

PARENT A/N/F STUDENT,	§	BEFORE THE
Petitioner,	§	
	§	
v.	§	COMMISSIONER OF EDUCATION
	§	
FLORESVILLE INDEPENDENT SCHOOL	§	
DISTRICT,	§	
Respondent.	§	THE STATE OF TEXAS

DECISION OF THE COMMISSIONER

STATEMENT OF THE CASE

Petitioner, the parent of a student enrolled in Respondent Floresville Independent School District's schools, filed a petition for review with the Texas Commissioner of Education complaining of Respondent's school board's denial of her grievance regarding her student's Disciplinary Alternative Education Program (DAEP) placement as a result of a "Terroristic Threat" discipline offense regarding the student's text message to "shoot up" the school.

Dr. Vicky L. Sullivan is the Administrative Law Judge assigned to this case. Petitioner proceeds *pro se*. Respondent is represented by its counsel, Katie Payne, of Walsh Gallegos Kyle Robinson & Roalson P.C., in San Antonio, Texas.

For the reasons herein, the Commissioner dismisses this appeal without a merits hearing for lack of jurisdiction since the dispute is over a student discipline action. Petitioner does not allege a violation of a school law of this state and seeks review of student discipline, which is statutorily exempt from the Commissioner's appellate jurisdiction. *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. Petitioners filed a June 3, 2025 Level I grievance under Respondent's Policy FNG (Local) complaining about her son's placement in the Disciplinary Alternative Education Program

(DAEP). For relief, Petitioner requested the DAEP placement be reversed and the student allowed to remain in his home campus.

3. Respondent held a Level I grievance hearing on June 12, 2025, and a certified disposition letter was mailed to the Petitioner on June 26, 2025, notifying Petitioner that her request to reverse her child's DAEP placement was denied.

4. On July 10, 2025, Petitioner filed a Level II appeal, requesting as relief that her child's DAEP placement be removed from his educational record because the incident did not meet the definition of Terroristic Threat.

5. On July 22, 2025, a Level II grievance hearing was held with Respondent's Assistant Superintendent serving as the hearing officer.

6. On July 31, 2025, Respondent sent its Level II disposition letter to Petitioner denying her requested relief. Through its letter, Respondent informed Petitioner that its Level II decision is final and may not be appealed, consistent with the district's Policy FOC (Local), which states: "If district policy allows a student to appeal to the board or the board's designee a decision of the CBC or other appropriate administrator, the decision of the board or the board's designee is final and may not be appealed." Respondent's Student Code of Conduct states, in relevant part: "The Board of Trustees, through adoption of the Student Code of Conduct, has determined that an appeal of an in-school suspension, out of school suspension, or DAEP placement decision shall end at their appointed designee. Through adoption of this Student Code of Conduct, the Board has designed the Assistant Superintendent as the Board's designee for this purpose."

7. On September 9, 2025, Petitioner filed a section 7.057 Petition for Review with the Commissioner regarding the board's designee's July 31, 2025 denial of her grievance.

8. On October 17, 2025, Respondent filed its Answer, a Plea to the Jurisdiction, and Motion to Dismiss, arguing, *inter alia*, Petitioner asserts claims that are not within the Commissioner's section 7.057 jurisdiction, citing Texas Education Code section 7.057(e)(2), which expressly exempts Education Code Chapter 37 student disciplinary actions. Respondent also filed the local record on October 17, 2025.

9. On November 4, 2025, the Administrative Law Judge held a telephonic prehearing conference, in which Petitioner appeared *pro se* and Respondent attended through its counsel. The conference addressed, *inter alia*, the Commissioner's jurisdiction under section 7.057 and pleading deficiencies.

10. Petitioner filed Exceptions to the Proposal. Respondent filed a Reply to the Exceptions. Petitioner's Exceptions were considered.

DISCUSSION

The Commissioner's jurisdiction

Petitioner asserts jurisdiction under Texas Education Code section 7.057(a)(2)(A). The Commissioner has jurisdiction under that section to hear appeals of "actions or decisions of any school district board of trustees that violate the school laws of this state." *See* Tex. Educ. Code § 7.057(a)(2)(A). Appeals under Texas Education Code section 7.057 are a narrowly tailored type of appeal. Under section 7.057(a)(2)(A), the only provision that could apply here, the Commissioner has appellate jurisdiction when a petitioner files a timely appeal and asserts, with supporting facts, that a school board action or decision violates the school laws of this state. *See* Tex. Educ. Code § 7.057(a)(2)(A).

