

DOCKET NO. 026-R10-11-2025
027-R10-11-2025

DR. CLARISSA TAYLOR,	§	BEFORE THE
Petitioner,	§	
	§	
v.	§	COMMISSIONER OF EDUCATION
	§	
KLEIN INDEPENDENT SCHOOL	§	
DISTRICT,	§	
	§	
Respondent.	§	THE STATE OF TEXAS

DECISION OF THE COMMISSIONER

STATEMENT OF THE CASE

Petitioner Dr. Clarissa Taylor filed two appeals with the Commissioner of Education, asserting that Respondent Klein Independent School District is withholding her pay and refusing to assign her to a position, in violation of the Texas Education Code sections 21.204, 21.203, 21.251–21.259, and 7.057. Because the appeals address related subjects, the Commissioner consolidated them for efficiency.

In her appeals, Petitioner states she was on Temporary Disability Leave (TDL) and, on October 30, 2025, submitted medical clearance to return to duty with accommodations. She contends that Respondent has filled her former position and, on November 18, 2025, informed her that no vacancy exists, further advising her that she is ‘not on paid active duty’ pursuant to Respondent’s district board policy DEC (Local). Petitioner states that Respondent has neither nonrenewed nor terminated her Chapter 21 contract and argues that it remains in effect.

Respondent asserts that the Commissioner lacks jurisdiction over the appeals because Petitioner has not exhausted her administrative remedies and identifies no appealable action or decision of Respondent’s board of trustees.

Dr. Vicky L. Sullivan is the Administrative Law Judge assigned to this case. Petitioner proceeds *pro se*. Respondent is represented by its counsel, Ellen H. Spalding and Elizabeth M. Rice, of Spalding Nichols Lamp Langlois, in Houston, Texas.

Petitioner has not identified any appealable action or decision of Respondent's board of trustees that would invoke the Commissioner's jurisdiction under Texas Education Code section 7.057(a)(2)(A) or (B). Accordingly, the Commissioner dismisses Petitioner's appeals.

FINDINGS OF FACT

After due consideration of the record and matters officially noticed, it is concluded that the following Findings of Fact are established by the record and file in this case:

1. Petitioner appealed to the Commissioner on November 19, 2025, asserting jurisdiction under Texas Education Code sections 7.057(a)(2)(A) and (B) for "Failure to Nonrenew, Failure to Terminate, Violations of State Law, and Failure to Provide Contract," among other claims.

2. Petitioner filed a second 7.057 appeal to the Commissioner on November 19, 2025, for a claimed "[v]iolation of TEC § 21.409 and Chapter 21 Reinstatement Requirements Following Temporary Disability Leave."

3. On November 20, 2025, pursuant to 19 Texas Administrative Code section 157.1056(a), the Administrative Law Judge issued a Notice of Intent to Dismiss for Lack of Jurisdiction in response to Petitioner's appeals, wherein it was stated that the "Commissioner lacks jurisdiction to hear complaints about employees' actions that petitioner did not present to the board to obtain jurisdictional board "action or decision." Tex. Educ. Code § 7.057(a)(2); *Parents A/N/F Student v. Chireno Indep. Sch. Dist.*, No. 003-R10-09-2023 (Comm'r Educ. 2023). The Notice emphasized Respondent's board policy DGBA (Local) and its 15-business-day requirement to file a local grievance.

4. On November 20, 2025, Petitioner responded to the Judge's Notice of Intent to Dismiss, confirming that she did not file a DGBA grievance with respect to the issues she now raises before the Commissioner and maintaining that the Commissioner nevertheless has jurisdiction because "[t]he grievance process was functionally unavailable due to Klein's ISD documented pattern of procedural obstruction" and "that filing an additional grievance regarding reinstatement would be futile" (bold font omitted).

5. On December 18, 2025, Respondent filed its Answer, Plea to the Jurisdiction, and Affirmative Defenses in response to Petitioner’s first appeal, asserting that the Commissioner lacks jurisdiction over Petitioner’s claims because none of the issues in this appeal were brought before the Respondent’s board of trustees for consideration or decision. Respondent also filed a local record on December 18, 2025.

6. On December 19, 2025, Respondent filed its Answer, Plea to the Jurisdiction, and Affirmative Defenses regarding Petitioner’s second appeal, asserting that the Commissioner lacks jurisdiction over Petitioner’s claims because none of the issues in this appeal were brought before the Respondent’s board of trustees for consideration or decision. Respondent also filed a local record regarding Petitioner’s second appeal on December 19, 2025.

