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Public Sector Legal Alert Relating to Charter Schools District's Responsibility to Provide Charter School Facilities to In-District Charter School Although Charter School Fails to Demonstrate Statutory ADA

Sequoia Union High School District v. Aurora Charter High School

(Distributed October 15, 2003)

The Aurora Charter School, which was chartered by Redwood City Elementary and which served elementary and secondary students, requested facilities from Sequoia Unified School District. Though Redwood City fed into the Sequoia Unified School District, Sequoia refused, saying: 1) as a non-chartering district it had no responsibility, and 2) petitioners failed to demonstrate that it had the statutory minimum ADA of 80 students.

The Court concluded as follows:

1. A non-charter granting school district is generally obligated to provide facilities to a charter school operating in the District if: 1) the charter school is "operating" in the district and 2) projects 80 units of ADA.
2. A charter school is currently providing education to in-district students when "a charter school provides education to students who live in that district and who, were they not attending the charter school, would be accommodated by schools in that district."
3. A charter approving school district is not statutorily obligated "to be solely responsible for providing facilities for all students who attend the charter school it approves. "[E]ach school district should provide facilities for charter school students who would otherwise be students at the district's schools."
4. "[I]f a charter school has elementary and high school students and it operates geographically in both an elementary and high school district, both districts are obligated to provide facilities if the requisite number of students from both districts attend the school."
5. To qualify for district facilities, a charter school is required to "provide the school district [in which it is operating] with a 'reasonable projection' of the charter school's average daily attendance by in-district students for the following year..."
6. A district may deny a facilities request if it is based on a projection of fewer than 80 units of [ADA]...for the year."
7. A charter school "must offer some [reasonable] explanation in its facilities request for the basis of its [ADA] projection."
8. A charter school is not required to "...demonstrate arithmetical precision in its projection or provide the kind of documentation or testimonial evidence that would be admissible at trial."

The following were not at issue and were not addressed in Aurora:

1. The meaning of "reasonably equivalent" or "contiguous, furnished and equipped facilities." (See 5 CCR 11969.3)
2. The requirement for "furnishing facilities near to where the charter school wishes to locate." (See 5 CCR 11969.2)
3. To what extent, if any, a district may refuse to provide facilities because it says it has none.
4. What circumstances would support a district refusal to provide facilities because it would be required to rent, buy or lease such facilities for a charter school out of general fund revenues.

What this means to you: A facilities request cannot be denied by any district in which the charter school is operating unless: 1) ADA projections are unreasonable, 2) projected ADA is less than 80, or 3) there is some other statutory exception.

For further information, please contact Cynthia Smith at Girard & Vinson's Sacramento, CA office located at 1006 4th Street, 8th Floor, Sacramento, California, 95814, (916) 446-9292. We invite you to visit our website at www.gandv.com.