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July 9, 2014

**CONFIDENTIAL**  
**ATTORNEY-CLIENT PRIVILEGE**

**VIA E-MAIL ONLY**

Re: **School Districts' Enforceable Duty to Protect Students  
Against Bullying  
Hector F. v. El Centro Elementary School District et al.**

On June 24, 2014, the California Court of Appeal in the Fourth Appellate District held that a public school district's duty to protect students from discrimination, harassment and bullying is enforceable by a writ of mandate.

The facts of the particular case involved a student who was diagnosed with a number of emotional disabilities, and was not a native English speaker. It was alleged that the Student was forcibly restrained by other students, beaten, kicked, and forced to endure derogatory comments, epithets and ethnic slurs. The Parent learned of the abuse in December of the Student's seventh grade year, and reported physical injuries sustained by the Student to the Student's teacher and the vice principal of the school. Although the vice principal took photographs of the Student's injuries, the Student continued to be harassed and bullied. The Student subsequently filed "Incident Reports" in April and May of the same school year, identifying the students who had been harassing him and describing the harassment in detail. Finally, in response to a letter from the Parent, the principal met with the Parent and suggested that the Student be removed from the only bilingual classroom at the middle school. The proposal was rejected by the Parent.

The lawsuit alleged the District violated the antidiscrimination and anti-harassment statutes, and sought an order compelling the District to comply with its statutory obligations to protect students from discrimination and harassment under the Government Code and the Education Code. The Parent specifically alleged that the District had neither adopted nor implemented comprehensive safety plans for its schools, as required by Education Code section 32282, that include a discrimination and

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harassment policy consistent with the prohibitions against discrimination (Education Code section 201) and bullying (Education Code section 3282). The Parent's petition for a writ of mandate alleged that school officials failed to intervene and provide protection for the Student upon receipt of the Parent's complaints about the abuse, responding only with a suggested change of classroom for the Student.

Before the legal proceedings commenced, the Student matriculated to a separate high school district, and the District argued that the Parent did not have standing to assert any violation of the statutory provisions regarding discrimination and harassment. The trial court sustained the District's argument and entered judgment in favor of the District on the Parent's individual claims.

The appellate court held that the Parent's attempt to enforce the antidiscrimination and anti-harassment statutes adopted by the Legislature falls squarely within the public interest exception when the enforcement of a public duty is sought. Indeed, the Court found that the Parent has standing to seek enforcement of laws in which there is an identified public as well as private interest.

As stated by the appellate court, the statutory provisions at issue "articulate a well identified public interest in maintaining a system of taxpayer funded public education which is free of the destructive influence of discrimination, harassment and bullying". The appellate court found that the Legislature has imposed on public schools an affirmative duty to protect public school students from discrimination and harassment based upon race, gender, sexual orientation or disability and found no competing interests which outweigh the public interest in enforcing the anti-bullying statutes.

Very truly yours,



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