

VICTOR VAZQUEZ,	§	BEFORE THE
Petitioner,	§	
	§	
v.	§	COMMISSIONER OF EDUCATION
	§	
UNITED INDEPENDENT	§	
SCHOOL DISTRICT,	§	
Respondent.	§	THE STATE OF TEXAS

DECISION OF THE COMMISSIONER

STATEMENT OF THE CASE

Petitioner, a member of the public, appeals to the Commissioner of Education under Texas Education Code section 7.057(a)(2)(A) from Respondent United Independent School District's denial of his grievance filed under Respondent's Policy GF (Local). In his grievance, Petitioner challenged an April 22, 2025 letter the superintendent sent him regarding his conduct outside of a nonpublic event held on school property. The warning letter warned Petitioner that future incidents could result in a trespass notice under Texas Education Code section 37.105. Petitioner asks the Commissioner to vacate the superintendent's warning letter and order its removal from Respondent's records, declare that Respondent misapplied Texas law and board policy in denying his grievance, and grant him any other relief to which he may be entitled.

Respondent denies error and filed a Plea to the Jurisdiction, arguing that Petitioner failed to exhaust his administrative remedies, assert a violation of a Texas school law, state a claim for which relief can be granted, or plead facts that could support a favorable decision.

Adrienne Butcher is the Administrative Law Judge appointed by the Commissioner to hear this case. Petitioner proceeds *pro se*. Respondent is represented by its counsel, Jaime Garcia and Stephen Trautmann, Jr., of Trautmann & Garcia, Attorneys at Law, PLLC, in Laredo, Texas.

Because Petitioner did not exhaust his administrative remedies on some of his claims, asserts claims outside the Commissioner's jurisdiction, and fails to plead facts that could support a favorable decision on his claim based on Texas Education Code section 37.105, the Commissioner dismisses Petitioner's appeal. 19 Tex. Admin. Code § 157.1056(a).

FINDINGS OF FACT

After due consideration of the record and matters officially noticed, I find that the pleadings and record in this case establish the following Findings of Fact:

1. Petitioner is a member of the public and does not have a student enrolled in Respondent's schools.

2. On March 26, 2025, Petitioner arrived at a school-sponsored, invitation-only, non-public event for the Young Athletes Program for Students (YAPS) at Respondent's Student Activity Center facility. The event occurred during school district business hours. One of Respondent's employees working at the event was uncomfortable with Petitioner's behavior near the event's entry, including his questions to her about the identity of the police vehicle parked outside the event. The employee suspected that Petitioner was recording the event because he had a microphone and phone camera on his person. The employee did not know why Petitioner would be recording on school property or asking the questions he raised, and she reported feeling uneasy and unsafe. Another employee also observed that Petitioner appeared to be recording.

3. On April 22, 2025, the superintendent issued Petitioner a warning letter regarding his conduct at the YAPS event. The letter further noted that it was a second warning, as Petitioner had previously made employees uncomfortable by recording and/or live streaming events in violation of Respondent's Policy GKA (Local), which governs conduct on school premises. The superintendent stated, "Pursuant to Section 37.105 of the Texas Education Code, I am hereby providing you notice that should you repeat your disruptive behavior, including unauthorized audio or video recording on District property, you will no longer be allowed entry onto any District property." The warning letter did not exclude Petitioner from any school district property.

4. Petitioner filed a Level 1 grievance against the superintendent, complaining that the superintendent violated Petitioner's constitutional due process rights "by issuing a formal, retaliatory warning letter without notice, evidence, or opportunity to respond." Petitioner complained that the warning letter "twisted the meaning of GKA (Local)" and unfairly applied the policy, ignoring exceptions for recordings and improperly characterizing the event as private

without adequate warning or designation. In an attachment to his grievance, Petitioner also argued that the letter violated the Educator's Code of Ethics and federal civil rights law, was an abuse of power, violated Texas Education Code section 37.105 by excluding him from school property without proof of substantial disruption and an opportunity to appeal, and was retaliation under 42 U.S.C. section 1983. Petitioner further complained that the letter relied on unsupported allegations and defamed and harassed him.

5. As the grievance was against the superintendent, Respondent heard it starting at Level 2 under its Policy GF (Local). Respondent's chief financial officer held a grievance conference and issued a May 28, 2025 decision denying Petitioner's grievance.

