

JAMIE RUSSO,	§	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 Jamie Russo, a former teacher with Respondent Houston Independent School District, filed a December 10, 2025 appeal with the Commissioner of Education under Texas Education Code section 21.301. In her appeal, Petitioner challenges Respondent's board of managers' subcommittee's November 20, 2025 decision to nonrenew her one-year term contract. Petitioner asserts that the decision was arbitrary, capricious, unlawful, and/or unsupported by substantial evidence. For relief, she seeks reinstatement with back pay, benefits, and any other relief to which she is entitled. Respondent denies that its board erred and asks the Commissioner to deny Petitioner's appeal.

Adrienne Butcher is the Administrative Law Judge assigned by the Commissioner to hear this case. Petitioner is represented by her counsel, Amanda L. Reicheck, of Tillotson Johnson & Patton, in Dallas, Texas. Respondent is represented by its counsel, Ellen Spalding, of Spalding Nichols Lamp Langlois, in Houston, Texas.

For the reasons below, the Commissioner denies Petitioner's appeal.

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. The Commissioner adopts by reference and incorporates the IHE's findings of fact, as amended by the board. *See* Tex. Educ. Code § 21.304(a).

2. A subcommittee of Respondent's board of managers¹ heard the IHE's recommendation on November 20, 2025. After hearing the parties' arguments, the subcommittee voted to adopt the administration's proposed changes to the IHE's recommendation and to nonrenew Petitioner's term contract.

3. Petitioner timely appealed the board's decision to the Commissioner of Education.

4. Respondent timely filed its answer and the local record on December 29, 2025.

5. Petitioner filed a December 30, 2025 Motion to Compel Local Record, complaining that Respondent had not served her a copy of the local record but responded to her request for the record by discussing a charge for it. Respondent filed a response, citing 19 Texas Administrative Code section 157.1072(d)(2), and asserting that it can charge a reasonable fee for the record. Petitioner filed a December 30, 2025 letter noting that the parties had resolved the record dispute.

6. Petitioner filed a December 31, 2025 "Supplemental Record" that contains correspondence on that date between her counsel and the Independent Hearing Examiner assigned to her Subchapter F proceeding, concerning the hearing record.

7. On January 1, 2026, Petitioner filed a First Amended Petition for Review. On the same day, Respondent filed an Objection to Petitioner's First Amended Petition for Review.

8. On January 5, 2026, the Administrative Law Judge issued an Order Striking Amended Pleading, based on the Commissioner's Rule 157.1072(c), which prohibits filing amended pleadings after the deadline for filing a petition for review has passed.

9. On January 6, 2026, Respondent filed an unopposed Motion to Supplement Record and a Supplemental Record containing November 14, 2025 correspondence between Respondent's Board Services and the subcommittee's trustees. The supplemental record includes an affidavit by the Board Service's team lead explaining the preparation of the hearing record for the board and its transfer to the board.

10. The parties timely filed their briefs.

¹ For ease of reference, the subcommittee is referenced herein as the "board."

DISCUSSION

Background

Petitioner worked for Respondent under a one-year term contract in the 2024–2025 school year. Petitioner’s campus principal for the 2024–2025 school year was Cindy Tiet, and her assistant principals were Dwayne Grigsby and Dr. Marichu Tima-An.

Respondent uses the Texas Teacher Evaluation and Support System (T-TESS) appraisal system, which includes Middle-of-Year (MOY) and End-of-Year (EOY) appraisals, as well as “Spot” observations, which are short walkthrough observations.² Respondent has mandated instructional strategies known as “Multiple Response Strategies,” or “MRS,” that its teachers must implement in their classrooms. MRS instructional strategies are part of Respondent’s recent leadership’s³ efforts to improve district outcomes.

During the 2024–2025 school year, Petitioner received several Spot observations that reminded or encouraged her to use MRS in her instruction. Petitioner’s MOY appraisal identified some instructional deficiencies, and her EOY appraisal had three areas rated “developing,”⁴ which is below Respondent’s expected minimum rating of “proficient.”

On March 17, 2025, Principal Tiet sent Petitioner an email identifying instructional deficiencies and stating that she had “discussed these concerns at your MOY Conference held on March 3. I spoke to you about the importance of consistency and openness to coaching. You acknowledged some of these concerns and told me you were in a slump.”

