

PARENT A/N/F STUDENT,
Petitioner,

v.

SINTON 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 Sinton Independent School District, filed a petition for review with the Texas Commissioner of Education, complaining that Respondent violated Texas state school laws(s). In his local grievance, Petitioner alleges the board allowed select students to enroll in dual credit courses that could confer an advantage in class rankings, while other students, including Petitioner's child, were denied an equal opportunity to participate in those courses. Respondent asserts that Petitioner failed to invoke the Commissioner's jurisdiction and failed to exhaust his administrative remedies. Respondent further contends, in the alternative, that certain claims are moot.

Dr. Vicky L. Sullivan is the Administrative Law Judge assigned to preside over this appeal. Petitioner is represented by his counsel, Heather McClellan Castillo, of the Law Office of Heather McClellan Castillo, in Arlington, Texas. Respondent is represented by its counsel, Trevor Hall and Tisha P. Brown, of the Powell Law Group, L.L.P., in Austin, Texas.

For the reasons discussed below, the Commissioner dismisses in part and denies in part the appeal. *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 2, 2025 Level 1 grievance under Respondent's Policy FNG(Local), alleging "[t]he District has violated the laws of the state. [Petitioner's child] has been

harmful because when other students are granted exceptions and he is not, other students are given an unfair competitive academic advantage.” Specifically, Petitioner alleges Respondent allowed other students to enroll in dual credit courses, granting exceptions to what was published in the school’s course catalog.

3. Petitioner requested the following remedies: (1) that Respondent acknowledge the “inequity created by [Respondent]” and put a plan in place to “ensure a level playing field” by either removing the weighted credit earned by the seven students who took the dual credit courses or ensure that Petitioner’s child can take the same weighted classes during the summer¹; (2) that Respondent take appropriate action to address the information provided concerning course selections, scheduling, available options, and the circumstances under which other students were permitted and approved to enroll in the weighted dual credit courses; (3) that Respondent provide assurances that there will be no retaliation for filing and pursuing this grievance; (4) that Respondent will update its course catalog for family access and transparency; and (5) that Respondent strengthen internal and external communications, processes, and procedures regarding weighted course information and options so that every student receives the same information.

4. Petitioner’s Level 1 grievance was heard on May 2, 2025, with campus principal serving as the designated hearing officer.

5. On May 16, 2025, the hearing officer provided his Level 1 response, denying Petitioner’s first requested remedy of acknowledging inequity, ensuring a level playing field by either removing other students weighted dual credit earned, or permitting Petitioner’s child to take the same weighted dual credit courses over the summer. All other requests were granted.

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

7. Petitioner’s Level 2 grievance was heard on June 10, 2025, with Respondent’s Superintendent serving as the designated hearing officer.

¹ The alternative option of permitting Petitioner’s child to enroll in a summer course was later rescinded by Petitioner, who asserted that doing so would not provide a “level playing field” because of his schedule constraints.

8. On June 25, 2025, the hearing officer provided his Level 2 response, denying Petitioner's Level 2 grievance.

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

10. On August 26, 2025, Respondent's Board of Trustees held a Level 3 hearing, wherein the board voted 6–0 to uphold the Level 2 decision. Petitioner received notice of the board's decision on August 26, 2025.

11. On October 10, 2025, Petitioner filed a Texas Education Code section 7.057 appeal with the Commissioner of Education challenging the board's August 26, 2025 denial of his grievance.

12. On November 13, 2025, Respondent filed an Answer, a Plea to the Jurisdiction, and the local record.

13. On December 8, 2025, and December 17, 2025, the Administrative Law Judge held duly noticed and scheduled telephonic prehearing conferences. Both parties attended through their respective legal counsel. The conferences identified the issues in the appeal, addressed jurisdiction—including the hearing on Respondent's Plea to the Jurisdiction—and addressed briefing. The parties filed their respective briefs. The Administrative Law Judge held oral argument on March 10, 2026.

14. The Administrative Law Judge issued a Proposal for Decision recommending that Petitioner's appeal be dismissed in part and denied in part. No parties filed exceptions.

DISCUSSION

The Commissioner's appellate jurisdiction

Petitioner's Petition for Review asserts jurisdiction under Texas Education Code sections 7.057(a)(1) and (a)(2)(A). Under section 7.057(a)(1), Petitioner asserts he is aggrieved by the school laws of the state. *See* Tex. Educ. Code § 7.057(a)(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 id.* § 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).

