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Charter School Officials Pursuing Defamation Claims

While there has been disagreement among jurisdictions as to whether public school principals and teachers are to be considered public officials when analyzing defamation claims, there has been overwhelming agreement that public school superintendents and board members do indeed merit the designation of a public official. However, until now, this widely accepted court holding has not been expanded to include charter school officials

The California Court of Appeal's recent decision in Ghafur v. Bernstein (2005 WL 1910135), a defamation case involving a plaintiff who was a charter school principal, clarifies that charter school officials will, in most cases, be considered public officials.

How does this classification affect charter school officials? Generally, a private individual establishes a prima facie defamation case by demonstrating that a false statement was made, either intentionally or unintentionally, to at least one person other than the complaining individual, that caused injury to his or her reputation. (Cal Civil Code §48a(2).) Charter school principals and board members, when suing a person or entity for libel or slander, are now required to make a much more difficult showing; they must be able to meet the burden of producing "clear and convincing" evidence that the named defendants acted with actual malice in making the challenged alleged defamatory statements. Essentially, charter school principals have to prove that the defamatory statements were made with knowledge of their falsity or reckless disregard for the truth, a burden that requires a much stronger evidentiary showing than what a private individual would have to demonstrate, mere negligence.

In Ghafur v. Bernstein, plaintiff, a principal of a charter school, sued the Anti-Defamation League of B'nai B'rith (ADL), ADL's Regional Board Director, and the ADL's Regional Board Chair for libel based on statements made in a letter written on behalf of the ADL to the Department of Education Superintendent urging an investigation into the charter school principal's supposed links to an Islamic terrorist organization and a suspension of public funding for the charter school system the plaintiff managed. The principal claimed that the letter was maliciously false and defamatory in stating that she was an officer of anti-Semitic Islamic extremist group and in linking her to the alleged terrorist organization. The trial court dismissed her action. The principal subsequently appealed the lower court's ruling.

The primary issue on appeal was whether plaintiff was a public official, thereby making it necessary for the principal to produce "clear and convincing evidence" that the challenged statements were made with actual malice. The court acknowledged that, "public officials are held to a different rule than private individuals because they assume a greater risk of public scrutiny by seeking public office." Further, the court noted that

public officials “generally have greater access to channels of effective communication to rebut false charges.”

Moreover, the court reasoned that the governance of a public school is of “utmost importance to a community” and that residents normally scrutinize school board policies. The court also noted that controversial actions of public school officials constitute major news in the local paper. Additionally, the court cited to the U.S. Supreme Court case Brown v. Board of Education in stating that “[E]ducation is perhaps the most important function of state and local governments.” Consequently, it was held that there was a manifestly strong public interest in open discussion of the principal’s job performance and fitness for the position.

Therefore, in light of the court’s holding in Ghafur v. Bernstein, it is highly likely that charter school officers and directors, including those considering becoming charter school officers and directors, should be advised that they will be entitled to a lesser degree of protection in terms of being able to recover damages against another based on claims of defamation.

If you should have any questions regarding this update, please contact Paul Minney (pminney@smymlaw.com) or Marisa Rubitz (mrubitz@smymlaw.com) at the Law Offices of Spector, Middleton, Young & Minney, LLP at (916) 646-1400.

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