

VANESSA CHAVEZ,
Petitioner,

v.

BROWNSVILLE INDEPENDENT
SCHOOL DISTRICT,
Respondent.

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BEFORE THE

COMMISSIONER OF EDUCATION

THE STATE OF TEXAS

DECISION OF THE COMMISSIONER

STATEMENT OF THE CASE

Petitioner Vanessa Chavez filed a May 12, 2026 Petition for Review with the Texas Commissioner of Education. Petitioner appeals from Respondent Brownsville Independent School District's school board's decision to renew her term contract following an investigation of several improper grade changes that benefitted Petitioner's child, a student in Respondent's district. Petitioner argues on appeal that substantial evidence does not support the board's decision, that its decision was capricious, and that Respondent improperly withheld documents she had requested before her hearing. Based on those alleged errors, she asks the Commissioner to reverse the board's decision and order her reinstatement under a new term contract with back pay and benefits or to remand with instructions.

Respondent denies error, argues that substantial evidence supports the board's decision, which was not capricious, and argues that Petitioner waived her documentary objections by failing to raise them to the board and her nonrenewal hearing. For those reasons, Respondent asks the Commissioner to deny Petitioner's appeal.

Adrienne Butcher is the Administrative Law Judge assigned to this case. Petitioner is represented by her counsel, David Willis, P.C., of Brownsville, Texas. Respondent is represented by its counsel, Miguel Salinas, of Brownsville, Texas.

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

FINDINGS OF FACT

After reviewing the record and taking official notice of relevant matters, in my capacity as Commissioner of Education, I conclude that the record and file in this case establish the following Findings of Fact:

1. Petitioner had a one-year Chapter 21 term contract with Respondent for the 2025–2026 school year. Petitioner worked as a counselor at Hanna Early College High School (Hanna High School), which her child, a student in Respondent’s district, attended at all relevant times. Petitioner’s campus principal was Blanca Lambarri.

2. In or around late September 2025, two parents raised complaints with Hanna High School’s administration about issues related to class rank and student grades. The complainants were the parents of two students who were ranked first and second in their class before Petitioner’s student displaced them.

3. Respondent’s Executive Director for Secondary Education, Dr. Norma Ibarra-Cantu, began investigating the complaints, including investigating five Hanna High School counselors: Petitioner, Nora Snodgrass, Bertha Escobedo, Raquel Cisneros, and Oscar Ahumada.¹ Respondent’s Curriculum and Instruction Department, Computer Department, and Police Department also investigated the grade changes and shared their findings with Dr. Ibarra-Cantu.

4. Dr. Ibarra-Cantu discovered that twenty of the students’ class grades were changed in the summers of 2024 and 2025. None of the twenty grade changes complied with Respondent’s grade change procedures. Based on computer and forensic reports and collaborative investigation, Dr. Ibarra-Cantu found that nearly all of the changes originated from Petitioner’s assigned campus computer workstation and were made using three other counselors’ “eSchoolPlus” electronic student information system credentials. Three changes were made at Hanna High School on June 4, 2024, under counselor Escobedo’s credentials. Another three grade changes were made on June

¹ In or around June 2025, the counselors had raised complaints against Principal Lambarri’s management of the campus and counseling department. Four of the counselors, including Petitioner, subsequently filed a complaint with the Texas Education Agency, which docketed the complaint as 2026-01-0454 and closed it as non-jurisdictional on May 12, 2026.

10 and 21, 2024, under counselor Cisneros's system credentials. Fourteen changes were made at Hanna High School's campus under counselor Nora Snodgrass's credentials on June 9, 2025, between 9:15 a.m. and 9:24 a.m. At that time, Petitioner was signed in at the Hanna High School campus. Also at that time, Ms. Snodgrass was assigned to another high school campus for the summer of 2025.

5. All of the counselors denied changing the student's grades.

6. Respondent placed Petitioner on administrative leave on or about October 2, 2025.

7. Dr. Ibarra-Cantu interviewed Petitioner about the grade changes on October 9, 2025.

8. On October 9, 2025, investigator Ambrosio Galvan searched Petitioner's assigned office desk and, in her desk drawer, found Post-It notes with passwords that included other Hanna High School counselors' credentials, including Cisneros's and Escobedo's credentials.

