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DISTRICTS OF RESIDENCE MAY LIMIT OUTGOING TRANSFERS TO DISTRICTS OF CHOICE

In Walnut Valley Unified School District v. Superior Court (2011) __Cal.App.4th ___, the court of appeal recently affirmed the ability of a school district to limit the number of students transferring out of the district to a "school district of choice" under the District of Choice program (Education Code § 48300 et seq.). In the first published appellate decision to address the issue, the court of appeal held that pursuant to Education Code section 48307, subdivision (b), a school district of residence with an average daily attendance ("ADA") of less than 50,000 may limit the number of students transferring out to a school district of choice to 3% of its current year estimated ADA or to 10% of the district's ADA for the duration of the District of Choice program.

Rowland Unified School District ("Rowland") filed an action against Walnut Valley Unified School District ("Walnut") to prevent Walnut from enrolling any students who resided within Rowland's boundaries for the 2010-2011 school year. Rowland argued that as a school district with an ADA of less than 50,000, the District of Choice program permitted it to limit students of residence from transferring out to school districts of choice. Specifically, Rowland asserted that under section 48307 subdivision (b), it could limit such outgoing transfers to 3% of the district's current year ADA, or 10% of the district's ADA for the entire duration of the District of Choice program. Under these parameters, Rowland argued that for the school years from 1995-1996 to 2009-2010, the district's ADA was 17,527.60 and, therefore, the maximum number of students who could transfer out to a school district of choice totaled 1,752.76 students (10% of 17,527.60). Between the 1995-1996 and 2009-2010 school years, 2,054 Rowland students had transferred out to surrounding school districts of choice, thus already exceeding the 10% cap.

Rowland also argued that the Los Angeles County Superintendent of Schools had determined that the district would not meet the criteria for fiscal stability for the subsequent fiscal year due to the impact of additional outbound District of Choice transfers pursuant. Under Education Code section 48307 subdivision (d), of the District of Choice program, a district of residence may limit the number of student transfers to school districts of choice when the county superintendent of schools determines that allowing such transfers will result in the district of residence not meeting the standards and criteria for fiscal stability.

The trial court disagreed with Walnut's interpretation of the statute. The trial court concluded that if the 10% cap was based on the current year ADA, the 3% cap based on the current year ADA would be superfluous. The trial court also found that additional transfers would impair Rowland's fiscal stability based upon the determination of the County Superintendent. Walnut appealed.

The court of appeal affirmed the trial court's decision, holding that the 3% ADA cap is an annual limit and the 10% ADA cap is a top limit based upon ADA over the course of the District of Choice program's existence. The court ruled that although the Legislature recodified the District of Choice program in 2004, and thereafter extended the program in 2007 and 2009, the District of Choice program originally commenced in 1993 when it was initially made law. As a result, the "duration of the program" refers to the District of Choice program's original effective date in 1993. Therefore, because Rowland had reached the 10% ADA cap leveled over the duration of the District of Choice program, it was entitled to prohibit any further outbound transfers to Walnut or other school districts of choice under the District of Choice program. Finally, because the court affirmed Rowland's utilization of the 10% durational cap to prohibit further District of Choice program transfers, the court declined to address whether Rowland also had a fiscal justification for refusing any more outbound transfers.

As a result of this decision, school districts with ADA of less than 50,000 should regularly review their ADA to determine if more than 3% ADA in the current year or 10% ADA over the duration of the District of Choice program's existence have transferred out of the district to a District of Choice. Districts may also want to contact the county superintendent of schools to determine if additional outgoing transfers to school district of choice would result in the district failing to meet fiscal stability standards. School districts with ADA of more that 50,000 also have the ability to limit District of Choice transfers to 1% of their current year ADA.

If you have questions regarding this decision, the District of Choice program, or other student transfer laws, please do not hesitate to contact one of our eight offices located statewide or consult our website.

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