Petitioner’s Claims

Although Petitioner contends that he has been aggrieved by the school laws of the state and assert jurisdiction under 7.057(a)(1), Petitioner fails to specify any school law of the state that aggrieve him. Instead, both Petitioner’s Petition for Review and his Brief focus exclusively on alleged violations by the board of various provisions of the Texas Education Code. Accordingly, Petitioner waived his claim that he was aggrieved by the school laws of this state, which must be dismissed. *See* 19 Tex. Admin. Code § 157.1056(a).

In his Petition for Review, Petitioner focuses on school board actions or decisions that he alleges violate school laws of the state. Specifically, Petitioner alleges the board violated the following Texas Education Code sections: 1.002 (Equal Educational Services or Opportunities), 1.007 (Compliance with Mandatory Policy), 4.00 (4.001: Public Education Mission and Objectives),² 28.0214 (Finality of Grade), 28.0216 (District Grading Policy), 28.010 (Notification Regarding College Credit and Work-Based Education Programs), 26.008 (Right to Full Information Concerning Student), and 28.02121 (High School Personal Graduation Plan).

Although Petitioner raises multiple claims in his Petition for Review, Petitioner’s Brief identifies only two issues: Whether

- (1) [t]he District and its Board violated Texas Education Code section 1.002 because they did not provide equal opportunities to Student (and other students) when they allowed a select few students to take courses advantageous to their class rankings that Student was told he could not take, that the course catalog indicated that he could not take, and/or that he did not know were or could be made available to him.

² Petitioner alleges a violation of “Texas Education Code section 4.00, Public Education Mission and Objectives.” However, because no such section exists, this appears to be a typographical error. Petitioner is presumed to have intended to reference section 4.001, “Public Education Mission and Objectives.”

- (2) [t]he District and its Board violated its own policies and failed to remedy the harm to Student that resulted from violating its own policies. The Commissioner now has jurisdiction to consider this issue pursuant to Texas Education Code section 1.007.

Notably, Petitioner's Brief limits the issues to alleged violations of Texas Education Code sections 1.002 and 1.007, waiving all other claims pled but not briefed, as addressed further below.

Hearings before the Commissioner

Briefing plays a vital role in appeals to the Commissioner, particularly petitioner's briefs, which identify the issues in an appeal on which the petitioners have the burden of proof. Briefing also notifies both the Commissioner and the opposing party of the legal and factual support for each claim. The Commissioner has rules governing briefing that are similar to the Texas Rules of Appellate Procedure. *See* 19 Tex. Admin. Code § 157.1058. The Commissioner's rules provide that a petitioner's brief shall contain 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) (emphasis added).

Unbriefed issues constitute waiver

The Commissioner's rule governing unbriefed issues is unequivocal: "The brief must state concisely all issues or points presented for review" and "[a]n issue that is not so identified is waived." *Id.* § 157.1058(a)(2).

In its Brief, Respondent contends that “Petitioner waived most portions of the appeal by wholly failing to brief the issues.” Respondent further asserts that “Petitioner’s Brief failed to set out the issues, arguments, and authorities” necessary to demonstrate the District’s alleged violation or noncompliance with the following provisions of the school laws of the state:

1. Texas Education Code § 4.001 (mission of public education);
2. Texas Education Code § 28.0214 (finality of grades);
3. Texas Education Code § 28.0216 (grading policy);
4. Texas Education Code § 28.010 (notifying parents regarding college credit and work-based education programs);
5. Texas Education Code § 26.008 (parent entitlement to full information about child); and
6. Texas Education Code § 28.02121 (student graduation plan).

Respondent is correct. Petitioner identifies only two issues in his Brief—alleged violations of Texas Education Code sections 1.002 and 1.007. All remaining claims alleging violations of the Texas Education Code, though raised in Petitioner’s Petition for Review, are neither identified as issues presented nor otherwise addressed in the brief and are therefore deemed abandoned.

