

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

HANNAH MAGEE PORTÉE, <i>Plaintiff,</i>	§	
	§	
v.	§	NO: 1:23-CV-00551-RP
	§	
MIKE MORATH, in his official capacity as COMMISSIONER OF EDUCATION, TEXAS EDUCATION AGENCY, AND STATE BOARD FOR EDUCATOR CERTIFICATION <i>Defendants.</i>	§	
	§	
	§	
	§	
	§	
	§	
	§	
	§	

AFFIDAVIT OF HANNAH MAGEE PORTÉE

STATE OF TEXAS
COUNTY OF VAL VERDE

Before me, the undersigned authority in and for the State of Texas, on this day personally appeared, Hannah Magee Portée, who, after being by me duly sworn, deposed and said:

- 1. My name is Hannah Magee Portée. I am over 18 years of age. I reside in Del Rio, Texas. I am fully competent to make this affidavit and I have personal knowledge of the facts stated in this affidavit. To my knowledge, all of the facts stated in this affidavit are true and correct.
- 2. I am the Plaintiff in this action. I make this affidavit in support of my request for a preliminary injunction.
- 3. This is an action for an injunction and declaratory relief contending that the Texas Commissioner of Education, the Texas Education Agency, and the State Board for Educator Certification are violating my federal rights afforded to me by the Fifth Amendment of the United States Constitution, and the Servicemembers Civil Relief Act, since they are not recognizing the validity and portability of my out-of-state school counselor licenses issued by Missouri and Ohio.
- 4. I personally attest to the following facts:
 - a. I was licensed as a school counselor through the State of Ohio Department of Education on July 1, 2021. This license is valid and in good standing. I provided a copy of this licensure to one or more Defendants. A true and correct copy is also attached as Exhibit A to my *Complaint for Declaratory and Injunctive Relief*, filed at Dkt. Nos. 1, 1-1.
 - b. I was licensed as a school counselor through Missouri's Board of Education on July 7, 2022. This license is valid and in good standing. I provided a copy of this licensure to one or more Defendants. A true and correct copy is also attached as Exhibit B to my *Complaint for Declaratory and Injunctive Relief*, filed at Dkt. Nos. 1, 1-2.
 - c. On July 29, 2022, I married David Portée, an active-duty Air Force officer, stationed at Scott Air Force Base in Illinois.

- d. In 2022, I was employed as a guidance counselor at an elementary school in Missouri, and a long-term substitute counselor at a middle school in Ohio.
 - e. When my husband received military orders reassigning him to Laughlin Air Force Base in Texas and was required to report for duty on January 9, 2023. I terminated my employment to be with David. The only reason for being in Texas was because of my husband's military orders assigning him here.
 - f. In October 2022, I applied through the TEA Educator Certification Online System to obtain a SBEC-issued school counselor certificate so that I could start seeking employment as a licensed school counselor in the State of Texas. I completed the fingerprinting process and background checks.
 - g. I was denied an SBEC-issued school counselor certificate because I was unable to verify two years of full-time, wage-earning experience in the role of a school counselor, a Texas requirement. I did not have two years of full-time, wage-earning experience in the role of a school counselor.
 - h. In February 2023, I learned that the Servicemembers Civil Relief Act was amended to protect my professional licenses if I took certain steps. I believe I did everything required by me. I provided copies and information to the State concerning my husband's military orders; I remained in good standing with Ohio and Missouri licensing authorities; and I consented to subject myself to Texas' continuing education requirements and disciplinary authorities. None of this worked. A true and correct redacted copy of the military orders is also attached as Exhibit C to my *Complaint for Declaratory and Injunctive Relief*, filed at Dkt. Nos. 1, 1-3.
 - i. On February 27, 2023, I was informed by the Texas Director of Educator Credentialing, Mr. Trenton Law, that I was still required to "submit documentation verifying two (2) academic years of full time, wage-earning experience in the role of school counselor or provide documentation of a classroom teaching certificate." In that same correspondence, Mr. Law informed me that the automatic transferring of certifications "would not apply to Texas." See the written correspondence attached to this affidavit as **Exhibit 1**.
 - j. I then sought legal assistance at Laughlin Air Force Base, Texas. Mr. Todd A. Durden, a lawyer with the Department of Air Force, attempted reach a resolution with Mr. Law. He sent written correspondence on March 1, 2023, attempting to have Mr. Law consider the new Servicemembers Civil Relief Act provisions. Mr. Law responded on March 2, 2023, stating that Texas interprets the provision in the Servicemembers Civil Relief Act, that the covered license must be used "during the two years immediately preceding the relocation" means "two credible years of service" as required by Section 230.113(b) of the Texas Administrative Code. **Exhibit 1**.
 - k. On April 4, 2023, I received the letter, attached to this affidavit as **Exhibit 2**, informing me that my application would not be processed until I "provide[d] verification of 2 academic years of full-time, wage-earning experience in a public or private school as a SCHOOL COUNSELOR."
 - l. Almost daily, I monitor job postings for opportunities to utilize my school counselor licenses. I have applied to numerous openings and interviewed for two (Irene C. Cardwell Elementary and Del Rio Freshman School). Unfortunately, due to the lack of an SBEC-recognized license, which is a prerequisite for every Texas school counselor position, no formal offer was made. Now would be the most opportune time to apply for positions as the school year has concluded and many districts likely recognize what hires they intend to make for the upcoming school year.
5. I also personally attest to the facts contained in my *Complaint for Declaratory and Injunctive Relief*, filed at Dkt. No. 1.
 6. Unless this court intervenes and issues the requested preliminary injunction, I will continue to suffer irreparable injury for which no remedy at law will be adequate. In particular, I will lose—without any due process—a federally-protected right and property interest in the portability and validity of my out-of-state professional licenses. In addition, I will lose out on vast employment and growth opportunities with each passing day since Defendants effectively barred me from continuing my career as a licensed school counselor when I terminated my prior out-of-state employment so I could move to Texas in support of my husband defending this great nation.

