



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

APPELLATE COURT EXTENDS PROTECTION OF GOVERNMENT TORT CLAIMS ACT TO CHARTER SCHOOL

On July 24, 2006, the 2nd District Court of Appeal in the case of *Knapp v. Palisades Charter High School* found that a charter school receives the benefits of the Government Claims Act, also known as the Tort Claims Act, (Government Code Section 900 *et. seq.*) regardless of whether it has filed information listing the charter school as a public agency with the Roster of Public Agencies in accordance with Government Code Section 53051. Consequently, the trial court and the appellate court dismissed the plaintiff's legal action against the charter school because the student in this matter failed to make a timely claim for damages against the charter school prior to filing any legal action.

FACTS

On February 6, 2004, a visiting student attended the charter school's "shadow day" which provided prospective students an opportunity to attend classes at the high school. The student claimed that a charter school teacher made a number of inappropriate comments in class and singled her out with sexually inappropriate remarks. The student's parents complained the following day and ultimately, the California Commission on Teacher Credentialing reviewed the matter and approved a public reproof of the teacher. In response to the parents' complaint, the Charter School appropriately noted that the parents must file a claim for damages in accordance with the Government Claims Act. The parents filed a claim with the County of Los Angeles demanding that the School District pay \$125,000 for four years of private high school education based upon a number of alleged civil rights violations. The County of Los Angeles rejected the claim indicating that it was not the legal entity involved. The plaintiff never filed a claim for damages with the charter school or the granting agency school district.

When the plaintiffs filed a legal action on June 11, 2004, the trial court dismissed the legal action for failure to file a claim in accordance with the Government Claims Act.

GOVERNMENT CLAIMS ACT

Subject to certain exceptions, the Government Claims Act provides that "no suit for money or damages may be brought against the public agency...until a written claim therefore has been presented to the public entity and has been acted upon by the board, or has been deemed to be rejected by the board..." (Govt. Code Section 945.4). "Submission of a claim to a public entity pursuant to [the Act] is a condition precedent to a civil action and a failure to present the claim bars the action." "The purpose of the claims statute is to provide the public entity sufficient information to enable it to adequately investigate claims and to settle them, if appropriate, without the expense of litigation."

THE PLAINTIFF'S CONTENTIONS

The plaintiff contended that (1) she substantially complied with the Government Claims Act; and/or (2) she was excused from filing a claim because the charter school allegedly failed to file identifying information listing it as a public agency with the Roster of Public Agencies.

NO SUBSTANTIAL COMPLIANCE

The appellate court found that the plaintiff's claims of substantial compliance were without merit. The letters, e-mails and phone calls to the charter school were not sufficient to establish a claim under the Government Claims Act with the charter school, nor did the school district ever receive a claim (or even a copy of the claim that was filed with the wrong public agency).

CHARTER SCHOOLS ARE SUBDIVISIONS OF SCHOOL DISTRICTS FOR ROSTER OF PUBLIC AGENCIES

Plaintiff contended that she was excused from filing a government claim because the charter school is an independent entity that must file a statement of facts listing it as a public agency on the Roster of Public Agencies – and she claimed that the charter school had failed to do so. The appellate court concluded that the charter school is a subdivision of the school district (regardless of whether it is organized as a nonprofit public benefit corporation) and that it need not be listed on the Roster of Public Agencies. As a result, the appellate court found that the plaintiff should have filed her claim with the school district and that she was not excused from complying with the Government Claims Act.

RECOMMENDATION

While this appellate court decision arguably extends the benefits of the Government Claims Act to charter schools that have not filed with the Roster of Public Agencies, it is our firm's recommendation that a charter school make that filing consistent with Government Code Section 53051. Filing the Statement of Facts would conclusively extend the Government Claims Act protection to the charter school; the appellate court did not address whether a claim filed directly with the charter school would be sufficient to address the obligations under the Government Claims Act.

If a charter school receives a Government Claim (or Tort Claim) or a claim for monetary damages the school should immediately consult with legal counsel as there are various statutory deadlines that significantly impact the charter school's legal rights.

If you need any assistance in completing the Statement of Facts for filing with the Roster of Public Agencies, please do not hesitate to contact Paul Minney, pminney@smymlaw.com or Adam Susz, asusz@smymlaw.com at the Law Offices of Spector, Middleton, Young & Minney, LLP at (916) 646-1400.

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