

Iowa State Board of Education

Executive Summary

March 20, 2025



Agenda Item: Appeal Decision, # 5209 – Interstate 35 Community School District

State Board Priority: Goal 1

State Board Role/Authority: The State Board has the duty to decide this case under Iowa Code section 290.1.

Presenter(s): None – consent agenda

Attachment(s): Two

Recommendation: The Department recommends that the State Board adopt the proposed decision in this matter, which affirms the decision of the Interstate 35 Community School District.

Background: The administrative law judge issued a proposed decision on February 14, 2025, recommending that the decision to deny a late-filed open enrollment request be affirmed. No party appealed this proposed decision, which is to be affirmed by operation of law. Iowa Admin. Code r. 281—6.6(3).

IOWA STATE BOARD OF EDUCATION

CITE AS ____ D.o.E. App. Dec. ____

<i>In re Open Enrollment of</i>)	
<i>C.K., a child,</i>)	
)	
Cheryl Kollbaum,)	
)	
Appellant,)	Docket 5209
)	
vs.)	
)	
Interstate 35 Community)	FINAL AGENCY DECISION
School District,)	
)	
Appellee.)	

There being no appeal of the proposed decision dated February 14, 2025, the proposed decision in this matter is AFFIRMED by operation of law.

This is final agency action in a contested case proceeding.

Any party that disagrees with the Department's decision may file a petition for judicial review under section 17A.19 of the Iowa Administrative Procedure Act. That provision gives a party who is "aggrieved or adversely affected by agency action" the right to seek judicial review by filing a petition for judicial review in the Iowa District Court for Polk County (home of state government) or in the district court in which the party lives or has its primary office. Any petition for judicial review must be filed within thirty days of this action, or within thirty days of any petition for rehearing being denied or deemed denied.

Dated: March 20, 2025

Iowa State Board of Education, by:

John Robbins, President

IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
CENTRAL PANEL BUREAU

<i>In re Open Enrollment of C.K.</i>)	
)	
CHERYL KOLLBAUM,)	DIA Docket No. 25DOE0005
)	DOE Admin. Doc. 5209
Appellant,)	
)	
v.)	
)	
INTERSTATE 35 COMMUNITY)	
SCHOOL DISTRICT,)	
)	PROPOSED DECISION
Appellee.)	

Appellant Cheryl Kollbaum seeks reversal of a decision by the Interstate 35 Community School District (District) denying a late-filed open enrollment request on behalf of her minor child, C.K. The State Board of Education has jurisdiction over the parties and subject matter of the appeal, pursuant to Iowa Code sections 282.18(3B) and 290.1.

A telephonic hearing in this matter was held on February 3, 2025. Appellant Cheryl Kollbaum appeared and testified. The minor child was present, but did not provide testimony. Appellee Interstate 35 Community School District was represented by Superintendent Chad Grandon. Grandon testified for the District. The record includes the appeal submitted by the Appellant, the letter from the Iowa Department of Education to the parent, and the Notice of Hearing.

FINDINGS OF FACT

Appellant Cheryl Kollbaum resides within the boundaries of the Interstate 35 Community School District with her child, C.K. C.K. is in tenth grade during the 2024-25 school year.

During the second semester of the 2023-24 school year, C.K. was accused of selling something to another child and was suspended. The parents enforced consequences and searched C.K.’s car. They did not find anything.

The following school year, toward the end of September 2024, the high school principal performed a search of C.K. in the presence of the school’s resource officer. The incident was recorded on the school resource officer’s device. The search was performed based on a reasonable suspicion of a vape on C.K.’s person. Nothing was found during the search.

C.K. relayed this incident to Kollbaum. The student said that there had been roughly five to seven other searches done, but this one was different. C.K. told Kollbaum that the principal pulled the waistband of C.K.’s underwear back and front to the point where he could see private body parts. The principal also searched another student. C.K. stated that he did not feel comfortable and felt violated. C.K. told Kollbaum that previous searches had generally been pat-

downs. Kollbaum reported this incident to the police. Kollbaum also requested information from the District regarding other searches, but did not receive a response.

