IN THE PUBLIC INTEREST

charter SCHOOLS

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Charter schools are, in essence, educational "businesses," facing complex legal issues similar to those of our commercial clients

Charter Schools

Innovate Education for Inner-city Kids

Charter schools have been hailed as a saving grace of America's crumbling inner-city public school systems. What are these innovative schools that are changing the face of public education?

- A charter school is an independent public school authorized by a governing authority (typically, a state or local board of education). Many charter schools are operated by nonprofit organizations and receive federal and state funding based on their enrollment — the money follows the student, and schools only receive funding based upon the actual number of students they serve. Parents have the freedom to choose whether to enroll their students in a charter school or a traditional public school.
- Unlike traditional public schools, charter schools do not rely on a district for their operational and legal needs; rather, they hire and fire their own employees, negotiate their own service contracts, and lease or purchase their own facilities. Accordingly, the principal of a charter school is much more than an instructional leader — she is also the C.E.O. of a multi-million dollar business.

"Charter schools are extremely complex legal entities," notes Neerav Kingsland, the director of law and investments at New Schools for New Orleans, "they are public entities and are bound by public ethics, sunshine, and education laws, and yet, operationally, they are granted a great deal of autonomy and freedom." As the liaison between Akin Gump and the charter schools in New Orleans, Neerav has seen first-hand how high-quality legal representation can affect the quality of a charter school's educational program. "The less time school personnel spend fighting legal battles, the more time there is for instructional leadership. This makes it extremely important that schools receive excellent legal advice when making significant decisions, such as hiring and firing employees."

CLIENT SNAPSHOT

KIPP Schools

In 1994, Mike Feinberg and Dave Levin, fresh off a Teach for America stint, started a middle school program in inner-city Houston. Their mission was to transform the low expectations and academic performance of incoming fifth-graders (who, on average, tested at a third-grade level) and put them on track for college. As with all subsequent KIPP (Knowledge Is Power Program) schools, this first KIPP classroom relied on a formula of "Work Hard," "Be Nice" and "No Shortcuts — No Excuses." In 1995, Feinberg stayed in Houston to open the KIPP Academy Middle School, and Levin left for New York to open the KIPP Academy in the South Bronx.

A little more than a decade later, there are approximately 60 locally-run KIPP schools in more than 17 states and the District of Columbia. More than 14,000 low-income, minority students are now learning the KIPP way — by working hard (school days run from 7:30 a.m. to 5 p.m., plus Saturdays and three summer weeks), being nice (respect and discipline are core principles) and striving for college (nearly 80 percent of KIPP eighth-grade graduates have later entered college, compared to less than 20 percent of their low-income peers).

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KIPP became successful not just due to the dedication of founders Feinberg and Levin, but also because of the generosity of Doris and Donald Fisher, co-founders of Gap, Inc., who helped create the KIPP Foundation. One of the core missions of the foundation is a year-long program for prospective school leaders, through which the foundation recruits, trains and supports outstanding individuals to open new, locally-run KIPP schools in high-need communities.

As KIPP has grown, so have its legal needs. While the KIPP Foundation has two full-time lawyers on staff, there is still a great need for sophisticated outside counsel both for the foundation and for more than 60 individual schools. KIPP's Director of Legal Services, John Kanberg, says that KIPP's pro bono partnership with Akin Gump is invaluable: "It is a huge help to the KIPP Foundation and to the schools to be able to rely on a law firm with the breadth and depth of expertise of Akin Gump. Akin Gump treats us like any paying client — immediately, with the best team available."

Akin Gump has advised both the KIPP Foundation and local KIPP schools on a range of issues, from real estate to First Amendment matters. Los Angeles Partner Lee Kolodny is the head of the firm's KIPP team; nearly three dozen Akin Gump lawyers work on KIPP matters.

KIPP Credo

If there is a problem,
we look for a solution.
If there is a better way, we find it.
If a teammate needs help, we give.
If we need help, we ask.

[Charter schools are remaking the face of New Orleans public education.]

New Orleans, New Schools

Hurricane Katrina swept away a lot of things: homes, roads, dreams and a vibrant city culture. But it also washed away a school system that was failing by every measure. Characterized by corruption and an abysmal graduation rate (less than 56 percent of New Orleans students receive high school diplomas), New Orleans public schools were ripe for reform.

