

# OUR SCHOOL LAW PRACTICE



**BY: WADLEIGH, STARR & PETERS, P.L.L.C.**

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## **OUR FIRM**

### **Overview**

For over 50 years education law has been a vital part of the law practice at Wadleigh, Starr & Peters, PLLC (the “Firm” or “Wadleigh, Starr”). Today, the tradition is carried forward by our Education Law group, consisting of attorneys Dean B. Eggert, Kathleen C. Peahl, Jennifer St. Hilaire, and Alison Minutelli.

In addition to this group, school districts have access to highly experienced and successful litigators in areas such as construction litigation, complex multi-party litigation, civil rights defense work, tort, personal injury defense, commercial litigation, constitutional issues and contract litigation. Wadleigh, Starr also offers highly experienced and accomplished commercial and transaction attorneys who have expertise in bond issues, commercial transactions, real estate development, and land conservation.

Attorney Dean B. Eggert serves as lead counsel. Attorney Eggert has 25 years of experience representing school districts.

### **History of Wadleigh, Starr & Peters, PLLC**

Since its inception in 1899, Wadleigh, Starr & Peters, P.L.L.C., has successfully combined the traditional value of hard work with the most modern approaches to the practice of law. Having continually adapted to meet the changing needs of its clients, the Firm provides comprehensive legal services with a staff of more than sixty experienced attorneys, paralegals, and support personnel. The Firm’s office has been located at 95 Market Street in the heart of Manchester’s Historic District for over 100 years.

Wadleigh, Starr has a rich history of providing high quality legal services to school districts. In an age of reduced attorney-client loyalty, our firm has specialized in developing long-term relationships with its school district clients. For example, the Firm represented the Manchester School District for over 30 years, and has represented the Merrimack School District for over 20 years. These long-term relationships allow the Firm to understand the institutional history of the client, which in turn has allowed the Firm to provide legal services at a reasonable cost.

As one of the foremost litigation firms in the State, Wadleigh, Starr offers legal counsel in such areas as medical malpractice, products liability, personal injury, insurance construction, environmental, corporate, land use planning, municipal law and other areas of general practice. The Firm has an extensive and comprehensive commercial and real estate practice involving the representation of financial institutions, real estate development firms, general contracting firms and business corporations, as well as individual investors and

business people. In addition, the Firm offers services in labor, civil rights, municipal, hospital, banking and bankruptcy law and represents clients in probate matters involving wills, estates and guardianships. The Firm has served as the reviewer of the Martindale Hubbell New Hampshire Law Digest.

The responsible roles that members of Wadleigh, Starr & Peters, P.L.L.C., have assumed at state and local levels attest to the firm's commitment to service and to its enduring reputation in the public, private and legal sectors. Former members of the Firm have served with distinction as justices of the New Hampshire Supreme Court and the United States Circuit Court of Appeals for the First Circuit, as judges on the New Hampshire Superior Court, as attorneys general of the State of New Hampshire, as members of the United States Congress and as legal counsel to the New Hampshire governor. Members of the Firm serve in a variety of leadership positions in community, professional and political activities.

The Firm is a member of the American Law Firm Association ("ALFA"), an international organization whose member firms are chosen by peer evaluation and provide a broad spectrum of services to the business community. Currently, Marc R. Scheer is the primary contact within the firm for ALFA.

### **Scope of Services Offered**

The school law attorneys at Wadleigh, Starr have experience serving as general counsel to school districts, and have also advised school districts on special education and labor matters.

Wadleigh, Starr offers legal counsel in all aspects of school law, providing legal advice and counsel in all traditional and nontraditional areas of school law, including, but not limited to:

- ▶ Adequate Yearly Progress requirements;  
ADA Compliance;  
After School Programs;  
Anti-discrimination policies;  
Appellate work;  
Attendance;  
Audiotape on buses;
- ▶ Behavioral Intervention Plan requirements;  
Bid procedures;  
Boardsmanship;  
Bomb threats;  
Bond opinion letters;  
Bullying;
- ▶ Child abuse and neglect reporting requirements;  
Cable access issues;

