

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

DECISION OF THE COMMISSIONER

Petitioner, a parent proceeding as next friend of his child, a student enrolled with Respondent Magnolia Independent School District, appeals to the Commissioner of Education from Respondent's school board's April 17, 2025 decision dismissing his grievance as untimely under its Policy FNG (Local). Respondent denies error, asserts Petitioner has not satisfied jurisdictional requirements, and alternatively asks the Commissioner to deny Petitioner's appeal.

Adrienne Butcher is the Administrative Law Judge assigned to this case. Petitioner proceeds *pro se*. Respondent is represented by its counsel, Douglas R. Brock, of DRB Law, PLLC, in Austin, Texas.

Because Petitioner did not file an adequate brief under the Commissioner's briefing rules, waiving his issue on appeal, and further because the record reflects that his grievance was untimely, the Commissioner dismisses and, alternatively, 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. Petitioner is the parent of a student enrolled in Respondent's schools.
2. Respondent has a local grievance policy for parent complaints, Policy FNG (Local). Policy FNG (Local) requires parents to file complaints within fifteen school district business days from the date the parent first knew or, with reasonable diligence, should have known of the decision or action giving rise to the complaint or grievance. Policy FNG (Local)

also provides that grievance timeliness are strictly followed and that appeals of dismissals as untimely are limited to the issue of untimeliness.

3. Grievance 1: On November 22, 2024, Petitioner filed a Policy FNG (Local) Level 1 grievance complaining about an October 21, 2024 incident involving the student.¹ On December 19, 2024, Respondent dismissed the Level 1 grievance as untimely under its policy. Petitioner appealed the dismissal of his grievance on January 7, 2025.

4. Grievance 2: On January 13, 2025, Petitioner filed a second Level 1 grievance regarding the October 21, 2024 incident. Respondent dismissed this second Level 1 grievance and consolidated it with the January 7, 2025 complaint.

5. On January 31, 2025, Respondent dismissed the consolidated grievances. On February 13, 2025, Petitioner appealed the dismissal as untimely to Level 2. On March 5, 2025, Respondent's Executive Director issued a Level 2 decision affirming the dismissal as untimely.

6. On March 21, 2025, Petitioner appealed to Level 3 before the board of trustees.

7. Respondent's school board heard Petitioner's grievance on April 17, 2025, and affirmed the Level 2 dismissal of the consolidated grievances as untimely. Petitioner attended the Level 3 board hearing.

8. Petitioner timely appealed to the Commissioner on May 28, 2025.

9. The Administrative Law Judge set a briefing schedule on the issue of timeliness. Petitioner filed a two-page document on his brief.

10. The Administrative Law Judge issued a Proposal for Decision recommending dismissal and, alternatively, denial of Petitioner's appeal. No parties filed exceptions.

DISCUSSION

Petitioner argues that Respondent's board erroneously dismissed his grievance as untimely. Because resolution of this issue requires local record evidence, the Administrative

¹ Petitioner asserts that at school, the student was mistaken for another student with a similar name and, based on that error, erroneously subjected to an interview by the Department of Family Protective Services, Child Protective Services (CPS). CPS had intended to interview the other student. Petitioner's grievance sought local policy changes and employee training to prevent future student misidentification.

Law Judge issued a briefing schedule on the issue of timeliness, noting in her Order that the Commissioner's briefing rules had been provided to the parties in an attachment to the Agency's May 28, 2025 acknowledgment letter to the parties.

Briefing to the Commissioner

The Administrative Law Judge set a briefing schedule on the issue of Petitioner's grievance's timeliness, as the school board's review was also limited by local policy to that issue. *See Davis v. Morath*, 624 S.W.3d 215, 223 (Tex. 2021). In the Order setting the parties' briefing schedule, the Administrative Law Judge noted that the Agency had previously sent the parties the Commissioner's briefing rules in its May 28, 2025 acknowledgment letter issued when Petitioner filed his appeal.

Rule 157.1058(a) provides that briefs must include the following:

- (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; analysis is made case by case. *See id.* § 157.1058(c).

On his brief deadline, Petitioner filed a two-page letter with no citations to the record or to authorities and that contains none of the required sections of a brief. *Id.*² In addition, Petitioner failed to serve Respondent's counsel with a copy of his letter brief. 19 Tex. Admin.

