

BEFORE DENISE JUNEAU, STATE SUPERINTENDENT OF PUBLIC INSTRUCTION,  
STATE OF MONTANA

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BOARD OF TRUSTEES, JUDITH GAP	)	
SCHOOL DISTRICT NO. 44,	)	
	)	OSPI 332-12
Appellant,	)	
	)	<b>DECISION AND ORDER</b>
vs.	)	
	)	
LEWIS REESE	)	
	)	
Respondent.	)	

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Having reviewed the record and considered the parties' briefs, the Superintendent of Public Instruction issues the following decision and order:

**PROCEDURAL HISTORY AND STATEMENT OF FACTS**

Lewis Reese was terminated from employment with the Judith Gap School District during the term of his employment contract with the District. Reese appealed his termination to the County Superintendent pursuant to § 20-3-210, MCA and ARM 10.6.103. Reese appealed his termination to the Wheatland County Superintendent, but Lewis and Clark County Superintendent Marsha Davis was ultimately assigned to hear the appeal. Immediately prior to the hearing before Superintendent Davis, the District requested and received a stay of the proceedings to address the scope of jurisdiction. The District contends Superintendent Davis is limited to the consideration of evidence related to whether the Board of Trustees had just cause to terminate his employment during the term of his contract with the District, without consideration of procedure or process. Reese argues that due process and just cause are

inextricably entwined.

### **ISSUE ON APPEAL**

Whether the County Superintendent has jurisdiction to consider the procedure and process followed by the Judith Gap Board of Trustees when the Board terminated its employment contract with District Superintendent Reese.

### **ANALYSIS**

The jurisdiction of the County Superintendent to hear this matter is not contested. The scope of that jurisdiction is contested. The District argues that process and procedure of a termination decision can and should be separated from a finding of just cause for termination of employment. This argument is illogical and could lead to atrocious results.

A determination of just cause cannot be made without consideration of the process followed by the Board. Potentially at issue are contract provisions and district policy regarding board procedures and discipline. Without procedural safeguards a district could use any means to develop “just cause” and employees would have no recourse to challenge a decision, however erroneously it may have been reached. It is premature to contemplate the relevance or weight of evidence considered by the County Superintendent, but would be unjust and in error to limit the scope of her jurisdiction to a review of “just cause” without consideration of the Board’s actions in reaching that decision.

### **CONCLUSIONS OF LAW AND OPINION**

The County Superintendent may proceed with the hearing on all relevant issues, including consideration of whether Mr. Reese was afforded any legally necessary due process at his termination hearing. The Superintendent of Public Instruction declines to rule on the appropriateness of any potential witness’s testimony. The District’s Appeal and Motion to Vacate is denied.

DATED this 21st day of November, 2012.

/s/ Denise Juneau  
Denise Juneau,  
Superintendent of Public Instruction

**CERTIFICATE OF SERVICE**

THIS IS TO CERTIFY that on this 21st day of November, 2012, I caused a true and exact copy of the foregoing DECISION AND ORDER to be mailed, postage prepaid, to the following:

**Kris Goss  
Montana School Boards Association  
863 Great Northern Blvd., Suite 300  
Helena, MT 59601**

**W. Adam Duerk  
P.O. Box 4947  
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**County Superintendent Marsha Davis  
316 North Park Avenue  
Room 221  
Helena, MT 59036**

**/s/ Beverly J. Marlow  
Beverly J. Marlow  
Paralegal**