Kollbaum reported the September search incident to the District, specifically to Chad Grandon, the District's superintendent. She requested that she be present for any future search. In response to Kollbaum's concern, the recording of the incident was reviewed. The Madison County Sheriff's office also became involved. A deputy reviewed the situation and said the principal had not done anything inappropriate.

Kollbaum felt that C.K. was being harassed. She stated that C.K. told her the principal follows him into the bathroom or goes in the bathroom when he leaves.

Due to the situation, Kollbaum wanted to move C.K. to a different school. She researched schools nearby and decided that Indianola Community School District would be a good fit as it was bigger and had more opportunities. She submitted an application to enroll C.K. in the Indianola Community School District for the second semester of the 2024-25 school year, beginning January 17, 2025.

On November 26, 2024, Interstate 35 Community School District received Kollbaum's open enrollment application on behalf of C.K. The reason given for the request was pervasive harassment by C.K.'s school's principal, as C.K. had been searched five to seven times and nothing was ever found.

When the District receives open enrollment applications, the superintendent, Grandon, reviews the applications and provides a recommendation to approve or deny the requests. Grandon's recommendations along with his rationale are provided to the school board members. The recommendations are placed on the school board's consent agenda where the board would agree to the superintendent's recommendation. The school board members would review those recommendations. The school board could choose to disagree with the superintendent's recommendation and make a different decision, *e.g.* deny a request for open enrollment the superintendent had recommended approval of or approve a request for open enrollment the superintendent had recommended denying.

In this case, Grandon recommended denying Kollbaum's open enrollment request for C.K. for a couple of reasons. First, Kollbaum did not meet the statutory March 1 deadline for open enrollment. Second, based on the application and the situation, the superintendent did not feel there was evidence to show harassment of C.K. in the manner described. Grandon stated that school authorities can search a student upon reasonable suspicion, if needed. In this incident, the school resource officer was present during the principal's search, and the school resource officer did not find anything to be inappropriate. A deputy of the sheriff's office also reviewed the information and did not find that anything inappropriate occurred. As such, Grandon recommended denying the open enrollment request.

The Interstate 35 school board held a regular board meeting on December 16, 2024. At this meeting, it reviewed the open enrollment requests on the consent agenda. This included the recommendation to deny Kollbaum's request for C.K. The board approved the recommendations, including the recommended denial of the open enrollment request for C.K.

Generally, after the school board's decision, the human resource department would notify the parents. That did not occur in this case. Kollbaum was present at the board meeting, but due to the nature of the consent agenda, did not realize the open enrollment request was denied. In early January, Kollbaum learned from the receiving district, Indianola, that the Interstate 35 Community School District denied the open enrollment request.

After learning of the denial, Kollbaum spoke with Grandon. Grandon explained the appeal process. He also told Kollbaum about open enrollment for the following school year and gave Kollbaum the option of beginning C.K. in an accredited online school.

Due to Kollbaum's concerns, C.K. is now enrolled in an accredited online learning environment. However, Kollbaum would prefer he was in a classroom-based setting.

CONCLUSIONS OF LAW

Iowa Code section 282.18 governs the open enrollment process. The standard filing deadline for an application to open enroll a student for the upcoming school year is March 1.¹ Since the legislation reinstating open enrollment deadlines for the 2024-25 school year did not become effective until July 1, 2024, the Iowa Department of Education determined that any application filed on or before June 30, 2024 would not require good cause for waiving the March 1 deadline.²

If a parent or guardian fails to file a notification of intention to open enroll by the applicable deadline, then the procedures of Iowa Code section 282.18(3A) apply.³ Subsection 3A provides:

3A. *a.* After March 1 of the preceding school year and until the date specified in section 257.6, subsection 1, the parent or guardian shall send notification to the district of residence and the receiving district, on forms prescribed by the department of education, that good cause exists for failure to meet the March 1 deadline. The board of directors of a receiving school district may adopt a policy granting the superintendent of the school district authority to approve open enrollment applications submitted after the March 1 deadline. The board of the receiving district shall take action to approve the request if good cause exists. If the request is granted, the board shall transmit a copy of the form to the parent or guardian and the school district of residence within five days after board action. A denial of a request by the board of a receiving district is not subject to appeal.

