

# ela annual report 2014

csba's education legal alliance



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California School Boards Association

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## ela steering committee 2014

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## ela staff 2014



**Keith Bray**

*Director, ELA | General Counsel, CSBA*



**Anita Ceballos**

*Legal Specialist*



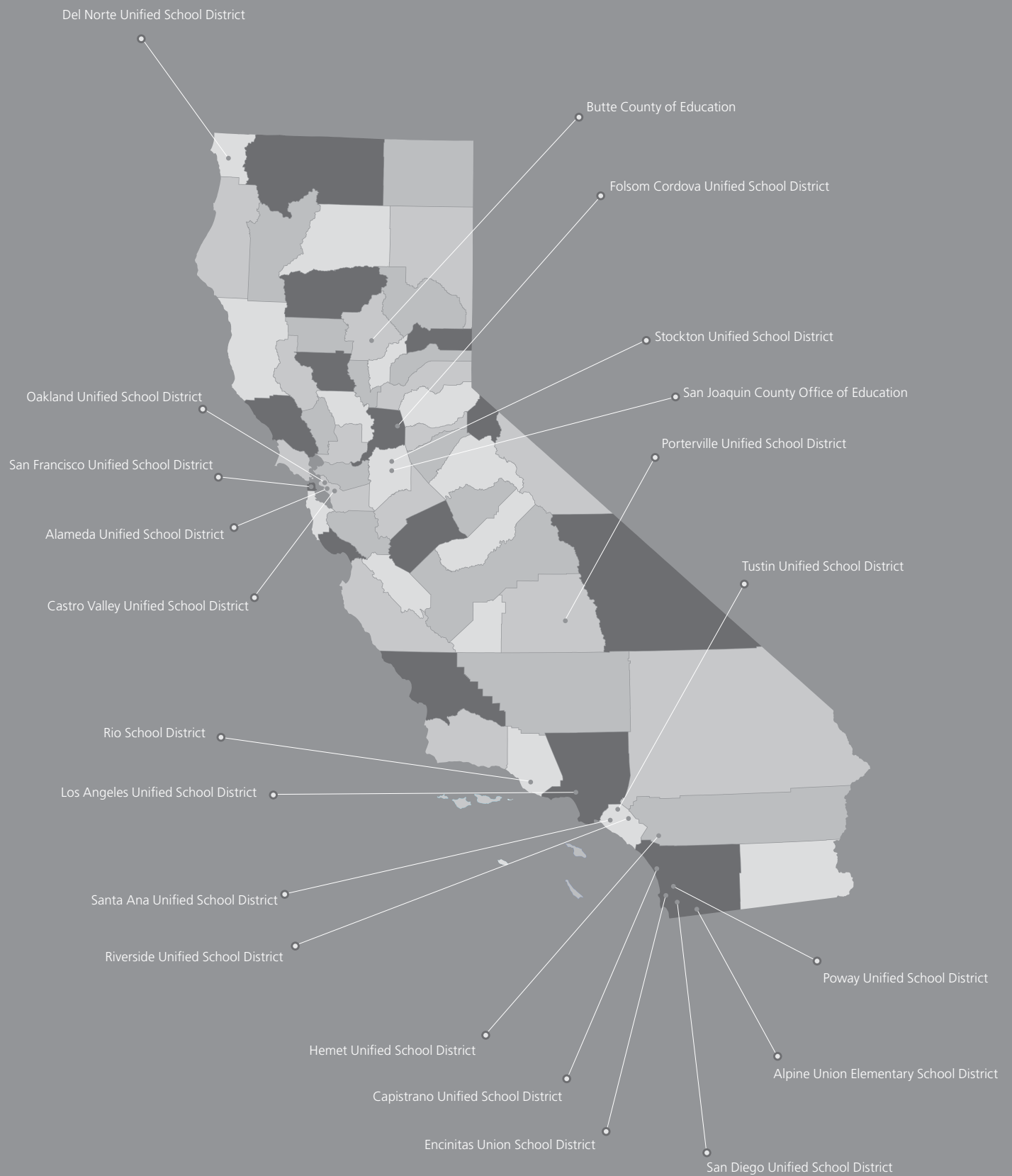
**Joshua Daniels**

*Staff Attorney*



**Mary Biehl**

*Administrative Specialist*



## we fight better when we stand together

### What is the Education Legal Alliance?

CSBA's Education Legal Alliance (ELA) is a consortium of school districts, county offices of education, and ROC/Ps that voluntarily joined together in 1992 to create a powerful force to pursue and defend a broad spectrum of statewide public education interests before state and federal courts, state agencies, and the legislature. The ELA initiates and supports legal activities in areas of statewide significance to all California schools. Working with school attorneys throughout the state, the efforts of the ELA has proven highly effective in protecting the interests of schools and the students they serve. Potential matters are reviewed and approved by a broad-based steering committee of board members, superintendents, and education leaders. There is also a legal advisory committee of noted school law attorneys to help provide legal analysis and recommendations to the steering committee.

The Education Legal Alliance is funded exclusively by contributions from its members, who are members of CSBA.

### What are the benefits of membership in the Education Legal Alliance?

- The ELA files amicus briefs and letters in support of its members on legal issues of statewide importance.
- The ELA initiates litigation on various issues of statewide importance and often looks to its members to serve as co-plaintiffs in those cases.
- The ELA weighs in on legislation that impacts its members.

"CSBA's Education Legal Alliance proudly serves California's schools, students and board members to protect and defend the critical issues facing public education today, including school funding, local control and accountability."

**Josephine Lucey**, *President, CSBA*

*At left:* Members with whom the ELA worked in 2014.

