

**IOWA DEPARTMENT  
OF EDUCATION  
(Cite as 22 D.o.E. App. Dec. 247)**

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*In re Kassie Quick, Ashley Hanson, Britney Tuttle, Sara Jane Dunning, Jayme Clouse, Jonathan Wiegmann, Kassi Reynolds, Sean Inks, and Samantha Reighard* :

Stacy Lovell, et al.,  
Appellants, :

: DECISION

vs.

: [Admin. Docs. 4560 - 4570]

Alden Community School District,  
Appellee. :

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The above-captioned matter was heard telephonically on March 10, 2004, before designated Administrative Law Judge Carol J. Greta, J.D. One or both parents of the following students took part in the hearing: Ashley Hanson, Kassie Quick, Jonathan Wiegmann, Jayme Clouse, Kassi Reynolds, and Sean Inks. Dennis Hanson, parent of Ashley Hanson, was the designated spokesperson for the Appellants, all of whom are residents of the Alden District. Appellee, the Alden Community School District, was represented by Interim Superintendent Dr. Richard Ploeger and by Board President Bob Ites. None of the parties was represented by legal counsel.

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 (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.

The Appellants challenge the February 9, 2004 decision of the local board of directors of the Alden District to disallow the separate requests filed by these Appellants to transfer their children to a contiguous school district pursuant to Iowa Code section 282.11(2003).

**I.  
FINDINGS OF FACT**

The parties to this appeal agree as to the basic facts. In September of 2003, the local boards of the Alden Community School District and the neighboring Iowa Falls Community School District began discussions with each other about a wholegrade sharing proposal. The Alden Board, on October 20, 2003, formally voted in a public hearing to explore a wholegrade sharing agreement with the Iowa Falls District

commencing in 2004-2005. Three public meetings were held on this issue in December of 2003. On January 26, 2004, the Alden Board voted 4-1<sup>1</sup> to sign a wholegrade sharing agreement with Iowa Falls whereby Alden students in grades seven through twelve will attend an appropriate attendance center in the Iowa Falls District, and Iowa Falls 6<sup>th</sup> graders will attend the appropriate Alden attendance center.

Alden does not dispute that at its December 1, 2003, Board meeting, Director Loren Larson stated that affected students had a period of 45 days after the signing of a wholegrade sharing agreement to file requests to enroll elsewhere. Likewise, as reported in the December 27, 2003 edition of the *Iowa Falls Times Citizen*, the Iowa Falls superintendent told his board and public that 45 days after the signing of the agreement was the timeframe involved in asking to transfer from the district. These are misstatements of the law, as will be discussed fully under **Conclusions of Law**. The erroneous information came from the Department of Education. Prior to the end of January 2004, personnel at the Department had been advising school administrators and parents across the state that parents could apply for “open enrollment” of their children up to 45 days after a wholegrade sharing agreement was signed.

This error by the Department was corrected in the February 2004 publication, “School Leaders of Iowa,” which is sent electronically to all school superintendents in Iowa. In addition, a letter was specifically sent from the Department to the superintendents of Alden and Iowa Falls to draw their attention to the error and the correction. Part of the letter states, “Because the districts (and parents) relied on our erroneous information, we suggest that parents be given a reasonable time in which to petition out, 30-45 days from the signing of the agreement.” A parenthetical statement then further suggested that the two superintendents agree on a timeframe and advise their patrons of the same.

These nine Appellants filed their requests after the wholegrade sharing agreement was signed on January 26, 2004. All requests were filed within 45 days following the signing of the agreement. All nine students desire to attend the Northeast Hamilton Community School District, which is contiguous to Alden, next school year. All will be in 8<sup>th</sup> grade or higher, grades to be sent to Iowa Falls under the whole grade sharing agreement. Some of the Appellants used the open enrollment form as the means by which to ask the Board to approve their child’s transfer request; others used no set form, but submitted a written “petition to transfer.” As is discussed further, the form of the request is immaterial.

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<sup>1</sup> Board member and Appellant Valerie Wiegmann cast the lone “nay” vote at this meeting. At the February 9 Board meeting, Director Wiegmann abstained from voting on the nine transfer requests, including the one she and her husband filed for their child. Being a Board member does not preclude her from being able to appeal against a decision of the local Board that affects her child.

The minutes of the February 9 meeting at which the Board denied the transfer requests state, “Dr. Ploeger stated that we [the Alden Board] would not want to break the law and the law states open enrollment must be applied for 30 days prior to the approval of a whole grade sharing agreement. . . . Loren Larson made a motion that the Alden School Board abide by the current law of the State as it pertains to whole grade sharing and that we deny the open enrollment requests by the individuals who made this request after January 26, 2004.” With Director Wiegmann abstaining, the vote was 4-0 in favor of disallowing all nine of the transfer requests.

