



TEXAS FACULTY ASSOCIATION

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February 20, 2014

Faculty group sues over Brownsville job losses

The Texas Faculty Association (TFA) on Thursday filed a lawsuit in federal district court in Brownsville against the University of Texas at Brownsville (UTB) and Texas Southmost College (TSC) on behalf of three former faculty members who were illegally terminated after the two schools dissolved their joint operating arrangement.

TFA, the higher education affiliate of the Texas State Teachers Association and the National Education Association, acted on behalf of plaintiffs Juan Antonio Gonzalez, Dorothy Boven and Karen Fuss-Sommer, who were tenured faculty members at UTB and TSC when they were dismissed. All live in Brownsville.

Filed by TSTA staff counsel Russell Ramirez, the lawsuit contends the three, all older than 40, were terminated in violation of the federal Age Discrimination in Employment Act (ADEA) and University of Texas System rules. Additionally, the lawsuit alleges that Boven was denied equal pay under federal law because, while still employed, she taught a fifth class for which she was not paid while male faculty members were paid for teaching a fifth class.

“When faculty rights are violated, we are going to defend them,” said TFA Executive Director Mary Aldridge Dean. “Tenure is a property right, and it is not to be taken without good cause or due process, and these individuals were denied both.”

The three plaintiffs were granted tenure by Texas Southmost College and were retained by the University of Texas at Brownsville as tenured faculty after the two schools merged in 1992. “Tenure denotes a status of continuing appointment as a member of the faculty at an institution of The University of Texas System pursuant to The University of Texas System Rules and Regulations,” the lawsuit states.

But when UTB and TSC separated in 2012, the three were terminated under a provost’s charge that gave non-tenured faculty members priority over tenured faculty with master’s degrees.

The suit alleges:

The priority given non-tenured faculty members “had a disparate impact on faculty members who are over 40 years of age” because most tenured faculty, including the

plaintiffs, are older than 40. The designation was an “artificial, arbitrary, and unnecessary barrier to employment.”

The plaintiffs’ academic programs and academic positions weren’t eliminated. The plaintiffs were terminated, and the defendants sought new applicants for their positions.

The plaintiffs were not terminated for performance, good cause or because of a financial exigency. “Defendants had no bona fide academic reason to terminate Plaintiffs’ employment” under UT rules.

The lawsuit contends the plaintiffs have suffered a “substantial loss” of income and benefits, including retirement benefits and health and life insurance policies, as well as “damage to both their professional and personal reputation.” It seeks reinstatement of the plaintiffs to their former positions with tenure, back pay and other benefits, court costs and reasonable attorney’s fees and exemplary damages “sufficient to punish the Defendants and deter future similar conduct.”

Named as defendants, in their official capacities, are UTB President Juliet Garcia, UTB Provost Alan F.J. Artibise and TSC President Lily F. Tercero.

Contact Mary Aldridge Dean, Executive Director, Texas Faculty Association at marya@tsta.org.