"In the past year, the Education Legal Alliance has monitored the fairness of statewide standardized tests, tracked teacher tenure and dismissal issues, and paid close attention to the requirement of 200 minutes of PE for elementary school students. We need to continue supporting the Education Legal Alliance and recognizing the important role it plays working on behalf of our districts, counties, and our students. The ELA is one of our major partners in representing the interests of the California public education community."

**Jesús Holguín**, *President-elect, CSBA*

## **current activities**





## Behavioral Intervention Mandate

*In Re Test Claim On: Education Code Section 56523 as added by Statutes of 1990, Chapter 959; and Title 5, California Code of Regulations, Sections 3001 and 3052 (2013) – Commission on State Mandates*

### *Member(s) Involved:*

Butte County of Education; San Diego Unified School District; San Joaquin County of Education

### *Summary:*

In 1994, Butte County of Education, San Diego Unified School District, and San Joaquin County of Education filed a test claim with the Commission on State Mandates regarding Behavioral Intervention Plans. In 2007, the ELA began funding the legal challenge. In April 2013, the Commission on State Mandates approved a formula, developed by the ELA, to reimburse local educational agencies for the costs associated with developing and implementing Behavioral Intervention Plans for designated special education students. Conservative estimates place the reimbursement to LEAs at over \$50 million per year for each year between 1993-94 and 2011-12 minus the setoff amounts beginning in the 2010-11 school year. Thus, the total reimbursement to school agencies could be as much as \$1 billion once the reimbursements are fully funded by the Legislature and governor.

### *Status/Outcome:*

The Commission on State Mandates ruled in favor of the ELA's position that Behavioral Intervention Plans were a mandate and, thus, the State must reimburse local educational agencies for the associated costs. The deadline to file initial reimbursements claims was November 21, 2013. Any claim filed after November 21, 2013, but by November 21, 2014, will be accepted but assessed a late penalty of 10%.

"CSBA's Education Legal Alliance successfully pursues and defends the broad spectrum of statewide public education interests in the courts and before state agencies. Working with school attorneys throughout the state, the Education Legal Alliance is a powerful force taking schools' side in the courts, and has proven highly effective in both saving and gaining schools literally millions of dollars."

