

**IOWA DEPARTMENT
OF EDUCATION
(Cite as 23 D.o.E. App. Dec. 346)**

*In re Petition to Change Affiliated Area
Education Agency*

Ar-We-Va Community Schools, Appellant,	:	
vs.	:	PROPOSED DECISION
	:	[Admin. Doc. 4623]
Heartland Area Education Agency and Northwest Area Education Agency, Appellees.	:	
	:	

The above-captioned matter was heard on November 29, 2005, before designated administrative law judge Carol J. Greta. Superintendent Leonard Griffith and Elementary Principal Dana Kunze appeared telephonically on behalf of the Appellant, Ar-We-Va Community Schools, which was not represented by legal counsel. Chief Administrator Les Douma appeared on behalf of the Northwest Area Education Agency [“NWAEA”], which was represented by attorney James Hanks. Chief Administrator Wayne Rand appeared on behalf of the Heartland Area Education Agency [“AEA 11”], which was represented by attorney Tom Foley.

An evidentiary hearing was held pursuant to agency rules found at 281 Iowa Administrative Code 6. Authority and jurisdiction for the appeal are found in Iowa Code § 290.1. The administrative law judge finds that she and the State Board of Education have jurisdiction over the parties and subject matter of the appeal before them.

In this case Ar-We-Va seeks reversal of related decisions of the Appellees. The Board of Directors of the NWAEA decided on October 10, 2005, to deny Ar-We-Va’s petition to release the District from that AEA. On October 11, 2005, the AEA 11 Board of Directors voted to deny Ar-We-Va’s petition to be under contract with AEA 11.

**I.
FINDINGS OF FACT**

Ar-We-Va is a school district located in Carroll and Crawford Counties in west central Iowa. One of the first districts in Iowa to reorganize, it consists of the towns of Arcadia, Westside, and Vail. According to the 2005-06 Iowa Educational Directory, its enrollment is 413 students.

All of Iowa is divided into area education agencies [“AEAs”], and every school district in Iowa is under contract to the AEA in whose boundaries the school district lies. An AEA may not be configured in such a way that its boundaries divide a school district. Iowa Code § 273.2. Ar-We-Va is located in the extreme southeast corner of what is now Western Hills Area Education Agency [“AEA 12”]. The District is unique in that it is contiguous to three other AEAs, including AEA 11. See Appendix A, attached.

AEA 12 and its neighbor to the north, AEA 4, recently sought approval from this Board to voluntarily reorganize and form the Northwest AEA. At the August 11, 2005 meeting of this Board, such approval was formally granted. Effective July 1, 2006, AEA 12 and AEA 4 shall cease to exist as separate entities; NWAEA shall be fully operational. Until that time, NWAEA is governed by an initial board of directors and an acting administrator (Mr. Douma).

In accordance with statutory procedures, after Ar-We-Va was notified of the impending AEA reorganization¹, the District filed timely requests with the initial NWAEA Board for release from its contract with AEA 12 and with the Board of AEA 11 to join that AEA. These requests were duly authorized and approved by the Ar-We-Va Board of Directors. According to the District’s requests,

The vision of the Ar-We-Va Community Schools is to move to sharing with the Carroll Community Schools. The approved AEA merger allows us the opportunity to become part of the same AEA as our perceived sharing partner for future years.²

Superintendent Griffith added at this hearing that distances to AEA service centers and the quality of the highways to those centers were “key factors” in the District’s decision to file its requests. He also testified that Ar-We-Va’s Board, staff, and communities are supportive of expanding sharing opportunities with the Carroll District, particularly for secondary students. The Carroll Superintendent, Rob Cordes, confirmed for Dr. Rand that Ar-We-Va wants to align its staff development efforts with those undertaken by Carroll, and that his District and AEA 11 – with permission from NWAEA – are willing to cooperate in those endeavors. Many instances of such cooperation were recounted in this hearing, and Ar-We-Va did not argue that its needs could not be met via interagency cooperation.