- Children of migrant workers;
- Charter Schools;
- City Charter issues;
- Collective Bargaining;
- Contract negotiation;
- Contract review;
- Conflicts of interest;
- ▶ Disability rights;
  - District of liability determinations;
  - Discrimination claims
  - DOE rule making;
  - Dog searches;
  - Due Process hearings;
- ▶ Educational Standards;
  - Employee dishonesty;
  - Equal Access Act;
  - ESL compliance;
  - Expendable Trusts;
- ▶ Free Appropriate Education and Public Expense requirements;
  - Family Educational Rights and Privacy Act (FERPA);
  - Family Medical Leave Act (FMLA);
  - Federal grants;
  - Field trip access;
  - First and Fourth Amendment issues;
  - Functional Behavioral Assessment laws;
- ▶ General Education Standards;
  - General Representation of the School Board;
  - Grading of students with disabilities;
- ▶ Handicap Accessibility laws;
  - Home rule limitations;
  - Home school issues;
  - Human rights complaints;
- ▶ Individuals with Disabilities Education Improvement Act (IDEA);
  - IEP meetings;
  - Immigration issues;
- ▶ Joint Maintenance Agreements;
  - Joinder issues;
  - Juvenile issues;
- ▶ Kindergarten laws;
- ▶ Labor-Management matters;
  - Litigation;
- ▶ McKinney-Vento Homeless Act;
  - Manifest educational hardship;
  - Mediation;
  - Memoranda of Understanding;
- ▶ No Child Left Behind Act (NCLB) compliance;

- ▶ Pupil Safety and Violence Prevention;
  - Personnel matters;
  - Placement issues;
  - Policy development and interpretation;
- ▶ Religious freedom issues;
  - Relationships with private schools;
  - Residency issues, including district of liability issues;
  - Resolution Sessions;
  - Right-to-know law matters;
  - Risk management;
  - Robert's Rules of Order;
- ▶ Safe schools reporting act;
  - S.A.U. issues;
  - Safety plans;
  - School bond issues;
  - School choice;
  - School district warrants;
  - School funding issues;
  - School nursing standards;
  - Search and Seizure;
  - Section 504;
  - Sexual harassment;
  - Student discipline;
  - Student privacy;
  - Superintendent Contract;
- ▶ Tuition Agreements;
- ▶ Title IX;
  - Teacher certification matters;
  - Teacher dismissal;
  - Teacher non-renewal;
  - Transgender issues;
  - Tuition Agreements;
- ▶ Videotape on busses; and
- ▶ Warrant Articles

## **School Involvement**

### Our Support of Education

The school attorneys at Wadleigh, Starr & Peters, PLLC are active in the support of education on a state-wide basis, primarily through professional development lectures, seminars, and the support of various legislative initiatives. In the past five (5) years attorneys at Wadleigh, Starr have donated over \$60,000.00 in time to providing professional development for education professionals.

Some of the Firm's recent activities include:

- ▶ 85+ Professional Development seminars:
  - NHSAA sponsored seminars;
  - NHSBA sponsored seminars;
  - Guest Lecturer NHASEA Academy;
  - Guest Lecturer University of New Hampshire, Manchester;
  - School Districts throughout the State;
  - Speaker, Portland, Maine Conference;
  - Lecturer, Best Practices Seminar;
  - Lecturer for Lorman Professional development;
  - NHSBO sponsored seminars;
- ▶ Service on Private and Public School Boards;
- ▶ Legal Counsel to the New Hampshire School Boards Association;
- ▶ Active involvement by partners on various aspects of the school funding issue in New Hampshire;
- ▶ Drafting and consultation on important school-related legislation;
- ▶ Numerous publications in the field of school law. Please note that many of these publications are available online at [www.wadleighlaw.com](http://www.wadleighlaw.com); and
- ▶ Active membership in the Council of School Attorneys.

#### Our Investment in School Law

We are committed to providing excellent representation in the area of school law. To that end, the Firm:

- ▶ Trains our associates in a mentoring program;
- ▶ Participates in national conferences in the area of special education law;
- ▶ Maintains a full library of special education law reporters and publications;
- ▶ Subscribes to the top tier of Westlaw database libraries;
- ▶ Writes and lectures in all fields of school law; and
- ▶ Actively participates in the Council of School Attorneys (nationally and locally).

## **Community Involvement**

Wadleigh, Starr & Peters, PLLC has been practicing law throughout the State of New Hampshire since 1899. The firm has always been an active participant in the community and school district.

