

Cause No. D-1-GN-23-004675

Kingsville Independent School District, et al.	§	In the District Court
<i>Plaintiffs</i>	§	
	§	
and	§	
	§	
Pflugerville Independent School District, et al.	§	419th Judicial District
<i>Intervenors</i>	§	
	§	
v.	§	
	§	
Mike Morath, in his official capacity as Commissioner of Education	§	
<i>Defendant</i>	§	Travis County, Texas

ORDER GRANTING TEMPORARY INJUNCTION

Having heard the applications of Plaintiff School Districts and Intervenor School Districts for a temporary injunction prohibiting Commissioner Morath and his officers, agents, servants, employees, and attorneys from assigning A–F performance ratings for the 2022–23 school year until further order of this Court or until this Court issues a final judgment in the above-styled and numbered action, whichever event occurs first, the Court finds the applications have merit and should be granted.

Plaintiffs and Intervenors appeared through counsel and announced ready for a hearing on their applications for temporary injunction. Defendant Mike Morath appeared through counsel and announced ready on the Plaintiffs’ and Intervenors’ applications for temporary injunction.

The Court considered the admitted exhibits and witness testimony presented by the parties at this hearing, along with all written and oral arguments submitted by the parties and counsel. The

Court is of the opinion that the Plaintiffs and Intervenors have met their burden to show their probable right of recovery on their claims against Commissioner Morath, in his official capacity, because Defendant's conduct and/or threatened conduct is without legal authority and is *ultra vires*. Plaintiffs and Intervenors have shown a probable right to relief on the merits of their claims.

The Court finds that Plaintiffs and Intervenors have made a sufficient showing of a probable right to recovery on their contention that under a proper construction of Chapter 39 of the Texas Education Code, Defendant Mike Morath, in his official capacity is not authorized to assign A–F performance ratings for the 2022–23 school year.

The Court finds that Plaintiffs and Intervenors have made a sufficient showing that Defendant's implementation of the A–F Accountability System for the 2022–23 school year is unlawful, *ultra vires* conduct that violates Texas law and would cause irreparable harm to Plaintiffs, Intervenors, and all Texas school districts.

The Court finds that Plaintiffs and Intervenors will have no adequate remedy at law unless Defendant Mike Morath is temporarily enjoined from assigning A–F performance ratings for the 2022–23 school year pending further order of this court or final trial on the merits of this suit, whichever event should first occur.

The Court finds that the issuance of a temporary injunction will maintain the status quo during the pendency of such order.

The Court finds that the balance of potential, irreparable harm that would be caused by a denial of the requested temporary injunction outweighs the potential harm, if any, to Defendant and that the public interest is served by granting this temporary injunction. Absent this order, the Commissioner will engage in *ultra vires* conduct by assigning the 2022–23 performance ratings

and will disturb the status quo to the extent the assignment and publication of these performance ratings cannot be judicially reviewed or undone.

Nothing in this order shall prevent Commissioner Morath from using data from the 2022–23 school year to apply for and/or obtain federal funds to be used for low performing campuses or from working with federal authorities to facilitate distribution of these federal funds to Texas school districts. Additionally, nothing in this order shall prevent Commissioner Morath from assigning performance ratings of “Not Rated” for the 2022–23 school year pursuant to Texas Education Code § 39.054(a–4).

The Court finds that a \$100 bond is sufficient security for any foreseeable harm or compensable damages that could result from the granting of this Temporary Injunction until further order of this Court or final judgment on the merits. This Temporary Injunction shall become effective immediately.

The Court further finds that although the Commissioner has represented to the Court that he will not assign A–F performance ratings for the 2022–23 prior to November 1, 2023, the Commissioner has not provided a specific date on which he plans to assign A–F performance ratings for the 2022–23. Accordingly, in the event the Commissioner appeals this order, the Court delays supersedeas until the court of appeals is able to decide whether to grant temporary orders under Texas Rule of Appellate Procedure 29.3.

IT IS THEREFORE ORDERED that Defendant Mike Morath, in his official capacity and his agents, servants, representatives, employees, designees, and officials acting in concert with him or on his behalf, are prohibited from assigning A–F performance ratings for the 2022–23 school year until this Court issues a final judgment in the above-styled and numbered action, whichever event occurs first.

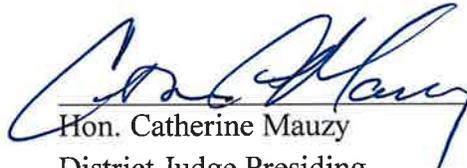
IT IS FURTHER ORDERED that trial on the merits of this case is set for

February 12, 2024, **at 9:00 o'clock a.m.** in Travis County, Texas.

IT IS FURTHER ORDERED that the clerk of this Court shall forthwith, issue this Order Granting Temporary Injunction and Writ of Temporary Injunction in conformity with the law and the terms of this Order.

IT IS FURTHER ORDERED that in the event an interlocutory appeal is filed by Defendant, this order will not be superseded until the court of appeals issues an order granting or denying a request for temporary orders under Texas Rule of Appellate Procedure 29.3.

Signed and Entered on this the 26 day of October, 2023 at 4:45 P.M., in Travis County, Texas.



Hon. Catherine Mauzy
District Judge Presiding

APPROVED AS TO FORM AND SUBSTANCE:

/s/ David J. Campbell

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