



LAW OFFICES OF SPECTOR, MIDDLETON, YOUNG & MINNEY, LLP

MAY 11, 2006

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Dr. Alan Newell
Interim Superintendent
RIVER DELTA UNIFIED SCHOOL DISTRICT
445 Montezuma Street
Rio Vista, CA 94571

VIA: REGULAR AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Re: Liability Protection for Charter School Authorizers

AMANDA J. MCKECHNIE
VICTORIA K. LIN
JESSICA ADAMS ROBISON
TIMOTHY M. WEIR
JERRY W. SIMMONS
ADAM J. SUSZ
CHASTIN H. PIERMAN
JULIE D. ROBBINS
JAMES L. SHEA
SHANNA M. MCDANIEL

Dear Dr. Newell:

The purpose of this letter is to describe the protection of a charter authorizer from the debts and obligations of one of its charter schools. The first layer of protection is statutory. Education Code Section 47604(c) states as follows:

“An authority that grants a charter to a charter school to be operated by or as a nonprofit public benefit corporation is not liable for the debts or obligations of the charter school, or for claims arising from the performance of acts, errors, or omissions by the charter school, if the authority has complied with all oversight responsibilities required by law, including, but not limited to, those required by Section 47604.32 and subdivision (m) of Section 47605.”

As the Clarksburg Charter School is operated by a nonprofit public benefit corporation, the statutory protection granted under Education Code Section 47604(c) shall apply to protect its charter authorizer.

The second layer of protection is typically done through a Memorandum of Understanding (“MOU”) between the charter authorizer and the charter school. It is common for a charter school to provide for the indemnification and defense of its charter authorizer in the MOU, and it is also common for a charter school to name its charter authorizer as an additional insured on all insurance of the charter school. Further, the MOU provides a vehicle to document its compliance with its oversight obligations as provided by law.

Accordingly, the Clarksburg Charter School can enter into an MOU with the District to provide additional assurances regarding protection from liability including the indemnification and defense of its charter authorizer and naming the charter authorizer as an additional insured.

Dr. Alan Newell

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May 11, 2006

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It is worth noting that we are unaware of any instance where a charter authorizer has been held liable for the debts and obligations of a charter school.

Please feel free to give me a call if you should have any questions regarding this matter.

Sincerely,

LAW OFFICES OF SPECTOR,
MIDDLETON, YOUNG & MINNEY, LLP



JERRY W. SIMMONS