

**IOWA STATE BOARD
OF EDUCATION
(Cite as 19 D.o.E. App. Dec. 194)**

In re Closing of Oran Junior High Building :

Teresa Duffy, :
Appellant, :

v. : DECISION

Wapsie Valley Community School :
District, :
Appellee. :

[Admin. Doc. #4230]

The above-captioned matter was heard on June 13, August 11 and August 15, 2000, before a hearing panel comprised of Eric Heitz and Jeff Berger, consultants, Bureau of Administration and School Improvement Services; and Susan E. Anderson, J.D., designated administrative law judge, presiding. Appellant, Teresa Duffy, was present on June 13, 2000, and was unrepresented by counsel. On that date, Appellant requested that the hearing be continued to a later date to give her time to obtain and prepare legal counsel. A continuance was, therefore, granted until August 11 and 13. On those dates, Appellant was represented by Mr. David Skilton of Cronin, Skilton & Skilton, Nashua, Iowa. The Appellee, Wapsie Valley Community School District [hereinafter, “the District Board”], was present in the person of Superintendent Steve Wehr and was represented by Ms. Beth Hansen of Swisher & Cohrt Law Firm, Waterloo, 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 section 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 a March 7, 2000, decision of the Board of Directors [hereinafter, “the Board”] of the District to close its Oran Junior High attendance center located in Oran, Iowa.

**I.
FINDINGS OF FACT**

Appellant Teresa Duffy and her husband reside in the District with their three daughters, who are students in the District. In the 2000-2001 academic year, they are in twelfth grade, tenth grade and fifth grade.

The District provides educational services for children in Bremer, Fayette, Buchanan and Black Hawk Counties. [Ex. 0016-17.] This area encompasses the towns of Readlyn, Oran and Fairbank, as well as the surrounding rural areas. During the 1999-2000 school year and for several years prior, a junior high attendance center for approximately 90 students was maintained in a 1914 school building located in the unincorporated township of Oran. The District also maintains an elementary school in Readlyn (grades K-6), an elementary school in Fairbank (grades K-6), and a high school attendance center on County Road C-50, approximately five miles from Oran. Certified enrollment for the District as of September 1999 was 743 students. [Ex. 0260.] Student enrollment since 1993 has continued to show a gradual decline resulting in the loss of approximately 100 students. [Ex. 0345.]

The facts presented at the hearing established that a school district reorganization partial study had been prepared by Mr. Guy Ghan and presented to the District on April 7, 1992. [Ex. 000-0029.] Mr. Ghan worked for the Department of Education for some 20 years before retiring in 1996. He noted in his 1992 study that there were concerns about the low year-end cash and accrued balances for the District. [Ex. 0003.] On page 0002 of Mr. Ghan's report, he opined that Wapsie Valley Community School District was not large enough to economically operate four buildings on four sites. The Readlyn building was built in 1935; the Fairbanks building was built in 1917. The high school was built in the 1960's. Mr. Ghan noted that the Oran Building was built around 1914 and appeared to be the poorest of the four buildings in operation by the District. Although noting that he was neither an engineer nor an architect, Mr. Ghan observed that the Oran building's rooms were small, the building design was inefficient, and the structure did not seem to be particularly solid.

In order to address their facilities needs, the patrons of the District voted on two bond issues in 1994 and 1996. Both bond issues failed. The 1994 bond issue would have included a totally new junior high at the Oran site. The 1996 bond issue would have included some new rooms at the Oran site. [Testimony Van Daele.]

During direct examination during the appeal hearing, Mr. Ghan who is now a private consultant with Guy Ghan Consulting, Inc., provided expert witness testimony on behalf of the District. He opined that the District's current unspent balance, when rated on a one-to-five scale with five being the best and one being the worst, was a zero compared to other districts in the State. Mr. Ghan additionally opined that on the same one-to-five scale, the District's cash balance (\$47.00) was a two. Mr. Ghan's testimony is supported by Exhibits 0239 through 0364. Mr. Ghan testified that the District went from over 1,100 students in 1969 to its present population of a little over 700, a 32% drop compared to the state's average of a 24% drop during that time period.

