



RESTORE DUE PROCESS AND WHISTLEBLOWER PROTECTIONS FOR STATE EMPLOYEES

In May of 2017, with no warning or public input, the Health and Human Services Commission eliminated the grievance procedure for nearly 40,000 of its employees (including those in HHSC, DADS, DFPS, and DSHS). This change, implemented by the agency without legislative approval, reverses the long-established due process protections that have safeguarded state employee whistleblowers, stopped rogue supervisors and administrators from violating the law, and reduced the state’s legal liability for decades.

How will restoring due process benefit state services, state workers, and the public?

State employee whistleblowers call attention to major abuses of power or actions that undermine state services and cost taxpayers millions of dollars. Without a fair grievance procedure, whistleblowers will be vulnerable to retaliation from higher-ups who want to punish them for speaking out.

Additionally, Texas taxpayers and lawmakers will likely see big increases in legal costs in state agencies. Without a fair grievance procedure to settle employment disputes, terminated employees will have no other option but to sue the state when they feel they have been treated unjustly.

Are HHSC employees “at-will”? What exactly does “at-will” mean?

At-will means that an employee can be fired for any legal reason, or no reason at all. With at-will status, an employee can be simply told “you’re fired,” without being given any justification or warning. This opens the door to a whole range of illegal or unethical reasons for termination including retaliation and discrimination. As long as the employer doesn’t explicitly say they are firing an employee for an illegal reason, they will be allowed to do so.

While HHSC Administrators claim that employees below a first level supervisor are not “at-will” because they are still required to be given the reason for their dismissal, stripping

away access to the grievance procedure effectively makes all employees at-will because there is nothing to stop the agency from firing someone for an unjust or fabricated cause.

At the same time, all HHSC employees who are a first level supervisor or above are now officially designated as at-will. According to the revised policy, these workers now “report directly to the commissioner” or are “appointed by the commissioner.” Prior to this revision, only upper level administration fell into this category. Now, even first level supervisors, who are separated by six or more layers of administration from the Commissioner, can be terminated with no reason given at all. When asked for an explanation of these radical changes in policy HHSC officials have been silent except to say that “the agency is not required to have these protections.”

	Total employees as of 2017	Employees already at-will prior to 5/1/17	Employees made completely at-will as of 5/1/17	Employees who lost grievance procedure as of 5/1/17
HHSC	15,581	606	3,021	14,975
DFPS	12,832	43	933	12,789
DADS	13,516	291	1,240	1,788
DSHS	11,382	371	1,428	3,632
TOTAL	53,311	1,311	6,682	33,184

All HHSC, DFPS, DSHS (non State Hospital), and DADS (non SSLC)

Job title at level B21 or higher	Completely at-will, can be fired for any or no reason
Job title at level B20 or lower	Must be given termination reason, but no right to challenge it

All State Supported Living Center and State Hospital

Job title at level B21 or higher	Completely at-will, can be fired for any or no reason
Job title at level B20 or lower	Must be given termination reason; you have full rights to challenge through grievance process