

JONATHON SALGUERO,
Petitioner,

v.

DALLAS INDEPENDENT
SCHOOL DISTRICT,
Respondent.

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BEFORE THE

COMMISSIONER OF EDUCATION

THE STATE OF TEXAS

DECISION OF THE COMMISSIONER

Petitioner Jonathon Salguero, an employee of Respondent Dallas Independent School District, appeals to the Commissioner of Education asserting that Respondent violated Texas Education Code section 11.1511(b)(13) by failing to advance his grievance to the school board. Respondent denies error and asserts that the Commissioner lacks jurisdiction over Petitioner's appeal. Respondent also asserts that Petitioner failed to exhaust his administrative remedies before filing this appeal.

Adrienne Butcher is the Administrative Law Judge assigned to this case. Petitioner proceeds *pro se*. Respondent is represented by its counsel, David Giddens, of Thompson & Horton LLP, in Dallas, Texas.

Because Respondent's board of trustees has not heard Petitioner's local grievance appeal, the Commissioner remands this case so the board can hear it in accordance with its Policy DGBA (Local) and Texas Education Code section 11.1511(b)(13).

FINDINGS OF FACT

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

1. Respondent employed Petitioner as a teacher during the 2024–2025 school year.
2. After Petitioner received a May 15, 2025 employment reprimand, he filed a May 19, 2025 grievance under Respondent's local policy for employee complaints, Policy DGBA (Local). In his grievance, Petitioner contested his reprimand and raised other claims related to his employment.

3. On May 30, 2025, the assigned Level 1 hearing officer sent Petitioner and his union representative of record, Steve Roberts, notice of a June 9, 2025 hearing on Petitioner's grievance, as well as a request for Petitioner's grievance documents. The hearing officer conducted a Level 1 grievance hearing on June 9, 2025.

4. On June 16, 2025, the Level 1 hearing officer emailed Petitioner a Level 1 decision denying Petitioner's grievance. The decision included instructions to appeal to Level 2, stating the applicable fifteen-business-day appeal deadline and instruction Petitioner to electronically appeal through Respondent's online grievance portal. The instructions also provide, "If an appeal is not received within 15 business days, the grievance will be closed without further notification."

5. Under Respondent's adopted school district calendar in the local record, fifteen district business days from June 16, 2025, was July 9, 2025.

6. On July 24, 2025, acting on the belief that Petitioner had not timely appealed the Level 1 decision, Respondent's administration sent Petitioner and Roberts an email with an attached closure letter. The closure letter stated that under Policy DGBA (Regulation), if an appeal is not timely filed, it will be dismissed and closed.

7. On the same date, Roberts emailed a response on Petitioner's behalf, stating, "This is incorrect. Appeal was filed 6/17/25."

8. On July 25, 2025, Petitioner filed a grievance form through Respondent's grievance portal. The submission generated an automatic confirmation-of-receipt email. Petitioner asserts that the first appeal did not generate such a confirmation email but that he had submitted an appeal.

9. On July 30, 2025, an Employee Relations employee, Shenidra Johnson, emailed Petitioner and Roberts, stating,

Per Policy DGBA, grievance and appeal notices must be filed on-line no later than 15 days from the date the employee knew or, [sic] should have known of the decision or action giving rise to the grievance or complaint. Filings will be considered timely if received by Employee Relations by 5:00 p.m. on the deadline date.

10. Also on July 30, 2025, Petitioner responded through Roberts, stating, “The filing of this appeal is specifically what is in dispute in this case. This should move forward.” Another district employee, Marcos Cervantes, emailed in response,

No appeal was received prior to the appeal deadline; therefore the grievance was closed as indicated by board policy. The concern was reviewed by HCM [Human Capital Management] leadership, and it was determined to close the grievance. Please feel free to share your concern with your leadership, so it may be presented at our next EOC meeting.

11. On July 31, 2025, Petitioner emailed the board, requesting a Level 3 hearing. Cervantez followed up by asking, “Did you make the appeal via the portal or email? If it was email, can you please share the email.”¹

12. Petitioner appealed to the Commissioner on September 6, 2025.

13. Respondent’s board has not heard Petitioner’s grievance appeal, either on the merits or on the issue of timeliness.

14. On September 12, 2025, Respondent’s general counsel, Ramona Soto, emailed Petitioner an offer to proceed to a Level 2 grievance hearing, noting Respondent had closed the grievance based on having received no appeal filed through the grievance portal. Counsel noted that if Petitioner wished to proceed to a Level 2 appeal, it would be limited to the issue of timeliness under Respondent’s Policy DGBA (Local).

15. Petitioner declined, stating, “I remain ready to proceed to a Board (Level III) hearing as and when ordered by the Commissioner; I am declining only a post-closure Level II proceeding.”

16. The local record contains Respondent’s local grievance policy, Policy DGBA (Local). Regarding untimely filings, Policy DGBA (Local) provides,

If a grievance form or appeal notice is not filed timely with HCM Employee Relations at any level during the grievance process, the grievance may be dismissed as untimely. HCM Employee Relations will make the determination related to the timeliness of the filing. HCM Employee Relations will send the untimely notification to the grievant. The grievant may appeal the untimeliness dismissal of his or her grievance by seeking a review in writing within 15 days after the date of the written dismissal notice, starting at the level at which the

¹ Cervantes again followed up by emailing Roberts on September 9, 2025, but three days earlier, Petitioner had filed this appeal with the Commissioner.

grievance was dismissed. The appeal will be limited to the issue of timeliness. The grievant may also request a mediation within the same timeline.