² The letter references a recording maintained on Respondent's website and a November 19, 2024 video, as well as conversations Petitioner asserts he had with the campus principal, and does not otherwise cite any record evidence.

Code § 157.1050. On its response brief deadline, Respondent filed a brief, subject to its plea to the jurisdiction and motion to dismiss, noting that Petitioner had not served it with a brief or contacted its counsel regarding an extension. This deprived Respondent of an opportunity to respond to Petitioner’s letter brief.

The letter brief does not substantially comply with the Commissioner’s briefing rules. Because briefing is an administrative remedy intended to set out the issues and authorities that an appealing party has raised in an appeal, failure adequately brief an issue waives it on appeal. Accordingly, Petitioner’s appeal is dismissed for waiver and failure to exhaust administrative remedies, due to inadequate briefing. 19 Tex. Admin. Code § 157.1056(a).

Timeliness of grievances

Additionally, even if not dismissed as waived, Petitioner’s appeal is denied. The record reflects that Petitioner filed his first grievance on November 22, 2024, complaining about an October 21, 2024 incident. Respondent’s Policy FNG (Local), in effect at all relevant times, required grievances to be filed within fifteen district business days from when the grievant knew of the alleged incident.³ The record contains Respondent’s 2024–2025 school calendar. Based on that calendar, fifteen district business days after October 21, 2024, is November 11, 2024. Petitioner filed his grievance on November 22, 2024, nine district business days after the Policy FNG (Local) deadline to file a grievance.

In his letter brief, Petitioner does not assert that his consolidated grievances were timely under Respondent’s policy but instead argues that administrators “strung him along” by not expediently providing him with a grievance form when he asked about one. Petitioner references emails that he sent to trustees and administrators, explaining that these communications were efforts to exhaust his administrative remedies. However, Petitioner cites no record evidence supporting this argument or that otherwise shows the board erred in affirming the dismissal of his consolidated grievances as untimely.⁴

³ Petitioner does not argue that he learned of the incident after October 21, 2024.

⁴ In 2025, the Texas Legislature enacted Texas Education Code Chapter 26A, which made significant changes to school districts’ grievance policy requirements. *See* Tex. Educ. Code ch. 26A. Under the new laws, school districts

Conclusion

Petitioner's appeal is dismissed based on waiver for inadequate briefing. Alternatively, his appeal is denied, as Petitioner has not demonstrated that Respondent's board erred in dismissing his grievance as untimely.

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 appeal. *See* Tex. Educ. Code §§ 7.057(a)(2)(A); 11.1511(b)(13). The Commissioner's review is limited to the issue of timeliness, as the board's review was limited to addressing that issue under its local policy. *Davis v. Morath*, 624 S.W.3d 215, 223 (Tex. 2021).

2. Petitioner's two-page letter filed on his brief deadline does not substantially comply with the Commissioner's briefing rules. 19 Tex. Admin. Code § 157.1058. The letter does not cite to the record or to authorities to support Petitioner's appeal of the board's dismissal of his grievance as untimely. The letter also contains none of the required sections of a brief. Petitioner's failure to file a brief waives his issue on appeal.

3. Alternatively, the record reflects that Petitioner's November 22, 2024 grievance was untimely under Respondent's Policy FNG (Local) because it was not filed within fifteen district business days of the October 21, 2024 incident about which Petitioner complains.

4. Petitioner's appeal is dismissed for failure to exhaust and for waiver. In the alternative, his appeal is denied on the merits.

must post grievance procedures and forms "in a prominent location" on the district's website and include grievance forms in its student handbook. *Id.* § 26A.003. The legislation also expanded grievance filing deadlines, including a filing extension when a grievant engages in informal resolution attempts to resolve the grievance. *Id.* § 26A.002. These changes likely would have impacted the timeliness issue in this case, if it was in effect when Petitioner filed his grievances. However, Chapter 26A became effective on September 1, 2025.

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 25th day of February 2026.

Mike Morath Digitally signed by Mike Morath
Date: 2026.02.25 12:59:45 -06'00'

MIKE MORATH
COMMISSIONER OF EDUCATION