By failing to brief these issues, Petitioner waived them for appellate review. *See Evans v. Clear Creek Indep. Sch. Dist.*, No. 030-R1-03-2021 (Comm’r Educ. 2021); *Parents v. Educ. United Indep. Sch. Dist.*, No. 035-R10-03-2018 (Comm’r Educ. 2018) (“Any issue that is not briefed is waived.”). It is not the Commissioner’s responsibility to scour the record to find support for or to construct a party’s argument. *See Padilla v. Alice Indep. Sch. Dist.*, No. 038-R1-05-2023 (Comm’r Educ. 2023). “Failure to properly brief issues in the appeal waives those issues for appellate review and is a failure to exhaust administrative remedies.” *Parent a/n/f Student v. Fort Bend Indep. Sch. Dist.*, No. 062-R10-06-2024, at *2 (Comm’r Educ. 2024). Therefore, Petitioner’s claims alleging the board violated Texas Education Code sections 4.001, 28.0214, 28.0216, 28.010, 26.008, and 28.02121 are dismissed as waived. *See* 19 Tex. Admin. Code § 157.1058(a).

The remaining analysis is limited to the two issues presented in Petitioner’s Brief, which allege violations of Texas Education Code sections 1.002 and 1.007.

Texas Education Code section 1.007

Enacted in 2025 through Senate Bill 12 of the 89th Legislature, Texas Education Code section 1.007, entitled “Compliance with Mandatory Policy,” requires strict adherence to legally mandated school policies. *See* Tex. Educ. Code § 1.007. Effective September 1, 2025, section 1.007 provides that a public school, its governing body, and its employees shall implement and comply with every policy the school is required to adopt under the Texas Education Code or other applicable law. *Id.* This provision imposes a mandatory, non-discretionary duty on school officials and employees to both adopt and follow all required policies. *Id.* In Texas Education Code section 7.057 appeal proceedings before the Commissioner, section 1.007 establishes that compliance with mandated policies is not optional, and claims alleging noncompliance may implicate the validity of a school district’s actions or decisions. *See* Tex. Educ. Code § 7.057(a)(2)(A). Accordingly, noncompliance with required policies may render a school district’s actions unlawful under the Texas Education Code. *Id.*

Under the Texas Code Construction Act, statutes are presumed to operate prospectively unless the Legislature clearly expresses an intent that they apply retroactively. *See* Tex. Gov’t Code § 311.022 (“A statute is presumed to be prospective in its operation unless expressly made retrospective.”). Accordingly, absent explicit language providing for retrospective application, a statute applies only to actions and events occurring on or after its effective date.

In the instant case, Petitioner filed the local complaint on April 2, 2025, during the 2024–2025 school year, well before the September 1, 2025 effective date of Texas Education Code section 1.007—such that any application of that provision would be impermissibly retroactive. Petitioner’s reliance on legal standards that postdate the filing of the underlying complaint is misplaced, as applying such standards would constitute an impermissible retroactive application of law. Therefore, the recently enacted Texas Education Code section 1.007 has no bearing on this matter.

As such, the law in effect at the time of the filing of the local complaint controls. *See, e.g., Wallace v. Llano Indep. Sch. Dist.*, No. 017-R10-10-2024 at 3 n.1 (Comm’r Educ. 2025). At the

time Petitioner filed the local complaint, it was well established that “the Commissioner lacks jurisdiction over school boards’ alleged violations of local policies ... as these are not part of the school laws of this state.” *See, e.g., Parent v. Orange Grove Indep. Sch. Dist.*, No. 044-R10-06-2023 at 14 (Comm’r Educ. 2023). Accordingly, the Commissioner lacks jurisdiction over Petitioner’s section 1.007 claim, which is dismissed. *See* 19 Tex. Admin. Code § 157.1056(a).

Texas Education Code section 1.002

Petitioner contends that Respondent violated the principles of equal educational opportunity by permitting certain students to enroll in dual credit courses in a manner inconsistent with provisions contained in an outdated published course catalog, while denying the same opportunity to others. Specifically, Petitioner contends that Respondent violated section 1.002 “because they did not provide equal opportunities to [Petitioner’s child] (and other students) when they allowed a select few students to take courses advantageous to their class rankings that [Petitioner’s child] was told he could not take, that the course catalog indicated that he could not take, and/or that he did not know were or could be made available to him.”

Section 1.002, entitled “Equal Educational Services or Opportunities,” in relevant part states:

An educational institution undertaking to provide education, services, or activities to any individual within the jurisdiction or geographical boundaries of the educational institution shall provide equal opportunities to all individuals within its jurisdiction or geographical boundaries pursuant to this code.

Tex. Educ. Code § 1.002(a).

