

MAY 19 2017 ~~NNR~~ 5

At 4:40 PM.
Velva L. Price, District Clerk

NO. D-1-GN-17-001385

LA FERIA ISD, JOAQUIN ISD and
EQUITY CENTER
Plaintiffs,

v.

MIKE MORATH, TEXAS
COMMISSIONER OF EDUCATION;
TEXAS EDUCATION AGENCY; and
TEXAS STATE BOARD OF
EDUCATION
Defendants.

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

261st JUDICIAL DISTRICT

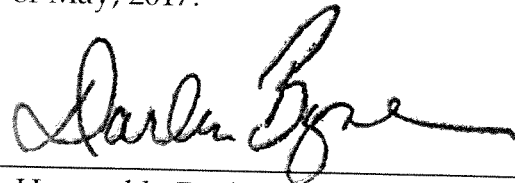
ORDER DENYING PLEA TO THE JURISDICTION

On May 17, 2017, the Court heard Defendants' Plea to the Jurisdiction. After considering the pleadings, evidence and argument of counsel, the Court finds that the underlying statute at Texas Education Code §41.013 is ambiguous. The Court finds that a memo on Texas Education Agency ("TEA") letterhead from Leo Lopez, Associate Commissioner for School Finance / Chief School Finance Officer was issued on February 1, 2017 and was admitted into evidence at the hearing as Plaintiff's Exhibit 1. The Court finds that this memo was not an "Order of the Commissioner" or a "Decision of the Commissioner" under Texas Education Code §41.013. The Court finds that the memo was an inadequate, improper, and invalid attempt at a rule amendment. The Court finds that, after this cause of action was filed, on April 21, 2017, TEA published a proposed amendment to 19 Tex. Admin. Code 62.1071 that would amend the 2016-2017 Chapter 41 Manual for Districts Subject to Wealth Equalization by eliminating any

reference in the manual to the effects of the adoption of a LOHE by a Chapter 41 district. The Court finds that this April 21, 2017 publication of notice does not comply with the mandatory requirement that proposed rules contain an accurate fiscal note. The Court finds that the Court heard evidence in the hearing which directly contradicts the statement in the notice that "there will be no fiscal implications to state or local government, including local school districts". The Court finds that evidence was presented in the hearing that there will be significant fiscal implications specifically to local government, including local school districts. The Court finds that the April 21, 2017 publication of notice was issued as part of an inadequate, improper, and invalid proposed attempt at rule amendment. The Court therefore determines that sovereign immunity has been waived pursuant to §2001.038 of the Texas Government Code with respect to this cause of action and therefore the Court finds that the Plaintiffs have standing and the Court has subject matter jurisdiction of the claims in this matter.

IT IS THEREFORE ORDERED that Defendants' Plea to the Jurisdiction is hereby DENIED.

Signed on this 19 day of May, 2017.



The Honorable Darlene Byrne
District Judge