

Bond Case Briefs

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CHARTER SCHOOLS - TEXAS

KIPP Texas, Inc. v. Doe #1

Court of Appeals of Texas, Houston (1st Dist.) - June 30, 2022 - S.W.3d - 2022 WL 2347906

Parents of students sexually abused by counselor at charter school brought action against school's corporate operator, alleging claims for assault and negligence.

The District Court denied operator's plea to the jurisdiction, which asserted immunity from suit and liability. Operator appealed.

The Court of Appeals held that:

- Operator had governmental immunity from parents' suit;
- Open-courts provision of the State Constitution did not apply to preclude operator's governmental immunity; and
- Uncontroverted affidavit established operator's status as an open-enrollment charter school.

Operator of open-enrollment charter school had governmental immunity from claims for assault and negligence brought by parents of students sexually abused by a counselor employed by operator at school, since a public school district would be immune from such claims.

Open-enrollment charter school had governmental immunity as a matter of common-law interpretation, rather than on the basis of statute, and thus open-courts provision of the State Constitution did not apply to preclude such immunity, so as to confer subject-matter jurisdiction over action against operator of open-enrollment charter school, brought by parents of children sexually abused by counselor, and asserting claims for assault and negligence; although the legislature enacted a statute granting governmental immunity to open-enrollment charter schools, the Supreme Court as a whole did not defer to such enactment in holding that open-enrollment charter schools have immunity.

Uncontroverted affidavit established operator of school as an open-enrollment charter school, as required for school's governmental immunity from suit brought by parents of students sexually abused by school counselor, where parents did not object to the affidavit, did not file any evidence controverting the school's status as an open-enrollment charter school, and sought a declaration that a certain statutory provision applicable only to open-enrollment charter schools violated the open-courts provision of the Texas Constitution, which was tantamount to a judicial admission of the school's status as an open-enrollment charter school.