IOWA STATE BOARD
OF EDUCATION

(Cite as 21 D.o.E. App. Dec. 149)

In re Scott Matlock II	:	
Melody Matlock,	:	
Appellant,	:	**ORDER FOR**
v.	:	**REMAND**
Wayne Community School District & Chariton	:	
Community School District, Appellees.	:	[Adm. Doc. #s 4511 & 4509]

This matter was heard on August 29, 2002, before Carol J. Greta, J.D., designated administrative law judge, presiding. Appellants, Scott and Melody Matlock, were both present, as was their son, Scott Matlock III; the Matlocks were unrepresented by counsel. Appellee District, also unrepresented by counsel, was present in the person of Superintendent Robert Newsum.

The Matlocks filed the open enrollment application on behalf of their son ["Scott"] on July 3, 2002, for the 2002-2003 school year. They filed the application with their district of residence, Chariton, asking that Scott be allowed to open enroll out to the Wayne County Community School District. The application cites "the safety and education" of Scott as the reason for missing the January 1 filing deadline. In the course of the evidentiary hearing it became apparent that the Chariton District's school board, unsure of whether it could act at all because of changes to Iowa Code § 282.18, had denied the application solely because it was untimely.

Effective July 1, 2002, Iowa's open enrollment law was revised to provide that, with two exceptions, only the receiving district takes action on late-filed open enrollment applications. The exception pertinent to this matter is where the application alleges that the student has been "the victim of repeated acts of harassment." 281 Iowa Admin. Code rule 17.5, as amended. Because of the natural confusion caused by the newness of the changes to open enrollment, the Chariton board did not undertake to analyze this application under the criteria for harassment cases, and Mr. and Mrs. Matlock did not know to ask the board to do so.

Accordingly, this matter is remanded to the Chariton Community School District for its board to re-consider the open enrollment application filed July 3, 2002, using the principles developed by the State Board of Education for open enrollment cases involving alleged harassment. These principles, first set forth in the case of *In re Melissa J. Van Bemmel*, 14 D.o.E. App. Dec. 281 (1997), 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 application in a timely manner.

2. The evidence must show that the harassment is likely to continue.

3. The harassment must be widespread in terms of numbers of students and the length of time harassment has occurred. The harassment must be relatively severe with serious consequences, such as necessary counseling, for the student who has been subject to the harassment. Evidence that the harassment has been physically or emotionally harmful is important. Although we do not condone any harassment of students, in order to use [open enrollment], the harassment must be beyond typical adolescent cruelty.

4. The parents must have tried to work with school officials to solve the problem without success.

5. The evidence of harassment must be specific.

6. Finally, there must be reason to think that changing the student's school district will alleviate the situation.

Id. At 286-287 [paragraph numbering added].

ORDER

Accordingly, it is ordered that this matter be and hereby is remanded to the school board of the Chariton Community School District to re-consider the open enrollment application filed July 3, 2002, on behalf of Scott Matlock III, at its next regular meeting. The Matlocks shall have an opportunity at the time to prove why they could not comply with the January 1 deadline, and the board shall determine whether the evidence meets the foregoing six principles. The District is to advise this agency of the outcome of that meeting. If the board again denies the application, the Matlocks are to advise this agency whether they wish to continue with their appeal or dismiss the same. At this time, there are no costs of this appeal to be assigned.

So ordered.

_____ _____

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

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Wayne Community School District & Chariton Community School District, Appellees.	:	[Adm. Doc. #s 4511 & 4509]

This matter was heard on August 29, 2002, before Carol J. Greta, J.D., designated administrative law judge, presiding. Appellants, Scott and Melody Matlock, were both present, as was their son, Scott Matlock III; the Matlocks were unrepresented by counsel. Appellee District, also unrepresented by counsel, was present in the person of Superintendent Robert Newsum.

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Effective July 1, 2002, Iowa's open enrollment law was revised to provide that, with two exceptions, only the receiving district takes action on late-filed open enrollment applications. The exception pertinent to this matter is where the application alleges that the student has been "the victim of repeated acts of harassment." 281 Iowa Admin. Code rule 17.5, as amended. Because of the natural confusion caused by the newness of the changes to open enrollment, the Chariton board did not undertake to analyze this application under the criteria for harassment cases, and Mr. and Mrs. Matlock did not know to ask the board to do so.

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alleged harassment. These principles, first set forth in the case of *In re Melissa J. Van Bemmel*, 14 D.o.E. App. Dec. 281 (1997), are as follows:

7. 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 application in a timely manner.

8. The evidence must show that the harassment is likely to continue.

9. The harassment must be widespread in terms of numbers of students and the length of time harassment has occurred. The harassment must be relatively severe with serious consequences, such as necessary counseling, for the student who has been subject to the harassment. Evidence that the harassment has been physically or emotionally harmful is important. Although we do not condone any harassment of students, in order to use [open enrollment], the harassment must be beyond typical adolescent cruelty.

10. The parents must have tried to work with school officials to solve the problem without success.

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Id. At 286-287 [paragraph numbering added].

ORDER

Accordingly, it is ordered that this matter be and hereby is remanded to the school board of the Chariton Community School District to re-consider the open enrollment application filed July 3, 2002, on behalf of Scott Matlock III, at its next regular meeting. The Matlocks shall have an opportunity at the time to prove why they could not comply with the January 1 deadline, and the board shall determine whether the evidence meets the foregoing six principles. The District is to advise this agency of the outcome of that meeting. If the board again denies the application, the Matlocks are to advise this agency whether they wish to continue with their appeal or dismiss the same. At this time, there are no costs of this appeal to be assigned.

So ordered.

_____ _____

Date

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

IOWA STATE BOARD OF EDUCATION

(Cite as 20 D.o.E. App. Dec. 240)

In re Scott Matlock II	:	
Melody Matlock,	:	
Appellant,	:	
v.	:	**DISMISSAL**
Wayne Community School District & Chariton	:	
Community School District, Appellees.	:	[Adm. Doc. #s 4511 & 4509]

This matter was heard on August 29, 2002, before Carol J. Greta, J.D., designated administrative law judge, presiding. The administrative law judge remanded the appeal back to the resident district for reconsideration on September 16, 2002. The Chariton Community School District reconsidered Appellants' application and again denied the application. On September 21, 2002, the Matlocks notified this agency that they do not wish to continue with their appeal and wish to dismiss the same.

IT IS SO ORDERED.

_____ _____

Date

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