

LANDI FRIEMEL,	§	BEFORE THE
Petitioner,	§	
	§	
v.	§	COMMISSIONER OF EDUCATION
	§	
TOLAR INDEPENDENT SCHOOL	§	
DISTRICT,	§	
Respondent.	§	THE STATE OF TEXAS

DECISION OF THE COMMISSIONER

Petitioner Landi Friemel, a former employee of Respondent Tolar Independent School District, appeals to the Commissioner of Education challenging Respondent's school board's February 11, 2026 decision to nonrenew her term contract. Respondent denies error and argues that Petitioner prematurely appealed and also failed to exhaust her administrative remedies.

Adrienne Butcher is the Administrative Law Judge assigned to this case. Petitioner proceeds *pro se*. Respondent is represented by its counsel, Shellie H. Crow, of Walsh Gallegos Kyle Robinson & De Los Santos P.C., in Austin, Texas.

Because Petitioner filed a premature appeal, her appeal is dismissed for lack of jurisdiction and, in addition, for failure to exhaust her administrative remedies. *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. Respondent employed Petitioner as a teacher during the 2025–2026 school year.
2. On October 20, 2025, Respondent's school board voted to propose the nonrenewal of Petitioner's contract.
3. Respondent attempted to notify Petitioner of its proposed action through legal counsel who Petitioner had retained. Upon discovering that Petitioner's counsel no longer represented her, Respondent notified Petitioner of its proposed action after the holidays, on January 12, 2026.

4. Petitioner made a January 27, 2026 written “conditional request for hearing” before the board. Respondent notified Petitioner that it had set her nonrenewal hearing before the board for February 11, 2026.

5. Petitioner appealed to the Commissioner on February 9, 2026, citing Texas Education Code section 21.301 in her jurisdictional statement. Based on Petitioner’s pleading, the Agency docketed Petitioner’s appeal under Texas Education Code, Chapter 21, Subchapter G.

6. By February 11, 2026 email, Petitioner notified Respondent that she would not attend the nonrenewal hearing set that day before the board.

7. The board held the nonrenewal hearing on February 11, 2026, and voted to nonrenew Petitioner’s contract. Petitioner did not attend the nonrenewal hearing.

8. Petitioner has not filed a grievance raising any procedural or school law violations.

9. The Administrative Law Judge reviewed the pleadings and issued a February 3, 2026 Notice of Intent to Dismiss Appeal for Lack of Jurisdiction. Petitioner filed a response to the Notice, which was considered.

DISCUSSION

The Commissioner’s jurisdiction

In her pleading, Petitioner asserts jurisdiction under Texas Education Code section 21.301. Accordingly, the Agency docketed this appeal under Education Code Chapter 21, Subchapter G (section 21.301). Petitioner also references Texas Education Code section 7.057 on page 17 of her pleading. Section 7.057 and 21.301 appeals are subject to incompatible statutory deadlines and procedures and cannot be brought in the same filing. *See* Tex. Educ. Code § 7.057(e)(1). Although a party can file separate appeals under these statutes, repleading to proceed under section 7.057 would be futile, as discussed below.

The record reflects two primary issues regarding the Commissioner’s jurisdiction. First, Petitioner filed a premature appeal. Second, after filing her premature appeal, Petitioner failed to attend her February 11, 2026 nonrenewal hearing before the board, as reflected in her email to Respondent on that date. These are addressed in turn below.

Premature appeal

Jurisdiction for a section 21.301 appeal must, by law, be based on a school board decision. *See* Tex. Educ. Code § 21.301(a). Appeals filed before a board has made its final decision do not invoke the Commissioner’s jurisdiction and are not jurisdictional “placeholders” for subsequent decisions. *See Walker v. Hitchcock Indep. Sch. Dist.*, No. 012-R2-1109 (Comm’r Educ. 2009) (“A premature filing in an administrative appeal will not serve to invoke the jurisdiction of a tribunal even if a filing that was made later would invoke the tribunal’s jurisdiction.” (citing *Marble Falls Indep. Sch. Dist.*, 275 S.W.3d 558, 566–67 (Tex. App.—Austin 2008, pet. denied))).

