

**Before the Iowa Department of Education**  
(Cite as 20 D.o.E. App. 11)

---

Phoenix Saffold,	:	Docket # 4374
Petitioner,	:	REFUSAL TO ISSUE DECLARATORY ORDER
To the Iowa Department of Education.	:	

---

On or about the 22<sup>nd</sup> day of June, 2001, a petition for declaratory order was received herein. The precise question presented is, “When a child, currently enrolled under open enrollment in the Malcolm Price Laboratory School, moves from the resident district into the Cedar Falls Community School District but outside of the Price Lab attendance zone, is that child entitled to continuous open enrollment under 281 IAC 17.8(6)?”

The undersigned finds that the petition does substantially comply with the form required by Iowa Code chapter 17A (Iowa Administrative Procedures Act) and 281 IAC chapter 3. However, the Department does not have jurisdiction over the question presented in the petition.

Accepting the facts as presented in the petition, the Petitioner’s child open enrolled from the Waterloo Community School District to Malcolm Price Laboratory School (herein “PLS”). PLS is operated by the Iowa Board of Regents, Iowa Code section 265.1, and is located wholly within the boundaries of the Cedar Falls Community School District. The child’s parent and the child have now moved to Cedar Falls, but do not reside within an “attendance zone” for PLS. PLS officials have notified the Petitioner that her child may not, therefore, attend PLS for the upcoming and subsequent school years under these facts.

281 IAC 17.8(6) gives a parent of an open enrolled student three options when the district of residence changes. The parent has the option of (1) open enrolling the child to another district, (2) enrolling the child in the new district of residence, or (3) leaving the child in the receiving district.

While not a “district”, PLS is a school to which students may be open enrolled. Iowa Code sections 257.6(1)(f) and 282.18(15) makes that clear. However, 282.18(15) also states as follows:

“The regents institution operating the laboratory school and the board of directors of the school district in the community in which the regents institution is located shall develop a student transfer policy designed to protect and promote the quality and integrity of the teacher education program at the laboratory school, the viability of the education program of the local school district in which the regents institution is located, and to indicate the order in which and reasons why requests to transfer to a laboratory school shall be considered. A laboratory school may deny a request for transfer under the policy. A denial of a request to transfer under this paragraph is not subject to appeal under section 290.1 [appeals to State Board of Education].”

PLS and the Cedar Falls district have such a policy, and it has been implemented here. Authority to promulgate the policy lies with the Regents and the Cedar Falls board of education, not with the Iowa Department of Education. The specific provisions of Iowa Code section 282.18(15) must be given priority over the general provisions of 281-17.8(6). Citizen’s Aide/Ombudsman v. Miller, 543 N.W.2d 899, 903 (Iowa 1996).

For the foregoing reasons, the Iowa Department of Education must decline to issue the requested declaratory order herein. 281 IAC 3.9(1)(3).

---

Date

---

Ted Stilwill, Director

