

IOWA DEPARTMENT OF EDUCATION
(Cite as 28 D.o.E. App. Dec. 532)

<i>In re: Personnel Decision,</i>)	
)	
N.S.,)	
)	ORDER ON MOTION
Appellant,)	TO DISMISS
)	
v.)	
)	
West Marshall Community School District,)	Admin. Doc. No. 5079
)	
Appellee.)	

BACKGROUND

On January 5, 2018, this agency received an affidavit of appeal from the Appellants herein. The Appellant is the Mother of B.S. a student at West Marshall High School (“WMHS”) in the West Marshall Community School District (“District”). It was not clear from the affidavit what relief the Appellant sought. A prehearing scheduling conference was held on January 17, 2018.

The Appellant was self-represented. The District was represented by Attorney John Veldy. No testimony was obtained during the conference. The purpose of the call was to set a date for a hearing and any prehearing motions. The Appellee indicated it would be filing a Motion to dismiss the appeal for lack of jurisdiction. Deadlines for motions and responses were set. On January 18, 2018, the Appellee filed a Motion to Dismiss. The Appellants did not file a response.

UNDISPUTED FACTS

The Affidavit of appeal signed by B.S. asks the State Board to reconsider the decision of the West Marshall Community School District Board (“Board”) to maintain the high school girls’ basketball coach. The Affidavit explains why B.S. believes this decision was unjust due to alleged bullying, harassment, and retaliation by the coach.

The District’s Motion to Dismiss outlines the following facts which the Appellant has not responded to nor disputed:

On December 2, 2017, the Appellant filed a complaint with the District regarding the girls’ basketball coach alleging that he had engaged in bullying and harassment toward B.S. during practice on November 28, 2017. The District completed a bullying investigation on an administrative level and not on a board level. Thus, no board decision was made regarding the investigation.

As a result of the complaint, administration advised the coach that he had engaged in insubordinate conduct. On December 12, 2017, the coach requested in writing that the charge of insubordination be heard by the Board in closed session pursuant to Iowa Code section 279.16, which allows a teacher or a coach to have a private hearing regarding employment issues. The hearing was conducted on December 13, 2017. After the hearing, the Board reconvened and voted to continue the coach's contract.

On January 5, 2018, the Appellant filed a timely appeal. The Appellant is requesting that the State Board overturn the decision of the Board to maintain the coach in his position. The Affidavit of appeal does not detail any other decisions that were made by the Board affecting this student. The Board has not made any decisions regarding the bullying and harassment complaint filed by B.S. from which B.S. can appeal.

CONCLUSIONS OF LAW

I. Standing

Iowa Code section 290.1 states: "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 . . . may, within thirty days after the rendition of the decision or making of the order, appeal the decision or order to the State Board of education." Thus, in order to have standing to appeal a local board decision the Appellant must show that she has been aggrieved.

The Iowa Supreme Court has provided the following test for "aggrievement."

In *City of Des Moines v. PERB*, we approved a two part test for generally determining when a party is aggrieved or adversely affected: 1) the party must demonstrate a 'specific, personal, and legal interest' in the subject matter of the decision, and 2) the party must show this interest has been 'specially and injuriously affected by the decision.'

Southeast Warren Comm. Sch. Dist. v. Department of Pub. Instr., 285 N.W.2d 173, 176 (Iowa 1979).

In this appeal the Appellant alleges no "special injury" which she will sustain as a direct result of the Board's decision. The Board's decision only directly impacts the coach and his employment status. It was not directly related or affecting the student in this case. Although the Appellant may be indirectly affected by this decision, this is not enough. The coach here would meet the test; however, the Appellant does not.

II. Jurisdiction

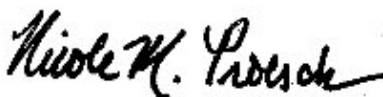
Personnel decisions of local boards do not legally aggrieve students; therefore, they are not subject to appeal under Iowa Code section 290.1. *In re Appeal of Complaints against District Staff*, 22 D.o.E. App. Dec. 290 (2004). Even assuming *arguendo* that B.S. met the "aggrievement test," the State Board lacks jurisdiction to decide the merits of this appeal. The legislature has given the statutory authority to review teacher contracts and terminations to a different forum

pursuant to Iowa Code sections 279.15 through 279.18. This statutory scheme sets out legal remedies for teachers over contract disputes. This scheme involves the local board and the teacher. If either party is not satisfied with the decision it may be appealed to District Court. The State Board of Education has no role to play. Thus, the appeal procedures to the State Board set out in Iowa Code section 290.1 are not available to the Appellant.

CONCLUSION

For the foregoing reasons, the Appellee's Motion to dismiss the above-captioned matter is granted and the appeal is dismissed.

IT IS SO ORDERED.



February 16, 2018

Date

Nicole M. Proesch, J.D.
Administrative Law Judge