



INTERIOR BOARD OF INDIAN APPEALS

Marty Indian School v. Rosebud Agency, Office of Indian Education Programs,  
Bureau of Indian Affairs

36 IBIA 136 (05/16/2001)



# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
4015 WILSON BOULEVARD  
ARLINGTON, VA 22203

MARTY INDIAN SCHOOL,	:	Order Dismissing Appeal as Moot
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 97-123-A
ROSEBUD AGENCY, OFFICE OF	:	
INDIAN EDUCATION PROGRAMS,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	May 16, 2001

Appellant Marty Indian School sought review of a January 13, 1997, decision of the Rosebud Agency Superintendent for Education, Bureau of Indian Affairs (Education Superintendent), under the Indian Self-Determination and Education Assistance Act, 25 U.S.C. §§ 450-450n (Act). Appellant elected to proceed under 43 C.F.R. Part 4, Subpart D, thereby waiving its right to a hearing. Appellant later indicated that it had not fully understood that by electing to proceed under Subpart D it had waived its right to a hearing. At the time, another appeal raising the same issue as this case was pending for hearing before a Departmental Administrative Law Judge. Under these circumstances and in furtherance of the Act's preference for a hearing, the Board believed that it was in Appellant's best interest to delay issuing a decision in this case until the hearing had been held and a decision issued in the related appeal. Accordingly, it informally stayed its consideration of this case.

No decision has yet been rendered in the related appeal. By order dated March 12, 2001, the Board asked the parties to inform it whether this appeal was moot or whether there was still a real case in controversy between them. Responses were due on or before April 20, 2001.

The Board received a timely response from the Education Superintendent, who argued that the appeal is moot. It did not receive a response from Appellant.

The Board concludes that this appeal is moot.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is dismissed as moot.

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge

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//original signed  
Anita Vogt  
Administrative Judge