

ELA Annual Report 2013

csba's education legal alliance



We fight better when we stand together

What is the Education Legal Alliance?

CSBA's Education Legal Alliance is a consortium of school districts, county offices of education, and ROC/Ps that voluntarily joined together in 1992 to create a powerful force to pursue and defend a broad spectrum of statewide public education interests before state and federal courts, state agencies, and the legislature. The ELA initiates and supports litigation in cases of statewide significance to all California schools. Working with school attorneys throughout the state, the efforts of the ELA has proven highly effective in protecting the interests of schools and the students they serve. Potential matters are reviewed and approved by a broad-based steering committee of board members, superintendents, and education leaders. There is also a legal advisory committee of noted school law attorneys to help provide legal analysis and recommendations to the steering committee.

The Education Legal Alliance is funded by contributions from its members, who are members of CSBA.

What are the benefits of membership in the Education Legal Alliance?

- The ELA files amicus briefs and letters in support of its members on legal issues of statewide importance.
- The ELA initiates litigation on various issues of statewide importance and often looks to its members to serve as co-plaintiffs in those cases.
- The ELA weighs in on legislation that impacts its members.

“Together with school districts and county offices of education, the Education Legal Alliance continues to fight the necessary battles to maintain public education as the top priority in California. On behalf of public education and schoolchildren in California, the ELA becomes involved in litigation when a case or issue has significant statewide impact on education. The ELA will continue to initiate and participate in litigation in support of California schools and educational programs statewide.”

—**Dana Tom**, *Member, Palo Alto Unified School District Board and Member, CSBA Board of Directors*

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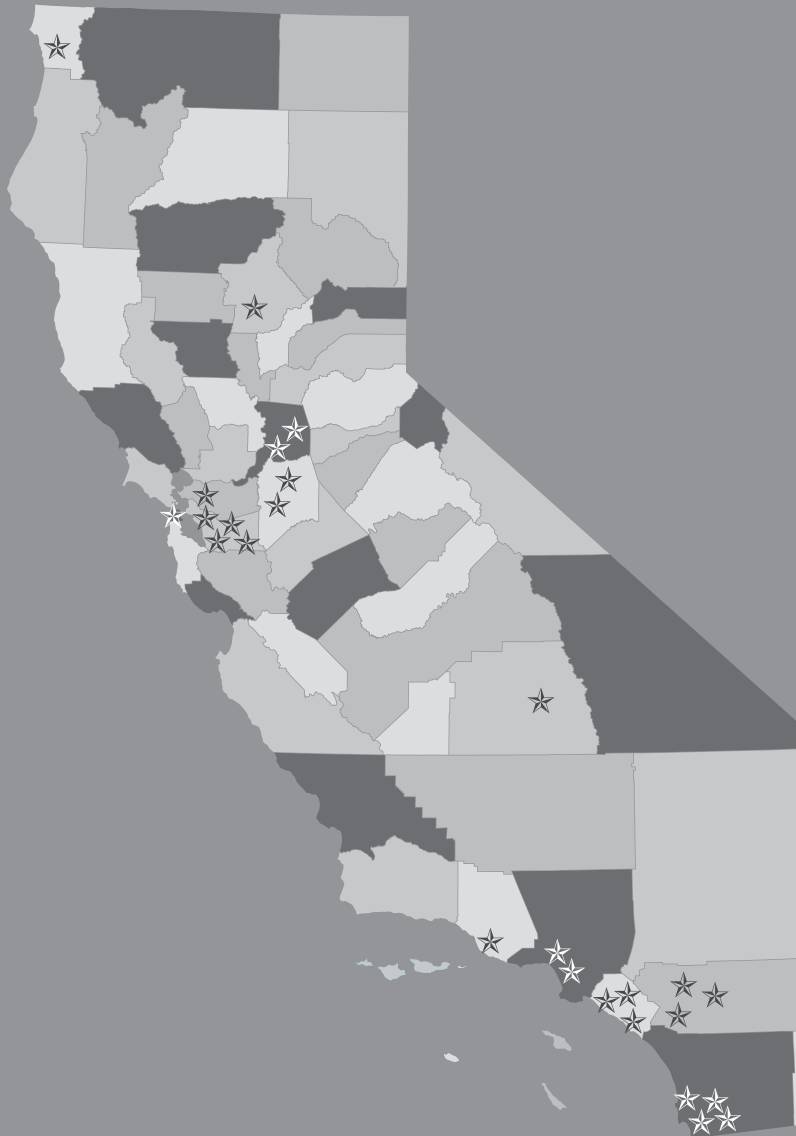
Anita Ceballos

