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Texas Supreme Court Update

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SUPREME COURT OF TEXAS UPDATE

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SUPREME COURT OF TEXAS UPDATE

Phil Johnson
Justice
Supreme Court of Texas

I. SCOPE OF THIS ARTICLE

This article surveys cases that were decided by the Supreme Court of Texas from February 1, 2016 through January 31, 2017. Petitions granted but not yet decided are also included.

II. ADMINISTRATIVE LAW

A. Exhaustion of Administrative Remedies

1. Clint Indep. Sch. Dist. v. Marquez, 487 S.W.3d 538 (Tex. Apr. 1, 2016) [14-0903].

At issue in this case was whether a group of parents was required to exhaust administrative remedies under the Texas Education Code before filing suit in a trial court seeking declaratory and injunctive relief to cure alleged inequalities in funding among individual schools in the Clint Independent School District.

Parents of students attending schools in Clint ISD filed suit against the school district, claiming it violated the Texas Education Code because it was inequitably funding the schools within the district. They also raised claims of a violation of the equal rights and education provisions of the Texas Constitution. Clint ISD responded by filing a motion to dismiss and a plea to the jurisdiction. The trial court granted Clint ISD's motions, explaining that the Parents failed to exhaust all administrative remedies prior to filing suit. The case was appealed to the court of appeals, which reversed the trial court's ruling. The court of appeals held that the Parents validly raised constitutional claims, which are exempt from the requirement that a party exhaust all administrative remedies prior to filing suit. Clint ISD appealed, arguing that the school district's obligation to fund schools arises from the Texas Education Code instead of the Constitution, thus the Parents failed to raise a valid constitutional claim.

The Court held that the Parents' claims necessarily involved violations of the "school laws of the state" and that the Parents were required to exhaust their administrative remedies. The

Constitution provides that it is the Legislature's duty to provide for an efficient public school system. And through the Education Code, the Legislature, not the Constitution, imposed the legal obligations on the school district that the parents claimed the district failed to meet.

The Court further held that the Parents were not excused from exhausting administrative remedies under any exceptions. Claims for purely constitutional violations do not require exhaustion of administrative remedies, but the Parents' constitutional claims necessarily resulted from alleged violations of the school laws of the state. The constitutional-claims exception did not therefore apply.

Section 7.057(a-1) of the Education Code excepts claims based on law "outside" of the Code. The Court held that this exception did not apply because the Parents' claims were based on provisions in the Education Code. The Court also held that the Parents' request for temporary injunctive relief did not except their claims from the exhaustion requirement because such relief was not appropriate in this case. Lastly, although "pure questions of law" are excepted from the exhaustion requirement, the Parents presented questions of historical fact, questions of law, and mixed questions of law and fact.

Although the Parents requested that the Court remand to the trial court so that they could amend their pleadings to cure the jurisdictional defect, the Court held that the Parents could not replead their claims in such a way as to eliminate their reliance on the school laws of the state. The Parents could also not use remand as a mechanism to plead new claims. The Court therefore dismissed the suit for lack of jurisdiction.

2. McIntyre v. El Paso Indep. Sch. Dist., 499 S.W.3d 820 (Tex. June 24, 2016) [14-0732].

At issue in this case was whether the Texas Education Code required a homeschooling family

to exhaust administrative remedies before suing El Paso Independent School District for violation of certain constitutional rights. The McIntyre family sued the District and its attendance officer after criminal charges were filed against them for truancy and contributing to truancy. They asserted the charges resulted from their refusal to sign the District's homeschool verification form rather than from criminal conduct, and brought suit alleging violations of their state and federal constitutional rights. The district court denied the District's plea to the jurisdiction. The court of appeals, however, reversed, reasoning that the Education Code required the McIntyres to exhaust administrative remedies before suing the District for violations of their rights under the Texas Constitution. It also held that qualified immunity protected the District's attendance officer from the McIntyres' claims. The Supreme Court reversed in part, holding the McIntyres need not exhaust administrative remedies.

The Court held that the Education Code did not require the McIntyres to exhaust administrative remedies before suing the District for violation of their rights under the Texas Constitution. Employment disputes aside, the Code limits administrative appeals to cases where a person is aggrieved by the school laws or a school board's violation of them. Here, the McIntyres were not aggrieved by the school laws; their grievance was with the District's actions. Neither were the McIntyres aggrieved by a violation of the school laws; they alleged the District violated the constitution, not the Education Code. Accordingly, the Court reversed the court of appeals' judgment insofar as it dismissed the McIntyres' claims for failure to exhaust administrative remedies. The Court, however, affirmed the court of appeals' judgment to the extent it dismissed the McIntyres' claims against the District's attendance officer based on qualified immunity. The Court remanded the case to the court of appeals.

Justice Green, joined by Justice Johnson and Justice Brown, dissented. The dissent concluded that the Education Code required the McIntyres to exhaust administrative remedies. The McIntyres necessarily alleged they were aggrieved by the school laws when they challenged the District's and its attendance officer's investigation and the

actions taken pursuant to the school laws. Further, the McIntyres asserted the District and its attendance officer acted outside the scope of their authority, which means that the District violated the school laws. The Education Code requires exhaustion of administrative remedies when a plaintiff's claim requires a determination of a school district's authority in administering the school laws.

B. Public Information Act

1. Paxton v. City of Dallas, 453 S.W.3d 580 (Tex. App.—Austin 2014), *pet. granted*, 59 Tex. Sup. Ct. J. 359 (Feb. 19, 2016) [15-0073], *consolidated with*, Paxton v. City of Dallas, 2015 WL 601974 (Tex. App.—Corpus Christi 2015), *pet. granted*, 59 Tex. Sup. Ct. J. 359 (Feb. 19, 2016) [15-0238].

The primary issue in these consolidated cases is whether attorney-client privilege permits a governmental entity to withhold privileged documents from public disclosure under the Texas Public Information Act (PIA). Subject to certain exceptions for confidential information, the PIA requires that public information be made available to the public upon request. If a governmental entity desires to withhold the requested information from disclosure, it must request an opinion from the Attorney General on the issue no later than 10 business days after receiving the request. If the governmental entity fails to timely comply, the requested information is "presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information."

In two cases, the City of Dallas received information requests that allegedly would require disclosure of information protected by the attorney-client privilege. The City failed to ask the Attorney General for an opinion within 10 business days of receiving the requests. When the City finally requested an Attorney General opinion, the City asserted attorney-client privilege as the "compelling reason" that permits the City to nonetheless withhold the information from public disclosure. The Attorney General disagreed, concluding that the PIA required disclosure. The City sued the Attorney General, arguing that it had satisfied the compelling-reason standard. After the City won in one trial court and lost in another, the two courts of appeals in these cases held that

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