In the aftermath of Hurricane Katrina, New Orleans is undergoing one of the most exciting educational transformations in recent history. The linchpin of this transformation is the rigorous and selective creation of public charter schools — schools run by innovative school leaders, driven by student achievement and monitored through strict accountability measures.

Some New Orleans charter schools are simply converted public schools. For instance, the New Orleans Charter Science and Math High School in the Uptown neighborhood was an Orleans Parish public school before the hurricane. In January 2006, it re-opened as a charter school in the same building; its principal now taking on the role of a CEO with a whole host of new responsibilities, including hiring teachers and negotiating contracts with vendors.

The charter school effort is guided by New Schools for New Orleans (NSNO), a group that supports charter schools by recruiting highly qualified teachers, conducting board and business training, clarifying governmental policies and responding to a wide range of requests for technical assistance. NSNO Director of Law and Investments Neerav Kingsland, a recent Yale Law graduate, is typical of an inspiring influx of motivated education entrepreneurs who have flocked to New Orleans — and who are more likely to have an M.B.A. or a J.D. than twenty years of teaching experience.

A school system that was marked by despair and failure has given way to one forged in a new age of hope and optimism. "There is growing consensus in New Orleans that if there is to be a silver lining to Hurricane Katrina," notes Sarah Usdin, the founder of NSNO, "it will be in the transformation of the public school system."

To support the rebirth of New Orleans schools, Akin Gump has partnered with NSNO, as well as with lawyers from Citigroup and the New Orleans law firm Jones Walker, to provide free legal assistance. More than 50 Akin Gump lawyers have been involved with NSNO's work, including more than 40 financial restructuring lawyers who dedicated a day of their departmental retreat to providing legal audit services to NSNO charter schools. Washington partner Bob Lian is the firm's key contact with NSNO.

Charter Schools

Developing a Basic Labor and Employment Infrastructure

As a first-year associate in the labor and employment practice in Akin Gump's Washington office, I was given the opportunity to work with two firm clients who are changing the way children are educated: New Schools for New Orleans (NSNO) and Center for Inspired Teaching (CIT).

NSNO is an organization helping with the development and improvement of charter schools in New Orleans. After the devastation that Hurricane Katrina inflicted on New Orleans, the city's school system was one of the many institutions that have been slow to recover. As a result, a movement has emerged to create and grow charter schools in the New Orleans area to provide educational opportunities for children and to attract families back to the city. Developing a charter school system is difficult enough, but combined with the additional complications of the circumstances in New Orleans, the charter schools need even more assistance with building a solid foundation to structure their systems growth.

CIT is a nonprofit organization that is dedicated to improving the quality of education in the District of Columbia. CIT trains teachers in the skills necessary to provide a more enriching learning environment. Once equipped with these skills, CIT-trained teachers are expected to apply creative and innovative teaching techniques to engage their students.

NSNO and CIT gave me, along with several of my fellow associates in the labor and employment section, the opportunity to take a leadership role in providing employment advice and assisting in developing a basic labor and employment infrastructure for NSNO and CIT. Our primary project for both organizations has been creating an employment handbook — precisely the kind of work we do for our fee-paying clients. In these handbooks, we drafted a comprehensive set of policies that will govern the employment relationship between the schools and their employees. This not only allowed me to give helpful and necessary advice to clients who could not otherwise afford it, but also provided me the opportunity to develop skills and experience I might not otherwise have obtained until later in my career.

NSNO and CIT have also provided me the chance to begin establishing an expertise in advising educational organizations. Developing this expertise will be critical to my future pro bono practice because of the unique legal issues educational institutions confront on a routine basis.

Vivek Arora is an associate in Akin Gump's Washington, D.C. office.

[for more information]

For more information about the organizations mentioned in this report, please visit:

Knowledge Is Power Program
www.kipp.org

New Schools for New Orleans
www.nsno.org

YES Prep Public Schools
www.yesprep.org

New York City Center for Charter School Exellence
www.nycchartercenter.org

Center for Inspired Teaching
www.inspiredteaching.org

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