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## Uncharted territory: Dueling petitions for Antioch medical high school draws wide attention

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By Paul Burgarino, Bay Area News Group

ANTIOCH — In a case being closely followed by charter school advocates and education administrators throughout the state, a Contra Costa Superior Court judge is expected to soon decide the fate of dueling efforts for control of Dozier-Libbey Medical High School.

The decision could reverberate far beyond Antioch, changing the playing field in how districts respond to efforts to turn their schools into charters.

Antioch Unified officials threw a monkey wrench into the typical process last month when it filed its own charter petition for the medical-themed magnet school to thwart a teacher-led petition to convert it into an independent charter — a novel move for California that has befuddled and concerned many who have followed charter school-related efforts for years.

“I’ve never seen such a case where a district is explicitly countering with a bid to take over a school and with such a deep and rigid line in the sand,” said Bruce Fuller, a public policy and education professor at UC Berkeley.

The school district, concerned that its rejection of the teachers’ charter petition will be overturned on appeal, is proposing to turn Dozier-Libbey into a dependent charter. Under that scenario, the school would establish an advisory committee and receive a dedicated funding stream, as is the case with traditional charters, but continue to be governed by the school district. Student-athletes could also continue to compete on athletic teams at the district’s other high schools, as is currently the case.

If the teachers prevail with their conversion effort, the new charter school would take control of its own operations with no district input.

The two sides will be in court Monday morning.

Judge Laurel Brady is being asked to determine the legality of the

district's petition and a request from proponents of the independent charter for a temporary restraining order to "maintain the status quo which preceded the controversy," including using the school logo, facilities and curriculum.

The district filed a response to the injunction request, saying it must prepare for the next school year, and has already taken several steps toward converting the school into a dependent charter.

Charter advocates worry about what will happen if Antioch Unified's strategy succeeds, with some saying it could serve as a blueprint on how to thwart charter petitions and undercut state law.

"It's a very aggressive strategic move to try and stop the charter," said Hilary Harmssen, managing regional director for the California Charter Schools Association. The group has sided with the teachers' petition, questioning the legality of the district's action.

Ricardo Soto, the association's legal counsel, adds the case could set a dangerous precedent that would undermine the intent of the charter law and "likely result in a lot of copycat maneuvers."

California established its charter school law in 1992, enabling the schools to "operate independently from the existing school district structure," as a method to improve student learning, increase opportunities for low-achieving students, use innovative teaching methods and hold schools accountable.

That's the pitch Dozier-Libbey teachers made when filing a 121-page conversion charter petition in late February, hoping to further shape and expand a program already touted for its success.

Opened in 2008, Dozier-Libbey was Antioch's first venture in creating a school with a curriculum focused on a particular career field. However, 23 of the school's 26 teachers said district bureaucracy has diluted its initial vision, including taking away a "no-D" grading policy and cutting on-campus administrative staffing such as a librarian and vice principal.

But Antioch Unified sees it differently.

Stephanie Anello, the district's associate superintendent, said the teachers' petition doesn't reflect the wishes of the Dozier-Libbey school community and seeks to capitalize on "what we consider a loophole in the charter school law," namely the actions of a few can uproot a school the community created.

District officials sought the counter petition because of myriad complaints and confusion from parents and students both at Dozier-Libbey and throughout Antioch, Anello said. If it didn't, she believes

the teachers ultimately would have succeeded in overturning the district's rejection of the charter conversion petition on appeal to county or state education officials.

About 90 percent of the charters in the state are approved by their local school districts, according to a January study by the state's Legislative Analyst Office. Many of those rejected by school districts, whether conversion charters such as Clayton Valley High School's effort in 2011 or startup schools, are ultimately granted on appeal.

There have been few legal challenges to charter petitions over the years and most have dealt with districts allowing use of facilities or whether petition signatures were accurately gathered.

Experts say this is the first time a court has been asked to rule on the legality of competing charter efforts.

There is a scenario where both charters move forward. In that case, the conversion charter is likely to be able to make a legal claim to stay on the existing campus, said John Yeh, a Silicon Valley-based attorney with Burke, Williams and Sorenson who has worked extensively in charter school law on behalf of school districts.

The court case is a "parallel activity" to the Contra Costa County Office of Education's preparation to hear the teachers' appeal of the district's rejection of their charter petition, said spokeswoman Peggy Marshburn. A public hearing is scheduled for May 7 and decision by the county school board is expected May 21, she said.

If county education officials uphold the Antioch district's rejection, the teachers can appeal again to the state Office of Education.

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