



LAW OFFICES OF MIDDLETON, YOUNG & MINNEY, LLP

## **Charter Schools Score Victory Before the California Supreme Court Protecting the Charter School Petition Process From Attack By Labor Unions**

The California Supreme Court issued a landmark decision last week supporting Los Angeles Unified School District's ("LAUSD") right to grant a conversion charter petition to Green Dot Public Schools ("Green Dot") over the objections of United Teachers Los Angeles ("UTLA"). UTLA argued unsuccessfully that the approval of the charter petition should be overturned due to a failure of LAUSD to follow terms of its collective bargaining agreement with UTLA relating to the charter school petitioning process. Middleton, Young & Minney, LLP represented Green Dot in securing this precedential decision.

In this case, UTLA never contested that Green Dot and LAUSD had complied with all statutory requirements to obtain the charter, but it nevertheless challenged the charter's existence via the filing of a grievance and ultimately a petition to compel arbitration under its collective bargaining agreement with the District. UTLA alleged that LAUSD failed to follow certain provisions of the collective bargaining agreement that placed additional duties upon LAUSD in the charter conversion petitioning process.<sup>1</sup> LAUSD denied the grievance and refused to submit the matter to arbitration, arguing that the provisions of the collective bargaining agreement that impacted the conversion school petition process were void/unlawful as a matter of law because they were in conflict with the express requirements of the Charter Schools Act.

While the trial court had agreed with LAUSD, stating that the parties could not negotiate provisions of a collective bargaining agreement which conflicted with the charter petition requirements of the Charter Schools Act, the Court of Appeal ruled in favor of UTLA, holding that when there is a valid collective bargaining agreement which contains a lawful arbitration clause, the parties must submit the matter of whether the collective bargaining agreement violated the Education Code to an arbitrator and not the court.

In its published decision last week, the California Supreme Court reversed the Court of Appeal decision and unanimously ruled that LAUSD's decision to grant a charter petition was solely governed by the Charter Schools Act, and

that the court [not an arbitrator] was the proper place to determine whether a conflict exists between the requirements of the collective bargaining agreement and the law. The Court further held that an arbitrator has no authority to award charter revocation or rescission – as those rights are held exclusively by the granting agency. In unmistakably clear terms, the Court ruled that a provision of a collective bargaining agreement cannot “annul, replace or set aside Education Code provisions” including those at issue in this case related to charter petitioning.

Citing that UTLA failed to specify which provisions of the collective bargaining agreements were allegedly violated, the Court did state that UTLA could go back to the trial court to allege violations of any specific provisions of the collective bargaining agreement so long as such provisions were not in conflict with the Charter Schools Act.

This case is the first published opinion by any court in California which addresses labor unions and the charter petition process since the legislature passed AB 631 – a law which specifically included a prohibition against collective bargaining agreements from controlling school districts’ decisions to approve or deny charter petitions.

While this case arose in the context of the conversion chartering process, the decision more broadly protects against intrusion by any collective bargaining provisions that are in conflict with the rights of charter schools under the Charter Schools Act.

For a copy of this decision, please click the following link to our website at [www.mymcharterlaw.com](http://www.mymcharterlaw.com).

If you have any questions about this case and how it might apply to your situation, please feel free to contact either Jim Young [jyoung@mymlaw.com](mailto:jyoung@mymlaw.com) or Chastin Pierman [cpierman@mymlaw.com](mailto:cpierman@mymlaw.com) at 916-646-1400.

Footnote<sup>1</sup>: For example, one requirement is that LAUSD “urge that the charter applicants discuss such matters with District staff (at the Charter Schools Office), and also with UTLA, so that they can become fully aware of their options for seeking exemptions or waivers, or obtaining dependent charter status, without undertaking the burdens and responsibilities of conversion Charter School status.” (See Section 2.0(b) of the LAUSD UTLA Collective Bargaining Agreement.)



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