

CARLOS GARCIA CARILLO,
Petitioner,

v.

SPRING INDEPENDENT SCHOOL
DISTRICT,
Respondent.

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BEFORE THE

COMMISSIONER OF EDUCATION

THE STATE OF TEXAS

DECISION OF THE COMMISSIONER

Petitioner Carlos Garcia Carillo, a former employee of Respondent Spring Independent School District, appeals to the Commissioner of Education under Texas Education Code section 21.301, challenging Respondent's school board's decision to terminate his one-year term employment contract during its term for good cause. Petitioner asserts immunity under Texas Education Code section 22.0512. Respondent denies that Petitioner is entitled to any relief and that the Commissioner should deny Petitioner's appeal.

Paul Carmona is the Administrative Law Judge assigned by the Commissioner to hear this case. Petitioner proceeds *pro se*. Respondent is represented by its counsel, Bryce A. Corsaut, of Spalding Nichols Lamp Langlois in Houston, Texas.

For the reasons addressed in this Decision, the Commissioner denies Petitioner's appeal.

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. The Commissioner adopts by reference and incorporates the Independent Hearing Examiner's (IHE's) findings of fact that Respondent's school board adopted without modification. *See* Tex. Educ. Code § 21.304(a).

2. The school board considered the IHE's Recommendation and the parties' respective arguments at its board meeting on April 14, 2026. The school board voted to adopt the IHE's Findings of Fact and Recommendation without change and to terminate Petitioner's one-year educator contract for good cause.

3. On May 1, 2026, Petitioner timely filed a Petition for Review with the Commissioner of Education.

4. Respondent timely filed the local record and its answer on May 21, 2026.

5. Petitioner filed his brief on May 27, 2026.

6. Respondent filed its brief on June 4, 2026.

7. Petitioner filed his reply brief on June 10, 2026.

DISCUSSION

Background Summary

Petitioner was employed by Respondent Spring Independent School District during the 2025–2026 school year under a one-year educator contract and was assigned as a classroom teacher at Thompson Elementary School. Petitioner was assigned day care duty on September 19, 2025, during which time he was responsible for monitoring students assembled in the school hallway as the students prepared to board day care vans after school.

Student 1 was an eight-year-old third-grade student at Thompson Elementary School who was in the hallway waiting for day care transportation. Student 1 was seated in the hallway with other students when, according to Petitioner, Student 1 began hitting another student. Petitioner approached Student 1, tapped or hit Student 1's head with his hand, and then grasped Student 1's wrist with his hand and pulled Student 1 down a hallway for approximately six seconds while Student 1 remained in a kneeling position or partially lifted. Petitioner placed Student 1 in a hallway or doorway, whereupon another teacher intervened and Student 1 returned to the original position where Student 1 was seated with other students.

Petitioner later sent an email to Denise Thompson, a staff member at Thompson Elementary, describing the incident with Student 1. Thompson forwarded the email to Thompson Elementary School Principal Vernecca Day, who watched the hallway surveillance video of the incident involving Petitioner and Student 1. Principal Day initiated an investigation into the incident and placed Petitioner on administrative leave during the investigation. The investigation included interviews with Student 1, other students who were present in the hallway, and adult staff witnesses.

One student reported that Student 1 struck her on the arm with a pencil shortly before Petitioner intervened.

On October 27, 2025, Principal Day recommended termination of Petitioner's employment contract based on the investigative findings. On November 5, 2025, Respondent notified Petitioner of its proposal to terminate his employment contract "based on findings from an internal investigation, which concluded that [Petitioner's] conduct constituted good cause for termination under both state law and District policy DFBA (LEGAL)." The stated good cause included violations of the Texas Educators Code of Ethics (Standard 3.2) and Respondent's board policies DH (LOCAL) and FO (LOCAL). The notice further stated that Petitioner's conduct constituted good cause for termination as defined by Texas Education Code section 21.211 and district policy DFBA (LEGAL). The notice provided Petitioner with his appeal rights under Texas Education Code Subchapter F.

Petitioner requested a Subchapter F hearing, and the assigned Independent Hearing Examiner (IHE) conducted an evidentiary hearing on February 18, 2026. The IHE concluded that Respondent proved that it had good cause to terminate Petitioner's probationary contract and recommended termination accordingly. The IHE's analysis stated that "[t]he central issue is whether Dr. Carrillo's physical intervention with Student 1 on September 19, 2025, constituted reasonable force to maintain discipline or instead violated District policy and ethical standards."