Equal educational opportunity under Texas Education Code section 1.002(a) guarantees fair and nondiscriminatory access to educational programs—it does not mandate uniform or identical course offerings for every student. As a threshold matter, section 1.002(a) requires that students be afforded fair and nondiscriminatory access to educational opportunities; it does not require uniform application of materials or provide identical access without regard to individual circumstances. School districts retain discretion to make course placement and enrollment

decisions based on legitimate educational considerations, including student qualifications, prerequisite completion, academic readiness, program capacity, and student interests.

Failure to Exhaust Administrative Remedies

Appeals filed under Texas Education Code section 7.057(a)(2)(A) are appeals and, as such, require a school board action or decision before the Commissioner attains jurisdiction over them. *See Silva v. Judson Indep. Sch. Dist.*, No. 011-R10-11, at *2 (Comm’r Educ. 2017) (citing *Clint Indep. Sch. Dist. v. Marquez*, 487 S.W.3d 538, 545–46 (Tex. 2016)). Although Petitioner is not required to identify school laws by section number to the board, he must raise the alleged violations, giving the board fair notice of a potential school law violation and providing it a remedial opportunity. Parties cannot raise issues for the first time in an appeal to the Commissioner, and generally, the Commissioner cannot consider issues that a school board has never addressed.³

Respondent asserts Petitioner has failed to exhaust administrative remedies because his section 1.002 claim was not before the board during the local grievance process. Specifically, Respondent contends that “the District dismissed this discrimination claim, referring Petitioner to the federal office for Civil Rights and the District’s Board Policy FFH” and that Petitioner “did not appeal this decision to Level Two.” Accordingly, Respondent argues that “the claim was not at issue in the Level Two response” and that, as a result, “the claim was not before the Board at Level Three.” Respondent further contends that “Petitioner did not give the Board fair notice in the appeal of a potential violation of section 1.002; therefore, Petitioner did not exhaust all administrative remedies.”

³ *M.M. & A.L. v. Clear Creek Indep. Sch. Dist.*, No. 056-R10-07-2016, 2017 WL 2324587, at *1 (Comm’r Educ. 2017). The Texas Rules of Appellate Procedure require that before a complaint is eligible for appellate review, the record must show that the complaint was made to the trial court (in this case, the Board of Trustees) and that the trial court either ruled on the request or refused to rule on the request and the complaining party objected to the refusal. Tex. R. App. P. 33.1(a); *see also Tex. Comm’r of Educ. v. Solis*, 562 S.W.3d 591, 601–02 (Tex. App.—Austin 2018, pet. denied) (“If a party with a right to a hearing does not avail itself of that right, it very well may lose at the Commissioner level if the merits of the complaint turn on evidentiary issues that are not developed or preserved for the Commissioner’s review under the substantial evidence standard.”).

Respondent's assertion that Petitioner failed to exhaust administrative remedies is without merit. The record reflects that the substance of Petitioner's equal educational opportunity claim was adequately presented during the local grievance process. While Respondent attempts to narrowly construe the issues raised before the board, exhaustion does not require a verbatim recitation of every legal theory later advanced; rather, it is satisfied where the underlying facts and core dispute were fairly presented so as to afford the board an opportunity to address the issue.

Here, Petitioner's grievance provided Respondent's board with sufficient notice of the operative facts and alleged violations, thereby fulfilling the purpose of the exhaustion doctrine, as discussed below:

During the Level 1 grievance, Petitioner requested and was denied the following remedy: that Respondent acknowledge the "inequity created by [Respondent]" and put a plan in place to "ensure a level playing field" by either removing the weighted credit earned by students who took the dual credit courses or ensure that Petitioner's child can take the same weighted classes during the summer. All other relief requested by Petitioner was granted.

Although Respondent is correct in stating that Petitioner did not expressly appeal a "discrimination" claim to Level 2, he nevertheless appealed Respondent's Level 1 determination, which denied a single requested remedy addressing alleged "inequity" and the need to ensure a "level playing field." Accordingly, Petitioner continued to challenge that determination through the administrative process.⁴ Notably, a claim under Texas Education Code section 1.002(a) need not be framed as a discrimination claim to be properly grieved, as the statute encompasses allegations of unequal educational opportunity independent of formal discrimination claims.

