DOCKET NO. 006-R2-10-2019

| | | |
|---|---|---|
| GEORGIA CLARK | § | BEFORE THE |
| | § | |
| V. | § | COMMISSIONER OF EDUCATION |
| | § | |
| FORT WORTH INDEPENDENT SCHOOL DISTRICT | § | |
| | § | THE STATE OF TEXAS |

# DECISION OF THE COMMISSIONER

## Statement of the Case

Petitioner, Georgia Clark, complains of the decision of Respondent, Fort Worth Independent School District, to terminate her continuing contract. Christopher Maska is the Administrative Law Judge appointed by the Commissioner of Education to hear this cause. Petitioner is represented by Brandon Y. Brim, Attorney at Law Austin, Texas. Respondent is represented by Kevin O'Hanlon, David Campbell, and Kristi L. Godden, Attorneys at Law, Austin, Texas.

This case raises several questions in First Amendment law. Respondent argues that Petitioner by signing her contract with Respondent waived her First Amendment rights. Respondent is mistaken. Petitioner's contract does not waive her right to contact, outside of the workday, elected officials concerning matters they have jurisdiction over. But while teachers retain free speech rights, these rights are not unlimited. In determining whether a school district can take action against a teacher for statements that would be protected by the First Amendment if they were made by a non-school employee, a balancing test is used. What needs to be weighed is the interests of the teacher, as a citizen, in commenting upon matters of public concern and the interest of the state, as an employer, in promoting the efficiency of the public services it performs through its employees. This case raises the novel question of how to weigh the interest of an employee in contacting an elected official and asking the official to take action concerning matters over which the official has jurisdiction, while the employee was not at work and whose job was not to contact the elected official. However, instead of blazing a

new trail in constitutional law by examining this novel question, this case will be resolved based on other issues.

Ultimately, this case is decided on the question of whether Respondent's changes to the Recommendation of the Independent Hearing Examiner support a determination that there is good cause to terminate Petitioner's contract. While school districts have broad authority to change the recommendations of independent hearing examiners, in order to make such changes, certain statutory requirements must be complied with. A school district wanting to adopt changes to a Conclusion of Law or to adopt a new Conclusion of Law must provide a reason and legal basis for any change. In the present case, Respondent rejected in whole and in part many Conclusions of Law, but it adopted no completely new or partially new Conclusions of Law. This is significant because there is no Conclusion of Law in Respondent's Decision that finds there is good cause to terminate Petitioner's contract and there are no Conclusions of Law which are determinations regarding good cause that support the ultimate conclusion that good cause exists to terminate Petitioner's contract.

The claim that Respondent violated Texas Education Code section 21.355 by releasing a document to the press that evaluates Petitioner's performance is found not to be relevant to this case.

## Findings of Fact

After due consideration of the record and matters officially noticed, it is concluded that the following Findings of Fact are established by the pleadings in this cause

1. Petitioner was employed by Respondent under a continuing contract for the 2018-2019 school year.

2. Respondent proposed the termination of Petitioner's term contract based on several tweets Petitioner sent to the President of the United States.

3. The proposed termination of Petitioner's contract was heard by an Independent Hearing Examiner.

4. The Independent Hearing Examiner issued a Recommendation that found there was not good cause to terminate Petitioner's contract.

5. On September 10, 2019, Respondent's Board of Trustees conducted a meeting to consider the Recommendation of the Independent Hearing Examiner. Respondent's Board voted to set a special called meeting within ten days to render a decision.

6. On September 17, 2019, Respondent's Board conducted a special called meeting and made changes to the Recommendation. While the board rejected in whole and in part certain Conclusions of Law, no new or changed Conclusions of Law were adopted. There is no Conclusion of Law in Respondent's Decision that there is good cause to terminate Petitioner's contract and no Conclusions of Law which are determinations regarding good cause that support the ultimate conclusion that good cause exists to terminate Petitioner's contract.

## Discussion

Petitioner contends Respondent wrongfully terminated her continuing contract in violation of her First Amendment rights, that Respondent improperly changed the Recommendation of the Independent Hearing Examiner[1], and that Respondent violated Texas Education Code section 21.355. Respondent denies these claims.

[1] Petitioner makes several arguments about why Respondent's changes to the Recommendation of the Independent Hearing Examiner are improper. However, since this case can be resolved based on the issue of whether Respondent's Conclusions of Law are sufficient to support ending Petitioner's contract, these other arguments will not be addressed.

