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Grant Herndon
General Counsel

William A. Hornback
Christopher P. Burger
Alan B. Harris

Melissa H. Brown
Timothy L. Salazar

Darren J. Bogié

Kyle W. Holmes

Robert S. Phillips

Stephanie Virrey Gutcher

Christina J. Oleson

Eric K. Alford

Counsel

SPECIAL EDUCATION CLIENT ALERT

Non-Attorneys No Longer Authorized to Represent Parties in Special Education Due Process Proceedings

On September 28, 2017, the Office of the Attorney General of the State of California opined that only persons who are active members of the California State Bar are authorized to represent parties in a Special Education Due Process proceeding.

Specifically, the California Attorney General's office focused on two pieces of legislation: the Administrative Procedure Act (Gov. Code §§ 11340-11529) and 20 United States Code section 56505(e)(1) to determine if persons who are not active members of the California State Bar may represent parties in a Special Education Due Process Proceeding. Relying on the plain language of the statute, the Attorney General found absent any specific language identifying a party's right to be represented by a non-attorney.

The opinion referenced a party's right, in addition to counsel, to have present and be advised by, "individuals with special knowledge or training with respect to the problems of children with disabilities," but clarified that this authorized accompaniment does not allow such individuals to engage in the practice of law and represent a party's legal interest.

Thus, going forward, although a parent or district may have non-attorneys present for their special knowledge, and may be advised by such non-attorneys, a non-attorney is not authorized to represent a party's legal interest and may not practice law in a Special Education Due Process Hearing.

If you have any questions or require additional information, please contact our office.

– STEPHANIE VIRREY GUTCHER