

**Iowa State Department  
of Education**  
(Cite as 18 D.o.E. App. Dec. 231)

---

<b><i>In re Desiree Freese</i></b>	:	
Edie Freese, Appellant,	:	
v.	:	DECISION
Grand Community School District,	:	
Appellee.	:	[Adm. Doc. #4182]

---

The above-captioned matter was heard on January 20, 2000, before Susan E. Anderson, J.D., designated administrative law judge. The Appellant, Edie Freese, was "present" telephonically and was unrepresented by counsel. Appellee, Grand Community School District [hereinafter, "the District"], was also "present" telephonically in the person of Linda Hartman, superintendent. The District was 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 October 20, 1999, that denied open enrollment for her daughter.

**I.  
Findings of Fact**

Edie and Dallas Freese and their daughter, Desiree, live in Pilot Mound and are residents of the Grand Community School District. Desiree is a third-grade student in the Boone Community School District. The family previously lived in Boone, and Mr. and Mrs. Freese are currently employed there. Desiree was enrolled in the Head Start Program in the Boone schools during the 1994-95 school year. She continued there for the 1995-96 and 1996-97 school years, completing one year of optional kindergarten and one year of kindergarten. In the fall of 1997, the Freeses moved to Stanhope, which is in the South Hamilton Community School District. They applied for open enrollment so that Desiree could continue to attend the Boone schools. It was approved, and Desiree completed first grade at Boone during the 1997-98 school year. In September of 1998, the family moved to Pilot Mound

in the Grand Community School District. Mrs. Freese testified that she sent an open enrollment application to the District so that Desiree could continue to attend the Boone schools. She received no reply from the District, and she did not contact the District to clarify the status of the request. Superintendent Linda Hartman, testifying for the District, said that no open enrollment application for the 1998-99 school year was received from the Freeses. Desiree continued to attend the Boone schools and completed second grade there during the 1998-99 school year.

Superintendent Hartman testified that early in September of 1999 she became aware of the Freese family's residence in the Grand District, although she did not know when they had moved in. She also learned that the student in the family had been attending the Boone schools. She talked to the superintendent of the Boone schools and learned that district did not know the Freeses had moved and was still billing South Hamilton for Desiree's education. Superintendent Hartman testified that she attempted to contact Mrs. Freese by telephone and was unsuccessful, but left an answering machine message. Mrs. Freese testified that she did not receive this message.

In September 1999, Mrs. Freese requested an open enrollment application from the District. The District sent her an application for the 2000-01 school year, along with information about the Open Enrollment Law and related procedures. Mrs. Freese submitted the application to the District, which received it on September 20, 1999. The heading on the application was altered to indicate that it was for the 1999-00 school year in addition to the 2000-01 school year. A portion of the application asks whether the request is because the parents have changed their district of residence and want the student to remain in the original district with no interruption in educational program. The Freeses marked the "no" response to this question. The Board met on October 20, 1999, and denied the application because it was not timely filed.

Superintendent Hartman testified that the Board's policy is to deny open enrollment applications for elementary students unless they meet the filing deadlines in the Open Enrollment Law. The Board would consider an application with special circumstances if sufficient information about those circumstances were supplied. In this case, the Board had only the open enrollment application upon which to base its decision.

## **II. CONCLUSIONS OF LAW**

The Open Enrollment Law was written to allow parents to maximize educational opportunities for their children. Iowa Code section 282.18(1)(1999). However, in order to take advantage of the opportunity, the law requires that parents follow certain

minimal requirements, including filing the application for open enrollment by January 1 of the preceding school year. Iowa Code section 282.18(2) (1999).

At the time the Open Enrollment Law was written, 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 of children who have "good cause" for missing the January 1 filing deadline. Iowa Code sections 282.18(2) and (16) (1999).

The Legislature has defined 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 1 deadline. 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 section 282.18(16) (1999).

The rules of the State Board of Education establish June 30 as the deadline for "good cause" applications. 281 Iowa

Administrative Code 17.4. It is undisputed by the parties that the Freeses' application was filed after the January 1 deadline for regular applications and the June 30 deadline for "good cause" applications and was, therefore, not timely filed.

This case represents the need to balance several important but often competing interests under the Open Enrollment Law: the need for parents to observe statutory timelines and procedures in order to enjoy the right to open enroll their children; the need for school boards to be flexible in applying those guidelines and procedures when it is necessary to accommodate an unusual set of circumstances and the best interest of the children involved.

Even if the continuation box on the Freeses' open enrollment application had been marked, "yes," the Freeses had also missed the deadline for notifying the District. The rules provide:

If the pupil is to remain under open enrollment, the parent/guardian shall write a letter, delivered by mail or by hand, prior to the third Thursday of the next September, to notify the original resident district, the new resident district, and the receiving district of this decision."

281 Iowa Administrative Code 17.8(16).

There was no evidence in the record that the Freeses had complied with this rule. The third Thursday of the next September fell on September 17, 1999. The District did not receive the application from the Freeses until September 20, 1999.

The State Board has in two previous decisions allowed parents to continue their children under open enrollment in a receiving district after they had missed the deadline. However, in both those cases, the parents had unwittingly crossed district lines and didn't know that they had moved into a new district until school officials discovered it. Those decisions held that "to deny their requests to continue their education in a district that they had attended in *good faith*, for several years, would certainly be contrary to the best interest of these children." *In re Frank & Linda Casarez*; *In re Elizabeth, Jennifer & Alberto Landeros*, 16 D.o.E. App. Dec. 172, 175(1998) and *In re Nicholas Wayne Martin*; *In re Mark Ball*, 16 D.o.E. App. Dec. 230, 233(1998).

The present case, however, does not involve a situation where the parents did not realize that they had moved into a new school district. In addition, the Freeses had previously used the open enrollment laws when they moved to Stanhope and had reason to know that there were deadlines involved with the process.

This case is not one of such unique proportions that justice and fairness require the regular statutory provisions to be overlooked. Iowa Code section 282.18(16)(1999). The Appellant prefers that her daughter remain in the original district, both for her educational benefit and for the convenience of the parents. We do not dispute the validity or sincerity of this position. The evidence, however, shows 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 Grand Community School District, made on October 20, 1999, denying the Appellant's open enrollment application for being filed late, is hereby affirmed. 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