Some of the Firm's recent activities include:

- ▶ Pro Bono legal services;
- ▶ Sponsoring the Law Enforcement Appreciation Day Breakfast;
- ▶ Service on the Conservation Commission, Historic Commission;
- ▶ Co-teaching a three day Constitution Law Seminar at Central High School;
- ▶ Donating computer equipment to various schools;
- ▶ Numerous individual charitable contributions;
- ▶ Service on numerous Community Nonprofit Boards;
- ▶ Service as Trustees;
- ▶ Service as CASA Volunteers;
- ▶ Professional development through the MEA;
- ▶ Hurricane Katrina relief work;
- ▶ Sponsorship of education overseas; and
- ▶ Support of various community projects, such as Hands Across the Merrimack.

## **Technology and the Law**

The entire Firm is available to your School District. This includes 26 attorneys and their respective clerical and support staff. The Firm has highly competent and trained associates who are able to conduct legal research at costs which result in savings to the client.

The Firm is committed to using advanced technology in order to reduce client costs and improve the quality of their representation. The Firm's website located at "[www.wadleighlaw.com](http://www.wadleighlaw.com)" provides clients with a port of entry to a number of law related resources. These resources include but are not limited to the federal docket, the state Supreme Court decision data base, and the state governmental data base.

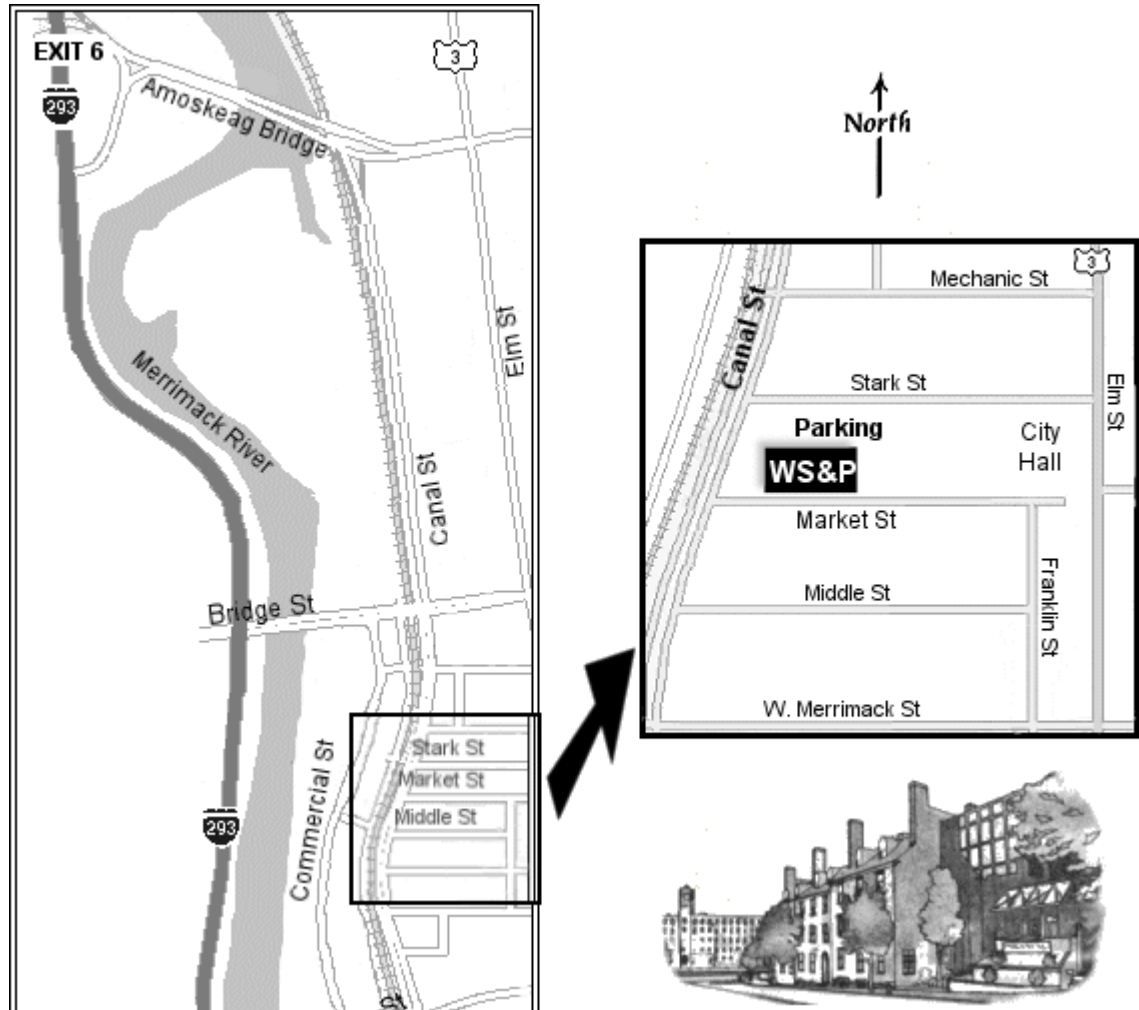
The Firm utilizes advanced legal research tools such as CD-ROM libraries and Lexis. The Firm has an unlimited access subscription to Lexis which gives the Firm access to virtually every legal database available through the United States. Each attorney is easily accessible via telephone or electronic mail.

