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Illinois Appellate Court Issues Significant Ruling Interpreting Changes to School Code Regarding Boundary Change Petitions

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The Appellate Court of Illinois, Second District, recently announced a significant school law decision regarding school district detachment and annexation petitions.

In a case of first impression interpreting 2016 amendments made to Section 7-6 of the School Code, the decision in *Charles Shephard et al v. Regional Board of School Trustees of De Kalb County et al*, 2018 IL App (2nd) 170407, held that regional school boards or regional boards of school trustees must first determine if there would be a significant direct educational benefit to the petitioners' children if the petition were granted before considering other factors, such as the community-of-interest and whole-child factors.

In October of 2016, the Regional Board of School Trustees of DeKalb County (the Regional Board) conducted a hearing to determine whether to grant or deny a petition filed by 12 DeKalb County residents seeking to detach their properties from the boundaries of DeKalb Community Unit School District No. 428 (the DeKalb District) and annex them into the boundaries of Sycamore Community Unit School District No. 427 (the Sycamore District). Having stipulated that the educational programs of the respective school districts were comparable, the Plaintiff's evidence at the administrative hearing focused largely on the level of involvement the families living in the area proposed to be detached had with the community of Sycamore over DeKalb. They also raised health concerns associated with a single incident involving the release of carbon monoxide fumes from a landfill being worked on by a contractor near the DeKalb elementary school serving their neighborhood as well as safety concerns associated with that same school being located off of a busy road. The Regional Board denied the petition, finding no evidence to support a significant direct educational benefit inuring to the Plaintiffs' children were the petition granted.

On administrative review, the Circuit Court of DeKalb County affirmed the Regional Board's decision. The Plaintiffs appealed from that order.

In affirming the Regional Board's decision, the Appellate Court rejected Plaintiffs' argument that regional boards and reviewing courts were still required to use the multi-factored benefit/detriment test relied upon by the courts prior to the 2016 amendments in reaching a decision. Instead, the court noted that the 2016 amendments created a "stark difference" in how decisions were to be made in these cases. Rather than consider a multitude of factors simultaneously, a decision first had to be made on the threshold question of significant direct educational benefit to the petitioners' children. Absent this showing, other factors, such as the community of interest and whole-child factors, need not be considered. The court did not go so far as to announce any particular test for determining when a significant direct educational benefit may exist for purposes of boundary change petitions. However, the case does establish that an isolated incident that is unlikely to reoccur, such as the release of fumes in this case, or the location of a school on a busy street, is not enough.

The Appellate Court also upheld the longstanding position of the courts that regional boards are not required to make extensive written findings, provided the decision is sufficient to support court review. In this case, the Regional Board was faced with a single decision to make—whether the Plaintiffs' children would receive a significant direct educational benefit if the petition were granted. Prior to the 2016 amendments, regional boards also were presented with a single issue to decide—whether the requested boundary change is in the best interests of the schools in the area and educational welfare of the students. The change in the nature of the question to be decided did not disturb case precedent as to how extensive written findings of the regional boards need to be when announcing their decisions. A statement that reflected the finding required to be made by the School Code was enough.

Finally, the Appellate Court made clear that when arguing boundary change petitions, the parties need to keep focused on the statutory provisions applicable to the character of the school districts involved. Here, Plaintiffs attempted to argue that the Regional Board had a duty to consider the "will of the people" as reflected in the signatures supporting the boundary change petition. The "will of the people" consideration, however, only applies to boundary change petitions involving special charter schools—a classification that did not apply to either the DeKalb District or the Sycamore District. The Appellate Court, therefore, summarily dismissed this claim.

A Hinshaw legal team led by Kathryn Vander Broek, Yashekia Simpkins, Carson Griffis, and Josh Vincent successfully argued the case on behalf of the DeKalb Community Unit School District 428. Please contact them should you have any questions regarding school boundary change petitions.

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