Legal Specialist

Education Legal Alliance



In 2013, the ELA worked with the following ELA members:



School Districts/COEs

- Alameda Unified School District*
- Alpine Union Elementary School District*
- Butte County of Education*
- Capistrano Unified School District*
- Castro Valley Unified School District*
- Del Norte Unified School District*
- Folsom Cordova Unified School District*
- Fremont Unified School District*
- Hemet Unified School District*
- Los Angeles County Office of Education*
- Los Angeles Unified School District*
- Oakland Unified School District*
- Porterville Unified School District*
- Poway Unified School District*
- Rio School District*
- Riverside COE*
- Riverside Unified School District*
- Sacramento City Unified School District*
- San Diego COE*
- San Diego Unified School District*
- San Francisco Unified School District*
- San Joaquin COE*
- San Ramon Valley Unified School District*
- Santa Ana Unified School District*
- Stockton Unified School District*
- Tustin Unified School District*

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“The Education Legal Alliance was instrumental in opposing AB375, a deeply flawed piece of legislation that would have made it more difficult to dismiss a teacher who may be a threat to student safety. The ELA Attorney Advisory Committee provided the Legislature and Governor Brown with a comprehensive legal analysis opposing the seven month deadline to complete a hearing process and the changes to the discovery process as unfair to districts, burdensome and costly. The ELA’s tireless efforts contributed to Gov. Jerry Brown vetoing the bill.”

—**Linda Pavletich**, *Member, Rio Bravo-Greeley Union School Board and Member, CSBA Board of Directors*

Recent Victories

The ELA was involved in the following successful matters



**Highlighted Victory: Behavioral Intervention Mandate**

In Re Test Claim On: Education Code Section 56523 as added by Statutes of 1990, Chapter 959; and Title 5, California Code of Regulations, Sections 3001 and 3052 – Commission on State Mandates

Members Involved:

Butte County of Education; San Diego Unified School District; San Joaquin County of Education

Outcome:

The Commission on State Mandates ruled in favor of the ELA's position that Behavioral Intervention Plans were a mandate and, thus, that the State must reimburse local educational agencies for the associated costs.

Summary:

In 1994, Butte County of Education, San Diego Unified School District, and San Joaquin County of Education filed a test claim with the Commission on State Mandates regarding Behavioral Intervention Plans. In 2007, the ELA began funding the legal challenge on behalf of its member districts. In April 2013, the Commission on State Mandates approved a formula, developed by the ELA, to reimburse local educational agencies for the costs associated with developing and implementing Behavioral Intervention Plans for designated special education students. Conservative estimates place the reimbursement to LEAs at over \$50 million per year for each year between 1993-94 and 2011-12 minus the setoff amounts beginning in the 2010-11 school year. Thus, the total reimbursement to school agencies would be approximately \$1 billion once the reimbursements are fully funded by the Legislature and governor.

"CSBA's Education Legal Alliance successfully pursues and defends the broad spectrum of statewide public education interests in the courts and before state agencies. Working with school attorneys throughout the state, the Education Legal Alliance is a powerful force taking schools' side in the courts, and has proven highly effective in both saving and gaining schools literally millions of dollars."

— **Ron Bennett**, *CEO of School Services of California, Inc.*



Administration of Insulin

American Nurses Association v. Torlakson (2013) 57 Cal. 4th 570 – California Supreme Court

Members Involved:

Fremont Unified School District; Los Angeles Unified School District; San Ramon Valley Unified School District

Outcome:

The California Supreme Court ruled in favor of the ELA's position that trained school personnel other than nurses could administer insulin.

