

CAROL-LEE HALE,
Petitioner,

v.

CYPRESS FAIRBANKS INDEPENDENT
SCHOOL DISTRICT,
Respondent.

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BEFORE THE

COMMISSIONER OF EDUCATION

THE STATE OF TEXAS

DECISION OF THE COMMISSIONER

Petitioner Carol-Lee Hale, a former employee of Respondent Cypress Fairbanks Independent School District, appeals to the Commissioner of Education under Texas Education Code section 21.301, challenging Respondent's school board's decision to terminate her probationary employment contract during its term for good cause. Petitioner asserts that the basis for the board's decision violates the Americans with Disabilities Act (ADA) and district policy. Petitioner further asserts procedural irregularities before the Independent Hearing Examiner (IHE). Respondent argues that Petitioner is not entitled to any relief and that the Commissioner should deny Petitioner's appeal.

Paul Carmona is the Administrative Law Judge assigned by the Commissioner to hear this case. Petitioner proceeds *pro se*. Respondent is represented by its counsel, Stephanie A. Hamm of Thompson & Horton, LLP, in Houston, Texas.

For the reasons addressed in this Decision, 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 that Respondent's school board adopted without modification. *See* Tex. Educ. Code § 21.304(a).

2. The school board considered the IHE's Recommendation and the parties' respective arguments at its board meeting on March 25, 2026. The school board voted to adopt the IHE's Findings of Fact and Recommendation without change and to terminate Petitioner's probationary contract for good cause.

3. Petitioner timely appealed the board's decision to the Commissioner on April 7, 2026.
4. Respondent timely filed the local record and its answer on April 27, 2026.
5. Petitioner filed her brief on May 6, 2026.
6. Respondent filed its brief on May 11, 2026.
7. Petitioner filed her reply brief on May 18, 2026.

DISCUSSION

Background Summary

Petitioner was employed by Cypress Fairbanks Independent School District during the 2023–2024 school year under a probationary educator contract and was assigned as an early childhood special education classroom teacher at Metcalf Elementary School. Petitioner received assault leave after she reported that a student hit her on September 15, 2023. Respondent placed Petitioner on temporary disability leave on September 18, 2023, which ran concurrently with Petitioner's assault leave that commenced on September 16, 2023.

Petitioner remained on leave for two years in accordance with Texas Education Code section 22.003(b). During that time, because Petitioner was on protected leave through September 15, 2025, Respondent continued to approve new contracts for Petitioner, including her probationary contract for the 2025–2026 school year.

On August 20, 2025, prior to the expiration of Petitioner's assault leave, Respondent sent written notice to Petitioner advising her that she needed to provide a fitness-for-duty certification from her health care provider confirming that she was able to return to work and perform the work duties of her position. Petitioner did not provide the required certification to return to work but instead opted to use accrued personal leave beginning on September 16, 2025.

On October 24, 2025, Respondent sent written notice to Petitioner summarizing the exhaustion of her leave as of October 16, 2025, and reminded Petitioner that she had not yet provided a release to return to work. Respondent further advised Petitioner that she had been absent

without leave since October 17, 2025, and that her probationary contract would be placed on the November 2025 school board agenda for proposed termination.

On November 11, 2025, Respondent notified Petitioner of Respondent's board of trustees' decision to propose the mid-year termination of Petitioner's probationary contract for good cause.

Petitioner requested a Subchapter F hearing, and the assigned IHE conducted an evidentiary hearing on February 10, 2026. The IHE concluded that Respondent proved that it had good cause to terminate Petitioner's probationary contract and recommended termination accordingly.

Respondent's board of trustees met and considered the IHE's recommendation on March 25, 2026. Petitioner presented her arguments on the recommendation to the board. The board adopted the IHE's findings of fact and conclusions of law and voted to terminate Petitioner's employment contract. This appeal followed.

