UT LAW CLE THE UNIVERSITY OF TEXAS SCHOOL OF LAW

PRESENTED AT

38th Annual School Law Conference

February 9-10, 2023
Austin, TX

Commissioner Decisions Update

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Summary of Selected Commissioner Decisions

The commissioner issued 41 decisions in 2022, not including decisions related to special education. These opinions cover a range of topics, including nonrenewal, termination, detachment and annexation, and local grievances.

Significant decisions summarized below are categorized by subject matter and arranged alphabetically under each heading. An alphabetical chart of all 41 commissioner decisions follows the summaries. *See page 23.*

TERMINATION

Commissioner lacked jurisdiction over employment contract appeal where board made no decision to terminate contract.

Dallas ISD proposed termination of Joe Martin Bravo's term contract for the 2022-23 school year. Bravo requested a hearing before an independent hearing examiner (IHE), and an IHE was duly assigned. The district then filed a motion to dismiss, which the IHE granted without findings of fact, conclusions of law, or discussion. The district's board of trustees never reviewed or made any decision regarding the IHE's order. Due to this "unusual history," the commissioner found that he had no jurisdiction over Bravo's appeal. The commissioner's jurisdiction over appeals from terminations of term contracts under Texas Education Code section 21.301(a) is limited to reviewing a board of trustees' decision under Texas Education Code section 21.259. Here, no such decision existed. Thus, the commissioner lacked jurisdiction. The commissioner wrote:

> The Independent Hearing Examiner should not have dismissed the case, and the board of trustees or board subcommittee should have made a decision regarding whether or not to dismiss the case. However, because no board or board subcommittee has voted to terminate Petitioner's term contract, Petitioner's contract has not been terminated. [. . .] As Petitioner has not been harmed, he has no standing to complain.

In addition, the commissioner separately addressed the district's argument that the IHE and commissioner lacked jurisdiction over this case because of resignation. According to the district, Bravo had resigned by accepting employment with another school district. The commissioner explained that the district was mistaken. Teacher resignations are governed by Texas Education section 21.210. "A teacher does not resign from a teaching contract with one school district by entering into a contract with another school district. A teacher can sign contracts with two school districts and could potentially fulfill two

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contracts." Even if Bravo could not have worked under both contracts at once, this would not constitute a resignation under Section 21.210. Thus, he did not resign from the district. The commissioner dismissed the appeal for lack of jurisdiction because the board had taken no action and Bravo had not shown that he was harmed. *Bravo v. Dallas Indep. Sch. Dist*., Tex. Comm'r of Educ. Decision No. 004-R2-10-2022 (Dec. 5, 2022).

District unlawfully suspended teacher without pay before termination hearing.

Lamar CISD employed Kristin Kennedy as a middle school teacher under a probationary contract in 2021-2022. On January 12, 2022, Kennedy made some inflammatory comments during a conversation with a colleague in her classroom at the end of the instructional day. According to a recording that was posted on social media, she stated:

- "If I have to keep dealing with kids that are complete and utter morons, I'm done. I'm literally done."
- "I don't even care if I lose my job. I want to be fired at this point. I literally am going to hurt myself if I have to keep coming here. It's so ridiculous. I told my kids, I was like, I have never in my life dealt with kids that are so awful, that if they fell into the river, I would let them float away. Literally. See ya."
- When her colleague asked if she would throw the students a log, she stated, "Nope. I might throw a log on them, so they sink. My god."
- "I actually want to volunteer to go work at the [juvenile detention center] campus because I want to carry a gun on my hip and intimidate people. You get to be like a police officer there. And then you can hit them when they're smartasses."
- "You heard me tell my advisory. Can't even flip a burger. Nobody's going to hire you at all. Nobody's going to hire you. They're like, 'what?' Start making a little change and sign so you can stay on the street corner cause nobody's gonna hire your ass."
- "I called my husband today and I said I haven't decided if I want to quit or do something so they fire me. And I definitely can't come back to education. I'm done. I was like. I told them, I'm a billionaire. I don't even know why I'm here. I don't want to keep looking at you. I own two businesses. I'm rich. I have a Rolex. I have a $60,000 diamond in my wedding ring. OK? You guys, suck it. I'm done. I literally can't even decide if I'm coming tomorrow."

On January 13, 2022, the district placed Kennedy on administrative leave. On January 18, 2022, Kennedy notified the district that she was resigning effective at the end of the school year. On February 8, 2022, the district notified Kennedy that its board of trustees had voted on that date to propose her suspension without pay. The district ceased

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First appeared as part of the conference materials for the
38th Annual School Law Conference session
"Commissioner Decisions Update"