

BRITTNEY CALDWELL,	§	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 Brittney Caldwell appeals to the Texas Commissioner of Education under Texas Education Code Chapter 21, Subchapter G, challenging Respondent Houston Independent School District's school board's March 19, 2026 decision to terminate her probationary contract during its term. The board made its decision after Petitioner did not timely request a hearing under Texas Education Code Chapter 21, Subchapter F.

Dr. Vicky L. Sullivan is the Administrative Law Judge assigned to this case. Petitioner proceeds *pro se*. Respondent is represented by its counsel, Erica Graham, Deputy General Counsel, Legal Services, of Houston Independent School District, in Houston, Texas.

As addressed below, because Petitioner fails to establish the Commissioner's 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 established by the record and file in this case:

1. Petitioner had a one-year probationary contract with Respondent for the 2025–2026 school year.
2. Respondent notified Petitioner by certified letter, delivered on or about January 29, 2026, and signed for on February 3, 2026, that its board had voted to propose termination of her probationary contract during its term for good cause. The letter also notified Petitioner of her right

and the means and timeline to protest the proposed action by requesting a hearing under Texas Education Code Chapter 21, Subchapter F.

3. Petitioner did not request a Subchapter F hearing.

4. On March 16, 2026, after the deadline to request a Subchapter F hearing had passed, Respondent's board met and voted to terminate Petitioner's probationary contract during its term for good cause. Respondent notified Petitioner of its decision on March 20, 2026.

5. On April 8, 2025, Petitioner filed a two-page Petition for Review with the Commissioner.

6. On April 9, 2025, the Agency issued an acknowledgement letter to the parties notifying them of the docketed Texas Education Code Chapter 21, Subchapter G appeal. The acknowledgment letter also noted that proceedings under Subchapter G are subject to compressed timelines, and it provided the parties with their briefing deadlines along with a copy of the Commissioner's rules.

7. Respondent filed an April 15, 2026 Answer, Plea to the Jurisdiction, and Affirmative Defenses. Therein, Respondent sought dismissal based on Petitioner's failure to exhaust her administrative remedies by requesting a Subchapter F hearing.

8. On April 17, 2026, the Administrative Law Judge issued a Notice of Intent to Dismiss this appeal for failure to exhaust administrative remedies, based on the Petitioner's failure to timely request a hearing under Texas Education Code Chapter 21, Subchapter F. Petitioner filed a written response on April 21, 2026, which was considered.

DISCUSSION

At issue here is whether Petitioner can appeal her probationary contract termination during its term without having requested a Subchapter F hearing as a jurisdictional predicate for a section 21.301(a) appeal. Respondent seeks dismissal based on the absence of a Subchapter F hearing. In response to the Notice of Intent to Dismiss, Petitioner contends that she requested a Subchapter F hearing, but the language she employed in her letter demonstrates that no such request was made.

The Commissioner's jurisdiction over appeals of probationary contract terminations for good cause 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).

The "decision under Section 21.259" refers to the board's decision made after considering the Independent Hearing Examiner's (IHE's) recommendation under section 21.258, which follows a Subchapter F evidentiary hearing, and after hearing the parties' respective arguments on the IHE's recommendation. *See* Tex. Educ. Code §§ 21.258–.259.

On March 19, 2026, well after Petitioner's fifteen-day deadline to request a Subchapter F hearing had expired, the board voted to terminate her contract during its term. The Education Code does not provide an avenue to appeal a probationary contract termination without a Subchapter F proceeding. The Legislature designed the Subchapter F process to build the record and evidence in a case and to ensure a fair hearing on a proposed action by an impartial party. Under Subchapter G, the Commissioner's review of the board's decision is based on the record of the hearing before the IHE and on the parties' oral arguments before the board. *Id.* § 21.301(a), (c). Subchapter F hearings are part of the administrative remedial process; without an evidentiary hearing, parties lack a jurisdictional platform to appeal to the Commissioner. *See* Tex. Educ. Code § 21.301(a).

In her response to the Notice of Intent to dismiss, Petitioner asserts that she timely requested a hearing via a letter mailed on February 12, 2026. She further requests that her case "not be dismissed and that it proceed through the appropriate review process."

A review of the Agency's records shows that Petitioner sent a letter to the Division of Hearings and Appeals, addressed to the Commissioner of Education, dated February 12, 2026. The Agency received the letter on March 4, 2026. In said letter, Petitioner states, "I am writing to formally appeal my termination, which was based on absences that occurred during my pregnancy" and continues by "request(ing) reconsideration of [her] termination and ask that the company

review whether [her] pregnancy-related absences were appropriately evaluated under applicable federal and state employment laws.”

Importantly, Petitioner’s letter does not request a hearing before a Commissioner-certified hearing examiner under Subchapter F. Nor does it reference a “proposed termination,” instead consistently referring to a “termination.” Based on this language, the Agency construed her letter as a Chapter 21 appeal and, on March 9, 2026, acknowledged receipt of Petitioner’s “appeal of termination.” Petitioner refiled her Petition for Review on April 8, 2026, after the Agency notified her that her Chapter 21 appeal lacked the required contact information. The Texas Education Code provides no mechanism to materially extend the deadlines imposed by Subchapter F.¹

Because the Legislature did not provide for an appeal of a Chapter 21 contract termination during the contract’s term outside of the Subchapter F administrative process, this appeal is dismissed for lack of jurisdiction and for failure to exhaust administrative remedies. *See* 19 Tex. Admin. Code § 157.1056(a).

Conclusion

Petitioner’s appeal is dismissed for lack of jurisdiction due to her failure to exhaust her administrative remedies by failing to request a Subchapter F hearing on the board’s proposed termination of her probationary contract during its term.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over an appeal of a probationary contract termination during the contract’s term, if the teacher requested a hearing under Texas Education Code Subchapter F. *See* Tex. Educ. Code § 21.301(a).

2. Petitioner failed to exhaust her administrative remedies by not requesting a Subchapter F hearing on the board’s proposed termination of her probationary contract during its term. *See* Tex. Educ. Code § 21.301(a).

¹ Parties can, by written agreement, extend the timeline for a teacher to request a Subchapter F hearing, but even so, that avenue has long expired in this case. *See* Tex. Educ. Code § 21.253(b) (authorizing extension of deadline to request hearing by agreement by “not more than 10 days” from the fifteen-day deadline).

3. There is no Subchapter F record before the Commissioner in this appeal, and Respondent's board has not made a decision under Texas Education Code section 21.259.

4. Petitioner's appeal is dismissed for lack of jurisdiction and failure to exhaust administrative remedies. *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 22nd day of May 2026.

Mike Morath Digitally signed by Mike Morath
Date: 2026.05.22 09:11:43 -05'00'

MIKE MORATH
COMMISSIONER OF EDUCATION