

FALL 2012 NEWSLETTER

SCHOOL LAW UPDATE

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SUPREME COURT OF TEXAS

***Prairie View A&M University v. Chatha*, 2055 Tex. Sup. J. 1267 (August 31, 2012)**

The federal Lilly Ledbetter Fair Pay Act does not apply to a claim brought under the Texas Commission on Human Rights Act (TCHRA). Thus, unlike the federal law where a discriminatory pay decision occurs each time a paycheck is received, the only actionable act under the TCHRA is the single act of setting the alleged discriminatory pay rate, and a pay discrimination complaint under TCHRA must generally be brought within 180 days of the date the claimant is informed of the compensation decision.

TEXAS COURT OF APPEALS

***Stephens v. Trinity Independent School District*, 2012 Tex. App. LEXIS 8841 (Tex. App. – Tyler October 24, 2012, no pet. h.)**

In the context of a Texas Constitutional due process claim, a school's placement of a student in a disciplinary alternative education program (DAEP) does not implicate a constitutionally protected liberty or property interest, because the student is not denied access to public education, and damage to the reputation of the student alone is not enough to establish a due process violation.

TISD alleges that the Stephenses' eleven year old son, R.A.S., a student at TISD, purchased an illegal "Vicodin" pill while on school property. R.A.S. was never arrested or convicted in the juvenile justice system; however, TISD decided to place R.A.S. in a DAEP for forty-five days. The Stephenses began the internal TISD appeal process, and filed suit against TISD, and TISD filed a plea to the jurisdiction.

The trial court granted TISD's plea to the jurisdiction, because, under Chapter 37 of the Texas Education Code, district and appellate courts have no jurisdiction to review a decision to place a student in a DAEP. The Stephenses appealed and argued that the applicable sections of the Texas Education Code are unconstitutional, because they operated here to deny their right to a fair and impartial hearing and denied them due process of law.

R.A.S. was placed in an alternative facility, not denied access to public education. However, the Stephenses argued that the damage to R.A.S.'s reputation and the harm that flows from unsubstantiated DAEP placement, including harm to the student's reputation among school members and interference with opportunities for higher education and employment. The Court

held that R.A.S. did not show that he was deprived of a substantive due process right, and noted that the statutory scheme and the procedures set forth by TISD provided substantial opportunity to be heard.