

PDE Must Provide Prior Notice and Hearing Before Withholding Subsidy

In the *Boyertown School District v. Charles B. Zogby, et al.* case, the Commonwealth Court ruled on May 2, 2002 that PDE may not withhold subsidies from school districts for charter schools, without providing prior notice and an opportunity for a hearing. The Commonwealth Court held in the school districts' favor, finding that the Secretary's decision to withhold subsidies was an "adjudication" under the Administrative Agency Law, because each school district has a property interest in its subsidy monies.

The issues in the Boyertown case are identical to several other school districts' cases still pending before the Commonwealth Court. This ruling effectively says that the schools districts in these other cases are correct in asserting that PDE must provide prior notice and an opportunity for a hearing before withholding subsidies for charter schools.

We still are in the process of determining the implications of the Boyertown decision and whether the and whether PDE will appeal this decision to the Supreme Court or accept it. We will keep you informed of further developments as they occur. Nevertheless, any school district that believes that PDE improperly has withheld subsidies from their school district for charter schools and have not already appealed to the Commonwealth Court should consider requesting a hearing from PDE regarding the matter.

Clients who have questions regarding issues discussed in this article, or any education law matter, should feel free to call us at 215-345-9111.