— **Ron Bennett**, CEO of School Services of California, Inc.

## current activities



### School Finance

*Robles-Wong v. State of California (2011) Case No. A134423 – California Court of Appeal, 1st District*

*Member(s) Involved:*

Alameda Unified School District; Alpine Union Elementary School District (San Diego); Del Norte Unified School District; Folsom Cordova Unified School District; Hemet Unified School District; Porterville Unified School District; Riverside Unified School District; San Francisco Unified School District; Santa Ana Unified School District

*Summary:*

Education is a fundamental right under the California Constitution. The State has chosen to implement this right by adopting a standards-based education program that requires what all schools must teach and what all students are expected to learn. In May 2010, the ELA filed a lawsuit against the State of California requesting that the school finance system be declared unconstitutional and that the State be required to establish a school finance system that provides all students an equal opportunity to meet the academic goals set by the State. The ELA was joined in its lawsuit by a broad coalition of students and their parents, nine districts (see above), the Association of California School Administrators, and the California State PTA. Soon after the ELA filed its complaint, CTA also intervened as a plaintiff.

In response, the State “demurred,” which is a legal maneuver in which the defendant challenges the legal sufficiency of a complaint. The State’s main arguments in its demurrer were that the courts cannot enforce the constitutional right to an education, and that the separation of powers doctrine places the power to determine the sufficiency of the school finance system solely with the Legislature. The ELA and the other plaintiffs anticipated these arguments and filed a response. Unfortunately, the Alameda County Superior Court agreed with the State.

On appeal, the ELA and the district plaintiffs elected to join with a related case known as *Campaign for Quality Education v. California*, which was filed by Public Advocates, Inc. and others after *Robles-Wong* was filed.

*Status/Outcome:*

The joint appeal has been fully briefed, and we are awaiting oral argument.

“The ELA serves as the safety net that brings the weight of hundreds of local educational agencies together to support local issues. One example is the case of *Robles-Wong* where nine school districts banded together with the ELA to protect California’s students’ fundamental right to an education. Thanks to the expertise, experience and resources of the ELA, we are able to pursue this case to help defend our schools and students.”

— **Jill Wynns**, Member, San Francisco Unified School District Board and CSBA Past President



## Statewide Benefit Charter

*CSBA v. State Board of Education (2011) Case No. A136327 – California Court of Appeal, 1st District*

### *Member(s) Involved:*

Stockton Unified School District

### *Summary:*

The ELA challenged the 2007 approval by the State Board of Education (SBE) of Aspire Public Schools' statewide benefit charter petition because SBE had used an incorrect interpretation of the applicable law. Specifically, SBE failed to properly find that Aspire's program had a statewide benefit. The matter also included several procedural claims. The ELA was joined in this lawsuit by the following co-plaintiffs: the Association of California School Administrators, the California Teachers' Association, and Stockton Unified School District. In July 2010, the Court of Appeal ruled in favor of the ELA on the grounds that the ELA has presented claims that could be adjudicated.

In March 2012, on remand, the Alameda County Superior Court ruled in favor of the ELA and then in June 2012 issued a writ of mandate in favor of the ELA directing the SBE to set aside its approval of Aspire's statewide benefit charter and to use only policies and procedures that have been promulgated in compliance with the Administrative Procedures Act in its consideration of statewide benefit charter petitions. The Court gave the SBE one year to comply with its orders. Since that time, the ELA has agreed to a settlement on all but one issue. Under the terms of the settlement, Aspire agreed to surrender its statewide benefit charter status and pursue chartering all of its schools at the local level. Aspire also will be ineligible to seek a statewide benefit charter status for a five-year period. The SBE and Aspire agreed to pay the plaintiffs \$300,000 (\$150,000 each) in attorney fees and costs.

The outstanding issue pursued by the SBE concerns the process to consider statewide benefit charter petitions. The ELA's position is that the plain language of the law requires a formal hearing.