By letter dated May 9, 2025, Respondent notified Petitioner that its board of managers had voted to propose the nonrenewal of her term contract, pursuant to Texas Education Code section 21.206(a). The board initially cited six nonrenewal reasons under Policy DFBB (Local), later reduced before the board to two:

- Deficiencies pointed out in observation reports, appraisals or evaluations, supplemental memoranda, or other communications; and

² Spot appraisals are unannounced, brief (a few minutes) observations that provide feedback through a structured scoring guide and a score range from 0 to 15.

³ In 2023, the Commissioner appointed a board of managers to oversee Respondent’s school district.

⁴ The “developing” areas included Monitoring and Adjust, Classroom Culture, and Goal Setting.

- Failure to comply with Board policies or administrative regulations.

After receiving the May 9, 2025 nonrenewal notice, Petitioner sent an email to 44 parents, stating,

I am writing to you all tonight from my broken heart. This is my story to tell, and I want you to hear it from me. On April 14th I was given the choice to resign or be terminated with a non-renewal on my contract. Ms. Tiet, my appraiser, informed me that I have “low performance” scores for my Spots. This is when she comes in to appraise me for 15 minutes at a time and I must be doing the practices now decided by the new Superintendent, and she decides if I am doing them the right way. On May 8 the Board non-renewed my contract, and now I await a certified letter to show my lawyer. We then have 15 days to appeal. I will appeal, and I will fight this wrongful termination. It has been a very difficult year with constant interruptions and being “coached” to do strategies I do not feel are best practices. Being watched to teach bell to bell with only 1 brain break—no coloring—no time to sing—ALL the lights on—no time to let the brain absorb the new information. I have just focused on your wonderful, smart, and curious students full of energy in our classroom.

Petitioner timely requested a hearing on the proposed nonrenewal under Chapter 21, Subchapter F. The assigned IHE conducted a two-day evidentiary hearing on August 28 and 29, 2025. On September 16, 2025, the IHE issued a recommendation finding that Respondent failed to prove any of its six proposed nonrenewal reasons and recommending that the board renew Petitioner’s term contract for the 2025–2026 school year.

The board set the hearing on the IHE’s recommendation for November 20, 2025. The day before the hearing, Respondent served Petitioner a copy of its administration’s draft *Decision of the Houston Independent School District Board of Managers — Proposed by Administration* (Respondent’s “Proposed Decision”). Respondent’s Proposed Decision included the administration’s recommended changes and rejections to the IHE’s recommendation, with the written reasons and legal bases for the changes and rejections. Respondent’s counsel discussed the Proposed Decision in her argument without objection, arguing two nonrenewal reasons to the board from the initial six and waiving four reasons. After hearing argument, the board voted to adopt Respondent’s Proposed Decision. Petitioner timely appealed to the Commissioner.

Term contract nonrenewal procedures

School boards must timely notify teachers of proposed contract nonrenewal and must adopt employment policies that include reasons for not renewing a teacher’s contract. Tex. Educ. Code

§ 21.203(b). A teacher who receives notice of a proposed nonrenewal may request an evidentiary hearing before an IHE under Texas Education Code Chapter 21, Subchapter F. *Id.* § 21.159. At the hearing, the school district has the burden of proving its nonrenewal reasons by a preponderance of the evidence. *Id.* § 21.256(h). After the hearing, the IHE “shall . . . make a written recommendation that includes proposed findings of fact and conclusions of law and may include a proposal for granting relief.” *Id.* § 21.257(a). Within twenty days of the date the board president receives the IHE’s recommendation and the hearing record, the board or its subcommittee must meet to consider the recommendation and to hear the parties’ oral argument on it. *Id.* § 21.258(a), (b). After that hearing, the board makes a final decision on its proposed contract action.

After the board makes its section 21.259 decision, an aggrieved party may appeal to the Commissioner. Tex. Educ. Code § 21.301(a). On appeal, the Commissioner reviews the record of the evidentiary hearing and the oral argument before the board. *Id.* § 21.301(c). The Commissioner makes findings of fact and conclusions of law and may adopt by reference the findings and conclusions from the record. *Id.* § 21.304(a). The Commissioner may not substitute his judgment for the school board’s in a nonrenewal appeal unless the board’s decision is arbitrary, capricious, or unlawful, or substantial evidence does not support the examiner’s findings of fact. *Id.* § 21.303(b)(2). A decision is arbitrary and capricious if it lacks a rational basis, misapplies standards, or reaches an unreasonable result. *See City of El Paso v. El Paso Elec. Co.*, 851 S.W.2d 896, 901 (Tex. App.—Austin 1993, writ denied).