Superintendent Wehr testified that he arrived in the Wapsie Valley Community School District in the summer of 1999. Dave Owens had been superintendent for approximately 30 years and retired prior to Superintendent Wehr's arrival. In 1998, the District had shown an unspent balance of \$357,000. When Dave Owens first contacted Mr. Wehr in April of 1999, the District had overspent its maximum authority by \$150,000. As a result, the District was called before the State Budget Review Committee in May of 1999. The District had gone to GAAP accounting, so in the 1998-1999 school year, there were 14 months worth of bills as opposed to prior years where there were 12 months worth of bills. [Appellee's Exh. 6.] Department of Management records for the District's unspent authorized budget show \$357,296 for FY1997; a negative \$157,185 for FY1998; and \$23,057 for FY1999. [Appellee's Exh. 6.]

Mr. Ghan testified that a negative or low unspent balance can be brought up either by adding funding that increases spending authority or by cutting expenditures. Since Wapsie Valley already had the instructional support levy, the only way to address the negative or low unspent balance was to make cuts. [Testimony Ghan.]

Additionally, Superintendent Wehr testified that the financial health of the District necessitated the Board's contemplation of a building closing. Superintendent Wehr told patrons in November and December 2000 newsletters that the District had budget issues to resolve. [Ex.0034.] In January 2000, the District posted a tentative agenda with item 14: "Building Closing Study" as a discussion/decision item. [Ex. 0033.] Approximately 200 people attended the regular Board meeting of the District held on January 17, 2000. The Board minutes reflect that tentative agenda item, "Building Closing Study," came on for discussion by the District. [Ex. 0036-0038; testimony Meyer, Wehr, Van Daele, Heineman.] The testimony and the Board minutes reflect that the Board was advised in open session by Superintendent Wehr that the District should take certain matters into consideration if it contemplated closing an attendance center. [Ex. 0036.] These recommendations were according to guidelines set by the State Board of Education in its *Barker* decision, and included the following:

- 1) establishing a timeline;
- 2) involving all segments of the community;
- 3) allowing public input;
- 4) studying and planning;
- 5) having open and frank public discussion;
- 6) maintaining a record of the steps; and
- 7) making the final decision in an open public meeting.

The Board in open session on January 17 discussed the establishment of a timeline. A timeline was established beginning with the appointment of a committee consisting of two citizens from each director district, school administrators, teacher and

staff representatives, and all Board members. [Testimony Meyer, Heineman, Wehr.] A timeline for the Committee study was established beginning on January 22, 2000, and concluding with a vote on March 7, 2000, at the regular Board meeting. [Ex. 0037]. At the January 17, 2000, meeting, a final motion was adopted on a 4 to 1 vote “to study the building closing at Oran and/or additional options in order to improve the financial position of the district.” [Ex. 0038; testimony Wehr, Meyer, Heineman.] On January 22, 2000, following the posting of an agenda, a special Board meeting was held and each Board member identified two citizen committee members who had agreed to serve on the Building Study Committee [“the Committee”]. [Ex. 0042.]

