

2020-48768 / Court: 334

CAUSE NO. _____

CY-FAIR AMERICAN FEDERATION OF
TEACHERS,

Plaintiff,

v.

MARK HENRY, SUPERINTENDENT of
CYPRESS-FAIRBANKS INDEPENDENT
SCHOOL DISTRICT, in his official capacity,

Defendant

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

____ JUDICIAL DISTRICT

TEMPORARY RESTRAINING ORDER

Cy-Fair American Federation of Teachers ("Cy-Fair AFT"), plaintiff in this cause, has filed a verified petition for a temporary injunction and, in connection therewith, has presented a request for a temporary restraining order, as set forth in its petition. The Court, having considered the pleadings, the arguments of counsel, and being otherwise fully informed in the premises, does hereby FIND

The Plaintiff, Defendant, the Harris County Attorney's Office, and the Office of the Attorney General were present at the hearing.

The Joint Control Order of the Local Health Authorities for Harris County and the City of Houston regarding Public and Non-Religious Private Schools dated July 24, 2020 requires that "all school sponsored events and activities, including but not limited to clubs, sports, extra-curricular activities, fairs, exhibitions, academic and/or athletic competitions, must not take place in-person, on or off campus, until school systems resume on-campus instruction." This provision of the Joint Control Order does not conflict with the Executive Order No. GA-28 issued by the Governor of the State of Texas.

1. The Petition for Temporary Restraining Order is well-taken and should be and is hereby GRANTED.

2. Plaintiff has demonstrated a probable right to relief and a likelihood of success on the merits that, by directing staff to report to campus for the professional development from August 14 – September 7, 2020, defendant is in violation of a lawful Joint Control Order of the Local Health Authorities for Harris County and the City of Houston Regarding Public and Non-Religious Private Schools, dated July 24, 2020, which among other things, states that school sponsored events and activities must not take place in person until the school system resumes on campus instruction and that to the extent that teachers are on campus for virtual instruction during this time frame,

the provision of the Joint Control Order that states "all school sponsored events and activities, including but not limited to clubs, sports, extra-curricular activities, fairs, exhibitions, academic and/or athletic competitions, must not take place in-person, on or off campus, until school systems resume on-campus instruction."

~~they must be alone in their classrooms. Additionally, the requirement that staff report to campus for professional development as described above violates the applicable Harris County Threat Level 1 restrictions that were developed and are currently in place by action of the Local Health Authority for Harris County, such that residents minimize contacts whenever possible and avoid leaving home except for the most essential needs like going to the grocery store for food and medicine.~~

3. Plaintiff has demonstrated probable injury to the members it represents in that if Superintendent Mark Henry, as leader of the school district, is not immediately restrained from imposing the illegal requirement that teachers and other professional staff undergo in person professional development instruction from August 14 September 7, 2020, members of Cy-Fair AFT will be subjected to an imminent increased risk of exposure to and infection by COVID-19, ~~posing an unreasonable, unnecessary and potentially life threatening harm~~ that is irreparable and for which there is no adequate remedy at law. This harm outweighs any potential harm caused by entering this temporary injunctive relief. Further, the public interest is served by entering this injunctive relief.
4. Further, it is found that if this Temporary Restraining Order is not issued, defendant will commit the foregoing acts before notice can be given and a hearing is had on plaintiff's motion for a temporary injunction; and further, that if the commission of these acts is not restrained immediately, plaintiff will suffer irreparable injury.
5. This injunctive relief is appropriate under traditional equitable standards and principles.

IT IS, THEREFORE, ORDERED that CYPRESS-FAIRBANKS ISD SUPERINTENDENT MARK HENRY, defendant in this cause, be, and hereby is, commanded forthwith, from the date of entry of this order until and to the fourteenth day after entry or until further order of the Court:

1. Restrained from requiring in-person professional development training by Cy-Fair ISD teachers and staff until the school system resumes on-campus instruction;
2. Ordered to permit Cy-Fair teachers and staff to attend professional development training remotely from home until the school system resumes on-campus instruction;
3. Ordered to communicate to the contents of this Order to all affected teachers and staff.

IT IS FURTHER ORDERED that the petition of plaintiff CY-FAIR AFT for temporary injunction be heard on the 28th day of August, 2020, at 1:30 o'clock, p.m., in the courtroom of the 334th District Court in the Harris County Courthouse in Houston, Texas.

The clerk of the above-entitled Court shall forthwith, on the filing by plaintiff of the bond hereinafter required, and on approving the same according to the law, issue a temporary restraining order in conformity with the law and the terms of this order. This order shall not be effective unless and until plaintiff executes and files with the clerk a bond, in conformity with the law, in the amount of \$ 200.00

SIGNED this ____ day of August, 2020, at ____ o'clock, ____m.

Signed:
8/14/2020
7:54 PM



JUDGE PRESIDING