

IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
CENTRAL PANEL BUREAU

<p>Michele Hunsucker,  Appellant,  vs.  Davenport Community School District  Respondent.</p>	<p>Case No. 26DOE0010 DE Admin. Doc. No. 5237  <b>ORDER GRANTING MOTION TO DISMISS</b></p>
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On February 12, 2026, Appellant Michele Hunsucker filed an appeal of a decision issued by the Davenport Community School District Board of Education (School Board) to expel her daughter, S.W. On March 4, 2026, the School Board filed a pre-answer Motion to Dismiss, seeking to have the present matter dismissed for lack of jurisdiction. Specifically, the School Board argues that the Appellant's appeal was not timely filed. Oral argument was heard on the motion on March 23, 2026 and the motion to dismiss is fully submitted.

**I.**

When reviewing a motion to dismiss, the record is drawn from the filings in the record as supplemented by any agreement of the parties. *See generally, Steve Ebrich, Appellant and State of Iowa (Department of Transportation), Appellee Scott Geer, Appellant and State of Iowa (Department of Transportation), Appellee, 2022 WL 2208564, at \*1* (“However, a court may consider matters outside the pleadings where facts arise after a plaintiff filed the petition, when parties do not dispute the facts, and when the issues in the motion to dismiss do not concern the adequacy of the petition to state a claim for relief.”).

The Appellant is the parent of S.W., a tenth grade student at Davenport North High School (the High School). On January 5, 2026, the School Board held a meeting. After beginning in open session, the School Board moved into closed session to discuss whether S.W. should be expelled from the High School due to an incident that occurred on December 19, 2025. The Appellant was in attendance during the closed session portion of the January 5, 2026 meeting. After deliberating for approximately thirty minutes in closed session, the School Board returned to open session. During open session at the January 5, 2026 meeting, the School Board rendered its decision that S.W. assaulted a staff member and concluded that S.W. should be expelled through the end of the 2025-26 school year with services. Ex. A.

The Appellant was not present when the School Board rendered its decision in open session. She was, however, informed of the School Board's decision on January 8, 2026 when she discussed the issue with a School Board member. Hunsucker Testimony.

The School Board issued a written decision regarding the expulsion on January 7, 2026. The School District sent its written decision via certified mail. The United States Postal Service (USPS) attempted delivery of the letter to the Appellant's address on January 20, 2026. Ex. C. USPS sent a reminder to the

Appellant on January 25, 2026 to reschedule the delivery of the certified letter. The Appellant failed to reschedule the delivery of the letter and the letter was returned to the School Board on February 19, 2026. Ex. C.

On January 26, 2026, the Appellant requested a written copy of the School Board's decision. On February 12, 2026, the Appellant filed an appeal with the State Board of Education (State Board) regarding the expulsion of S.W. The Appellant's appeal was filed 38 days after the School Board announced its decision at the January 5, 2026 meeting, 35 days from when the Appellant learned of the School Board's decision, 23 days after USPS attempted delivery of the School Board's written decision, and the same day the Appellant states that she received a written copy of the decision.

On March 4, 2026, the School Board filed a motion to dismiss, alleging that this Tribunal lacks jurisdiction because the appeal was not filed within the thirty-day timeline for appealing the decision of a school board as provided in Iowa Code section 290.1. The School Board argues that it rendered its decision on January 5, 2026 when it orally announced its decision and the Appellant filed her appeal 38 days after the decision was announced. *See* Motion to Dismiss.

In response, the Appellant argues that she did not have notice of the School Board's decision until February 12, 2026 when she received the written decision. She further argues she did not know the deadline for filing an appeal. Therefore, she argues that her appeal filed on February 12, 2026 is timely.