On April 14, 2026, Respondent's board of trustees met and considered the IHE's recommendation on April 14, 2026. Petitioner presented his arguments on the recommendation to the board. The board adopted the IHE's findings of fact and conclusions of law and voted to terminate Petitioner's employment contract. This appeal followed.

Chapter 21 Contract Termination

A school district must employ a teacher under a written contract, including a probationary, term, or continuing contract. *See* Tex. Educ. Code § 21.002. A school board may terminate a term contract at any time for good cause, as determined by the board. *Id.* § 21.211(a)(1). For purposes of term contract terminations, "good cause" is defined under common law as a failure to perform

duties within the scope of employment that a person of ordinary prudence would have performed under the same or similar circumstances. *See Aserson v. Eanes Indep. Sch. Dist.*, No. 014-R2-10-2025 (Comm’r Educ. 2025) (citing *Lee-Wright, Inc. v. Hall*, 840 S.W.2d 572, 580 (Tex. App.--Houston [1st Dist.] 1992, no writ)).

A teacher who protests a proposed contract action under section 21.211(a)(1) may request an evidentiary hearing before an IHE under Texas Education Code Chapter 21, Subchapter F. *Id.* § 21.251. At the Subchapter F hearing, the school district has the burden of proving its termination reasons by a preponderance of the evidence. *Id.* § 21.256(h). After the hearing, the IHE “shall . . . make a written recommendation that includes proposed findings of fact and conclusions of law and may include a proposal for granting relief.” *Id.* § 21.257(a). Within twenty days of the date the board president receives the IHE’s recommendation and the hearing record, the board or its subcommittee must meet to consider the recommendation and to hear the parties’ oral argument on it. *Id.* § 21.258(a), (b). After that hearing, the board makes a final decision on its proposed contract action.

After the board makes its section 21.259 decision, an aggrieved party may appeal to the Commissioner. Tex. Educ. Code § 21.301(a). On appeal, the Commissioner reviews the record of the evidentiary hearing and the oral argument before the board. *Id.* § 21.301(c). The Commissioner makes findings of fact and conclusions of law and may adopt by reference the findings and conclusions from the record. *Id.* § 21.304(a). The Commissioner may not substitute his judgment for the school board’s in a probationary contract termination appeal unless the board’s decision is arbitrary, capricious, or unlawful, or is not supported by substantial evidence. *Id.* § 21.303(b)(1). A decision is arbitrary and capricious if it lacks a rational basis, misapplies standards, or reaches an unreasonable result. *See City of El Paso v. El Paso Elec. Co.*, 851 S.W.2d 896, 901 (Tex. App.—Austin 1993, writ denied); *see also Pub. Utility Comm’n v. Tex. Indus. Energy Consumers*, 620 S.W.3d 418, 427 (Tex. 2021).

In considering whether substantial evidence supports a decision, which is not a high standard, the Commissioner reviews the record for reasonableness and does not reweigh the

evidence. *See Reincke v. Richardson Indep. Sch. Dist.*, No. 063-R1-0607 (Comm’r Educ. 2007). Whether substantial evidence supports the board’s decision is best characterized as a rational basis test; if reasonable minds could have reached the same conclusion as the board did, then the board’s decision must be affirmed. By prescribing such a narrow standard of review, the Legislature limited the Commissioner’s appellate role to reviewing the record for reasonableness, not to re-examining the evidence to determine whether he agrees with the board. *See Burnett v. Mart Indep. Sch. Dist.*, No. 046-R2-03-2025 (Comm’r Educ. 2025). Even if the evidence preponderates against the board’s decision, the Commissioner must uphold it if more than a scintilla of record evidence supports it. *Id.* (citing *Goodie v. Hou. Indep. Sch. Dist.*, 57 S.W.3d 646, 650 (Tex. App.—Houston [14th Dist.] 2001, pet denied)). That is so regardless of the comparative weight of any countering evidence. *See Reincke v. Richardson Indep. Sch. Dist.*, No. 063-R1-0607 (Comm’r Educ. 2007) (citing *Mireles v. Tex. Dep’t of Pub. Safety*, 9 S.W.3d 128, 131 (Tex. 1999)). The Commissioner does not resolve conflicts in the witnesses’ testimony on appeal. *See Montgomery Indep. Sch. Dist. v. Davis*, 34 S.W.3d 559, 567 (Tex. 2000).