Following the posting of a tentative agenda [Ex. 0043], a special Board meeting was held between 7:05 p.m. and 8:56 p.m. on January 25, 2000. [Ex. 0044-0045.] At this initial meeting, the following Board members were present: Brenda Meyer, Lori Kerns, Bob Byersdorfer, Lois Heineman, and Ed Traeger. Present for administration were Superintendent Steven Wehr, Board Secretary Sherri Duffy, Mike Harter (high school principal), and Dan Ratcliff (elementary principal). In addition to Board members and Principal Harter, Principal Ratcliff, and Superintendent Wehr, citizen members were Glenne Adamson, Traci Boevers, Tammy Erickson, Carol Foster, Judy Heineman, Janet Huebner, Tim Johnson, Doug Koschmeder, Dave Lee, Dyette Molstre, Joe Regenold, Julie Rolfes, Jerry Southmayd, and Terri Zuck. The Committee reviewed the Board’s timeline and the *Barker Guidelines*. Each committee member received a committee list, a copy of the *Barker Guidelines*, and a copy of the timeline. Terri Zuck and David Lee were selected as co-chairpersons. The Committee was advised that public notice was required for its meetings and that the Board Secretary would post the agenda. Portions of the original study conducted by Guy Ghan in 1992 were shared with the Committee. [Testimony Wehr.]

At the January 25 committee meeting, Board President Brenda Meyer stated that the Committee members should be objective in their deliberations and should devise a list of options for the Board. The remainder of the meeting was conducted by co-chair Terri Zuck. Ms. Zuck began by organizing the meeting and requesting individual member’s ideas prioritizing their lists. The Committee established a schedule for meetings including Monday, January 31; February 7, 14, and 21. [Ex. 0044-45; testimony Wehr, Meyer, Zuck, Heineman, Regenold, Huebner, Koschmeder.] The Committee divided itself into two subcommittees, which were called the Financial Subcommittee and the Curriculum Subcommittee. The Financial Subcommittee would study financial information, student enrollment, and transportation. Ms. Zuck was the chairperson of the Curriculum Sub-committee. The Curriculum Subcommittee would study facilities, program offerings, and staff assignments. [Appellee’s Ex. 2.] Mr. Lee was the chairperson of the Financial Subcommittee.

The Committee continued to meet in open session on January 31, February 7, February 14 and February 21. The work and activities of the committee members were recorded as regular Board minutes found as Exhibits 0047-0070. Additionally, Terri Zuck testified that she maintained minutes for her subcommittee, which can be found as Defendant's Exhibit R. Brenda Meyer, Janet Huebner, and Traci Boevers testified at the appeal hearing that the Financial Subcommittee maintained records, which can be found as Defendant's Exhibit C, pages 0075-0133.

By the January 31, 2000, meeting, the Building Study Committee had been effectively divided into two groups. The group led by Terri Zuck examined facilities, staff and curriculum. Mrs. Zuck's notes taken from the January 31, 2000, meeting and found at Exhibit pages 0049-0051, indicate that the subcommittee discussed class placements, building layouts, scheduling, and teacher assignments. The subcommittee also established priorities for facilities and staff including maintaining age-appropriate equity of staff and students, effective use of all staff members, maintaining neighborhood elementary schools, providing for separation of junior and high school students within the high school building, and maintenance and enhancement of education curriculum. High School Principal Mike Harter provided information and materials about the high school, including a building plan [Ex. 0112-0113.] The Financial Subcommittee in the initial meeting of the January 31 began to establish the idea of options including the potential savings for each individual option. [Ex. 0076-0088.]

The next Committee meeting was held on February 7, 2000. The Committee had arranged for a presentation by Bob Schmadeke, Middle School Principal of Grundy Center. The Committee was provided with a handout from Mr. Schmadeke as well as spreadsheets from the Finance Subcommittee as presented by Committee members Traci Boevers and Janet Huebner. [Ex. 0053.] The Curriculum Subcommittee notes found at 0054-0065 established that the Curriculum Subcommittee reviewed the middle school concept with a configuration of grades six through eight. [Ex. 0054]; staff selection [Ex. 0055]; social and emotional development and the importance of being separate from high school students; [Ex. 0056]; middle school philosophy [Ex. 0057]; and the curriculum required under Iowa Law [Ex. 0058].

