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LEGAL UPDATE

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To: Superintendents, Member School Districts (K-12)

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Subject: Court of Appeal Limits Where Charter Schools Can Be Located
Memo No. 39-2016

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On October 17, 2016, the court of appeal in Sacramento issued its decision in *Anderson Union High School District v. Shasta Secondary Home School*, or “SSHS,” about where charter schools may be located. Under the Charter School Act (Education Code § 47600 et seq., as amended in 2002), a charter school ordinarily can be located only within the boundaries of the school district that authorized the charter.

In the *Anderson* case, SSHS had been chartered by Shasta Union High School District. SSHS established two locations within Shasta Union’s boundaries, but later also established a “resource center” at East Cottonwood Elementary School, which is located within the boundaries of the Anderson Union District in the southern part of Shasta County—and therefore outside of Shasta Union’s boundaries. Anderson sued, claiming that it lost ADA when students who had formerly attended its schools instead chose to attend SSHS.

The court of appeal described the Cottonwood Resource Center as “a one-room facility with four computer work stations, desks, a small library, and a white board. At the resource center, students may check out instructional materials, use the computer workstations, work on assignments, and receive tutoring. The Cottonwood Resource Center does not offer optional classes. It is open three days a week.”

SSHS argued that because the Cottonwood facility was a “resource center,” it was not subject to the geographic restrictions of the Charter School Act, found in Education Code § 47605. SSHS also argued that the geographic restrictions applied only to classroom-based charter schools, and not to nonclassroom-based facilities such as its resource center.

The court of appeal rejected this argument, stating: “This language [of § 47605] evinces the unambiguous legislative intent that a charter school authorized by a school district shall be located and operate entirely within the boundaries of the authorizing school district, whether at one or multiple locations. The geographic limitations apply to the operation of the charter school. The Cottonwood Resource Center, by providing educational support to students of SSHS, is part of the



operation of SSHS. Therefore, the in-district geographic limitation applies to the Cottonwood Resource Center unless there is an applicable exception.” As a consequence of this ruling, therefore, both classroom-based and nonclassroom-based charter school programs must be located within the jurisdiction of the authorizing district, unless an exception exists.

Implications for Districts

While the court of appeal’s decision is technically in force at this time, there are still several possibilities that could affect its status as legal precedent, such as review by the Supreme Court. During this interim period, districts should review existing approved charter schools and—in concert with legal assistance—assess the possible application of this ruling for their authorized charter schools, particularly for those districts that are the authorizing entities for out-of-jurisdiction charter schools. Our office should be contacted if a district suspects that one of its authorized charter schools is in violation of this ruling.

We will continue to monitor the case and notify districts of any developments.

Please contact our office with questions regarding this Legal Update or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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