7. On March 3, 2026, the Administrative Law Judge issued an Order consolidating Petitioner’s two appeals filed under Texas Education Code section 7.057.

8. The Administrative Law Judge issued a Proposal for Decision recommending dismissal of Petitioner’s appeals. Petitioner filed exceptions to the Proposal for Decision; however, the exceptions failed to “specifically and concisely state” the exception and did not identify “the evidence relied upon...with particularity,” as required by the Commissioner’s rules. 19 Tex. Admin. Code § 157.159(e). Respondent filed a reply to the exceptions. All filings were considered.

DISCUSSION

Commissioner’s Jurisdiction

Petitioner asserts jurisdiction under Texas Education Code sections 7.057(a)(2)(A) and (B). Under section 7.057(a)(2)(A), the Commissioner has jurisdiction to hear appeals of “actions or decisions of any school district board of trustees that violate the school laws of this state.” Tex. Educ. Code. § 7.057(a)(2)(A). The school laws of this state are defined as titles 1 and 2 of the Texas Education Code and the rules that implement those two titles. *Id.* § 7.057(f)(2). Under section 7.057(a)(2)(B), the Commissioner has jurisdiction over school board actions or decisions alleged to violate a provision of a written employment contract, where the alleged violation causes

or would cause the employee monetary harm. *See id.* § 7.057(a)(2)(B). A petitioner appealing to the Commissioner must affirmatively establish the Commissioner’s jurisdiction.

The Commissioner has jurisdiction under section 7.057(a)(2) to hear appeals of *actions or decisions by school boards of trustees* alleged to violate (A) the school laws of this state or (B) provisions of written employment contract that cause or would cause the employee monetary harm. Tex. Educ. Code § 7.057(a)(2)(A), (B). The Commissioner does not review school employees’ actions, except to the extent they were presented (generally through a grievance) to the school board, which by hearing and deciding the grievance, makes the jurisdictional board “action or decision” that is then subject to the Commissioner’s appellate review. Tex. Educ. Code § 7.057(a)(2); *Parents A/N/F Student v. Chireno Indep. Sch. Dist.*, No. 003-R10-09-2023 (Comm’r Educ. 2023) (noting the Commissioner lacks jurisdiction to hear complaints about employees’ actions that petitioner did not present to the board to obtain jurisdictional board “action or decision”).¹

Petitioner’s appeals suffer from a fundamental jurisdictional defect. Under Texas Education Code section 7.057, the Commissioner exercises appellate jurisdiction only over school board actions or decisions. Tex. Educ. Code. § 7.057(a)(2). A school board’s action—whether by express vote, written decision, or a cognizable failure to act—is the statutory prerequisite that invokes the Commissioner’s authority. Absent such a board action or decision, the Commissioner is without jurisdiction to consider the merits of a petition.

Here, neither Petitioner’s Petitions for Review nor the local record indicate that Petitioner initiated, pursued, or exhausted Respondent’s local grievance process in accordance with district policy.² Nothing in the record demonstrates that Petitioner filed any local grievance regarding the matters she now raises on appeal. In fact, Petitioner affirmatively represented, in her response to

¹ The relief the Commissioner can grant, if appropriate, includes *reversing or remanding a school board action or decision back to the board*. *See* 19 Tex. Admin. Code § 157.1073(h)(1)–(2).

² Pursuant to Respondent’s board policy DGBA (Local), Petitioner may file a complaint within 15 business days of the date the employee first knew, or with reasonable diligence shown have known, of the decision or action giving rise to the complaint or grievance. *See* Respondent’s board policy DGBA (Local): <https://pol.tasb.org/PolicyOnline/PolicyDetails?key=595&code=DGBA#localTabContent>.

the Administrative Law Judge’s Notice of Intent to Dismiss, that she did not initiate a local grievance with respect to the matters underlying her appeals. Without a properly initiated grievance, no matter was ever presented to the school board, and thus no board action or decision exists from which an appeal may be taken.

Petitioner’s failure to file a grievance is not a mere procedural irregularity; it is a defect that negates the Commissioner’s jurisdiction on the face of the pleadings. Because a school board decision is the statutory trigger for appellate review under section 7.057, the absence of such a decision deprives the Commissioner of subject-matter jurisdiction. *See* Tex. Educ. Code. § 7.057(a)(2).