Tex. Educ. Code § 21.355

Petitioner contends that Respondent violated Texas Education Code section 21.355 by releasing a document to the press that evaluates her performance. The relevant portion of Texas Education Code section 21.355 reads:

> (a) A document evaluating the performance of a teacher or administrator is confidential and is not subject to disclosure under Chapter 552, Government Code.

Whether or not the document at issue is "a document evaluating the performance of a teacher" as that phrase is used in Texas Education Code section 21.355 has no significance to this cause. The reason for this is that this case is about whether Petitioner's contract was properly terminated. Whether or not Respondent properly complied with Texas Education Code section 21.355 is not an issue to be resolved in this case.

*Plyler*

It is likely that at the time Petitioner made the comments at issue in this case, she was not aware of the United States Supreme Court case of *Plyler v. Doe*, 475 U.S. 202 (1982) which holds that a student cannot be excluded from public school based on immigration status. To violate the holding in *Plyler,* one would either need to refuse to educate a child based on the child's immigration status or inquire into a child's immigration status. But knowing whether or not Petitioner knew of *Plyler* or agreed with it does not resolve this case. One is not required to know and agree with Supreme Court Decisions. To violate the holding in *Plyler,* Petitioner would either need to refuse to educate a child based on the child's immigration status or inquire into a child's immigration status. Respondent's board did not find that Petitioner had done either. As no violation of *Plyler* occurred, a violation of *Plyler* cannot be the basis for terminating Petitioner's contract.

Free Speech

Respondent voted to terminate Petitioner's contract based on several tweets she sent to the President of the United States asking him to take action as to what she believed were violations of law. Petitioner maintains that these tweets are protected by the First Amendment of the United States Constitution and cannot be used as the basis for terminating her contract. If Petitioner is correct, Respondent improperly terminated her contract. Respondent argues that Petitioner waived her free speech rights by signing her contract and that even if Petitioner did not waive her free speech rights that Respondent was entitled to terminate her contract because of the disruption caused to school operations by her speech.[2]

Contractual Agreement

Respondent contends that Petitioner affirmatively agreed to limit her free speech rights by signing her employment contract. Paragraph 5 of her contract provides:

> The teacher shall comply with and be subjected to, state and federal law and District policies, rules, regulations, and administrative directives as they exist or may hereafter be amended.

Respondent contends that by signing this contract Petitioner waived any free speech rights she had related to violations of laws, rules, and regulations. Respondent contends that Petitioner violated this contractual provision by violating the standards set out in *Plyler v. Doe*, 475 U.S. 202 (1982), the Code of Ethics and Standard practices for Texas Educators, and the district's adoption of prohibitions against discrimination based on national origin.

[2] Texas Education Code section 21.407(b) prohibits school boards from directly or indirectly coercing a teacher to refrain from participating in political affairs in the teacher's community, state, and nation. As neither party has relied on this statute, it is not considered in this decision.

No Waiver

Assuming solely for purposes of argument, that Petitioner's actions violated the standards set forth in *Plyler,* discriminated on the basis of national origin, or violated the Code of Ethics, Respondent is mistaken that Petitioner contractually waived her right to free speech. Respondent cites *Janus v. AFSCME, Council 31*, 138 S.Ct. 2248, 2486 (2018) noting that the case held that an employee who affirmatively consents to pay union dues waives First Amendment rights regarding the payment.

While Respondent properly describes the holding, it is not clear what application it has to this case, as this case does not involve union dues. The relevant portion of the opinion reads:

> For these reasons, States and public-sector unions may no longer extract agency fees from nonconsenting employees. Under Illinois law, if a public-sector collective-bargaining agreement includes an agency-fee provision and the union certifies to the employer the amount of the fee, that amount is automatically deducted from the nonmember's wages. §315/6(e). No form of employee consent is required.
>
> This procedure violates the First Amendment and cannot continue. Neither an agency fee nor any other payment to the union may be deducted from a nonmember's wages, nor may any other attempt be made to collect such a payment, unless the employee affirmatively consents to pay. By agreeing to pay, nonmembers are waiving their First Amendment rights, and such a waiver cannot be presumed. *Johnson* v. *Zerbst*, 304 U. S. 458, 464, 58 S. Ct. 1019, 82 L. Ed. 1461 (1938); see also *Knox*, 567 U. S., at 312-313, 132 S. Ct. 2277, 183 L. Ed. 2d 281. Rather, to be effective, the waiver must be freely given and shown by "clear and compelling" evidence. *Curtis Publishing Co.* v. *Butts*, 388 U. S. 130, 145, 87 S. Ct. 1975, 18 L. Ed. 2d 1094 (1967) (plurality opinion); see also *College Savings Bank* v. *Florida Prepaid Postsecondary Ed. Expense Bd.*, 527 U. S. 666, 680-682, 119 S. Ct. 2219, 144 L. Ed. 2d 605 (1999). Unless employees clearly and affirmatively consent before any money is taken from them, this standard cannot be met.

