



County Superintendent May Exercise Special Fiscal Oversight Powers Over Reorganizing District Without a Showing of Fiscal Distress

In Polster v. Sacramento County Office of Education (Dec. 22, 2009 C059733) __ Cal.App.4th __ [2009 WL 4917139] the California Court of Appeal held that Education Code section 42127.6(j) gave the Sacramento County Superintendent of Schools discretion to stay implementation of a buyout plan approved by the Grant Joint Union High School District (“District”).

Effective July 1, 2008, the District was to unify with three elementary school districts to form a new district known as Twin Rivers Unified School District. In preparation for the reorganization, the District’s board passed a buyout plan that offered severance payments equal to 18 months salary to several senior administrative employees. The District’s board then notified the County Superintendent and requested him to authorize payment under the buyout plan. After conducting an investigation, the County Superintendent stayed implementation of the buyout plan on the grounds that it was contrary to the financial needs of the newly formed district.

The District and the administrators who had accepted the buyout petitioned for a writ of mandate requiring the County Superintendent to approve payments under the buyout plan. Petitioners did not dispute that, in certain circumstances, Education Code section 42127.6(e) gives a county superintendent the discretion to stay any action inconsistent with the financial obligations of that district. Petitioners contended, however, that the County Superintendent had no such discretion in this case because, prior to taking such extraordinary measures, the County Superintendent did not adhere to a “two-tiered review process” for finding the districts would be unable to meet their financial obligations set out in Education Code section 42127.6(a) through (d). The trial court agreed with the petitioners and granted the writ of mandate.

On appeal, the court examined section 42127.6(j) which grants county superintendents the authority to exercise “any of the powers and duties of this section” when districts are in the process of reorganization. The court found that subdivision (j) creates an exception to the usual two-tiered review process, granting a county superintendent discretion to act when a district is undergoing reorganization without a finding of fiscal distress.

Having established that the County Superintendent had discretion to act under the circumstances, the court then considered whether the County Superintendent abused that discretion when staying the buyout plan and refusing to authorize payment pursuant to its terms. The court found that he did not, relying in part on conclusions reached by administrators of the new Twin Rivers Unified School District, that the buyout plan would materially and negatively impact the new district’s ability to meet its financial obligations and the needs of students in the coming fiscal year, the knowledge and experience of the administrators subject to buyout were needed by the new district, and there would be very little off-setting savings generated by the buyout plan. The court further noted that the Office of the State Superintendent of Public Instruction, when notified of the County Superintendent’s intended action, stated that it would

defer to the County Superintendent's judgment concerning the exercise of authority granted by Education Code section 42127.6. Thus, the court found that the petitioners had failed to establish that the County Superintendent has a "clear, present and ministerial duty" to approve the payroll requests related to the buyout plan, and that they were not entitled to relief by way of mandate.

This case clarifies that, under Education Code section 42127.6, county superintendents may exercise special fiscal oversight powers over school districts in the process of reorganization, without a showing of fiscal distress. Further, the courts will defer to the judgment of county superintendents, unless their decisions are arbitrary, capricious or entirely lacking in evidentiary support.

Please contact one of our four offices if you have any questions regarding this case and its implications for your district.

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