

# CLIENT NEWS BRIEF

## California Supreme Court Rules Charter School Revocation Procedures Constitutional

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The California Supreme Court recently held that California's statutory revocation procedures for charter schools are constitutional and provide sufficient due process. In *Today's Fresh Start Inc. v. Los Angeles County Office of Education* (July 11, 2013) \_\_ Cal.4th \_\_ 2013 WL 3467070, the court clarified that its decision was specific to revocation procedures involving countywide charter schools. However, the decision supports the premise that the Education Code's revocation process provides due process to all charter schools, including those chartered by school districts.

Today's Fresh Start, Inc. (Today's Fresh Start) was granted a countywide charter by the Los Angeles County Office of Education (COE). Concerns arose regarding the charter school's operational and fiscal management. After presenting the charter school with written notice of the deficiencies, a 53-item Corrective Action plan, an opportunity to correct the violations and to address the County Board at a public hearing, the COE voted to revoke Today's Fresh Start's charter. The charter school appealed to the State Board of Education, which affirmed the revocation.

The California Supreme Court examined the constitutionality of Education Code section 47607's revocation procedures. Education Code section 47607 provides that, barring an imminent and severe threat to the health and safety of its pupils, charter schools must be given notice and a reasonable opportunity to remedy revocable violations. A public hearing must be held within 30 days of issuing a notice of intent to revoke the charter and the chartering authority must issue a final written decision within 30 days of the hearing. A decision to revoke a charter must include factual findings supported by substantial evidence. If, as in Today's Fresh Start's case, the county office of education is the chartering authority, the county board of education's revocation decision may be appealed to the State Board of Education.

Today's Fresh Start argued that it was denied due process in three respects: (1) the County Board was financially biased against the charter school; (2) the County Board's reliance on input from the COE prevented it from being unbiased; and (3) the charter school was given inadequate notice of the COE's case against it.

In order to ensure due process, decision makers may not have any financial interest in the process. The court found that the County Board had no financial bias against the charter school. Today's Fresh Start was not competing with any of the COE's programs because the charter school was running a kindergarten through eighth grade program serving the general student population while the COE's programs were specialized and structured principally for high school students. Also, County Board members did not have a personal financial interest in the success or failure of the charter school.

The court also determined that COE staff could advise the County Board of the County Board's obligation to determine whether one of its charter schools should be revoked. The court refused to characterize the revocation process as



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an adversarial process with one side (COE staff) versus another (the charter school). The court found that the County Superintendent of Schools, and her staff, had fulfilled its duty to advise the County Board throughout the revocation process, including determining whether to recommend initiating revocation proceedings in the first place. In this case, the chartering authority was not required to outsource charter school violation investigations and adjudications to maintain impartiality.

Finally, the California Supreme Court concluded that Today's Fresh Start was not entitled to a formal evidentiary hearing when provided with a revocation hearing. The charter school had been provided with the COE's evidence supporting the revocation and the charter school had an opportunity to respond well in advance of the public hearing before the County Board. Also, Education Code section 47607 does not require that county boards of education or school district governing boards "turn their regularly scheduled public meetings into formal evidentiary hearings."

This decision by the California Supreme Court helps guide chartering school districts and county offices of education in the unfortunate and limited occasions that charter revocation proceedings are needed.

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