

PARENT A/N/F STUDENT, Petitioner,	§	BEFORE THE
	§	
	§	
v.	§	COMMISSIONER OF EDUCATION
	§	
CAYUGA INDEPENDENT SCHOOL DISTRICT,	§	
	§	
Respondent.	§	THE STATE OF TEXAS

DECISION OF THE COMMISSIONER

Petitioner, the parent of a student enrolled with Respondent Cayuga Independent School District, appeals to the Commissioner of Education asserting that Respondent's board failed to take her requested corrective action against a certified educational aide who Respondent assigned to work as a cheer sponsor. Respondent denies error and asserts that the aide is no longer its employee, so this appeal has become moot.

Adrienne Butcher is the Administrative Law Judge assigned to this case. Petitioner proceeds *pro se*. Respondent is represented by its counsel, Randall J. Cook, of Hardy Cook & Hardy, P.C., in Tyler, Texas.

Because Petitioner's appeal has become moot, as the educational aide about whom she sought personnel action has resigned and is no longer Respondent's employee, and Petitioner has not raised a valid, factually supported school law claim that the Commissioner can decide or requested relief that he can grant, this appeal is dismissed without proceeding to a merits hearing. *See* 19 Tex. Admin. Code § 157.0156(a).

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 is the parent of a student who was enrolled at all relevant times in Respondent's schools.
2. Petitioner filed a May 9, 2025 grievance with Respondent under Policy FNG (Local), its grievance policy for parents and students. In her grievance, Petitioner complained

that a certified educational aide assigned to work as a cheer sponsor bullied and inappropriately shared information about the student during cheer-related activities. As relief, Petitioner sought the educational aide's employment termination, basing her request on the Educators' Code of Ethics and "the welfare of all students that are involved."

3. The principal met with Petitioner in person and via phone conference regarding her complaint about the educational aide and then issued a May 15, 2025 Level 1 grievance decision. In his decision, he denied Petitioner's request to terminate the aide's employment but noted that he had taken appropriate administrative action to address Petitioner's concerns about the aide's conduct, noting that under Texas law, he could not further discuss personnel matters with Petitioner.

4. Petitioner timely filed a Level 2 appeal on May 20, 2025, complaining, "I do not feel that the grievance submitted was taken seriously." The superintendent held a Level 2 grievance conference and issued a May 30, 2025 decision affirming the principal's decision and also declining to terminate the educational aide's employment. The superintendent noted that while he found most of Petitioner's concerns to be legitimate and that the educational aide had engaged in inappropriate gossip and conduct, he did not opt for termination but instead had reviewed and concurred with the principal's corrective administrative action.

5. Petitioner filed a Level 3 appeal on June 10, 2025, complaining that the educational aide "is still over [the student] and other students that she has negatively affected." The board heard Petitioner's appeal on June 23, 2025, and affirmed the Level 2 decision but also directed its administration to monitor the cheer program.

6. Petitioner timely appealed to the Commissioner on July 1, 2025.

7. The certified educational aide about whom Petitioner complained resigned as a cheer sponsor on July 1, 2025, and subsequently resigned from Respondent's school district on July 29, 2025.

8. The Administrative Law Judge issued a Proposal for Decision recommending dismissal. No parties filed exceptions to the Proposal for Decision.

DISCUSSION

Mootness

Respondent asserts that this appeal has become moot because the educational aide is no longer its employee.

Mootness is a component of subject matter jurisdiction. In addressing whether a case is moot, the question is whether a real, live controversy exists that the requested relief can resolve. *See Alphonso Crutch Life Support Ctr., Inc. v. Morath*, No. 03-15-00509-CV, 2016 LEXIS 9923, at *7–8 (Tex. App.—Austin Sept. 7, 2016, pet. denied); *In re Kellogg Brown & Root, Inc.*, 166 S.W.3d 732, 737 (Tex. 2005) (“A case becomes moot if a controversy ceases to exist between the parties at any stage of the legal proceedings, *including the appeal*.” (emphasis added)); *Empower Texans, Inc. v. Tex. Ethics Comm’n*, No. 03-16-00872, 2018 Tex. App. LEXIS 6072, at *5–6 (Tex. App.—Austin Aug. 3, 2018, no pet.). A case becomes moot when (1) it appears that one seeks to obtain a judgment on some controversy when none exists or (2) when one seeks judgment on some matter which, then rendered for any reason, cannot have a practical legal effect on a then-existing controversy. *See Morath*, 2016 Tex. App. LEXIS 9923, at *7. When this occurs, even if the party originally had standing to bring the claim, the party loses standing to maintain it, and the claim is subject to dismissal. *Id.*