Chapter 21 Contract Termination

A school district must employ a teacher under a written contract, including a probationary, term, or continuing contract. *See* Tex. Educ. Code § 21.002. A school board may terminate a probationary contract at any time for good cause, as determined by the board. *Id.* § 21.104(a). Good cause for probationary contract termination is defined as "being the failure to meet the accepted standards of conduct for the profession as generally recognized and applied in similarly situated school districts in this state." *Id.*

A teacher who protests a proposed contract action under section 21.104(a) may request an evidentiary hearing before an IHE under Texas Education Code Chapter 21, Subchapter F. *Id.* § 21.1041. At the Subchapter F hearing, the school district has the burden of proving its termination 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 probationary contract termination appeal unless the board's decision is arbitrary, capricious, or unlawful, or is not supported by substantial evidence. *Id.* § 21.303(b)(1). 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); *see also Pub. Utility Comm'n v. Tex. Indus. Energy Consumers*, 620 S.W.3d 418, 427 (Tex. 2021).

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). Whether substantial evidence supports the board's decision is best characterized as a rational basis test; if reasonable minds could have reached the same conclusion as the board did, then the board's decision must be affirmed. By prescribing such a narrow standard of review, the Legislature limited the Commissioner's appellate role to reviewing the record for reasonableness, not to re-examining the evidence to determine whether he agrees with the board. *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. Hou. Indep. Sch. Dist.*, 57 S.W.3d 646, 650 (Tex. App.—Houston [14th Dist.] 2001, pet denied)). That is so regardless of the comparative weight of any countering evidence. *See Reincke v. Richardson Indep. Sch. Dist.*, No. 063-R1-0607 (Comm'r Educ. 2007) (citing *Mireles v. Tex. Dep't of Pub. Safety*, 9 S.W.3d 128, 131 (Tex. 1999)). The Commissioner

does not resolve conflicts in the witnesses' testimony on appeal. *See Montgomery Indep. Sch. Dist. v. Davis*, 34 S.W.3d 559, 567 (Tex. 2000).

Petitioner's Appellate Issues

In her Petition for Review, Petitioner asserts that the school board's termination of her probationary contract was in violation of the Americans with Disabilities Act and in violation of district policy. Petitioner further asserts that the IHE was not an "unbiased hearing officer" and was thus "was not acting impartial."

Briefing requirements

Petitioner filed her appeal on April 7, 2026. The Texas Education Agency issued an acknowledgment letter to the parties at their emails of record on April 8, 2026, notifying them of the docketed Subchapter G appeal. The acknowledgement letter also stated that Subchapter G appeals have short timelines and provided the parties with their briefing deadlines and a copy of the Commissioner's rules. The acknowledgement letter advised the parties that Petitioner's brief was due on or before May 4, 2026. Petitioner failed to file her brief by the deadline, whereupon the Administrative Law Judge issued a Notice of Intent to Dismiss Appeal on May 6, 2026. *See* 19 Tex. Admin. Code § 157.1056(a). The notice advised the parties that Petitioner may file a response to the Notice of Intent to Dismiss Appeal on or before May 7, 2026.

Petitioner filed a document titled, "Brief" on May 6, 2026. On May 7, 2026, Petitioner filed an untitled document in which she stated that she "did not know that anything else was due" until May 6, 2026, when she received the Notice of Intent to Dismiss Appeal.

Briefing is an administrative remedy that plays a vital role in appeals before the Commissioner. Petitioners' briefs set out the issues on which petitioners have the burden of proof, as well as their legal and factual support, and serve a critical role in defining the issues on appeal. *See Covington v. Fort Bend Indep. Sch. Dist.*, No. 001-R1-09-2025 (Comm'r Educ. 2025). Because of the short statutory timelines in Subchapter G appeals, initial briefs must be adequate, as the timelines largely preclude briefing extensions and amendments. *See* Tex. Educ. Code § 21.304(b)

(requiring the Commissioner to issue decision within 30 days after school district's response to petition is due, which in turn is due 20 days after petition is filed).

