

YM&C Files Lawsuit to Challenge Constitutionality of Student Defunding Law (SB 98 Litigation)

This week, YM&C filed a groundbreaking lawsuit against the State of California, the Governor, the State Superintendent of Public Instruction, the State Controller, and the California Department of Education on behalf of a diverse coalition of plaintiffs, including John Adams Academies, Fortune School, Voices College-Bound Language Academies, and Sycamore Creek Community Charter School, as well as nineteen California public school students attending these charter schools (the “Plaintiffs”). The lawsuit, *Samaiya Atkins v. State of California*, challenges the constitutionality of the student defunding provisions in SB 98, the education budget trailer bill signed into law last month (the “Student Defunding Law”). The Student Defunding Law harms all growing public schools, both charter and district, and stands to deeply strain the budgets of many growing enrollment charter schools in 2020-21. As a result, thousands of students’ educations will be harmed.

Through this lawsuit, YM&C is helping its school clients and their students fight back against a funding scheme that is unconstitutional and which frustrates the important work charter schools like the Plaintiffs do to provide their students with an excellent public education.

Why is the Student Defunding Law a Problem?

The Student Defunding Law creates severe adverse impacts on charter schools and school districts with student growth by freezing ADA for apportionment purposes in 2020-21 at the attendance levels schools recorded in 2019-20, as of the P2 cut-off - February 29, 2020. This means that each newly enrolled student in 2020-21 who surpasses the ADA count as of February 29, 2020 will have their education funded at zero dollars under the LCFF, and therefore, their education will be defunded. For example, at schools that are growing a grade each year or that experience enrollment growth as a result of moving to a larger permanent facility, all of their new students are defunded by the Student Defunding Law. The defunding of new students is having a significant negative impact on some growing enrollment schools, even threatening their viability to remain open during the school year.

For example, Sycamore Creek is doubling its enrollment this next year as it adds another grade level in its second year of operation and adds more students. But, because of the Student Defunding Law, Sycamore Creek will only be funded for approximately fifty (50) percent of their students. Because their 2020-21 apportionment will be calculated off of last year’s ADA, but that funding must be used to educate all of their students this year, Sycamore Creek’s average LCFF funding per student will be approximately \$5,000 per student. Similarly, John Adams Academies is growing at one of its schools, from a little over 200 students as of 2019-20, to over 800 students in 2020-21, due to a planned move out of portable classrooms into a permanent facility. Like Sycamore Creek, because this school will only be funded based on the ADA it recorded last year, it will be forced to use funding commensurate with educating slightly more than 200 students to serve over 800 students this year – equating to little more than \$2,500 per student.

From the perspective of our Student Plaintiffs, the disparity in funding is unconstitutional for several reasons. First, it violates their right to equal protection under the law where, as here, the State is

funding some students' education at 0% because they attend a growing enrollment school, while fully funding students at schools with flat enrollment, or more than fully funding students at schools with declining enrollment. Second, funding students' education at anything less than 100% compromises their ability to receive even a basic public education because it means that the quality of their education will be below the prevailing standard the State is obligated to provide to all students. Failing to fully fund students will have an especially inordinate negative impact on low-income students, students of color, English Learners and special education students who are subject to a significant achievement gap, as measured by state tests, and often need more support and resources at their schools to overcome the roadblocks they face.

The Issue Before the Court

Students in the State of California have a fundamental right to a public education at the prevailing statewide standard, on equitable terms with their peers. The real and appreciable impairment of any fundamental right (i.e., education) is subject to strict scrutiny review by the courts. This means that in order to preserve the Student Defunding Law, the State must demonstrate not only that it has a compelling state interest in order to infringe on the fundamental right to public education but that its policy decision behind the Student Defunding Law was necessary to achieve a compelling State interest. We do not believe the State will be able to meet that heavy burden. Although this case is the first of its kind in California to address the defunding of students' educations, it follows in the path of previous California cases that have protected the fundamental right to a public education against similar inequitable treatment the State is applying here. Namely, the funding disparities here are much greater than funding disparities previously held unconstitutional by the California Supreme Court in the seminal 1971 case *Serrano v. Priest*, which led to the dismantling of the then-existing education funding scheme because it funded students' educations inequitably, based on the wealth of their community.

What Your School Can Do to Help

If you are a growing enrollment school and would like to help this litigation effort, please contact Jerry Simmons or Paul Minney (below). There are many ways you can help. For example, if you are willing to share your school's story of how the Student Defunding Law is impacting your school and its students with media outlets in your area, this will help us increase pressure on the Legislature to #FundAllKids.

How Do I Learn More?

[Click here](#) to read a copy of the complaint.

[Click here](#) to see the press conference held Tuesday that announced the lawsuit and to hear the stories of the school plaintiffs, a civil rights organization supporting the case, and a student whose education is in danger of being defunded and severely impacted.

[Click here](#) to see a television news story about the lawsuit.

[Click here](#) to see the article in EdSource about the lawsuit.

For More Information

If your school is impacted by the Student Defunding Law, please let us know if we can help. You can email Jerry Simmons (jimmmons@mycharterlaw.com) or Paul Minney (pminney@mycharterlaw.com) or call us at 916-646-1400.