Petitioner’s Appellate Issues

In his Petition for Review, Petitioner cites the immunity provisions of Texas Education Code section 22.0512.¹ Petitioner paraphrases the statute by stating, “In according to the scope of an employees (sic) duties, a District employee may physically restrain a student if the employee reasonably believes restraint is necessary in order to protect a person, including the person, using physical restraint from physical injury.” Petitioner further states that the Texas Education Code “provides professional employee immunity from, discipline, termination or non-renewable, for the employee use of physical force against a student, to the extent justified under the Texas Penal Code, Section 9.62, that says ‘Use of force but not deadly force.’”

Briefing requirements

Briefing is an administrative remedy that plays a vital role in appeals before the Commissioner. Petitioners’ briefs set out the issues on which petitioners have the burden of proof,

¹ Petitioner erroneously cites “Texas Education Code Section 230512.”

as well as their legal and factual support, and serve a critical role in defining the issues on appeal. *See Covington v. Fort Bend Indep. Sch. Dist.*, No. 001-R1-09-2025 (Comm’r Educ. 2025). Because of the short statutory timelines in Subchapter G appeals, initial briefs must be adequate, as the timelines largely preclude briefing extensions and amendments. *See* Tex. Educ. Code § 21.304(b) (requiring the Commissioner to issue decision within 30 days after school district’s response to petition is due, which in turn is due 20 days after petition is filed).

The Commissioner has adopted briefing rules similar to those set out in the Texas Rules of Appellate Procedure. *See* 19 Tex. Admin. Code § 157.1058. Upon receipt of Petitioner’s appeal, on May 1, 2026, the Agency sent the parties an Acknowledgment Letter, attaching a copy of the Commissioner’s appellate rules. Rule 157.1058(a), the rule governing briefs, requires that briefs contain the following sections:

- (1) Statement of the case. The brief must state concisely the nature of the case, the course of proceedings, and the school district’s disposition of the case. The statement should be supported by record references, should seldom exceed one-half page, and should not discuss the facts.
- (2) Issues presented. The brief must state concisely all issues or points presented for review. The statement of an issue or point will be treated as covering every subsidiary question that is fairly included. However, an issue that is not so identified is waived.
- (3) Statement of facts. The brief must state concisely and without argument the facts pertinent to the issues or points presented. The commissioner will accept as true the facts stated unless another party contradicts them. The statement must be supported by record references.
- (4) Argument. The brief must contain clear and concise argument for the contentions made with appropriate citations to authorities and to the record.
- (5) Prayer. The brief must contain a short conclusion that clearly states the nature of the relief sought.

19 Tex. Admin. Code § 157.1058(a). Substantial compliance with the briefing rules may suffice in some cases, but analysis of that substantial compliance is made case by case. *Id.* § 157.1058(c).

Petitioner filed a document titled “Elements to Support the Motion to Review in This Appeal” on May 28, 2026. Respondent, in its brief, accurately notes that Petitioner’s purported

brief is not compliant with the Commissioner's briefing rules.² Respondent also correctly argues that the Commissioner has previously held briefing insufficiencies to constitute a failure to exhaust administrative remedies. *See Hale v. Cypress-Fairbanks Indep. Sch. Dist.*, No. 084-R2-04-2026 (Comm'r Educ. 2026); *see also Evans v. Clear Creek Indep. Sch. Dist.*, No. 031-R1-03-2021 (Comm'r Educ. 2021).

Petitioner's May 28, 2026 brief is not substantially compliant with the briefing rules. The brief does not make a clear and concise argument for the contentions made and contains no citations to authorities. The Commissioner is not required to scour the record and construct Petitioner's inadequately briefed issues and potential arguments, which would place him in an advocate's role. *See Castille v. Port Arthur Indep. Sch. Dist.*, No. 016-R2-01-2023 (Comm'r Educ. 2023). Likewise, Respondent cannot meaningfully respond to inadequately presented arguments; it is not required to locate his evidentiary support or to decipher and complete his outlined arguments. Although Petitioner proceeds *pro se*, he is held to an attorney's standard in complying with the Commissioner's briefing rules. *See* 19 Tex. Admin. Code § 157.1045.

