

KIM D. WELLS,	§	BEFORE THE
Petitioner,	§	
	§	
v.	§	COMMISSIONER OF EDUCATION
	§	
HOUSTON INDEPENDENT SCHOOL	§	
DISTRICT,	§	
Respondent.	§	THE STATE OF TEXAS

DECISION OF THE COMMISSIONER

STATEMENT OF THE CASE

Petitioner Kim D. Wells filed a March 27, 2026 Petition for Review with the Texas Commissioner of Education. The underlying matter concerns Respondent Houston Independent School District's board of managers' proposed termination of Petitioner's probationary contract for good cause during its term. Respondent has not made a final decision on its termination recommendation, which is pending before an independent hearing examiner (IHE) in an Education Code, Subchapter F proceeding that Petitioner requested on March 17, 2026.

Adrienne Butcher is the Administrative Law Judge assigned to this case. Petitioner proceeds *pro se*. Respondent is represented by its Assistant General Counsel, Amir Roohi.

Because Petitioner's appeal is not yet ripe, it is dismissed without a hearing for lack of jurisdiction. 19 Tex. Admin. Code § 157.1056(a).

FINDINGS OF FACT

After reviewing the record and taking official notice of relevant matters, in my capacity as Commissioner of Education, I conclude that the record and file in this case establish the following Findings of Fact:

1. Petitioner had a one-year probationary contract with Respondent for the 2025–2026 school year.
2. On January 16, 2026, Respondent notified Petitioner that on the preceding day, its board of managers voted to propose termination of her probationary contract during its term for good cause. Respondent's notice included a section titled, "Appeal Procedure," which noted a

teacher’s right to protest a proposed contract termination by submitting a written request for a hearing, in accordance with Texas Education Code section 21.251 *et seq.* (Texas Education Code Chapter 21, Subchapter F).

3. On March 17, 2026, Petitioner requested that the Commissioner assign an IHE to conduct an evidentiary hearing under Texas Education Code Chapter 21, Subchapter F. The Commissioner assigned an IHE to the matter on March 24, 2026.

4. Petitioner filed this appeal to the Commissioner on March 27, 2026.

5. Petitioner’s Subchapter F proceeding has not yet concluded, and Respondent’s board had not made a final decision on her proposed contract termination.

6. In her Petition for Review, Petitioner included a jurisdictional paragraph that states, “This appeal is filed pursuant to Texas Education Code §21.251 *et seq.*, which provides the right to appeal certain employment-related determinations to the Commissioner of Education.”

7. Respondent filed an April 15, 2026 Plea to the Jurisdiction, Answer, and Affirmative Defenses, attaching as jurisdictional evidence a January 16, 2026 letter notifying Petitioner that the board proposed her contract termination and Petitioner’s 2025–2026 probationary contract.

8. The Administrative Law Judge reviewed the pleadings and issued a Notice of Intent to Dismiss, noting the jurisdictionally deficient fact that Petitioner’s Subchapter F hearing was still pending before the IHE. The Notice gave Petitioner an April 20, 2026 deadline to file a response with any relevant jurisdictional facts or corrections. Petitioner did not file a response.

DISCUSSION

The Commissioner’s jurisdiction over appeals of probationary contract terminations for good cause during the contract term is based on Texas Education Code section 21.301(a), which provides:

- (a) Not later than the 20th day after the date the board of trustees or board subcommittee *announces its decision under Section 21.259* or the board advises the teacher of its decision not to renew the teacher’s contract under Section 21.208, the teacher may appeal the decision by filing a petition for review with the commissioner.

Tex. Educ. Code § 21.301(a) (emphasis added); *see also id.* §§ 21.104(a) (probationary contract mid-term termination statute); 21.1041(1) (entitling teacher under probationary contract proposed for mid-term termination to Subchapter F hearing), 21.259 (governing board’s decision on hearing IHE’s Subchapter F recommendation).

An appeal to the Commissioner filed before a school board has made a final contract termination decision, as opposed to a proposed decision, is premature and must be dismissed. The act of filing an appeal triggers very short statutory deadlines, including the school district’s deadline to file the local record, that cannot be met before the board has conducted its hearing and made its final decision. *See* Tex. Educ. Code § 21.301(a). The Commissioner’s statutory deadline to decide a section 21.301 appeal is also based in part on the appeal’s filing date, as it is due thirty days from the school district’s response deadline. *Id.* § 21.304. For that reason, when a jurisdictional prerequisite has not yet been met, premature appeals do not serve as jurisdictional “placeholders.” *See Walker v. Hitchcock Indep. Sch. Dist.*, No. 012-R2-1109 (Comm’r Educ. 2009).¹

Conclusion

For the reasons above, this appeal is dismissed for lack of jurisdiction. Tex. Educ. Code § 21.301(a); 19 Tex. Admin. Code § 157.1056(a). Dismissal of this appeal does not prevent Petitioner from filing a timely appeal, if she wishes, after (and if) the board makes a final termination decision after the Subchapter F hearing’s conclusion, as such a decision would satisfy the jurisdictional prerequisites for a Subchapter G appeal. *See* Tex. Educ. Code § 21.301(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 Petitioner may have filed this appeal in an effort to comply with Respondent’s instructions in a section in her January 16, 2026 notice of proposed termination. That section is titled, “Appeal Procedure.” While it correctly cites the Subchapter F statutes (“Section 21.251 *et seq.*”), use of the word “appeal” could be ambiguous, particularly for unrepresented parties unfamiliar with Subchapter F. The request made to the Commissioner at this juncture is for an evidentiary hearing to contest the proposed action and not for a section 21.301 appeal. More precise language could resolve the ambiguity.

1. The Commissioner lacks jurisdiction over this appeal, as Petitioner appeals from the school board's proposed termination of her probationary contract for good cause before the board has made a final decision on the proposed action. *See* Tex. Educ. Code § 21.301(a).

2. Petitioner prematurely filed her appeal to the Commissioner. The Subchapter F hearing process is not complete, and the board has not yet made a final decision on Petitioner's contract termination after considering the IHE's recommendation. *See* Tex. Educ. Code §§ 21.258, .259.

3. Prematurely filed appeals under Texas Education Code section 21.301 are not jurisdictional "placeholders." *Walker v. Hitchcock Indep. Sch. Dist.*, No. 012-R2-1109 (Comm'r Educ. 2009). A party whose appeal is dismissed for lack of jurisdiction as premature may file a timely appeal when jurisdictional prerequisites are met.

4. Petitioner's appeal is dismissed for lack of jurisdiction. *See* Tex. Educ. Code § 21.301(a); 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 1st day of May 2026.

Mike Morath Digitally signed by Mike Morath
Date: 2026.05.01 14:07:49 -05'00'

MIKE MORATH
COMMISSIONER OF EDUCATION