In its February 11 edition, the *Iowa Falls Times Citizen* quotes Board President Ites as saying, “[I]f you want to open enroll out, we won’t fight the appeal. We have no intention of hurting anyone’s chances at open enrollment.”

## **II. CONCLUSIONS OF LAW**

The Iowa Legislature has directed that the State Board, in regard to appeals to this body, make decisions that are “just and equitable.” Iowa Code § 290.3(2003). The standard of review, articulated in *In re Jesse Bachman*, 13 D.o.E. App. Dec. 363 (1996), requires that a local board decision not be overturned by the State Board unless the local decision is “unreasonable and contrary to the best interest of education.” *Id.* at 369.

This appeal highlights the confusion that exists regarding the applicability of the open enrollment and wholegrade sharing laws. Whereas all school districts and quite a large number of parents are very familiar with the open enrollment statute and rules, few districts and fewer parents are aware of the requirements and opportunities under the wholegrade sharing laws.

Open enrollment, Iowa Code section 282.18(2003), is available to any parent or guardian who wishes to enroll a child in another district and who files the request before January 1 of the preceding school year. Requests for open enrollment are not limited to contiguous school districts. A subsection of the Open Enrollment Law allows a late request to be granted “at any time with approval of the resident and receiving districts.” Iowa Code section 282.18(16)(2003). In other words, if there is no “good cause” for a parent to have missed the January 1 deadline, open enrollment may still occur, but only if both the resident and receiving districts approve the request.

Whereas section 282.18(16) addresses school districts’ discretion to allow parents to miss the filing deadline for open enrollment, relief from the January 1 deadline shall be granted automatically for certain specific reasons related to either a change in the child’s family residence or a change in the child’s district of residence. These reasons, delineated in section 282.18(4)(b), include the following:

“...the failure of negotiations for a whole-grade sharing ... agreement or the rejection of a current whole-grade sharing agreement ... . If the good cause relates to a change in status of a child's school district of residence, however, action by a parent or guardian must be taken to file the notification within forty-five days of the last board action ... .”

For instance, if the Alden and Iowa Falls Boards had failed to reach an agreement after negotiating for several weeks, the Alden parents would then, under section 282.18(4)(b), have had 45 days following a final vote to discontinue talks with Iowa Falls to file for open enrollment out of Alden. Or, if a few years from now, both Boards vote to dissolve the wholegrade sharing agreement, parents of affected children will have 45 days from that vote to file for open enrollment.

This, however, is a case of a new wholegrade sharing agreement being initiated. This situation is not addressed anywhere in the open enrollment statute. Therefore, we are limited to the provisions of Iowa Code section 282.11(2003), the pertinent part of which unambiguously states as follows:

**“... Within the thirty-day period prior to the signing of the agreement, the parent or guardian of an affected pupil may request the board of directors to send the pupil to another contiguous school district.** For the purposes of this section, "affected pupils" are those who under the whole grade sharing agreement are attending or scheduled to attend the school district specified in the agreement, other than the district of residence, during the term of the agreement. The request shall be based upon one of the following:

1. That the agreement will not meet the educational program needs of the pupil.
2. That adequate consideration was not given to geographical factors.

The board shall allow or disallow the request prior to the signing of the agreement, or the request shall be deemed granted. If the board disallows the request, the board shall indicate the reasons why the request is disallowed and shall notify the parent or guardian that the decision of the board may be appealed as provided in this section. [Emphasis added.]

Accordingly, the correct statement of the law is that these Appellants had two means, with two separate and distinct timeframes, available to them by which to request that their children attend the Northeast Hamilton District for the 2004-05 school year. (1)

The parents could have filed for open enrollment prior to January 1, 2004, under Iowa Code section 282.18. (2) In the alternative, the parents had a timeframe of 30 days prior to the January 26 signing of the new wholegrade sharing agreement in which to file a request for a transfer of their children to the Northeast Hamilton District.<sup>2</sup>

Having missed the January 1 open enrollment deadline, it is clear that the Appellants meant to proceed under the section 282.11 wholegrade sharing transfer provision. Just as clearly, the Appellants were not in compliance with that statute's timeframe of filing for a transfer within 30 days before the agreement was signed. We must analyze, therefore, the reason *why* the Appellants used an erroneous timeframe and determine whether the Alden District should be estopped from relying on the section 282.11 timeframe of 30 days prior to the signing of the agreement.

The Appellants, through Mr. Hanson, stated that they were relying on the statements of the Iowa Falls superintendent reported in the newspaper and on the statements of their own Board members in believing that they had 45 days after the agreement was signed to present their transfer requests. No one disputes that these erroneous statements were made.