Petitioner’s locally sought relief was termination of the educational aide’s employment from Respondent’s district; she did not seek other relief in her lower-level grievances or from the board. While Respondent agreed that the educational aide made serious errors, its administration chose to address that conduct through administrative measures other than termination. Petitioner, dissatisfied with this response, continued to pursue termination as a remedy. Because the educational aide then resigned and no longer works for Respondent, this controversy has become moot, and the Commissioner lacks jurisdiction to decide it, as doing so would elicit an advisory opinion with no legal effect on any existing controversy between the parties. Accordingly, this appeal is dismissed for mootness. 19 Tex. Admin. Code § 157.1056(a).

School laws of this state

In her pleading, Petitioner raises a number of Texas school laws, including Texas Education Code sections 11.151, 11.252, 21.006, 21.058, 22.0511, 26.008, and 26.011. In addition, Petitioner raises the Educators' Code of Ethics. In addition to dismissal for mootness, these claims are dismissed for the reasons below.

Sections 11.151 and 11.252 are broad statutes that address school board governance. Petitioner claims the board violated these statutes, but the basis for her allegations is unclear. Her claims appear to stem from Respondent's declination to terminate the educational aide's employment, which is a discretionary personnel decision. Petitioner's assertions do not support violations of either statute, as neither required the board to terminate the employee as Petitioner requested.

Section 21.006 imposes certain reporting requirements on superintendents for conduct not at issue in this case. Tex. Educ. Code § 21.006. Section 21.058 (now renumbered) provides for revocation of certificates for convictions or deferred adjudication for certain criminal offenses not at issue here. *Id.* § 21.058. Section 22.0511 provides certain school district professional employees with protection from personal liability for discretionary actions performed within the scope of their duties; the statute protects employees and does not support a claim against Respondent's board.

Section 26.008 provides parents with the right to full information concerning their student's school activities and prohibits school employees from encouraging or coercing a student to withhold information from the student's parent. Petitioner has not identified what information she requested and has not received about the student's school activities or any attempt by the instructional aide to encourage or coerce the student into withholding information from Petitioner. In the latter case, the Legislature stated that such activity is "grounds for discipline" under Chapter 21, but it does not *require* particular discipline.

Section 26.011 requires school boards to adopt grievance procedures allowing parents to address violations of Chapter 26 to the board. Tex. Educ. Code § 26.011. The board has

adopted Policy FNG (Local), which Petitioner used to present her complaint to the board. Petitioner fails to plead facts that could support a potential violation of this statute.

Finally, although the Educators' Code of Ethics is found in the Texas Administrative Code and adopted under Education Code Title 2, and is thus a school law of this state, the Commissioner lacks jurisdiction over Code of Ethics violations because the Legislature directed exclusive jurisdiction over its enforcement to the State Board for Educator Certification. *See* Tex. Educ. Code § 21.041(b); *Parent A/N/F Student v. Lockhart Indep. Sch. Dist.*, No. 046-R10-04-2024 (Comm'r Educ. 2024).

Local district policies

Petitioner asserts a violation of Respondent's Policy FFI (Local), which sets out Respondent's student-on-student bullying policy. When Petitioner filed her appeal, the Commissioner lacked jurisdiction over her alleged violations of school policies, as they are not part of the statutorily-defined school laws of this state. Notably, in September 2025, Texas Education Code section 1.007 became effective. Under section 1.007(b), school districts must implement and comply with each policy it is required to adopt by law. *See* Tex. Educ. Code § 1.007(b). Regardless, because Respondent's Policy FFI (Local) applies to student-on-student bullying and does not address educator conduct, it does not apply to Petitioner's facts. Petitioner's Policy FFI (Local) claim is dismissed. 19 Tex. Admin. Code § 157.1056(a).