### *Status/Outcome:*

The issue has been fully briefed before the appellate court and we are awaiting oral arguments, which have not yet been scheduled.

## current activities



### Classrooms for Charter Schools

*California Charter School Association v. Los Angeles Unified School District (2014) Case No. S208611 – California Supreme Court*

*Member(s) Involved:*

Los Angeles Unified School District

*Summary:*

School boards across the State are charged with the legal duty to allocate reasonably equivalent facilities to charter schools operating within their boundaries, and to ensure that such facilities are shared fairly among all students attending both charter and traditional district schools. Specifically, state regulations require school districts to provide charter schools with classroom space that is reasonably equivalent to the space provided to its non-charter school students. In dispute here is whether a district must calculate its ratio based on available classrooms or on the actual classrooms being used. Los Angeles Unified School District used the latter and was sued. The case is now before the California Supreme Court.

The ELA, joined by the California PTA, filed an amicus brief in this matter. The ELA argued that charter school students should be given no greater access to classroom space than district students. Accordingly, school districts must be granted the discretion to declare classrooms as non-teaching spaces pursuant to Proposition 39's directive that facilities be "shared fairly."

*Status/Outcome:*

The case has been fully briefed and the parties are awaiting the California Supreme Court's notification for oral argument.

"School districts, county offices of education and ROC/Ps find great value in the expertise, experience and benefits in CSBA's Education Legal Alliance membership. Together we create a powerful force to protect the interests of schools and uphold the governance role of the board."

**—Dr. Lou Obermeyer**, *Retired Superintendent, Valley Center-Pauma Unified School District*



## Charter School Revocation

*American Indian Model Schools v. Oakland Unified School District (2014) Case No. A139652 – California Court of Appeal, 1st District*

### *Member(s) Involved:*

Oakland Unified School District

### *Summary:*

This case concerns Oakland Unified School District's decision to revoke the three charters granted to American Indian Model Schools ("AIMS") due, in part, to \$3.8 million in contracts benefitting businesses in which the founder/operator and/or his wife had a financial interest. Pursuant to Education Code section 47607(c), a charter may be revoked if, based on substantial evidence, the charter school (i) committed a material violation of any of the conditions, standards, or procedures set forth in the charter, (ii) failed to meet or pursue any of the pupil outcomes identified in the charter, (iii) failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement, or (iv) violated any provision of law. Subdivision (c) also states that the charter authorizer shall consider increases in pupil academic achievement for all groups of pupils served by the charter school as the "most important factor" in determining whether to revoke a charter.

The District considered increases in student achievement achieved by AIMS students (AIMS is one of the highest scoring charter schools in the state) but nonetheless decided to revoke after finding substantial evidence of conflicts of interest and self-dealing, fiscal mismanagement, and a lack of financial transparency. The District was assisted by an audit conducted by FCMAT which found (in addition to the alleged conflict of interest) that the charters failed to exercise adequate financial controls and to standardized accounting and recordkeeping procedures. On appeal, the Alameda County Board of Education upheld the revocation and AIMS further appealed its revocation to the State Board of Education (SBE). But before the AIMS appeal could be heard by the SBE, AIMS obtained a preliminary injunction in Alameda County Superior Court staying the revocation. As a result, the SBE declined to hear the appeal. The District filed a writ immediately challenging the injunction and filed an appeal as well. As a result, the litigation between AIMS and the District has involved three different procedural tracks: (i) the writ to the appellate court challenging the preliminary injunction, in which the ELA was not involved; (ii) the appeal to the appellate court challenging the preliminary injunction, in which the ELA was involved and filed an amicus brief; and (iii) the full hearing on the merits before the trial court, in which the ELA was not involved. The ELA filed its amicus brief in the appeal to the appellate court challenging the preliminary injunction in February 2014.

