

IOWA DEPARTMENT OF EDUCATION  
(Cite as 27 D.o.E. App. Dec. 694)

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<i>In re Expulsion of M.K.</i>	)	
	)	
R.K.,	)	
	)	
Appellant,	)	DECISION
	)	
v.	)	
	)	
West Des Moines Community	)	Admin. Doc. No. 5015
School District,	)	
	)	
Appellee.	)	

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This matter came before the Iowa State Board of Education (Board) at its regularly scheduled meetings on November 18, 2015 and December 14, 2015. Appellant filed an appeal of the West Des Moines Board of Education decision. The State Board reviewed both the local decision and the proposed decision of Administrative Law Judge Nicole Proesch. That proposed decision is attached hereto and incorporated by this reference.

After reviewing the briefs and motions filed by counsel, having discussed this matter in open session, and being fully advised in the premises, a majority of the Board modifies the proposed decision as follows.

The motion to dismiss for lack of jurisdiction is overruled. The Board finds that under these unique circumstances, the Board has jurisdiction over this matter under Iowa Code section 290.1 (2015).

Both Iowa Code section 290.1 and Department rules require an appeal to be initiated by filing an affidavit. This requirement is jurisdictional and cannot be waived by the Board—even for good cause. Here, Appellant filed a letter signed by both himself and his attorney. In a footnote, the letter urged the Board to treat the filing as his affidavit. The letter was not

stylized as an affidavit nor is it in a form customarily used for affidavits.

While the Appellee asserts that Appellant's failure to file a "traditional" affidavit is dispositive of this appeal, the Board disagrees. "No technical form for motions is required." 281 IAC 6.6(1). The failure to caption the letter as an affidavit is not dispositive and does not deprive this Board of jurisdiction.

More importantly, the letter conformed to all the substantive requirements for filing an appeal—namely, it "set forth the facts, any error complained of, or the reasons for the appeal in a plain and concise manner." 281 IAC 6.3(1). The letter was further signed by the appellant as required by 281 IAC 6.3(1).

The Iowa Supreme Court has rejected hyper-technical compliance with the statutory requirements for filing an appeal in judicial review actions. The Court has determined that only substantial compliance, not strict or literal compliance, is necessary to invoke the court's jurisdiction. *Brown v. John Deere Waterloo Tractor Works*, 423 N.W.2d 193, 194 (Iowa 1988); see also *Birchansky v. Iowa Dep't of Pub. Health*, No. 12-1827, 2013 WL 3830196 (Iowa Ct. App. July 24, 2013). "Substantial compliance is said to compliance in respect to essential matters necessary to assure the reasonable objectives of the statute." *Sims v. HCI Holding Corp.*, 759 N.W.2d 333, 338 (Iowa 2009).

Appellant's letter substantially complied with the requirements of Iowa Code 290.1 and 281 IAC 6.3(1). The letter met the substantive requirements for an appeal and reasonably appraised the school district and the Board as to the basis of the appeal. As a result, this Board has jurisdiction to consider the appeal.

Although this Board overruled the proposed decision on the procedural ground, we affirm Judge Proesch's decision on the merits. We, however, want to clarify the sanction imposed by the West Des Moines Community School District.

On May 27, 2015, West Des Moines Community School District voted to suspend M.K for the remainder of the 2014-2015 school year

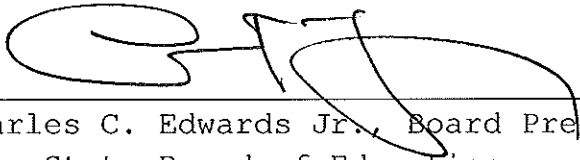
and to expel M.K. for the first semester of the 2015-2016 school year. The District furthered suspended M.K. for the first quarter of the second semester of the 2015-2016 school year and placed him in an alternate educational setting. Thereafter M.K. **may be readmitted** to the regular program.

**DECISION**

For the forgoing reasons, Judge Proesch's proposed decision is MODIFIED IN PART.

Appellee's Motion for Summary Judgment is GRANTED. All other motions currently pending are moot and are therefore DENIED.

1/21/2016  
Date

  
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Charles C. Edwards Jr., Board President  
State Board of Education