⁴ In explaining the basis for the Level 2 appeal, Petitioner's Notice of Appeal and accompanying letter state that "[d]isagreements with [the] Level One response and outcome include, but are not limited to:", and then proceed to challenge the principal's process for conducting a survey of students regarding course selection procedures—a matter not included in the Level 1 grievance. Although Petitioner did not clearly articulate specific disagreements with the Level 1 decision, it is reasonably inferred that the appeal was directed at the denial of the sole requested remedy identified at that level. Absent clearly stated grounds identifying legal or factual error, Petitioner's Level 2 filing reflects a general dissatisfaction with the outcome rather than a properly framed basis for appellate review. In the Level 2 response letter, the District again denied the sole requested remedy, thereby affirming the outcome reached at Level 1. In explaining the basis for the Level 3 appeal, Petitioner's letter states: "We reiterate and incorporate all the information submitted and raised at the prior grievance levels. Thus, Petitioner continued to challenge the Level 1 "inequity" determination.

During the Level 3 grievance hearing, Petitioner expressly presented the substance of his claims to the board. In his opening statement, Petitioner stated the purpose of the presentation was to address:

The favors that your highest administration has done...lack of transparency, due process, honesty, integrity...and address the Education Codes the district has violated... and to discuss our grievance process in regard to our [child] in not being given equity, due process, accurate documents, correct course catalog information, and deceptive practices...also not given opportunities other students were given, which cause rankings to change, as well as calculations for GPA.

This statement explicitly raised alleged violations of due process, equity, inaccurate and deceptive academic information, unequal educational opportunities, and improper GPA and ranking calculations, as well as violations of the Texas Education Code. These are the same operative facts and issues forming the basis of Petitioner's claim here. Exhaustion does not require technical precision, legal citations, or perfectly framed claims; it requires only that the board be given a fair opportunity to address the substance of the dispute. Petitioner's presentation plainly satisfied that standard.

Under these circumstances, the substance of Petitioner's complaint—alleging unequal educational opportunity—remained before the District throughout Levels 2 and 3. The Commissioner looks to the substance of the grievance rather than the labels attached to it in determining whether administrative remedies have been exhausted. Because Petitioner pursued the same underlying issue through each level of the grievance process, the claim was sufficiently preserved for review.

Accordingly, Respondent has not established a valid failure to exhaust, and the claim should be considered on its merits. Although the local record shows that Petitioner did, in fact, raise the substance of this claim before the board during the Level 3 hearing, Petitioner nevertheless fails to plead facts sufficient to establish a violation of Texas Education Code section 1.002(a) for the reasons outlined below.

Similarly Situated Students

Although Texas Education Code section 1.002(a) articulates a general guarantee of equal educational opportunity, courts interpret and evaluate such claims in light of the Equal Protection Clause of the Fourteenth Amendment, which governs state educational policies and provides the applicable analytical framework. *See Plyler v. Doe*, 457 U.S. 202, 210 (1982); *see also S.A. Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 40 (1973); *City of Cleburne v. Cleburne Living Ctr., Inc.*, 473 U.S. 432, 439–40 (1985). To assert a cognizable claim under the statute’s guarantee of equal educational opportunity, Petitioner must allege facts demonstrating that the Respondent treated the Petitioner’s child differently from other similarly situated students without a lawful or rational basis.

Students are “similarly situated” only when they are alike in all material respects relevant to the challenged decision. Absent such a showing, differences in treatment do not give rise to an inference of unequal or unlawful conduct. *See Plyler*, 457 U.S. at 216 (equal protection requires that similarly situated persons be treated alike); *Nordlinger v. Hahn*, 505 U.S. 1, 10 (1992) (equal protection is satisfied where distinctions are rationally related to legitimate differences). In the educational context, the material factors include academic performance, satisfaction of prerequisites, eligibility criteria, program requirements, expressed interests, and readiness for a particular course of study. *Cf. Spring Branch Indep. Sch. Dist. v. Stamos*, 695 S.W.2d 556, 560–61 (Tex. 1985) (applying rational-basis review to uphold an educational classification rationally related to legitimate state interests). Where students differ in these respects, a school district may permissibly treat them differently without offending equal educational opportunity. *See Cleburne Living Ctr., Inc.*, 473 U.S. at 440 (classifications are valid if rationally related to legitimate governmental interests).