The Legislature has defined the school laws of this state as titles 1 and 2 of the Texas Education Code and the rules adopted under them. *Id.* § 7.057(f)(2). An appealing party must identify the school law allegedly violated and sufficiently describe the challenged action in his pleading to proceed before the Commissioner with an appeal. *See* 19 Tex. Admin. Code § 157.1073(c). The Legislature has specifically excluded student discipline appeals from the Commissioner's section 7.057 jurisdiction. *See id.* § 7.057(e)(2).

Student discipline appeal

Petitioner raises various challenges to the student's May 2025 discipline and claims an unspecified violation of Texas Education section 37.006, which outlines provisions of removal to DAEP for certain student conduct, including Terroristic Threat. All of Petitioner's issues and the

relief requested would require the Commissioner to review and overturn the student's discipline.¹ However, the Legislature expressly provides that the Commissioner lacks jurisdiction over "a student disciplinary action under Chapter 37." Tex. Educ. Code § 7.057(e)(2). School district actions concerning student discipline are not reviewed by the Commissioner. Thus, to the extent Petitioner asks the Commissioner to reconsider the student's discipline, such claims must be dismissed. *Id.*

Texas Penal Code claim

Petitioner further alleges Respondent violated Texas Penal Code section 22.07 claiming the discipline incident did not meet all the elements of "Terroristic Threat," as defined in the Texas Penal Code.² To the extent Petitioner asserts a violation of the Texas Penal Code, this claim is dismissed, as the Texas Penal Code is not part of the school laws of this state. *See* Tex. Educ. Code § 7.057(f)(2).

Procedural violation claims

In her pleading, Petitioner claims Respondent violated procedures, denying her grievance rights, and unequally enforced student discipline. Petitioner fails to identify a school law of the state to support her claims. An appealing party must identify the school law allegedly violated and sufficiently describe the challenged action in his pleading to proceed before the Commissioner with an appeal. *See* 19 Tex. Admin. Code § 157.1073(c). Accordingly, Petitioner's claims of procedural violations are dismissed for failure to state a claim for which relief can be granted. *See* 19 Tex. Admin. Code § 157.1056(a).

Reply to Petitioner's Exceptions to Proposal for Decision

¹ To the extent Petitioner seeks remedies related to correcting school disciplinary records, if a parent believes that a student's education record contains information that is inaccurate, misleading, or in violation of the student's rights of privacy, the parent may request that the district amend the record. If the district denies the request, it shall inform the parent of its decision and of the parent's right to a hearing. 34 C.F.R. § 99.20. If, as a result of the hearing, the district decides the information in the education record is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall inform the parent of the parent's right to place a statement in the record commenting on the contested information, stating why the parent disagrees with the district's decision, or both. 34 C.F.R. § 99.21.

² Texas Penal Code section 22.07 is entitled "Terroristic Threat," and provides the definition of terroristic threat and its criminal classification and does not require any action, notifying, reporting, or otherwise, on behalf of the Respondent school district or Respondent's board of trustees.

Petitioner cites three Exceptions: (1) Failure to recognize Title 2 violations; (2) Level II abandoned record; and (3) This is not a discipline appeal. What follows is a response to each of Petitioner's Exceptions:

(1) Petitioner argues the Proposal failed to recognize her claimed Title 2 violation, specifically identifying Texas Education Code section 26.008, asserting this section "guarantees parents meaningful participation in decisions affecting their child." As Respondent's Reply to Petitioner's Exceptions correctly notes, Petitioner's Petition for Review "is devoid of any mention of § 26.008; [Petitioner] cannot retroactively rewrite the Petition to include it."³ 19 Tex. Admin. Code § 157.1051. In Petitioner's two-page Petition for Review, she identifies only Texas Education Code section 37.006 and Texas Penal Code section 22.07 as the legal basis for her claims. Texas Education Code section 37.006 is entitled "Removal for Certain Conduct" and outlines discipline offenses for which a student shall be removed to a disciplinary alternative education program and related guidelines. *See* Tex. Educ. Code § 37.006. As explained *supra*, the Commissioner lacks jurisdiction over "a student disciplinary action under Chapter 37" and the Texas Penal Code since it is not a school law of the state. Tex. Educ. Code §§ 7.057(e)(2), (f)(2).