9. On October 10, 2025, Computer Services Programmer Raquel Banda emailed Dr. Ibarra-Cantu and explained that her department had found that all counselors have summer access to "Entry/WD Vectors and access to update grades." Petitioner's student had two "vectors"² open for summer school in 2024 and 2025, despite the fact that the student did not need or take summer classes.³ On June 24, 2024, assistant principal Beckie Paz, who was the PEIMS administrator at the time, closed the first vector as a "no show" for the student. On June 9, 2025, Petitioner closed the second vector with a "999" delete entry. Ms. Banda stated in her email, "Only our department, Computer Services, has access to delete vectors. This leads me to believe the 2024–2025 vector may have been coded as "Delete" under the assumption it would be removed which was not the case."

10. The grade changes collectively raised the student's class rank from third to first between her sophomore and the end of her junior year.

² Both parties discuss "vectors," but neither clearly explain them. Based on the briefs' context and the board hearing transcript, vectors appear to be access pathways that, depending on the witness, are either controlled by registrars or accessible in late May of each school year to school counselors, who assist with summer school placement.

³ Respondent offers summer classes to students who need credit recovery. Petitioner's student had not failed any classes and did not need credit recovery.

11. On March 9, 2026, Respondent notified Petitioner by letter that the board had voted on March 4, 2026, to propose nonrenewal of her term contract, citing the following nonrenewal reasons:

The proposed nonrenewal is based on good cause, including failure to meet professional standards, failure to exercise sound professional judgment, and conduct fundamentally inconsistent with the best interest of the District. An investigation conducted during the 2025-2026 school year determined that grades were altered outside established registrar procedures. A forensic review further confirmed that the grade changes originated from your workstation using another counselor's login credentials. These unauthorized alterations directly affected class rankings, scholarship eligibility, and the emotional wellbeing of students. The investigations also substantiated the intentional misuse of credentials and efforts to conceal the activity.

...

In addition, your actions violated District policy as follows:

DFBB (LOCAL)

- #2 Failure to fulfill duties or responsibilities.
- #6 Failure to comply with Board policies or administrative regulations.
- #14 Failure to meet the standards of professional conduct.
- #19 Any activity, school connected or otherwise, that, because of publicity given it, or knowledge of it among students, faculty, or the community, impairs or diminishes the employee's effectiveness in the District.
- #23 Behavior that presents a danger of physical harm to a student or to other individuals.
- #26 Falsification of records or other documents related to the Districts [sic] Activities.
- #28 Misrepresentation of facts to supervisor or other District official in the conduct of District business.
- #33 Any reason that makes the employment relationship void or voidable, such as violation of federal, state, or local law.

Respondent also notified Petitioner that her conduct violated Policies DH (Legal), (Local), and (Exhibit), which set out standards of practice and ethics for educators.

12. Petitioner timely requested a hearing on the board's proposed nonrenewal action, pursuant to Texas Education Code section 21.207. The board heard Petitioner's appeal of the proposed action in a hearing conducted on April 28, 2026.⁴

13. After concluding the hearing, the board voted to nonrenew Petitioner's contract.

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

⁴ By agreement, the parties held the hearing outside of the fifteen-day period, pursuant to section 21.207(a).

DISCUSSION

Issues Presented

Petitioner presents three issues for the Commissioner's review:

1. Whether the board's decision is supported by substantial evidence;
2. Whether the board's decision is capricious; and
3. Whether the District's withholding, before the local hearing, of the documents underlying sole allegation deprived Petitioner of the rights guaranteed by Texas Education Code § 21.207(c).

Substantial Evidence

In her first issue, Petitioner argues that substantial evidence does not support the board's decision. In this case, the board conducted the nonrenewal hearing and did not elect to use the process available under Texas Education Code Chapter 21, Subchapter F. *Id.* § 21.207(b).