The February 7, 2000, Committee meeting lasted from 5:38 p.m. until 7:57 p.m. Ms. Zuck's notes found in Exhibit R, pages 8-9 reflect the Committee's study of the information presented by Mr. Schmadeke. By February 7, the Financial Subcommittee had established charts showing estimated savings for the District from each of 4 options. [Ex. 0089-0094.] These options included:

- a) no change;
- b) Option 1 – moving the junior high to the high school building and closing the junior high;

- c) Option 2 – kindergarten and 6th through 8th in Readlyn and closing the junior high;
- d) Option 3 – 6th through 8th grades in Oran; and
- e) Option 4 – kindergarten through second at both Fairbank and Readlyn with third through sixth grade at Fairbank only.

The Committee determined during their review that transportation (busing) was not a significant component of the decision-making process because children were already being transported. Testimony at the hearing by Superintendent Steven Wehr established that during the 1999-2000 school year, the District's junior high students were being bused to the Oran attendance center. Mr. Wehr testified that he anticipated that the closing of the Oran Junior High Building would result in the busing of only one additional junior-high-aged student, who lived in Oran. No appreciable change in transportation costs or ride time was expected if the Oran Building were closed. [Ex. 0102-105.] Additionally, the Committee was beginning to develop the pros and cons for each of the options outlined on Exhibit 0089. [See Ex. 0091-0094.] [Testimony Meyer, Zuck, Huebner, Koschmeder and Boevers.]

On February 14, 2000, a special board meeting with the Building Study Committee was held from 7:02 p.m. until 10:08 p.m. in the high school cafeteria. The public was allowed to address the Building Study Committee, sharing concerns on financial questions and on grade placement. [Ex. 0066.] Various members of the Building Study Committee testified at the hearing that school patrons approached them at various times about the Committee work. [Testimony Meyer, Koschmeder, Heineman.] Also at the February 14 meeting, the Curriculum Subcommittee headed by Terri Zuck began fine-tuning the pros and cons of Options 1 through 4. [Ex. 0067.] The groups focused on developing additional pros and cons for the options, including class size, curriculum, administration and scheduling. [Defendant's Ex. S.] According to the Committee notes taken by Terri Zuck [Ex. R], the Committee discussed the benefits available to junior high students by consolidating with the high school in terms of exploratory courses. For instance, the District had not been able to offer the required home economics or industrial arts courses at the Oran Building. The Committee also itemized, as attached to Zuck notes [Ex. R, p. 12.], its concerns of consolidating the junior and senior high school students into one building.

On February 22, 2000, the Building Study Committee asked that the members of the Board of Education to allow the Committee to meet in private. (This meeting had been originally scheduled for February 21, 2000, but was postponed one day because of a basketball tournament involving the District's team.) Superintendent Wehr first presented a new way to remodel the high school as part of Option 1, moving the junior high to the high school building and closing the junior high building. By this time, the

Committee was focusing on ways to fit the junior high students into the high school under Option 1 or Option 2. Principal Harter also answered questions about scheduling. [Ex. S.] Additionally, the Committee received information concerning rooms and floor plans. Members of the administration were available to answer any immediate questions before being asked to leave by the remaining members of the Committee, which included citizens and teacher and staff representatives.

Although there was some dispute as to the nature of the vote taken by the remaining members of the Committee, those persons who provided testimony at the hearing, with the exception of Ms. Zuck, testified that it was the consensus of the remaining Committee members that the Oran attendance center be closed. The Committee chair concluded following the February 22, 2000, meeting that the District would be presented with the pros and cons without a recommendation from the Committee. [Ex. S.] The evidence conflicted over why there would be no Committee recommendation to the Board. Appellant's witnesses testified that they didn't have time to pick one of the options. Appellee's witnesses testified that either it was never the Committee's role to choose one option or that the Committee did not want to take responsibility for supporting a specific option.

