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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

NAPA VALLEY UNIFIED SCHOOL
DISTRICT,

Plaintiff and Appellant,

v.

NAPA COUNTY BOARD OF
EDUCATION et al.,

Defendants and Respondents;

NAPA FOUNDATION FOR
OPTIONS IN EDUCATION et al.,

Real Parties in Interest and
Respondents.

A170593

(Napa County Sup. Ct.
No. 24 CV000339)

MEMORANDUM OPINION

The Napa Valley Unified School District (District) appeals from the denial of a preliminary injunction.¹ As the specific actions the District sought to prevent have already occurred, we dismiss the appeal as moot.

In 2024, the Napa Foundation for Options in Education (Foundation) submitted a petition to form the Mayacamas Countywide Middle School

¹ We resolve this case by memorandum opinion (Cal. Stds. Jud. Admin., § 8.1), reciting only those facts necessary to do so. (*People v. Garcia* (2002) 97 Cal.App.4th 847, 851.)

(Mayacamas), which the Napa County Board of Education (County) conditionally approved. The District filed a petition for a writ of mandate seeking to vacate the decision, arguing it violated several Education Code provisions governing the approval of a countywide charter school. The District also sought a preliminary injunction — pending a final resolution — enjoining the County and the Foundation from “actions implementing and/or effectuating [the County’s] March 5, 2024 conditional approval, or any subsequent final approval” of the petition to form Mayacamas. Those actions included, but were not limited to, applying for a charter school number and county-district school code from the State Board of Education (BOE) and State Department of Education (DOE) respectively, or enrolling students in Mayacamas for the 2024-2025 academic year. The trial court denied the District’s request after finding it had neither demonstrated a likelihood of prevailing on the merits nor irreparable harm. The District appealed.

While this appeal was pending, the BOE issued a charter school number for Mayacamas, and the DOE issued a county-district code for Mayacamas — those actions authorized Mayacamas to open and operate.² The County and Foundation argue the District’s appeal has thus been rendered moot. We agree.

² While this case was being briefed, the County and Foundation filed requests for judicial notice of several documents, and we deferred a ruling until the merits of the appeal. We now grant their request to take judicial notice of the BOE’s July 2024 agenda and final minutes, and the DOE’s charter school database record and school directory record for Mayacamas. (Evid. Code, § 452, subd. (c) [courts may take judicial notice of acts performed by administrative agencies]; *Scott v. JPMorgan Chase Bank, N.A.* (2013) 214 Cal.App.4th 743, 752–753.) We deny the Foundation’s request for judicial notice of legislative history as it is irrelevant to our analysis. (*Arce v. Kaiser Foundation Health Plan, Inc.* (2010) 181 Cal.App.4th 471, 482.)

Generally, an “appeal should be dismissed as moot when the occurrence of events renders it impossible for the appellate court to grant appellant any effective relief.” (*Cucamongans United for Reasonable Expansion v. City of Rancho Cucamonga* (2000) 82 Cal.App.4th 473, 479.) “We will not render opinions on moot questions or abstract propositions, or declare principles of law which cannot affect the matter at issue on appeal.” (*Daily Journal Corp. v. County of Los Angeles* (2009) 172 Cal.App.4th 1550, 1557.) That rule applies “when injunctive relief is sought but, pending appeal, the act sought to be enjoined has been performed.” (*Ibid.*; e.g., *Finnie v. Town of Tiburon* (1988) 199 Cal.App.3d 1, 10–11 [appeal from denial of injunction seeking to prevent a special election dismissed as moot when the election occurred].) Here, the acts the District sought to preliminarily enjoin and prohibit the Foundation and County from performing — applying for a charter school number from the BOE, applying for a county-district school code from the DOE, and enrolling students in Mayacamas for the 2024-2025 academic year — “ ‘[were] performed while the appeal [was] pending.’ ” (*Cerletti v. Newsom* (2021) 71 Cal.App.5th 760, 766.) The appeal is moot.

City of Cerritos v. State of California (2015) 239 Cal.App.4th 1020, does not assist the District. There, plaintiffs unsuccessfully sought to enjoin a law requiring dissolution of redevelopment agencies. (*Id.* at pp. 1031–1032.) In concluding the appeal nevertheless was not moot, the Court of Appeal reasoned the dissolution procedures would occur over several years, and it could “theoretically craft a remedy to provide plaintiffs with at least some relief.” (*Id.* at p. 1032.) Here, however, the acts the District sought to enjoin have already occurred — there is no interstitial time period in which we could provide the District with relief. (*Cerletti v. Newsom, supra*, 71 Cal.App.5th at p. 766.) The District’s bare assertion — without citation to the record —

that it will suffer ongoing harm from the continued diversion of scarce state funds to Mayacamas and that the students attending Mayacamas can simply return to District-operated schools does not alter our determination.

Nor will we exercise our discretion to decide this otherwise moot appeal. (*In re Webb* (2019) 7 Cal.5th 270, 273–274 [courts “ ‘have discretion to decide otherwise moot cases presenting important issues that are capable of repetition yet tend to evade review’ ”].) The District has not demonstrated that the denial of the preliminary injunction involves an issue that tends to evade review. (*Ibid.*) Its writ of mandate petition seeking a declaration that the County failed to comply with the Education Code and to vacate approval of Mayacamas is not on appeal — the denial of the injunction “ ‘ “does not amount to an adjudication of the ultimate rights in controversy.” ’ ” (*Jomicra, Inc. v. California Mobile Home Dealers Assn.* (1970) 12 Cal.App.3d 396, 401.) “ ‘ “Indeed, when the cause is finally tried it may be found that the facts require a decision against the [parties] prevailing on the preliminary application.” ’ ” (*Ibid.*)

DISPOSITION³

The appeal is dismissed as moot. No costs are awarded. (Cal. Rules of Court, rule 8.278(a)(5).)

³ The parties requested oral argument. But the right to oral argument arises only in an appeal “considered on the merits and decided by a written opinion.” (*Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1255.) Because we dismiss this matter without reaching the merits, the parties have no right to oral argument. We conclude it is unnecessary and would not assist our resolution of this matter.

RODRÍGUEZ, J.

WE CONCUR:

FUJISAKI, Acting P. J.

PETROU, J.

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