

**IOWA DEPARTMENT
OF EDUCATION
(Cite as 23 D.o.E. App. Dec. 34)**

In re Brittany Holdefer

Missy Holdefer, Appellant,	:	
	:	DECISION
vs.	:	
	:	
PCM Community School District, Appellee.	:	[Admin. Doc. 4588]

The above-captioned matter was heard on September 1, 2004, before designated administrative law judge Carol J. Greta, J.D. The Appellee, PCM Community School District, was represented by Superintendent Kirk Nelson and High School Principal Lee Griebel. The file shows (by the signed receipt of certified mail) that the Appellant received notice of this hearing. However, she did not appear, nor did anyone appear on her behalf.

An evidentiary hearing was held pursuant to agency rules found at 281 Iowa Administrative Code Chapter 6. Specifically, rule 6.19 allows the presiding officer to proceed with the hearing. Authority and jurisdiction for the appeal are found in Iowa Code §§ 282.18(5) and 290.1 (2003). 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.

Mrs. Holdefer seeks reversal of the August 16, 2004 decision of the local board of directors of the PCM District to deny the open enrollment application filed on behalf of Brittany.

**I.
FINDINGS OF FACT**

In early July, Mrs. Holdefer met with Superintendent Nelson to express her concerns about abusive incidents involving her 15-year-old daughter, Brittany, and Brittany's former boyfriend, Justin. Mrs. Holdefer described nothing to Superintendent Nelson that involved the District. He recommended that she call the police about the incidents she described to him. He also told the family that if Brittany were to be harassed at school, the administrators would work with the family and would grant an open enrollment application if appropriate.

On July 29, 2004, Mrs. Holdefer filed the open enrollment application herein on behalf of Brittany. The Holdefer family resides in the PCM Community School District. She requested that Brittany be allowed to open enroll to Newton Community School District for the 2004-05 school year, where Brittany would be in 10th grade. As the reason for the late-filing, Mrs. Holdefer wrote, “Brittany has been physically, verbally and emotionally abused by ex-boyfriend who attends PCM. Harassment charges have been filed and no contact order is in place.”

Attached to the open enrollment application were the following:

- A letter (presumably to local Board members) from Mrs. Holdefer describing just one incident that occurred at school between Brittany and her ex-boyfriend (Justin). Mrs. Holdefer wrote that Brittany was shoved in the high school hallway by Justin.
- A letter addressed to Superintendent Nelson from a certified physician’s assistant dated July 29, 2004. After talking to Brittany and her mother one time, he urged Superintendent Nelson to allow Brittany to open enroll to Newton.
- A copy of the petition Mrs. Holdefer filed in Jasper County District Court asking for a no contact order. The petition includes no information about any incidents at school or school events.
- A copy of the temporary restraining order issued by the District Court, effective July 28 – August 10, 2004. The order states that Justin is to be “at least one mile from [Brittany’s] places of residence, school, and work or business.” A court hearing was scheduled for August 10, 2004 to determine whether a final protective order should be entered.

Superintendent Nelson testified that, upon seeing Mrs. Holdefer’s attached letter in which she was alleging that one incident took place at school, he immediately arranged with Principal Griebel to investigate the matter. Mr. Griebel recalled a day during the 2003-04 school year when Justin was sent to his office because he was upset. Mr. Griebel testified that, on that day, Justin told him that he was upset because Brittany was “getting in his face,” trying to talk to him about a disagreement they had had. She was blocking his way into Spanish class, so, according to what Justin told his principal, he gave her a push to get by.

Mr. Griebel asked Brittany about the incident that same day. She affirmed Justin’s accounting of the event, and told him that the push was not a big deal. Mr. Griebel also asked the Spanish teacher for her impression. The teacher’s account was that Brittany wanted to talk to Justin, that Justin did not want to talk to her, and he pushed

her aside so he could enter the classroom. She said she did not report it to anyone as “harassment” because, after she talked to Justin and Brittany, she felt that both agreed it was nothing more than a disagreement.

