Iowa State Board
of Education
(Cite as 20 D.o.E. App. Dec. 82)

In re Megan Watts	:	
Mark D. & Lisa J. Watts, Appellants,	:	
v.	:	DECISION
Lynnville-Sully Community School District,	:	
Appellee.		[Adm. Doc. #4366]

The above-captioned matter was heard on June 28, 2001, before Susan E. Anderson, J.D., designated administrative law judge, presiding. Appellants, Mark and Lisa Watts, were present telephonically and were unrepresented by counsel. Appellee, Lynnville-Sully Community School District [hereinafter, "the District"], was also present telephonically in the persons of Tony Spencer, superintendent; and Glen Dezwarte, board president. The District was unrepresented by counsel.

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.

Appellants seek reversal of a decision of the Board of Directors [hereinafter "the Board"] of the District made on May 21, 2001, that denied their open enrollment application for Megan Watts, on the basis that it was filed late without statutory good cause. On June 28, 2001, the administrative law judge rendered an oral decision at the request of both parties, pursuant to 281 Iowa Administrative Code 6.17(10). The administrative law judge's decision reversed the Board's denial of Appellants' open enrollment application. Appellee then requested a written decision.

I.
Findings of Fact

Mark and Lisa Watts are residents of the Lynnville-Sully Community School District, along with their daughters, Megan and Tressa. Megan will begin third grade in the 2001-2002 school year. Tressa will begin kindergarten in the 2001-2002 school year.

On May 21, 20001, the Watts filed open enrollment applications for Megan and Tressa to attend school in the North Mahaska District. At its May 21, 2001, meeting, the Board denied the application for Megan because it was filed after the January 1 deadline without good cause. It approved Tressa's application because she would be entering kindergarten and had met the deadline for such students, which is September 2001. The Watts appealed the Board's decision to the State Board of Education, asserting that the Board had established a precedent of approving late-filed open enrollment applications. They alleged that three students had been approved for open enrollment out of the District in September of 2000, even though their applications were filed late.

Mr. and Mrs. Watts testified that they sought open enrollment for their daughters because Mrs. Watts works for the North Mahaska District. Mr. Watts was an employee of the Lynnville-Sully District until the spring of 2001. They testified that it would be more convenient for childcare and transportation reasons if the girls were to attend the North Mahaska District, where Mrs. Watts works.

Tony Spencer, superintendent of the Lynnville-Sully Community School District, testified regarding the Board's policies and their application to Megan and Tressa. The District published notification of the open enrollment deadlines in its August 2000 newsletter. On September 18, 2000, the Board approved three late-filed open enrollment applications for another family in the District that had complained of student harassment. The Board minutes did not state the reason for its approval of the late-filed open enrollment applications. Those three children open enrolled to the North Mahaska District. Mrs. Watts, because of her employment at North Mahaska, was aware that that family's three children had been approved out even though the deadline had not been met. She testified that they assumed that the open enrollment application for Megan would be approved, too, even though it was filed after the deadline.

II.
CONCLUSIONS OF LAW

The State Board of Education has been directed by the Legislature to render decisions that are "just and equitable" [Iowa Code section 290.3(1999)], "in the best interest of the affected child" [Iowa Code section 282.18(18)(1999)], and "in the best interest of education" [281 Iowa Administrative Code 6.17(2)]. The test is *reasonableness*. Based upon this mandate, the State Board's standard of review is:

> 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, 369 (1996).

In this appeal, the State Board is asked to determine whether the Board's decision to deny the open enrollment request for Megan Watts was a reasonable exercise of its authority. We conclude that it was not, for the following reasons.

The Open Enrollment Law was written to allow parents to maximize educational opportunities for their children. Iowa Code section 282.18(1)(2001). However, in order to take advantage of the opportunity, the law requires that parents follow certain minimal requirements, including filing the application for open enrollment by January 1 of the preceding school year. Iowa Code section 282.18(2)(2001).

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 of children who have "good cause" for missing the January 1 filing deadline. Iowa Code sections 282.18(2) and (16)(2001).

The Legislature has defined the term "good cause" rather than leaving it up to parents or school boards to determine. The statutory definition of "good cause" addresses two types of situations that must occur after the January 1 deadline. That provision states that "good cause" means:

> a change in a child's residence due to a change in family residence, a change in the state in which the family residence is located, a change in a child's parents' marital status, a guardianship proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program, or a similar set of circumstances consistent with the definition of good cause; a change in the status of a child's resident district, such as removal of accreditation by the state board, surrender of accreditation, or permanent closure of a nonpublic school, the failure of negotiations for a whole-grade sharing, reorganization, dissolution agreement, or the rejection of a current whole-grade sharing agreement, or reorganization plan, or a similar set or circumstances consistent with the

> definition of good cause. 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 or within thirty days of the certification of the election, whichever if applicable to the circumstances.

Iowa Code section 282.18(16)(2001).

The District received the Watts' open enrollment request for Megan on May 21, 2001, after the January 1 deadline. The Watts family did not claim "good cause." As a result the application was untimely filed. The Watts maintain, however, that the applications should have been approved because the Board had set a precedent of approving late-filed applications, without saying why, on which the Watts relied. The evidence supports this position. Appellants' evidence that the Board approved three late-filed applications on September 18, 2000 was not refuted. Indeed, Superintendent Spencer testified that the Board had at other times in the past approved late-filed applications.

The Board has a policy requiring adherence to the filing deadlines in the Open Enrollment Law. We have, however, no recorded evidence in the Board's minutes of the reasons why the Board made the three exceptions to its policy. The State Board has stated on several occasions that when boards grant late-filed open enrollment applications, they should record in the minutes of the meeting the particular and unique facts of the situation that prompted the approval. When they do this, boards will then be obligated to approve only those future, late-filed applications of the same factual nature. *In re Megan and Tony Feldmann*, 18 D.o.E. App. Dec. 102, 107(2000); *In re Melissa J. Van Bemmel*, 14 D.o.E. App. Dec. 281(1997); *In re Shawn and Derrick Swenson*, 12 D.o.E. App. Dec. 150 (1995).

If a board wishes to change its position regarding late-filed open enrollment applications, it must do so in a manner that is reasonable and provides for sufficient notice to the parents in the district so they will be able to file their applications on time. This means boards that have previously granted late-filed applications as a matter of policy or practice need to state clearly in the minutes of a board meeting, or in written notice to the public, that it will no longer approve late-filed applications. *In re Jason and Joshua Toenges*, 15 D.o.E. App. Dec. 22 (1997). There is no evidence of such public notice of policy change in this case.

The Board had a past practice of approving late-filed open

enrollment applications, of which Appellants were aware and on which they relied. In the absence either of minutes that specify the factual nature of such approvals, or of public notice that it would no longer approve late-filed applications, Appellants were justified in expecting that their application would also be approved. The Board's denial on May 21, 2001, therefore, fails the test of reasonableness.

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

III.
DECISION

For the foregoing reasons, the decision of the Board of Directors of the Lynnville-Sully Community School District, made on May 21, 2001, that denied the open enrollment application for Megan Watts, is hereby recommended for reversal. There are no costs of this appeal to be assigned.

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

It is so ordered.

_____ _____
DATE CORINE HADLEY, PRESIDENT
STATE BOARD OF EDUCATION