

PARENT A/N/F STUDENT,
Petitioner,

v.

IDEA TEXAS PUBLIC SCHOOLS,
Respondent.

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BEFORE THE

COMMISSIONER OF EDUCATION

THE STATE OF TEXAS

DECISION OF THE COMMISSIONER

STATEMENT OF THE CASE

Petitioner is the parent of a student enrolled in Respondent IDEA Texas Public Schools, Inc., an open-enrollment charter school operating in Brownsville, Texas. Petitioner filed an August 6, 2025 appeal to the Texas Commissioner of Education asserting jurisdiction under Texas Education Code section 7.057. In his appeal, Petitioner seeks review of Respondent's school board's denial of his grievance concerning the release for viewing of the special education setting surveillance video related to an incident involving his child.

Dr. Vicky L. Sullivan is the Administrative Law Judge assigned by the Commissioner to hear this appeal. Petitioner proceeds *pro se*. Respondent is represented by its counsel, Christopher H. Schulz, with Schulman, Lopez, Hoffer & Adelstein, LLP, in Austin, Texas.

For the reasons stated below, because the Commissioner lacks jurisdiction over this appeal, it is dismissed.

FINDINGS OF FACT

After due consideration of the record and matters officially noticed, it is concluded that the following Findings of Fact are supported by substantial evidence according to the standards set forth in Texas Administrative Code section 157.1073(h):

1. Petitioner is a parent of a student attending Respondent IDEA Texas Public Schools, Inc., an open-enrollment charter school operating in Brownsville, Texas.

2. Petitioner filed an August 6, 2025 Petition for Review with the Commissioner seeking review of Respondent's school board's denial of his grievance regarding his request to view the video in the student's special education classroom relating to a March 31, 2025 incident.

The incident in question involved a report that the student was heard saying, “I’m going to make cocaine” during a sensory break activity where the student was playing with kinetic sand. When interviewed, the student claimed to have said, “I’m going to make a snowman.” During an investigation, the video was reviewed by Respondent. Petitioner requested to view the video; however, Respondent declined to provide viewing access, citing applicable law, and instead offered Petitioner the opportunity to listen to the audio.

3. On April 23, 2025, Petitioner filed a Level 1 grievance, claiming the student was “neglected” and “wrongfully accused,” which he asserted constituted “abuse” because it placed the student in a “stressful situation.”

4. On April 29, 2025, a Level 1 grievance hearing is held, and Petitioner is denied his request to view the video.

5. On May 7, 2025, Petitioner filed a Level 2 grievance, for which a hearing is held on May 15, 2025, with an Area Superintendent serving as the designated hearing officer.

6. On May 23, 2025, Petitioner is informed that access to the audio recording of the video may be scheduled upon request.

7. On May 28, 2025, Petitioner filed a Level 3 grievance.

8. On June 16, 2025 Petitioner listens to the audio recording of the incident, which lasts approximately 50 seconds and is played about five times during the review.

9. On July 25, 2025, the IDEA board of directors holds a Level 3 grievance hearing to address the key issue of whether Petitioner is entitled to view the video recording of the March 31, 2025 incident involving the student.

10. On July 30, 2025, IDEA board chair informs Petitioner of its Level 3 decision to uphold the administration’s decision and deny him viewing access to the video.

11. On August 6, 2025, Petitioner filed a section 7.057 appeal with the Commissioner.

12. In his appeal before the Commissioner, Petitioner cites Texas Education Code Chapter 29, which outlines the provisions of video surveillance of special education setting,

including when a parent may view such a video, and the Commissioner's rules in Texas Administrative Code Chapter 103, Subchapter DD, sections 103.1301 and 103.1303.

13. On August 21, 2025, Respondent filed an Answer, Motion to Dismiss, and Request for Merits Briefing if Motion to Dismiss is denied, as well as the local record.

14. The Administrative Law Judge issued a September 16, 2025 Notice of Intent to Dismiss for Lack of Jurisdiction, based on Respondent's status as an open-enrollment charter school not subject to appeals under Texas Education Code section 7.057.

15. On September 20, 2025, Petitioner filed a Response to the Notice of Intent to Dismiss and a Reply to Respondent's Answer, Motion to Dismiss, and Request for Merits Briefing if the Motion to Dismiss is denied.

16. On January 2, 2026, the Administrative Law Judge held a status conference to address jurisdictional issues and discuss the briefing schedule concerning the Commissioner's jurisdiction under section 7.057, as well as the merits of this appeal. The parties filed their respective initial briefs; however, Petitioner did not file a reply brief. The Administrative Law Judge held oral argument on March 27, 2026.

