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RECEIVED

By Opinion Committee at 8:01 am, Jul 26, 2024

The Honorable Ken Paxton
Office of the Attorney General
Attention: Opinion Committee
P.O. Box 12548
Austin, TX 78711

Via email to opinion.committee@oag.texas.gov

RQ-0553-KP

RE: Request for opinion regarding compliance with SB 763 88(R), Section 3

Dear General Paxton:

Please accept this letter as a request for an Attorney General Opinion on whether school districts across the state have satisfied the requirement of Senate Bill 763 88(R), Section 3.

SB 763 added Chapter 23 to the Education Code, newly and expressly authorizing a school district or open-enrollment charter school to “employ or accept as a volunteer a chaplain to provide support, services, and programs for students as assigned by the board of trustees of the district or the governing body of the school.”

Section 3 requires each school board to take a record vote within six months of the bill’s effective date (September 1, 2023) on “whether to adopt a policy authorizing a campus of the district or school to employ or accept as a volunteer a chaplain under Chapter 23, Education Code, as added by this Act.”

School districts appear to be skirting this new law. For example, the Texas Association of School Boards has issued guidance that school boards can satisfy the requirement of Section 3 by passing a resolution that affirms “the practice of a district campus permitting a chaplain to provide support, services, and programs for students in accordance with the district’s existing GKG (LOCAL) policy.”

One school board, Midlothian ISD, followed this guidance and found that, since its current policy neither generally prohibits the hiring of a chaplain nor the acceptance of a chaplain in a volunteer role, no change in policy was needed, and the school board adopted a resolution stating:

1. “Midlothian ISD will continue to permit chaplains and other religiously affiliated persons to apply for employment or volunteer opportunities with the District in accordance with District policy and practice, including Board Policies DC (LOCAL) and GKG (LEGAL), and
2. “Achieving the intent of this Resolution will not require any change to Board Policy...”

These resolutions do not appear to satisfy Section 3. The bill requires a vote on whether the ISD will or will not authorize a new position created in a new chapter of the Education Code. It would be impossible for policies adopted prior to September 1, 2023, to address the position newly created in Chapter 23.



I respectfully ask that the Attorney General's Office opine on whether any of the following satisfy the requirement in the law:

1. A vote acknowledging a policy that is silent about prohibiting chaplains from being hired for any position,
2. A vote on a policy allowing chaplains to be hired for any open position at a school, and
3. A vote authorizing a chaplain to be hired for a school chaplain position, as created by SB 763.

Thank you for your thoughtful consideration of this request.

Respectfully,

A handwritten signature in black ink that reads "Bob Hall". The signature is written in a cursive, flowing style.

Senator Bob Hall