In a section 21.301(a) appeal of the board's nonrenewal decision, the Commissioner may not substitute his judgment for the board's unless its decision was arbitrary, capricious, or unlawful or unsupported by substantial evidence. Tex. Educ. Code § 21.303(a). This is not a high standard. In considering whether substantial evidence supports a decision, 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 analysis 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. Hou. Indep. Sch. Dist.*, 57 S.W.3d 646, 650 (Tex. App.—Houston [14th Dist.] 2001, pet. denied)); *see also Garza v. La Joya Indep. Sch. Dist.*, No. 046-R1-06-2022 (Comm'r Educ. 2022).

Petitioner argues that "the local record contains no substantial evidence that Petitioner made the [grade] changes." According to Petitioner, she had neither the authority nor the ability to change the student's grades because grade-change access is only created on campus administration's request, and there was no evidence that Petitioner submitted a grade-change

request to Principal Lambarri.⁵ Petitioner also points to some witnesses' testimony that counselors lacked access to student grades.

There is also record evidence, including Ms. Banda's statement and other witness testimony, that counselors *did* have access to student grades—at least temporary access to summer school vectors while setting up students who needed credit recovery. Where the evidence conflicts, and substantial evidence would support either a positive or negative finding on an issue, the Commissioner must affirm a board's decision and resolve any conflicts in the board's favor. *See Tex. Health Facilities Comm'n v. Charter Med.-Dall., Inc.*, 665 S.W.2d 446, 453 (Tex. 1984). In addition to evidence that counselors could access student grades, there is record evidence that Petitioner had previously accessed the student's records to make unauthorized schedule changes⁶ and that in 2024 and 2025, summers vector were opened for the student, who neither needed credit recovery nor attended summer school. Finally, there is evidence that after the student's grades were changed on June 9, 2025, Petitioner closed and tried to delete the student's summer vector.

Although there is contradictory evidence on counselors' grade access, the board is responsible for resolving conflicts in the evidence and testimony. The question before the Commissioner is not whether he believes the weight of the evidence supports the board's decision but whether more than a scintilla of record evidence supports it. On the latter question, the Commissioner finds in the affirmative.

Petitioner further argues that counselors had no remote access to physical campus workstations⁷ and that Respondent did not prove that she was at her own or Ms. Snodgrass's workstations in June 2025, when the student's grades were changed from those workstations. She argues that she presented the board with cell phone photo evidence with dates, times, and

⁵ Alternatively, Petitioner argues that if she and other counselors did have summer access to student grades, that would violate Texas Education Code section 28.0214(a), which limits grade issuances to classroom teachers. This point does not establish whether or not Petitioner had access to the student's grades but instead focuses on whether Respondent also independently engaged in conduct that violated Texas school laws.

⁶ Respondent also argues that in the student's freshman year, Petitioner improperly served as the student's counselor, where her relationship with the student precluded her from that service.

⁷ Petitioner points to testimony by Respondent's computer services director that no person can remotely access counselors' on-campus computers and testimony by Dr. Ibarra-Cantu that making changes remotely was a "physical impossibility."

geolocations that refute Respondent’s allegation that she was on campus the morning of June 9, 2025, when grades were changed using Ms. Snodgrass’s credentials. Notably, Petitioner was signed in at the Hanna High School campus on June 9, 2025, and Ms. Snodgrass was not present.⁸ There is conflicting evidence about Petitioner’s whereabouts, and the board acted within its authority in resolving that evidentiary conflict.⁹ That Petitioner was signed in to the campus, and the use of her workstation and possession of other counselors’ credentials, constitute substantial evidence for the finding that she made the grade changes.

In addition, Petitioner challenges the thoroughness of Dr. Ibarra-Cantu’s investigation and questions her statement that the police and Department of Homeland Security (DHS) provided her with the workstation data on which she relied. Petitioner argues that at the hearing, Dr. Ibarra-Cantu conceded that Respondent had not introduced original exhibits from the police or DHS and “identified no [police or DPS] person who performed the search.” Dr. Ibarra-Cantu testified about her investigation of the complaints and collaboration with other departments in obtaining forensic evidence. Respondent was not required to provide original reports from the police or DHS to support her testimony about her investigation. Petitioner had an opportunity to, and did, cross-examine Dr. Ibarra-Cantu about her investigation, and the board had discretion to consider what weight to assign Dr. Ibarra-Cantu’s investigation and conclusions.