6. Petitioner appealed to Level 3 before Respondent's school board. The board heard the grievance appeal on November 5, 2025. Petitioner and a representative attended the hearing, and Petitioner presented his grievance to the board. After hearing argument, the board voted to affirm the Level 2 decision. Respondent formally notified Petitioner of the board's decision by letter on the following day.

7. Petitioner timely appealed to the Commissioner of Education. Respondent filed an Answer and a Plea to the Jurisdiction.

8. One February 3, 2026, Petitioner filed a document titled, "Petitioner's Consolidated Objections to Respondent's Local Record, Motion to Compel Production and for Adverse Inference, and Response to Respondent's Plea to the Jurisdiction."

9. Respondent filed a February 5, 2026 Response to Petitioner's Objections to Local Record and Motion to Compel, arguing that Petitioner's Motion to Compel should be denied for lack of a required certificate of conference.

10. The Administrative Law Judge held a February 10, 2026 prehearing conference. Also on February 10, 2026, Respondent supplemented the local record.

11. The Administrative Law Judge issued a Proposal for Decision recommending dismissal of Petitioner's appeal. Petitioner did not file exceptions to the Proposal for Decision.

DISCUSSION

The Commissioner's appellate jurisdiction

Petitioner asserts jurisdiction under Texas Education Code section 7.057(a)(2)(A). Section 7.057(a)(2)(A) grants the Commissioner jurisdiction to hear appeals by aggrieved parties who assert that a school board action or decision violated the school laws of this state. *See* Tex. Educ. Code § 7.057(a)(2)(A). Petitioner asserts that the board violated Texas Education Code section 37.105 by failing to grant his grievance regarding the superintendent's April 22, 2025 warning letter regarding his conduct at the YAPS event. The Commissioner has jurisdiction over Petitioner's claim, which alleges a school law violation by the board.

Exhaustion of administrative remedies

Respondent argues that Petitioner failed to exhaust his administrative remedies regarding some of the claims he raises in his pleading. Specifically, Respondent argues that on appeal, Petitioner asserts that the board, through its superintendent, violated Texas Education Code section 11.1511(b)(1) and 11.201(a) and acted *ultra vires* by "selectively reviving" section 37.105 after opting out of that statute as a district of innovation; violated Texas Government Code section 2001.174 governing contested cases before the State Office for Administrative Hearings; conducted a procedurally flawed board hearing; and impermissibly allowed its law firm to serve two roles at the board hearing.

In his grievance documents and in his hearing before the board, Petitioner did not raise the issue of Respondent's status as a district of innovation, its compliance with sections 11.1511(b)(1) and 11.201(a), or its superintendent's alleged *ultra vires* actions. Petitioner's grievance only raised the issue of whether the warning letter was unfair, retaliatory, and failed to provide him with information on how to appeal (addressed below). Because Petitioner did not exhaust his remedies for his claims based on Respondent's status of a district of innovation, sections 11.1511(b)(1) and 11.201(a), and the superintendent's alleged *ultra vires* action by raising them to the school board, the board took no reviewable action on them for the Commissioner to review. Petitioner's unexhausted claims are dismissed. 19 Tex. Admin. Code § 157.1056(a).

Claims outside the school laws of this state

In addition, Petitioner asserts claims based on the Government Code section 2001.174 and federal statutes, including 42 U.S.C. section 1983. These claims do not implicate the school laws of this state, which the Legislature defined as Titles 1 and 2 of the Texas Education Code and the rules adopted under those titles. *See* Tex. Educ. Code § 7.057(f)(2). Petitioner's claims based on the Texas Government Code and federal statutes are dismissed for lack of jurisdiction. 19 Tex. Admin. Code § 157.1056(a).

Petitioner also asserted violations of Respondent's Policy GKA (Local). Respondent argues that the Commissioner lacks jurisdiction over school districts' local policies. In 2025, the Legislature adopted Texas Education Code section 1.007, which requires school districts to follow policies they are required by law to adopt. Tex. Educ. Code § 1.007. Petitioner did not assert section 1.007 in his pleading and does not assert that Policy GKA (Local) is a policy that Respondent is required by law to adopt. Moreover, even if he did, Petitioner fails to plead facts that could show a violation of the policy, which largely tracks section 37.105's requirements. Respondent did not violate the statute or policy by sending Petitioner a letter that addressed his conduct but did not eject or remove him from any school property. This claim is dismissed for lack of jurisdiction and, alternatively, for failure to plead facts that could support a favorable decision. 19 Tex. Admin. Code § 157.1056(a).