In considering whether substantial evidence supports a decision, which is not a high standard, the Commissioner reviews the record for reasonableness and does not reweigh the evidence. *See Reincke v. Richardson Indep. Sch. Dist.*, No. 063-R1-0607 (Comm’r Educ. 2007). This is best characterized as a rational basis test. *See Burnett v. Mart Indep. Sch. Dist.*, No. 046-R2-03-2025 (Comm’r Educ. 2025). Even if the evidence preponderates against the board’s decision, the Commissioner must uphold it if more than a scintilla of record evidence supports it.

Id. (citing *Goodie v. Hous. Indep. Sch. Dist.*, 57 S.W.3d 646, 650 (Tex. App.—Houston [14th Dist.] 2001, pet denied)).

Petitioner's appellate issues

Petitioner presents five issues in her brief:⁵ Whether Respondent (1) failed to establish a violation of DFBB (Local), as alleged in its proposed nonrenewal, and whether its decision was arbitrary, capricious, unlawful, and/or not supported by substantial evidence; (2) failed to comply with Texas Education Code section 21.259(a), (c), and (d); (3) failed to timely consider the IHE's recommendation under section 21.258(a); (4) denied Petitioner's due process rights by rejecting the IHE's recommendation in this and other cases; and (5) based its nonrenewal decision on Petitioner's protected speech.

Violations of DFBB (Local)

In her first issue, Petitioner argues that the board's decision on the two nonrenewal reasons presented to the board on November 20, 2025, was "arbitrary, capricious, unlawful, and/or not supported by substantial evidence." The two nonrenewal reasons are addressed in turn:

1. Performance deficiencies

Respondent's first nonrenewal reason from Policy DFBB (Local) was Petitioner's alleged deficiencies pointed out in observation reports, appraisals or evaluations, supplemental memoranda, or other communications. Petitioner argues that Respondent did not establish an "actual 'deficiency'" and that the IHE found her Spot observations did not identify deficiencies but suggested improvements, which is a required component in all Spot observations. However, Respondent points out that Petitioner's MOY and EOY evaluations and her principal's March 17, 2025 email are undisputed record evidence of deficiencies that the board could consider. Although the IHE found that the Spot observations themselves did not point out deficiencies, she failed to address the MOY, EOY, and principal's email. Both parties entered Petitioner's MOY and EOY evaluations into evidence at the hearing; this evidence is undisputed. Respondent also points to

⁵ Petitioner lists six issues, but in two of those issues, she raises violations of section 21.259. Her section 21.259 claims are consolidated as issue (2).

the March 17, 2025 email from Principal Tiet that addressed Petitioner's performance issues and stated,

We discussed these concerns at your MOY Conference held on March 3. I spoke to you about the importance of consistency and openness to coaching. You acknowledged some of these concerns and told me you were in a 'slump.'

In the letter, Principal Tiet also noted that in January 2025, she had discussed instructional concerns with Petitioner, identifying two key areas for instructional growth, including for Petitioner to move "away from single-student responses to increase engagement for all students" and to shift from "focusing on correcting misbehaviors to positively reinforcing expectation, which helps maintain lesson momentum." In other words, Principal Tiet instructed Petitioner on the need to use MRS strategies in her classroom in January 2025, and she continued to address those concerns in March 2025, noting some improvement while requiring further change.

Petitioner argues that she provided evidence that some of her lessons included MRS instructional strategies and that Respondent relied on "isolated feedback" from Spot evaluation scores, which require evaluators to identify improvement areas that may not be true "deficiencies." She points to evidence that all her students showed growth, which Principal Tiet acknowledged in her hearing testimony was "good." Petitioner also argues that Respondent did not place her on a growth plan; however, that is not a prerequisite to find performance deficiencies. The question before the Commissioner is not whether Petitioner has presented contrary or greater evidence concerning her performance; it is whether substantial evidence supports the board's decision. Because there is record evidence, including the MOY and EOY appraisals and Principal Tiet's March 17, 2025 email, that support this nonrenewal reason, Petitioner fails to show error.