The Commissioner has adopted briefing rules similar to those set out in the Texas Rules of Appellate Procedure. *See* 19 Tex. Admin. Code § 157.1058. Upon receipt of Petitioner's appeal, on April 8, 2026, the Agency sent the parties an Acknowledgment Letter, attaching a copy of the Commissioner's appellate rules. Rule 157.1058(a), the rule governing briefs, requires that briefs contain the following sections:

- (1) Statement of the case. The brief must state concisely the nature of the case, the course of proceedings, and the school district's disposition of the case. The statement should be supported by record references, should seldom exceed one-half page, and should not discuss the facts.
- (2) Issues presented. The brief must state concisely all issues or points presented for review. The statement of an issue or point will be treated as covering every subsidiary question that is fairly included. However, an issue that is not so identified is waived.
- (3) Statement of facts. The brief must state concisely and without argument the facts pertinent to the issues or points presented. The commissioner will accept as true the facts stated unless another party contradicts them. The statement must be supported by record references.
- (4) Argument. The brief must contain clear and concise argument for the contentions made with appropriate citations to authorities and to the record.
- (5) Prayer. The brief must contain a short conclusion that clearly states the nature of the relief sought.

19 Tex. Admin. Code § 157.1058(a). While substantial compliance with the briefing rules may suffice in some cases, analysis is made case by case. *Id.* § 157.1058(c).

Petitioner's May 6, 2025 brief is not substantially compliant with the briefing rules. The brief does not make a clear and concise argument for the contentions made, and the citations to authorities are nothing more than recitations from the ADA, the Civil Rights Act of 1964, the Family and Medical Leave Act (FMLA), "US Code," and two federal cases emanating from Kentucky and New York. The only citations to Texas legal authorities are to the jurisdictional statute for Chapter 21 appeals and to the Texas Labor Code. Moreover, the brief lacks any citations to the local record.

Petitioner's arguments under the cited authorities are conclusory and wholly unsupported with citations to the record. The Commissioner is not required to scour the record and construct Petitioner's inadequately briefed issues and potential arguments, which would place him in an advocate's role. *See Castille v. Port Arthur Indep. Sch. Dist.*, No. 016-R2-01-2023 (Comm'r Educ. 2023). Likewise, Respondent cannot meaningfully respond to inadequately presented arguments; it is not required to locate her evidentiary support or to decipher and complete her outlined arguments. Although Petitioner proceeds *pro se*, she is held to an attorney's standard in complying with the Commissioner's briefing rules. *See* 19 Tex. Admin. Code § 157.1045.

Petitioner waived her insufficiently briefed issues and failed to exhaust her administrative remedies. *See Evans v. Clear Creek Indep. Sch. Dist.*, No. 031-R1-03-2021 (Comm'r Educ. 2021). Although Petitioner attempted to cure her failure to file a timely brief, Petitioner did not file a motion for leave to file an amended brief, and even if she had, it would be denied. Unlike other types of appeals before the Commissioner, the parties in section 21.301 appeals cannot, by agreement, extend the Commissioner's statutory deadline, and untimely decisions carry the statutory consequence of automatically affirming the school board's decision. *See* Tex. Educ. Code § 21.304(b); *Moses v. Dall. Indep. Sch. Dist.*, 12 S.W.3d 168, 171 (Tex. App.—Dallas 2000, no pet.). Furthermore, Petitioner's late brief lacks clear and concise arguments for her contentions and contains no citations to applicable authorities or to the record. Accordingly, this appeal is dismissed for waiver and for failure to exhaust administrative remedies.

