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Chris Comer

In a March 31, 2009, decision, Chris Comer's lawsuit against the Texas Education Agency, challenging the agency's policy of requiring neutrality about evolution and creationism, was dismissed. The *Austin American-Statesman* (April 1, 2009) [reported](#) [4], "The state's attorneys argued in court filings that the agency is allowed to bar its employees from giving the appearance that the agency is taking positions on issues that the State Board of Education must decide, such as the content of the science curriculum." The newspaper quoted Texas Education Commissioner Robert Scott as saying, "We are sorry that this situation resulted in a lawsuit but we were confident we would prevail," and John Oberdorfer, one of Comer's lawyers, as saying of the dismissal, "We'll look at it and decide what we'll do next."

Comer, the former director of science at the Texas Education Agency, was forced to resign in November 2007 after she forwarded a note announcing a talk by Barbara Forrest in Austin. As NCSE's Glenn Branch — who sent the offending e-mail — [explained](#) [5] in a post at the Beacon Broadside blog (December 19, 2007), "Less than two hours after sending the e-mail, she was called on the carpet and instructed to send a disclaimer. And then she was forced to resign. Although a memorandum recommending her dismissal referred to various instances of alleged 'misconduct and insubordination' on her part, it was clear what her real offense was: 'the TEA requires, as agency policy, neutrality when talking about evolution and creationism.'" The TEA was widely [criticized](#) [6] in editorials and by scientific and educational societies.

In June 2008, Comer filed suit in federal court in the Western District of Texas, [arguing](#) [7], "the Agency's firing of its Director of Science for not remaining 'neutral' on the subject violates the Establishment Clause, because it employs the symbolic and financial support of the State of Texas to achieve a religious purpose, and so has the purpose or effect of endorsing religion. By professing 'neutrality,' the Agency credits creationism as a valid scientific theory. Finally, the Agency fired Director Comer without according her due process as required by the 14th Amendment — a protection especially important here because Director Comer was fired for contravening an unconstitutional policy." The judge [ruled](#) [8] (PDF), however, that the TEA's neutrality policy is not a violation of the Establishment Clause. (Additional legal documentation for this case is [archived](#) [9] on NCSE's website.)

Although Comer's lawsuit was dismissed, her plight (discussed in a brief [video](#) [10] commissioned by NCSE) is still a disquieting indication of the condition of science education in Texas. Shortly after her forced resignation was in the headlines, the *Houston Chronicle* (December 4, 2007) editorially [commented](#) [11], "With a State Board of Education review of the science portion of the Texas Essential Knowledge and Skills scheduled early next year, Comer's ouster could portend a renewed effort to establish creationism and intelligent design as science class fare." In light of the recent [adoption](#) [12] of a set of state science standards that encourages the presentation of creationist arguments, the TEA's "neutrality when talking about evolution and creationism" is likely to be under scrutiny again.

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