

November 13, 2014

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Memorandum for Texas Sunset Advisory Commission 1501 North Congress Avenue, 6th Floor, Robert E. Johnson Building,
Austin, Texas 78701 <Chair: Senator Jane Nelson sunset@sunset.state.tx.us> [Attention: Project Manager Karen Latta]

Subject: Testimony Regarding Sunset Recommendations on Texas Education Agency Issues 1, 4, and 8

1. **School Discipline:** State law codifies charter admissions discrimination in Subtitle G, Safe Schools, Ch. 37, Discipline; Law and Order, Subchapter A, Alternative Settings for Behavior Management per Texas Education Agency (TEA) Sunset Bill, H.B. 2983.

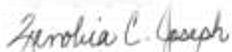
- Issue 4: "Restructure the open-enrollment charter school evaluation to provide flexibility for the agency."
 - Modification: Modify Issue 4 to strike exclusionary charter admissions language in Texas Education Code (TEC) Ch. 37.
- a. Problem: Chapter 37, Subchapter A codifies discrimination in charter school admissions per student's disciplinary history.
 - b. State Law: *Texas Education Code, Title 2, Public Education. Subtitle C. Local Organization and Governance, Ch. 12. Charters. Sec. 12.111. CONTENT.* Charter may: "(A) provide for the **exclusion** of a student who has a documented **history of a criminal offense**, a juvenile court adjudication, or **discipline problems** under Subchapter A, **Chapter 37**."
 - c. TEA Bill **Opposition:** H.B. 2983 [Author: Dutton], House Committee on Public Education, 83rd Texas Legislature (R) Session. I testified against H.B. 2983 regarding codification of discrimination impacting Black males' disciplinary history, in particular.
 - d. Solutions:
 - (1) Amend Current Law: Sponsor cleanup legislation to strike exclusionary language in *TEC, Chapter 37, Subchapter A*.
 - (2) Justify Amending *TEC Ch. 37*: Acknowledge overrepresentation of Black males in *Breaking Schools' Rules* Report (Fabelo, 2011). According to The Sentencing Project, 1 in three Black males can expect to go to prison in their lifetime if current trends continue noted Congressman Robert Scott during Lost Educational Opportunities in Alternative Settings Hearing in 2009.
 - (3) Require Charter Schools to Develop Disciplinary Solutions: Encourage charter staff and stakeholders to develop creative partnerships to address disciplinary problems to ensure open-enrollment charter schools actually open the door to all students.
 - (4) Hold Charters Accountable: Require charters to post discipline admissions denials and removal to the home school online.
 - (5) Research Discretionary Discipline Referrals: Require the Legislative Budget Board and/or Sunset Review Advisory staff to study the correlation, if any, between the overrepresentation of Black male discipline referrals and middle class white teachers.
 - (6) Culturally Relevant Pedagogy: Amend Texas Education Code to require each school district to post culturally relevant pedagogy (e.g., professional development, initiatives) to meet the needs of Texas' majority-minority student population.

2. **TEA-Pearson Student Assessment Contract:** Beyond contract procurement and 90-day Request for Proposal (RFP) extension, recognize that STAAR Writing and Reading subjectivity fails to comply with *Ch. 4, § 4.002*. State law codifies 10-day turnaround, which yields unethical unintended consequences. *TEC, Ch. 39, Public School Accountability* refers, in part, to *Ch. 4, § 4.002*, Goal 1: "The students in the public education system will demonstrate exemplary performance in the reading and writing of the English language."

- Issue 1: "While TEA has improved oversight of its large and complex student assessment contract, further work is needed."
 - Modification: Modify Issue 1 to eliminate human scorers for Writing essays and Reading open-ended questions; determine and post contractual cost-savings as part of 2015 Request for Proposal Student Assessment Re-procurement Process.
 - Book Reference: *Making the Grades: My Misadventures in the Standardized Testing Industry* by Todd Farley (2009)
- a. Problem: Pearson's "total number of reads" or 30-60 skims per hour puts human scorers in an unethical position to meet Texas' 10-day turnaround, in part, during unlimited overtime at a pay rate of time and a half (\$12/hour + \$6) with disregard for sleep deprivation and K-12 experience. Like students taking standardized tests, scorers are human beings that get sleepy, too.
 - b. Problem: TEA Contract Manager Gloria Zyskowski testified before Texas Senate Interim Committee(s) on TEA's training of test scorers though the Agency provided no direct training to test scorers, in part, during the Writing State of Texas Assessment of Academic Readiness (STAAR) EOC II Field Test (June 6-27, 2014) or Grade 12 TAKS Exit Level Reading on July 15, 2014.
 - c. Solutions:
 - (1) Eliminate human scorers, essays, and open-ended responses in 2015 RFP. With cost-savings, require teachers in all grades to scan a Beginning of Year and End of Year essay for cloud storage to assess student's authentic writing skills.
 - (2) Assemble Sunset Committee Members at Pearson in Austin to review Score 1 and 4 Writing essays, and Score 0 and 3 Reading responses during the scoring period for: "TX 2014 DEC EOC II Written Composition (Grade 10) project at the Austin PSC beginning Wednesday, December 10, 2014 through approximately Tuesday, December 23, 2014 comprehension."
 - (3) Fire current TEA contract manager per State Auditor's 2013 Report; 2010 testimony before then-Chairman Hochberg through 83rd Interim; and TEA's decision to covertly strike provision prohibiting staff work at Pearson, & post 11 positions.
 - (4) Post Assessment Contract: Require TEA to hyperlink to Legislative Budget Board's posting of Pearson NCS contract.

3. **Educator Preparation Programs:** Modify Issue 8. Require EPP oversight by State Board for Educator Certification. Anecdote: In 2007, TEA informed me that Dr. Jesse McNeil's 21st Century Principal Preparation Program's failure to comply with its brochure was a civil matter. No formal mechanism existed to file a complaint. I was simply out of \$2,750 and Region 13 required \$10K to start anew.

Very respectfully,



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