

**IOWA DEPARTMENT
OF EDUCATION**
[Cite as 25 D.o.E. App. Dec. 125]

<i>In re Transportation Route</i>	:	
Fairfield Community School District,	:	DECISION
Appellant,	:	
vs.	:	
Great Prairie Area Education Agency,	:	[Admin. Doc. 4684]
Appellee.	:	

The above-captioned matter was heard telephonically on October 10, 2008, before Carol J. Greta, J.D., designated administrative law judge. Appearing on behalf of the Appellant ["Fairfield CSD"] were Superintendent Don Achelpohl and Director of Auxiliary Services Fred McElwee, with legal counsel Craig Foss. The Appellee ["GPAEA"] was represented by Chief Administrator Joe Crozier and legal counsel Richard Gaumer.

Authority and jurisdiction for the appeal are found in Iowa Code § 285.13. The administrative law judge finds that she and the Director of the Department of Education have jurisdiction over the parties and subject matter of the appeal before them.

In this case, Fairfield CSD seeks reversal of a decision the GPAEA Board of Directors made on September 9, 2008, denying the Fairfield CSD permission to travel through the Cardinal Community School District ["Cardinal CSD"] to pick up open enrolled students at a bus stop located within the territory of Fairfield CSD.

**I.
FINDINGS OF FACT**

The parties stipulated to the few facts that are pertinent to this appeal, and a few additional facts were developed during the hearing. The pertinent facts are as follows:

1. The bus stop in question is located at 1104 Hwy 34, a residence within Fairfield CSD. One student who is enrolled in the Fairfield CSD resides at 1104 Hwy 34.
2. Highway 34 recently was relocated by transportation officials. Due to the relocation, the only way for a Fairfield school bus to reach the above residence is by travel through a corner of Cardinal CSD.
3. The superintendent of Cardinal CSD denied permission to Fairfield CSD to operate two school buses through Cardinal CSD to reach 1104 Hwy 34 to pick up the Fairfield resident student and approximately 12 students open enrolled to Fairfield. (One bus would pick up the resident Fairfield CSD student and those open enrolled students whose attendance center is the Libertyville Elementary Center of the Fairfield CSD. A second bus would pick up the remainder of the open enrolled students.)
4. On September 9, 2008, GPAEA's Board of Directors approved a Fairfield CSD bus route through Cardinal CSD for the sole purpose of picking up the Fairfield resident

student at 1104 Hwy 34. The Board refused to give approval for the purpose of picking up the open enrolled students at the same residence.

II.

CONCLUSIONS OF LAW

The statutory bases for the appeal of Fairfield CSD are Iowa Code sections 282.18(10) and 285.13, which state as follows:

Notwithstanding section 285.1 relating to transportation of nonresident pupils, the parent or guardian is responsible for transporting the pupil without reimbursement to and from a point on a regular school bus route of the receiving district. However, a receiving district may send school vehicles into the district of residence of the pupil using the open enrollment option under this section, for the purpose of transporting the pupil to and from school in the receiving district, if the boards of both the sending and receiving districts agree to this arrangement. ...
Iowa Code section 282.18(10).

In the event of a disagreement between the board of a school district and the board of an area education agency, the board of the school district may appeal to the director of the department of education and the procedure and times provided for in section 285.12 shall prevail in any such case. The decision of the director shall be subject to judicial review in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.
Iowa Code section 285.13.

The standard of review to be applied in appeals of student transportation decisions was clarified by the Iowa Supreme Court in *Sioux City Community School District v. Iowa Department of Education*, 659 N.W.2d 563 (Iowa 2003). In that case, the Department had overturned a decision of the Sioux City Board of Education regarding transportation, and the Supreme Court determined that the Department was wrong to so decide.

Nothing in Iowa Code section 285.12 suggests the scope of the Department's review of the school district's decision is de novo, allowing the Department to reverse the school district and substitute its own judgment. No statute gives the Department authority to override the school district's ultimate decision because it determines the decision was wrong.

...

The issue is whether the Department properly reviewed the school district's decision for an abuse of discretion. The Department stated, "Although reasonable minds could differ over the judgment call that the [AEA] was called upon to make," it went on to say the parents "convinced" the AEA that the school district's decision was "adverse to the health and safety of the students." By stating "reasonable minds could differ" over this discretionary decision, the Department conceded there was evidence supporting the school district's decision. That is, the Department did not review the school district's action for abuse of discretion but instead made its own judgment based upon the entire record. ... The Department did not determine whether a reasonable person could have come to the same

conclusion as the school district. The Department’s action exceeded its authority. [Emphasis added.]

Id. at 568, 569-570.

Accordingly, we look only to whether a reasonable person could have found sufficient evidence to come to the same conclusion as reached by the GPAEA Board. Iowa Code § 17A.19(10)(f)(1). “In so doing, we will find a decision was unreasonable if it was not based upon substantial evidence or was based upon an erroneous application of the law.” *City of Windsor Heights v. Spanos*, 572 N.W.2d 591, 592 (Iowa 1997). We may not substitute our judgment for that of the Board.

Fairfield CSD argues that approval by the GPAEA Board of a breach of the Cardinal CSD for the purpose of picking up one student to the exclusion of other students at the same bus stop is unreasonable, and therefore an abuse of the Board’s discretion.

The GPAEA Board acknowledges that it has a duty to “[a]pprove all bus routes outside the boundary of the district of the school operating buses.” *See Iowa Code section 285.9(3)*. However, it views section 282.18(10) and its requirement for consent of both affected districts as restricting its ability to approve the bus routes for Fairfield to pick up open enrolled students in the absence of consent by Cardinal CSD. Furthermore, GPAEA argues that the bus stop at 1104 Hwy 34 is not “a point on a regular school bus route of the receiving district” because regular school bus routes do not require approval by AEA boards. That is, 1104 Hwy 34 is a bus stop only by special permission of the GPAEA Board.

We do not need to determine whether the reasoning of the GPAEA Board is correct; we need only conclude that it is not unreasonable. There are no reported cases and no Attorney General Opinions that offer guidance. However, the plain language of section 282.18(10) supports the reasoning of the GPAEA Board. We find that the rationale underlying the decision reached by the GPAEA Board was not unreasonable. Therefore, the GPAEA Board took no action that it was prohibited from taking under chapter 285.

**III.
DECISION**

For the foregoing reasons, the September 9, 2008 decision of the Board of Directors of the Great Prairie Area Education Agency is AFFIRMED. There are no costs of this appeal to be assigned.

Date

Carol J. Greta, J.D.
Administrative Law Judge

It is so ordered.

Date

Judy A. Jeffrey, Director