## II.

### A. Legal Background

Rules governing the “time for appeal are mandatory and jurisdictional.” *Concerned Citizens of S.E. Polk Sch. Dist. v. City Dev. Bd.*, 872 N.W.2d 399, 402 (Iowa 2015). Pursuant to Iowa Code section 290.1, an affected pupil or the parent or guardian of an affected pupil who is aggrieved by a school board decision may appeal the decision to the state board of education within “thirty days after the rendition of the decision or the making of the order.” Iowa Code 290.1. If an affidavit is not timely filed to the state board of education, the state board has no authority or jurisdiction to hear the matter. *Id.* Because the thirty-day deadline is jurisdictional, this is so even when an affidavit is only late “by a single day.” *Id.*; *Stuart v. City of Dubuque Bldg. Code Advisory & Appeal Bd.*, 19 N.W.3d 874 (Iowa Ct. App. 2025); *Qualley v. Chrysler Credit Corp.*, 261 N.W.2d 466, 468 (Iowa 1978); *In re. J.H., A.H. & T.H.*, 16 D.O.E. 336 (March 1, 1999).

At issue here is when the School Board “rendered” its judgment or “made” its order regarding S.W.'s expulsion thus triggering the thirty-day time period within which the Appellant had to file her affidavit of appeal. In *Bauman v. Maple Valley Community School Dist.*, 649 N.W.2d 9 (Iowa 2002) the Iowa Supreme Court reviewed when a judgment is “rendered” under a different Iowa Code section, Iowa Code section 62.20. Section 62.20, like Section 290.1, provides a filing deadline based on when a judgment is “rendered.” In *Bauman*, an election court orally announced its decision, but a final decision was not signed by all three judges until a later date. The parties disputed whether the judgment was “rendered” when the election court voted and announced its decision or when it signed the written judgment. The Supreme Court held that because there was no requirement for the court's decision to be filed with a clerk or entered on the court record, the decision was rendered when it was orally announced and the writing was merely evidence that the decision had been made. *Id.* at 14. The court noted that “[r]endition of judgement and entry of judgment are two distinct

acts.” *Id*; see also 49 C.J.S. *Judgments* 76, at 150; 46 Am.Jur.2d *Judgments* 125, at 469; *Burke v. Burke*, 119 N.W. 129, 130 (1909) (“The rendition of a judgment is a judicial act, and the entry upon the record is purely ministerial.”).

Here, Section 290.1 requires an appeal to be filed within thirty days of either the “rendition of a judgment” or the “making of an order.” There is nothing in Section 290.1 that requires the judgment or order to be in writing or, more importantly, *received* by the aggrieved party before the judgment is considered “rendered” or “made.” Therefore, under the reasoning expressed in *Bauman*, the “rendering” of the School Board’s decision occurred on January 5, 2026 when it orally announced its decision to expel S.W. The Appellant untimely filed her appeal 38 days after the School Board orally announced its decision.

Notwithstanding the above, even if a decision by a school board must be in writing before it is considered “rendered” under Section 290.1, the School Board in this case produced a written record of its decision on January 7, 2026. See Case File. The Appellant filed her appeal 36 days after the School Board’s decision was reduced to writing. As such, her appeal was still filed untimely. See *Stuart v. City of Dubuque Building Code Advisory and Appeal Bd.*, 2025 WL 271359, at \*3 (Iowa Ct. App. 2025) (finding that an appeal deadline began to run when the Board’s decision was final which occurred when it issued a written decision and rejecting the petitioner’s argument that the clock should not have started until the “earliest day that he could have *received* the decision by certified mail.”) (Emphasis in original).

In her resistance, the Appellant argues, in essence, that the “discovery rule” tolls the running of the filing deadline because she did not receive notice of the School Board’s decision until February 12, 2026 when she received the School Board’s written letter. See Resistance. In general, the “discovery rule” provides that certain actions or claims do not accrue until the plaintiff “discovers or should have discovered the injury to his interest,” *Rathje v. Mercy Hosp.*, 745 N.W.2d 443, 451 (Iowa 2008). The “discovery rule” has been applied by Iowa courts in cases such as negligence and medical malpractice actions.