The Firm subscribes to numerous education law publications, including Special Education Connection, which provides access to the Individuals with Disabilities Education Law Reports (IDELR), as well as School Law Briefings, the Section 504 Compliance Handbook, and the Section 504 Compliance Advisor.

The Firm also uses state of the art litigation management tools which enable the Firm to download deposition transcripts and manage documents through sophisticated software with litigation oriented search engines.

## LOCATION, AVAILABILITY, AND ACCESSIBILITY

The Firm's office has been located at 95 Market Street in the heart of Manchester's Historic District for over 100 years.



Our School Law Attorneys are available to School Boards, the Superintendent of Schools, and other District personnel seven (7) days a week.

Our attorneys are easily accessible via telephone and electronic mail, and are also available to meet with the School Boards, the Superintendent of Schools, and other District personnel.

Our accessibility produces the following benefits to Districts:

We are able to respond to safety/emergency issues on an immediate basis;

We are able to respond to emergencies in person and not over the telephone;

We are able to attend meetings with Administrators and the Board on short notice; and

We are able to cover multiple meetings with short notice.

## **SUMMARY OF RELATED LEGAL AND SCHOOL LAW EXPERIENCE**

A number of the attorneys at Wadleigh, Starr & Peters have experience in representing school districts. Dean B. Eggert will serve as the primary lead attorney for your School District. Mr. Eggert has 25 years of experience in school law and has handled over five hundred twenty five (525) matters for School Districts. Over three-hundred twenty-five (325) of those matters have involved juvenile matters.

Mr. Eggert works with Kathleen Peahl who provides a breadth of experience in the area of employment law, including matters involving collective bargaining agreements. Other members of the firm are available on an as needed basis, offering support in all aspects of representation.

### **Our Unique Experience**

The Firm has successfully defended School Districts in a number of litigated matters including, but not limited to:

- First Amendment challenges;
- Equal Access challenges;
- Claims that the District had an obligation to provide special education services to parochial students; and
- Challenges involving cable access.

For over 20 years, the attorneys who advise school districts have demonstrated an ability to provide legal advice based on the law and not political ideology. The attorneys have successfully worked with Board members and administrators with broad ideological differences and have repeatedly demonstrated that their legal opinions have integrity. Simply put, our advice is driven by the law and not individual Board member preferences.

Each year, the Firm handles several matters involving students with educational disabilities. In many of those cases, parents are seeking costly out-of-district private school placements at district expense. Over the years, the Firm has successfully litigated or mediated the vast majority of these cases to the benefit of the school district. For example, when a parent seeks an out-of-district placement, the cost of the placement may be in excess of \$100,000.00 per year. When the Firm prevails on behalf of the district, those costs result in a direct multiple year savings to the District. We have prevailed in cases where we saved the district in excess of \$500,000.00 over the educational life of the child.

### **Experience with Personnel, Regular Education and Special Education Law**

Our school law attorneys have extensive experience in education law. Our attorneys have appeared on behalf of school districts before the New

Hampshire Department of Education, the United States District Court for the District of New Hampshire, the First Circuit Court of Appeals and the United States Supreme Court. They have also appeared on behalf of school districts before the State Superior Court and the Supreme Court, defending districts on matters related to residency and district of liability issues.

Attorney Peahl has over twenty years of experience advising school districts on personnel matters. She has assisted school districts with numerous personnel matters, including:

- Collective bargaining agreements;
- Section 504;
- The ADA;
- Title IX;
- The Age Discrimination in Employment Act;
- Hiring;
- Discipline and discharge;
- Wrongful Discharge claims;
- OCR complaints;
- Grievance arbitrations;
- Unfair labor practice charges; and
- Family and medical leave requirements.

Attorney Peahl has appeared on behalf of school districts before the New Hampshire Department of Education, the New Hampshire Department of Labor, the New Hampshire Commission for Human Rights, the Equal Employment Opportunity Commission, and the New Hampshire Public Employee Labor Relations Board.