Petitioner argues in her reply brief that Respondent incorrectly relies on MOY and EOY scores that were based on faulty Spot scores, and she notes that her appraisals also contain positive feedback. A teacher's appraisal is based on numerous factors, and even if Spot evaluations require the appraiser to list improvement areas, a Spot evaluation can still reveal deficiencies. Petitioner's EOY appraisal is evidence that she was not performing at Respondent's required proficiency level. Moreover, if Petitioner disagreed with her appraisal, then she needed to challenge it through a

grievance; it is not properly challenged through a nonrenewal proceeding. *See Lyman v. Blooming Grove Indep. Sch. Dist.*, No. 046-R1-0508 (Comm'r Educ. 2008) (citing *Lewis v. Austin Indep. Sch. Dist.*, No. 104-R1-600 (Comm'r Educ. 2000), *aff'd*, No. 03-02-00325-CV, 2003 Tex. App. LEXIS 310, 2003 WL 124250 (Tex. App.—Austin Jan. 16, 2023, no pet.) (mem. op.)).

2. Email to parents

Respondent's second nonrenewal reason was Petitioner's alleged failure to comply with Board policies or administrative regulations. The board found that Petitioner's May 8, 2025 email to forty-four of her students' parents stating her disagreement with her proposed nonrenewal, criticism of the superintendent, and criticism of Respondent's mandated instructional strategies violated Policy DH (Local).⁶

Assistant Principal Grigsby testified at the hearing that Petitioner's email was not appropriate or professional and that it was unduly critical of administration's efforts to accomplish its mission to ensure that teachers are following district mandates. Principal Tiet testified that the email undermined administration's efforts to improve student outcomes and negatively portrayed school leadership.

Petitioner argues that because she sent the email in response to her notice of proposed nonrenewal, it could not be part of her nonrenewal reasons because that would be "trial by ambush," as it followed her notice. Respondent counters that Petitioner did not object to this issue at her evidentiary hearing or before the school board. Generally, a party that does not raise an issue before a school board waives that issue, as a party acting inconsistently with a statutory right waives the right. *Steans v. Manor Indep. Sch. Dist.*, No. 095-R1-0612 (Comm'r Educ. 2012) (citing *Fort Worth Indep. Sch. Dist. v. City of Fort Worth*, 22 S.W.3d 831, 844 (Tex. App. 2000)).

⁶ Respondent found the email violated Policy DH (Local)'s requirement that employees "be courteous to one another and the public, working together in a cooperative spirit to serve the best interests of the District," and that "employees wishing to express concern, complaints or criticism, shall do so through appropriate channels." Finally, Respondent found it violated the requirement that employees "shall comply with the standards of conduct set out in this policy and with any other policies, regulations, and guidelines that impose duties, requirements, or standards attendant to their status as District employees."

Petitioner waived her objection to Respondent's use of her May 8, 2025 email as nonrenewal evidence.

Even without waiver, documents created after a nonrenewal notice is issued can be introduced into evidence in the nonrenewal proceeding if they are probative of the nonrenewal reasons identified in the notice. *See Lowry v. Brookesmith Indep. Sch. Dist.*, No. 054-R1-0509 (Comm'r Educ. 2009). It would only be "trial by ambush" if the evidence supported a nonrenewal reason that was not provided to Petitioner before the hearing, and in that case, Petitioner would still need to object to avoid waiver.

Because Petitioner fails to show that the board erred in finding that she violated Policy DFBB (Local), the Commissioner overrules this issue.

Violations of Texas Education Code section 21.259

In her second issue, Petitioner argues that Respondent failed to comply with Texas Education Code section 21.259(a), (c), and (d). Section 21.259 governs school boards' consideration of IHE recommendations in Subchapter F proceedings and provides, in relevant part,

(a) Not later than the 10th day after the date of the board meeting under Section 21.258, the board of trustees or board subcommittee shall announce a decision that:

- (1) includes findings of fact and conclusions of law; and
- (2) may include a grant of relief.

...

(c) The board of trustees or board subcommittee may reject or change a finding of fact made by the hearing examiner only after reviewing the record of the proceedings before the hearing examiner and only if the finding of fact is not supported by substantial evidence.