On February 28, 2000, beginning at 7:00 p.m. and concluding at 9:09 p.m., the Wapsie Valley Community School District Board of Education held an open meeting and public hearing on the issues presented by the Committee. In addition to a public presentation by Committee co-chairpersons David Lee and Terri Zuck, the Board requested and received public input. Appellee's Exhibit S, entitled "Summary of the Committee's Study," was presented to the public and the Board as an overhead presentation by Committee co-chairperson Terri Zuck. Board President Meyer requested that the public confine their comments within a time frame of five minutes. However, once everyone in the audience had been allowed an opportunity to speak, the Board then allowed persons who had earlier addressed the Board additional time for presentations. [Ex. 0072.]

On March 7, 2000, the Board met to hear public comment and to make a final decision on closing the building. Four members of the public expressed their views. After Board members shared their comments, the Board voted 3 to 2 on March 7, 2000, in open session to "relocate its Junior High students to the High School site thereby leaving the Oran School Building closed at the end of the 1999-2000 school year." [Ex. 0074.]

The 2000-2001 fiscal year proposed budget summary for the Wapsie Valley Community School District was published on March 24, 2000, and March 31, 2000. The required public hearing was held on April 10, 2000, and the budget was adopted without change on that same date. On May 10, 2000, the District's

financial situation was brought to the School Budget Review Committee [“SBRC”] of the Iowa Department of Management, pursuant to Iowa Code Chapter 24.

The SBRC’s final order states:

Based on the financial position of the School District and information provided by the parties involved, the State Appeal Board orders that the total General Fund expenditures for FY2000-2001 be reduced by \$275,014, which will result in a balanced General Fund budget. The total reduction is comprised partially of the \$212,200 cost savings identified by the District for the closing of the Junior High School Building.¹

Appellant appealed the March 7, 2000, decision closing the Oran Building to the State Board of Education. When the appeal hearing concluded on August 15, 2000, the District was beginning classes on the next day, August 16, 2000. The Oran Building had been closed. The high school had been remodeled to accommodate the 90 junior high students in four new classrooms.

II. CONCLUSIONS OF LAW

The primary issue in this case is whether the Board’s decision on March 7, 2000, which closed the Oran attendance center, should be affirmed. Review of the Wapsie Valley Board’s decision in this case by the Iowa State Board of Education is *de novo*. *In re Debra Miller*, 13 D.o.E. App. Dec. 303(1996). The decision must be based upon the laws of the United States and Iowa, the regulations and policies of the Department of Education, and “shall be in the best interest of education.” 281 Iowa Administrative Code 6.11(2). Essentially, the test is one of reasonableness. *In re Jesse Bachman*, 13 D.o.E. App. Dec. 363(1996).

The Wapsie Valley Board of Directors has the authority to determine the number of attendance centers it shall have and where each child shall attend. The Iowa Code clearly states:

¹ The SBRC’s decision is admitted into evidence as Appellant’s Exhibit 5 because it was relevant to the District’s financial position when the Board voted to close the Oran Building.

The board of directors shall determine the number of schools to be taught, divide the corporation into such wards or other divisions for school purposes as may be proper, determine the particular school which each child shall attend, and designate the period each school shall be held beyond the time required by law.

Iowa Code section 279.11(1999).

Whether the District Board exercised its authority in a reasonable manner is the question raised by this appeal. The reasonableness of the Board's action is measured by the seven-step procedure recommended for school closings by the State Board of Education. *In re Norman Barker*, 1 D.P.I. App. Dec. 145(1977). These seven steps constitute procedural due process for the public when "making decisions as important as the closing of an attendance center." 1 D.P.I. App. Dec. 145, 149. The *Barker* guidelines are as follows:

1. A timeline should be established in advance for the carrying out of procedures involved in making an important decision. All aspects of such a timeline would naturally focus upon the anticipated date that the Board of Directors would make its final decision in the matter.
2. All segments of the community in the school district should be informed that a particular important decision is under consideration by the Board of Directors.
3. The public should be involved in providing sufficient input into the study and planning involved in important decision making.
4. Sufficient research, study and planning should be carried out by the board and groups and individuals selected by the board. Such things as student enrollment statistics, transportation costs, financial gains and losses, program offerings, plant facilities, and staff assignment need to be considered carefully.
5. There should be an open and frank public discussion of the facts and issues involved.
6. A proper record should be made of all the steps taken in the making of the decision.