Petitioner asserts that Respondent’s grievance process “was functionally unavailable due to Klein’s ISD documented pattern of procedural obstruction,” which included her prior experience where she alleges Respondent “failed to respond to concerns submitted in writing; [m]isapplied grievance procedures; [i]ssued contradictory instructions; [r]equested steps already completed; [and] [d]elayed or ignored required DBGA timelines.” Petitioner argues that “[t]he district’s pattern prevented meaningful use of the grievance process, and its affirmative refusal to reinstate [her] constitutes a constructive final decision” (bold font omitted).

The Texas Supreme Court in *Davis v. Morath* held that alleged violations of the local grievance procedures (i.e., timeliness, steps followed, forms used, etc.) do not deprive the Commissioner of jurisdiction. However, the Commissioner has jurisdiction over appeals of a *school board decision*, notwithstanding internal grievance procedural defects, which are not jurisdictional. *Davis v. Morath*, 624 S.W.3d 215 (Tex. 2021); *Granger v. Morath*, No. 14-23-00245-CV, 2024 WL 2763387 (Tex. App.—Houston [14th Dist.] May 3, 2024, pet. filed) (appeal from board actions of voting to rescind severance agreement and to propose contract termination). Following a school district’s grievance procedures is different from obtaining a school board action or decision; the latter is jurisdictional while the former is not. Under Texas Education Code section 7.057, the Commissioner of Education’s authority to hear an appeal arises only when a

school board has taken action or issued a decision, because it is that board action or decision that confers statutory jurisdiction on the Commissioner.

To the extent Petitioner asserts that her prior experiences with Respondent's grievance procedures rendered the filing of an additional grievance concerning reinstatement futile, and that such alleged futility excuses exhaustion and thereby confers jurisdiction upon the Commissioner, Petitioner is mistaken. *See Terry McLennan v. Denton Indep. Sch. Dist.*, No. 058-R10-07-2023 (Comm'r Educ. 2023) (noting "Petitioner's belief that Respondent was not correctly following its grievance policy or that filing a Level 3 appeal would be futile does not excuse [Petitioner] from appealing to the board as provided by local policy." And "[b]y failing to appeal to the board, Petitioner failed both to exhaust administrative remedies and to obtain an action or decision by the board to establish jurisdiction").

In the instant case, similarly, because Petitioner identifies no school board action or decision from which she appeals, her pleadings on their face negate the Commissioner's jurisdiction. Accordingly, Petitioner's appeals must be dismissed for lack of jurisdiction. *See* Tex. Educ. Code. § 7.057(a)(2).

Conclusion

For the foregoing reasons, the Commissioner dismisses Petitioner's consolidated appeals for lack of jurisdiction. 19 Tex. Admin. Code § 157.1056(a).

CONCLUSIONS OF LAW

After due consideration of the record, matters officially noticed, and the foregoing Findings of Fact, in my capacity as Commissioner of Education, I make the following Conclusions of Law:

1. The Commissioner lacks jurisdiction over this cause under Texas Education Code sections 7.057(a)(2)(A) and (B). Tex. Educ. Code. §§ 7.057(a)(2)(A) and (B).
2. Petitioner did not establish that she appealed her complaints regarding her Chapter 21 term contract and temporary disability leave to Respondent's board of trustees. There is no school board action or decision for the Commissioner to review.

3. The Commissioner lacks jurisdiction over Petitioner's appeals because there is no school board action or decision for the Commissioner to review in either appeal. *See* Tex. Educ. Code. §§ 7.057(a)(2)(A) and (B).

4. Petitioner's consolidated appeals are dismissed for lack of jurisdiction. 19 Tex. Admin. Code § 157.1056(a).

ORDER

After due consideration of the record, matters officially noticed, and the foregoing Findings of Fact and Conclusions of Law, in my capacity as Commissioner of Education, it is hereby ORDERED that the Petitioner's appeals be, and are hereby, DISMISSED.

SIGNED AND ISSUED this 11th day of May 2026.

Mike Morath Digitally signed by Mike Morath
Date: 2026.05.11 14:27:28 -05'00'

MIKE MORATH
COMMISSIONER OF EDUCATION