

**IOWA STATE BOARD
OF EDUCATION
(Cite as 21 D.o.E. App. Dec. 209)**

<i>In re Seth Leaton</i>	:	
Sandy McFarland, Appellant,	:	
v.	:	DECISION
Clear Creek-Amana Community School District, Appellee.	:	[Admin Doc. #4521]

The above-captioned matter was heard telephonically on September 25, 2002, before designated administrative law judge Carol J. Greta, J.D. Appellant, Sandy McFarland, was present on behalf of her son. Appellee, Clear Creek-Amana Community School District was present in the person of Adelia Kern, board secretary. Neither party 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 § 282.18, as amended by 2002 Iowa Acts, House File 2515, and 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.

Appellant seeks reversal of a decision of the local board of directors of the Clear Creek-Amana district made on August 15, 2002, denying her request for open enrollment into the district of Appellant's son, Seth Leaton, due to "missing application deadline."

**I.
FINDINGS OF FACT**

The undisputed facts are as follows:

Seth Leaton ["Seth"], whose date of birth is August 22, 1988, is in the 9th grade for the 2002-2003 school year. His residence is in the Iowa City Community School District, and, at the time of the hearing, he was enrolled in the Iowa City District.

On or about July 31, 2002, Appellant filed an open enrollment application with Seth's resident district, Iowa City, which was approved by the Iowa City Community School District Board of Directors on August 13, 2002. Notice of the approval then was sent by the Iowa City District to the Appellant and to the Clear Creek-Amana District for

action by the latter. At its August 15, 2002 meeting, the Board of Directors of the Clear Creek-Amana Community School District denied the application. According to the minutes from that meeting, the application was denied “due to missing application deadline.” On behalf of the Clear Creek-Amana District, Ms. Kern confirmed that the Board did not examine the facts, but denied the application solely for the foregoing stated reason.

On the fact of the application, one of the reasons given by the Appellant for filing the application after the January 1 deadline was that “Seth has been targeted by gang members at the school.” Specific facts related to that reason were not covered at the appeal hearing because this appeal is resolved without development of the underlying facts. It is sufficient for purposes of this appeal that the application made a facial allegation that Seth was the victim of harassment at his resident district.

II. CONCLUSIONS OF LAW

Iowa’s open enrollment law, Iowa Code § 282.18, was significantly amended by 2002 Iowa Acts, House File 2515. Effective July 1, 2002, the only local board decisions that may come before the State Board of Education on appeal are denials in which the application was filed after the January 1 deadline and alleged repeated acts of harassment of the student on whose behalf the application was filed. 2002 Iowa Acts, House File 2515, section 19. A brief summary of other changes, to place this decision into context, is as follows:

<u>When Open Enrollment Application Filed</u>	<u>Which District Acts on Application</u>
1. On or before January 1	1. Receiving District
2. After January 1 – no harassment alleged	2. Receiving District
3. After January 1 – harassment or severe health need alleged	3. Sending District, then Receiving District

[The above summary disregards, for purposes of this appeal, the specialized rules regarding districts that have a voluntary desegregation plan.]

The only time that a parent or guardian may appeal a denial of open enrollment to the State Board of Education is the third scenario, where the application is late-filed and alleges repeated acts of harassment against the student. We conclude that the legislature deliberately preserved such appellate rights in cases where fairness and equity require a second look at an open enrollment denial to ensure that the best interests of the child are being served.

The receiving district may deny an application that is timely filed or that has been approved by the sending district in one of the following three instances:

- (1) the receiving district has insufficient classroom space,
- (2) the student requires a special education program that is not available from the receiving district, or
- (3) enrolling the student would adversely affect the receiving district's desegregation plan.

Ms. Kern confirmed at the hearing that the Clear Creek-Amana Board has not adopted a voluntary desegregation plan. Ms. Kern readily admitted that the only reason the Board of Clear Creek-Amana denied the open enrollment application was the untimeliness of the same. She stated that the Board simply misunderstood, and therefore, misapplied, the Open Enrollment Law.

The Clear Creek-Amana Board, as the receiving district, had two options available to it, as follows:

1. It could have denied the application pursuant to one of the three reasons stated above.
2. Utilizing new Iowa Code section 282.18(16) [2002 Iowa Acts, House File 2515, section 22], it could have accepted the application. This subsection states as follows:

16. An application for open enrollment may be granted at any time with approval of the resident and receiving districts.

III. DECISION

For the foregoing reasons, the decision of the Board of Directors of the Clear Creek-Amana Community School District made on August 15, 2002, to deny Appellant's open enrollment application for Seth Leaton for the 2002-2003 school year is hereby recommended for reversal. 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 Vincent, President
State Board of Education