¹ Iowa Code § 282.18(2)(a). With Senate File 2435, the legislature reinstated the open enrollment deadline effective July 1, 2024.

² See Iowa Department of Education, Open Enrollment, *available at* <https://educate.iowa.gov/pk-12/educational-choice/open-enrollment#:~:text=Open%20Enrollment%20Deadlines,-Deadline&text=Any%20application%20filed%20on%20or,from%20the%20resident%20school%20district>. (last visited February 12, 2025). See also Iowa Open Enrollment Application Updated per Senate File 2435, Division VIII, School Year 2024-2025 & 2025-2026.

³ Iowa Code § 282.18.

Good cause is not defined in subsection 3A, nor is it defined in the Department’s open enrollment regulations. Good cause is defined in Iowa Code section 282.18(9)(a)(8), which relates to participation of open enrollment students in varsity interscholastic sports. That subparagraph provides a list of situations that provide “good cause” for open enrollment, including change in the child’s residence due to a change in family residence, placement in foster care, participation in a foreign exchange program, and permanent closure of a nonpublic school. The Department’s website information regarding open enrollment mirrors the list of circumstances described in subsection 282.18(9)(a)(8) and indicates that such circumstances are acceptable conditions for a timeline waiver if the change occurred or began after March 1.⁴

Iowa Code subsection 282.18(3B) governs open enrollment applications filed after March 1 that do not qualify for good cause as provided in subsection 3A. These applications are subject to the approval of the board of the resident district and the board of the receiving district. A decision of either board to deny an application filed under subsection 3B involving “repeated acts of harassment of the student or serious health condition of the student that the resident district cannot adequately address” is subject to appeal under Iowa Code section 290.1. The subsection provides that the state board “shall exercise broad discretion to achieve just and equitable results that are in the best interest of the affected child or children.”⁵

Neither the statute nor the Department’s regulations define the term “repeated acts of harassment of the student,” nor do they provide any further guidance regarding how to assess whether the resident district can adequately address the concern. However, the Department has published an Open Enrollment Handbook that provides information for parents and guardians as well as school districts.⁶

There is no dispute here that Kollbaum did not file the open enrollment application for C.K. until after the June 30 deadline that applies for the 2024-25 school year. Likewise, Kollbaum does not allege that C.K. meets the good cause exception under of the circumstances applicable to subsection 3A. The question, then, is whether C.K. has endured repeated acts of harassment that the resident district cannot adequately address and whether that circumstance justifies a late-filed application for open enrollment.

The director of the Department of Education is required under the open enrollment statute to recommend rules to the state board of education for the orderly implementation of section 282.18 and the state board is directed to adopt rules as needed for the implementation of section 282.18.⁷ Iowa Code chapter 17A sets out the requirements for agency rulemaking.⁸ Validly

⁴ Iowa Department of Education, Open Enrollment, *available at* <https://educate.iowa.gov/pk-12/educational-choice/open-enrollment#:~:text=Open%20Enrollment%20Deadlines,-Deadline&text=Any%20application%20filed%20on%20or,from%20the%20resident%20school%20district>. (last visited February 12, 2025).

⁵ Iowa Code § 282.18(3B).

⁶ Iowa Department of Education, Open Enrollment Handbook, p. 20, *available at* <https://educate.iowa.gov/media/10193/download?inline> (last visited February 12, 2025). The handbook cites *In re Hannah T.*, 25 D.o.E. App. Dec. 26, 8 (2007) for the factors that must be shown to establish repeated acts of harassment.

⁷ Iowa Code § 282.18(13).

⁸ *See* Iowa Code §§ 17A.3, 17A.4, 17A.4(A), 17A.4(B), 17A.5.

adopted rules have the force and effect of law.⁹ While the criteria referenced in the handbook are apparently being communicated to school districts and parents and guardians as an aid in evaluating open enrollment requests for repeated harassment, the state board of education cannot rely on the criteria as legal justification for such determinations. At best, the criteria are advisory, but not controlling.