### *Status/Outcome:*

In June 2014, the appellate court heard oral arguments and, shortly thereafter, issued a decision against the District and the ELA. The Court upheld the preliminary injunction on the grounds that the trial court had properly exercised its discretion in issuing the injunction.

## current activities



### Mandate Redetermination and Offsetting Revenues

*CSBA v. State of California (2013) Case No. RG11554698 – Alameda County Superior Court*

*Member(s) Involved:*

Butte County of Education; Castro Valley Unified School District; San Diego Unified School District; San Joaquin County of Education

*Summary:*

The ELA has challenged the statutory scheme regarding mandate reimbursement by arguing that the scheme, as a whole, frustrates the right of reimbursement under the California Constitution. Districts and county offices of education are being required to provide services without a reasonable expectation of timely reimbursement. Plus, the procedures for reimbursement impose an unreasonable burden on the right to reimbursement. The case does not challenge the constitutionality of the mandate block grant explicitly, although as part of the statutory scheme it is included in the lawsuit. The lawsuit does explicitly challenge the statutes which allow the State to eliminate the reimbursement requirement by “redetermining” or reconsidering whether a mandate exists.

Because of subsequent changes in state law, the ELA has had to amend its complaint to challenge the various new tactics that the State has devised to avoid reimbursing districts and county offices of education for their mandate claims. One particularly egregious new tactic is to identify “offsetting revenues” as reimbursement for mandate claims. These offsetting revenues are revenues that districts and county offices of education would already receive; thus, districts receive no new or additional revenue under this tactic. The State has used offsetting revenues to avoid reimbursing districts and county offices of education for the Behavioral Intervention Plan and the High School Science Graduation Requirements mandates.

*Status/Outcome:*

The ELA amended its complaint in January 2014. In July 2014, the ELA served the defendants with a number of discovery requests. Depending on the discovery responses, the ELA may choose to file a motion to compel to force the defendants to respond to discovery or may choose to ask the courts to address the merits of the complaint, particularly as it relates to the constitutionality of offsetting revenues.

“Working together with the Education Legal Alliance we are challenging the statutory scheme regarding mandate reimbursement. Districts and county offices of education are being required to provide services without a reasonable expectation of timely reimbursement. Having the support and resources of the ELA to stand up on issues that are negatively impacting several districts and county offices across the state is critically important and extremely valuable.”

—**Mike Walsh**, Member, Butte County Board of Education and Member, CSBA Board of Directors



## Public Records

*Los Angeles Times v. Los Angeles Unified School District (2014) Case No. B251693 – California Court of Appeal, 2nd District*

*Member(s) Involved:*

Los Angeles Unified School District

*Summary:*

This case involves a public records act request ("PRA") by the Los Angeles Times to obtain the "Academic Growth over Time" scores that LAUSD developed as a "value-added" assessment tool to rate a teacher's classroom performance. The Los Angeles County Superior Court found that the "personnel exemption" in the PRA otherwise supporting a public employer's refusal to release confidential evaluative information about its employee's did not apply to AGT scores because the scores were simply an "objective statistical tabulation" devoid of subjective evaluative components. The court also found that the public interest in the obtaining the scores outweighed LAUSD's interests in maintaining the confidentiality of the scores. In a brief summary order, the Appellate Court upheld the decision by the Superior Court requiring the release of the scores.

LAUSD petitioned the California Supreme Court to review the decision and the ELA filed a letter in support of the request for review. The ELA argued that the interests of the district against disclosure outweighed any public interest in favor of disclosure. In January, 2014, the California Supreme Court remanded the case back to the appellate court.

*Status/Outcome:*

In July 2014, the appellate court generally held for the District and the ELA. The court held that the public interest in the AGT scores was met by LAUSD's publication of grade level aggregate scores. The court further held that the public had little interest in knowing individual teacher scores. The issue of the disclosure of the location codes is being remanded back to the trial court for resolution.

