

## Governmental and Public Entities

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Miller Canfield attorneys have been representing public entities, including numerous counties, cities, townships, public authorities, and colleges and universities, for over 100 years. Miller Canfield employment and labor attorneys were involved in negotiating some of the first public entity labor contracts under the Public Employment Relations Act (PERA) and represent public entities in all employment issues, including contract bargaining, regulatory compliance and reporting obligations.

Among the areas we assist clients with are:

- **Labor relations** for counties, cities, school districts, colleges and universities, and other governmental entities with issues including teacher tenure, Right-to-Work, civil rights and all issues before the Michigan Employment Relations Commission;
- **Defending employment-related lawsuits**, including wage-and-hour disputes, Equal Employment Opportunity Commission (EEOC), Family and Medical Leave Act (FMLA), Americans With Disabilities Act (ADA), and wrongful discharge claims;
- **School law compliance**, including both public school districts and private institutions, with issues dealing with Family Educational Rights and Privacy Act, student discipline, Individuals with Disabilities Education Act, teacher tenure and Title IX provisions;
- **Affirmative action plans**, whether the organization is developing a new plan or simply updating an existing one;
- **Office of Federal Contract Compliance Programs**, including challenging OFCCP jurisdiction, audits, and other concerns arising from the use of government contractors;
- **OSHA and MIOSHA**;
- **Election law** including bond and millage elections;
- **Freedom of Information Act** compliance, and;
- **Open Meetings Act** compliance.

## Representative Matters

- Prior to the City of Detroit's Chapter 9 bankruptcy filing, Miller Canfield's labor team helped the city review all collective bargaining agreements and modify to the extent allowed by the consent agreement with the State of Michigan and the Emergency Manager powers. During bankruptcy, the firm served as local counsel on all matters related to the bankruptcy. Post-bankruptcy, the firm is handling numerous matters related to the restructuring, including litigating and negotiating requests for relief from the automatic stay by unions and other parties, handling post-petition financing matters, and assisting with the restructuring of various city departments, including both the Detroit Water and Sewerage Department and the newly created regional Great Lakes Water Authority.
- Represented a city which was sued by its retiree association after the city's former emergency manager eliminated retiree health care benefits as a cost-saving measure during the financial crisis. We handled the litigation and negotiated an innovative settlement agreement which would require the city to terminate its overfunded defined benefit plan with current assets valued around \$500 million, reestablish a new defined benefit plan (which will

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assume all of the pension liabilities of the terminated defined benefit plan plus a substantial cushion of assets), and establish a voluntary employees' beneficiary association (which will receive the remaining excess assets to fund certain retiree health benefits). We helped the city receive IRS approval for this groundbreaking arrangement, which will enable the city to utilize approximately \$100-\$150 million of excess funding from its pension system to maintain pension benefits without reduction and restore city-funded retiree health, dental, and vision benefits for eligible retirees.

- Defended two public bodies against litigation filed by a job applicant whose conditional job offer was rescinded after she tested positive for THC. The plaintiff had advised our client that she possessed a valid medical marijuana card, and she sued alleging that Michigan's medical marijuana statute protected her from the adverse action because the statute protects medical marijuana cardholders from penalty by public agencies. In a matter of first impression in the state of Michigan, the trial court dismissed the lawsuit for failure to state a claim upon which relief could be granted. The plaintiff appealed. A three-judge panel in the Court of Appeals unanimously affirmed the dismissal in a published decision, explaining that the medical marijuana statute does not prohibit public employers from enforcing zero-tolerance drug policies, including as they related to medical marijuana.
- Defended a major university in a contentious matter brought by two faculty members who filed a joint complaint for violations of the Michigan Elliott-Larsen Civil Rights Act based on race discrimination, gender discrimination, marital status discrimination, race hostile work environment, and retaliation; and violations of the Persons with Disabilities Civil Rights Act for discriminatory hostile treatment and retaliation. Case involved 33 full-day depositions and direct examination of 25 witnesses. Jury voted against plaintiffs on all 10 claims.
- Successfully defended a grievance arbitration for a public road commission after an employee in the bargaining unit was terminated. We argued that the demand for arbitration was not timely and convinced the arbitrator to hold an evidentiary hearing on timeliness only. After that hearing, the arbitrator issued an award agreeing with the employer, finding that the arbitration demand was not timely, and denying the grievance.
- Successfully defended an arbitration involving four separate union grievances arguing that a public body did not have the right to compel the employees to work on weekends or to discipline employees who refused to work. The arbitrator found in the employer's favor and denied each grievance, preserving the employer's ability to meet its public service obligations.
- Represented a local school district against a union and hundreds of former employees in an age discrimination class action lawsuit. We obtained summary disposition at the state court level, then successfully requested the dismissal of a parallel class action filed in federal court.
- Led the bargaining team for the successor agreement to a public school district's collective bargaining agreement. The school district's priorities were to streamline the agreement, provide greater flexibility for the district in making staff assignments, and reduce paid union leave time.
- Represented public employer in putative class action lawsuit alleging that female nurse practitioners were paid less than male physicians assistants.
- Succeeded in vacating an injunction that prohibited a municipality from implementing changes to retiree health benefits that resulted in cost savings of \$5 million.

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- Successfully defended numerous cases brought by Robert Davis alleging that public clients violated FOIA and the Open Meetings Act.