

**IOWA STATE BOARD  
OF EDUCATION  
(Cite as 13 D.o.E. App. Dec. 257)\_**

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In re Dan West & Joe Bonebrake :  
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Dan West & Joe Bonebrake, : RULING ON APPELLEE'S  
Appellants, : MOTION TO DISMISS  
  
v.  
  
West Burlington Community :  
School District, :  
Appellee : [Adm. Doc. # 3788]

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**BACKGROUND**

On June 7, 1996, Dan West and Joe Bonebrake, by and through their attorney, filed affidavits of appeal. The appeals complain of a decision of the West Burlington Independent Community School District made on May 9, 1996, to terminate the teaching contracts of six (6) teachers.<sup>1</sup> Appellants seek, through the filing of these affidavits, to have a hearing before a panel and administrative law judge under the provisions of Iowa Code section 290.1.

Basically, Appellants are complaining about the District Board's decision to terminate these teachers. In their affidavits of appeal, Appellants allege that they have been adversely affected by this decision in the following ways:

- (a) The reduction in the number of teachers will have a negative impact on the quality of education in the school district;
- (b) The procedure by which the terminations were made was faulty in failing to provide an open forum for parental input;
- (c) The budgetary reasons given for the terminations was simply a "ploy" to influence the arbitration process and therefore, constitutes an action that is in violation of the Public Employees Relations Act.

On June 12, 1996, the Appellee District, by and through its attorney, filed a Motion to Dismiss the appeal on the ground that the State Board of Education lacks subject matter jurisdiction to review a "reduction in force" or teacher termination under the provisions of Iowa Code section 290.1. The Motion is hereby granted.

**DISCUSSION**

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<sup>1</sup> These teachers are not related to Appellants nor are they parties to the appeal.

The basic remedy against "illegal" school board action is review by the State Board of Education as provided by chapter 290 of the Iowa Code.

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Jurisdiction over these actions is prescribed by section 290.1 which states in pertinent part as follows:

A person 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 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. ...

Id.

Every case appealed to the State Board of Education involves two questions which must both be answered in the affirmative, expressly or by implication, before the appeal can be disposed of on its merits.

1. Does the Appellant have "standing" to bring the appeal to the State Board? and
2. Does the State Board have the jurisdiction to take the appeal?

#### **I. STANDING:**

"Standing to appeal" is a concept stemming from the notion that courts of law and other reviewing bodies in quasi-judicial procedures should not be asked to decide the rights of persons who are disinterested or unaffected by the actions of others. The statute creating the right of appeal from decisions of school district board's (Iowa Code section 290.1) limits the persons entitled to appeal to those who have been "aggrieved by a decision or order of the board of directors of the school corporation in a matter of law or fact." Thus, if a person is not "aggrieved," the State Board of Education is not authorized to hear the appeal.

The Iowa Supreme Court has given some guidance with respect to "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.'

In the present appeal, Appellants' affidavits allege no "special injury" which they will sustain as a result of the Board's decision. The Board's decision is specially and specifically injurious" only to the six teachers whose contracts have been terminated. Certainly the teachers would meet the "aggrievement test" outlined by the Supreme Court in City of Des Moines v. PERB, supra, but these Appellants do not.

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## II. JURISDICTION:

Statutory review provisions are specific permissions by the Legislature for review of administrative action. Once this "road to review" is provided by the Legislature, it becomes the only road that can be taken. Schwartz, Administrative Law, section 145, 432 (1976). This means that the review action must be brought within the time specified by the statute and in the forum specified in the statute. Id.

Even if the Appellants had met the "aggrievement test," the State Board lacks the necessary jurisdiction to decide the merits of this appeal. That is because the Legislature has given the "statutory permission to review" teacher contracts and terminations to a different forum pursuant to the provisions of Iowa Code sections 279.15 through 279.18. This statutory scheme prescribes in detail the way in which teachers should exercise their appeal rights over contracts or termination disputes. Section 279.16 envisions a private hearing before the District Board of Directors. If dissatisfied by the District Board's decision, the teacher has ten days to appeal the termination by the Board to an adjudicator. Section 279.17. If the teacher or the District Board rejects the adjudicator's decision, the rejecting party has thirty days in which to appeal to district court. Section 279.18.

If this District Board has committed a "prohibited practice" as alleged by Appellants, then the resolution of that issue is committed to the Public Employees Relations Board under the provisions of Iowa Code chapter 20. Like the subsections of Iowa Code chapter 279, chapter 20 provides the statutory road to review that must be followed before the issues raised by these Appellants can be disposed of on their merits. Therefore, the appeal procedures to the State Board under chapter 290 are not available to these Appellants.

## CONCLUSION

Under these legal principles, it is clear that Appellants lack standing to bring this appeal to the State Board of Education and that the State Board of Education lacks jurisdiction to take the appeal. For these reasons, Appellee's Motion to Dismiss the above-captioned matter for lack of subject matter jurisdiction is hereby granted.

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DATE

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Ann Marie Brick, J.D.  
Administrative Law Judge