

Keeping the Swing in Duke Ellington

D.C.'s public arts school gets a creative boost from volunteers at Morgan, Lewis & Bockius.

BY TOMER J. INBAR

Rory Pullens, principal of the Duke Ellington School of the Arts, could not believe his eyes.

As principal of the famed Washington, D.C., school, he supervises one of the most diverse, eclectic, and talented faculties in the nation. More than 70 dancers, singers, musicians, and actors work as teachers at Ellington, educating high school students (most of whom come from Wards 7 and 8, two of the poorest, most crime-ridden wards in the city) in the arts. Working together with their traditional academic counterparts, the artistic faculty at Ellington has helped create the crown jewel of the D.C. public school system. It has one of the highest attendance rates in the city, along with a graduation rate of 99 percent and a college acceptance rate of 95 percent. Prominent alumni include TV comedian Dave Chappelle and opera star Denyce Graves.

And now, on May 21, with another successful academic year nearing completion, Pullens was reading a letter from the school system instructing him to terminate 53 members of his faculty—primarily arts teachers—by the end of June.

The reason? The school system had determined that under the federal No Child Left Behind Act, all instructors who did not possess traditional state certified teaching licenses could no longer teach at any District public school—including Ellington.

Pullens was incredulous. It had always been understood that Ellington's unique mission and contractual relationship with the D.C. school system had provided the school the latitude to hire the most talented artists to serve as teachers, realizing that years of professional experience in the arts were as valuable—if not more so—than the standard teacher certification. Pullens says, "How can you tell someone with 30 years of experience running a dance company that they are not qualified to teach dance? It's ridiculous."

Pullens knew that compliance with the superintendent's directive would essentially kill the school and the dreams of almost 500 students and their parents. So he did what he has done so many times when the school faced legal challenges to its existence. He picked up the phone and called Morgan, Lewis &



Bockius, the law firm that has represented the school on a pro bono basis for more than eight years.

GOOD EXAMPLE

Morgan, Lewis' relationship with the Duke Ellington School goes back to 1998. Working with Morgan, Lewis, the Ellington Fund—the fund-raising arm of the school—and its nationally recognized community partners, George Washington University and the John F. Kennedy Center for the Performing Arts, created a radical new educational alliance to manage and operate the school in partnership with the school system. Their efforts serve not only as a national model for community educational partnerships but also as an example for law firms across the country in providing long-term, ongoing pro bono legal services to support local efforts to enhance educational excellence and opportunities.

In the late 1990s, the Ellington School, which was established in 1974, determined that it needed greater autonomy from the trouble-plagued D.C. schools to create a truly first-class arts high school in the city. Although Ellington saw graduation rates of more than 90 percent, the remainder of the school system struggled to have 55 percent of its students graduate.

To achieve its goals, the Ellington Fund invited George Washington University and the Kennedy Center to join in radically restructuring the school's programs, governance, and operational structure through the creation of the Duke Ellington School of the Arts Project.

But before the innovation of the Ellington Project could become a reality, there were innumerable legal hurdles to overcome, including designing the appropriate organizational and

governance structure for the school, determining the school's ongoing relationship with the school system, developing policies and procedures, ensuring compliance with system requirements, and structuring the school's daily schedule, curriculum, and employment terms to accommodate the school's rigorous arts and academic program.

The school needed help in addressing these substantial and, in many ways, novel legal questions. One of the Ellington Fund's directors, who had worked with Morgan, Lewis at another local nonprofit organization, turned to the firm for assistance.

From the start, Morgan, Lewis was deeply involved in developing a sustainable model for the school. The firm established and obtained a tax exemption for the Ellington Project and went on to negotiate the school's management arrangement with the D.C. school system. This process involved many of the firm's practice areas, including attorneys from the labor and employment, tax, litigation, intellectual property, and finance groups.

In September 2000, the Duke Ellington School of the Arts Project entered into an agreement with the school system that gave it the autonomy it desired to run the school.

Under the agreement negotiated by Morgan, Lewis, Ellington was granted control over such key factors as personnel, finances, school governance, and curricula. The Duke Ellington School has since developed a sophisticated arts and academic curriculum and assembled a core faculty committed to the reforms being implemented at the school.

Most importantly, the school has remained a District of Columbia public high school, subject to the ultimate authority of the superintendent. The school is required to meet or exceed all the requirements of D.C. high schools, and it is committed to serving as a public resource for the students and communities of the city.

Indeed, the arrangement is unique. At its core is the notion that local community stakeholders—in this case, two nationally recognized nonprofit arts and educational institutions—and professional organizations such as law firms can make a difference in educating children by developing and implementing collaborative educational reform models.

Such arrangements offer significant hope for attacking many of the problems that plague public schools, not only in the District of Columbia but across the nation as well. It is a model that other communities can and should emulate. They cannot do so, however, without the significant assistance of legal counsel. The issues are too varied and the questions too complex to expect public school systems, community groups, and nonprofit organizations to navigate on their own. Large law firms such as Morgan, Lewis offer the depth of expertise and ability to commit significant time and resources to long-term projects that can truly make a difference in their communities.

This type of ongoing commitment is particularly important given that the legal challenges facing partnership schools are not limited to the initial design phase. Sustaining such an arrangement requires assistance with a constant stream of issues from across the legal spectrum, including labor and employment, tax, corporate, real estate, litigation, intellectual property, and, of course, education law.

Thus, in addition to handling the ongoing legal work associated with the day-to-day life of the Duke Ellington School, Morgan, Lewis attorneys have negotiated agreements for the use and display of clips of student performances and the school's name and logo, assisted with charitable giving arrangements, and helped the school's general efforts to engage the local community. Morgan, Lewis has also worked to support the participation of the school's partners in the Ellington Project and has provided space for meetings and events.

Moreover, it is not just Morgan, Lewis lawyers who have provided pro bono assistance to the school. Just this past spring, Morgan, Lewis' graphics department designed and created publicity materials promoting the school's first summer arts camp, and the department continues to provide graphic design and marketing assistance. The legal needs of a unique community educational partnership like the Duke Ellington School are ongoing and extensive. Since 1998, Morgan, Lewis lawyers have spent 3,400 pro bono hours, at an approximate value of \$830,000, in representation of the school.

The reward, of course, comes in witnessing firsthand the success of the Ellington School in helping its students achieve their dreams. Over the years, some 40 attorneys have devoted their time and efforts to the school. Morgan, Lewis lawyers, from summer associates to legal veterans, have attended performances at the school and are thrilled and gratified when they see Duke Ellington students performing on Capitol Hill for members of Congress and visiting dignitaries or dancing at the Kennedy Center's Millennium Stage, where they perform on a regular basis.

There is reason to believe the Ellington model may influence similar education partnership arrangements. School officials and corporate sponsors from across the Washington area and around the country have visited Ellington, meeting with Rory Pullens and speaking with board members and Morgan, Lewis attorneys to learn how to emulate its success. If such arrangements and partnerships are going to flourish and meet their educational and artistic goals to the betterment of communities and their students, major law firms must step up and be willing to contribute their time and expertise.

A REPRIEVE

After the May 21 phone call from Rory Pullens, Morgan, Lewis attorneys, working with lawyers from George Washington University, gained an emergency reprieve from the school system for the 53 teachers that were to be terminated in June. These efforts resulted in a one-year extension, during which alternatives to requiring the targeted faculty members to obtain traditional certifications will be explored.

On June 6, Pullens was able to go to the assembled faculty, among whom rumors of potential firings had spread, to inform them of the extension and negotiations. Nobody was being fired.

"Enjoy your summer vacations," Pullens said. "Our lawyers are working on it."

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