¹ Iowa Code section 273.22 requires the affected AEAs to notify, by certified mail, all school districts located within and contiguous to their boundaries of the State Board's approval of the reorganization plan.

² The District also hastened to note that its “relationship with AEA 12 has been nothing but positive even given our remote ‘peninsula’ location.”

Acting Chief Administrator Douma testified that his Board focused on (1) whether NWAEA could adequately meet the needs of the Ar-We-Va District and (2) whether there were any obstacles to cooperation between NWAEA and any other AEA to meet the District's needs. He assured the Board that NWAEA stood ready, willing, and able – either singularly or in cooperation with adjacent AEAs – to meet all needs of the District. In unanimously denying Ar-We-Va's request to leave its boundaries, the NWAEA Board pledged to “collaborate in delivering professional services to [Ar-We-Va] to ensure services similar to those received by the Carroll Community School District, if that is the desire of the Ar-We-Va School District.” [Letter to Superintendent Griffith from Douma on behalf of the NWAEA Board.]

Dr. Rand testified that the AEA 11 Board has a long-standing philosophy of being protective of the fiscal and overall ability of all AEAs to meet their districts' needs. AEA 11 could meet the needs of the Ar-We-Va District just as capably as could the NWAEA. But his Board is conscious that agreeing to include Ar-We-Va in AEA 11 would diminish the resources of NWAEA.³ A critical mass of students is required for the efficient delivery of services by an AEA. The loss of Ar-We-Va from NWAEA, which is an AEA that is consistently losing student enrollment, would be “significant,” according to Acting Chief Administrator Douma.

II. CONCLUSIONS OF LAW

The statutory basis for Ar-We-Va's appeal, Iowa Code section 273.22, states in pertinent part as follows:

5. ... A petition to join an area education agency or for release from a contract with an area education agency ... shall be filed not later than forty-five days after the state board approves a reorganization plan or dissolution proposal in accordance with this chapter.
...
7. Within forty-five days of the state board's approval, the board of directors of a school district that is within a newly reorganized area education agency and whose school district is contiguous to another area education agency not included in the newly reorganized area education agency may petition the board of directors of the newly reorganized area education agency and the contiguous area education agency to join that area education agency. ... Both the initial, or new, and the

³ AEAs receive funding based for the most part on the K-12 enrollments within their boundaries.

contiguous area education agency boards must act within forty-five days of the deadline, as set forth in this subsection, for the filing of the school district's petition. A school district may appeal to the state board the decision of an area education agency board to deny the school district's petition.

The appropriate standard of review is abuse of discretion. This standard of review was discussed recently 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 discretionary transportation⁴, and the Supreme Court determined that the Department was wrong to so decide. Writing for the Court, Justice Streit stated as follows:

No statute gives the Department [of Education] authority to override the school district's ultimate decision because it determines the decision was wrong. Rather, where a statute provides for a review of a school district's discretionary action, the review, by necessary implication, is limited to determining whether the school district abused its discretion. [Citations omitted.]

...

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.

⁴ The underlying request by the parents in the Sioux City case was for transportation for elementary students who lived less than two miles from their school but whose walking route was along a busy frontage road. Iowa Code § 285.1 mandates that districts provide transportation only when elementary students reside more than two miles from their schools of attendance (three miles for secondary students).

The Department's action exceeded its authority. [Emphases added.]

Id. at 568, 569-570.

Although the *Sioux City* case involved review of a decision of a local school board, its principles apply to review of a decision of an AEA board. Accordingly, this agency's review is for abuse of discretion. That is, we do not look to the reasonableness of Ar-We-Va's position. Rather, we look only to whether a reasonable person could have found sufficient evidence to come to the same conclusion as reached by the Boards of AEA 11 and NWAEA. 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 AEA Boards.

