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LEGAL UPDATE

CHARTER SCHOOL ADMISSIONS

Despite US Supreme Court Ruling, California Constitution Bars an Admissions Policy that Considers a Student's Race or National Origin

The United States Supreme Court stated in its recent decision of *Grutter v. Bollinger* 539 U.S. __ (2003) that educational institutions may devise admissions policies that take into consideration a student's race or ethnic origin in order to build a diverse student population. As a result of the Court's decision, many educational institutions across the country are reexamining student admissions policies in light of the guidelines and limitations laid down by the Court in order to reap the educational benefits that flow from building a diverse student population.

Nevertheless, the Supreme Court's ruling will have no legal effect in California because of the operation of Proposition 209.

Proposition 209, adopted by California voters in 1996, amended the California Constitution to prohibit California governmental agencies from discriminating against or granting preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, and public contracting. This prohibition is set forth in Article I, Section 31(a) of the California Constitution.

The Supreme Court's decision in *Grutter v. Bollinger* is a grant of authority to educational institutions to devise narrowly tailored admissions policies that allow an applicant's race to be one consideration out of many in any decision to admit the applicant. However, operation of the California Constitution prohibits California public schools from exercising this authority. As a result, California charter schools are still prohibited from factoring in race, sex, color, ethnicity, or national origin into any admissions policy, despite the Supreme Court's ruling in *Grutter v. Bollinger*.

If you should have any questions regarding this update, please contact Phillip Murray (pmurray@smymlaw.com) or Paul C. Minney (pminney@smymlaw.com) at the Law Offices of Spector, Middleton, Young & Minney, LLP at (916) 646-1400.

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