*Janus v. AFSCME, Council 3*1, 138 S. Ct. 2448, 2486 (2018. *Janus* stands for the proposition that only if there is "a waiver given and shown by clear and compelling evidence" can an employee give up First Amendment rights related to union membership.

Even if this case involved union membership, *Janus* would not avail Respondent. There is no evidence that Petitioner freely waived her First Amendment rights. *Janus* stands for the proposition that one cannot offer a package deal of a paycheck and joining a union, and then claim that the employee cannot complain because she agreed to the deal. The United States Supreme Court has held that teachers cannot be required to give up First Amendment rights they would otherwise enjoy as citizens to comment on matters of public interest in connection with the operation of the public schools in which they work as a condition of employment. *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568, 88 S. Ct. 1731, 1734 (1968). Petitioner did not waive her First Amendment rights by signing her contract.

*Pickering*

Respondent contends because Petitioner's speech disrupted and would continue to disrupt the operations of the school district, based on *Pickering v. Bd. of Ed.*, 291 U.S. 563, 568 (1968) and its progeny, that it could terminate her contract. The *Pickering* line of cases establishes a balancing test that requires weighing both the employee's First Amendment interests and the government entity's interest in efficiency:

> The problem in any case is to arrive at a balance between the interests of the teacher, as a citizen, in commenting upon matters of public concern and the interest of the State, as an employer, in promoting the efficiency of the public services it performs through its employees.

*Id.* Determining the balance in the present case is not an easy matter. The parties have not found nor has this tribunal found a case that is very similar to the present case. Petitioner sent a series of tweets to the President requesting that he take action based on her observations at the school.

Petitioner's First Amendment Interest

Respondent contends that the following tweets and the reaction to them constitute good cause to terminate Petitioner's continuing contract:

May 17, 2019

> Mr. President, Fort Worth Independent School District is loaded with illegal students from Mexico. Carter-Riverside High School has been taken over by them. Drug dealers are on our campus and nothing was done to them when drug dogs found the evidence.

May 17, 2019

> I contacted the feds here in Fort Worth a few months ago and the person I spoke with did not want to help me or even listen to me. The campus police officer spends his time texting on his cell phone and doing the bidding of Jennifer Orona, Hispanic assistant. . .

May 17, 2019

> . . . principal who protects certain students from criminal prosecution. There is fraud being committed by Orana and how the Special Education Department on our campus is being run. The District knows about the issues and turns a blind eye to it.

May 17, 2019

> I need protection from recrimination should I report to the authorities, but I do not know where to turn. I contacted the Texas Education Agency and then my teacher organization. Texas will not protect whistle blowers. The Mexicans refuse to honor our flag.

May 17, 2019

> I do not know what to do. Anything you can do to remove the illegals from Fort Worth would be greatly appreciated. My phone number is xxx xxx xxxx and my cell is xxx xxx xxxx. Georgia Clark is my real name. Thank you.

May 22, 2019

> Mr. President, I asked for assistance in reporting illegal immigrants in the FWISD public school system and I received was an alarming tweet from someone identifying himself as one of your assistants followed by a second tweet from the same person . . .

May 22, 2019

> . . . with the f word used in the dot.com. I promptly deleted both tweets and sent a message to Twitter about it. I really need a contact here in Fort Worth who should be actively investigating and removing the illegals that are in our public school system. Thank you.

What makes Petitioner's speech unique is that it was an attempt to seek the assistance of a government official concerning issues that the official has responsibility for and was not done as a part of Petitioner's job or while on duty. Petitioner's speech was an attempt to communicate with the President of the United States. While Petitioner's speech was viewable by anyone with internet access, the forum was the President's Twitter account and Petitioner did not know that others had access to her communication.