7. The balance of hardships in this case is, in essence, entirely in my favor because the Defendants appeared to admit that the only factor preventing Texas from recognizing my out-of-state license is that I am unable verify "2 academic years of full-time, wage-earning experience in a public or private school as a SCHOOL COUNSELOR." In addition, Defendants, through various portions of their regulations, appear to want to support military and military spouses while station in Texas.
8. I have read the above statement consisting of three pages (the total affidavit, with exhibits, is nine pages, which is based on my personal knowledge, and it is true and correct.

(signature on the next page)

Hannah Magee Portée 

SUBSCRIBED AND SWORN TO BEFORE ME on 15 June 2023, by

Hannah Portée.

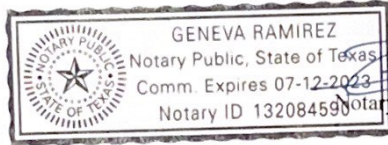


EXHIBIT 1

EXHIBIT 2

EXHIBIT 1

DURDEN, TODD A CIV USAF AETC 47 FTW/47 FTW/JA

From: Trenton Law (TEA Help Desk Internal) <support@txeduagency.zendesk.com>
Sent: Thursday, March 2, 2023 3:03 PM
Cc: DURDEN, TODD A CIV USAF AETC 47 FTW/47 FTW/JA
Subject: [URL Verdict: Neutral][Non-DoD Source] Review of Credentials for School Counselor

##- Please type your reply above this line -##

You are registered as a CC on this support request (<https://helpdesk.tea.texas.gov/hc/requests/1088848>).
Reply to this email to add a comment to the request.

Trenton Law (TEA Help Desk External)

Mar 2, 2023, 3:03 PM CST

Good afternoon, Mr. Durden,

I appreciate the opportunity to speak with you today. After reading Section 19 again, I see in Sec. 705A(c)(2) the following:

“(c) Covered License Defined.—In this section, the term ‘covered license’ means a professional license or certificate—“(2) that the servicemember or spouse of a servicemember has actively used during the two years immediately preceding the relocation described in subsection

This is the Texas requirement as well for an individual who has a stand alone student services certificate, such as a School Counselor certificate. Without having a teaching certificate and at least one academic year of verifiable, wage-earning, full-time experience as a classroom teacher, an individual who holds only an out of state student services certificate who is seeking to have credentials reviewed to obtain a Texas certificate in that same area must have two creditable years of service in an Early Childhood-Grade 12 public or accredited private school in the specific student services area sought.

This information can be found in the [Texas Administrative Code Chapter 230.113\(b\)](#)

Take care and have a wonderful rest of the day!

Trenton Law
Director, Educator Credentialing

Trenton Law (TEA Help Desk External)

Feb 27, 2023, 11:31 AM CST

Good morning, Ms. Portee,

I appreciate the opportunity to speak with you earlier this morning regarding the review of your out of state credentials for school counselor. Just to recap, in order for us to complete the review of credentials for the School Counselor area, you must either submit documentation verifying two (2) academic years of full time, wage-earning experience in the role of school counselor or provide documentation of a classroom teaching certificate. If you do not have either of these, then completing an [educator preparation program \(EPP\)](#) will be required.

During the call, you mentioned an Air Force article stating something to the effect of automatically transferring certifications, however, this would not apply to Texas. [Chapter 230 . Professional Educator Preparation and Certification](#) of the Texas Administrative Code outlines the provisions for certification in Texas. You can also find information at the TEA website at [this link](#), including a very helpful detailed checklist to help you navigate the process.

Take care and have a wonderful day!

Trenton Law
Director, Educator Credentialing

EXHIBIT 2

Hannah Magee Portee
9095B Lawhon St
Del Rio, TX, 78840

April 04, 2023
TEA ID # :2452103

We have received the following:

- Online application for Review of Credentials
- Out-of-state certificate for School Counselor
- Official transcripts
- Verification of experience as a substitute - not accepted

To process your request, please submit or take action on the following items.

- To be reviewed for a standalone student service or administrative certificate, you must provide verification of 2 academic years of full-time, wage-earning experience in a public or private school as a SCHOOL COUNSELOR, signed by your superintendent or authorized representative on a verification of experience form. For experience earned in a US private school or any school outside the US, a verification of accreditation status form is required. Verification forms are available by going to tea.texas.gov, under Out-of-State Certification.
- You have one year from your initial application date of 10/4/2022 to submit the required documents for a review of credentials and test exemption consideration. After a year, you will be required to reapply and resubmit the \$164.00 application fee as per Texas Administrative Code 230.117(b) "An individual who does not submit all required documents for the review at the time of the application will have one year to submit all required documents, or the individual will be required to reapply and resubmit the application fee."

YOUR TEA ID NUMBER SHOULD BE INCLUDED WITH ALL CORRESPONDENCE SUBMITTED TO THIS OFFICE.

Under Texas Revised Civil Statutes Articles 6252-13c and 6252-13d and Title 19 Texas Administrative Code section 249.16, the State Board for Educator Certification may deny a certificate/permit to a person convicted of a felony or misdemeanor. No certificate/permit will be issued until the State Board for Educator Certification has received the results of a criminal record search.

KP