Texas Education Code section 37.105

In his pleading, Petitioner states, "This case arises from a non-disciplinary warning letter dated April 22, 2025." As the pleading reflects, the April 22, 2025 letter carried no consequence but instead addressed Petitioner's conduct as raised by the employee who was uncomfortable with his questions, including about the police, and suspected unauthorized recording at a closed school event.

Section 37.105 addresses school districts' ejection of or denial of entry to a person from property under the school district's control, based on specified conduct by the person ejected or denied entry. Tex. Educ. Code § 37.105(a). The statute requires certain procedures, such as

issuance of a documented verbal warning to a person behaving inappropriately for a school setting before ejection and provision of information about how to appeal when the person is ejected or excluded from property under the school district's control. *Id.* § 37.105(c), (d). It also establishes time limits for exclusion periods and publication requirements for relevant provisions under the statute. *Id.* § 37.105(f), (g).

After the employee working at the YAPS event reported that Petitioner's conduct made her feel uncomfortable and unsafe, the superintendent issued Petitioner an April 22, 2025 letter admonishing him against recording or live streaming on Respondent's property during school hours and against threatening, harassing, or intimidating school employees.¹ While the letter addressed Petitioner's conduct and the potential consequences for repeating it, it did not actually exclude or eject him from school property. Because he was not ejected or excluded from any school property, Petitioner has not raised a potential violation of section 37.105, as that statute does not set requirements for corresponding with members of the public that Respondent could have violated in denying Petitioner's grievance about the superintendent's letter. Section 37.105 also does require provision of appeal information when school personnel issues a letter warning; that duty arises when a person *is ejected or excluded* from district property. Tex. Educ. Code § 37.105(a), (h). If the superintendent's letter had not simply warned Petitioner about his conduct but excluded him from district property, Petitioner would have been entitled to notice of how to appeal under subsection 37.105(d). But Petitioner does not allege he was refused entry to or ejected from school property under section 37.105; the superintendent's letter did not require Respondent to provide Petitioner with information explaining the section 37.105(h) appeal process.

Petitioner's complaint about the superintendent's April 22, 2025 letter fails to state a claim on which relief can be granted and fails to plead facts that could support a finding that

¹ The letter emphasized that the YAPS event was not public but invitational and occurred during school hours; the general public, including Petitioner, did not have access to the event. The letter further emphasized that by appearing without a ticket, asking questions about police presence, and appearing to be recording or intending to record, Petitioner's conduct was disruptive by making employees working at the event uncomfortable.

Respondent's board violated section 37.105. Accordingly, the Commissioner dismisses Petitioner's appeal. 19 Tex. Admin. Code § 157.1056(a).

Procedural errors at Petitioner's board hearing

Petitioner asserts that his Level 3 grievance hearing was "procedurally unfair and structurally biased." Part of his complaint concerns the superintendent's characterization of what constituted disruptive conduct under Policy GKA (Local). That Petitioner disagreed with the superintendent about whether his conduct was disruptive does not reflect any procedural error; both Petitioner and administration presented their respective positions to the board. Petitioner also complains that two attorneys from Respondent's law firm individually served different respective roles at the hearing, with one attorney representing administration and the other advising the board in closed session. That allegation alone does not state a claim for which relief could be granted. *See Walker v. N.E. Indep. Sch. Dist.*, No. 035-R10-1111 (Comm'r Educ. 2013).

Finally, Petitioner complains that the grievance hearing was unfair because he had only a one-minute rebuttal to Respondent's response. Petitioner does not dispute Respondent's assertion that he presented his grievance to the board and answered several questions by trustees. Petitioner has not raised any minimal rebuttal period to which he was entitled but denied.

Because Petitioner has not identified any procedural errors that could have affected the hearing's outcome, he fails to state facts that could support a favorable decision on this claim, which is dismissed. 19 Tex. Admin. Code § 157.1056(a).

