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OPINION COMMITTEE



FILE # ML-48351-18

I.D. # 48351

The Senate of The State of Texas

SENATOR KELLY HANCOCK

RQ-0227-KP

May 1, 2018

The Honorable Ken Paxton  
Texas Attorney General  
Attention: Opinion Committee  
P.O. Box 12548  
Austin, TX 78711-2548

**Re: Applicability of Texas Education Code §44.043, Right to Work, to school district consideration of a vendor's or a person's relationship with a charter school.**

Dear General Paxton:

**Issue and Legal Question**

I am writing to seek your opinion regarding the applicability of Texas Education Code ("TEC") §44.043 to any action by a school district that would consider a vendor's relationship with an organization such as a charter school. I am also seeking your opinion regarding the applicability of Texas Education Code ("TEC") §44.043 to any action by a school district that would deny or diminish a person's right to contract or continue to contract with a school district because the person has a relationship with an organization such a charter school. I am concerned that some school districts in Texas may be requiring vendors to agree not to work with Texas charter schools as a requirement to either contract with or continue to contract with such school districts, or that school districts may be diminishing the ability of a vendor to work with a school district based a relationship with an organization such as a charter school. I would like your opinion on the following questions:

1. Does the term "consider" in TEC §44.043(b)(1) and the term "deny or diminish" in TEC §44.043(b)(2) mean that a school district cannot give any effect to a vendor or person's relationship with an organization in its procurement practices?
2. Does TEC §44.043 apply to all aspects of the procurement process from the beginning of the process to any subsequent contracts or agreements?

CAPITOL OFFICE:  
P.O. Box 12068  
Room 1E.9  
Austin, Texas 78711  
512-463-0109  
FAX: 512-463-7003

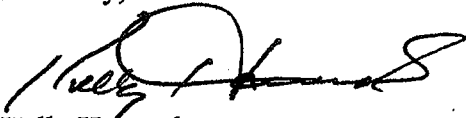
DISTRICT OFFICE:  
9121 Belshire Drive,  
Suite 200  
North Richland Hills, Texas 76182  
817-514-3804  
FAX: 817-514-3806

3. Does TEC §44.043 apply to all types of school district procurements, including those governed by TEC Chapter 44, Subchapter B, Texas Government Code (TGC) §2254.003, and TGC Chapter 2269.
4. Does TEC §44.043(b) apply to a business relationship between a person or vendor and an organization?
5. Does the reference in TEC §44.043(b) to "organizations" include charter schools?

**Concluding Remarks**

I look forward to your response. If you require further briefing, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "Kelly Hancock", written over a horizontal line.

Kelly Hancock  
Texas Senate, District 9  
Chairman, Business & Commerce