



LAW OFFICES OF SPECTOR, MIDDLETON, YOUNG & MINNEY, LLP

LEGAL UPDATE

California Supreme Court Denies Request to Depublish the Sequoia School District v. Aurora Charter School Appellate Court Decision

In November 2003, the Sequoia School District, the California Teachers Association, and the California School Boards Association petitioned the California Supreme Court requesting that the decision issued by the Appellate Court in *Sequoia School District v. Aurora Charter School*, be depublished. The requests for depublication argued among other things that the published decision would have serious adverse consequences to school districts throughout the state. We strongly opposed depublication arguing that the decision resolved a number of complex legal issues that have plagued charter schools and limited charter schools' ability to secure safe and adequate facilities for the public school children who choose to attend charter schools.

On January 28, 2004 the California Supreme Court denied the requests for depublication. The effect of the denial is that the decision remains published and may be used by charter schools as legal precedent to support their positions when making Proposition 39 facilities requests.

Court ordered District to Provide Prop. 39 Facilities Without Requiring Charter School to Provide Confidential Student Record Information

The Environmental Charter High School ("ECHS") filed a Writ of Mandate against Centinela Valley Union High School District ("District") seeking to compel the District to provide Prop 39 facilities. The District argued that it was entitled to confidential ECHS student information (i.e., names, addresses, phone numbers, etc.) as a prerequisite to providing facilities. The underlying controversy between the parties revolved around a disagreement as to whether 5 CCR Section 11969.9(c)(1) (which requires a charter school's written facilities request to include "if relevant, documentation of the number of in-district students meaningfully interested in attending the charter school") applies to ECHS. The District took the position that 5 CCR Section 11969.9 applied to ECHS and ECHS took the position that 5 CCR Section 11969.9 did not apply to ECHS as it is only intended to apply to new charter schools that have not yet received their charter or begun to operate. Further, the charter school argued that under the Family Educational Rights and Privacy Act ("FERPA") it could not release the student information.

On November 17, 2003 the Los Angeles Superior Court ordered the District to provide the Charter School with facilities for the current school year and to include the chemistry laboratory the Charter School timely requested. The court also awarded the Charter School its attorney's fees.

In this case the court found that ECHS was not required to provide confidential Charter School student information as a prerequisite to providing facilities. At the Writ of Mandate hearing the court noted that the regulations governing facilities requests do not cover all issues that arise under facilities requests. The court further noted that the Sequoia v. Aurora decision gives guidance with respect to the amount of information that must be provided by a charter school when making a facilities request, and based on the guidelines set forth in Sequoia v. Aurora the Charter School provided sufficient information to support its facilities request (e.g. information on historical attendance rates, current enrollment numbers, expressed interest of parents and students in future attendance).

This case is persuasive and not controlling in other cases. The District is appealing the decision. If the Charter School wins at the appellate level, the case could become published and used by other charter schools in their negotiations for Prop. 39 facilities.

If you should have any questions regarding this update, please contact Paul Minney at (pminney@smymlaw.com) or at the Law Offices of Spector, Middleton, Young & Minney, LLP at (916) 646-1400.

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