Moreover, Petitioner’s argument that Respondent has “no proof whatsoever” that she was physically at her workstation changing the student’s grades overrelies on *direct* evidence. Direct proof, such as a video or an eyewitness placing Petitioner physically at the workstations and changing grades, is not required to support a fact finding that she changed the student’s grades. Facts may be established by either direct or circumstantial evidence. *See Russell v. Russell*, 865 S.W.2d 929, 933 (Tex. 1993). A fact is established by circumstantial evidence when it may be reasonably inferred from other facts established in the case. *Id.*

⁸ Petitioner argues that when Dr. Ibarra-Cantu interviewed her on October 9, 2025, she did not specify the dates and times that the grades changed, so Petitioner did not provide her evidence that she was off campus during the grade changes. Petitioner explained she had left campus that morning to fix the student’s hair for a dance.

⁹ In doing so, it may have questioned the veracity of Petitioner’s personal phone evidence in favor of the evidence that she was signed onto the campus on the date and time that the grades changed.

The record evidence establishes the following facts: Petitioner had access to the student's grades when counselors had temporary access to summer school "vectors." Petitioner had other counselors' credentials written on Post-It notes in her desk drawer. The student's grades were changed from Petitioner's and Ms. Snodgrass's workstations when Petitioner was signed in at the Hanna High School campus, and Ms. Snodgrass was assigned elsewhere for the summer. Twenty of Petitioner's students' grades were impermissibly changed during the 2024 and 2025 summer access periods. On June 9, 2025, Petitioner closed the student's summer vector and attempted to delete it. Petitioner's student, and no other, directly benefited from the grade changes, which elevated the student to class valedictorian. Hanna High School's administration only discovered the grade changes after the displaced students' parents raised complaints.

From these record-supported facts, the board reasonably infer that Petitioner changed the student's grades to enhance her daughter's standing. Although other inferences could be made from the record evidence,¹⁰ the question is whether the board's finding is based on more than a scintilla of evidence and is rational, not whether there is another plausible interpretation of the evidence. Where reasonable minds may differ on a finding for which a rational basis exists, that finding is supported by substantial evidence. The Commissioner overrules Petitioner's first issue.

Capricious Decision

In her second issue, Petitioner argues that the board's decision was capricious because it relied on "emotion and reputation rather than proof." Petitioner cites the displaced valedictorian's testimony to the board about the effects that her temporarily reduced rank had on her ability to apply to schools and on her physical and emotional health. Petitioner also argues that Respondent improperly relied on evidence of reputational harm to Hanna High School and its counseling department. According to Petitioner, this evidence was irrelevant to her nonrenewal hearing and rendered the board's decision capricious, as it was based on emotion.

¹⁰ Petitioner suggests that Principal Lambarri retaliated against the counselors, who had filed a complaint about her. To the extent this suggests that someone other than Petitioner, such as Principal Lambarri, changed the student's grades using counselors' credentials at their workstations, that scenario presents a very strained inference. The board was not required to follow it. In addition, the other counselors had no apparent motive or benefit to change the student's grades without Petitioner's knowledge or involvement.

Respondent's nonrenewal notice notified Petitioner that her conduct in changing the student's grades violated Policy DFBB (Local), which lists as a violation, "Any activity, school connected or otherwise, that, because of publicity given it, or knowledge of it among students, faculty, or the community, impairs or diminishes the employee's effectiveness in the District." The evidence regarding the grade changes' impact on Hanna High School's reputation in the community is relevant to this alleged policy violation. The nonrenewal notice also charged Petitioner with violating Policy DH (Local) and (Exhibit), which require employees to engage in ethical conduct toward students. The displaced valedictorian's testimony addressed Petitioner's violation of Policy DH and was relevant. Petitioner fails to show that the board's consideration of the grade changes' impact on Hanna High School's reputation and on students made its decision capricious. The Commissioner denies Petitioner's second issue.