Substantial Evidence

Alternatively, the record contains substantial evidence that Respondent's school board had good cause to terminate Petitioner's probationary contract because Petitioner failed to return to work after the exhaustion of all her available leave and that this violated Respondent's policies. Failing to return to work after exhausting all available leave constitutes good cause to terminate a classroom teacher. *Martin v. Dall. Indep. Sch. Dist.*, No. 059-R2-301 (Comm'r Educ 2004). Nonetheless, Petitioner contends that Respondent terminated her contract because she asserted her rights under the ADA and FMLA.

The substantive and enforcement provisions of the ADA and FMLA are incorporated into Petitioner's contract. Any failure to accommodate Petitioner's alleged disability must be challenged elsewhere. *Baines v. Dall. Indep. Sch. Dist.*, No. 002-R2-905 (Comm'r Educ 2005). ADA enforcement provisions must be followed before the case is presented to the Commissioner. *Barborak v. Oakwood Indep. Sch. Dist.*, No. 224-R3-797 (Comm'r Educ. 1999). The record contains no evidence that Petitioner availed herself of the enforcement provisions of the acts in question. The Commissioner will not assert jurisdiction over such claims unless a petitioner can show that a decision has been obtained by following the enforcement mechanisms provided in those acts. *Roberts v. Marlin Indep. Sch. Dist.*, No. 021-R10-1204 (Comm'r Educ. 2007). Accordingly, Petitioner's appeal is dismissed.

Procedural Irregularities

Petitioner asserts in her petition that the IHE was not impartial and that Respondent failed to serve documents that were introduced in the IHE proceeding. Petitioner's late brief recited conclusory statements about her allegations but cited no authorities or references to the local record. As discussed above, Petitioner waived these insufficiently briefed issues and failed to exhaust her administrative remedies. *See Evans v. Clear Creek Indep. Sch. Dist.*, No. 031-R1-03-2021 (Comm'r Educ. 2021). However, one matter does merit discussion: the IHE's impartiality. Petitioner alleges that the IHE was not impartial because she asked Petitioner to disconnect from a prehearing conference so that she could discuss with the district how to be a vendor for the district. In the IHE proceeding, Petitioner filed a Motion to Recuse the IHE wherein she asserted that "if [the IHE] wants to be a vendor for the school district, then there is a conflict of interest."

At the March 25, 2026 board hearing, Respondent's General Counsel Marney Collins-Sims explained that the IHE was required to be a vendor for the district in order to be paid her fee. *See Tex. Educ. Code § 21.255(e)*. The fact that an IHE is paid by a school district does not call into question the IHE's independence. *See Walker v. Hitchcock Indep. Sch. Dist.*, No. 016-R2-1109 (Comm'r Educ. 2009). Petitioner's appeal on this issue is denied.

Conclusion

Because Petitioner did not adequately brief her issues, the Commissioner dismisses her appeal for waiver and for failure to exhaust administrative remedies. Alternatively, the Commissioner denies Petitioner's appeal, as substantial evidence supports the board's decision to terminate her probationary employment contract during its term for good cause. Petitioner's appeal based on the IHE's alleged lack of impartiality is denied.

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 school board's decision to terminate Petitioner's probationary contract. Tex. Educ. Code § 21.301(a).
2. Petitioner's late brief, which lacks clear and concise arguments for her contentions and contains no citations to applicable authorities or to the record, does not substantially comply with the Commissioner's briefing rules and is not an adequate brief.
3. Petitioner waived her appellate issues by failing to adequately brief them.
4. Substantial evidence supports the board's decision to terminate Petitioner's probationary employment contract during its term for good cause.
5. The IHE was required to be a vendor of Respondent's district to be paid pursuant to Texas Education Code section 21.255(e), which does not call into question the IHE's independence.
6. Petitioner's appeal is dismissed and, alternatively, 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 Petitioner's appeal be, and is hereby, DISMISSED and, alternatively, DENIED.

SIGNED AND ISSUED this 22nd day of May 2026.

Mike Morath Digitally signed by Mike Morath
Date: 2026.05.22 12:09:37 -05'00'

MIKE MORATH
COMMISSIONER OF EDUCATION