Petitioner filed her appeal two days before the board’s scheduled hearing on its then-proposed nonrenewal of her contract. Because at that point, the board had only set the matter for the hearing that Petitioner had requested, she appealed from an anticipated rather than a final decision. As a school board decision is a statutory prerequisite that had not yet occurred, the Commissioner lacked jurisdiction over Petitioner’s appeal when she filed it on February 9, 2026. Prematurely filed appeals do not establish or preserve jurisdiction. *See id.* Accordingly, Petitioner’s section 21.301(a) appeal must be dismissed for lack of jurisdiction. Likewise, any appeal Petitioner asserts under section 7.057 must also be dismissed as premature. *See Egbune v. Hous. Indep. Sch. Dist.*, No. 060-T10-06-2024 (Comm’r Educ. 2024).

Although a party who files a premature appeal that is dismissed for lack of jurisdiction can generally appeal once the party obtains a board action or decision, Petitioner also did not exhaust her administrative remedies before the board, which is an alternate dismissal basis.

Failure to exhaust administrative remedies

In her February 11, 2026 email to Respondent, Petitioner stated she would not attend the board’s nonrenewal hearing set for that date and noted that she had already appealed to the Commissioner. Petitioner then did not attend the board’s hearing or present her case against nonrenewal to the board.

A hearing before the board, as the school district’s governing body authorized to remedy errors, is an administrative remedy. A party’s failure to attend a nonrenewal hearing is a failure to

exhaust that party's administrative remedies. *Acosta v. United Indep. Sch. Dist.*, No. 047-R2-07-2020 (Comm'r Educ. 2020). Because Petitioner did not attend her hearing, she did not exhaust her administrative remedies regarding her nonrenewal. *See id.*

Respondent also argues that Petitioner failed to exhaust any potential school law claims governing nonrenewal procedures¹ by failing to raise them through a grievance under Respondent's grievance policy. These issues were not presented to the board for review through the nonrenewal hearing or a grievance appeal, and consequently, the board cannot be found to have violated school laws not raised before it. Petitioner could not replead to proceed under section 7.057 because that would be futile, as she did not exhaust any school law claims that she could have brought under section 7.057. *See* Tex. Educ. Code § 7.057(a)(2)(A).

Conclusion

For the reasons above, Petitioner's appeal is dismissed without a merits hearing. 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 Administrative Law Judge, I make the following Conclusions of Law:

1. The Commissioner lacks jurisdiction over this appeal. *See* Tex. Educ. Code §§ 7.057, 21.301.
2. Prematurely filed appeals do not preserve jurisdiction for subsequent school board actions that would establish jurisdiction; they are not jurisdictional placeholders. *Walker v. Hitchcock Indep. Sch. Dist.*, No. 012-R2-1109 (Comm'r Educ. 2009); *Marble Falls Indep. Sch. Dist.*, 275 S.W.3d 558 (Tex. App.—Austin 2008, pet. denied).
3. Petitioner failed to exhaust her administrative remedies for her section 21.301 appeal when she failed to attend her February 11, 2026 hearing before Respondent's board.

¹ In her pleading and related to jurisdiction under Texas Education Code section 7.057, Petitioner asserts violations of Texas Education Code sections 21.211 and 21.253.

4. Repleading under Texas Education Code section 7.057 would be futile. Petitioner did not file a grievance under Respondent's employee grievance policy and did not exhaust her administrative remedies for her claims based on Texas Education Code sections 21.211 and 21.253. *See* Tex. Educ. Code § 7.057(a)(2)(A).

5. Petitioner's appeal is dismissed without a merits hearing for lack of jurisdiction and for failure to exhaust administrative remedies. 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 13th day of March 2026.

Mike Morath

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MIKE MORATH
COMMISSIONER OF EDUCATION