### **Experience before the New Hampshire Department of Education**

Attorney Eggert has handled numerous matters before the New Hampshire Department of Education. These matters have involved issues including:

- IEPs;
- Reimbursement for unilateral placements;
- Eligibility for services;
- Evaluations;
- Reimbursement for independent evaluations;
- Extended School Year programming;
- Provision of services to students in state-created charter schools;
- District of liability issues;
- Manifest educational hardship issues;
- District of liability for homeless students
- Residency issues;
- Placement in the least restrictive environment;
- Discipline;
- Transition services;
- Placement in alternate school settings; and,
- Assistive Technology issues.

Attorney Minutelli has 5 years of experience providing litigation support in numerous matters before the New Hampshire Department of Education, and has handled several matters before the Department of Education. In addition, over the past 5 years, she has assisted in the writing and revision of more than 50 publications in the field of school law.

Our school law attorneys have successfully resolved many administrative proceedings, either through mediation or resolution sessions, saving districts the time and money associated with due process hearings.

In addition, our school law attorneys have assisted school districts with the successful resolution of complaints that have been filed with the Department of Education. The subject matter of these complaints has included:

- The provision of services to students with disabilities;
- IEP development;
- Extended school year programming; and
- Claims for compensatory education.

## **Right to Know Law, NH RSA 91-A**

Wadleigh, Starr is active in the formation of the Right-to-Know Law for the twenty-first century. Two partners, Stephen Judge (former acting Attorney General) and John A. Lassey serve on the legislative commission charged with making recommendations for improvement to the law. Attorney Eggert has written and lectured on the Right-to-Know Law, authoring and co-authoring several articles, including the following:

- Access to Public Records Under New Hampshire's 91-A, June 2008 (Eggert, Minutelli)
- Getting to the Heart of the Right-to-Know Law, July 2007 (Eggert, Tierney, and Minutelli)
- Electronic Communications and the Right-to-Know Law, December 2006 (Eggert, Tierney)

### **a. Litigation Issues**

Attorney Eggert has litigated cases involving the Right-to-Law and has successfully defended his legal advice regarding the law. An example is the case of Glynn v. Town of Chester (Rockingham County Superior Court) where the Superior Court defined the limits to the definition of a public body under RSA 91-A. He also defeated an overly broad Right-to-Know Request in We are Powerful v. Weare, (Hillsborough County).

Attorney Peahl also successfully defended the North Conway Water Precinct in the case of Hounsell v. North Conway Water Precinct, in Coos County Superior Court and on appeal to the New Hampshire Supreme Court, 154 N.H. 1 (2006).

### **b. Important Issues**

The State Constitution and RSA 91-A presume that the business of a school district is the citizens' business and therefore it should be transacted when possible in the presence of the citizens. Attorney Eggert routinely advises

school districts on how to interpret this presumption and the narrow statutory exceptions. The most important issues facing school districts today are in the area of electronic communication and the application of the Right-to-Know law to that medium of communication.

## **Municipal Budgeting**

Attorney Eggert has lengthy experience assisting municipal entities in addressing their budgetary issues. He has successfully litigated three major cases involving budgetary questions ranging from \$20,000,000.00 to \$100,000,000.00+. They are:

- Manchester School District v. Manchester, Order on Petition for Declaratory Judgment, No. 98-E-458 (May 1999) (Hillsborough County Super. Ct. N. Dist., Hon. Judge Nadeau);
- Manchester School District v. Manchester, 150 NH 664 (2004); and,
- Foote v. Manchester School District, 152 NH 599 (2005).

### **a. Preparation of Warrant Articles**

Attorney Eggert assists a number of municipal entities, including both School Districts and Towns, in preparing their warrants and warrant articles. He has drafted a number of opinion letters regarding school district warrants and has worked with both SB2 and the traditional form of town governance. He has also successfully received permission from the Superior Court for his clients to hold special meetings.

He has assisted towns and school districts in preparing bond issue articles, and William C. Tucker of the Firm issued an opinion letter on behalf of the Manchester School District in support of its \$103,000,000.00 School Renovation Bond. He has prepared and provided lease opinions and has negotiated for escape clauses in lease agreements.

### **b. School District Meetings**

Attorney Eggert and his colleagues routinely attend and assist School Districts at Annual Meetings and Deliberative Sessions.