Setting aside the issue of whether the discovery rule applies in appeals under Section 290.1, the discovery rule is not available in this case to toll the running of the filing requirements because the Appellant had notice of the School Board’s decision on, at the latest, January 8, 2026. The Appellant testified at the hearing on the Motion to Dismiss that she was in attendance at the January 5, 2026 school board hearing, participated in the closed session of the meeting, and was aware that the School Board’s decision to expel her daughter, S.W., on January 8, 2026 after a telephone call with a School Board member. Even if the discovery rule were to apply in this case, the thirty day deadline for filing an affidavit would have expired on February 7, 2026, or thirty days after January 8, 2026 when the Appellant had knowledge of the School Board’s decision. Therefore, even though the Appellant had not received a written copy of the School Board’s letter, she was aware of School Board’s decision and could have filed her appeal anytime on or after January 8, 2026. See *Stuart*, 2025 WL 271359, at \*3.

In regards to the Appellant’s assertion that she was unaware of the appeal deadlines, in addition to being contained in the Iowa Code, the Department of Education lists filing deadlines on its website. See <https://educate.iowa.gov/administrative-appeal-procedures#appeals-to-the-state-board-of-education>. There are no exceptions to filing requirements due to an appellant’s failure to know appeal timelines. See generally, *Qualley*, 361 N.W.2d at 468.

The Appellant's appeal was filed 38 days after the School Board rendered its decision regarding S.W. It was filed 35 days after the Appellant had knowledge of the School Board's decision. As such, the Appellant's appeal is untimely. Accordingly, the Motion to Dismiss is GRANTED.

**ORDER**

The Motion to Dismiss is GRANTED. The Appellant's appeal is DISMISSED.

IT IS SO ORDERED.

cc:

Michele Hunsucker, 1616 West High St., Davenport, IA 52804, [mashell2908@gmail.com](mailto:mashell2908@gmail.com) (By Mail and Email)

Wendy Meyer, Attorney for Davenport Community School District (By AEDMS)

Rebecca Griglione, DOE (By AEDMS)

Rachel Bosovich, DOE (By AEDMS)

**Case Title:** IN RE: S.W., A CHILD BY MICHELE HUNSUCKER, APPELLANT  
V. DAVENPORT COMMUNITY SCHOOL DISTRICT (5237)  
**Case Number:** 26DOE0010  
**Type:** Order

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Rachel D Morgan". The signature is written in a cursive style with a large initial 'R' and 'M'.

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Rachel Morgan, Administrative Law Judge

**BEFORE THE IOWA STATE BOARD OF EDUCATION**

In re Expulsion of S.W.,	)	
Michele Hunsucker,	)	
	)	
Appellant,	)	Case No. 26DOE0010
	)	DE Admin Doc. No. 5237
vs.	)	
	)	FINAL DECISION
Indianola Community School District,	)	
Respondent.	)	

On March 24, 2026, the administrative law judge issued a proposed decision, which affirmed the Respondent’s decision in this matter. The time to appeal the proposed decision has passed, and no appeal was filed. The proposed decision is adopted, as written. Iowa Admin. Code r. 281-6.6(3). PROPOSED DECISION ADOPTED; RESPONDENT’S DECISION AFFIRMED.

**This is final agency action in a contested case proceeding.**

**Any party that disagrees with the Department’s decision may file a petition for judicial review under section 17A.19 of the Iowa Administrative Procedure Act. That provision gives a party who is “aggrieved or adversely affected by agency action” the right to seek judicial review by filing a petition for judicial review in the Iowa District Court for Polk County (home of state government) or in the district court in which the party lives or has its primary office. Any petition for judicial review must be filed within thirty days of this action, or within thirty days of any petition for rehearing being denied or deemed denied.**

Dated: May 14, 2026

Iowa State Board of Education, by:

John Robbins, President

CC by certified mail to parties and counsel