(d) The board of trustees or board subcommittee shall state in writing the reason and legal basis for a change or rejection made under this section.

Petitioner argues that the board "issued its written determination setting forth its modification of the IHE's findings of fact and conclusions of law" on December 10, 2025, "well after its 10-day deadline to do so." The ten-day deadline is stated in and applies to subsection (a), which addresses board *announcements* of their decisions; these can be oral or written. Subsection (d), which sets out the requirement that a school board state in writing the reasons and legal bases

for its changes and rejections to an IHE's recommendation, is not subject to subsection (a)'s ten-day deadline and does not expressly state a deadline. *See Judson Indep. Sch. Dist. v. Ruiz*, No. 04-13-00706-CV, 2015 Tex. App. LEXIS 3055, at *11–12, 2015 WL 1501758 (Tex. App.—San Antonio Mar. 31, 2015, pet. denied) (mem. op.). The board complied with not only subsection (a) but also subsection (d) at the November 20, 2025 hearing, when passed the following motion:

I [Member Gore] move that the Board make all the changes to the independent hearing examiner's recommended findings of fact and conclusions of law, no matter how labeled, as set forth in the pleading submitted by administration titled Decision of the Houston Independent School District School Board Proposed By Administration, for the reasons and legal basis as set forth in such pleading. That the board adopt the hearing officer's recommendation, finding of fact and conclusions of law, as amended by the pleading. And that, consistent with this motion, the Board nonrenew Jamie Russo's term contract and terminate her employment effective immediately.

Thus, the board adopted a written statement of its reasons and the legal bases for its changes and rejections at the hearing by voting to adopt Respondent's Proposed Decision. The Commissioner has previously recognized that a board can satisfy section 21.259(d) by voting to adopt a recommended writing. *See Tittle v. Hous. Indep. Sch. Dist.*, No. 022-R1-11-2025 (Comm'r Educ. 2025).⁷ Petitioner has not shown a violation of either section 21.259(a) or (d).

Petitioner also argues that the board violated section 21.259(c), based on her contention that the hearing record was never transmitted to the board, which thus could not have considered it as required in making its decision. *See* Tex. Educ. Code § 21.259(c). Petitioner cites a December 31, 2025 "Supplemental Record" that she filed in this appeal that contains a declaration by her counsel authenticating email correspondence between her counsel and the IHE on December 31, 2025, concerning the record. She then filed a January 1, 2026 First Amended Petition for Review, to which Respondent objected. The Commissioner's rules provide that in a Subchapter G appeal, a petition for review may not be amended after its filing deadline. 19 Tex. Admin. Code §

⁷ The Commissioner has recognized that the subsection (d) writing must be made before a petitioner's deadline to file an appeal, as its purpose is "to allow a teacher to properly prepare a petition for review." *See Goodie v. Houston Indep. Sch. Dist.*, No. 002-R2-996 (Comm'r Educ. 1996), *aff'd on other grounds*, 57 S.W.3d 646 (Tex. App.—Houston [14th Dist.] 2001, pet. denied). But here, the board announced its decision at its November 20, 2025 hearing and, on the same date, adopted the Proposed Decision stating its reasons for its changes to the IHE's recommendation.

157.1072(c). Petitioner's filing deadline was December 10, 2025. Accordingly, the Administrative Law Judge issued a January 5, 2026 Order Striking Amended Pleading.

School districts are responsible for filing the local record. Petitioner's December 31, 2025 filing is an extra-record exhibit, not a supplemental local record.⁸ Respondent filed the record on December 29, 2025, and filed an unopposed motion to supplement the record on January 6, 2026, which is granted. The supplemental record includes an affidavit reflecting that on November 14, 2025, Respondent's Board Services sent the board president and subcommittee members records for Petitioner's hearing. The local record includes the hearing record before the IHE, including the two-day hearing transcript and the parties' related filings. Petitioner did not object to it as incomplete within seven days of its December 30, 2025 filing.⁹ The supplemental record reflects that the board received the hearing record on December 14, 2025. Petitioner has not shown that the board violated section 21.259(c) by failing to consider the record of the proceedings when making its decision.

Petitioner alternatively argues that the board violated section 21.259(c) in making changes to three parts of the IHE's recommendation. The first was the board's change to Finding of Fact 35, as follows:

HISD did ~~not~~ present credible evidence that Ms. Russo's conduct violated specific Board Policies or administrative regulations. (Deletion in strikethrough.)