Summary:

The California Department of Education (CDE) issued a legal advisory in 2009 which advised school districts that non-nursing personnel with the requisite training and parental consent could administer insulin to students with diabetes. This advisory was based upon a settlement between the CDE and parents of students with diabetes. Nursing associations challenged the advisory, arguing that only licensed nursing personnel may administer insulin to students. The ELA filed an amicus brief supporting the position of its member districts and the CDE that unlicensed personnel with the requisite training and guidance from medical personnel may, with parental consent, administer insulin to students.

"On behalf of the American Diabetes Association, we want to express our heartfelt appreciation to the California School Boards Association's Education Legal Alliance for your support in our fight for the rights of students with diabetes—and to celebrate with you our recent victory in the California Supreme Court...This decision is a major step forward in protecting the rights of California students to be safe at school...Your brief filed before the Supreme Court was instrumental in bringing about this great victory. Thank you again for supporting the fight to ensure children with diabetes have the care they need to be healthy and safe at school—and access to the same educational opportunities as other children."

— *From a Sept. 12, 2013 letter signed by **Karen Talmadge, PhD**, Chair of the Board, and **Larry Hausner, MBA**, Chief Executive Officer of the American Diabetes Association*

"CSBA's Education Legal Alliance was influential in the California Supreme Court's decision to reverse the court of appeal. On behalf of school districts and students across California, I want to personally thank the ELA for its efforts to identify a solution that protects children with diabetes and other health conditions to receive medication from trained school staff, without negative financial implications for school districts."

— **Jack O'Connell**, *former California State Superintendent of Public Instruction, and Partner, Capital Advisors Group, LLC*

Charter Revocation Proceedings

Today's Fresh Start v. Los Angeles County Office of Education (2013) 57 Cal. 4th 197 – California Supreme Court

Members Involved:

Los Angeles County Office of Education; Los Angeles Unified School District; Riverside County Office of Education; San Diego County Office of Education

Outcome:

The California Supreme Court ruled in favor of the ELA's position that the Los Angeles County Office of Education properly revoked a charter because staff were not biased in favor of revocation, staff's investigation of the school did not violate due process, proper notice was given, the opportunity to respond was provided, and no formal hearing process was required.

Summary:

The Los Angeles County Office of Education revoked the charter of Today's Fresh Start Charter School. The charter school appealed the revocation, claiming that LACOE was biased, that its investigation was predisposed against the charter school, and that a chartering authority could not act to revoke a charter until an evidentiary hearing was held before a hearing officer or another "neutral" decision-maker who would then make a recommendation to the governing board. The ELA filed an amicus brief (and a supplemental amicus brief alerting the Court to a relevant new federal court opinion) in support of the LACOE's position that the revocation and the actions that led to the revocation were proper and that any formal evidentiary hearing is not a requirement of the charter school revocation process.

"Together we successfully worked with the Alliance to gain a favorable ruling by the California Supreme Court to keep any formal evidentiary hearings requirement out of the charter school revocation process. We are proud of our partnership with ELA and our shared commitment to protecting the future of our schools and students."

—**Vibiana M. Andrade**, *General Counsel, Los Angeles County Office of Education*



Layoff/Skipping

Acquisto v. Sacramento City Unified School District (2013) Case No. 34-2012-80001173

– Sacramento County Superior Court

Members Involved:

Sacramento City Unified School District

Outcome:

The Superior Court ruled in favor of the ELA's position that the Sacramento City Unified School District properly determined that specific low performing schools needed a unique "course of study," but that the District had to determine on a case-by-case basis whether a teacher was or was not trained and experienced to teach at those schools.

Summary:

Sacramento City Unified School District determined that traditional methods of delivering instruction to specific low performing schools did not meet the needs of students. As a result, the District embarked on an ambitious plan to provide teachers at those schools with special training in various teaching modalities, which resulted in experienced teachers able to meet the needs of the students by providing a unique "course of study." The determination that the schools offered a "course of study" requiring specially trained and experienced staff allowed the District to layoff more senior staff at other school sites when state budget reductions forced the District to cut staff. A hearing before an administrative law judge resulted in a ruling that the schools offered a "course of study" that required unique special training and experience. The Board adopted this part of the ruling, but rejected other areas of the ruling, specific to the amount of time (2+ years) a teacher would be required to teach in the schools in order to possess special "training and experience." The Board believed that the weight of the evidence was contrary to the administrative law judge's findings in this area. The teachers challenged the Board's decision in superior court on the grounds that it violated the seniority requirements for layoffs. The teachers also alleged that the Board did not have discretion to reject the administrative law judge's determination or to determine that a unique course of study was required. The ELA filed an amicus brief supporting the District's position that it properly determined that a unique course of study was needed, that certain teachers possessed the requisite training and experience to provide the course of study, and that it properly skipped less senior employees using this criteria.

