

STATE DEPARTMENT OF EDUCATION
(Cite as 16 D.o.E. App. Dec. 205)

<i>In re Petition by Mike & Lori DeBerg</i>	:	DENIAL to REQUEST
<i>for a Declaratory Ruling on Ackley-</i>	:	PETITION FOR
<i>Geneva Community School District</i>	:	DECLARATORY RULING

Mike & Lori DeBerg
12089 C Street
Ackley, IA 50601

Dear Mr. & Ms. DeBerg:

Your petition for Declaratory Ruling filed on April 22, 1998, requested a declaratory ruling on Ackley-Geneva School Board's good conduct policy.

Pursuant to the provisions of 281 – Iowa Administrative Code 3.5, this agency may refuse to issue a declaratory ruling for good cause. The definition of “good cause” includes the following reason: “The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.” 281 – IAC 3.5(5). This reason constitutes good cause for the denial of this petition for declaratory ruling because the procedures for an appeal brought under Iowa Code §290 would more appropriately address the application of this policy in a factual context.

As you know, the Department issued a Declaratory Ruling on the Storm Lake good conduct policy in October 1994. (*See*, Declaratory Ruling #48, attached.) Although that declaratory ruling did not specifically address the issues raised by your petition, that ruling provides general guidance to all school districts concerning their authority to promulgate good conduct rules. Often times, when the local district board is confronted with an appeal of its policy, it can correct any errors or issues of fairness before the appeal reaches the State Board. It is always preferable to have the local patrons question the policy initially at the local level where the development of the policy takes place.

When students are penalized under this policy and the parents have exhausted their remedies at the local level and appealed to the local board without satisfaction, they may appeal to the State Board of Education under the provisions of Iowa Code §290 within thirty (30) days of the local board's decision or order. In that situation, any or all of the issues you raised in your petition may be addressed in a ruling affirmed by the State Board of

Education. To file an appeal with the State Board of Education, a party should rely on Iowa Code § 290.1 and 281—Iowa Administrative Code 6.

This constitutes final agency action for the purposes of Chapter 17A, Code of Iowa (1997).

Sincerely,

Date

Ted Stilwill
Director

TS:jmr