

By: Dutton

H.B. No. 1513

A BILL TO BE ENTITLED

AN ACT

relating to hearings on certain public school employee employment decisions before the board of trustees of a school district.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 11.1511, Education Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) In adopting a process under Subsection (b)(13) through which school district personnel may obtain a hearing from the board of trustees regarding a complaint, the hearing must allow the employee to:

(1) be represented by a representative of the employee's choice;

(2) as applicable, cross-examine adverse witnesses;
and

(3) present evidence.

SECTION 2. Section 21.258, Education Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) At the meeting, the board of trustees or board subcommittee shall consider the hearing examiner's recommendation and shall, unless the teacher requests a full hearing before the board in accordance with Subsection (b-1), allow each party to present an oral argument to the board or subcommittee. The board by written policy may limit the amount of time for oral argument. The

1 policy must provide equal time for each party.

2 (b-1) If the teacher requests a full hearing before the
3 board for consideration of the hearing examiner's recommendation,
4 each party may:

5 (1) be represented by a representative of the party's
6 choice;

7 (2) hear the evidence supporting the hearing
8 examiner's recommendation;

9 (3) cross-examine adverse witnesses; and

10 (4) present evidence.

11 SECTION 3. Section 21.259(a), Education Code, is amended to
12 read as follows:

13 (a) Not later than the 10th day after the date of the board
14 meeting under Section 21.258, the board of trustees or board
15 subcommittee shall announce a decision that:

16 (1) includes findings of fact and conclusions of law;

17 (2) complies with Subsections (b), (c), and (d),
18 unless the board conducted a full hearing as provided by Section
19 21.258(b-1); and

20 (3) [~~(2)~~] may include a grant of relief.

21 SECTION 4. Section 21.301(c), Education Code, is amended to
22 read as follows:

23 (c) The commissioner shall review the record of the hearing
24 before the hearing examiner and, as applicable, the oral argument
25 before the board of trustees or board subcommittee or the hearing
26 before the board. Except as provided in Section 21.302, the
27 commissioner shall consider the appeal solely on the basis of the

1 local record and may not consider any additional evidence or issue.
2 The commissioner, on the motion of a party or on the commissioner's
3 motion, may hear oral argument. The commissioner shall accept
4 written argument.

5 SECTION 5. Section 21.302(a), Education Code, is amended to
6 read as follows:

7 (a) If a party alleges that procedural irregularities that
8 are not reflected in the local record occurred at the hearing before
9 the hearing examiner or before the board of trustees, the
10 commissioner may hold a hearing for the presentation of evidence on
11 that issue. The party alleging that procedural irregularities
12 occurred shall identify the specific alleged defect and its claimed
13 effect on the board's or board subcommittee's decision. The
14 commissioner may make appropriate orders consistent with rules
15 adopted by the commissioner. The commissioner's determination on
16 any alleged procedural irregularities is final and may not be
17 appealed.

18 SECTION 6. Section 21.303(b), Education Code, is amended to
19 read as follows:

20 (b) If the board of trustees terminated a teacher's
21 probationary, continuing, or term contract during the contract term
22 or suspended a teacher without pay, the commissioner may not
23 substitute the commissioner's judgment for that of the board
24 unless:

25 (1) if the board accepted the hearing examiner's
26 findings of fact without modification, the decision is arbitrary,
27 capricious, or unlawful or is not supported by substantial

1 evidence; ~~[or]~~

2 (2) if the board modified the hearing examiner's
3 findings of fact, the decision is arbitrary, capricious, or
4 unlawful or the hearing examiner's original findings of fact are
5 not supported by substantial evidence; or

6 (3) if the board held a hearing under Section
7 21.258(b-1), the board's decision following the hearing is
8 arbitrary, capricious, or unlawful or is not supported by
9 substantial evidence.

10 SECTION 7. (a) The board of trustees of a school district
11 shall adopt a process for a hearing in accordance with Section
12 11.1511(b-1), Education Code, as added by this Act, as soon as
13 practicable after the effective date of this Act.

14 (b) Section 21.258, Education Code, as amended by this Act,
15 applies only to the decision of the board of trustees of a school
16 district described by Section 21.251, Education Code, made on or
17 after the effective date of this Act. A decision of the board of
18 trustees described by Section 21.251, Education Code, made before
19 the effective date of this Act is governed by the law in effect on
20 the date the decision was made, and that law is continued in effect
21 for that purpose.

22 SECTION 8. This Act takes effect September 1, 2011.