"School districts, county offices of education and ROC/Ps find great value in the expertise, experience and benefits in CSBA's Education Legal Alliance membership. Together we create a powerful force to protect the interests of schools and uphold the governance role of the board."

—Dr. Lou Obermeyer, Superintendent, Valley Center-Pauma Unified School District

Statewide Benefit Charter

CSBA v. State Board of Education (2011) Case No. A136327 – California Court of Appeal, 1st District

Members Involved:

Stockton Unified School District

Outcome:

After the ELA's 2011 victory in the trial court that invalidated the State Board of Education's grant of a statewide benefit charter to Aspire Public Schools, the ELA agreed to a settlement on all but one issue. (See the Statewide Benefit Charter item in the "2013 Activities" section.) Under the terms of the settlement, Aspire agreed to surrender its statewide benefit charter status and pursue chartering all of its schools at the local level. Aspire also will be ineligible to seek a statewide benefit charter status for a five-year period. The State Board of Education and Aspire agreed to pay the plaintiffs \$300,000 (\$150,000 each) in attorney fees and costs.

Summary:

The ELA challenged the 2007 approval by the State Board of Education of Aspire Public Schools' statewide benefit charter petition because SBE had used an incorrect interpretation of the applicable law. Specifically, SBE failed to properly find that Aspire's program had a statewide benefit. The matter also included several procedural claims. The ELA was joined in this lawsuit by the following co-plaintiffs: the Association of California School Administrators, the California Teachers' Association, and Stockton Unified School District. In July 2010, the Court of Appeal ruled in favor of the ELA on the grounds that the ELA had presented claims that could be adjudicated. In March 2012, the trial court ruled in favor of the ELA and in June 2012 issued a writ of mandate directing the SBE to set aside its approval of Aspire's statewide benefit charter and to use only policies and procedures that have been promulgated in compliance with the Administrative Procedures Act in its consideration of statewide benefit charter petitions. The Court gave the SBE one year to comply with its orders.

Current Activities

The ELA is involved in the following matters





Highlighted Activity: **School Finance**

Robles-Wong v. State of California (2011) Case No. A134423 – California Court of Appeal, 1st District

Members Involved:

Alameda Unified School District; Alpine Union Elementary School District (San Diego); Del Norte Unified School District; Folsom Cordova Unified School District; Hemet Unified School District; Porterville Unified School District; Riverside Unified School District; San Francisco Unified School District; Santa Ana Unified School District

Summary:

Education is a fundamental right under the California Constitution. The State has chosen to implement this right by adopting a standards-based education program that defines what all schools must teach and what all students are expected to learn. In May 2010, the ELA filed a lawsuit against the State of California requesting that the school finance system be declared unconstitutional and that the State be required to establish a school finance system that provides all students an equal opportunity to meet the academic goals set by the State. The ELA was joined in its lawsuit by a broad coalition of students and their parents, nine districts (see above), the Association of California School Administrators, and the California State PTA. Soon after the ELA filed its complaint, CTA also intervened as a plaintiff.

In response, the State “demurred,” which is a legal maneuver in which the defendant challenges the legal sufficiency of a complaint by claiming that even if all the allegation in the complaint are true, it still would not state a valid basis to sue. The State’s main arguments in its demurrer can be summarized as follows: (1) the courts cannot enforce the constitutional right to an education, (2) the separation of powers doctrine places the power to determine the sufficiency of the school finance system solely with the Legislature and therefore the court has no jurisdiction to hear the case, and (3) complying with Proposition 98 fulfills the State’s school funding obligations under the Constitution and therefore the finance system cannot be unconstitutional. The ELA and the other plaintiffs anticipated these arguments and filed a response. Unfortunately, the trial judge agreed with the State.

