

IOWA DEPARTMENT OF EDUCATION  
(Cite as **28** D.o.E. App. Dec. **077**)

<i>In re Open Enrollment T.L.U. and T.R.U.</i>	)	
	)	
T.U. and T.A.U.,	)	
	)	DECISION
Appellants,	)	
	)	
v.	)	
	)	
WACO Community School District,	)	Admin. Doc. No. 5062
	)	
Appellee.	)	

**STATEMENT OF THE CASE**

The Appellants seek reversal of a March 21, 2017, decision by WACO Community School District ("District") Board ("Board") denying a late filed open enrollment request on behalf of their minor children T.L.U. and T.R.U. The affidavit of appeal filed by April 4, 2017, and the District's supporting documents are included in the record. Authority and jurisdiction for the appeal are found in Iowa Code sections 282.18(5) and 290.1. The administrative law judge finds that she and the State Board of Education ("State Board") have jurisdiction over the parties and subject matter of the appeal before them.

An in-person evidentiary hearing was held in this matter on May 5, 2017, before designated administrative law judge, Nicole M. Proesch, J.D., pursuant to agency rules found at 281 Iowa Administrative Code chapter 6. T.A.U. was present and self-represented. Superintendent Jeff Dicks ("Superintendent Dicks") appeared on behalf of the District and was represented by attorney Brett Nitzscke. Also present for the District was Carrie Coble, Business Manager and Board Secretary ("Ms. Coble").

T.A.U. and Mr. Gary Stacy testified in support of the appeal. Appellants' exhibits A-F were objected to and not admitted into evidence because they were not presented to the local board. Superintendent Dicks and Ms. Coble testified for the District and the school district's exhibits 1-6 were admitted into evidence without objection.

## FINDINGS OF FACT

The Appellants reside in the WACO Community School District ("District") with their six children who range between ages six to eleven. Both T.A.U. and her husband, T.U., graduated from the District. T.A.U. is now a teacher in the Winfield-Mt. Union School District. The four youngest children are adopted and have special needs. This appeal was filed on behalf of their two youngest children T.L.U. and T.R.U. Both attend WACO Elementary school and were in Kindergarten during the 2016-2017 school year.

T.A.U. testified that she was aware of the March 1 deadline. Two months before the deadline she filled out open enrollment applications for all of her children but did not turn them in. She testified that she had some concerns that the District could not meet the special needs of her children and felt that it would be better if her children went to school where she worked so she could be there to help address their needs. T.L.U. has medical needs because of his allergies to smoke and T.R.U. is allergic to Ace bandages. She testified that the District was not doing enough to address their specific needs and the District did not respect her beliefs concerning her children. She offered no evidence that the District was not attempting to meet her needs. She also testified that in the 2015-2016 school year, T.R.U. had a terrible preschool teacher who was eventually asked to resign. She also testified that it would be easier for her and her children if they went to school, every day, with her. She testified that it is difficult to find reasonable childcare for special needs children that can be responsible for getting the children off of the bus each day. Not many people will agree to care for six children with special needs.

On March 2, 2017, T.A.U. filed open enrollment applications for all six children at Winfield-Mt. Union. She also stopped by the WACO District office to talk with Superintendent Dicks, but did not have the open enrollment forms with her to deliver them to the District. T.A.U. called several times between March 2 and March 9 to discuss the late filed applications but did not speak with Superintendent Dicks until March 9, 2017. Superintendent Dicks told her he would not approve a late filed open enrollment application without good cause. T.A.U. testified that she mailed the applications for T.L.U. and T.R.U. to the District on March 10, 2017. At the time she only sent in the applications for the two youngest because she was hoping that they would at least agree to the late open enrollment for the two youngest children.

T.A.U.'s open enrollment requests were placed on the Board's agenda for March 21, 2017. T.A.U. participated in the meeting by phone because she was working at Winfield-Mt. Union's literacy night and unable to attend in person. T.A.U. presented a letter of her concerns to the Board. Superintendent Dicks recommended they deny the late filed request for lack of good cause. A motion was made to approve the request and the motion failed for lack of a second thus, effectively denying the applications. The Appellants filed a timely motion to appeal.

## CONCLUSIONS OF LAW

The statutory filing deadline for an application for open enrollment for the upcoming school year is March 1. Iowa Code § 282.18. After the March 1 deadline, a parent or guardian shall send notification to the resident district that good cause exists for the failure to meet the deadline. *Id.* The law provides that an open enrollment application filed after the statutory deadline, which is not based on statutorily defined "good cause," must be approved by the boards of directors of both the resident district and the receiving district. *Id.* Iowa Code § 282.18(5).

A decision by the board, denying a late-filed open enrollment application that is based on "repeated acts of harassment or a serious medical condition that the resident district could not adequately address," is subject to appeal to the State Board under Code section 290.1. *Id.* Iowa Code § 282.18(5).

The evidence in this case is clear that the Appellant, T.A.U., by her own admission, knowingly missed the filing deadline in this case. Although T.A.U. now points to other reasons as good cause for missing the deadline, the objective evidence shows that there was not good cause to miss the deadline. No evidence was presented to show that her children were victims of harassment or had serious medical conditions that the District was not already addressing. The real issue for the Appellants is that moving the children to Winfield-Mt. Union, to be at the same school with T.A.U., would be entirely more convenient for the family. That may be the case, but that is not good cause to miss the deadline.

Open enrollment appeals of this type are not about a family's right to transfer their children to other school districts. A transfer may be made even though open enrollment is denied. The approval, or denial, of open enrollment does affect payment for the student's education. When a student transfers to a nonresident school district under open enrollment, the district of residence must pay for the student to attend the receiving district. When a student transfers to a nonresident school district outside of the open enrollment process, the nonresident district must charge the student tuition.

Parents are free to make the decisions they deem to be best for their children. We do not fault the Appellants for their decision to enroll their children in Winfield-Mt. Union and the outcome of this appeal does not limit their ability to attend school in Winfield-Mt. Union.

Our review focus is not upon the family's decision, but on the local school board decision. The issue for review here, as in all other appeals brought to us under Iowa Code section 282.18(5), is limited to whether the local school board made error of law in denying the late-filed open enrollment request. We have concluded that the Board correctly applied Iowa Code section 282.18(5) when it denied the late open enrollment

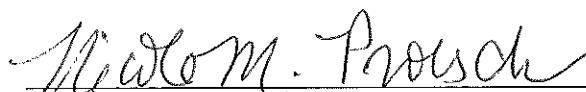
application filed on behalf of T.L.U. and T.R.U. Therefore, we must uphold the local board decision.

### DECISION

For the foregoing reasons, the decision of the Board made on March 21, 2017, denying the open enrollment application of the Appellants on behalf of their children is hereby AFFIRMED. There are no costs of this appeal to be assigned.

August 3, 2017

Date



Nicole M. Proesch, J.D.

Administrative Law Judge

August 3, 2017

Date



Charles C. Edwards Jr., Board President  
State Board of Education