17. The Administrative Law Judge considered the filings in this case and issued a Proposal for Decision recommending dismissal for failure to exhaust administrative remedies and for lack of jurisdiction. No parties filed exceptions.

DISCUSSION

Briefing requirements

Petitioner's six-page brief does not comply with Commissioner's briefing rules. *See* 19 Tex. Admin. Code § 157.1058. Petitioner's brief lacks a statement of the case, fails to include a statement of facts, fails to include a clear and concise argument, fails to include citations to any evidence in the local record on the issue(s), and fails to include a prayer—all required by the Commissioner's briefing rules. *Id.*

Effective briefing is essential in appeals to the Commissioner. This is especially true of petitioners' briefs, as the petitioner bears the burden of proof and is responsible for clearly

identifying and framing the issues to be addressed. The opposing party's response and the scope of the Commissioner's decision are necessarily shaped by the issues raised and arguments developed in the petitioner's briefing. The Commissioner has adopted briefing rules similar to the Texas Rules of Appellate Procedure's briefing rules. *See* 19 Tex. Admin. Code § 157.1058. The Agency sent the parties a copy of the Commissioner's briefing rules with its August 7, 2025 Acknowledgment Letter, which included Rule 157.1058. Additionally, the January 6, 2026 Judge's Order setting the briefing schedule expressly reminded the parties of their obligation to comply with the Commissioner's briefing rules.

On review of Petitioner's brief, it is clear that in addition to failing to include a statement of the issues presented, Petitioner does not support any of his arguments with the record. Instead, he presents his narrative of the events underlying his complaint and advances unsubstantiated, conclusory statements as his arguments. These unsupported arguments are not adequate to present Petitioner's claims to the Commissioner. The Commissioner cannot scour the record for evidentiary support for a party's unsupported contentions; to do so would improperly advocate for that party. Failure to properly brief issues in an appeal waives those issues for appellate review and is a failure to exhaust administrative remedies, which include briefing. *See Simmons v. Hou. Indep. Sch. Dist.*, No. 066-R2-06-2024 (Comm'r Educ. 2024). Petitioner waived his inadequately briefed issue(s), which are dismissed. 19 Tex. Admin. Code § 157.1056(a). In addition, his claim(s) are dismissed for the following reasons.

The Commissioner's appellate jurisdiction

The Commissioner has limited appellate jurisdiction, provided by the Legislature, to hear appeals from Texas independent school districts and of challenges to the Texas school laws themselves.¹ Open-enrollment charter schools are governed by Texas Education Code Chapter 12 and are exempt from the school laws that apply to Texas public schools, except where the school laws specifically apply to charter schools. *See* Tex. Educ. Code § 12.103(b) ("An open-enrollment

¹ Petitioner challenges Respondent's actions, not the school laws of this state themselves. *See* Tex. Educ. Code § 7.057(a)(1), (f)(2).

charter school is subject to this code and rules adopted under this code *only to the extent the applicability to an open-enrollment charter school of a provision of this code or a rule adopted under this code is specifically provided.*” (emphasis added); *see also id.* § 12.104(b) (listing school laws from which open-enrollment charter schools are not exempt).²

Section 7.057 does not reference open-enrollment charter schools and is not included on the list of school laws that apply to them. *See* Tex. Educ. Code § 12.104. The Commissioner has previously recognized that he lacks section 7.057 appellate jurisdiction over charter schools. *See Bolton v. Student Alts. Program, Inc. d/b/a Triumph Pub. Schs.—Lubbock*, No. 028-R2-01-2020 (Comm’r Educ. 2020); *Child B/N/F Parents v. Harmony Sch. of Pol. Sci. & Commc’ns*, No. 042-R10-05-2015 (Comm’r Educ. 2015) (finding no jurisdiction over appeals of decisions by open-enrollment charter schools). Accordingly, the Commissioner lacks section 7.057(a)(2) jurisdiction over this appeal of an open-enrollment charter school board’s decision concerning Petitioner’s grievance.

Texas Education Code section 29.022

Petitioner asserts Texas Education Code section 29.022 as a legal basis for his claim; however, as discussed below, that provision does not support the exercise of the Commissioner’s jurisdiction in this matter.