Ar-We-Va argues that the AEA Boards had no choice but to approve its timely request. It makes two analogies, as follows:

1. The District first argues that its request is like a timely filed open enrollment application filed by a parent. The pertinent portion of the open enrollment statute, Iowa Code section 282.18(2), states, "...The board of the receiving district shall enroll the pupil in a school in the receiving district for the following school year unless the receiving district does not have classroom space for the pupil." In other words, there is discretion for the receiving district to reject a timely-filed open enrollment application if the receiving district lacks classroom space for the pupil. Parent choice is not absolute.
2. The District's other analogy is that its request here is like a landowner's petition to have his/her property excluded from a reorganization of two or more school districts. Such petitions are specifically authorized by Iowa Code section 275.14. However, nothing in that section confers a "right" upon landowners to have such petitions granted. To the contrary, section 275.15 states, "The exclusion of territory [by the AEA that receives the petitions] shall represent a balance between the rights of the objectors and the welfare of the reorganized district." Again, discretion is involved.

We disagree with Ar-We-Va's argument that the AEA Boards had no choice in this matter. The AEA Boards were not prohibited from denying Ar-We-Va's request, as long as a reasonable person could have found sufficient evidence to determine that the denials were rational. In addition, Superintendent Griffith summarized the crux of this matter as involving a choice between what is in the best interests of the Ar-We-Va District as opposed to what is in the best interests of the AEAs. But this would be a valid analysis only if the Legislature had built it into the statute. As it is, section 273.22 includes no criteria by which an AEA board is to judge requests from districts either to be

excluded from its present AEA or included into a different AEA. Accordingly, we continue with our analysis under the abuse of discretion standard.

The reasons articulated for the denials of Ar-We-Va's request are well reasoned and based on rational thought. The District is not claiming that its needs have been unmet or inadequately met by its current AEA. It just argues that it could access services more conveniently if it were in AEA 11. As shown by the attached Appendix A, a map of AEA boundaries in which the Ar-We-Va District is #355 (circled and located in the extreme southeast corner of AEA 12's boundaries, Ar-We-Va would be a "peninsula" district in *any* other AEA.

It is the policy of this State that "a local school district shall not be a part of more than one area education agency." Iowa Code section 273.2(1). This requirement refers to geographic boundaries, and not to provision of services. Indeed, there is specific statutory authority for AEA's to "cooperate and contract between themselves ... to provide special education programs and services, media services, and educational services to schools and children residing within their respective areas." Both AEA administrators testified that they had already been in touch with each other and would work together to ensure that the District's needs were met, either in concert or by NWAEA allowing AEA 11 to "cross boundaries" to delivery a service. The AEA's also pointed out that here that if Ar-We-Va reorganizes with Carroll, it will become part of AEA 11 at that time, under operation of law.⁵ Until then, its needs are being met. The AEA Boards did not act impermissibly.

In summary, there are no grounds by which this agency can reverse the underlying decisions.⁶

III. DECISION

For the foregoing reasons, it is recommended that the decisions of the Board of Directors of the NWAEA made on October 10, 2005 and of the Board of Directors of AEA 11 made on October 11, 2005 both be AFFIRMED. There are no costs of this appeal to be assigned.

⁵ "School districts created ... under this chapter [275] are ... part of the area education agency in which the greatest number of registered voters of the district reside" Iowa Code section 275.27. Carroll is the larger of the two districts and is located within AEA 11.

⁶ Although unnecessary to do so under an abuse of discretion standard, we note that a reasonable person could even find that the decisions of the AEA Boards were in the long-term best interests of Ar-We-Va. If AEA's cannot maintain a critical mass of students, they lose funding, and thus, their ability to meet the needs of all of the districts within their boundaries.

