



## Independent & Private Schools



### What's it like to work with F3?

Because independent and private schools play mostly by their own rules, our advice and counsel are based on understanding of and sensitivity to each school's governance structure, community, and cultural environment. We are your partners in our shared mission: to provide the best environment and education possible for students and families.

### What can F3 solve for you?

While as an independent or private school you are not regulated in the same way as public schools, you nevertheless have a governance structure, business activities, real estate and facilities, employees, cybersecurity concerns, student discipline, and other needs with which F3 attorneys have deep, education-specific experience.

Today, an increasing number of families are selecting independent and private schools, rather than public schools, for their children's education. Reasons for doing so vary widely, but a common answer is control. Parents often believe that their voices and views will be better heard and served by nonpublic schools. At F3, we know schools and how they should and do function, whether public or private. Many of our attorneys have direct experience as teachers, school board members, and district in-house counsel. As a law firm of more than 80 attorneys that is both full-service and devoted almost exclusively to the needs of education clients, we have the depth of talent and experience to assist with any need a nonpublic school may have or challenge that arises.

The lawyers at F3 understand the dynamics unique to independent and private schools as well as their commonalities with public schools – from compliance to contracts, real estate to accreditation, student/parent complaints to admissions policy, discipline, and beyond. Most importantly, unlike at many law firms, our attorneys are highly focused on knowing our clients' culture and mission. Nonpublic and public schools part ways on many issues, yet some education law firms treat them similarly, giving a nonpublic school the same kind

of counsel they would provide to a public school district. How F3 attorneys counsel an independent or private school on any matter is grounded in on our deep understanding of that school's unique environment, not on how things are "generally done." There are no cookie-cutters at F3. Period.

## Understanding public regulation of nonpublic schools

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Unlike California public schools, independent and private schools are not governed by the California Education Code. As well, not all federal and state laws that apply to public schools apply to nonpublic schools, although some do. In part, compliance requirements are determined by whether or not a nonpublic school accepts federal funds. The key for every nonpublic school is knowing where they stand on the compliance spectrum, and F3 attorneys are experienced guides. Because of F3's experience advising both public and nonpublic schools, California independent and private schools call on us to untangle what they may and may not do under a host of existing federal and state laws and regulations. For example, nonpublic schools may hire and fire as they see fit, unlike public schools. They may appoint boards of trustees without local elections. And they may contract work without a required bidding process if they choose. Nevertheless, some federal and state laws do apply, and some things a nonpublic school may have the right to do still require counseling because nonpublic schools are not exempt from civil lawsuits. Federal laws that apply include Title VII and Title IX protections, the Americans with Disabilities Act (ADA), the Family Educational Rights and Privacy Act (FERPA), and others. Private schools that accept federal assistance may be required to adhere to various federal laws covering, for example, special education and US Office of Civil Rights Section 504. Schools that do not accept federal assistance are not bound by such requirements. In California, private schools must file the Private School Affidavit annually, reporting school information required by the education code under penalty of perjury. Clients count on F3 not only to make sure they are not only in compliance with all applicable law, but also to provide guidance on best practices to advance their mission while avoiding conflicts.

## Ensuring school governance functions smoothly

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While public school districts are governed by boards of education and superintendents, private and independent schools are governed by their own boards of trustees – often comprised of parents, alums, and donors. Accrediting associations, such as the California Association of Independent Schools (CAIS) and the ACS WASC Accrediting Commission, may also play a governance role, especially regarding curricular matters. F3 attorneys work closely with nonpublic schools, their governing bodies, their associations, and accreditors on all matters related to governance and ensuring schools are achieving the educational mission for which families have chosen them.

## Having a single source for operational guidance

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Operational questions large and small arise every day. If the school decides to build a new facility, with all of the financing and contracting needs that process entails, where to begin? What should a school do if parents are pressuring the school's administrators on curriculum matters? How should a school set up and operate an endowment program? When board of trustees meetings become contentious, what is the administration's best response? If parents are upset over denial of admission or a disciplinary matter, what should happen next? How should a school handle issues regarding LGBTQ+ or transgender students' rights? Having a single source of legal counsel on all such matters is of tremendous benefit, and that is precisely why independent and private schools turn to F3.

## Explore what we've done

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- Advised a large private school on enforcing tuition requirements
- Wrote a horse boarding contract for a private school
- Helped with an allergy policy for students
- Helped a family figure out a guardianship issue
- Drafted a contract for a private swim team's use of a school swimming pool
- Drafted a liability waiver for mountain biking on school property
- Assisted with masking policies for a small Amish school in L.A

## F3 is known for these strengths

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### **Governance**

Governance of nonpublic schools depends on governing boards, such as boards of trustees, but not the California Education Code rules with which public schools must abide. F3 lawyers tailor our advice to each school's unique governance structure.

### **Employment**

We advise on employment matters within the context of federal and state laws that may apply as well as the freedom and flexibility that nonpublic schools have.



## **Business matters**

Nonpublic schools have their business side like any other enterprise – but within the context of their educational mission. F3 lawyers help keep things running smoothly and efficiently.

## **Facilities**

From constructing a new school or adding a ballfield to reviewing a maintenance contract or bidding out major electrical work, we're here to guide schools with best practices and sound legal judgment.

## **Special education**

Students enrolled in nonpublic schools are not automatically entitled to special education services. But such schools offering these services must comply with various California regulations and their own established policies. F3 attorneys are able to help schools understand and comply with all applicable laws and develop best-practice protocols.

## **Data privacy and cybersecurity**

Laws such as the Family Educational Rights and Privacy Act (FERPA) and others regarding data privacy, student records, etc. govern the storage and communication of student data in all schools, including nonpublic schools. Laws governing cybersecurity and data breach notification may also apply. Our guidance helps schools stay on the right side of these regulations.

## **Litigation**

Our litigation team has deep experience and understanding of schools and the courthouse. For independent and private schools, violation of many federal and state laws can result in litigation, and nonpublic schools may also have a variety of claims filed against them related to personal injury, discrimination, and various torts. Conversely, they occasionally need to file a civil lawsuit against, say, an architect or contractor. We are adept at defending schools against civil, regulatory, and even criminal actions when necessary.

## **Related Services**

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- Virtual Learning

## Related Professionals

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