

# Education

Cozen O'Connor is at the forefront of providing legal services for all manner of educational institutions in a rapidly evolving world. Our services include labor and employment, fair and impartial investigations and adjudications, risk management, safety and security, real estate, public and project finance, energy, health, intellectual property, commercial litigation, and government affairs. In addition, our attorneys work to ensure that schools and universities are equipped to be compliant with fast-changing data privacy laws while, at the same time, helping implement cutting-edge safety and security protocols.

In higher education, our clients include large public and private universities, small independent colleges and universities, and community colleges. For the pre-K and K-12 area, Cozen O'Connor represents early childhood education providers, and a broad spectrum of public, private, and charter schools.

As an illustration of the breadth of our Education Group's practice, our attorneys have unmatched experience with Title IX and Family Educational Rights and Privacy Act (FERPA) compliance, employment counseling and litigation, bond issues, and collective bargaining. We also have exceptional experience conducting internal investigations on issues like sexual misconduct, pay equity, and discrimination. As state and federal governments enact stricter data privacy laws, Cozen O'Connor attorneys guide schools and universities on what they must do in order to be in compliance when it comes to protecting student data.

As part of the firm's commitment to total engagement with the education sector, Cozen O'Connor attorneys not only serve as legal counsel, but also as university and college trustees, adjunct faculty, educational consultants, and alumni leaders. We also have nationally recognized attorneys and security professionals who focus in safety, security, and emergency preparedness.

## SERVICE AREAS

**Commercial Litigation.** We are, first and foremost, a trial firm. Our litigators appear in courts in various jurisdictions on a daily basis and have the capability to represent education clients in any type of commercial litigation. We've handled everything from construction contract disputes to professional liability actions to personal injury claims.

**Environmental.** Our environmental attorneys have deep collective governmental experience that we leverage in every engagement, including several former senior enforcement attorneys with the U.S. Environmental Protection Agency (EPA). Having worked on both sides of the table, Cozen O'Connor attorneys understand agency processes, constraints, and priorities. We have represented education clients in matters concerning all major federal and state environmental laws: Clean Air Act, Clean Water Act, CERCLA and SARA, Endangered Species Act, Resource Conservation and Recovery Act (RCRA), Toxic Substances Control Act, and the Safe Drinking Water Act, among others.

**Government Relations.** A distinguishing feature of the firm is Cozen O'Connor Public Strategies, its premier government relations and lobbying firm. The team is committed to a bipartisan approach to problem-solving and opportunity creation, and includes federal lobbyists in Washington, D.C., and state and city lobbyists in Illinois, New York, Pennsylvania, and Virginia. Our professionals offer a full complement of government affairs services, including legislative and executive branch advocacy, regulatory and policy analysis and monitoring, political and regulatory risk management, public affairs visibility support and crisis management, and assistance with government procurement. We represent the interests of our public and private sector clients in a wide variety of industries – including education, before all levels of government.



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## Related Practice Areas

- Antitrust & Competition
- Government Relations - Cozen O'Connor Public Strategies
- Health Care & Life Sciences
- Institutional Response Group
- Intellectual Property
- Labor & Employment
- Public & Project Finance
- Real Estate

**Health.** Our Health Care Practice has experience representing educational institutions that are connected to hospitals and major medical centers. We have broad regulatory, litigation, and transactional experience. Among the issues we regularly handle are payer disputes, False Claims Act litigation, HIPAA/HITECH issues, Medicaid/Medicare/third-party reimbursement, provider-payer relations, provider-based issues, and mergers, acquisitions and restructurings.

**Immigration Policy & Strategy.** Our full-service immigration practice assists education institutions and students seeking temporary visa options and permanent residence in the United States. We also assist clients in developing comprehensive strategies to facilitate global employee mobility and address all aspects of immigration compliance, including Form I-9 and E-Verify.

**Institutional Response Group.** Our institutional response attorneys have decades of experience conducting high-profile investigations into sexual and gender-based harassment and violence, child abuse, and other forms of misconduct. Cozen O'Connor attorneys also conduct proactive Title IX, child protection, and Fraternity and Sorority Life audits, with a focus on consistency in policies, procedural fairness, and coordination of multi-disciplinary teams and systems to effectively implement policy. In addition, Cozen O'Connor assists institutions in implementing trauma-informed, fair and impartial prevention, and resolution processes.

