

**IOWA STATE DEPARTMENT
OF EDUCATION
(Cite as 20 D.o.E. App. Dec. 117)**

**In re Scott, Andrew, Isaiah &
Joshua Clarke** :

Scott Clarke,
Appellant, :

v. : DECISION

North Kossuth Community School
District, :
Appellee. :

[Admin. Doc. #4389]

The above-captioned appeal was heard telephonically on August 23, 2001, before Susan E. Anderson, designated administrative law judge, presiding. Appellant Scott Clarke was present and was unrepresented by counsel. Appellee, North Kossuth Community School District [hereinafter, “the District”], was present in the person of Kathryn Gilbert, superintendent. The District was represented by Attorney Rick Engel, of Engel Law Firm, Des Moines, Iowa.

An evidentiary hearing was held pursuant to departmental rules found at 281 Iowa Administrative Code 6. Authority and jurisdiction for this appeal are found at Iowa Code sections 282.18 and 290.1(2001). 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 decisions of the Board of Directors [hereinafter, “the Board”] of the District made on July 16, 2001, that denied his timely-filed open enrollment applications for his four sons to attend public school in Blue Earth, Minnesota, beginning in the 2001-2002 school year. The Board’s denial was based on a determination that open enrollment is not available for Iowa parents who want to send their children to an out-of-state public school district.

**I.
FINDINGS OF FACT**

Scott and Sarah Clarke reside within the District with their children: Scott (7th grade); Andrew (4th grade); Isaiah (2nd grade); and Joshua (kindergarten). On June 30, 2001, the Clarke family moved into the North Kossuth District from the Minneapolis/St. Paul, Minnesota area. The house in which they reside is located just south of the border between Minnesota and Iowa. On July 9, 2001, Mr. Clarke filed open enrollment

applications for his sons to attend the Blue Earth Area School District in Blue Earth, Minnesota, located 15 miles north of their Iowa residence in the North Kossuth District.

Mr. Clarke attached a letter to the open enrollment applications with the following explanation: “Reasons to Open Enroll to Blue Earth Area schools:

1. More educational opportunities and closer to extra learning centers (i.e. Sylvan in Rochester, MN)
2. More Extra-Curricular opportunities (i.e. – sports)
3. Religious Education available during school hours at area churches
4. Church activities (we attend church in Blue Earth and have many friends in the church that are our children’s age)
5. Familiarity of Minnesota Education system
6. Majority of our personal business is conducted in Blue Earth.”

(Clarke letter, dated July 9, 2001.)

The North Kossuth Community School District Board denied Mr. Clarke’s open enrollment applications for his sons at its meeting on July 16, 2001, on the basis that open enrollment is not available “for the following reasons:

1. Request was for an out-of-state school which is not in board policy of North Kossuth School. (#7 on the application)

(Gilbert letter, dated July 20, 2001.)

Superintendent Gilbert testified at the appeal hearing that the Board’s denial was based on its belief that the Open Enrollment Law (Iowa Code section 282.18) does not extend across state lines. She also testified that the District does not have an arrangement, and has never been requested to enter into an arrangement, under Iowa Code section 282.8, entitled, “Attending Schools outside state.” At the appeal hearing, Mr. Clarke submitted into the record a letter that he and his wife had received from Tim Collins, superintendent for the Blue Earth District, which states:

Please find enclosed a copy of a contract between the Mabel-Canton School District in Minnesota and the North Winneshiek Community School District located in Iowa. As you can see by reading through the contract, if both School Boards are in agreement you can have open enrollment agreements between the State of Iowa and Minnesota. I do know that at this time the Blue Earth Area School District would sign off on a very similar agreement.

(Exhibit 1.)

II. CONCLUSIONS OF LAW

The issue raised in this appeal is whether the Open Enrollment Law is available to Iowa parents who want to send their children to an out-of-state school district. This is the first time that this issue has been presented to the State Board of Education. We conclude that the Open Enrollment Law is not available to Iowa parents who want to enroll their children in schools outside of Iowa.

The State Board of Education has been directed by the legislature to render decisions that are "just and equitable" [Iowa Code section 282.18(18)(2001)], "in the best interest of the affected child or children" [Iowa Code section 282.18(18) (2001)], and "in the best interest of education" [281 Iowa Administrative Code 6.17(2)]. Based on this mandate, the State Board's standard of review is as follows:

A local school board's decision will not be overturned unless it is unreasonable and contrary to the best interest of education.

In re Jesse Bachman, 13 D.o.E. App. Dec. 363(1996).

Parents must file open enrollment requests by the deadline of January 1 of the year preceding the school year for which open enrollment is requested. Iowa Code section 282.18(2) (2001). However, the legislature recognized that certain events would prevent a parent from meeting the January 1 deadline. Therefore, there is an exception in the statute for two groups of late-filers: the parents or guardians of children who will enroll in kindergarten the next year, and parents or guardians who have "good cause" for missing the January 1 filing deadline. Iowa Code sections 282.18(2) and (16) (2001). Mr. Clarke had "good cause" for filing the open enrollment applications after the January 1 deadline because the family had just moved into the District on June 30, 2001. However, Iowa Code section 282.18(1)(2001) states:

It is the goal of the general assembly to permit a wide range of educational choices for children enrolled in schools in this state and to maximize ability to use those choices. It is therefore the intent that this section be construed broadly to maximize parental choice and access to educational opportunities which are not available to children because of where they live.

Id.

The above statute limits the Open Enrollment Law contained in Iowa Code section 282.18 to "children enrolled in schools in this state." *Id.* We conclude, therefore, that the Open Enrollment Law is not available for attendance in schools outside of Iowa.

In fact, the Iowa Legislature enacted a separate Code section, not contained in the Open Enrollment Law, specifically to cover the arrangement that Mr. Clarke seeks for his sons. Iowa Code section 282.8, entitled "Attending school outside state," provides, in pertinent part:

The boards of directors of school districts located near the state boundaries may designate schools of equivalent standing across the state line for attendance of both elementary and high school pupils when the public school in the adjoining state is nearer than any appropriate public school in a pupil's district of residence or in Iowa. Distance shall be measured by the nearest traveled public road. Arrangements shall be subject to reciprocal agreements made between the chief state school officers of the respective states.

Id. It is undisputed that the North Kossuth Board has not exercised its discretion under the provisions of Iowa Code section 282.8, to make a reciprocal arrangement with the Blue Earth Area School District in Blue Earth, Minnesota. The evidence showed that the Board had never received a formal request for it to do so.

The issue before us is whether the District Board reasonably denied Mr. Clarke's timely-filed open enrollment applications for his sons to attend public school in Blue Earth, Minnesota. Since we have concluded that the Open Enrollment Law does not apply to attendance in an out-of-state school, the Board's denials of Mr. Clarke's open enrollment applications were reasonable.

All motions or objections not previously ruled upon are hereby denied and overruled.

III. DECISION

For the foregoing reasons, the decisions of the Board of Directors of the North Kossuth Community School District made on July 16, 2001, that denied Scott Clarke's timely-filed applications for open enrollment for his four sons, are hereby recommended for affirmance. There are no costs of this appeal to be assigned.

DATE

SUSAN E. ANDERSON, J.D.
ADMINISTRATIVE LAW JUDGE

It is so ordered.

DATE

GENE VINCENT, VICE-PRESIDENT
STATE BOARD OF EDUCATION