On appeal, the ELA and the district plaintiffs elected to join with a related case known as *Campaign for Quality Education (or CQE) v. California*, which was filed by Public Advocates, Inc. and others after *Robles-Wong* was filed. The CQE allegations were similar to the allegations in *Robles-Wong* and it made sense to combine the cases for purposes of the appeal. The joint appeal has been fully briefed, and we are awaiting oral argument.

“The ELA serves as the safety net that brings the weight of hundreds of local educational agencies together to support local issues. One example is the case of *Robles-Wong* where nine school districts banded together with the ELA to protect California’s students’ fundamental right to an education. Thanks to the expertise, experience and resources of the ELA, we are able to pursue this case to help defend our schools and students.”

— Jill Wynns, Member, San Francisco Unified School District Board and CSBA Immediate Past President



California Environmental Quality Act Categorical Exemptions

Berkeley Hillside Preservation v. City of Berkeley (2013) Case No. S201116 – California Supreme Court

Members Involved:

Not applicable

Summary:

This case involves the application of the significant effects exception to the California Environmental Quality Act (CEQA) categorical exemptions. Berkeley Hillside Preservation filed a petition for writ of mandate challenging the City of Berkeley's approval of use permits to construct a large residence on property inside the city limits. The trial court denied the petition finding that the proposed construction was categorically exempt under CEQA. The First Appellate Court reversed the judgment and ordered the trial court to issue a writ of mandate directing the City to set aside its approval of use permits and its finding of a categorical exemption, and to order the preparation of an Environmental Impact Report.

If the plaintiff prevails, it will provide opponents of public construction projects an easier method to challenge a categorical exemption for a project by eviscerating the "unusual circumstances" exception. As a result, school districts, county offices of education, and other public agencies may be forced to undertake (i.e., pay for) additional environmental analyses in order to justify the use of any categorical exemption. School districts and county offices of education commonly use the categorical exemption to permit the placement on school grounds of up to 10 classrooms including portables.

In January 2013, the ELA filed an amicus brief in this matter. The brief was joined by the Regents of the University of California and the Board of Trustees of the California State University. The brief argues that to hold that simple allegations of significant impacts are per se "unusual circumstances," which would then preclude the use of a categorical exemption, would effectively halt the use of categorical exemptions by school districts, county offices of education, and other public agencies. This would be contrary to the CEQA's intent and purpose.

The case has been fully briefed and the parties are awaiting the Supreme Court's notification for oral argument.

Classrooms for Charter Schools

California Charter School Association v. Los Angeles Unified School District (2013) Case No. S208611
– California Supreme Court

Members Involved:

Los Angeles Unified School District

Summary:

School boards across the State are charged with the legal duty to allocate reasonably equivalent facilities to charter schools operating within their boundaries, and to ensure that such facilities are shared fairly among all students attending both charter and traditional district schools. Specifically, state regulations require school districts to provide charter schools with classroom space that is reasonably equivalent to the space provided to its non-charter school students. In dispute here is whether a district must calculate its ratio based on available classrooms or on the actual classrooms being used. Los Angeles Unified School District used the latter and was sued. The case is now before the California Supreme Court. The California PTA joined with ELA in filing an amicus brief in this matter. The case has been fully briefed and the parties are awaiting the Supreme Court's notification for oral argument.

Limitation of Public Contract Code Section 7107

Rio School District v. FTR International, Inc. (2013) Case No. B238618 – California Court of Appeal, Second District

Members Involved:

Rio School District

Summary:

The issues in this case revolve around the interpretation of what a bona fide "dispute" means in Public Contract Code section 7107. Here, the Rio School District withheld over \$600,000 in response to stop notices filed by subcontractors on a new elementary school construction project. Although the withholding did not exceed the 150% withholding limit imposed by section 7107, the court ruled that Rio School District had an ongoing obligation to release the funds once any of the underlying "disputes" went away. However, this decision disregards the clear meaning of Section 7107, and places an unreasonable burden on the public agency to determine if and when a dispute goes away. The District has appealed the trial court's ruling. The ELA will be filing an amicus brief supporting the District's position.