**Intellectual Property.** By definition, educational institutions are incubators for creativity, innovation, and discovery. That's why Cozen O'Connor works closely with academic clients to ensure that their intellectual property rights are properly documented and protected. We have experience handling the full range of IP issues, including patent prosecution and defense, trade secret protection, trademark and copyright management, branding rights, licensing, labeling, and technology transfers.

**Internal Investigations & Risk Management.** With extensive capabilities on both the prosecutorial and defense sides, our attorneys offer a 360-degree perspective. Drawing on our extensive government experience, we help clients conduct internal investigations, navigate government investigations, and defend their reputation and interests. Moreover, insights gained through prior government services and strong professional relationships with current government officials enhance our ability to narrow the scope of investigations and make arguments that are persuasive to regulators. Our practitioners have years of experience in a wide range of industries, including education. Among other matters, we have experience handling campus investigations concerning allegations of serious non-criminal and criminal misconduct. We work preventively with clients to conduct internal-control audits and implement compliance solutions designed to prevent misconduct and manage risk. Our attorneys have a track record of helping clients achieve restorative and remedial rather than simply punitive outcomes.

**Labor & Employment.** Cozen O'Connor's labor and employment attorneys have decades of experience working on the array of issues most relevant to education clients, including collective bargaining, pay disparity, unionization, NLRB and state labor board cases, employment discrimination and harassment claims, tenure challenges, immigration, employment counseling and compliance, and employee benefits.

**Public & Project Finance.** Since 2005, our firms' Public & Project Finance Practice has handled in excess of \$11 billion in bond financings for educational institutions, including public school districts, charter schools, independent schools, and colleges and universities. We have served as bond counsel, underwriter's counsel, borrower's counsel, and placement agent counsel in such financings.

**Real Estate.** Developing and maintaining attractive, modern, state-of-the-art facilities is a priority for all education institutions. Cozen O'Connor's nationally renowned Real Estate Practice has direct experience working with K-12 and higher education clients on acquisitions, leasing, construction,

renovation, and public-private partnerships in the development of classrooms, laboratories, administrative buildings, athletic facilities, student housing/dormitories, apartments, and mixed-use retail and residential properties. We have experience representing clients in their most complex or controversial projects, and in advising in areas ranging from finance to land use.

**Safety and Security.** The Healy+ Group, an affiliate of Cozen O'Connor, is a professional services organization that provides safety, security, emergency preparedness, and regulatory compliance for education institutions. The Healy+ Group has significant experience conducting safety and security program assessments, security system and technology studies, communication center assessments and policy development and review, Clery Act and Title IX regulatory compliance reviews, independent investigations, and safety and security strategic planning processes, among a range of other related services. The Healy+ Group also assists public and private K-12 schools evaluate physical security practices, including the use of security systems and technology, student and visitor access, pick up and drop off safety, emergency plans and communications, travel safety, and threat assessment teams. The Healy+ Group also provides immediate action response training for faculty, staff, and students and can develop and deliver a wide range of drills and exercises intended to test and evaluate existing emergency preparedness plans, policies, and procedures.

**Utility & Energy.** Cozen O'Connor's team of utility & energy attorneys handle the full gamut of regulatory, transactional, and litigation matters related to electricity, natural gas, steam, and water/wastewater. For example, we have guided higher education institutions in the development of combined heat and power projects, represented their interests in utility rate proceedings, and negotiated favorable agreements for the purchase of electric generation and natural gas supply. These projects helped clients achieve their goals of saving money and reducing their carbon footprint.

## Experience

Successfully moved to dismiss an age discrimination suit filed against a university client in which both the plaintiff's and the comparator's military service was a key fact.

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Won summary judgment for a university on claims of retaliation under the False Claims Act ("FCA") and wrongful termination under Pennsylvania law brought by a long-time employee whose employment was terminated 3-4 months after making a report to an Institutional Review Board. In granting summary judgment, the court held that the plaintiff's report did not rise to the level of protected conduct under the FCA, and that her termination was not in violation of public policy as is required in order for an at-will employee to make out a wrongful termination claim under Pennsylvania law.

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Obtained dismissal with prejudice of a putative class action filed against Touro College and University System in which the plaintiffs sought to recover unrefunded tuition and fees paid for the Spring 2020 semester after the school closed its campus, and moved to remote instruction, due to the COVID-19 pandemic. The complaint, filed in the U.S. District Court for the Southern District of New York, brought claims of breach of contract, unjust enrichment, and deceptive practices and false advertising under Sections 349 and 350 of the New York General Business Law.

