

PARENT A/N/F STUDENT,
Petitioner,

v.

GALENA PARK INDEPENDENT
SCHOOL DISTRICT,
Respondent.

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BEFORE THE

COMMISSIONER OF EDUCATION

THE STATE OF TEXAS

DECISION OF THE COMMISSIONER

STATEMENT OF THE CASE

Petitioner, the parent of a student enrolled in Respondent Galena Park Independent School District, filed a petition for review with the Texas Commissioner of Education complaining of Respondent's school board's denial of her grievance involving the cheer captain selection process and the decision that led to the selection of another student, other than her child, to be cheer captain. Petitioner alleges the process was flawed and retaliatory due to her voicing concerns and disagreement with the cheer program. Respondent denies any wrongdoing and claims Petitioner's section 7.057 appeal was not timely filed. Respondent further asserts that Petitioner fails to allege any violation of any school law of the state and thus fails to invoke the Commissioner's jurisdiction.

Dr. Vicky L. Sullivan is the Administrative Law Judge assigned to this case. Petitioner proceeds *pro se*. Respondent is represented by its counsel, Christopher B. Gilbert and Kaitlyn E. Porter, of Thompson and Horton, LLP, in Houston, Texas.

Because Petitioner's appeal is untimely, she does not allege a violation of a school law of this state, and she fails to state a claim for which relief can be granted, the Commissioner dismisses this appeal without a merits hearing. *See* 19 Tex. Admin. Code § 157.1056(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 child enrolled in Respondent's school district.

2. Petitioner filed an April 8, 2025 Level 1 grievance, under Respondent's Policy FNG (Local), alleging there was tampering with score sheets for captain tryouts, breach of confidential information, integrity of captain process, nepotism, and retaliation. For relief, Petitioner requested, *inter alia*, that Respondent prompt an investigation into the cheer captain selection process and perform a "[r]edo of captain tryouts held with full transparency with unbiased judges educated in cheer."

3. Petitioner's Level 1 grievance was heard on April 30, 2025, with Randy Gunter, Attorney at Law, serving as the designated Hearing Officer.

4. On June 2, 2025, the Hearing Officer provided his Level 1 response, denying Petitioner's requested remedy to redo the cheer captain selection process and, after investigating, finding "the process was fair, unbiased, and transparent."

5. On June 4, 2025, Petitioner filed a Level 2 grievance appealing the Level 1 decision.

6. Petitioner's Level 2 grievance was heard on June 18, 2025, with Marla Moore, Attorney at Law, serving as the designated Hearing Officer.

7. On July 2, 2025, the Hearing Officer provided her Level 2 response, denying Petitioner's Level 2 grievance.

8. On July 7, 2025, Petitioner appealed the Level 2 decision to Level 3, to be heard by Respondent's Board of Trustees.

9. On August 26, 2025, Respondent's Board of Trustees held a Level 3 hearing, wherein Petitioner presented her grievance to the board during closed session. In open session, the board voted to uphold the Level 2 decision by a vote of 7-0. The board's decision was communicated in open session, and although Petitioner was not in the boardroom during the board's announcement, she arrived shortly after and was informed of the board's decision by the Assistant Superintendent of Human Resource Services.

10. On August 27, 2025, Respondent sent a letter to Petitioner informing her of the board's August 26, 2025 Level 3 decision.

11. October 13, 2025, Petitioner filed a section 7.057 appeal with the Commissioner of Education regarding the board's August 26, 2025 denial of her grievance.

12. On November 11, 2025, Respondent filed an Answer, a Plea to the Jurisdiction, and Motion to Dismiss, arguing, *inter alia*, that Petitioner's appeal was not timely filed. Respondent also filed the local record on November 11, 2025.

13. On December 4, 2025, the Administrative Law Judge held a duly noticed and scheduled telephonic prehearing conference. Petitioner did not appear for the conference, and Respondent attended through its counsel. The conference addressed timeliness, pleading requirements, and jurisdiction.

14. The Administrative Law Judge issued a Proposal for Decision recommending dismissal of Petitioner's appeal as untimely, lack of jurisdiction for failure to allege a violation of a school law of this state, and failure to state a claim for which relief can be granted. *See* 19 Tex. Admin. Code § 157.1056(a). No parties filed exceptions.

