



TSTA NEWS

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Texas Supreme Court orders commissioner to hear NEA-Dallas' grievance over Dallas ISD teacher appraisal system

The Texas Supreme Court has ordered state Education Commissioner Mike Morath to hear a grievance, which he earlier dismissed, brought by teachers against Dallas ISD over the district's teacher appraisal system, the Teacher Excellence Initiative (TEI).

Ruling in a lawsuit brought by the Texas State Teachers Association on behalf of its local affiliate, NEA-Dallas, the court ruled that the grievance brought by NEA-Dallas during the 2015-2016 school year, when TEI was first implemented, was filed on time.

Both the school district and the commissioner had dismissed the grievance, contending wrongly that the teachers had missed a district-imposed deadline for filing it. Their dismissals were upheld by a state district court. The Third Court of Appeals in Austin delivered a mixed opinion.

NEA-Dallas argues that TEI, which evaluates teachers partly on the basis of STAAR test scores, violates basic teacher appraisal laws in the Texas Education Code, including the requirement that teachers be evaluated annually and on the basis of "observable, job-related behavior." The teachers argue the test score component also violates the commissioner's own rules for appraisals that were in effect before July 1, 2016.

The Supreme Court, in a decision handed down May 28, didn't rule on the merits of the teachers' arguments against the validity of the Teacher Excellence Initiative, but it gave them their first opportunity to argue the merits of their case before the commissioner.

"Like all their colleagues, the dedicated educators who are members of NEA-Dallas work very hard for the success of all Dallas ISD students. They are entitled to a hearing on their concerns about the legality of Dallas ISD's method of evaluating their work," said TSTA President Ovidia Molina. "This Supreme Court ruling will finally give them that hearing. They remain committed to improving educational opportunities for all their students."

Attorney Giana Ortiz, who argued the case for NEA-Dallas, added, "This is a long-overdue acknowledgement for these educators who, since 2015, have been deprived by Dallas ISD and the education commissioner of an opportunity to be heard."

Under Dallas ISD policy in effect at the time, teachers had to file grievances within 10 days after first learning of an action or policy that they believed caused them harm. The district and Commissioner Morath ruled that the educators had missed that deadline because the Dallas school board had voted in May 2014 to substitute its own teacher appraisal system, the TEI, for the state's appraisal process.

The Supreme Court ruled that the grievance was filed on time during the 2015-2016 school year because that is when teachers got their first “scorecards” on which their evaluations were based.

“If the scorecards are legally flawed – a matter on which we express no opinion – then the (school) District’s action in sending them is subject to a grievance. It makes no difference that the reason the scorecards are legally flawed is the District’s earlier decision to adopt TEI,” the court ruled in an opinion written by Justice James D. Blacklock.

The 10-day deadline, the court said, “does not authorize the District to strategically reframe the Teachers’ arguments as a time-barred complaint about prior actions or decisions.”

Many Dallas ISD teachers, including some NEA-Dallas members, suffered cuts in take-home pay after they received their first evaluation scorecards under the then-new appraisal system.

Teachers with what the district considered good scorecards received bonuses for 2015-16. All the teachers who did not receive bonuses suffered reductions in net pay because the district gave no cost-of-living adjustments that year and increased the employees’ share of health insurance premiums.

NEA-Dallas argued that those reductions in net pay violated a Texas Education Code requirement that teachers be notified of pay reductions no less than 45 days before the start of the school year, so they have time to make other employment plans, if they wish.

Ruling on that part of the grievance, the education commissioner held that the notification requirement applied to a teacher’s total compensation, not take-home pay. The Supreme Court upheld the commissioner’s conclusion on that issue.