The board found that this was a mislabeled conclusion of law. Petitioner does not address the board's written reason for this change but argues only that "these findings were supported by substantial evidence and changing them violated Tex. Educ. Code § 21.259(c)." Her argument fails to show that the board erred in correcting a mislabeled conclusion of law. A conclusion about whether evidence shows a violation of policies or regulations is a conclusion of law, not a finding of fact.

⁸ Petitioner's December 31, 2025 correspondence with the IHE was also not part of the record developed before the IHE or the board and for that additional reason is not part of the local record.

⁹ Objections to the local record's completeness must be made within seven days of the date the record is filed. 19 Tex. Admin. Code § 157.1072(d)(1). Petitioner did not timely object to the record's completeness.

Petitioner also points out two changes that the board made to the IHE's discussion section, as follows:

~~The factual disputes, lack of procedural clarity, and absence of supporting documentation do not support a finding of good cause for nonrenewal under . . . HISD Policy DFBB (Local).~~

~~Without~~ consistent, persuasive, evidence of ~~incompetency, insubordination,~~ policy violations, and unprofessional conduct in violation of Board Policy DH (Local), ~~or good cause,~~ the record does ~~not~~ justify a proposed nonrenewal.

(Deletions in strikethrough.)

As with the first change, the board stated as its reasons for the changes that these statements were "misabeled (non-labeled) conclusions of law." And as with the first change, Petitioner makes a conclusory statement that substantial evidence supports the IHE's statements without addressing why she believes the board erred in finding these parts of the discussion were conclusions of law and changing them accordingly.

Because Petitioner has not shown that the board violated section 21.259, her issues based on section 21.259 are overruled.

Timeliness of hearing on IHE's recommendation

In her third issue, Petitioner argues that the board failed to timely hold the section 21.258(a) hearing. Section 21.258(a) provides, in relevant part,

- (a) The board of trustees or a subcommittee designated by the board shall consider the recommendation and record of the hearing examiner at the first board meeting for which notice can be posted in compliance with Chapter 551, Government Code, following the issuance of the recommendation. *The meeting must be held not later than the 20th day after the date that the president of the board receives the hearing examiner's recommendation and the record of the hearing.*

Tex. Educ. Code § 21.258(a) (emphasis added).

Petitioner did not raise the timeliness issue before the board at the November 20, 2025 hearing on the IHE's recommendation. However, Petitioner knew the IHE had issued his recommendation on September 16, 2025, which is clearly more than twenty days after September 16, 2025. It was manifest at that point that either (1) the board's hearing was untimely or (2) the board president had received the hearing transcript in the preceding twenty-day period. Petitioner should have raised this issue at the November 20, 2025 hearing, as raising it then would have

accomplished two goals—alerting the board to the timeliness issue and establishing evidence of when the board received the record, giving the Commissioner an evidentiary basis to determine whether the board violated section 21.258(a) by conducting a late hearing. Instead of raising this issue, though, Petitioner continued without objection to present her argument to the board, which then decided her case.

Because Petitioner knew or should have known all relevant facts to raise the section 21.258(a) issue on November 20, 2025, she waived that issue by failing to raise it, and thus waived that issue for review. *Tucker v. Hous. Indep. Sch. Dist.*, No. 020-R1-11-2025 (Comm’r Educ. 2025). In addition, Petitioner fails to show that the November 20, 2025 board hearing was untimely. The record reflects that the board received the hearing record from on November 14, 2025. This was the second of two events triggering the 20-day timeline. Tex. Educ. Code § 21.258(a). This issue is overruled.

Procedural Due Process

In her fourth issue, Petitioner argues that she has a property right in continued employment that may not be denied absent due process. The Texas Education Code provides that “[a] teacher does not have a property interest in a contract beyond its term,” as opposed to a teacher’s interest in a contract interrupted *during* its term, which is not the case here. *See* Tex. Educ. Code § 21.204(e). Although teachers lack property interests in contracts beyond their terms, the Education Code provides statutory procedural guarantees in Subchapter F that apply to contract nonrenewal.