Petitioner waived his insufficiently briefed issues and failed to exhaust his administrative remedies. *See Evans v. Clear Creek Indep. Sch. Dist.*, No. 031-R1-03-2021 (Comm'r Educ. 2021). Accordingly, this appeal is dismissed for waiver and for failure to exhaust administrative remedies. Alternatively, it is denied on the merits, as addressed below.

Texas Education Code section 22.0512: Educator Immunity

Texas Education Code section 22.0512 provides immunity for professional employees who use physical force against a student. In relevant part, section 22.0512 states:

- (a) A professional employee of a school district may not be subject to disciplinary proceedings for the employee's use of physical force against a student to the extent justified under Section 9.62, Penal Code.
- (b) In this section, "disciplinary proceeding" means:

² Respondent also seeks to strike the attachments to Petitioner's May 28, 2026 filing. The Commissioner finds that those attachments are not relevant to this proceeding, and the accordingly are stricken from the record of this appeal.

- (1) an action brought by the school district employing a professional employee of a school district to discharge or suspend the employee or terminate or not renew the employee's term contract.

Tex. Educ. Code § 22.0512. When a district disciplines a teacher for using physical force against a student, the board must consider Texas Education Code section 22.0512 if the facts implicate educator use of force. *See Crowley Indep. Sch. Dist. v. Stoneham*, 714 S.W.3d 867 (Tex. App.—Houston [1st Dist.] 2024, no pet.) (applying Texas Education Code section 22.0512 and Texas Penal Code section 9.62 to a termination proceeding under Chapter 21 of the Texas Education Code); *see also Stoneham v. Crowley Indep. Sch. Dist.*, No. 036-R2-04-2022 (Comm’r Educ. 2022). Section 22.0512 is not an affirmative defense that must be raised and proved by an employee in a disciplinary proceeding. It mandates that the school district must allege and prove that the employee used unjustified force. *Earthly v. Fort Bend Indep. Sch. Dist.*, No. 040-R2-0209 (Comm’r Educ. 2009).

Section 9.62: Justification for Use of Force

Before Respondent could lawfully subject Petitioner to termination, it was required to determine whether Petitioner’s use of physical force against the student was justified under Texas Penal Code section 9.62, which provides:

The use of force, but not deadly force, against a person is justified:

- (1) if the actor is entrusted with the care, supervision, or administration of the person for a special purpose; and
- (2) when and to the degree the actor reasonably believes the force is necessary to further the special purpose or to maintain discipline in a group.

Tex. Penal Code § 9.62. The phrase “reasonably believes” is not defined, but the phrase “reasonable belief” is defined by statute:

“Reasonable belief” means a belief that would be held by an ordinary and prudent man in the same circumstances as the actor.

Tex. Penal Code § 1.07(42). The Commissioner has held that this definition, and its application under section 22.0512, is given the most comprehensive and liberal construction as possible:

Reasonable belief about what force is appropriate may differ, as ordinary and prudent people often disagree about what should be done in a particular circumstance. Even if one could show that one course of action is best, that does not prove other options are unreasonable. Force that is reasonably believed to be necessary may be used to further the purposes for which a teacher is assigned.

Stoneham v. Crowley Indep. Sch. Dist., No. 036-R2-04-2022 (Comm’r Educ. 2022). Accordingly, the threshold analysis in a disciplinary proceeding involving the use of force is whether the professional employee had a reasonable belief that force was necessary. *Id.*

Reasonable Belief

In *Stoneham*, the Commissioner analyzed the “reasonable belief” standard, holding that “[u]nder [section] 22.0512, the district has the burden to prove that an educator did not have an objectively reasonable belief that force was necessary to maintain control of a group or to compel obedience to a proper command.” *See Stoneham*, 714 S.W.3d at 877; *see also Stoneham*, No. 036-R2-04-2022 (Comm’r Educ. 2022). *Stoneham* further clarifies the proper framework for applying that standard. Specifically, although “reasonable belief” is evaluated under an objective standard—defined as a belief that would be held by an ordinary and prudent person under the same circumstances—the assessment of an educator’s use of force must nevertheless be conducted from the teacher’s perspective at the time of the incident. *See Stoneham*, 714 S.W.3d at 877; *see also Dall. Indep. Sch. Dist. v. Peters*, No. 05-14-00759-CV, 2015 Tex. App. LEXIS 12625, 2015 WL 8732420, at *5 (Tex. App.—Dallas Dec. 14, 2015, pet. denied); Tex. Penal Code § 1.07(42).