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Successfully represented a private N-12 school in defeating an attempt by a teachers' union to obtain a temporary restraining order and preliminary injunction in federal court to force the school to cease in-person schooling amid the COVID-19 pandemic. The case was dismissed following the denial of the temporary restraining order and preliminary injunction motions. *Faculty Association of the Laboratory Schools v. University of Chicago* (Laboratory Schools), 20 CV 7160 (N.D. Ill.).

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Represented a Midwest university and academic medical center before the FTC in an acquisition by Catholic Health Initiatives. The transaction successfully closed on time.

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Represent a private university in connection with ground leasing a university property to a private developer in connection with the development and construction of a multi-story mixed-use residential and retail development.

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Secured victory in a high-stakes and closely watched appeal before the NLRB centering on efforts by the football team at Northwestern University to form the first-ever union of scholarship student athletes. The Cozen O'Connor team persuaded a staunchly pro-labor Board to decline jurisdiction in a unanimous decision. In February 2014, the team of lawyers had only three weeks to prepare the case for a trial that lasted two weeks before the NLRB Regional Director in Chicago. After the expected adverse ruling, we filed an immediate appeal and marshalled the support of nearly two dozen amici, including the NCAA, the Ivy League schools, several major conferences, private universities, and even members of Congress to submit briefs to the Board. The case was covered by every major media outlet, and the unprecedented issue spawned Congressional hearings and nation-wide interest.

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Conducted audit of prominent university's interactions with minors and recommended new, multi-disciplinary policies and procedures to govern those interactions to minimize risks of abuse, as well as developed engaging training materials to teach personnel about mandatory reporting obligations and how to spot and prevent child abuse.

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Represented Energenic-US, LLC (a partially owned subsidiary of South Jersey Industries) in all aspects of the decommissioning and removal of the existing Montclair University campus energy plant and development and financing of a combined heating, cooling, and power (CHCP) system on the campus of Montclair State University in Montclair, NJ. We handled the basic energy sales agreement, the ground lease for the new on-campus plant site, the easements throughout the campus for the distribution systems (including over portions of the campus owned by New Jersey Education Finance Agency and by Public Service Electricity and Gas), and the financing of the project through a public bond issue. The CHCP system provides approximately 5.4 megawatts of natural gas-fired electric generation, chilled water, and steam for heat. The project was one of the first Public-Private Partnership projects under the 2009 New Jersey Economic Stimulus Act.

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Prepared petition for writ of certiorari to U.S. Supreme Court for university professor convicted of violating Arms Export Control Act.

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Secured a victory for a university in connection with a union's petition to represent non-tenure track faculty members. The representation included coordinating all aspects of the university's campaign, ensuring compliance with the NLRB's election rules, and representing the university before the Chicago Regional NLRB when the union challenged 120 ballots believed to have been cast in the university's favor. This challenge led to two years of proceedings before the agency, including two Requests for Review to the NLRB in Washington, D.C., ultimately resulting in a unanimous ruling that all remaining challenged ballots should be opened. These ballots revealed that the university had won the election.

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Represented The Trustees of the University of Pennsylvania and the University of Pennsylvania Health System in various steam, electricity, and natural gas matters.

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Led the transition team that represented the Graduate School's privatization from the U.S. Department of Agriculture. This transaction involved the transfer of all of the assets and liabilities of the school to a nonprofit entity while maintaining the school's educational mission.

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Represent Thomas Jefferson University in the prosecution and enforcement of patents and defense

against patent claims.

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Handle a variety of trademark, copyright, right of publicity, and data privacy enforcement and litigation for Clemson University, Emory University, Lafayette College and other post-secondary institutions.

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Represented Columbia University Teachers College on issues pertaining to graduate schools of education and local regulatory and policy issues.

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Act as land use counsel to Long Island University in connection with redevelopment of their Brooklyn Campus, including entitlements for the expansion of their athletic field received in December 2013, as well as ongoing work.

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Represented a student housing company in connection with the acquisition, financing, development, and construction of 600+ bed, Class "A" purpose built off-campus student housing project in Maryland.

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Successfully moved to dismiss claims brought against a private university under Section 1983, based upon allegations that the university, acting through its police department, violated plaintiffs' civil rights by taking disciplinary action against the plaintiff police officers which they claimed was based on their Caucasian race. The court adopted our argument that the university was not acting under color of state law when it took the personnel actions against the officers. We also successfully moved to dismiss breach of contract claims by showing that certain language in the university's written rules and regulations did not alter the plaintiffs' status as at-will employees with no employment contract.

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