



INTERIOR BOARD OF INDIAN APPEALS

Deganawidah-Quetzalcoatl University v.
Director, Office of Indian Education Programs, Bureau of Indian Affairs

39 IBIA 222 (01/02/2004)

Related Board case:
39 IBIA 265



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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DEGANAWIDAH-QUETZALCOATLE UNIVERSITY, Appellant v. DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS, BUREAU OF INDIAN AFFAIRS, Appellee	: Order Docketing, Dismissing, and : Transferring Appeal to the : Assistant Secretary - Indian : Affairs : : : Docket No. IBIA 04-29-A : : : January 2, 2004
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Appellant Deganawidah-Quetzalcoatlé University seeks review of a November 26, 2003, decision issued by the Director, Office of Indian Education Programs, Bureau of Indian Affairs (Director; BIA), concerning Appellant’s eligibility for continued funding under the Tribally Controlled Community College and Universities Assistance Act during fiscal year 2004. For the reason discussed below, the Board of Indian Appeals docketed this appeal, but dismisses it for lack of jurisdiction and transfers the case to the Assistant Secretary - Indian Affairs (Assistant Secretary).

The Director’s decision states that, under the regulations in 25 C.F.R. Part 2, the decision may be appealed to the Assistant Secretary. The distribution list attached to Appellant’s notice of appeal shows filings with both the Assistant Secretary and the Board.

The Director properly informed Appellant that its notice of appeal was to be filed with the Assistant Secretary. 25 C.F.R. § 2.4(e) provides that the Board has jurisdiction over decisions made by BIA Area (now Regional) Directors or a Deputy to the Assistant Secretary other than the Director. Therefore, the Board lacks jurisdiction to hear an appeal from a decision issued by the Director. Lac Courte Oreille Band of Lake Superior Chippewa Indians v. Acting Director, Office of Indian Education Programs, 36 IBIA 113 (2001).

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 docketed but dismissed for lack of jurisdiction. The matter is transferred to the Assistant Secretary - Indian Appeals.

//original signed
Kathryn A. Lynn
Administrative Judge

//original signed
Kathleen R. Supernaw
Acting Administrative Judge