In the absence of any other criteria, however, it makes sense to consider the handbook criteria to the extent that they are relevant to the situation and do not contradict the statute or existing rules. The criteria that are explicitly articulated in the statute are the deadline, and the existence of repeated acts of harassment of the student.

The handbook defines repeated harassment as electronic, written, verbal, or physical acts or conduct which creates an objectively hostile school environment and places the student in reasonable fear of harm to the student's person or property, has a substantially detrimental effect on the student's physical or mental health, has the effect of substantially interfering with a student's academic performance, has the effect of substantially interfering with the student's ability to participate in or benefit from the services, activities, or privileges provided by the school.¹⁰ In the criminal context harassment is defined to include acts that are purposeful and done without a legitimate purpose.¹¹

C.K. has been searched multiple times by authorities at the school. Kollbaum was not able to provide exactly how many times these searches occurred, when each of the searches occurred, or who performed the searches. At least one of these searches took place in the fall of 2024, after the open enrollment deadline. C.K. told Kollbaum that during the incident in the fall in which the principal searched him, he did not feel comfortable and felt violated.

While it is clear from the evidence in the record that Kollbaum wishes for C.K. to attend the Indianola Community School District, having missed the June 30 deadline she faces a higher burden of establishing that C.K. endured repeated acts of harassment that the Interstate 35 Community School District cannot adequately address. Kollbaum has not made this showing. Kollbaum failed to provide sufficient evidence that the situation she described rises to the level of repeated harassment. While nothing has been found during the searches, Kollbaum was not able to show these searches were done without a legitimate purpose. Rather the evidence supports that the recorded search in the fall of 2024 was completed appropriately and local law enforcement expressed no concerns about it. Additionally, Kollbaum has not provided evidence that the searches created a hostile school environment that placed C.K. in reasonable fear of harm to his person or property or that the searches have otherwise had a negative impact on C.K.'s life other than the one incident that made him feel uncomfortable.

Further, Kollbaum has not presented sufficient evidence that even if the searches constituted repeated acts of harassment that the District could not adequately address the matter. Kollbaum had to make these showings in order to allow a late-filed application for open

⁹ *Anderson v. Iowa Dept. of Human Services*, 368 N.W.2d 104, 108 (Iowa 1985).

¹⁰ Iowa Department of Education, Open Enrollment Handbook, p. 20, available at <https://educate.iowa.gov/media/10193/download?inline> (last visited February 12, 2025).

¹¹ *State v. Evans*, 672 N.W.2d 328, 330 (Iowa 2003) (citing Iowa Code § 708.7(1)(b)).

enrollment based on harassment. As she was unable to meet this burden, the District's decision must be affirmed.

ORDER

For the foregoing reasons, Interstate 35 Community School District's December 16, 2024, decision denying the open enrollment request filed by Kollbaum on behalf of her minor child C.K. is affirmed.

cc: Cheryl Kollbaum, Appellant, 17086 R45 Hwy, St. Charles, IA 50240 (By Mail)
Interstate 35 Community School District, Attn: Chad Grandon, 405 E. North St., Truro, IA 50257 (By Mail)
Rebecca Griglione, DOE (AEDMS)

Appeal Rights

Any adversely affected party may appeal a proposed decision to the state board within 20 days after issuance of the proposed decision.¹² An appeal of a proposed decision is initiated by filing a timely notice of appeal with the office of the director. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service.¹³ The requirements for the notice are found at Iowa Administrative Code rule 281—6.6(4). Appeal procedures can be found at Iowa Administrative Code rule 281—6.6(5). The board may affirm, modify, or vacate the decision, or may direct a rehearing before the director or the director's designee.¹⁴

¹² Iowa Administrative Code (IAC) 281—6.6(4).

¹³ *Id.*

¹⁴ IAC 281—6.6(6).

Case Title: IN RE: OPEN ENROLLMENT OF C.K. BY C.K. V. INTERSTATE
35 COMMUNITY SCHOOL DISTRICT (5209)
Case Number: 25DOE0005
Type: Proposed Decision

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Amber DeSmet". The signature is written in a cursive, flowing style with some loops and flourishes.

Amber DeSmet, Administrative Law Judge