

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
(AUSTIN DIVISION)**

CHRISTINA CASTILLO COMER)
211 Northern Trail)
Leander, Texas 78641,)
)
Plaintiff,)
)
v.)
)
ROBERT SCOTT, Commissioner,)
Texas Education Agency,)
1701 N. Congress Avenue)
Austin, Texas 78201,)
)
In his official capacity,)
)
and)
)
TEXAS EDUCATION AGENCY)
1701 N. Congress Avenue)
Austin, Texas 78201,)
)
Defendants.)

C.A. No. _____

COMPLAINT

**(For Declaratory and Injunctive Relief for Violation of Establishment and Due Process
Clauses of the United States Constitution)**

Introduction

1. Creationism is a religious belief. Teaching creationism as science in public schools violates the Establishment Clause of the First Amendment to the United States Constitution. The Texas Education Agency (“Agency”) has a policy of purported “neutrality” on teaching creationism as science in public schools. By professing “neutrality,” the Agency credits

creationism as a valid scientific theory. Creationism, however, is not a valid scientific theory; it is a religious belief. The Agency’s policy is not neutral at all, because it has the purpose or effect of inviting dispute about an issue—teaching creationism as science in public schools—that is forbidden by the Establishment Clause. The Agency’s “neutrality” policy has the purpose or effect of endorsing religion, and violates the Establishment Clause.

2. Christina Castillo Comer was the Director of Science for the Curriculum Division of the Agency. Director Comer held her position for more than ten years, receiving numerous awards and commendations for her work. In August 2006, Director Comer’s supervisor recommended that she receive an “out-of-cycle merit [pay] increase of 3%,” recognizing that Director Comer “consistently exceeds the expectations for her position.” (Ex. A.)

3. On November 8, 2007, the Agency fired Director Comer for contravening the Agency’s unconstitutional “neutrality” policy by forwarding an email to other science educators announcing an upcoming lecture about evolution and creationism. According to the Agency’s memorandum recommending that Director Comer be fired:

On October 26, 2007, Ms. Comer forwarded an email from her TEA email account to a group of people, including two external email groups, that announced a presentation on creationism and intelligent design entitled “Inside Creationism’s Trojan Horse.” The email states that the speaker [Barbara Forrest] is a board member of a science education organization, and the email clearly indicates that **the group opposes teaching creationism in public education.**

...

When Dr. Jackson asked Ms. Comer about this situation, she replied that she was only forwarding information. However, the forwarding of this event announcement by Ms. Comer, as the Director of Science, from her TEA email account constitutes much more than just sharing information. Ms. Comer’s email implies endorsement of the speaker and **implies that TEA endorses the**

speaker's position on a subject on which the agency must remain neutral. Thus, sending this email compromises the agency's role in the TEKS revision process by creating the perception **that TEA has a biased position on a subject directly related to the science education TEKS.**

(Ex. B) (emphases added).

4. Teaching creationism in public schools violates the Establishment Clause “because it seeks to employ the symbolic and financial support of government to achieve a religious purpose.” Edwards v. Aguillard, 482 U.S. 578, 597 (1987). *See also* Kitzmiller v. Dover Area Sch. Dist., 400 F. Supp. 2d 707 (M.D. Pa. 2005). Similarly, the Agency's firing of its Director of Science for not remaining “neutral” on this subject violates the Establishment Clause, because it employs the symbolic and financial support of the State of Texas to achieve a religious purpose, and so has the purpose or effect of endorsing religion. By professing “neutrality,” the Agency credits creationism as a valid scientific theory. Finally, the Agency fired Director Comer without according her due process as required by the Fourteenth Amendment—a protection especially important here because Director Comer was fired for contravening an unconstitutional policy.

Jurisdiction and Venue

5. This Court has original jurisdiction over Plaintiff's constitutional claims pursuant to 28 U.S.C. §§ 1331 and 1343, 42 U.S.C. § 1983, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

6. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), because Defendants reside in this District, and the events giving rise to the claims occurred in this District.

