

**IOWA STATE DEPARTMENT
OF EDUCATION
(Cite as 20 D.o.E. App. Dec. 13)**

In re Evan & Ratha Davis	:	
Jamison & Tammy Davis, Appellants,	:	
v.	:	PROPOSED DECISION
Seymour Community School District, Appellee.	:	
		[Admin. Doc. #4340]

The above-captioned appeal was heard telephonically on May 18 and June 18, 2001, before Susan E. Anderson, designated administrative law judge, presiding. Appellants Jamison and Tammy Davis were present and were unrepresented by counsel. Appellee, Seymour Community School District [hereinafter, “the District”], was present in the persons of Dale Weeks, superintendent; and Dave Lockridge, secondary principal. The District was also 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 the decisions of the Board of Directors [hereinafter, “the Board”] of the District made on February 19, 2001, and May 21, 2001, which denied their open enrollment applications for Evan and Ratha Davis, beginning in the 2001-2002 school year. The Board’s denials were on the basis that the applications were filed late without good cause.

**I.
FINDINGS OF FACT**

Mr. and Mrs. Davis reside with their children in the District. Evan will begin tenth grade, and Ratha will begin eighth grade in the 2001-2002 school year. On January 31, 2001, Mr. and Mrs. Davis filed open enrollment applications for Evan and Ratha to attend the Centerville Community School District. The Board denied their applications on February 19, 2001, on the basis that they were filed late without good cause. Mr. and Mrs. Davis appealed.

In their affidavit of appeal, Mr. and Mrs. Davis stated that one of the reasons they sought open enrollment was that they believed Ratha had been harassed once at school by a non-student visitor and once on the bus by a student. At the beginning of the hearing, Superintendent Weeks stated that the District had promptly addressed those two incidents and that there have been no further problems. Mr. and Mrs. Davis acknowledged this was true. Superintendent Weeks also stated that the Board had not heard a presentation on alleged harassment as one of the reasons for the open enrollment applications. The administrative law judge then continued the hearing until June 18, 2001, to allow the Board an opportunity to vote on the applications after Mr. and Mrs. Davis had presented their harassment allegations to the Board.

On May 21, 2001, the Board heard Mr. and Mrs. Davis' presentation and voted once again to deny the open enrollment applications. At the June 18th continued hearing, the administrative law judge heard the evidence on both sides, including the two alleged harassment issues.¹

During the appeal hearing, Mr. and Mrs. Davis testified that the District had failed to notify them of the open enrollment deadline. The evidence showed that the District's newsletter from August 2000 inadvertently published last year's open enrollment deadline date. The newsletter stated:

January 1, 2000 – Last date for regular open enrollment requests
for the 2000-2001 school year.

(August 2000 newsletter, p. 15.)

Superintendent Weeks testified that the inaccurate date was due to a proofreading error and that steps had been taken to prevent future similar inaccuracies. The District will now have three proofreaders review the newsletter before it is sent out. Superintendent Weeks further testified that the District does not publish notice of open enrollment deadlines in a newspaper. In addition to its newsletter publication of notice, Superintendent Weeks testified that the District publishes notice of the open enrollment deadlines in its student handbook that is distributed when a parent comes into the District's offices to register their children for school. The handbook provides:

Open Enrollment

By September 30 of each school year, the Seymour Community School District is required to notify parents of open enrollment deadlines and transportation assistance. January 1 is the last date for regular open enrollment request for the next school year.

...

¹ The specific facts of the alleged harassment incidents are not included in detail in the Findings of Fact. The appeal is being decided on other unrelated grounds that are determinative of the appeal.

Open Enrollment

Iowa's open enrollment law allows students residing in one school district to request transfer to another school district upon the parents' request. Students wishing to open enroll to another school district must apply for open enrollment by January 1 of the school year preceding the school year which they wish to open enroll. ...

(2000-2001 Student Handbook, pp.7, 45.)

Mrs. Davis testified that the family had not acquired a copy of the student handbook for the 2000-2001 school year because she had registered her children over the telephone. She had received only a receipt for the registration fees she paid by check through the mail. The District acknowledged that it does not send other information, including the student handbook, to parents who register their children over the telephone.

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 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 preceding 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).

Department of Education rules found at 281 Iowa Administrative Code 17.3(2) provide that it is the resident district's responsibility to do the following, in pertinent part:

By September 30 of each school year, the district shall notify parents of open enrollment deadlines, transportation assistance, and possible loss of athletic eligibility for open enrollment pupils. This notification shall be published in a school newsletter, a

newspaper of general circulation, **or** a parent handbook provided to all patrons of the district. This information shall also be provided to any parent/guardian of a pupil who transfers into the district during the school year.

Id. (Emphasis added.)

The evidence is undisputed that the District’s August 2000 newsletter published the wrong open enrollment deadline due to a proofreading error. The evidence is also undisputed that the District did not publish open enrollment deadlines in a newspaper of general circulation. Although the District’s parent handbook included the general open enrollment deadline language, Mr. and Mrs. Davis testified that they never received the handbook because Mrs. Davis registered her children over the telephone. The evidence showed that the District distributes the handbook at the time of registration if the parents come into the office to register, but it does not send out the handbook if the parents register over the telephone.

In summary, there was no evidence at the appeal hearing that the District had accurately notified Mr. and Mrs. Davis of the open enrollment deadline by any of the three ways listed in the applicable statute, Rule 17.3(2). The District therefore failed to publish notification to Mr. and Mrs. Davis of the accurate open enrollment deadline for the 2001-2002 school year. The District’s failure to meet its duty to publish the open enrollment deadlines to the Davis family is grounds for reversing the Board’s decision to deny the Davis family’s open enrollment applications on the basis that they were filed after the January 1, 2001, deadline.

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 Seymour Community School District made on February 19, 2001, and May 21, 2001, which denied Appellants’ open enrollment applications for Evan and Ratha Davis, are 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