Differences in treatment among students do not, in themselves, establish a violation of equal educational opportunity. *See id.* Rather, to prevail on such a claim, Petitioner must demonstrate that Respondent treated similarly situated students differently in circumstances where no rational basis justified the distinction. This requirement reflects the fundamental principle that

equality under the law is concerned with the fair treatment of comparable individuals, not the elimination of all distinctions. *Id.* Even where similarly situated students are treated differently, no violation occurs if the distinction is supported by a rational basis. *Id.*

Rational Basis Standard

The “rational basis” standard is a deferential legal standard of review under which a school district’s decision will be upheld so long as it is reasonably related to a legitimate educational objective, such as maintaining academic standards, ensuring student preparedness, managing limited program capacity, or tailoring opportunities to student needs and goals. *See id.* It does not require that the decision be the best, fairest, or only available option—only that it is not arbitrary, capricious, or wholly without justification. The burden rests on the petitioner to show that the challenged action was arbitrary, capricious, or wholly unrelated to any legitimate educational purpose.

Importantly, the rational basis standard permits flexibility and individualized decision-making. School officials may treat students differently based on relevant distinctions—such as academic readiness, performance, or program eligibility—without violating equal educational opportunity. The existence of differing outcomes or exceptions does not, by itself, establish a violation. To prevail under this framework, Petitioner must demonstrate not only that similarly situated students were treated differently, but also that the distinction was irrational or unrelated to any legitimate educational interest. Absent such a showing, the challenged action will be upheld.

Here, Petitioner has not sufficiently identified similarly situated students who were treated more favorably under comparable circumstances,⁵ nor has Petitioner shown that any differences

⁵ Although confidentiality requirements, including the Family Educational Rights and Privacy Act (FERPA), may limit a petitioner’s ability to identify other students by name, such limitations do not preclude the presentation of sufficient comparator evidence. A petitioner may rely on anonymized descriptions, relevant eligibility factors, and other non-identifying information to demonstrate that similarly situated students were treated differently. Here, however, Petitioner did not provide such information. Petitioner failed to identify comparators with sufficient specificity or to present facts regarding the material criteria governing eligibility, including academic qualifications, prerequisites, or program requirements. As a result, Petitioner has not established that similarly situated students received more favorable treatment or that any distinction lacked a rational basis. Notably, FERPA does not excuse

in treatment were arbitrary or unrelated to legitimate educational objectives. Conclusory assertions of unequal treatment, without supporting factual allegations demonstrating differential treatment among similarly situated individuals, are insufficient to state a claim.

Respondent's Course Selection Processes

The record reflects that, in preparation for the upcoming school year, students participate in a structured advising process during the spring semester in which they meet with counselors to select courses. During these meetings, counselors review key academic planning documents with each student, including the student's four-year graduation plan, endorsement sheet, and transcript. Counselors also utilize dual credit course sheets identifying available offerings and discuss those options with students who have expressed interest and who meet applicable eligibility criteria.

Through this individualized advising process, a student's course schedule is determined based on multiple legitimate educational considerations, including the student's academic history, graduation plan, expressed interests, and course availability. Once the course selection process is complete and the graduation plan is finalized, each student receives a copy for parental review, signature, and return. This individualized process is expressly described in the Level 1 response letter, which explains that "counselors work with each individual student to create a class schedule that meets the needs of that student and takes into account their needs and other factors."

This evidence demonstrates that Respondent employs a neutral, individualized, and educationally grounded process for course selection. Such a process is rationally related to legitimate educational objectives, including ensuring appropriate academic placement, adherence to prerequisites, and effective allocation of course offerings. Accordingly, variations in student schedules resulting from this process reflect permissible educational judgment, not arbitrary or discriminatory treatment, and do not establish a violation of Texas Education Code section 1.002(a).

the absence of evidence; it limits only the manner in which evidence may be presented. A petitioner must still provide specific, fact-based, anonymized comparator evidence sufficient to support the claim.

It was further established that Respondent maintains a long-standing practice of allowing students to take courses out of sequence from what is published in the course catalog when appropriate to meet individual educational needs. As explained in the Level 1 response, this practice is applied in situations such as early graduation or the pursuit of a dual endorsement. Respondent also identified objective factors guiding such decisions, including: (1) the student's request; (2) parental approval; (3) satisfaction of prerequisites; (4) consideration of the student's graduation plan and transcript; and (5) course availability.

Petitioner contends that permitting certain students to enroll in courses outside of the grade placements listed in the course catalog confers an unfair academic advantage. However, this argument fails because the record demonstrates that the out-of-sequence practice is not arbitrary but instead is governed by individualized academic considerations and is consistent with rational educational decision-making. Such a practice does not violate equal educational opportunity merely because it results in differing outcomes among students.

