

**Iowa State Department
of Education**
(Cite as 19 D.o.E. App. Dec. 16)

<i>In re Gerard Tremblay</i>	:	
Bonnie Tremblay, Appellant,	:	
v.	:	DECISION
North Linn Community School District, Appellee.	:	
		[Adm. Doc. #4233]

The above-captioned matter was heard on June 23, 2000, before Susan E. Anderson, J.D., designated administrative law judge. The Appellant, Bonnie Tremblay, was "present" telephonically and was unrepresented by counsel. Appellee, North Linn Community School District [hereinafter, "the District"], was also "present" telephonically in the person of Allen Whitlatch, superintendent. 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 the appeal are found at Iowa Code sections 282.18 and 290.1 (1999). 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.

The Appellant seeks reversal of a decision of the Board of Directors [hereinafter, "the Board"] of the District made on April 11, 2000, that denied open enrollment for her son, Gerard, because the request was filed after the January 1 deadline without statutory good cause.

**I.
Findings of Fact**

Appellant and her son, Gerard Tremblay, reside in the North Linn Community School District. At the time of the appeal, Gerard had just completed his fifth-grade year at North Linn. Prior to his fifth-grade year, Gerard was identified as a talented and gifted student. As early as August of 1999, Ms. Tremblay began talking to officials at the Cedar Rapids Community School District about that district's Program for Accelerated and Creative Talent (PACT). Ms. Tremblay was interested in having her son attend middle school in the Cedar Rapids District so that he could take advantage of its PACT. Ms. Tremblay works in Cedar Rapids and so it would be convenient for her to transport Gerard to school there. She has also found after-school care for Gerard in Cedar Rapids.

In the North Linn District, during his fifth grade, Gerard participated in the District's Gifted and Talented Educational (GATE) Program. The District has an expanded GATE program for the 2000-2001 school year during which Gerard will be in sixth grade. In March of 1999, Ms. Tremblay received results of standardized testing from the District with regards to Gerard. Those results showed that he was a candidate for some accelerated programs. However, Ms. Tremblay testified that she was aware of Gerard's needs before January 1, 2000. Ms. Tremblay also testified that she hadn't really worked with the North Linn District to come up with an appropriate program for Gerard. She nevertheless preferred the PACT at the Cedar Rapids District for Gerard and filed an open enrollment application for him to attend there for the 2000-2001 school year. The open enrollment application was filed on March 22, 2000. The District Board denied her application at its meeting on April 11, 2000, on the basis that it was filed late without statutory good cause.

Ms. Tremblay appealed the Board's denial of her open enrollment application.

II. CONCLUSIONS OF LAW

At the time the open enrollment law was written, the legislature apparently recognized that certain events would prevent a parent from meeting the January 1 deadline. Therefore, there is an exception in the statute for two primary 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) (1999).

The legislature chose to define 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 deadline and before the Thursday before the third Friday in September. 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 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 subsection 282.18(16) (1999).

We conclude that Gerard's situation does not constitute good cause for a late-filed open enrollment application as defined by the legislature and the departmental rules. Gerard's situation involves neither a change in family residence nor a change in the status of the District.

In addition, we conclude that this situation does not constitute an extraordinary case that requires the Board to exercise its discretionary power under Iowa Code §282.18(18) (1999). Appellant prefers that Gerard attend the Cedar Rapids District both for his educational benefit and for the convenience of the family. We do not dispute the validity or sincerity of this position. The evidence, however, showed that the Board followed Iowa law, departmental rules, and its own policy when it denied the application. Therefore, there is no basis in the law for reversing its decision.

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 North Linn Community School District, made on April 11, 2000, denying Appellant's open enrollment application for the 2000-2001 school year for being filed late without good cause, is hereby recommended for affirmance. There are no costs of this appeal to be assigned.

DATE

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

It is so ordered.

DATE

TED STILWILL, DIRECTOR
DEPARTMENT OF EDUCATION