

moot when the applicable school year ends.

Attorneys from Hodgson Russ LLP, led by Hugh M. Russ, III and Julia M. Hilliker, secured a victory on behalf of client Portville Central School District at the New York State Court of Appeals. The Court of Appeals is New York State's highest court. The decision, which protects the school district's statutory right to terminate a non-tenured administrator at any point during a statutorily mandated three-year probationary period, constitutes a victory for all districts and school boards statewide.

In the News

Schools Face Millions in Child Victims Act Payments, but Proposed State Relief is Stalled
The Buffalo News, July 30, 2023

Coronavirus Resource Center

Thought Leaders: COVID-19 and Education
Buffalo Business First, November 27, 2020

Davis, Hess back as Hornell BOE leaders; Attorney discusses process to sell a Hornell school building
The Evening Tribune, July 2, 2020

How COVID-19 is changing June 9 school district votes
WBFO/WSKG, May 14, 2020

Buffalo Business First - Thought Leaders: Charter Schools Seek Opportunities
Buffalo Business First, November 17, 2017

Train Staff to Recognize Discriminatory Grading Practices
Special Ed Connection, November 12, 2014

Teacher Tenure Challenges Hit NYS … Not Yet WNY
Buffalo Law Journal, October 21, 2014

School Board Members on Contract Negotiating Teams: Help or Hindrance?
On Board, September 1, 2014

Teacher Tenure Called Into Question
Buffalo Law Journal, June 23, 2014

Press Releases

71 Hodgson Russ Attorneys Ranked in 2023 Edition of *Best Lawyers in America*
Hodgson Russ Press Release, August 19, 2022

Hodgson Russ Receives Top Tier National and Metropolitan Rankings in 2022 Best Law Firms Listings
Hodgson Russ Press Release, November 15, 2021

Hodgson Russ Earns Five National-Level Rankings in *U.S. News & World Report/Best Lawyers* 'Best Law Firms' Report
Press Release, November 18, 2015

Special Ed Update Presented by Hodgson Russ Partners Ryan Everhart and Andrew Freedman
Press Release, October 2, 2014

Jeffrey F. Swiatek Co-Leads Hodgson Russ's Education Law Practice
Press Release, June 6, 2014

Publications

U.S. Department of Education Announces Long-Awaited Final Title IX Regulations
Hodgson Russ Education Alert, April 25, 2024

New York State Amends Workplace Violence Prevention Law to Apply to School Districts
Hodgson Russ Education Alert, February 15, 2024

Alternative Instruction for Suspended Students
Hodgson Russ Education Alert, October 20, 2023

NYSED to Begin Monitoring School District Websites for Compliance with Privacy Laws
Hodgson Russ Education Alert , July 21, 2023

Orthodox Jewish Parent Group Challenges New York State Education Department Substantial Equivalency Regulations in State Court
Hodgson Russ Education Alert, April 18, 2023

Educational Employee Health Care Worker Bonus Payments
Hodgson Russ Education Alert, October 18, 2022

New York State Legislature Amends Open Meetings Law to Allow for Videoconferencing
Hodgson Russ Municipal and Education Alert, April 19, 2022

Temporary Open Meetings Law Relief
Hodgson Russ Education Alert, September 2, 2021

New York State Will Not Be Issuing Guidance Governing Schools for the Upcoming 2021-2022 School Year Relating to COVID-19: Implications for Local School Districts
Hodgson Russ Education Alert, August 6, 2021

Supreme Court Sides with Student in First Amendment Case
Hodgson Russ Education and Media & First Amendment Alert, June 23, 2021

Presentations & Events

39th Annual School Client Conference
M-Hotel Buffalo, 2040 Walden Ave, Buffalo, NY 14225, January 12, 2024

Your Top 10 FOIL & Open Meeting Law Questions Answered
December 1, 2023

Special Education Seminar 2023
Salvatore's Italian Gardens, October 5, 2023

Fall School Law Conference
September 21, 2023

Special Education Seminar 2022
Salvatore's Italian Gardens, October 6, 2022

School Safety: Red Flag Laws, Critical Responsibilities, Creating Student Support Systems, and Other Practical Considerations for School Districts
June 8, 2022

37th Annual School Client Conference
Buffalo Niagara Marriott, 1340 Millersport Hwy, Amherst, NY 14221, May 6, 2022

NYS 3020a Teacher Misconduct Cases: Issues for Advocates, Hearing Officers, and Schools
May 20, 2021

The Upcoming 2021 Annual Budget Vote & School Board Election – What District Clerks Need to Know
February 24, 2021

School Client Conference Webinar Series 2021
January 15, 22, and 29