

By: Hall

S.B. No. 2092

A BILL TO BE ENTITLED

AN ACT

relating to the process for review after a decision to terminate a teacher's contract or suspend a teacher without pay.

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

SECTION 1. The heading to Subchapter F, Chapter 21, Education Code, is amended to read as follows:

SUBCHAPTER F. HEARINGS [~~BEFORE HEARING EXAMINERS~~]

SECTION 2. Section 21.253, Education Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) The school district may choose to have the hearing conducted before:

(1) a hearing examiner; or

(2) the board of trustees or a subcommittee designated by the board.

(d) The school district shall notify the commissioner of the school district's choice under Subsection (c).

SECTION 3. The heading to Section 21.258, Education Code, is amended to read as follows:

Sec. 21.258. CONSIDERATION OF RECOMMENDATION OF HEARING EXAMINER BY BOARD OF TRUSTEES OR BOARD SUBCOMMITTEE.

SECTION 4. The heading to Section 21.259, Education Code, is amended to read as follows:

Sec. 21.259. DECISION OF BOARD OF TRUSTEES OR BOARD SUBCOMMITTEE AFTER CONSIDERATION OF RECOMMENDATION OF HEARING

1 EXAMINER.

2 SECTION 5. Subchapter F, Chapter 21, Education Code, is
3 amended by adding Section 21.2595 to read as follows:

4 Sec. 21.2595. HEARING BY BOARD OF TRUSTEES OR BOARD
5 SUBCOMMITTEE; DECISION. (a) If the school district chooses to have
6 a hearing before the board of trustees or a subcommittee designated
7 by the board, the board or subcommittee shall conduct the hearing as
8 provided by this section.

9 (b) The board of trustees or board subcommittee has the same
10 authority as a hearing examiner and the hearing is subject to the
11 same requirements and shall be conducted in the same manner as
12 provided under Sections 21.255 and 21.256. The school district and
13 the teacher have the same rights and responsibilities as provided
14 by Sections 21.255 and 21.256.

15 (c) Not later than the 60th day after the date on which the
16 district receives a copy of the teacher's written request for a
17 hearing, the board of trustees or board subcommittee shall complete
18 the hearing and shall announce a decision that:

19 (1) includes findings of fact and conclusions of law;
20 and

21 (2) may include a grant of relief.

22 (d) A determination by the board of trustees or board
23 subcommittee regarding good cause for the suspension of a teacher
24 without pay or the termination of a probationary, continuing, or
25 term contract is a conclusion of law.

26 SECTION 6. Section 21.260, Education Code, is amended to
27 read as follows:

1 Sec. 21.260. RECORDING OF BOARD PROCEEDINGS [~~MEETING AND~~
2 ~~ANNOUNCEMENT~~]. A certified shorthand reporter shall record the
3 oral argument under Section 21.258 and the announcement of a a [~~the~~]
4 decision under Section 21.259 or 21.2595. The school district
5 shall bear the cost of the services of the certified shorthand
6 reporter.

7 SECTION 7. Sections 21.301(a) and (c), Education Code, are
8 amended to read as follows:

9 (a) Not later than the 20th day after the date the board of
10 trustees or board subcommittee announces its decision under Section
11 21.259 or 21.2595 or the board advises the teacher of its decision
12 not to renew the teacher's contract under Section 21.208, the
13 teacher may appeal the decision by filing a petition for review with
14 the commissioner.

15 (c) The commissioner shall review, as applicable, the
16 record of the hearing before the hearing examiner and the oral
17 argument before the board of trustees or board subcommittee or the
18 record of the hearing before the board of trustees or board
19 subcommittee. Except as provided in Section 21.302, the
20 commissioner shall consider the appeal solely on the basis of the
21 local record and may not consider any additional evidence or issue.
22 The commissioner, on the motion of a party or on the commissioner's
23 motion, may hear oral argument. The commissioner shall accept
24 written argument.

25 SECTION 8. Section 21.302(a), Education Code, is amended to
26 read as follows:

27 (a) If a party alleges that procedural irregularities that

1 are not reflected in the local record occurred at a [~~the~~] hearing
2 under Subchapter F [~~before the hearing examiner~~], the commissioner
3 may hold a hearing for the presentation of evidence on that issue.
4 The party alleging that procedural irregularities occurred shall
5 identify the specific alleged defect and its claimed effect on the
6 board's or board subcommittee's decision. The commissioner may
7 make appropriate orders consistent with rules adopted by the
8 commissioner. The commissioner's determination on any alleged
9 procedural irregularities is final and may not be appealed.

10 SECTION 9. Sections 21.303(a) and (b), Education Code, are
11 amended to read as follows:

12 (a) If the board of trustees or board subcommittee decided
13 not to renew a teacher's term contract, the commissioner may not
14 substitute the commissioner's judgment for that of the board or
15 subcommittee [~~of trustees~~] unless the decision was arbitrary,
16 capricious, or unlawful or is not supported by substantial
17 evidence.

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

23 (1) if the board or subcommittee accepted the hearing
24 examiner's findings of fact without modification, the decision is
25 arbitrary, capricious, or unlawful or is not supported by
26 substantial evidence; [~~or~~]

27 (2) if the board or subcommittee modified the hearing

1 examiner's findings of fact, the decision is arbitrary, capricious,
2 or unlawful or the hearing examiner's original findings of fact are
3 not supported by substantial evidence; or

4 (3) the decision of the board or subcommittee in a
5 hearing under Section 21.2595 is arbitrary, capricious, or unlawful
6 or the original findings of fact of the board or subcommittee are
7 not supported by substantial evidence.

8 SECTION 10. Sections 21.304(d) and (e), Education Code, are
9 amended to read as follows:

10 (d) The commissioner shall maintain and index decisions of
11 the commissioner issued under this section with, as applicable:

12 (1) the recommendations or decisions of the hearing
13 examiner; or

14 (2) the decisions of the board of trustees or board
15 subcommittee announced under Section 21.2595.

16 (e) If the commissioner reverses the action of the board of
17 trustees or board subcommittee, the commissioner shall order the
18 school district to reinstate the teacher and to pay the teacher any
19 back pay and employment benefits from the time of discharge or
20 suspension to reinstatement.

21 SECTION 11. Section 21.305(a), Education Code, is amended
22 to read as follows:

23 (a) If a teacher appeals the decision of the board of
24 trustees or board subcommittee, the school district shall bear the
25 cost of preparing the original transcripts of, as applicable:

26 (1) the hearing before the hearing examiner[+] and

27 [~~2~~] the oral argument before the board of trustees

1 or board subcommittee; or

2 (2) the hearing before the board or subcommittee under
3 Section 21.2595.

4 SECTION 12. Section 21.253, Education Code, as amended by
5 this Act, applies only to a written notice of a proposed decision
6 described by Section 21.251, Education Code, received by a teacher
7 on or after the effective date of this Act.

8 SECTION 13. This Act takes effect September 1, 2017.