7. The final decision must be made in an open, public meeting and a record be made thereof.

Barker at 149, 150.

This seven-step process is needed “to acclimate the public and implement [a school closing] decision.” *Meredith v. Council Bluffs Comm. Sch. Dist.*, 5 D.o.E. App. Dec. 25, 30 (1986). The purpose of going through the process is to avoid springing such an action on an unwilling, resisting public. *Id.* By involving parents and citizens, a district board may not win approval of their plan, but it may avoid a schism in the community. The fact that, in this case, a majority of three members of the Board can control the outcome of every debate is not a matter that can be changed by the State Board.

The focus of this appeal, then, is an examination of the process followed by the District Board from January 17, 2000, through its decision to close the Oran attendance center, which occurred on March 7, 2000. The District contends that the decision made on March 7, 2000, to close the Oran attendance center should be affirmed because it was the product of a process that followed the *Barker* guidelines. In contrast, the Appellant argues that the District Board’s March 7th decision should be reversed because the Board did not allow enough time for the Committee to discuss the options and come up with a specific recommendation for the Board.

The real issue for the State Board of Education to consider is not whether both sides actually listened to each other’s position. The real issue is whether they were given the *opportunity* to do so. That is what the *Barker* guidelines stand for. The guidelines do not mandate that the District Board acquiesce to the wishes of those who are most vocal at the public hearings. *In re Susan Beary, et al.*, 15 D.o.E. App. Dec. 208, 217 (1999). As the State Board of Education said in another school closing appeal:

Appellant and her silent counterparts in the district believe the board owed them a greater “duty” to consider their views than it exhibited in this case. Translation: We (300+persons signed a petition opposing the change of attendance centers) are many. We told you we didn’t want you to do this and you did it anyway. Therefore, you failed to give adequate consideration to public opinion.

On the contrary, no one was denied an opportunity to present his or her views on the subject. There was an information meeting ... there were no less than four Board meetings at which Appellant and other residents spoke to the Board on this issue, and the

meeting at which the decision was made lasted over three hours due to public comment. Appellant misconstrues the weight put on the right of public input. It does not imply that the Board must agree

In re Ilene Cadarr, 9 D.o.E. App. Dec. 11, 15(1991).

A school district board is comprised of “representatives” from the district it serves. At the time of its vote, the majority of those representatives believed that closing the Oran Building was the best course for the District as a whole. Whether or not it is the District’s best course is not the subject of the State Board of Education’s review. The State Board’s review focuses on the *process* employed by the District, rather than on the substance or merits of the decision. *Dunn v. Villisca Comm. Sch. Dist.*, 5 D.o.E. App. Dec. 31, 36(1982). *Beary* at 218.

The hearing panel heard extensive testimony from parents, members of the public, Board members, district administrators, and citizen members of the study committee. The numerous and expansive exhibits offered at the time of the hearing, when combined with the testimony, established that the Wapsie Valley Community School District followed the *Barker Guidelines*. The District:

- 1) established a clear and concise timeline for the procedure, ultimately culminating in a Board decision in open session on March 7, 2000;
- 2) informed all segments in the community that an important building closing decision was under consideration;
- 3) ensured that all segments of the community, including citizens, parents, elected Board members, school administrators, faculty and staff were involved in the process, including an opportunity for the public to discuss this matter in open session on February 28, 2000. Exhibit D, the District’s newsletters mailed to all addresses within the school district, clearly establishes the District’s commitment to provide the public with ongoing information concerning this process;
- 4) undertook sufficient study and research discussing study enrollment, transportation costs, financial considerations, curriculum, facilities and staff, and developed for the Board options including pros and cons;
- 5) allowed open and frank public discussion amongst the committee members and also as a part of the public hearing held on February 28, 2000. Additionally, it should be noted that Exhibits G, pp. 0163-0165,

and Exhibit F, pp. 0160-0161, indicate that persons opposing the closing of the Oran attendance center were included in the committee process and were allowed to present information to the Board opposing the closing;