The general rule is that estoppel does not lie against government agencies except in exceptional circumstances. *Bailiff v. Adams County Conference Bd.*, 650 N.W.2d 621 (Iowa 2002); *City of Lamoni v. Livingston*, 392 N.W.2d 506 (Iowa 1986). We have found but one case, *Fencl v. City of Harpers Ferry*, 620 N.W.2d 808 (Iowa 2000), in which a governmental entity was equitably estopped from making a claim adverse to one of its citizens. [*Fencl* dealt with a property title dispute in which the city was found by the Court to have abandoned its claim to real estate, and was held estopped to reassert the claim years later.] In *Fencl*, the Iowa Supreme Court repeated the general principle that the doctrine of equitable estoppel is based on fair dealing and good faith. *Id.* at 815.

<sup>2</sup> The following table summarizes the key aspects of the whole grade sharing law when contrasted with the open enrollment law.

Key Point	Whole Grade Sharing	Open Enrollment
Iowa Code §	282.11	282.18
Timeframes	When new whole grade sharing agreement is signed, parents have 30 days prior to the signing of the agreement to request a transfer of an affected student	Before January 1 or within 45 days of final board action to end whole grade sharing negotiations or to terminate an existing whole grade sharing agreement
Grounds for timely request	Either (1) that the whole grade sharing agreement will not meet the student's educational program needs or (2) that adequate consideration was not given to geographical factors	No reasons or grounds needed when request is filed by January 1
Receiving district	Must be contiguous to resident district	No restrictions, other than must be another Iowa school district
Student	Must be in a grade affected by the whole grade sharing agreement	Any student

The elements of estoppel are as follows:

1. A false representation of fact;
2. Lack of knowledge of the truth by the actor;
3. Intention that the false representation be acted upon; and
4. Reliance by the actor on the false representation, to the prejudice of the actor.

Translating those elements here, we find that the Alden District (1) made a false – albeit unintentionally so – representation of fact regarding the timeframe in which a parent could request a transfer out of the District; (2) that the Appellants were unaware of the true timeframe; (3) that the District’s purpose in stating that parents had 45 days after the signing of the agreement in which to file transfer requests was made knowing that parents would rely upon the representation in determining when to file their transfer requests; and (4) that these Appellants did rely upon the District’s false representation and have been harmed thereby.

We conclude that this is an extraordinary case in which the doctrine of equitable estoppel shall lie against the District. The District was aware that several parents were not in favor of entering into a wholegrade sharing agreement with Iowa Falls. It was aware that parents would seek a means by which to have their children attend a different school district for the 2004-05 school year. Meaning to be accommodating to those parents and relying on the erroneous information it first received from the Department, the District announced the timeframe that the District thought was the applicable timeframe for the parents to use. It turned out to be false information.

When the District was notified by the Department of the error, it did not pass along the correct information. Perhaps the District felt it was too late to set the record straight. We can understand if the District had merely chosen to ignore the mistake. But when the District chose to penalize parents for their reliance on the District’s misrepresentations, we must conclude under Iowa Code section 290.3 that its decision was unjust and inequitable, unreasonable and contrary to the best interests of education.

Concluding that the Alden Board was wrong to disallow the transfer requests does not end this matter. The Board did not consider any of the merits behind the transfer requests. Therefore, we remand all of the transfer requests back to the Alden board with the following directives:

1. The Board shall first examine President Ites’ statement to the *Times Citizen* reporter that the District has “no intention of hurting anyone’s chances at open enrollment.” If the Board decides that this is how it wants to proceed, the Board may use 282.18(16) to allow the transfers as open enrollments to

Northeast Hamilton, regardless of whether the parent used an open enrollment form to bring the transfer request to the Board's attention.

2. If open enrollment is determined by the Board not to be an option, it shall consider each transfer request under section 282.11, regardless of whether the parent used an open enrollment form to bring it to the Board's attention.
3. If a request is disallowed, the Board shall state the reason why. That reason must relate back to one of the two factors in 282.11, educational program or geography. Furthermore, if a request is disallowed, 282.11 requires the Board to notify the parent that the decision of the board may be appealed as provided in 282.11 back to this Board.

### III. DECISION

For the foregoing reasons, it is recommended that the decision of the Board of Directors of the Alden Community School District made on February 9, 2004, to disallow transfer requests under Iowa Code section 282.11 be **REVERSED AND REMANDED** to the Board for further proceedings consistent with this decision. There are no costs of this appeal to be assigned.

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Date

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

It is so ordered.

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Date

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Gene E. Vincent, President  
State Board of Education