Procedural Irregularity

In her third and final issue, Petitioner argues that Respondent improperly withheld documents that she had requested from Respondent. In her brief, she argues that she had sought documents related to "the access controls," "the audit logs," and "the investigative materials bearing on who possessed the access necessary to change the grades," citing her Request for Documents in the nonrenewal proceedings below. Petitioner complains that instead of producing all the requested documents, Respondent requested an Attorney General Opinion under the Public Information Act's criminal investigation exception to disclosure for the three categories described above. She argues that Respondent's alleged wrongful withholding of documents deprived her of a meaningful opportunity to hear and test the evidence against her, violating Education Code section 21.207(c).

In response, Respondent argues that Petitioner did not raise this issue at her nonrenewal hearing and thus waived it for the Commissioner's review. Respondent also argues that it produced most of the documents Petitioner requested but properly requested an Attorney General opinion on those documents that implicated the criminal investigation.

While Petitioner points to her April 17, 2026 Request for Documents in the local record (the only portion of the local record she cites on this issue), she cites nothing to show that she objected to or raised the issue of withheld documents to the board at her nonrenewal hearing. The testimony reflects that witnesses testified about audit logs and counselors’ access to grades, but Petitioner did not raise the issue that she now asserts, which is that Respondent improperly withheld documentary evidence she requested in discovery by seeking an Attorney General ruling. Although Petitioner points out that she “raised” this issue through her discovery request, she did not raise it to the board at any point in her nonrenewal hearing.

If, as Petitioner argues, the withheld documents “went to the dispositive question—who possessed the access necessary to make the changes,” she gave the board no opportunity to address that issue. The Commissioner has long held that issues not raised to the board are waived for appellate review. *See Gallont v. Hou. Indep. Sch. Dist.*, No. 019-R1-11-2017 (Comm’r Educ. 2017) (addressing waiver history) (citing *Whitaker v. Moses*, 40 S.W.3d 176, 178 (Tex. App.—Texarkana 2001, no pet.)). The Commissioner cannot find that the board erred by failing to consider an issue that Petitioner did not raise before it. Although Petitioner raised the issue of withheld documents in her *pleading*, that necessarily followed the board’s decision. Addressing an issue that Petitioner raises for the first time on appeal would circumvent the board as the initial decisionmaker on that issue. Petitioner’s failure to raise the issue of improperly withheld documents at her April 28, 2026 evidentiary hearing waives that issue. The Commissioner overrules Petitioner’s final issue.

Conclusion

For the reasons above, 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. *See* Tex. Educ. Code § 21.301(a).

2. Substantial evidence requires more than a mere scintilla of evidence. *Goodie v. Hou. Indep. Sch. Dist.*, 57 S.W.3d 646, 650 (Tex. App.—Houston [14th Dist.] 2001, pet denied). Where the evidence conflicts, and substantial evidence would support either a positive or negative finding on an issue, the Commissioner must affirm a board’s decision and resolve any conflicts in the board’s favor. *Tex. Health Facilities Comm’n v. Charter Med.-Dall., Inc.*, 665 S.W.2d 446, 453 (Tex. 1984).

3. Facts may be established by either direct or circumstantial evidence. *Russell v. Russell*, 865 S.W.2d 929, 933 (Tex. 1993). A fact is established by circumstantial evidence when it may be reasonably inferred from other facts established in the case. *Id.*

4. Substantial evidence supports the board’s decision that Petitioner had access to and changed the student’s grades.

5. The board’s decision is not capricious.

6. Petitioner did not raise her discovery-based objections in her hearing before the board and thus waived any complaints about Respondent’s failure to produce documents for the Commissioner’s review. *Gallont v. Hou. Indep. Sch. Dist.*, No. 019-R1-11-2017 (Comm’r Educ. 2017).

7. The Commissioner denies Petitioner’s appeal.

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 29th day of June 2026.

Mike Morath Digitally signed by Mike Morath
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MIKE MORATH
COMMISSIONER OF EDUCATION