Three issues Petitioner raised are issues of significant public concern. Teachers may have particular expertise in special education, fraud in schools, and drugs in schools. While Petitioner inadvertently choose a forum that was public, even if Petitioner had sent her concerns to the President by letter, her communication would be discoverable by anyone who made a Freedom of Information Act Request.

Level of Interest

There is very high First Amendment interest in Petitioner's communications because they involve a citizen bringing concerns to an elected official who has authority over those claims. The First Amendment of the United States Constitution provides the right "to petition the Government for a redress of grievances." The Texas Constitution provides a similar right to:

> apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address or remonstrance.

Tex. Const. art 1, § 27. The right to present grievances is an important right.

A ruling on this issue could have significant repercussions. A holding that allowed employment action based on an employee's petition to an elected official to take action could have a chilling effect limiting the likelihood that government employees would attempt to communicate with their elected representatives.

There is precedent for prohibiting the use of certain statements made to governmental bodies from being used to terminate an employee:

> In the Notice Letter, Respondent alerted Petitioner that it intended to use the discrepancies between her sworn statements and her testimony under oath during the course of her lawsuit against Respondent and Gober to show that she had violated board policies by lying. The Independent Hearing Examiner found that Petitioner's testimony in a deposition and a hearing in the lawsuit against Respondent and Gober, when compared to her sworn written statements in her petition and interrogatories in that same suit, showed that she had violated board policies by making false statements, falsifying records, engaging in deceptive practices, and not being of good moral character, among other violations. But under Texas law, any communication made by anyone during a judicial proceeding is privileged, and cannot be used as the basis to sue the speaker. *Bird v. W.C.W.*, 868 S.W.2d 767, 771 (Tex. 1994). Although the absolute privilege for statements made in a court proceeding began as protection from libel or slander claims, Texas courts have extended it to include any cause of action. Id. at 771-772 (holding that "the administration of justice requires full and free disclosure from witnesses unhampered by fear of retaliatory lawsuits."); *see also Hernandez v. Hayes*, 931 S.W.2d 648, 654 (Tex. App.--Houston [1st Dist.] 1998, pet. denied) ("The privilege would be lost if the appellant could merely drop the defamation causes of action and creatively replead a new cause of action"); *Laub v. Pesikoff*, 979 S.W.2d 686, 690 (Tex. App.--Houston [1st Dist.] 1998, pet. denied) ("the judicial communication privilege cannot be circumvented by disguising a claim under a different label"); *Settle v. George*, 2012 Tex. App. LEXIS 5831, at *8-* 12 (Tex. App.--Fort Worth 2012) (finding that a claim of fraud could not be based on statements made under oath during the course of judicial proceeding). This absolute privilege applies "even though the language is false and is uttered or published with express malice." *Reagan v. Guardian Life Ins. Co.*, 140 S.W.2d 909, 912 (Tex. 1942).

*Ortiz v, Plano Independent School District*, Docket No. 012-R2-10-2013 (Comm'r Educ. 2014). In *Ortiz*, the Commissioner ruled that the teacher's testimony in a judicial proceeding could not be used as a basis to terminate the teacher's contract. Whether an analogous doctrine should be applied when an employee makes a petition for an elected official to take action is an open question.

Respondent's Efficiency Interest

Respondent argues that the efficient operation of its schools was harmed and would continue to be harmed due to Petitioner's communications if Petitioner's contract was not terminated. Respondent argues that undocumented families, fearing Petitioner may attempt to have them deported, might not send their children to school. If this were to occur, Respondent's schools would be failing to achieve the central purpose of schools which is educating children. Respondent also argues that three email threats were made after Petitioner's communications became public and that the district received many complaints. Respondent makes a strong disruption argument.

Where to strike a balance?

Neither party has brought a case to the attention of this tribunal where a public employee was fired for petitioning an elected official while outside of work to take action on issues of public concern. No such case has been found. To resolve this case would require making new constitutional law. In the present case, there is no need to go into unexplored constitutional territory. This case can be decided without addressing this issue. How *Pickering* and its progeny apply to similar fact situations can be left to another day.

