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LEGAL UPDATE

CALIFORNIA SUPREME COURT UPHOLDS BROAD READING OF DISABILITY LAWS

In a recent decision, the California Supreme Court stated that California's Fair Employment and Housing Act (FEHA) provides broader protection for individuals with disabilities than does the federal Americans with Disabilities Act (ADA). Consequently, California employers should reexamine employee policies, procedures, and practices to ensure compliance with legal obligations in this area of the law.

In *Colmenares v. Braemar Country Club* S098895 (Cal. February 20, 2003) the California Supreme Court addressed the issue of what constitutes a disability for purposes of FEHA in light of the federal ADA standards. Under the federal ADA, an employee must be "substantially limited" in a life activity to be eligible for reasonable accommodation. The California Supreme Court stated that FEHA does not contain the word "substantial" as does the federal ADA. The California Supreme Court therefore concluded that California law provides broader protections for individuals with disabilities. As a result of the Court's decision, individuals with a condition that affects a life or work function may be considered disabled under California law, even if that condition does not substantially limit a life function as required under federal law. Thus, an individual with disabilities who may not qualify for reasonable accommodation under the federal ADA may still qualify for reasonable accommodation under FEHA.

The Court's decision will have far-reaching implications for California employers. The lower threshold of what constitutes a disability for purposes of California law will remove many arguments over whether an employee is disabled and therefore entitled to FEHA protection.

California charter schools should take this opportunity to review current policies and procedures pertaining to reasonable accommodation of disabled individuals to ensure that they comport to California law rather than the federal ADA. Charter schools should also train and advise administrators to take seriously all requests for reasonable accommodation and to investigate immediately all claims of disability discrimination.

The *Colmenares* decision underscores the point that adhering to the federal ADA is only a minimum, and complying with only the federal ADA guidelines pertaining to handicap accessibility in charter school facilities and reasonable accommodation in charter school employment may not be sufficient for full legal compliance as California law often exceeds the federal ADA in protecting individuals with disabilities.

If you should have any questions regarding this update, please contact Jim Young (jyoung@smymlaw.com) or Phillip Murray (pmurray@smymlaw.com) at the Law Offices of Spector, Middleton, Young & Minney, LLP at (916) 646-1400.