

No. _____

TEXAS STATE TEACHERS ASSOCIATION	§	IN THE DISTRICT COURT
Plaintiff,	§	
	§	
vs.	§	
	§	_____ JUDICIAL DISTRICT
	§	
TEXAS EDUCATION AGENCY,	§	
MIKE MORATH, IN HIS	§	
OFFICIAL CAPACITY AS	§	
COMMISSIONER OF EDUCATION	§	
FOR THE STATE OF TEXAS,	§	TRAVIS COUNTY, TEXAS
Defendant.	§	

PETITION FOR DECLARATORY JUDGMENT
DECLARING AGENCY REGULATION INVALID, INAPPLICABLE, OR VOID

The Texas State Teachers Association, Plaintiff, files this Petition for Declaratory Judgment, pursuant to the Administrative Procedure Act, Tex. Gov. Code §2001.001 *et seq.*, and Chapter 37 of the Civil Practice and Remedies Code, for a declaration that regulations of the Texas Education Agency are invalid as applied to Plaintiff's members, and in support of this Petition shows:

A. Discovery Control Plan

1. Discovery is governed by Texas Rule of Civil Procedure 190.3

B. Parties

2. Plaintiff, TSTA, is a state-wide, professional association whose members are employed by the public schools of this State, and is affiliated with the National Education Association. It exists to further the interests of public education by strengthening, promoting, and protecting the rights and privileges of employees of public education. To carry out its mission, TSTA

has some 400 local affiliates throughout the state which are made up of members in various school districts and counties across the state. The interests of its members which TSTA seeks to protect are germane to its purpose as a non-profit organization of school district employees. Participation of individual members of TSTA is not required with respect to the claims asserted or the relief requested herein. The interests of TSTA members with employment contracts they have entered into with the public school districts of this State will be affected by the regulations on evaluations adopted by Defendant.

3. The interests TSTA advances in this litigation are germane to its purpose as a non-profit corporation existing under the laws of the State of Texas. TSTA's principal place of business and registered office is in Travis County, Texas.
4. The Defendant is the Texas Education Agency, Mike Morath, In His Official Capacity as Commissioner of Education for the State of Texas. He can be served with a copy of this Petition at his place of business, 1700 North Congress Avenue Austin, Texas 78701-1494.

C. Jurisdiction and Venue

5. This is an action to declare rights, status, or other legal relations between the parties arising under Tex. Educ. Code §21.351, Recommended Appraisal Process and Performance Criteria, 19 TAC 150.1001, (f)(2)(D), and Tex. Educ. Code §21.352, Local Role, 19 TAC 150.1007(a)(2)(C)(ii). 40 Tex. Reg. 8857-62 (2015) (to be codified at 19 Tex. Admin. Code §150.1001(f)(2)(D) and 19 Tex. Admin. Code §150.1007(a)(2)(C)(ii) (proposed December 11, 2015) (Tex. Educ. Agency, Commissioner's Rules Concerning Educator Appraisal, Subchapter AA. Teacher Appraisal).

6. This court possesses jurisdiction to hear and determine a question brought under the Uniform Declaratory Judgment Act, Civil Practice and Remedies Code, Chapter 37.
7. There exists a live and actual controversy between the parties regarding the evaluation system required to be used on TSTA members. A live and actual controversy exists regarding the scope of Defendant's activities and whether they constitute a valid exercise of administrative rule-making or legitimate applications of legislative grants of authority. The judgment of this case will resolve this actual controversy.

D. Nature of Case

8. On April 6, 2016, the Defendant adopted Regulation 19 TAC §150.1001, (f)(2)(D), which provides that the Professional Development and Appraisal System (PDAS) be replaced with the Texas Teacher Evaluation and Support System (T-TESS) as the recommended state teacher evaluation model.
9. Under Tex. Educ. Code §21.351, the Commissioner's appraisal system must be based on observable, job-related behavior.
10. Pursuant to 19 TAC §150.1001 (f)(2)(D), the Commissioner's appraisal system must include value-added data based on student state assessment results.
11. Under Tex. Educ. Code §21.352, a school district may as an alternative use an appraisal process and performance criteria: (A) developed by the district- and campus-level committees established under Tex. Educ. Code §11.251; (B) contain the items described by Tex. Educ. Code §21.351 which provides the criteria must be based on observable, job-related behavior.
12. On April 6, 2016, the Defendant also adopted the alternative to the Commissioner's Recommended Appraisal System, 19 TAC §150.1007(a)(2)(C)(ii) which also requires

value-added data based on student state assessment results, 19 TAC §150.1001 (f) (2)(D), to be a part of the evaluation system of teachers.

13. The T-TESS evaluation system is not based on observable, job-related behavior. It is inconsistent with the requirements of Tex. Educ. Code §21.351 and Tex. Educ. Code §21.352.

E. Claim for Relief

14. The regulations in question, 19 TAC §150.1001, (f)(2)(D) and 19 TAC §150.1007(a)(2)(C)(ii), and their application to Plaintiff's members threaten to interfere with and impair the legal rights and privileges of Plaintiff's members in that these evaluation systems are utilized in terminating employment and granting rates of pay.
15. Plaintiff contends that the regulations in question are invalid because they seek to amend the law as made and provided by the Legislature through administrative process. It is an unreasonable, unwarranted, and excessive exercise of the power vested in the Defendant, going far beyond the degree of regulation necessary to prevent unqualified teachers from teaching or limiting teachers' rates of pay.
16. Plaintiff requests that this court declare the regulations in question invalid.

F. Prayer

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be cited to appear and answer, and that on final trial, Plaintiff be granted the following:

1. A declaration that Regulations 19 TAC §150.1001, (f) (2) and 19 TAC §150.1007(a)(2)(C)(ii) issued by the Defendant, are invalid;
2. Attorney fees;
3. Costs of suit; and
4. Such other and further relief to which Plaintiff may be justly entitled.

Respectfully Submitted,

TEXAS STATE TEACHERS ASSOCIATION

/s/ Russell Ramirez

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