

IOWA DEPARTMENT
OF EDUCATION
(Cite as 19 D.o.E. App. Dec. 219)

<i>In re Lincoln Hawbaker</i>	:	
Sonja Hawbaker,	:	
Appellant,	:	
v.	:	DECISION
Keota Community	:	
School District, Appellee.	:	[Adm. Doc. #4290]

The above-captioned matter was heard on December 13, 2000, before Susan E. Anderson, J.D., designated administrative law judge. Appellant, Sonja Hawbaker, was present telephonically and was unrepresented by counsel. Appellee, Keota Community School District [hereinafter, "the District"], was also present telephonically in the persons of Larry Boer, superintendent; and Marlene Stoutner, board secretary and district business manager. Appellee was also unrepresented by counsel.

An evidentiary hearing was held pursuant to department 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 Director of the Department of Education have jurisdiction over the parties and subject matter of the appeal before them.

Appellant seeks reversal of a decision of the Board of Directors [hereinafter, "the Board"] of the District made on November 14, 2000, denying Appellant's application for open enrollment for her daughter, Lincoln, on the ground that it was filed late without statutory good cause. On December 13, 2000, the administrative law judge rendered an oral decision at the request of both parties, pursuant to Iowa Code 282.18 and 281 Iowa Administrative Code 6.17(10). The administrative law judge's decision affirmed the Board's denial of Appellant's open enrollment application. Appellant then requested a written decision.

I.
FINDINGS OF FACT

At the time of the appeal hearing, Mr. and Mrs. Hawbaker had resided with their family in the Keota Community School District since 1996. Lincoln attended the District during kindergarten and first grade.

The Hawbakers homeschooled Lincoln during her second-grade year. In August of 2000, the Hawbakers decided to move at some undetermined future date into the Mid-Prairie District where they intended to build a home in Kalona. Even though they still resided in the Keota District, they decided to start Lincoln's third-grade year at Mid-Prairie. On August 8, 2001, they filed an open enrollment application with the Keota District for the 2000-2001 school year. Lincoln started school at Mid-Prairie later that month.

On September 14, 2000, the Board voted to deny the Hawbakers' open enrollment application for the 2000-2001 school year on the basis that it was filed after the January 1, 2000, deadline without good cause.

On November 10, 2000, the Hawbakers obtained a building permit for the home they intended to build in Kalona. On November 14, 2000, the Board reconsidered the Hawbakers' open enrollment application (at the Hawbakers' request). The Board denied it once again for the same reason.

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 a deadline of January 1. Iowa Code §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 §§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 good cause exception relates to two types of situations: those involving a change in the student's residence, and those involving a change in the student's school district. Iowa Code §282.18(16)(2001); 281 IAC 17.4. The statutory definition of good cause addresses those two types of situations that must occur after the January 1 deadline as follows:

For purposes of this section, "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 non-public 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 of 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 is applicable to the circumstances.

Iowa Code §282.18(16)(2001).

The issue in the present appeal is what constitutes evidence of a change in residence? For open enrollment purposes, does the change in residence occur when the parents physically move into the district or when the parents evidence intent to move into the district by obtaining a building permit? We think the answer is obvious. Under Iowa Code section 282.6, a "resident" for the purposes of tuition-free education first requires that the person be physically present in the district.

It is undisputed that the Hawbakkers were physically present in the Keota District when they filed the open enrollment application for Lincoln. The evidence showed no statutory good cause for an exception to the January 1 deadline. There is, therefore, no basis for reversal.

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

III.
DECISION

For the reasons stated above, the decision of the Board of Directors of the Keota Community School District made on November 14, 2000, denying Appellant's open enrollment application on behalf of her daughter, Lincoln, is hereby affirmed. There are no costs of this appeal to be assigned under Iowa Code §290.4.

DATE

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

It is so ordered.

DATE

TED STILWILL, DIRECTOR
IOWA DEPARTMENT OF EDUCATION