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School lacks important amenities; seeks to appeal case

The new Hózhó Academy Charter School moves into its second month of operation this school year, despite lacking adequate transportation for its students to and from the school.

The academy reached out to Gallup-McKinley County Schools for support on the matter, but their request was denied. The move set the stage for a lawsuit between the two entities.

On Aug. 15, Hózhó Academy filed a complaint for Declaratory and Injunctive Relief, which was received by the Gallup-McKinley County School District on Aug. 17.

Case hearings were scheduled for Aug. 17 and 24, and GMCS filed their motion to dismiss the case on Aug. 23.

Judge Louis E. DePauli, Jr. ruled in favor of GMCS at a hearing held at the Gallup District Court on Aug. 24.

Hózhó Academy failed to meet the requirements on injunction relief set by the state, and GMCS argued a preliminary injunction would disrupt the school's status quo, another strike against the state legal standard, according to the defendant response by GMCS.

Mike Hyatt, superintendent for the Gallup-McKinley County Schools, provided additional information in a Sept. 25 phone call.

"[The] law does not support [or state] districts have to provide transportation to state charters," he said.

The written defendant response, available online for public viewing, said a preliminary injunction that does not have an effect on the status quo was "absolutely disingenuous and misleading."

The preliminary injunctions should preserve the status quo and not determine the case, it reads.

“The School District has never provided transportation school bus services to Plaintiff and a preliminary injunction would grant Plaintiff all the relief sought at trial contrary to law,” their response continues.

The document goes on to say students given transportation by the school district were given it because they are students of the district.

Hózhó Academy does not fall into this category because they are a stand-alone and separate public school system. As such, Hózhó is responsible for its own operations and student services in conjunction with the Public Education Commission pursuant to Section 22-8B-9(A) of the Charter School Act.

Jeff Bond, transportation director for Gallup-McKinley County Schools, stated in a written affidavit on the case that the district has not serviced any Hózhó Academy students because it is a new charter school.

“GMCS cannot provide transportation for Hózhó Academy this school year, and I anticipate it will be unable to do so in the future,” Bond wrote. “We do not have the capacity in busses or bus drivers due to our drastic expansion of transportation routes to serve GMCS’s McKinley Academy.”

Bond also stated the district has increased school autonomy with start and end times this school year, which makes it impossible to service any new schools.

Despite the ruling, Patrick Mason, a founder of the Hózhó governing board and the academy’s attorney in the case, provided a Sept. 25 written response to the *Sun* stating the school intends to appeal the issue once the final order has been issued.

“We feel that the law is clear as to the requirement for the school district to negotiate a transportation contract with charter schools,” Mason said. “Our position is that all the schools in Gallup need to work together in order to improve the education options in our area, and we hope to have partnerships with all the schools in the area to work towards our common goal of

higher quality education.”

Hyatt, however, said another strike against Hózhó Academy was Mason’s appointment as their attorney. In the written response, he said Hózhó Academy never made any record of retaining one of its own board members to be the school’s legal counsel.

As such, Hyatt said it was a conflict of interest for Mason to make himself the attorney in the case without going through the proper procedure.

Mason would not have been able to contract with the governing body under the New Mexico Governmental Conduct Act, Hyatt said.

A section in the act prohibits a state entity, in this case Hózhó Academy, from contracting with a public officer or employee of the state unless the officer or employee has disclosed his substantial interest and unless the contract is awarded pursuant to the Procurement Code.

The New Mexico Governmental Conduct Act keeps a public officer from using the powers and resources of his or her position to obtain personal benefits or pursue private interests incompatible with public interest.

When asked about this decision, Mason said Hózhó Academy followed internal policies and procedures as well as all applicable laws and rules in selecting an attorney.

“I resigned from the Hózhó Academy Board prior to my selection and action on behalf of the Hózhó Academy board,” he said, adding that he is doing all his work for the school pro bono. “Everything was done in full compliance with the law and without any conflicts.”

When asked about further actions against them, Hyatt said there are a number of charter schools that seem to take resources from GMCS. He said Hózhó Academy started classes behind schedule and without sufficient resources for their students.

Hyatt said this was unusual since charter schools receive about $5,000 more per student in state funding, and that this whole case feels to him like just a waste of taxpayer dollars.

“It’s sad that state money is being used for charters that don’t have their act together,” he said.

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