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Public Education

Texas Supreme Court rejects whistleblower case against school district

December 13 — The Texas Supreme Court today dismissed a former school principal’s whistleblower lawsuit, finding that a complaint to school officials about alleged violations of asbestos laws did not qualify as a good-faith report to an “appropriate law enforcement authority” under Government Code, [sec. 554.002](#). The ruling was the third this year involving a school district or other public employee reporting allegations of wrongdoing internally rather than to an outside law enforcement authority.

The statute protects public employees from adverse personnel action if they report law violations to appropriate law enforcement authorities. Sec. 554.002 defines an appropriate authority as one authorized to regulate under or to enforce the law alleged to be violated or to investigate or prosecute criminal law violations.

In an unsigned [opinion](#), the court dismissed a lawsuit filed against Ysleta ISD by the principal at the Robert F. Kennedy Pre-K Academy, who had sent a memorandum to his immediate supervisor reporting various “asbestos hazards” in the school that he said were making staff members sick. He later testified that he reported his concerns to several school officials, including the superintendent and district trustees.

According to the court’s opinion, the whistleblower claim was filed after the principal requested transfer to another school and was indefinitely suspended.

The principal claimed the school district violated the federal Asbestos Hazard Emergency Response Act (15 U.S.C. sec. 2641), saying that provisions in the federal law requiring a school district to develop an asbestos management plan transformed the superintendent and school board trustees into appropriate law enforcement authorities empowered to regulate under the law and not merely responsible for ensuring internal compliance. The district said the asbestos law gives regulatory authority to the U.S. Environmental Protection Agency.

In dismissing the lawsuit against Ysleta ISD, the court cited its earlier rulings involving another school district and a university medical center. In both cases it held that complaints to internal officials were not good-faith complaints where the officials had no authority to enforce the allegedly violated laws outside the institution itself.

The 83rd Legislature considered related legislation in 2013. [SB 121](#) by Rodriguez would have amended Government Code, sec. 554.002 to prohibit a school district in El Paso County from suspending or terminating an employee who in good faith reported in writing a violation of law to certain district or school employees. The bill passed the Senate and was recommended for the Local and Consent calendar by the House State Affairs Committee, but it did not pass before the session ended.

— by Janet Elliott

*Public Education***Austin's Eastside Memorial working with new partner**

December 18 — More than five years after becoming the first school to be [closed down](#) under the Texas public school accountability system, the former Johnston High School in the Austin Independent School District (AISD) is working with a new partnering entity to implement a plan to strengthen academic performance for the 504 students attending what is now Eastside Memorial High School.

The contract with Talent Development Secondary, a school improvement organization based at the Johns Hopkins University School of Education, is the latest effort to keep the school open after previous reconstitution efforts failed to meet required improvements.

Under Education Code, [sec. 39.107](#), campuses identified as unacceptable for two consecutive years must be reconstituted by the education commissioner. As part of the reconstitution plan, AISD agreed to select an entity with proven expertise to help the district ensure successful implementation of the plan. A previous contract with a partnering entity was terminated by the AISD Board of Trustees in December 2012.

The plan for Eastside submitted by AISD and approved in June 2013 by the [commissioner of education](#) includes:

- on-site, embedded professional development for teachers;
- an early warning system to identify students at risk of not graduating on time;
- specialized curriculum and instructional coaches for core subjects;
- increased daily time for math instruction; and
- strengthening instruction in elementary and middle schools feeding into Eastside.

The AISD plan requires the school to achieve academically acceptable ratings for both 2014-15 and 2015-16 school years or the campus will be closed for at least one full school year.

— by Janet Elliott