

**IOWA STATE DEPARTMENT
OF EDUCATION
(Cite as 18 D.o.E. App. Dec. 10)**

In re Victoria Smith :

Stanley & Teresa Smith-Clubs, :
Appellants,

v. : DECISION

Harris-Lake Park Community :
School District,
Appellee. :

[Admin. Doc. #4132]

The above-captioned matter was heard telephonically on June 11, 1999, before a hearing panel comprising Judd Freeman, consultant, Bureau of Instructional Services; Jim Tyson, consultant, Bureau of Administration & School Improvement Services; and Ann Marie Brick, J.D., legal consultant and designated administrative law judge, presiding. The Appellants, Stanley and Teresa Smith-Clubs, were “present” telephonically and unrepresented by counsel. The Appellee, Harris-Lake Park Community School District [hereinafter, “the District”], was “present” telephonically in the persons of Gary Richardson, superintendent; Dennis Peters, high school principal, and Kathy Graber, vocal music teacher. The District was represented by attorney Steve Avery of Cornwall, Avery, Bjornstad & Scott, of Spencer, Iowa.

An evidentiary hearing was held pursuant to departmental rules found at 281 Iowa Administrative Code Chapter 6. Authority and jurisdiction for this appeal are found at Iowa Code section 290.1(1999). 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.

The Appellants seek reversal of a decision of the Board of Directors [hereinafter, “the Board”] of the District made on April 12, 1999, which upheld a policy that resulted in their daughter receiving a failing grade for one quarter in a music class.

**I.
FINDINGS OF FACT**

Stanley and Teresa Smith-Clubs are residents of the Harris-Lake Park Community School District. Their daughter, Victoria Smith, is a student in the District's high school.

During the 1998-1999 school year, Victoria was enrolled in the Harris-Lake Park mixed chorus. This is an elective for which students receive credit and a grade, but the grade is not part of the student's grade point average (GPA). The chorus meets for a class period, five days a week. At the beginning of the school year, all students in mixed chorus received a copy of the class policy, which lists performance dates and explains rehearsal and lesson requirements and grading factors. The students' parents were not required to acknowledge their receipt of these requirements. The policy lists seven required performances for the school year. The policy states in pertinent part:

These performances are mandatory. If you have a conflict with a performance date, you must inform the director at least two weeks in advance. Jobs are not considered an acceptable excuse for missing a performance. *An unexcused absence from a performance will result in a failing quarter grade.*

(Harris-Lake Park Chorus 1998-1999 Classroom Policy. Appellee's Exh.) (Emphasis added.)

One of the required performances was a small-group contest in Albert City on March 27, 1999. The students were to be at a bus at 5:30 a.m. for the trip to Albert City. The Clubs family overslept that morning and Victoria missed the bus. Between 6:30 and 7:00 that morning, she informed her parents that she would receive a failing grade for the quarter if she missed the performance. The parents made the decision not to drive her to Albert City or to locate other transportation for her.

On Monday, March 29, 1999, the vocal music instructor, Kathy Graber, talked to Victoria about missing the performance and verified that she understood that she would receive a failing grade for the quarter. That evening the Clubs telephoned Ms. Graber and discussed the policy with her. They went to the high school the following day and discussed their disagreement with the policy with Dennis Peters, the principal. Mr. Peters supported Ms. Graber's policy and its application to Victoria. They also discussed the policy with Superintendent Richardson, who also supported Ms. Graber and the policy. The Clubs then addressed the District Board at its April 12, 1999, meeting. They asked that Victoria's failing grade for the quarter be overturned and that the missed performance be counted as an unexcused absence according to the District's attendance policy, of which they had been informed at the beginning of the school year. The Board voted to uphold the vocal music policy. Victoria's semester grade for vocal music was a C, the average of the F she earned for the quarter in question and the A she earned for the other quarter.

The policy the Board upheld was developed by Kathy Graber, the instructor, and was in its third year of implementation at the time of the appeal hearing. It was approved prior to implementation by Principal Peters, as were all other classroom policies at the high school. A similar policy was in effect for the District's band program. Ms. Graber testified that certain performances throughout the year are particularly important, and the participation of all chorus members is required for several reasons, including the amount of time spent rehearsing for them. Also, the students must be able to depend on everyone being there, both for the quality of the performance and for the morale of the group.

II. CONCLUSIONS OF LAW

In appeals to the State Board under Iowa Code chapter 290, the State Board has been directed by the Legislature to render decisions that are "just and equitable" [Iowa Code section 290.3(1999)]; "in the best interest of the affected child" [Iowa Code section 282.18(20)(1999)]; and "in the best interest of education" [281 Iowa Administrative Code 6.11(2)]. The test is reasonableness. Based on this mandate, the State Board's Standard of Review is:

A local school board 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).

In applying the Standard of Review to the facts of this case, the question becomes whether the Board's decision to uphold the classroom policy for mixed chorus was a reasonable exercise of its authority.

The State Board previously ruled on this question in an appeal with similar facts. In that earlier case, *In re Richard and Peggy Newell*, 3 D.P.I. App. Dec. 113(1983), two students, members of the same family, elected to attend a family outing rather than performing in a school music production. They had not been excused in advance by their instructor, and the grading criteria for the music class had been explained to the students at the beginning of the school year and several times later during the school year. The grading criteria for the class had been reviewed by the school principal at the beginning of the school year. Among those grading criteria was the following:

An "F" will be given for missing a performance without notifying the director *before* the performance time with a *legitimate* excuse.

Id.

This grading criterion was applied, and the two students received lower semester grades for mixed chorus than they would have received had they not missed the production. The parents appealed the grades to the school principal, the superintendent, and the local school board. All supported the instructor and the grading criterion. They then appealed to the State Board. The State Board found no reason to overturn the local board's decision in that case. We must reach the same conclusion in this case.

The Appellants in this appeal raised two primary arguments for overturning the District Board's decision: the "unfairness" of Victoria's grade and the misapplication of District policy on attendance.

The Appellants' claim that Victoria's grade was "unfair" is not supported by the evidence. There is no dispute that Victoria knew in advance the consequences of missing a required performance. The evidence also shows that Ms. Graber's policy has been reviewed by the high school principal as part of his authority for the "administration and operation of the attendance center". Iowa Code section 279.21(1999). The evidence also shows that the policy was in its third year of implementation, was similar to the instrumental music policy in the District and had been consistently applied. Ms. Graber testified to valid educational purposes for requiring students to participate in certain performances and imposing a serious penalty for failing to do so. She described the required performances as a "participation" requirement for the class and noted: "You can't participate if you aren't there." She also testified that she considers her policy to be a grading policy. We agree that it is a grading policy and find no "unfairness" in it.

We also find no misapplication of the District's attendance policy. Iowa school districts are required by law to have an attendance policy. Iowa Code section 280.3(1999). These policies govern student attendance when school is in session. Iowa Code section 299.1(1999). The required performances for the Harris-Lake Park mixed chorus were scheduled for evenings, weekends and graduation, times when school was not in session. Therefore, the District's attendance policy was not applicable to them. The District was justified in declining to consider Victoria's missed performance as an unexcused absence in accordance with that policy. The fact that the Appellants consider Ms. Graber's policy for mixed chorus to be unfair and disagree with the District Board's support of it does not mean that either the policy or the decision is unreasonable. There are issues on which reasonable people can disagree.

The Appellants have failed to show that the Board's decision was unreasonable. There is no other basis for reversing it.

All motion and objections not previously ruled upon are hereby denied and overruled.

III.
DECISION

For the foregoing reasons, the decision of the Board of Directors of the Harris-Lake Park Community School District, made on April 12, 1999, is hereby recommended for affirmance. There are no costs of this appeal to be assigned.

DATE

ANN MARIE BRICK, J.D.
ADMINISTRATIVE LAW JUDGE

It is so ordered.

DATE

CORINE HADLEY, PRESIDENT
IOWA DEPARTMENT OF EDUCATION