In her argument that the board violated her procedural due process rights, Petitioner does not address her case directly but instead points to four other recent matters where Respondent’s board rejected portions of IHEs’ recommendations. Although these matters were appealed to the Commissioner, they are not the subject of this appeal or the local record before the Commissioner, and they are not probative of Petitioner’s issues in her own nonrenewal proceeding. Moreover, Petitioner’s argument assumes that if the board is changing and rejecting IHE recommendations in other cases, it must be violating due process. School boards are authorized to make changes and rejections to IHE recommendations, provided the boards’ actions satisfy the statutory criteria

for doing so. *See* Tex. Educ. Code § 21.257. The fact that the board changed or rejected parts of IHE recommendations in other cases cannot support a due process claim in this appeal.

First Amendment Activity

Petitioner argues that in the summer of 2024, she “posted a comment to a story in the local media about the broad and dramatic changes Superintendent Miles had implemented within Houston ISD” and states her comment was about a matter of public concern.¹⁰ Petitioner argues that “suddenly” after 38 years of teaching, “nothing she did was good enough,” leading to her nonrenewal at the end of the school year.

Respondent argues that there is no evidence from the hearing that any administrator knew about Petitioner’s comment, discussed the comment with her, or took any action based on her comment. Although Petitioner’s principal and assistant principals testified at the hearing, Petitioner did not question them about her comment, including asking them whether or when they became aware of it. The mere fact that Petitioner made a comment on social media does not support the conclusion that any subsequent employment actions were taken because of that comment. Moreover, Respondent points to record evidence that Respondent raised deficiencies in Petitioner’s performance in at least two other school years preceding the 2024–2025 school year. This issue is overruled.

Conclusion

For the foregoing reasons, the Commissioner denies Petitioner’s appeal.

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 jurisdiction over this appeal of the board’s decision to nonrenew Petitioner’s term contract. *See* Tex. Educ. Code § 21.301(a).

¹⁰ Petitioner’s comment stated, in response to another commenter, “100% I am staying too – hopefully to watch this dictatorship fall.”

2. Petitioner has not established that Respondent's decision to nonrenew her contract was arbitrary, capricious, unlawful, and/or not supported by substantial evidence.

3. Substantial evidence supports Respondent's nonrenewal reasons that Petitioner had deficiencies in observations reports, appraisals or evaluations, or other communications. Substantial evidence also supports its nonrenewal reason that Petitioner failed to comply with board policy by sending her May 8, 2025 email stating her disagreement with her nonrenewal proceedings, her administrators, and Respondent's required instructional strategies to parents, violating provisions of Policy DH (Local).

4. Documents created after a school board issues notice of a proposed nonrenewal may be used as evidence if probative of a nonrenewal reason. *Lowry v. Brookesmith Indep. Sch. Dist.*, No. 054-R1-0509 (Comm'r Educ. 2009).

5. Texas Education Code section 21.259(a)'s ten-day deadline applies to announcements of board decisions, not to subsection (d)'s requirement that the board state in writing the reason and legal basis for a change or rejection it makes under that section. Tex. Educ. Code § 21.259(a).

6. Respondent's board announced its decision at its November 20, 2025 hearing, satisfying subsection 21.259(a). On the same date, the board adopted written reasons for its changes and rejections, satisfying section 21.259(d).

7. School districts are responsible for filing the local record with the Commissioner. Petitioner did not object to the local record's completeness within her timeline to do so and cannot supplement the local record with exhibits that she created. 19 Tex. Admin. Code § 157.1072(d)(1).

8. Petitioner did not establish error in the board's changes to the IHE's recommendation based on its finding that the recommendation contained three mislabeled conclusions of law.

9. Petitioner waived the issue of timeliness of the board's hearing under Texas Education Code section 21.258(a) by failing to raise it before the board.

10. Petitioner fails to establish a due process violation by citing to other cases in which the board changed or rejected IHEs' recommendations to show a "pattern" of due process violations. The Commissioner hears each appeal on the local record developed in that case.

11. Petitioner has not established that Respondent's nonrenewal decision was motivated by her comment on a Facebook post in the summer of 2024.

12. Petitioner's appeal is denied.

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, DENIED.

SIGNED AND ISSUED this 26th day of January 2026.

Mike Morath Digitally signed by Mike Morath
Date: 2026.01.26 07:28:16 -06'00'

MIKE MORATH
COMMISSIONER OF EDUCATION