- 6) maintained regular Board minutes which were supplemented by the committee meeting minutes kept by Ms. Zuck and members of the financial committee, found in Defendant's Exhibits C and R; and
- 7) made the final decision on this matter at a duly-noticed meeting on March 7, 2000, wherein the Board of Education of the Wapsie Valley Community School District voted to close the Oran attendance center at the conclusion of the 1999-2000 school year.

We believe the evidence shows that the District Board fulfilled all seven steps of the *Barker* guidelines. Because the process used was reasonable, the March 7, 2000, decision must be affirmed.

Unless time weighs heavily as a factor, school boards should allow a reasonable amount of time to pass between initial formal input and the final decision. *In re Susan Beary et al.*, 15 D.o.E. App. Dec. 1, 15 (1999). We conclude that the District's financial situation warranted speedy action and that the timeline it used was reasonable under the circumstances.

The District had expended more in the General Fund than the maximum it was allowed by Iowa Code in Fiscal Year 1997-98. That was a full year prior to Steve Wehr becoming Superintendent at the District. Exceeding the maximum spending authority is not just poor fiscal management, it is an illegal act under Iowa Code chapter 24. It is called having a "negative unspent balance."

The Iowa Code has no "forgiveness" provision where a district can start over with a clean slate the following year. The procedure is set out in 289 Iowa Administrative Code 6 and, in essence, states that the Department of Management will reduce a district's maximum spending authority by the amount it overspent in the previous year. The procedure required by the SBRC also includes that the district shall make a corrective action plan to avoid future negative unspent balances.

To correct a negative unspent balance, a district must increase revenues (there are not many options if a district already has the instructional support program as Wapsie Valley did); increase modified allowable growth (the SBRC has a limit by precedence on what it will approve, so this is also a limited option); and cut expenditures in the General Fund.

For Wapsie Valley, the SBRC did allow modified allowable growth to the full extent (\$150,185). Without this one-time adjustment, the District would have again

illegally overspent in FY1999 by \$123,853. To return to a level of fiscal health, it would have needed either to cut expenditures or to increase revenues/modified allowable growth by \$365,516. It increased modified allowable growth by \$150,185. FY1999 revenues were substantially the same as FY1997, and the District cut expenditures a small amount, leaving it approximately \$339,184 short of the \$365,516 goal.

By FY2000, the District was already in its second year after the negative unspent balance occurred. If it was going to realize any savings on operation and maintenance costs (all of which are required to be paid from the General Fund), it had to move quickly. We conclude, therefore, that the District had substantial fiscal concerns, which justified fast action in going through the seven-step process in the *Barker* guidelines.

Appellant argues that applying the *Barker* guidelines is unconstitutional because they are not department rules. In *Keeler v. Iowa State Board of Public Instruction*, 331 N.W.2d 110 (1983), the Iowa Supreme Court applied the *Barker* guidelines to a building closing, recognizing that they were not “rules” but affirmed them as “policy.” *Id.* at 112. We conclude that there has been no procedural due process violation in applying the *Barker* guidelines.²

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

III. DECISION

For the foregoing reasons, the decision of the Board of Directors of the Wapsie Valley Community School District made on March 7, 2000, to close the Oran Junior High Building, is hereby recommended for affirmance. There are no costs to be assigned under Iowa Code chapter 290.

DATE

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

It is so ordered.

DATE

CORINE HADLEY, PRESIDENT
STATE BOARD OF EDUCATION

² Appellant also argues that there were various procedural and evidentiary errors during the appeal hearing. We do not address these objections because they would be addressed only on appeal to district court.