DISCUSSION

The Commissioner's appellate jurisdiction

Petitioner's Petition for Review asserts jurisdiction under Texas Education Code section 7.057(a), without further specifying which subsection supports her asserted jurisdiction. As can best be ascertained from Petitioner's pleadings, her jurisdictional basis is section 7.057(a)(2)(A), as she alleges neither aggrievement by the Texas school laws themselves under section 7.057(a)(1) nor school board violations of written employment contract provisions under section 7.057(a)(2)(B).¹ Under section 7.057(a)(2)(A), the Legislature authorized the Commissioner to hear appeals of school board actions or decisions alleged to violate a school law of this state. *See*

¹ In general, during a prehearing conference, an Administrative Law Judge will seek to clarify or confirm the 7.057 subsection(s) on which a Petitioner asserts jurisdiction. *See* 19 Tex. Admin. Code § 157.1053(a). However, since Petitioner did not appear for the prehearing conference, the Administrative Law Judge was unable to obtain the needed clarification from Petitioner. Notably, in a November 29, 2025 response to Respondent's Answer, Plea to the Jurisdiction, and Motion to Dismiss, Petitioner states, "Under Texas Education Code § 7.057(a)(2)(B), the Commissioner has jurisdiction when: a parent alleges that a school district violated school laws, or [t]he district failed to follow its own policies." Although Petitioner erroneously cites the incorrect part of section 7.057, from her text, it further supports the finding that Petitioner asserts section 7.057(a)(2)(A) jurisdiction (i.e., Petitioner alleges she is aggrieved by school board's action or decisions that she alleges violate a school law of the state).

Tex. Educ. Code § 7.057(a)(2)(A). Texas school laws are statutorily defined as titles 1 and 2 of the Texas Education Code and the rules adopted under them. *Id.* § 7.057(f)(2). To proceed with a section 7.057(a)(2)(A) appeal, Petitioner must file a timely appeal and must plead a school law or laws that Respondent’s board allegedly violated, along with facts that could support each violation. *See* 19 Tex. Admin. Code §§ 157.1051(a)(4), 157.1073(c)(4).

Timeliness of appeal

Subsection (a) of Texas Education Agency Rule 157.1049 provides that a petition for review must be filed “within 45 calendar days after the decision . . . complained of is first communicated to the petitioner” and further provides that, “[i]n all cases, when a decision is announced in the presence of the petitioner or the petitioner’s representative of record at a hearing, the announced decision shall constitute communication to the petitioner.” 19 Tex. Admin. Code § 157.1049(a). Subsection (e) states, “Failure to comply with subsection (a) of this section relating to the time for filing a petition for review will result in the dismissal of the case.” *Id.* § 157.1049(e).

Respondent asserts that Petitioner’s appeal is untimely because it was not filed within forty-five days of August 26, 2025, when the board heard and decided Petitioner’s grievance and when the board’s decision was first communicated to Petitioner. In Petitioner’s Petition for Review, she contends Respondent’s final decision was issued on September 30, 2025, which would make her appeal timely, filed within the 45-day statutory deadline. Nothing in the local record supports a “final decision on September 30, 2025,” as asserted by Petitioner.² And, in what appears to be contradictory, Petitioner states in her response to Respondent’s Answer and Plea to the Jurisdiction that her appeal is timely because she “filed complaints through TEA prior to level 2 grievance because GPISD was not following there [sic] laws and procedures. Therefore, the filing is timely as a matter of law.”³ Significantly, in her response, Petitioner does not reference her previously cited September 30, 2025 date, nor does she deny being notified of the board’s decision on August

² During the December 4, 2025 prehearing conference held by the Administrative Law Judge, and where Petitioner was not in attendance, Respondent’s counsel could not explain why Petitioner cited this date.

³ *See* Petitioner’s Response to Respondent’s Answer, Plea to the Jurisdiction, and Motion to Dismiss, received by the Agency on November 29, 2025.

26, 2025. If Petitioner's latter position is true (i.e., that she filed her Petition for Review to the Commissioner prior to the Level 2 hearing),⁴ then Petitioner filed her appeal when there was no school board action or decision to create appellate jurisdiction.

The Commissioner has held that one cannot file an appeal before a school board action or decision occurs. *McNair v. Aldine Indep. Sch. Dist.*, No. 034-R10-04-2022 (Comm'r Educ. 2022). To do so would expand his jurisdiction and prematurely trigger statutory and rule-based deadlines governing appeals to the Commissioner. It would also devalue the role of board of trustees and require potentially unnecessary work by the school district and the Commissioner as to a case that the board might decide to the Petitioner's satisfaction. Texas courts have also held that premature filings are not jurisdictional placeholders. *See Marble Falls Indep. Sch. Dist. v. Scott*, 275 S.W.3d 558 (Tex. App.—Austin 2008, pet. denied) (finding that district court correctly dismissed appeal filed before motion for rehearing was denied and that abatement would not have been appropriate where a jurisdictional prerequisite had not been met). Therefore, prematurely filed appeals must be dismissed. However, a party can timely refile an appeal within forty-five days after the board decides the grievance. *See* 19 Tex. Admin. Code § 157.1049(a), (e).