Changing Conclusions of Law Requirements

A school board is required to announce a decision that includes findings of fact and Conclusions of Law. Tex. Educ. Code § 21.259(a)(1). A board may either adopt an Independent Hearing Examiner's Conclusion of Law or draft its own Conclusions of Law. Unlike when changing or rejecting a finding of fact, a school district has great freedom to adopt, reject, or change the Independent Hearing Examiner's Conclusions of Law. Tex. Educ. Code § 21.259(b)(1) and (c). A school board has wide but not unlimited discretion to change Conclusions of Law. If a school board decides to reject or change an independent hearing examiner's Conclusions of Law, it must "state in writing

the reason and legal basis for a change or rejection." Tex. Educ. Code § 21.259(c). The Texas Supreme Court has found the requirement to provide a written reason and legal basis significant:

> The Legislature has further protected the independent nature of the hearing-examiner process by requiring the board to state in writing the reason, including the legal basis, for any change or rejection it makes under section 21.259. TEX. EDUC. CODE § 21.259(d).

*Montgomery Indep. Sch. Dist. v. Davis*, 34 S.W.3d 559, 564 (Tex. 2000). The requirements for changing an Independent Hearing Examiner's recommendation are more than minor procedural matters:

> HISD next contends that, even if it did not meet the requirements of section 21.259(d), this failure was merely a procedural error on which the Commissioner may not reverse the Board's decision. We disagree. Our supreme court has noted that the requirement to state in writing the reason and legal basis for any change or rejection of the examiner's findings, conclusions, or recommendations is designed to protect "the independent nature of the hearing-examiner process." *Davis*, 34 S.W.3d at 564. As the court states in *Davis*, "An independent factfinder is integral to the structure of the hearing- examiner process." *Id.* We cannot say the Board's failure to comply with a statute crafted by the Legislature to protect this independence is nothing more than a procedural irregularity or error.

*Goodie v. Hous. Indep. Sch. Dist.*, 57 S.W.3d 646, 651 (Tex. App.—Houston [14th Dist.] 2001, pet. denied). If a school board wants to change Conclusions of Law, the school board needs to actually draft new or changed Conclusions of Law and to provide a real explanation of the change. This protects the integrity of the process by requiring the school district to take a hard look before it changes Conclusions of Law.

The requirement to actually adopt or change Conclusions of Law and provide an explanation also narrows the issues before the Commissioner. What is at issue before the Commissioner is the Conclusions of Law adopted and explained by the school district,

not some hypothetical conclusion of law that the board might have adopted but did not adopt.

Respondent's Changes

Petitioner raises the issue of whether the Board's decision with its Conclusions of Law supports the termination. Petitioner points out that Respondent rejected, at least in part, thirty-two of the Independent Hearing Examiner's fifty-two Conclusions of Law; did not change any Conclusions of Law; and adopted no alternative or new Conclusions of Law beyond those that the Independent Hearing Examiner had written. The Board did not adopt a Conclusion of Law that there was good cause for termination, nor did it adopt any Conclusions of Law of interpretive facts to support a determination that there was good cause to terminate Petitioner's continuing contract.

When one reads the Conclusions of Law adopted by Respondent, they do not support a determination that there is good cause to terminate Petitioner's contract. Respondent could have adopted a conclusion of law that there is good cause to terminate Petitioner's contract. It did not. It could have adopted interpretive Conclusions of Law based on the hard facts, that there would be a real disruption to the school operations. It did not. This is particularly odd because Respondent rejected a number of the Findings of Fact because it decided that they were determinations regarding good cause and really were Conclusions of Law. For example, Respondent rejected Finding of Fact No. 183, which reads:

> It was not reasonable for FWISD to believe that Ms. Clark's tweets regarding reporting undocumented students to federal authorities, and the widespread circulation of those tweets would discourage undocumented students from enrolling in or attending FWISD schools.

Respondent's explanation for this rejection is:

> The Board rejects Finding 183, which is a determination regarding good cause for termination and is a conclusion of law, for the reasons discussed in the above paragraphs and in Section III.

Respondent rejected the Finding of Fact and gave a legal basis for its change, but it did not draft a conclusion of law on the issue. Texas Education Code section 21.257(a-1) provides:

> A determination by the hearing examiner regarding good cause for the suspension of a teacher without pay or the termination of a probationary, continuing, or term contract is a conclusion of law and may be adopted, rejected, or changed by the board of trustees or board subcommittee as provided by Section 21.259(b).