## current activities



### Separation of Church and State

*Sedlock v. Baird (2014) Case No. D064888 – California Court of Appeal, 4th District*

*Member(s) Involved:*

Encinitas Union School District

*Summary:*

The Encinitas Union School District began offering yoga as an alternative to physical education at one of its school sites during the 2011-2012 school year. In 2012-2013, based upon the positive results of the pilot program the year before, all nine of the District's schools began offering yoga as well as traditional physical education for the number of minutes required by state law. The District developed a secular curriculum for the yoga class by removing any cultural references and by omitting Sanskrit language and characters. For example, the "lotus" position was renamed the "crisscross applesauce" position. Following issues raised by a few parents during the "pilot" year, the District permitted parents to have their children opt out of the yoga class. In 2012-2013, 19 of 800 students chose to opt out.

Nonetheless, two parents sued to school districts on the grounds that the Yoga class violated the First Amendment's requirement to separate government and religion. The San Diego Superior Court conducted a six-day court trial and found that, although yoga was "religious," the curriculum developed by the District did not advance religion because it was being taught without any connection to Hinduism or to other religions. The court also found that the "moral teachings" included in the curriculum were "universal" and that the District's purpose in providing the class, to improve the health and wellness of its students, was secular in nature and without any "excessive entanglement" with religion. The parents have appealed the ruling.

*Status/Outcome:*

The ELA filed an amicus brief in this matter in October 2014. The case has been fully briefed and the parties are awaiting the appellate court's notification for oral argument.



## Jurisdiction of the Education Audit Appeals Panel

*In the Matter of Oakland Unified School District 2010-11 Audit (2013) OAH No. 2013-090123 – Education Audit Appeals Panel*

### *Member(s) Involved:*

Oakland Unified School District

### *Summary:*

The 2010-11 audit of Oakland Unified School District by the State Controller's Office resulted in a number of adverse findings. The District decided to appeal seven findings to the Education Audit Appeals Panel (EAAP) and, as is typical, assigned the matter to an Administrative Law Judge (ALJ).

Four of the seven findings were particularly problematic. These four findings improperly forced the District to transfer over \$10 million from its General Fund to its Building Fund, erroneously questioned the District's fiscal solvency, and inaccurately asserted that the District had not spent enough money on classroom instruction. Collectively, the four findings also impacted the District's ability to receive a credit rating, despite recently receiving voter approval on a bond measure.

In response, the State Controller's Office asserted that EAAP did not have jurisdiction to hear the appeals of the four findings, which would have meant that the District's only recourse was to file a lawsuit in Superior Court, a much more expensive and time-consuming process. The basis for the Controller's position was that EAAP only has jurisdiction to hear those appeals where the District is required to repay state school funds to the state.

The District contested the Controller's position and the ELA submitting a letter in support of the District's position in January 2014. The ELA's letter urged a broad grant of jurisdiction for EAAP that would provide school districts with a process to appeal audit findings that was less expensive and more efficient than going directly to Superior Court. The ELA also argued that the plain language of the relevant statutes and their legislative history along with policy considerations and EAAP's precedential decisions supported its position.

### *Status/Outcome:*

In May 2014, the ALJ ruled in favor of the District and the ELA, finding the EAAP has a broad grant of jurisdiction and allowing the appeal of all seven audit findings to proceed.

"On behalf of Oakland USD and all districts contemplating audits appeals, I want to thank the Education Legal Alliance for their support. The decision by the ALJ to find broad jurisdiction for the Education Audit Appeals Panel helps not only Oakland but any district that might have an inaccurate or misleading audit finding."

