

279.18 Appeal by either party to court.

1. If either party rejects the adjudicator's decision, the rejecting party shall, within thirty days of the initial filing of such decision, appeal to the district court of the county in which the administrative office of the school district is located. The notice of appeal shall be immediately mailed by certified mail to the other party. The adjudicator shall transmit to the reviewing court the original or a certified copy of the entire record which may be the subject of the petition. By stipulation of all parties to the review proceedings, the record of such a case may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional cost. The court may require or permit subsequent corrections or additions to the shortened record.

2. In proceedings for judicial review of the adjudicator's decision, the court shall not hear any further evidence but shall hear the case upon the certified record. In such judicial review, especially when considering the credibility of witnesses, the court shall give weight to the fact findings of the board; but shall not be bound by them. The court may affirm the adjudicator's decision or remand to the adjudicator or the board for further proceedings upon conditions determined by the court. The court shall reverse, modify, or grant any other appropriate relief from the board decision or the adjudicator's decision equitable or legal and including declaratory relief if substantial rights of the petitioner have been prejudiced because the action is:

- a. In violation of constitutional or statutory provisions; or
- b. In excess of the statutory authority of the board or the adjudicator; or
- c. In violation of a board rule or policy or contract; or
- d. Made upon unlawful procedure; or
- e. Affected by other error of law; or
- f. Unsupported by a preponderance of the competent evidence in the record made before the board and the adjudicator when that record is viewed as a whole; or
- g. Unreasonable, arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.

3. An aggrieved or adversely affected party to the judicial review proceeding may obtain a review of any final judgment of the district court by appeal to the supreme court. The appeal shall be taken as in other civil cases, although the appeal may be taken regardless of the amount involved.

4. For purposes of this section, unless the context otherwise requires, "*rejecting party*" shall include, but not be limited to, an instructor employed by a community college.

[C77, 79, 81, §279.18]

2002 Acts, ch 1047, §15