By determining that the finding of fact was really a conclusion of law, Respondent identified a potentially valid reason for rejecting the Finding of Fact. Presumably, Respondent believes that it is reasonable to believe that Petitioner's tweets would discourage undocumented students from attending its schools. However, Respondent made no such conclusion of law. Without such a conclusion of law, Respondent cannot rely on the proposition that it is reasonable to believe Petitioner's tweets will discourage undocumented students from attending Respondent's schools. Respondent did not adopt Conclusions of Law that are sufficient to support a determination that there is good cause to terminate Petitioner's term contract. For this reason, Respondent's decision is arbitrary and capricious and contrary to law.

Conclusion

Because Respondent did not adopt Conclusions of Law sufficient to show that that there is good cause to terminate Petitioner's contract, its decision to terminate Petitioner's contract is arbitrary and capricious and contrary to law. Petitioner prevails.

## Conclusions of Law

After due consideration of the record, matters officially noticed, and the foregoing Findings of Fact, in my capacity as Commissioner of Education, I make the following Conclusions of Law:

1. The Commissioner has jurisdiction over this case under Texas Education Code section 21.301.

2. By signing her continuing contract, Petitioner did not give up her First Amendment right to contact elected officials concerning matters over which they have jurisdiction on her own time and not as a part of her job.

3. A public employee's free speech rights are not identical to someone who is not a public employee. Determining whether a government employer can take action against an employee for speech that a non-governmental employee could make under the First Amendment requires that a balance be made between the interests of the employee, as a citizen, in commenting upon matters of public concern and the interests of the state, as an employer, in promoting the efficiency of the public services it performs through its employees.

4. When a government employee, not as part of her job and not on government time, presents a petition or grievance to a governmental official who has jurisdiction over the problems raised, there is a high degree of interest in the employee commenting on the matters of public interest raised. U.S. Const, 1st Amend, Tex. Const. art 1, § 27.

5. A school board in a Texas Education Code chapter 21, subchapter F case is required to announce a decision that includes findings of fact and Conclusions of Law. Tex. Educ. Code § 21.259(a)(1). A board may either adopt the independent hearing examiner's Conclusions of Law or draft its own Conclusions of Law. Unlike when changing or rejecting a finding of fact, a school district has great freedom to adopt, reject,

or change the independent hearing examiner's Conclusions of Law. Tex. Educ. Code § 21.259(b)(1) and (c). A school board has wide but not unlimited discretion to change Conclusions of Law. If a school board decides to reject or change an independent hearing examiner's conclusion of law, it must "state in writing the reason and legal basis for a change or rejection." Tex. Educ. Code § 21.259(c). The requirements for changing conclusions are mandatory and protect the independent nature of the hearing examiner process.

6. Respondent rejected in whole and in part a number of Conclusions of Law found in the Recommendation. Respondent did not adopt any new Conclusions of Law or add to any Conclusions of Law. As Respondent's Decision lacks a Conclusion of Law that there is good cause to terminate Petitioner's contract and Conclusions of Law detailing determinations regarding good cause, Respondent's decision is arbitrary and capricious and in violation of law.

7. Petitioner's contention that Respondent violated Texas Education Code section 21.355 by releasing a document to the press that evaluates her performance is not relevant to this cause.

8. When the Commissioner overturns the termination of a continuing contract, the teacher is entitled to reinstatement and back pay and employment benefits from the time of the termination. Instead of reinstating the teacher, the school district may pay the teacher one year's salary from the date the teacher would have been reinstated. The day the teacher would have been reinstated is the day Respondent tenders Petitioner payment in full. Tex. Educ. Code § 21.304 (e) and (f).

9. The Petition for Review should be granted.

## ORDER

After due consideration of the record, matters officially noticed, and the foregoing Findings of Fact and Conclusions of Law, in my capacity as Commissioner of Education, it is hereby ORDERED that the Petitioner's appeal, be, and is hereby granted. Petitioner is entitled to reinstatement and back pay and employment benefits from the time of the nonrenewal. Instead of reinstating the Petitioner, Respondent may pay her one year's salary from the date the she would have been reinstated. The day the Petitioner would have been reinstated is the day Respondent tenders Petitioner payment in full. Any relief not granted herein is denied.

SIGNED AND ISSUED this 25th day of November 2019.

MIKE MORATH
COMMISSIONER OF EDUCATION