Jurisdiction of the Education Audit Appeals Panel

In the Matter of Oakland Unified School District 2010-11 Audit (2013) – Education Audit Appeals Panel

Members Involved:

Oakland Unified School District

Summary:

The 2010-11 audit of Oakland Unified School District by the State Controller's Office resulted in a number of adverse findings. The District decided to appeal seven findings to the Education Audit Appeals Panel (EAAP), including the four findings at issue here. Those findings improperly forced the District to transfer over \$10 million from its General Fund to its Building Fund, erroneously questioned the District's fiscal solvency, and inaccurately asserted that the District has not spent enough money on classroom instruction. Collectively, the four findings also impacted the District's ability to receive a credit rating, despite recently receiving voter approval on a bond measure.

In response, the State Controller's Office asserted that EAAP did not have jurisdiction to hear the appeals of the four findings, which would have meant that the District's only recourse is to file a lawsuit in Superior Court, a much more expensive and time-consuming process. The basis for the Controller's position is that EAAP only has jurisdiction to hear those appeals where the District is required to repay state school funds to the state.

The ELA will be submitting a letter in support of the District's position, urging a broad grant of jurisdiction for EAAP that would provide school districts with a process to appeal audit findings that is less expensive and more efficient than going directly to Superior Court. The plain language of the relevant statutes and their legislative history along with policy considerations and EAAP's precedential decisions all support the ELA's position.

Mandate Redetermination and Offsetting Revenues

CSBA v. State of California (2013) Case No. RG11554698 – Alameda County Superior Court

Members Involved:

Butte County of Education; Castro Valley Unified School District; San Diego Unified School District; San Joaquin County of Education

Summary:

The ELA has challenged the statutory scheme regarding mandate reimbursement by arguing that the scheme, as a whole, frustrates the right of reimbursement under the California Constitution. Districts and county offices of education are being required to provide services without a reasonable expectation of timely reimbursement. Plus, the procedures for reimbursement impose unreasonable burden on the right to reimbursement. The case does not challenge the constitutionality of the mandate block grant explicitly, although as part of the statutory scheme it is included in the lawsuit. The lawsuit does explicitly challenge the statutes which allow the State to eliminate the reimbursement requirement by “redetermining” whether a mandate exists.

Because of subsequent changes in state law, the ELA has had to amend its complaint to challenge the various new tactics that the State has devised to avoid reimbursing districts and county offices of education for their mandate claims. One particularly egregious new tactic is to identify “offsetting revenues”—i.e., revenues that districts and county offices of education already receive—as reimbursement for mandate claims, allowing the State to claim that it no longer needs to provide separate funding for such reimbursement. The State has used this offsetting revenue tactic to avoid reimbursing districts and county offices of education for the Behavioral Intervention Plan and the High School Science Graduation Requirements mandates.

“Working together with the Education Legal Alliance we are challenging the statutory scheme regarding mandate reimbursement as districts and county offices of education are being required to provide services without a reasonable expectation of timely reimbursement. Having the support and resources of the ELA to stand up on issues that are negatively impacting several districts and county offices across the state is critically important and extremely valuable.”

—**Mike Walsh**, Member, Butte County Board of Education and Member, CSBA Board of Directors



Special Education Attorneys' Fees Award

C.W. et al. v. Capistrano Unified School District (2013) Case No. 12-57315 – Federal Court of Appeal, Ninth Circuit

Members Involved:

Capistrano Unified School District

Summary:

This case is an appeal of a decision by the United States District Court, Central District, awarding attorney's fees to the Capistrano Unified School District in regards to a parent's lawsuit against it that the court found to be frivolous, unreasonable, and without foundation, and found that the plaintiffs pursued the case for the improper purpose of harassment, unnecessary delay, and needlessly increasing litigation costs. ELA filed its amicus brief supporting the District on August 1, 2013, and is awaiting the court to schedule oral argument.