Section 29.022, entitled, “*Video Surveillance of Special Education Settings*,” sets out requirements for the placement, operation, and maintenance of video camera equipment in special education self-contained classrooms or other special education settings. Video recordings made under section 29.022 are “confidential and may not be released or viewed except as provided by [subsections (i), (j), and an inapplicable subsection for teachers]. *See* Tex. Educ. Code § 29.022(i); 19 Tex. Admin. Code § 103.1301 (implementing rule). Under subsection (i), video recordings may only be released “for viewing” by certain categories of requestors, including the parent of a student involved in an alleged incident that is reported to the district or school and documented by

² Texas Education Code sections 12.103 and 12.104(b)(3)(F) provide that open-enrollment charter schools are subject to a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to special education programs under Subchapter A, Chapter 29.

the recording. Tex. Educ. Code § 29.022(i). Pursuant to 19 Texas Administrative Code section 103.1301(b)(8), an “incident” is defined as an event or circumstance that:

involves alleged “abuse” or “neglect,” as those terms are described in the Texas Family Code, § 261.001, of a student by a staff member of the school district or charter school or alleged “physical abuse” or “sexual abuse,” as those terms are described in the Texas Family Code, § 261.410, of a student by another student.

19 Tex. Admin. Code § 103.1301(b)(8).

The Texas Legislature has expressly included open-enrollment charter schools in some provisions of Texas Education Code section 29.022, while omitting others. *See generally* Tex. Educ. Code § 29.022. Several subsections of section 29.022 explicitly apply to both school districts and open-enrollment charter schools, reflecting deliberate legislative choices as to the entities covered. When the Legislature intends to include charter schools, it does so expressly.³

For example, section 29.022(l)(1) requires a school district or open-enrollment charter school to provide information explaining how a person may appeal an alleged section 29.022 violation, including reference to the section 7.057 appeal process. *Id.* § 29.022(l). This provision functions as a notice requirement; it does not independently confer jurisdiction on the Commissioner. The statute does not state that appeals arising from alleged violations by open-enrollment charter schools are subject to the Commissioner’s review, nor does it amend section 7.057 to expressly include such appeals.

The Legislature’s decision to reference the section 7.057 appeals process without expressly extending the Commissioner’s jurisdiction to open-enrollment charter schools is significant. Jurisdictional statutes are strictly construed, and any ambiguity must be resolved against expanding jurisdiction. Had the Legislature intended to grant the Commissioner section 29.022 jurisdiction

³ Pursuant to Statutory Law, “It is rule of statutory construction that every word of a statute must be presumed to have been used for a purpose. Likewise, ‘we believe every word excluded from a statute must also be presumed to have been excluded for a purpose.’” *City of Richardson v. Oncor Elec. Delivery Co.*, 539 S.W.3d 252, 260 (Tex. 2018) (quoting *Cameron v. Terrell & Garrett, Inc.*, 618 S.W.2d 535, 540 (Tex. 1981)). “It follows, then that ‘when the legislature employs a term in one section of a statute and excludes it in another section, the term should not be implied where excluded.’” *City of Richardson v. Oncor Elec. Delivery Co. LLC*, 539 S.W.3d 252 (Tex. 2018) (alteration in original) (quoting *Laidlaw Waste Sys. (Dallas), Inc. v. City of Wilmer*, 904 S.W.2d 656, 659 (Tex. 1995)). This limitation was expressly identified and argued by Respondent in its briefing.

over appeals against open-enrollment charter schools, it could have done so explicitly, as it has in other statutes.

Accordingly, section 29.022's limited references to open-enrollment charter schools, combined with the absence of a clear jurisdictional grant, do not establish that the Commissioner has jurisdiction over this appeal. Thus, in the absence of express statutory authorization, the Commissioner lacks jurisdiction to consider the claims raised against the open-enrollment charter school.

Commissioner's Rules Chapter 103, Subchapter DD

Petitioner also invokes the Commissioner's rules as legal support for his claim, although, as discussed below, those rules do not confer jurisdiction or otherwise support the relief sought.

Chapter 103, Subchapter DD of Title 19 of the Texas Administrative Code contains the Commissioner of Education's rules implementing Texas Education Code section 29.022, which governs video surveillance in certain special education settings. *See* 19 Tex. Admin. Code §§ 103.1301, .1303. The subchapter applies to both school districts and open-enrollment charter schools, but only to the extent expressly stated in the rules and the underlying statute. *Id.* The subchapter consists of two primary sections: Section 103.1301: Video Surveillance of Certain Special Education Settings; and Section 103.1303: Commissioner's Review of Actions Concerning Video Cameras. *Id.* Unlike section 103.1301, which repeatedly and expressly refers to both school districts and open-enrollment charter schools, section 103.1303 is textually narrower. Its operative provisions refer only to actions taken by or applicable to school districts, with no parallel reference to charter schools.⁴

⁴ The Texas Education Agency published *Public Comments and Agency Responses Related to Proposed Revisions to 19 TAC Chapter 103, Health and Safety, Subchapter DD, Commissioner's Rules Concerning Video Surveillance of Certain Special Education Setting*, which includes the following public comment and agency response:

Comment: TCSA and three other commenters stated that the rules should allow appeals against open-enrollment charter schools concerning the denial of a request for the placement of cameras or the denial for the release or viewing of a video under TEC, § 7.057.

