

**CSBA et al. v. State Board of Education (Aspire)****Court Ruling Could Have Implications  
for Statewide Benefit Charter Decisions****Court Ruling**

On July 26, 2010, the Court of Appeal of the State of California for the First Appellate District issued its decision on an appeal filed by the California School Boards Association (CSBA) that would require the State Board of Education (SBE) to make two findings on the record before approving a statewide benefit charter:

- That the charter's instructional services will provide a statewide benefit; and,
- That the statewide benefit cannot be provided through locally approved charters.

In reaching this decision, the Appellate Court found that the underlying court record did not contain sufficient evidence to demonstrate that the SBE had made the two required findings on the record in Aspire's case.

If left unaddressed, the decision could undermine the SBE's authority and ability to set its own procedures and to administer the work related to reviewing statewide benefit charters, and will require the SBE to comply with the two-pronged test articulated by the Appellate Court.

Aspire and the SBE have sought a rehearing in the matter and Aspire will petition the California Supreme Court for review if the rehearing is denied. CCSA plans to support Aspire and the SBE's efforts in this matter.

**Brief Description of a Case**

In 2007, the State Board of Education (SBE) granted a statewide benefit charter to Aspire Public Schools.

**SUMMARY**

- 2007, SBE grants statewide benefit charter to Aspire Public Schools under Ed Code Section 47605.8
- Fall 2007, two Aspire schools open under the charter
- 2007, CSBA files writ of mandate seeking to undo SBE's action on five causes of action (three primary)
- 2008, Trial Court ruled in favor of SBE and Aspire, CSBA filed an appeal on all five causes of action
- July 2010, the Court of Appeal of the State of California for the First Appellate District reversed judgment on the three principal causes of action
- August 10, 2010, Aspire and SBE filed a petition for a rehearing with the Court of Appeals
- September 7, 2010, time expires to seek review of the decision by the CA Supreme Court if no rehearing is granted

**For more information regarding the CCSA Legal Defense Fund or other charter legal matters please contact:**

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## CSBA et al. v. State Board of Education (Aspire)

As a condition of the approval, the SBE required Aspire to execute an MOU requiring Aspire to complete certain operational details prior to opening any schools under the charter. That same year, Aspire opened two new schools. The California School Board Association (CSBA) then filed a writ of mandate seeking to undo the SBE's action based on five causes of action, three of which were primary.

The three primary causes were:

1. The SBE failed to make the findings in the record as required by Education Code Section 47605.8 that Aspire's instructional services of a statewide benefit could not be provided through individual charters from local school districts;
2. The SBE failed to meet its ministerial duties by failing to enforce the approval conditions set forth in the MOU; and
3. The SBE's policies and procedures for approving a statewide benefit charter were not adopted in compliance with the Administrative Procedure Act (APA).

The SBE and Aspire filed a number of demurrers (individually and jointly) and the trial court concluded that the SBE's approval was not contrary to law because neither the statutory scheme nor the regulations supported the CSBA claim that the SBE was required to find that Aspire's program could not continue to be provided through a series of locally-approved charters.

The CSBA filed an appeal on all five causes of action.

The Court of Appeal of the State of California issued its decision as described above.

### Description of a Statewide Benefit Charter

The State Board of Education may authorize, under Education Code Section 47605.8, a five-year charter for the operation of a charter school that will "provide instructional services of statewide benefit that cannot be provided by a charter school operating in only one school district, or only in one county." Statewide benefit charters must adhere to all other charter laws with the exception of geographic limitations. They must open at least two new sites/schools in different counties in areas with struggling schools. After the first two sites have operated for two years and met performance objectives, operators may open two additional sites each year.



### Relevant Websites

Aspire  
<http://www.aspirepublicschools.org/>

CSBA  
<http://www.csba.org/>

SBE  
<http://www.cde.ca.gov/be/>

Court ruling  
[http://www.calcharters.org/100726-COURT-DECISION-CSBAvSBE\(Aspire\)-AppellateDecision.pdf](http://www.calcharters.org/100726-COURT-DECISION-CSBAvSBE(Aspire)-AppellateDecision.pdf)