



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

## LEGAL UPDATE

### *COUNTY OFFICE OF EDUCATION MONITORING OF CHARTER SCHOOL CREDENTIALS*

The California Department of Education (“CDE”) recently issued a legal opinion stating that a county office of education has no legal duty to monitor the credentials of charter school teachers. While the opinion is not binding law, the opinion represents the CDE’s position on charter school credentialing requirements and signals the guidance the CDE will issue regarding charter school credentialing issues.

In a January 24, 2003 opinion, the CDE’s legal counsel opined that county offices are not required to monitor the validity of charter school teacher credentials or teacher assignment within a credential. Pursuant to Education Code Section 44258.9, a county office of education normally monitors the validity and assignment of teacher credentials in non-charter schools. However, according to the CDE, this monitoring authority over non-charter schools is not applicable to charter schools.

In reaching this conclusion, the CDE points out that charter schools are generally exempt from the Education Code. A county office of education’s monitoring authority is set forth in Education Code Section 44258.9, which is not applicable to a charter school under the so-called “mega-waiver” of Education Code Section 47610. In addition, Education Code Section 47605(l) provides that charter school credential documents shall be made available for periodic inspection “by the chartering authority.” Thus, the express language of the Charter Schools Act provides that only a chartering authority has a legal duty to monitor charter school compliance with the credential requirements of Education Code Section 47605(l).

The CDE further notes that this analysis is consistent with previous guidance issued by the California Commission on Teacher Credentialing, which stated in a 1998 memorandum to charter schools that “assignment monitoring in charter schools is not subject to the same statutory provisions that govern non-charter schools.” Thus, the CDE and the CTC have now both concluded that county offices of education of schools are not required to monitor charter school credentials as part of their statutory responsibilities.

California charter schools should be aware that the CDE’s legal opinion does not relieve charter schools with the responsibility of ensuring that teachers possess valid credentials and are properly assigned according to those credentials.

Charter schools may now review their policies and procedures for monitoring the validity and assignment of credentials. Charter schools should also revise their policies and procedures regarding the inspection of teacher credentials accordingly.

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

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