FERPA violations

Finally, Petitioner raises the Family Educational Rights and Privacy Act (FERPA), complaining that the educational aide talked about the student's discipline with others who lacked an educational interest in the subject matter. Before September 1, 2025, the Commissioner lacked section 7.057 jurisdiction over FERPA violations, as FERPA is a federal statute and not a Texas school law. However, in 2025, the Legislature added Chapter 26A to the Texas Education Code. Section 26A.001(f) provides that if a section 7.057 appeal alleging a FERPA violation is filed with the Commissioner, the Commissioner may investigate the claim, including collaborating with relevant federal agencies, and may take necessary action to "compel

the school district, the board of trustees of the district, or a district employee to comply with FERPA.” Tex. Educ. Code § 26A.001(f).

Chapter 26A does not apply to Petitioner’s July 1, 2025 appeal, which predated its effective date. Notably, the record reflects that Respondent’s board did not affirm or condone the educational aide’s actions, as the Level 2 decision recognized that she had erred, and the principal took corrective action regarding her inappropriate sharing of student information. As addressed above, Petitioner cannot compel Respondent to take preferred personnel action to correct the aide’s errors. The aide has also resigned from the school district. In addition to mootness, Petitioner fails to present facts that could support a favorable decision. 19 Tex. Admin. Code § 157.1056(a).

Conclusion

Petitioner’s appeal is dismissed as moot and for failure to plead facts that could support a favorable decision, failure to state a claim on which relief can be granted, and failure to request relief the Commissioner can grant. 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 appeal. *See* Tex. Educ. Code § 7.057(a)(2)(A).
2. Petitioner’s appeal has become moot, as the certified educational aide against whom Petitioner filed her grievance has resigned from Respondent’s school district. The Commissioner could not grant any relief that would have any practical effect on any controversy between the parties. *Alphonso Crutch Life Support Ctr., Inc. v. Morath*, No. 03-15-00509-CV, 2016 LEXIS 9923, at *7–8 (Tex. App.—Austin Sept. 7, 2016, pet. denied).
3. Petitioner has not raised a school law of this state over which the Commissioner has jurisdiction that is supported by adequate facts that could support a decision in her favor.

4. The Commissioner cannot require the board to take discretionary personnel actions, where no school law requires a specific board action.

5. The Commissioner lacks enforcement authority over the Educator's Code of Ethics, as the Legislature gave the State Board for Educator Certification exclusive adoption and enforcement authority over the Code. Tex. Educ. Code § 21.041(b).

6. When Petitioner filed her appeal, the Commissioner lacked jurisdiction over school policies, which are not part of the school laws of this state. *See* Tex. Educ. Code § 7.057(a)(2)(A), (f)(2). The Commissioner lacks jurisdiction over her claims based on Policy FFI (Local). In addition, Policy FFI (Local) addresses student-on-student bullying, which does not apply to this case.

7. When Petitioner filed her appeal, the Commissioner lacked jurisdiction in a section 7.057 appeal to hear complaints of FERPA violations. Although under the new Education Code Chapter 26A, the Commissioner has jurisdiction to address FERPA complaints, this law does not apply to Petitioner's case because it was effective after she filed her appeal. Moreover, the employee at issue has resigned from Respondent's employment; even under Chapter 26A, the Commissioner cannot take action regarding that employee.

8. This appeal is dismissed as moot and for failure to plead facts that could support a favorable decision, failure to state a claim on which relief can be granted, and failure to request relief the Commissioner can grant. 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 appeal be, and is hereby, DISMISSED.

SIGNED AND ISSUED this 13th day of April 2026.

Mike Morath Digitally signed by Mike Morath
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MIKE MORATH
COMMISSIONER OF EDUCATION