

CLIENT NEWS BRIEF

California Supreme Court Upholds Superintendent's Criminal Conviction for Misappropriating Funds

The Supreme Court of California in *People v. Hubbard* (2016) 63 Cal. 4th 378 recently upheld the criminal conviction of the former superintendent of the Beverly Hills Unified School District for improperly paying a district employee without board approval.

Jeffrey Hubbard served as superintendent of the Beverly Hills Unified School District from 2003 to 2006. During his tenure, he directed the district's payroll department to increase the compensation of Karen Christiansen, the district's director of planning and facilities, including increasing her auto allowance by \$350 per month and issuing her a one-time stipend of \$20,000. Hubbard testified this was compensation for additional work Christiansen performed for the district after the termination of its construction management team. Hubbard did not submit the auto allowance increase or the stipend to the district's governing board for approval.

Hubbard was convicted of violating Penal Code section 424, which states that "each officer of this state, or of any county, city, town, or district of this state, and every other person charged with the receipt, safekeeping, transfer, or disbursement of public moneys" who appropriates money without authorization for the use of another may be punished with imprisonment. Hubbard appealed his conviction, arguing that he was not an "officer" under Penal Code section 424 because only the board had the authority to approve the payments to Christiansen. The Court of Appeal agreed and overturned the conviction.

The Supreme Court of California reinstated Hubbard's criminal conviction, holding that it did not matter whether Hubbard had exclusive control over the funds. As Hubbard had "some degree of material control over the funds' disposition," this was sufficient to establish criminal liability. The court found that as superintendent, Hubbard had a duty to safeguard school district funds and, as a public officer, he should face criminal liability for misappropriating those funds.

This case is an important reminder of the role of a superintendent and other public officers responsible for safekeeping public funds. It also cautions public administrators to obtain the approval of the governing board, city council or other governing body for salary increases. Superintendents and other public officers of cities, counties, school and other districts entrusted to safeguard public funds could be held criminally or civilly liable if they knowingly misappropriate public funds that they are responsible for protecting.

If you have any questions regarding the *Hubbard* decision or public officers' responsibilities with respect to public funds, please contact the author of this Client News Brief or an attorney at one of our [nine offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).

July 2016
Number 46



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