Special Education Issues Including Attorney's Fees Award

T.B. v. San Diego Unified School District (2013) Case No. 12-56060 – Federal Court of Appeal, Ninth Circuit

Members Involved:

San Diego Unified School District

Summary:

This case involves a number of special education issues of statewide importance, including the grounds for awarding of attorneys' fees under the Individual with Disabilities in Education Act (IDEA), the impact of settlement offers made before a due process hearing, compliance with the IDEA when dealing with families who remove students from school, the required elements for bringing a claim under the Americans with Disabilities Act or the Rehabilitation Act, and the importance of good faith on the part of district employees. A precedential decision from the Ninth Circuit on any or all of these issues is likely to play a big part in a school district's or county office's determinations of how to respond when special education students are dissatisfied with their accommodations. The ELA filed an amicus brief in this matter in March 2013 and the parties are awaiting notification for oral argument.

Special Education Services for Deaf or Hard of Hearing Students

K.M. ID.H. v. Tustin Unified School District/Poway Unified School District (2013) – California Supreme Court

Members Involved:

Poway Unified School District; Tustin Unified School District

Summary:

In August 2013, the Ninth Circuit Federal Appellate Court held that the requirements of the Americans with Disabilities Act (“ADA”) trumped the requirements of the Individuals with Disabilities in Education Act (“IDEA”), which governs special education services. The decision is contrary to other decisions that have found that for students with disabilities outside of their IEP (e.g., 504 students) a district that complies with the procedural and substantive requirements of the IDEA will have necessarily complied with federal ADA requirements. The ELA will file a brief in support of the District’s writ to the Supreme Court to hear the case.

Special Education Services to Incarcerated Adults in County Facilities

Los Angeles Unified School District v. Garcia (2013) Case No. S199639 – California Supreme Court

Members Involved:

Los Angeles Unified School District

Summary:

At issue in this case is a determination of which public entity is responsible to provide special education services to qualifying adults ages 18 to 22 who are incarcerated in county jails. Currently, there is no controlling authority addressing the application of Education Code Section 56041 to incarcerated students in need of special education services. The federal appeals court sent the issue to the California Supreme Court to decide the “authoritative answer to California’s educational agencies.” On September 6, 2012, the ELA filed an amicus brief in support of Los Angeles Unified School District’s position that the State should provide special education services to incarcerated adults between the ages of 18 and 22. Specifically, the ELA argued that California law simply does not delegate responsibility for providing special education services to eligible students in adult county jails, and—absent such delegation—that responsibility should default to the State. Oral argument was heard by the Supreme Court in October 2013, and the parties are awaiting the Court’s decision.



Statewide Benefit Charter Hearings

CSBA v. State Board of Education (2011) Case No. A136327 – California Court of Appeal, 1st District

Members Involved:

Stockton Unified School District

Summary:

The ELA challenged the 2007 approval by the State Board of Education of Aspire Public Schools' statewide benefit charter petition because SBE had used an incorrect interpretation of the applicable law. Specifically, SBE failed to properly find that Aspire's program had a statewide benefit. The matter also included several procedural claims. The ELA was joined in this lawsuit by the following co-plaintiffs: the Association of California School Administrators, the California Teachers' Association, and Stockton Unified School District. In July 2010, the Court of Appeal ruled in favor of the ELA on the grounds that the ELA has presented claims that could be adjudicated.

In March 2012, on remand, the trial court ruled in favor of the ELA and then in June 2012 issued a writ of mandate in favor of the ELA directing the SBE to set aside its approval of Aspire's statewide benefit charter and to use only policies and procedures that have been promulgated in compliance with the Administrative Procedures Act in its consideration of statewide benefit charter petitions. The Court gave the SBE one year to comply with its orders. Since that time, the ELA has agreed to a settlement on all but one issue. Under the terms of the settlement, Aspire agreed to surrender its statewide benefit charter status and pursue chartering all of its schools at the local level. Aspire also will be ineligible to seek a statewide benefit charter status for a five-year period. The SBE and Aspire agreed to pay the plaintiffs \$300,000 (\$150,000 each) in attorney fees and costs.

The outstanding issue pursued by the SBE concerns the process to consider statewide benefit charter petitions. The ELA's position is that the plain language of the law requires a formal hearing. This issue has been fully briefed before the appellate court and we are awaiting oral arguments, which have not yet been scheduled.

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California School Boards Association

3251 Beacon Blvd., West Sacramento, CA 95691

(800) 266-3382 | (916) 371-4691

www.csba.org