(2) Petitioner argues that Respondent's Level II hearing officer "exceeded the scope of appellate grievance review and violated Title 2 procedural requirements, including 19 Texas Administrative Code § 157.1073(c)" by conducting an investigation and disregarding her documentation. Respondent's Reply to Petitioner's Exceptions correctly states that Chapter 157 applies to appeals to the Commissioner and does not govern local level grievances. In fact, section 157.1073(c) outlines guidelines for a Petition for Review in hearings brought under Texas Education Code section 7.057. *See* 19 Tex. Admin. Code § 157.1073(c).

³ Respondent's Reply to Petitioner's Exceptions also states, "§26.008 says nothing about 'meaningful participation,' which Petitioner's Exceptions claim she was deprived of because the Level I hearing officer made a decision with which she disagrees. ... By asserting in her Exceptions that she had invoked jurisdiction under § 26.008, she is attempting to end run around the statutory exemption of Chapter 37 student disciplinary actions from the Commissioner's section 7.057 jurisdiction. *See* Tex. Educ. Code §7.057(e)(2) ("[Section 7.057] does not apply to a student disciplinary action under [Texas Education Code] Chapter 37.")"

(3) Petitioner argues that her Pleading was a not a discipline appeal, as “Petitioner does not request the Commissioner reconsider or overturn student discipline under Chapter 37.” Petitioner’s statement is in direct conflict with her Petition for Review, wherein she requested the following relief: “Vacate Eli Gonzales’ DAEP placement; Order Floresville ISD to correct his education record and remove the DAEP entry; Direct Floresville ISD to comply with Education Code § 37.006 and Penal Code § 22.07 in future cases; Affirm that grievance procedures must be followed faithfully, including preservation of complete records.”

Conclusion

Petitioner’s appeal is dismissed for lack of jurisdiction and failure to state a claim for which relief can be granted. *See* 19 Tex. Admin. Code § 157.1056(a).

CONCLUSIONS OF LAW

After due consideration of the record, matters officially noticed, and the foregoing Findings of Fact, in my capacity as Commissioner of Education, I make the following Conclusions of Law:

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

2. The Commissioner’s jurisdiction under Texas Education Code § 7.057(a)(2)(A) is limited to the allegations of violations of the “school laws of this state.” The “school laws of this state” are defined as the first two titles of the Texas Education Code and the rules adopted under those titles. Tex. Educ. Code § 7.057(f)(2).

3. Petitioner identified no school law of this state that Respondent’s board allegedly violated over which the Commissioner has section 7.057(a)(2)(A) jurisdiction. *See* Tex. Educ. Code § 21.041(b)(8); 19 Tex. Admin. Code §§ 247.1, 247.2; *Robinson v. DeSoto Indep. Sch. Dist.*, No. 051-R10-07-2021 (Comm’r Educ. 2021); *Jones v. Crockett Indep. Sch. Dist.*, No. 090-R10-400 (Comm’r Educ. 2001).

4. Texas Education Code section 7.057(e)(2) exempts from the Commissioner’s jurisdiction “a student disciplinary action under [Texas Education Code] Chapter 37.” Tex. Educ.

Code § 7.057(e)(2). To the extent Petitioner complains of the student's DAEP assignment, the Commissioner lacks jurisdiction over that claim. Tex. Educ. Code § 7.057(e)(2).

5. The Commissioner lacks Education Code, section 7.057 jurisdiction over complaints that school boards violated the Texas Penal Code, which is not part of the school laws of this state, as defined in the Education Code. *See* Tex. Educ. Code § 7.057(a)(2), (f)(2).

6. This case is dismissed for lack of jurisdiction and failure to state a claim for which relief can be granted. *See* 19 Tex. Admin. Code § 157.1056(a).

ORDER

After due consideration of the record, matters officially noticed, and the foregoing Findings of Fact and Conclusions of Law, in my capacity as Commissioner of Education, it is hereby ORDERED that the Petitioner's appeal be, and is hereby, DISMISSED.

SIGNED AND ISSUED this 24th day of February 2026.

Mike Morath

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MIKE MORATH
COMMISSIONER OF EDUCATION