Motion to Compel

Petitioner filed a February 3, 2026 Motion to Compel Production and for Adverse Inference, complaining that portions of the local record were "absent, unpreserved, or referenced only through district-controlled hyperlinks." Respondent filed a Response opposing Petitioner's Motion in part for lack of a required certificate of compliance.

The Commissioner's rules require a certificate of conference with any motions requiring a ruling. 19 Tex. Admin. Code § 157.1055(b). The rule provides,

(b) All motions requiring a ruling must be in writing and must contain a certificate of conference asserting that the movant has conferred with the opposing party representative and has or has not obtained agreement with the motion. If no conference was conducted, the movant shall state the reasons, amounting to good cause, why the conference was not held. *All motions requiring a certificate of conference will be denied without the requirement of a response if the moving party fails to confer with the opposing party as required.*

Id. § 157.1055(b) (emphasis added).

Petitioner's Motion, which requires a ruling, contains no certificate of conference or, alternatively, a statement of good cause for why no conference was held about the requested extension. Under Rule 157.1055(b), the Commissioner must deny it as filed.

Objection to Local Record

Also on February 3, 2026, Petitioner filed Objections to the Local Record, complaining that Respondent improperly provided hyperlinks to his grievance proceedings before the board. School districts have an affirmative duty to file the local record in appeals before the Commissioner. *See* 19 Tex. Admin. Code § 157.1073(d). The Commissioner hears appeals based on the local record and does not take additional evidence, with limited exceptions that do not apply here. Tex. Educ. Code § 7.057(c). Provision of part of the local record via hyperlinks, such as to YouTube videos of board meetings, is not a reliable means to prepare and file the record with the Commissioner. That is because in addition to requiring the Agency to retrieve portions of the record by locating and downloading videos, if they can be downloaded, hyperlinks can be broken, their content can be altered, and myriad other issues can occur. Links may not remain available in the event of an appeal to Texas courts. Accordingly, filing the record means filing with the Agency an electronic copy of all documents that are part of the local record by Commissioner rule. *See* 19 Tex. Admin. Code § 157.1073(d).

In this case, Petitioner's appeal will be dismissed based on his failure to exhaust administrative remedies, to state a claim for which relief can be granted or to plead facts that could support a favorable decision for Petitioner. His claims based on federal statutes and the Texas

Government Code will be dismissed for lack of jurisdiction. That disposition renders the record objection moot.² Petitioner's record objection is overruled.

Conclusion

Petitioner's appeal is dismissed without a merits hearing for lack of jurisdiction and for failure to exhaust administrative remedies, to state a claim on which relief can be granted, and to plead facts that could support a favorable decision. 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 has jurisdiction over this appeal, which asserts that Respondent's board violated school laws of this state. Tex. Educ. Code § 7.057(a)(2)(A).

2. Petitioner failed to exhaust his administrative remedies regarding his claims based on Texas Education Code sections 11.1511(b)(1) and 11.201, and his claim that the superintendent acted "ultra vires" by "selectively" reviving section 37.105.

3. The Commissioner lacks jurisdiction over Petitioner's claims based on Texas Government Code section 2001.174 and on federal statutes, including 42 U.S.C. § 1983.

4. Petitioner did not assert a violation of Policy GKA (Local) through Texas Education Code section 1.007, a school law of this state, and also fails to plead facts that could support a favorable decision on this claim.

5. School district admonishments about a person's conduct at school events are not exclusions or ejections from school property under Texas Education Code section 37.105(a), and a school district is not required to provide information about how to appeal from an admonition that does not eject or exclude a person from school property. Tex. Educ. Code § 37.105(d), (h).

6. Petitioner fails to state facts that could support a favorable decision on his procedural fairness claim.

² However, the Commissioner notes that after the prehearing conference that addressed, in part, Petitioner's record objection, Respondent supplemented the record with electronic copies of audio recordings from the board hearing.

7. Petitioner's Motion to Compel is denied for lack of a required certificate of conference. 19 Tex. Admin. Code § 157.1055.

8. Petitioner's objection to the local record is overruled as moot.

9. Petitioner's appeal is dismissed for lack of jurisdiction and for failure to exhaust, to state a claim on which relief can be granted, and to plead facts that could support a favorable decision. 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 2nd day of July 2026.

Mike Morath

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MIKE MORATH
COMMISSIONER OF EDUCATION