## **Liability Law**

The Firm's practice base includes insurance and general liability defense work. We have also mediated a number of cases in which one or more of the parties were municipal entities. We have rendered many legal opinions in the area of public safety and risk reduction.

**a. Public Safety**

We have worked with School Districts, Cities, and Towns on a variety of public safety issues. We have rendered opinions in the areas of:

- civil rights;
- search and seizure;
- road liability;
- sovereign immunity;
- legislative immunity;
- insurance coverage;
- police commission issues, and the like.

**b. Tort**

For the first few years of Attorney Eggert's practice he provided tort defense to the City of Nashua and other Towns and cities insured by the Home Insurance Company, The Hartford Insurance Company, and Travelers Insurance Company. These cases included, wrongful death actions, civil rights defense, breach of duty to inspect, personal injury, property damage claims, wrongful termination claims, defamation by public officials and the like. For example, in Miller v. City of Nashua, (Hillsborough County Superior Court), Attorney Eggert participated in the defense of the City of Nashua in a suit where a citizen was killed in a collision with a fire truck that was responding to an emergency call. He has also defended the Town of Rye (Rockingham County Superior Court) in a police pursuit case and after selecting a jury, successfully resolved the matter. He was successful in securing the dismissal of a defamation action against the Selectmen for the Town of Bedford. He has also secured favorable orders dismissing cases against public officials for alleged breach of duty.

Attorney Eggert has defended school districts through Primex, the Local Government Center Trust and numerous insurance carriers. Attorney Eggert is frequently selected to mediate cases involving suits against municipalities.

**Municipal Jury Trial Experience**

The Firm has tried a number of cases involving municipalities to a favorable Jury verdict. For example, Kathleen C. Peahl recently received a defendants' verdict in the matter of Gatsas v. Manchester School District. Attorney Eggert tried the case of Hancock v. Blumenthal Mills, to a jury and received a directed verdict. He also tried the case of Wang v. City of Nashua, (Hillsborough County) only to have the plaintiff take a nonsuit with prejudice during the trial, whereupon the City won an award of its attorneys' fees. Numerous other litigators in the Firm have also tried cases and defended

municipalities. In addition, Attorney Eggert has defended appeals involving municipal matters in both the State Supreme Court and the First Circuit Court of Appeals. He has successfully handled petitions for certiorari filed with the United States Supreme Court by the other party in two municipal matters.

### **Added Value**

Wadleigh, Starr offers added value to its municipal representation. Some of the highlights follow:

- Accessibility: We respond promptly to all client inquiries. We are available for night meetings and emergencies on short notice.
- Real opinions: We lay out your choices in our opinions, and we make recommendations.
- Technology: We have unlimited access to the Lexis database and maintain a municipal law library. We are accessible via electronic mail and remotely synchronize our PDAs with our firm e-mail.
- Cross disciplines: We offer access to 26 attorneys. Most importantly, we do NOT limit our practice to municipal law. This allows the School District access to many other important aspects of the law.
- No charge for support staff: You only pay for legal professionals.
- Professional Development: Each of our attorneys have taught other attorneys in the areas of law in which we practice. We also write in our areas of practice.
- Real experience: Our attorneys serve as Town Moderators, Budget Committee members, Conservation Commission members and Zoning Board members.
- Highest available Peer Rating: The Firm and Attorney Eggert have been peer rated by Martindale-Hubbell with an AV rating. The A rating stands for Preeminent in the law, and the V rating stands for the highest ethical standards.

Mentoring: Every one of our associates are actively mentored by the partners in the Firm. Your case is not passed down the line.

Proven Track record: We have a remarkable litigation and settlement track record. We also have expertise in mediation and the skills necessary to settle a case.

### **List of Bars to which the School Law Attorneys are Admitted**

Attorney Eggert is admitted to practice in the State of New Hampshire, the United States District Court for the District of New Hampshire, the United States Court of Appeals, First Circuit, and the United States Supreme Court.

Attorney Peahl is admitted to practice in the State of New Hampshire, the United States District Court for the District of New Hampshire, and the United States Court of Appeals, First Circuit.

Attorney Murphy is admitted to practice in the State of New Hampshire, the United States District Court for the District of New Hampshire, and the United States Court of Appeals, First Circuit.

Other partners are admitted to practice in the Commonwealth of Massachusetts.

Attorney Minutelli is admitted to practice in the State of New Hampshire, the United States District Court for the District of New Hampshire, and the United States Court of Appeals, First Circuit.