



INTERIOR BOARD OF INDIAN APPEALS

Borrego Pass Community School, Inc. v.
Director, Office of Indian Education Programs, Bureau of Indian Affairs

39 IBIA 231 (02/19/2004)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203

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| BORREGO PASS COMMUNITY | : | Order Docketing and Dismissing |
| SCHOOL, INC., | : | Appeal |
| Appellant | : | |
| | : | |
| v. | : | |
| | : | Docket No. IBIA 04-55-A |
| DIRECTOR, OFFICE OF INDIAN | : | |
| EDUCATION PROGRAMS, BUREAU | : | |
| OF INDIAN AFFAIRS, | : | |
| Appellee | : | February 19, 2004 |

On February 17, 2004, the Board of Indian Appeals (Board) received a motion from Borrego Pass Community School, Inc. (Appellant) for the Board to assume jurisdiction over this appeal. Appellant previously filed a Notice of Appeal with the Assistant Secretary - Indian Affairs (Assistant Secretary), seeking review of an October 6, 2003, decision of the Director, Office of Indian Education Programs, Bureau of Indian Affairs (Director; BIA). Appellant contends that the Assistant Secretary failed to make a decision on the appeal within 60 days after the time for pleadings had expired, and moves the Board to assume jurisdiction, pursuant to 25 C.F.R. § 2.20(e). For the reasons discussed below, the Board docketed this appeal but dismisses it for lack of jurisdiction.

The Board lacks jurisdiction to review decisions made by the Director. See 25 C.F.R. § 2.4(e) (2003) (Board has jurisdiction to review a decision made by a Deputy to the Assistant Secretary - Indian Affairs, *other than* the Deputy to the Assistant Secretary - Indian Affairs/ Director (Indian Education Programs)); Deganawidah-Quetzalcoatl University v. Director, Office of Indian Education Programs, 39 IBIA 222 (2004); Lac Courte Oreille Band of Lake Superior Chippewa Indians v. Acting Director, Office of Indian Education Programs, 36 IBIA 113 (2001). Instead, decisions of the Director are appealable to the Assistant Secretary under 25 C.F.R. § 2.20(g). Northern Arapaho Tribe v. Director, Office of Indian Education Programs, 33 IBIA 122 (1999).

Appellant seeks to invoke 25 C.F.R. § 2.20(e), which authorizes the Board to assume jurisdiction over appeals pending before the Assistant Secretary or Deputy to the Assistant Secretary, when no decision has been made within 60 days after all time for pleadings has