— **Jacqueline Minor**, General Counsel, Oakland Unified School District Board

## current activities



### Limitation of Public Contract Code Section 7107

*Rio School District v. FTR International, Inc. (2014) Case No. B238618 – California Court of Appeal, Second District*

*Member(s) Involved:*

Rio School District

*Summary:*

The issues in this case revolve around the interpretation of what a bona fide “dispute” means in Public Contract Code section 7107. Here, the Rio School District withheld over \$600,000 in response to stop notices filed by subcontractors on a new elementary school construction project. Although the withholding did not exceed the 150% withholding limit imposed by section 7107, the court ruled that Rio School District had an ongoing obligation to release the funds once any of the underlying “disputes” went away. However, this decision disregards the clear meaning of section 7107, and places an unreasonable burden on the public agency to determine if and when a dispute goes away. The District has appealed the ruling by the Ventura County Superior Court.

The ELA filed an amicus brief supporting the District’s position in June 2014. The ELA argued, among other things, that the ruling by the trial court would undermine the purpose of section 7107, which is to encourage public entities such as school districts to timely pay general contractors and provide general contractors with a remedy when the public entities fail to pay.

*Status/Outcome:*

The case has been fully briefed and the parties are awaiting the appellate court’s notification for oral argument.



## California Environmental Quality Act Categorical Exemptions

*Berkeley Hillside Preservation v. City of Berkeley (2014) Case No. S201116 – California Supreme Court*

### *Member(s) Involved:*

Not applicable

### *Summary:*

This case involves the application of the significant effects exception to the California Environmental Quality Act (CEQA) categorical exemptions. Berkeley Hillside Preservation filed a petition for writ of mandate challenging the City of Berkeley's approval of use permits to construct a large residence on property inside the city limits. The Alameda County Superior Court denied the petition finding that the proposed construction was categorically exempt under CEQA. The First Appellate Court reversed the judgment and ordered the trial court to issue a writ of mandate directing the City to set aside its approval of use permits and its finding of a categorical exemption, and to order the preparation of an Environmental Impact Report.

If the plaintiff prevails, it will provide opponents of public construction projects an easier method to challenge a categorical exemption for a project by eviscerating the "unusual circumstances" exception. As a result, school districts, county offices of education, and other public agencies may be forced to undertake (i.e., pay for) additional environmental analyses in order to justify the use of any categorical exemption. School districts and county offices of education commonly use the categorical exemption to permit the placement on school grounds of up to 10 classrooms including portables.

In January 2013, the ELA filed an amicus brief in this matter. The brief was joined by the Regents of the University of California and the Board of Trustees of the California State University. The brief argues that to hold that simple allegations of significant impacts are per se "unusual circumstances" would effectively halt the use of categorical exemptions by school districts, county offices of education, and other public agencies. This would be contrary to CEQA's intent and purpose.

### *Status/Outcome:*

The case has been fully briefed and oral argument has been scheduled before the California Supreme Court on December 2, 2014.

## current activities



### Special Education Attorneys' Fees Award

*C.W. et al. v. Capistrano Unified School District (2013) Case No. 12-57315 – Federal Court of Appeal, Ninth Circuit*

*Member(s) Involved:*

Capistrano Unified School District

*Summary:*

This case is an appeal of a decision by the United States District Court, Central District, awarding attorney's fees to the Capistrano Unified School District in regards to a parent's lawsuit against it that the court found to be frivolous, unreasonable, and without foundation. The court found that the plaintiffs pursued the case for the improper purpose of harassment, unnecessary delay, and needlessly increasing litigation costs. The parent has appealed.

ELA filed its amicus brief supporting the District on August 1, 2013. The ELA argued that the District Court properly exercised its discretion. While rare, the ability of the District Court to award attorney's fees to the defendant is necessary to prevent abuse of special education laws.

*Status/Outcome:*

The Ninth Circuit heard oral arguments on August 5, 2014. A decision by the Court could take anywhere from three months to a year.



