

**IOWA STATE BOARD  
OF EDUCATION  
(Cite as 17 D.o.E. App. Dec. 354)**

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<i>In re Kenneth Hanson</i>	:	
Glenda Hanson, Appellant,	:	
v.	:	DECISION
Waterloo Community School District, Appellee.	:	[Adm. Doc. #4130]

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The above-captioned matter was heard telephonically on September 3, 1999, before Ann Marie Brick, J.D., legal consultant and designated administrative law judge. Appellant, Glenda Hanson, and her son, Kenneth, were "present" telephonically and were unrepresented by counsel. Dr. Richard Wede, superintendent of Dunkerton Community School District, was "present" telephonically at the request of Ms. Hanson. Appellee, Waterloo Community School District [hereinafter, "the District"], was also "present" telephonically in the persons of Bernard Cooper, Director of Student Services, and Sharon Miller, Board Secretary. The District was represented by Attorney Beth Hansen of Swisher & Cohrt, P.L.C., of 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 sections 282.18 and 290.1(1999).

Appellant seeks reversal of a decision of the Board of Directors [hereinafter, "the Board"] of the District made on March 22, 1999, that denied her open enrollment application for her son, Kenneth.

The administrative law judge finds that she and the State Board of Education have jurisdiction over the parties and subject matter before them.

**I.  
FINDINGS OF FACT**

Glenda Hanson and her son, Kenneth, are residents of the Waterloo Community School District. At the time of the appeal hearing, Kenneth was enrolled as a junior at Dunkerton High School. Ms. