

IOWA DEPARTMENT
OF EDUCATION

(Cite as 18 D.o.E. App. Dec. 176)

In re N.W. 80th Lane Association :

N.W. 80th Lane Association, :
Appellant,

v. : DECISION

Heartland Area Education :
Agency, Appellee; and :
Ankeny Community School :
District, Intervenor. :

[Admin. Doc. # 4114]

The above-captioned matter was heard on June 17, 1999, before a hearing panel comprising Dennis Brown and Jim Tyson, consultants, Bureau of Administration and School Improvement Services, and Ann Marie Brick, J.D., legal consultant and designated administrative law judge, presiding. The Appellant, N.W. 80th Lane Association, was present in the persons of Lisa Pickard and Marla Layton. The Appellant was represented by Attorney Robert Nading, II of Ankeny, Iowa. The Appellee, Heartland Area Education Agency [hereinafter, “the AEA”] was represented by Attorney Rick Engel of Des Moines, Iowa. Intervenor, Ankeny Community School District [hereinafter, “the District”], was present in the person of Ben Norman, superintendent, and was represented by Attorney Jeff Krausman of Des Moines, 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 chapter 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 AEA made on March 18, 1999, to deny the Appellant’s request to change the location of a school bus stop.

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I.
FINDINGS OF FACT

The N.W. 80th Lane Association is a group of Ankeny Community School District residents who live on N.W. 80th Lane, Ankeny. The Association was formed for purposes of this appeal.

The school-aged children who live on N.W. 80th Lane attend the Ankeny Schools and are transported to and from school by a District school bus. To load and unload the students, the bus stops on U.S. Highway 415 where the highway forms a T-intersection with the entrance to N.W. 80th Lane, which is a cul-de-sac. U.S. Highway 415 is a two-lane road with a speed limit of 55 miles per hour. The sight lines for drivers are unobstructed, and no signs warning of an upcoming school bus stop have been installed. In June 1998 some parents of these students asked the Board that the bus stop be relocated to the cul-de-sac. The Board denied the request. In July 1998 the parents appealed to the AEA Board, which upheld the District Board's decision. At its March 1, 1999, meeting the District Board was asked by the parents to reconsider its June 1998 decision. It declined to do so, and the parents appealed for a second time to the AEA Board, which held a hearing on March 18, 1999, and unanimously denied the parents' request. This appeal to the director of the Department of Education followed.

The basis for the Appellant's request that the bus stop be relocated and the subsequent appeals is their contention that the current bus stop is unsafe for the students and that loading and unloading them in the cul-de-sac would be safer.

During the 1998-99 school year, 15 students who live on N.W. 80th Lane and ranged from kindergarten to grade 10 rode the District's school bus from this stop, and for the 1999-2000 school year four additional kindergarten students were projected to be added. (Appellant's Exhibit T.) There are no sidewalks along N.W. 80th Lane or Highway 415. (Appellant's Exhibits D and E.) The students wait for the school bus on a grassy area about 80 feet from the highway. (Appellant's Exhibit G.) They have also waited in the driveway closest to the highway, a distance of about 300 feet, although this has sometimes caused the bus loading to take longer than the District's guideline of 30 seconds. (Appellant's Exhibit I.)

The proximity of the grassy waiting area to the highway and the lack of sidewalks are major concerns of the parents. The Appellants presented testimony that a traffic accident had occurred at the intersection

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of U.S. Highway 415 and N.W. 80th Lane in September 1998. Additional evidence and testimony was presented concerning traffic accidents in the vicinity (Appellant's Exhibits Q and R), information from the Internet on school transportation and safety (Appellant's Exhibit K) and information from the Iowa Department of Education on school bus routing (Appellant's Exhibit U), although none of this information dealt with the specific school bus stop in question.

In addition, the Appellant presented testimony and evidence to support their contention that the District could and should pick up the students in the cul-de-sac. Mark Wandro, assistant county engineer with the Polk County Public Works Department, testified that N.W. 80th Lane meets all national standards and can accommodate the turning radius of all buses on the market, including the largest school bus. (Appellant's Exhibit H.) He also testified that the cul-de-sac would be a tight fit for the largest bus and, if any obstruction were present, a large bus would need to back-up to negotiate the curve. *Id.* Parking on the cul-de-sac is prohibited. The Appellant presented additional testimony and evidence to show that N.W. 80th Lane is the same width as the other streets on the bus route and its entrance is wide enough to accommodate a school

bus even if another vehicle is present. The parties disagreed on whether District buses enter other cul-de-sacs and the reasons for doing so.

In response to the parents' concerns, the District took a number of steps to evaluate the safety of the current bus stop and the feasibility of relocating it to the cul-de-sac. The District's superintendent, the executive director of support services and the supervisor of transportation each visited the stop to evaluate it. Four District buses of different sizes were driven to N.W. 80th Lane to test their ability to negotiate the cul-de-sac. The Iowa Department of Transportation, at the request of the District, evaluated the sight lines on the highway to determine whether signs warning of a school bus stop were needed; it determined they were not. (Intervenor's Exhibit 6.) The District requested information from the school transportation consultant at the Iowa Department of Education about safety issues related to school bus stops in cul-de-sacs. (Intervenor's Exhibit 7.) At the request of the District, that same consultant observed the bus stop and rendered his opinion on its safety and compliance with statutory guidelines and whether it should be moved. He responded in a letter that "...there would appear to be no reason for the district to consider changing the present school bus stop location." (Intervenor's Exhibit 9.) The District also hired a consultant to ride and evaluate all of its routes, including the one in question. He replied in a letter, "I feel this route, with the highway stop, is as safe and legal as

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possible. The option of entering N.W. 80th poses as many or more hazards for the bus and students." (Intervenor's Exhibit 17.) The District's bus drivers sent a letter to the Superintendent and Board supporting the current location of the stop. (Intervenor's Exhibit 19.)

Superintendent Ben Norman explained the District's position that loading and unloading students at the current stop is safer than loading and unloading them in the cul-de-sac. He said that at the current stop all of the students approach the bus from one direction and depart from the bus in one direction, while in sight of the driver, a significant safety factor. Additional safety factors are the ability of the school bus to control traffic on the highway by the use of its flashing lights and stop arm and the fact that the traffic stopped for the bus serves as a cushion to protect the students from on-coming highway traffic while they get on or off the bus.

In the cul-de-sac, by contrast, students would approach the bus from all four sides and would disperse in several directions after leaving the bus, according to Superintendent Norman. Other hazards identified by him included the presence of non-school-aged children, other vehicles, and obstructions such as snow that could necessitate backing up the bus. Also, the bus would have no ability to control other traffic when turning into N.W. 80th Lane and turning back onto Highway 415. Dr. Norman testified that the District has designated a number of bus stops on Highway 415 in addition to the one in question, and it has designated stops on other busy streets and highways. He said there is "nothing unique" about the bus stop in question, including the area where the students wait for the bus.

Dr. Norman also testified that the District has drafted, but not finalized, a bus policy against entering cul-de-sacs, although each stop is evaluated individually.

II. CONCLUSIONS OF LAW

The boards of directors of school districts have numerous powers and duties, as specified under the provisions of the Iowa Code. Among these are to:

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1. Provide transportation for each resident pupil who attends public school, and each resident pupil who attends a nonpublic school, and who is entitled to transportation under the laws of the state.
2. Establish, maintain and operate bus routes for the transportation of pupils so as to provide for the economical and efficient operation thereof without duplication of facilities, and to properly safeguard the health and safety of the pupils transported.

Iowa Code sections 285.10(1), (2)(1999).

The question before us is whether the decision by the Ankeny Board and affirmed by the Heartland Area Education Agency Board not to relocate the school bus stop in question was a proper exercise of its authority under the law and the Iowa Administrative Code.

The Appellant, N.W. 80th Lane Association, argues that the following standard should be used in answering that question:

The routes and stops must be the safest possible, and most convenient possible, when balanced against the areas available to stop a school bus and the ability to do so.

(Appellant's Brief in Support of Appeal.)

We disagree that this is the appropriate standard. The phrase, "the safest possible" does not occur in the Iowa Code or in the Iowa Administrative Code in reference to school bus routes or stops. The phrase, "the greatest possible convenience to the pupils," does appear in 281 Iowa Administrative Code 43.1(5) in reference to school bus routes. This standard, however, must be applied in conjunction with another requirement of the same section of the Administrative Code. That section limits riding time on a school bus to 75 minutes per trip for high school students and 60 minutes per trip for elementary students. 281 Iowa Administrative Code 43.1(3).

Districts are required to meet both of these standards when operating a bus route, and they are required to meet them for all of the students on the route, not just some of them. "Most convenient possible" cannot be applied in isolation or selectively.

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The proper standard of review is the duty established by Iowa Code section 285.10(2)(1999), “to properly safeguard the health and safety of the pupils transported.” The evidence and the testimony showed that the District is fulfilling this duty in regard to the bus stop in question.

The testimony and evidence presented at the appeal hearing support the District’s position that the bus stop at U.S. Highway 415 and N.W. 80th Lane is safe and should not be moved to the cul-de-sac. The specialists in the field of school transportation who evaluated it unanimously reached that conclusion. These specialists were the District’s superintendent, the executive director of support services, the supervisor of transportation, the District’s bus drivers, the school transportation consultant at the Iowa Department of Education, and a private consultant. Their evidence and testimony are particularly convincing in the absence of direct evidence that the specific stop in question is unsafe. The Appellants’ “common sense” argument that a bus stop on a highway is inherently unsafe is insufficient in light of so much “expert” testimony to the contrary.

The record shows that the District’s administration and staff thoroughly evaluated the safety of the current bus stop in attempting to address the concerns of these parents. Both the Ankeny Board and the AEA Board were justified in relying upon their conclusions in deciding to deny Appellants’ request to relocate the bus stop.

Local boards of directors are required to make decisions that are reasonable. *In re Jesse Bachman*, 13 D.o.E. App. Dec. 363(1996). The parents in this case are sincerely concerned about the safety of their children. They have, however, failed to show that the District is not properly safeguarding the health and safety of the students, as required by Iowa Code section 285.10(2)(1999), and they have failed to show that the Board’s decision not to relocate the bus stop was unreasonable. They have also failed to show that the decision of the AEA Board, which also declined to relocate the bus stop, was unreasonable and should be reversed. There is no other basis on which to reverse it.

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

III. DECISION

For the foregoing reasons, the decision of the Heartland Area Education Agency’s Board of Directors made on March 18, 1999, denying the relocation of a school bus stop onto N.W. 80th Lane, is hereby affirmed. There are no costs of this appeal to be assigned.

DATE

ANN MARIE BRICK, J.D.
ADMINISTRATIVE LAW JUDGE

It is so ordered.

DATE

TED STILWILL, DIRECTOR
DEPARTMENT OF EDUCATION