Respondent's board decided Petitioner's appeal on August 26, 2025, and Petitioner received notice of the board's decision on this same day, which is the event that triggered the appellate timeline. Petitioner filed her appeal in the correct format with the Commissioner on October 13, 2025. *See* 19 Tex. Admin. Code §§ 157.1048 (setting requirements for form and content of documents filed with the Commissioner); 157.1051 (setting out requirements for petition for review). On October 5, 2025, Petitioner emailed the Agency regarding her appeal but did not include her pleadings in the required document form and content. *See id.* In an October 6, 2025 response, Agency staff informed Petitioner that a Petition must be an attached document. *Id.* On October 13, 2025, a week later, Petitioner filed her Petition for Review, attaching her pleading document as required.

⁴ Texas Education Agency Hearings and Appeals Division records do not show another section 7.057 appeal filed by Petitioner on this matter, as she claims.

Petitioner's October 13, 2025 appeal complains about an August 26, 2025 board decision. Respondent states that, although Petitioner was not present in the boardroom for the board's announcement during open session, she arrived shortly after the announcement and inquired with Respondent's Assistant Superintendent about the board's determination, who informed Petitioner of the board's decision. Petitioner's appeal to the Commissioner was due by October 10, 2025,⁵ which is 45 calendar days after August 26, 2025. Accordingly, because Petitioner filed her appeal in required proper form three calendar days past that deadline, the appeal must be dismissed. *See id.* §§ 157.1049(a), (e).

School laws of this state

Petitioner asserts "seven policy violations" by Respondent, including Respondent's board Policy FNG (Local) and FNG (Legal), which are not Texas school laws as explained *supra*. *See* Tex. Educ. Code § 7.057(a)(2)(A), (f)(2). Petitioner does not allege a violation of a school law of the state over which the Commissioner has jurisdiction. Regarding the "seven policy violations" that Petitioner cites, even if timeliness was not an issue, these claims cannot proceed to the Commissioner because Petitioner fails to state claims on which relief can be granted. *See* 19 Tex. Admin. Code § 157.1056(a).⁶

Relief requested

Petitioner asks the Commissioner, *inter alia*, to investigate Respondent's cheer captain selection and grievance process and order Respondent to release all records, score sheets, and judge statements. This is not relief the Commissioner can grant. *See* 19 Tex. Admin. Code § 157.1073(h)(1)–(2). In section 7.057 appeals, the Commissioner is authorized to (1) affirm the board's decision or (2) reverse or remand the case if he finds the Petitioner's substantial rights

⁵ Rule 4 of the Texas Rules of Civil Procedure (TRCP) governs the computation of time for deadlines, excluding the day of the act, event, or default. The final day is included unless it is a weekend or holiday, in which case the deadline extends to the next business day. *See* Tex. R. Civ. P. 4. Here, day 45 is on Friday, October 10, 2025.

⁶ Effective September 1, 2025, Texas Education Code section 1.007: Compliance with Mandatory Policy requires that "[a] public elementary or secondary school, the school's governing body, and the school's employees shall implement and comply with each policy the school is required to adopt under this code or other law." Tex. Educ. Code § 1.007. In her Petition for Review, Petitioner does not cite a violation of Texas Education Code section 1.007. Moreover, the filing of her local complaint predates this legislative change and is thus not applicable.

were violated because of enumerated errors of law. *Id.* Because Petitioner seeks relief the Commissioner cannot grant her, this appeal is dismissed. *See* 19 Tex. Admin. Code § 157.1056(a).

Conclusion

Petitioner's appeal is dismissed as untimely filed and for lack of jurisdiction, as Petitioner fails to plead any school laws of the state that Respondent's board allegedly violated and fails to request relief that the Commissioner can grant. *See* 19 Tex. Admin. Code §§ 157.1049(a), (e); 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 section 7.057 jurisdiction over Petitioner's appeal. Tex. Educ. Code § 7.057(a)(2)(A).

2. Petitioner does not allege aggrievement by the school laws themselves or that Respondent's Board of Trustees violated a written employment contract provision that caused or would cause them monetary harm. Thus, she neither asserts nor establishes jurisdiction under Texas Education Code sections 7.057(a)(1) or 7.057(a)(2)(B).

3. The Commissioner has jurisdiction to hear appeals from school board actions or decisions alleged to violate the school laws of this state. *See* 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 adopted under them. *Id.* § 7.057(f)(2). Petitioner identified no school law of this state that Respondent's board allegedly violated in denying her grievance over which the Commissioner has section 7.057(a)(2)(A) jurisdiction. Petitioner fails to invoke the Commissioner's jurisdiction in her pleadings.

4. Petitioner did not file her Petition for Review in the required form to the Agency's Hearings and Appeals Division within the 45 calendar days after the decision, order, or ruling complained of, pursuant to 19 Texas Administrative Code section 157.1049(a). Petitioner's untimely appeal is dismissed. 19 Tex. Admin. Code §§ 157.1049(e), 157.1056(e).

5. Petitioner's appeal is dismissed without a hearing for untimely filing, lack of jurisdiction, and failure to state a claim for which relief can be granted. *See* 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 24th day of April 2026.

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