Date

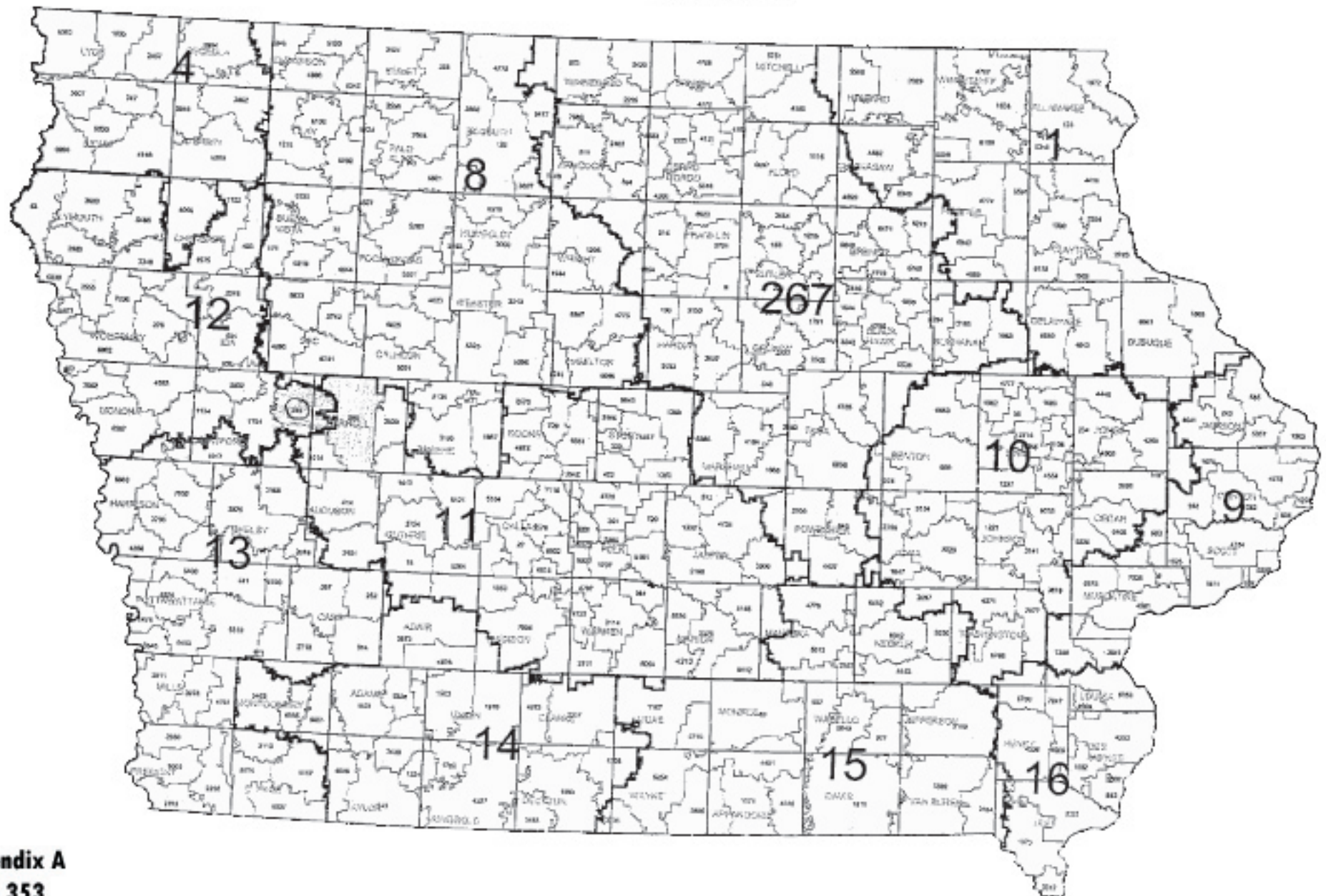
Carol J. Greta, J.D.
Administrative Law Judge

It is so ordered.

Date

Gene E. Vincent, President
State Board of Education

Iowa Public School Districts and AEAs 2004-2005



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