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## Location, Location, Location!

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## Goals for Presentation

- Discuss current litigation regarding facilities location
- Discuss tips for avoiding litigation, responding to threats of litigation, and strengthening your current position
- Consider what's next by way of litigation, legislation, and/or regulatory action

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*Newhall School District v. Acton-Agua Dulce Unified School District and AEALAS, aka Albert Einstein Academy For Letters, Arts and Sciences, Inc.*

## LOS ANGELES SUPERIOR COURT, CASE NO. BS149061

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- Site based charter school
- One site located outside boundary of authorizer in Newhall School District
- One site located within boundary of authorizer
- Authorizer has no facilities within the District to house entire charter school
- Charter was unable to find facility to house entire program in granting agency




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SUMMARY OF CASE DECISION

- Newhall filed a writ in June 2014 challenging the approval and location of site-based charter schools authorized by AADUSD. The action alleged that AADUSD improperly approved the charter schools' petitions for financial reasons, and that the charter schools failed to comply with the requirements in Education Code sections 47605(a)(5) and 47605.1(d), which allow a charter school to locate outside its authorizer's boundaries under certain circumstances.




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- On October 9, 2014, the Court found that AADUSD did not make the necessary findings to support its approval of the AEALAS' charter petition so as to allow the school to locate outside AADUSD's boundaries pursuant to Education Code sections 47605(a)(5) and 47605.1(d). Based on this finding, the Court returned the matter to AADUSD for a public hearing and findings concerning whether the charter school: (1) could not locate a site to house its entire program within AADUSD's boundaries, and (2) gave statutory notice to the district where the charter school proposes to locate prior to charter approval.
- AADUSD made the findings and approved the School's new charter petition, which replaced the charter that was the subject of the lawsuit on July 1, 2015.




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CURRENT STATUS OF CASE

Newhall appealed the Court's October 9, 2014 ruling, but the appeal was dismissed as moot because the charter petition subject to challenge was rescinded with the submission and approval of the new petition pursuant to the trial court's order. The facility subject to the lawsuit is still open today.



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**SAN DIEGO SUPERIOR COURT, CASE NO.  
37-2014-00021153**



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- Nonclassroom based charter school
- Three facilities (originally) located outside boundary of authorizer in San Diego Unified School District
- No facilities within the boundary of the authorizer



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**San Diego Unified School District v. Alpine Union School District; and AEALAS, aka Albert Einstein Academy for Letters, Arts and Sciences, Incorporated (Cont.)**



**SUMMARY OF CASE DECISION**

- San Diego USD filed a writ in June 2014 challenging the approval and location of blended learning facilities authorized by Alpine. San Diego USD alleged that Alpine violated the Charter Schools Act by approving AEALAS' petition, because the petition did not identify a single charter school that would operate within the geographic boundaries of Alpine, as required by Ed. Code section 47605(a)(1).
- On January 28, 2015, the Court found that Alpine did not have discretion to approve AEALAS' petition, because it did not identify a single charter school that would operate within Alpine's boundaries. Further, Alpine did not require AEALAS to provide information regarding its facilities, in violation of Ed. Code section 47605(g), nor did Alpine require that AEALAS show its efforts to locate within Alpine's boundaries pursuant to Ed. Code section 47605(a)(5).
- Based on this finding, the Court determined that AEALAS' charter is null and void, the effect of which, according to the Court, requires Alpine to revoke the Charter.



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**Current Status of Case**



- Following the trial court's ruling, AEALAS filed an appeal of the ruling, but ultimately dismissed the appeal and voluntarily closed the charter school at issue in the litigation.
- San Diego USD filed a motion for an award of \$97,000 of attorneys' fees pursuant to Code of Civil Procedure section 1021.5 (Private Attorney General Provision). The trial court awarded San Diego USD \$45,000 in fees split evenly between AEALAS and Alpine.



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**Anderson Union High School District v. Shasta Secondary Home School**



**SHASTA COUNTY SUPERIOR COURT, CASE NO. 177944**



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**Anderson Union High School District v. Shasta Secondary Home School (Cont.)**



- Nonclassroom based charter school
- One facility (“Cottonwood”) located outside boundary of authorizer in Anderson Union High School District – and in Shasta County
- Two facilities within the boundary of the authorizer



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**Anderson Union High School District v. Shasta Secondary Home School (Cont.)**



SUMMARY OF CASE DECISION

- The District sought to enjoin the charter school, a nonclassroom-based school, from operating a satellite facility (resource center) outside of the granting agency boundaries, but inside the County. Further, the District alleged that the charter school’s petition must identify the location of its resource center(s).



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**Anderson Union High School District v. Shasta Secondary Home School (Cont.)**



- On December 2, 2014, the Court entered a Final Statement of Decision favorable to the School. Specifically, the Court found:
  1. The Cottonwood Resource Center is not a schoolsite as defined in Ed. Code § 47612.5(e);
  2. The site-based geographic restrictions in Ed. Code §§ 47605(a) and 47605.1(d) do not apply to the resource centers;
  3. No statute restricts in-county resource center locations;
  4. The statutory scheme encourages centers for independent study;
  5. No public policy is violated by the location of resource centers within the county but outside the boundaries of the authorizing entity;
  6. The School did not have to notify the County Superintendent pursuant to Ed. Code § 47604.4 because the Cottonwood resource center is not a site; and
  7. Nothing in the statutory scheme requires a charter school to identify the location of resource centers in its charter.



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## Anderson Union High School District v. Shasta Secondary Home School (Cont.)



### CURRENT STATUS OF CASE

The Anderson Unified School District appealed the Superior Court decision. The appeal is pending. The Cottonwood resource center remains open pending the appeal.



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## Currently Pending Cases



- *Sweetwater Union School District v. Julian Union Elementary School District; Diego Plus Education Corporation Dba Diego Valley Charter*  
**San Diego Case No.:** 37-2015-00021033-CU-MC-CTL
- *Grossmont Union School District v. Julian Union School District; Diego Plus Education Corporation Dba Diego Valley Public Charter; And Julian Charter School, Inc. Dba Julian Charter School-Alpine Academy*  
**San Diego Case No.:** 37-2015-00033720-CU-WM-CTL
- *La-Mesa Spring Valley School District v. Mountain Empire Unified School District and College Preparatory Middle School*  
**San Diego Case No.:** 37-2015-00019227-CU-MC-CTL
- *Tehachapi Unified School District v. Morongo Unified School District and Hope Academy, Inc.*  
**Kern Case No.:** BCV-15-100926
- *Eureka City Schools v. PV Charter School, Inc. and Loleta Union Elementary School District*  
**Humboldt Case No.:** CV160057
- *Alpine Union School District v. Dehesa School District and The Heights Charter School*  
**San Diego Case No.:** 37-2015-00030843-CU-WM-CTL



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## AVOIDING LITIGATION, RESPONDING TO THREATS AND STRENGTHENING YOUR LEGAL POSITION



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**WHAT'S NEXT?**

- Prior attempts at legislation
- Potential new legislation or regulatory action

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**QUESTIONS AND RESPONSES**

**THANKS FOR ATTENDING TODAY!**

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