## Special Education Issues Including Attorney's Fees Award

*T.B. v. San Diego Unified School District (2013) Case No. 12-56060 – Federal Court of Appeal, Ninth Circuit*

*Member(s) Involved:*

San Diego Unified School District

*Summary:*

This case involves a number of special education issues of statewide importance, including the grounds for awarding of attorneys' fees under the Individual with Disabilities in Education Act (IDEA), the impact of settlement offers made before a due process hearing, compliance with the IDEA when dealing with families who remove students from school, the required elements for bringing a claim under the Americans with Disabilities Act or the Rehabilitation Act, and the importance of good faith on the part of district employees. The district court ruled for the school district, but a decision from the Ninth Circuit on any or all of these issues is likely to play a big part in a school district's or county office's determinations of how to respond when special education students are dissatisfied with their accommodations.

The ELA filed an amicus brief in this matter in March 2013. The ELA argued that the plaintiffs misinterpret the requirements under IDEA. For instance, the plaintiff's legal position would essentially create an automatic right to money damages even when there was no mention of FAPE.

*Status/Outcome:*

Oral argument was set for February 4, 2014. However an order issued on January 10, 2014, removing the case from the calendar due to the recusal of the panel assigned. Oral arguments were then rescheduled and heard on July 9, 2014. A decision could take anywhere from three months to a year.

## current activities



### Special Education Services for Deaf or Hard of Hearing Students

*K.M. /D.H. v. Tustin Unified School District/Poway Unified School District (2013) Case No. 13-770/13-777 – U.S. Supreme Court*

*Member(s) Involved:*

Poway Unified School District; Tustin Unified School District

*Summary:*

In August 2013, the Ninth Circuit Federal Appellate Court held that the requirements of the Americans with Disabilities Act ("ADA") trumped the requirements of the Individuals with Disabilities in Education Act ("IDEA"), which governs special education services. The decision is contrary to other decisions that have found that for students with disabilities outside of their IEP (e.g., 504 students) a district that complies with the procedural and substantive requirements of the IDEA will have necessarily complied with federal ADA requirements.

The ELA filed a brief in support of the District's writ to the U.S. Supreme Court to hear the case. The ELA argued that the Ninth Circuit improperly held that the IDEA trumps the ADA as it relates to the provision of special education services to deaf or hard of hearing students. The ELA also argued that the Ninth Circuit ruling would alter the established practice of IEPs. For these reasons and others, the ELA urged the Court to hear the appeal.

*Status/Outcome:*

In March 2014, the California Supreme Court denied the request by the districts, NSBA and the ELA to hear the case. As a result, the Ninth circuit's decision stands.



## Special Education Services to Incarcerated Adults in County Facilities

*Los Angeles Unified School District v. Garcia (2013) Case No. S199639 – California Supreme Court*

### *Member(s) Involved:*

Los Angeles Unified School District

### *Summary:*

At issue in this case is a determination of which public entity is responsible to provide special education services to qualifying adults ages 18 to 22 who are incarcerated in county jails. Prior to this case, there was no controlling authority addressing the application of Education Code Section 56041 to incarcerated students in need of special education services. The federal appeals court sent the issue to the California Supreme Court to decide the “authoritative answer to California’s educational agencies.”

On September 6, 2012, the ELA filed an amicus brief in support of Los Angeles Unified School District’s position that the State is responsible for providing special education services to incarcerated adults between the ages of 18 and 22. Specifically, the ELA argued that California law simply does not delegate responsibility for providing special education services to eligible students in adult county jails, and—absent such delegation—that responsibility should default to the State. Oral argument was heard by the Supreme Court in October 2013.

### *Status/Outcome:*

In December 2013, the California Supreme Court ruled against the District and the ELA. The Court held that although the Legislature has specifically designated the entity responsible for providing special education and related services to eligible pupils residing in various institutional settings such as juvenile court schools, it had not adopted a comparable statute applicable to the county jail setting. In the absence of such legislative action, the assignment of responsibility for providing special education to eligible county jail inmates between the ages of 18 and 22 years is governed by the terms of Education Code Section 56041, thus placing the responsibility to provide services to special education students in county facilities on the school district where the parents or guardians reside.

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