In determining whether the use of force is reasonable, the Texarkana Court of Appeals found that the factors in the *Restatement of Torts*, Second Edition, are in harmony with Texas case law. *See Hogenson v. Williams*, 542 S.W.2d 456, 459–60, (Tex. Civ. App.—Texarkana 1976, no writ). The following non-exclusive factors guide the determination of whether an employee’s use of force was reasonable:

- (a) The age, sex, and condition of the child,
- (b) The nature of [the child’s] offense or conduct and [the child’s] motives,
- (c) The influence of [the child’s] example upon other students,
- (d) Whether the force was reasonably necessary to compel obedience to a proper command, and

- (e) Whether the force was disproportionate to the offense, is unnecessarily degrading, or is likely to cause serious injury.

Id. The *Hogenson* court further concluded:

In our opinion, the proper construction of the rule of privileged force as expressed by the above statutes and authorities, and as the rule is applied in a civil assault case against a school teacher, is that any force used must be that which the teacher *reasonably* believes necessary (1) to enforce compliance with a *proper* command issued for the purpose of controlling, training or educating the child, or (2) to punish the child for prohibited conduct; and in either case, the force or physical contact must be reasonable and not disproportionate to the activity or the offense.

Id. at 460 (emphasis in original).

In the instant case, the IHE recommendation considered Petitioner's testimony regarding his belief that force was necessary:

Dr. Carrillo testified that he acted to prevent Student 1 from stabbing another student with a pencil. During the District's investigation, a student witness did report that Student 1 struck her on the arm with a pencil shortly before Dr. Carrillo intervened. This evidence lends some support to Dr. Carrillo's concern that Student 1 had engaged in inappropriate conduct with a pencil.

Regarding Petitioner's degree of force, the IHE recommendation further stated, "[e]ven assuming Student 1 engaged in disruptive or inappropriate conduct, the degree of force was not proportionate to the circumstances." The analysis then concludes:

While Dr. Carrillo sincerely maintains his actions were protective and necessary, the objective Video evidence does not support a finding that the level of force used was reasonably necessary at the time he began pulling Student 1 down the hallway. Considering the totality of the evidence, including the Video, witness testimony and District policies governing physical intervention with students, the Hearing Examiner concludes that the force used exceeded what was reasonably necessary to maintain discipline and violated District policy.

In its Conclusions of Law, the board continues the analysis, noting that "the evidence demonstrates that Student 1 was not engaged in conduct that required the level of force used, and therefore the force used was not reasonable under Texas Penal Code §9.62." Accordingly, the board properly conducted the required threshold determination under Texas Education Code section 22.0512 and Texas Penal Code section 9.62(b). After making that determination, the board concluded that Petitioner's conduct constituted good cause for termination under Respondent's

board policies DH (LOCAL) and FO (LOCAL). This issue is therefore denied, to the extent it is not dismissed for inadequate briefing as addressed above.

Conclusion

Because Petitioner did not adequately brief his issues, the Commissioner dismisses his appeal for waiver and for failure to exhaust administrative remedies. Alternatively, the Commissioner denies Petitioner's appeal, as substantial evidence supports the board's decision to terminate his employment contract during its term for good cause.

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 has jurisdiction over this case under Texas Education Code section 21.301.
2. Petitioner's brief, which lacks clear and concise arguments for his contentions and contains no citations to applicable authorities or to the record, does not substantially comply with the Commissioner's briefing rules and is not an adequate brief.
3. Petitioner waived his appellate issues by failing to adequately brief them.
4. Texas Education Code section 22.0512 establishes immunity protecting professional employees from discipline based on their use of force when the employee reasonably believes such force is necessary.
5. In a termination or nonrenewal case involving a use of force issue under Texas Education Code section 22.0512, the board's decision must include findings of fact and conclusions of law addressing the applicability of section 22.0512.
6. Respondent's decision to terminate Petitioner's contract includes findings of fact and conclusions of law necessary to evaluate Petitioner's use of force under the Texas Education Code section 22.0512.
7. Petitioner's conduct constituted good cause for termination under Respondent's board policies DH (LOCAL) and FO (LOCAL).

8. The Petition for Review is denied.

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 Petitioner's appeal be, and is hereby, DENIED.

SIGNED AND ISSUED this 22nd day of June 2026.

Mike Morath Digitally signed by Mike Morath
Date: 2026.06.22 14:58:24 -05'00'

MIKE MORATH
COMMISSIONER OF EDUCATION