Agency Response: The agency disagrees. The general process to appeal a violation of the school laws of this state, which include TEC, §29.022, is found at TEC, §7.057. However, TEC, §7.057, does not apply to charter schools. TEC, §29.022, does not give the commissioner the authority to expand the commissioner's jurisdiction under TEC, §7.057, to include charter schools. The Texas Legislature, in TEC, §29.022(p), has required the commissioner to adopt rules concerning expedited review for school district actions, but has given the commissioner the option of

Because the Commissioner’s jurisdiction is purely statutory and must be expressly conferred, it cannot be enlarged by implication or inference. Although Chapter 103, Subchapter DD addresses video surveillance obligations applicable to both school districts and open-enrollment charter schools, the sole provision establishing a Commissioner review mechanism—19 Texas Administrative Code section 103.1303—expressly references only school districts and not open-enrollment charter schools. *Id.* This omission is significant, particularly where both the Legislature and the Commissioner demonstrated elsewhere in the statute and rules when they intended to expressly include charter schools.

Neither section 103.1303 nor Texas Education Code section 29.022 expressly grants the Commissioner jurisdiction to review actions taken by an open-enrollment charter school. Accordingly, the Commissioner lacks jurisdiction over this appeal, and the appeal should be dismissed.⁵

Conclusion

The Commissioner lacks section 7.057(a)(2)(A) jurisdiction over this appeal of an open-enrollment charter school board’s decision on Petitioner’s grievance. In addition, Petitioner fails to exhaust his administrative remedies.

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.

adopting rules concerning expedited review for charter schools. After reviewing how these rules for expedited review have worked for school districts, a decision may be made whether to extend expedited review to charter schools.

Available at: <https://tea.texas.gov/about-tea/laws-and-rules/commissioner-rules-tac/coe-adopted/1901-public-comments-on-19-tac-chapter-103-subchapter-dd>.

⁵Although the Commissioner lacks jurisdiction to address Petitioner’s complaint through a section 7.057 appeal, that limitation does not mean Petitioner was without recourse. Petitioner submitted a document describing the filing of a special education complaint with the Texas Education Agency’s (TEA) Special Education Division, in which he asserts that TEA’s investigation found the school district out of compliance with federal and state special education laws and required corrective action. Accordingly, while the Commissioner does not have section 7.057 appellate jurisdiction over charter school decisions, TEA’s Special Education Division has authority to hear complaints alleging violations of federal and state special education requirements—and the record reflects that Petitioner availed himself of that process.

1. The Commissioner lacks section 7.057 jurisdiction over this appeal. Tex. Educ. Code § 7.057(a)(2)(A).

2. Petitioner waived his appellate issue(s) by failing to adequately brief them, as he fails to substantially comply with the Commissioner's briefing rules, adequately present his arguments in his brief, and make any citations to the local record in his brief. Through inadequate briefing, he fails to exhaust his administrative remedies, which include briefing to the Commissioner. Therefore, Petitioner's appeal is dismissed for failure to exhaust administrative remedies.

3. Open-enrollment charter schools are governed by Texas Education Code Chapter 12, subchapter D, and are exempt from the school laws of this state, except where applicability of such a law to open-enrollment charter schools is specifically provided.

4. Neither 19 Texas Administrative Code section 103.1303 nor Texas Education Code section 29.022 expressly confer jurisdiction on the Commissioner to review actions taken by an open-enrollment charter school concerning review of special education video surveillance.

5. Texas Education Code section 7.057(a)(2) applies to school district boards of trustees and does not specifically apply to open-enrollment charter schools.

6. Respondent is an open-enrollment charter school to which section 7.057 does not specifically apply. Tex. Educ. Code §§ 7.057; 12.104(b).

7. Petitioner's appeal is dismissed for lack of jurisdiction. *Sharp v. Golden Rule Schs., Inc.*, No. 013-R10-11-2020 (Comm'r Educ. 2021); *Bolton v. Student Alts. Program, Inc. d/b/a Triumph Pub. Schs.—Lubbock*, No. 028-R2-01-2020 (Comm'r Educ. 2020); *Child B/N/F Parents v. Harmony Sch. of Pol. Sci. & Commc'ns*, No. 042-R10-05-2015 (Comm'r Educ. 2015).

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 14:05:03 -05'00'

MIKE MORATH
COMMISSIONER OF EDUCATION