## IOWA DEPARTMENT OF EDUCATION (Cite as ■ D.o.E. App. Dec. ■ )

v. ) Gladbrook-Reinbeck Community School ) Admin. Doc. No. 5053 School District, ) Appellee. )	In re: Dissolution of a District,  M.K.,  Appellant,	) ) ORDER OF DISMISSAL )
	Gladbrook-Reinbeck Community School School District,	) Admin. Doc. No. 5053

The Appellant, on behalf of his minor children, filed an affidavit of appeal under Iowa Code section 290.1, which was received by the State Board of Education on September 26, 2016. Iowa Code section 290.1 permits an appeal to the State Board of Education from a decision or order of the Board of Directors of a school corporation. The Appellant appeals the August 23, 2016, decision of the Gladbrook-Reinbeck Community School District ("GRCSD") Board ("Board") finding that 1) there is evidence which calls into question the validity of the signatures on the petition for dissolution, 2) that evidence was sufficient to deem the petition does not meet legal requirements, and thus is not valid, and 3) that the establishment of the dissolution commission and initiation of the dissolution process void and of no further force and effect. Thus, the Board rejected a Dissolution Proposal submitted by the Dissolution Committee appointed pursuant to Iowa Code section 275.51. However, on October 25, 2016, another Petition for Dissolution was submitted to the District to cure the defects in the original petition. The Appellant signed the new petition.

On October 26, 2016, the Appellee's filed a Motion for Summary Judgment and a Motion to Dismiss on the basis that the appeal is moot given the filing of a new petition. Oral Arguments were held on the motions on November 18, 2016. At the time of oral argument the parties were ordered to provide additional briefs by November 23, 2016, regarding the State Board's jurisdiction to hear an appeal relating to a proceeding under Iowa Code Chapter 275 – Dissolutions of School Districts. The parties cannot confer subject matter jurisdiction on a court, rather it is conferred by statute. *Schott v. Schott*, 744 N.W.2d 85, 87 (Iowa 2008). Lack of subject matter jurisdiction can be raised at any time. *Id.* at 88.

After reviewing the arguments and relevant law the undersigned finds that the State Board does not have jurisdiction under 290.1 to hear an appeal relating to the Dissolution of a School District under Iowa Code Chapter 275 for the reasons stated.

Iowa Code section 290.1 provides that:

An affected pupil, or the parent or guardian of an affected pupil who is a minor, who is aggrieved by a decision or order of the board of directors of a school corporation in a

matter of law or fact, or a decision or order of a board of directors under section 282.18, subsection 5, may, within thirty days after the rendition of the decision or the making of the order, appeal the decision or order to the state board of education[.]

The State Board has previously ruled that in order to be an aggrieved party there must be a direct and immediate impact from the decision, as opposed to speculation. *In re Pam Rohlk*, 11 D.o.E. App. Dec. 20, 22 & n. 2 (1994); see also In re Dissolution Commission Appointments, 27 D.o.E. App. Dec. 733 (2016). Simply being affected indirectly or remotely is not sufficient. *Id.* First, we note that the decision of the Board to reject the Petition and the Dissolution Commission's proposal did not have an articulated direct and immediate impact on the Appellant or his minor children. Thus, we do not find the Appellant's children are aggrieved under the statute. Furthermore, a new petition has been filed with the District to correct any errors perceived from the first petition. Thus, the dissolution process is still underway. Based on these facts, the Appellant's arguments are a combination of unripe and moot. "A case is ripe for adjudication when it presents an actual, present controversy, as opposed to one that is merely hypothetical or speculative." State v. Wade, 757 N.W.2d 618, 626 (Iowa 2008). The rationale for ripeness is to prevent courts from entangling themselves in disagreements over administrative policies and to avoid premature adjudication of cases until an administrative decision has been made and the effects felt in a concrete way on the parties. Id. "A case is moot if it no longer presents a justiciable controversy because the issues involved are academic or nonexistent." Homan v. Branstad, 864 N.W.2d 321, 228 (Iowa 2015) (quoting Iowa Bankers Ass'n v. Iowa Credit Union Dep't, 334 N.W.2d 439, 442 (Iowa 1983)).

Consequently, we find the State Board does not have jurisdiction to hear this appeal under Iowa Code section 290.1. The request for appeal is therefore denied and the case is dismissed. This is a final agency action for purposes of Iowa Code chapter 17A. **The hearing scheduled for Wednesday, February 8, 2017 is cancelled.** 

<u>January 20, 2017</u>	(
Date	Nicole M. Proesch, J.D.
	Administrative Law Judge
Date	Charles C. Edwards Jr., Board President
	State Board of Education

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