Consideration shall be given for extenuating circumstances in all cases for the grievant and the administration.

17. The Administrative Law Judge issued a Proposal for Decision recommending remand of this matter to Respondent's board. No parties filed exceptions.

DISCUSSION

The Commissioner's section 7.057 jurisdiction

Petitioner asserts jurisdiction under Texas Education Code section 7.057(a)(2)(A), which gives the Commissioner jurisdiction over school board actions and decisions that are alleged to violate a school law of this state. *See* Tex. Educ. Code § 7.057(a)(2)(A). Petitioner's claim is premised on Respondent's alleged violation of Texas Education Code section 11.1511(b)(13), a Texas school law that requires school boards to adopt a process through which district personnel, *inter alia*, "may obtain a hearing from district administrators and the board regarding a complaint."

Respondent's Level 1 grievance decision included instructions on how to appeal to Level 2, requiring that appeals be filed through Respondent's online grievance portal, pursuant to Policy DGBA (Local). Having received no Level 2 appeal through the online grievance portal, Respondent administratively closed the grievance. However, Petitioner and Roberts maintain that they timely appealed in compliance with Policy DGBA (Local) and that Respondent erred in dismissing the appeal.

Policy DGBA (Local) provides that dismissals based on timeliness may be appealed, in which event the appeal is limited to the timeliness issue. Under that Policy, Petitioner may present the appropriate decisionmaker under Policy DGBA (Local)—whether resuming at Level 2 or proceeding to the board²—with evidence that he timely filed or attempted to file his Level 2 appeal, as well as any evidence that an error, mistake, or other event delayed or prevented Respondent's receipt of his notice of his Level 2 appeal. The board can then consider whether

² This case is remanded to Respondent's board, which will determine how Petitioner's grievance appeal will proceed under its Policy DGBA (Local).

and how to reinstate Petitioner's grievance appeal under Policy DGBA (Local) or whether to grant Petitioner any other relief.³

In any event, at this juncture, the proper venue for Petitioner to present his argument and evidence is on remand to Respondent's school board. The Commissioner cannot determine the timeliness issue, as Respondent's board has not heard that issue. In addition, the local record is still incomplete, as Petitioner has not presented the school board, as the relevant decisionmaker, with evidence supporting his claim that he timely filed his Level 2 appeal. The board's hearing that issue will result in both a complete local record and a decision for the Commissioner to review, if Petitioner is aggrieved by and timely appeals the board's decision.

The Commissioner notes that Respondent's administration initially closed Petitioner's grievance on what may (or, as Petitioner asserts, may not) have been a mistaken conclusion that Petitioner had not appealed the Level 1 decision to Level 2. After administration responded to Petitioner's assertion that he had timely filed his Level 2 appeal on June 17, 2025, administration made efforts to determine how he had appealed. Respondent's counsel subsequently invited Petitioner to proceed with a Level 2 appeal to address the timeliness issue, but by then, Petitioner had already appealed to the Commissioner. Respondent does not appear to have acted in bad faith in closing Petitioner's appeal. Because Respondent's board has reached neither the merits of Petitioner's grievance issues nor the timeliness issues that accrued after Level 1, the Commissioner finds it appropriate to remand this matter to Respondent's board to proceed under Policy DGBA (Local) and in compliance with Texas Education Code section 11.1511(b)(13).

Conclusion

This matter is remanded to Respondent's school board to proceed with Petitioner's appeal, pursuant to Respondent's Policy DGBA (Local) and in compliance with Texas Education Code section 11.1511(b)(13).

³ The law applicable to Petitioner's underlying grievance predates the Legislature's enactment of Texas Education Code Chapter 26A, which established procedural criteria for school boards' adopted grievance policies, including the requirement that school boards' policies must require boards to decide grievances' merits on the underlying concerns raised, notwithstanding any procedural errors. Tex. Educ. Code § 26A.001(e)(9).

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. *See* Tex. Educ. Code §§ 7.057(a)(2)(A); 11.1511(b)(13).
2. Respondent's school board has not heard Petitioner's grievance appeal, either on the merits or on the issue of whether his Level 2 grievance appeal was timely.
3. The Commissioner cannot hear the merits of Petitioner's grievance or the issue of whether Petitioner's appeal was timely, as Respondent's board has not yet heard those issues.
4. Petitioner's appeal is granted, and this case is remanded to Respondent's school board for proceedings in compliance with Respondent's Policy DGBA (Local) and further in compliance with Texas Education Code section 11.1511(b)(13).

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, REMANDED to Respondent's school board for proceedings consistent with this Decision, Texas Education Code section 11.1511(b)(13), and Respondent's Policy DGBA (Local).

SIGNED AND ISSUED this 9th day of June 2026.

Mike Morath Digitally signed by Mike Morath
Date: 2026.06.09 15:58:37 -05'00'

MIKE MORATH
COMMISSIONER OF EDUCATION