Moreover, the record undermines Petitioner's claim of inequity. In its Level 1 response letter, Respondent reminds Petitioner that his own child was permitted to take Spanish III during the sophomore year—even though the course catalog identified it as intended for juniors and seniors. Thus, Petitioner's child directly benefitted from the very practice now challenged. This fundamentally weakens any assertion of discriminatory or unequal treatment and demonstrates that Respondent's policy is applied broadly, based on student needs rather than favoritism or arbitrary criteria. The Level 1 response letter further notes: "To suggest that [Petitioner's child] was denied a level playing field assumes that [Petitioner's child] was actively prohibited from registering in classes with weighted credit, such as Dual Credit classes. [Petitioner's child] has taken many honors classes and one dual credit course already...[and] was registered in every class [Petitioner's child] requested."

It is unclear from the record if Petitioner's child pursued or requested enrollment in additional dual credit courses during his advisory meeting for the challenged event(s), particularly given his prior experience with individualized exceptions, such as enrolling in Spanish III out of

sequence. Absent evidence that a request was made and denied under circumstances demonstrating disparate treatment, Petitioner cannot establish that his child was treated differently from similarly situated students.

Although the District published an outdated course catalog, it was made available equally to all students. Accordingly, any inaccuracy in the catalog does not, by itself, establish unequal treatment or a violation of equal educational opportunity. Accordingly, the existence of an outdated catalog, without more, does not establish that similarly situated students were treated differently or that any distinction lacked a rational basis.

The challenged practice reflects a rational, consistently applied educational policy designed to accommodate varying student pathways and academic goals. Differences in course sequencing under these circumstances do not establish that similarly situated students were treated differently, nor do they demonstrate that any distinction was irrational or unrelated to legitimate educational objectives. As such, Petitioner has failed to state a cognizable claim under Texas Education Code section 1.002(a). Absent a showing both that (1) similarly situated students were treated differently and (2) the differential treatment lacked a rational basis, Petitioner's claim of unequal educational opportunity under section 1.002(a) fails as a matter of law. Accordingly, Petitioner's section 1.002 claim is denied.

Conclusion

Petitioner's appeal is dismissed in part and denied in part.

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 section 7.057 jurisdiction over Petitioner's appeal. Tex. Educ. Code § 7.057(a)(2)(A).
2. Petitioner's claim that he was aggrieved by the school laws of this state fails to state a claim upon which relief can be granted and, therefore, must be dismissed. *See* 19 Tex. Admin. Code § 157.1056(a).

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).

4. Petitioner did not brief his Texas Education Code sections 4.001, 28.0214, 28.0216, 28.010, 26.008, and 28.02121 claims. Accordingly, these claims are waived for appellate review and are dismissed. *Watson v. Liberty-Eylau Indep. Sch. Dist.*, No. 003-R10-09-2021 (Comm’r Educ. 2021); *Evans v. Clear Creek Indep. Sch. Dist.*, No. 030-R1-03-2021 (Comm’r Educ. 2021); *Parents v. Educ. United Indep. Sch. Dist.*, No. 035-R10-03-2018 (Comm’r Educ. 2018).

5. Petitioner fails to invoke the Commissioner’s jurisdiction over a claim under Texas Education Code section 1.007 because such a claim would require impermissible retroactive application of the law. *See* Tex. Gov’t Code § 311.022 (“A statute is presumed to be prospective in its operation unless expressly made retrospective.”). Accordingly, this claim is dismissed for lack of jurisdiction. *See* Tex. Educ. Code § 7.057(f)(2).

6. To assert a cognizable claim under the statute’s guarantee of equal educational opportunity under Texas Education Code section 1.002, Petitioner must allege facts demonstrating that the Respondent treated the Petitioner’s child differently from other similarly situated students without a lawful or rational basis.

7. Petitioner’s Texas Education Code section 1.002 claim regarding equal opportunity is denied.

8. Petitioner’s appeal is dismissed in part and denied in part.

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 and DENIED.

SIGNED AND ISSUED this 17th day of July 2026.

Mike Morath Digitally signed by Mike Morath
Date: 2026.07.17 13:30:23
-05'00'

MIKE MORATH
COMMISSIONER OF EDUCATION