The PCM administrators both stated that they were aware of no other problems between Brittany and Justin. Mr. Griebel that testified frankly his biggest challenge with the pair was keeping them from inappropriately displaying affection with each other at school. He also checked with all of the District’s 9th grade teachers, and they reported no problems. To the contrary, the driver education instructor stated that Brittany and Justin requested to be driving partners during the course, which took place during June and July of 2004. The District introduced as evidence Brittany’s written request (dated April 19, 2004 and co-signed by Mrs. Holdefer) and Justin’s written request (dated May 30, 2004 and co-signed by Justin’s father) to be driving partners. The instructor gave a written statement that he did not witness any form of harassment between the two in the classroom or in the vehicle.

Prior to the local Board meeting of August 16, Superintendent Nelson called the Jasper County District Court to learn the status of the no contact order. As a result of the hearing on August 10 (which was attended by Brittany, her mother, Justin, and his father), the Court entered a one-year protective order, but specifically wrote in the order, “The parties may attend the same school.” Although Mrs. Holdefer called Superintendent Nelson before the local Board meeting and asked to be on the agenda, she did not appear at the local Board meeting on August 16. The Board voted 4-1 to deny the late-filed open enrollment application filed on behalf of Brittany.

II. CONCLUSIONS OF LAW

The controlling statute for this appeal is the open enrollment law, Iowa Code section 282.18. In general, open enrollment requests must be filed on or before January 1 of the school year preceding the school year for which open enrollment is requested. Subsection (5) of the law involves applications filed after January 1, seeking open enrollment due to “repeated acts of harassment of the student or serious health condition of the student that the resident district cannot adequately address.”

The guidelines by which this Board determines the merits of an open enrollment request due to alleged harassment are as follows:

- 1) The harassment must have happened after January 1, or the extent of the problem must not have been known until after January 1, so the parents could not have filed their applications in a timely manner.
- 2) The harassment must be beyond typical adolescent cruelty in its severity.

- 3) The evidence of harassment must be specific.
- 4) The evidence must show that the harassment is likely to continue.
- 5) School officials, upon notification of the harassment, must have worked without success to resolve the situation.
- 6) Finally, there must be reason to think that changing the student's school district will alleviate the situation.

We assume for the sake of argument that the one incident cited by Mrs. Holdefer occurred after January 1 (or that she was not aware of it until after that deadline). However, we conclude that that one incident falls short of the type of harassment requiring the open enrollment remedy.

It is not unheard of, within the dynamics of personal relationships of young teenagers, for problems and misunderstandings to occur. We are sensitive to the fact that such relationships can be abusive, and we do not condone Justin for pushing Brittany from the doorway of Spanish class. However, this one incident is the totality of what the local Board and we are aware occurred in a school context. There is no pattern here of abusive behavior. PCM is a relatively small school district; its graduating classes average about 72 students. Teachers and administrators were aware that Brittany and Justin were girlfriend/boyfriend; no one reported observing any troubling aspects in the relationship.

Upon reading Mrs. Holdefer's letter attached to the open enrollment application about the pushing incident, District administrators immediately investigated the allegation. This is not a case where administrators took no action. Superintendent Nelson assured the family that Brittany would be allowed to leave the District if she was not safe at school. The thorough investigation conducted by the District of the one known incident bears this out.

Unique to this case is the presence of a no contact order issued by a district court judge. Initially, Justin was not allowed to attend the same school as Brittany.¹ It is significant that, after hearing what Brittany had to say in court, the judge changed the order to allow Justin and Brittany to attend the same school. Justin remains in attendance at PCM High School. Brittany did not start the school year at PCM; she attends high school at the Newton Community School District.

We conclude that the local Board committed no error in denying the open enrollment application of Brittany Holdefer.

¹ When Mrs. Holdefer filed for open enrollment, the no contact order stated that Justin could not attend the same school as Brittany. Superintendent Nelson testified that the District would have complied with the order, had it not been amended, and would not have allowed Justin to attend PCM High School.

III.
DECISION

For the foregoing reasons, it is recommended that the decision of the Board of Directors of the PCM Community School District made on August 16, 2004, denying the open enrollment request filed on behalf of Brittany Holdefer, be 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

Gene E. Vincent, President
State Board of Education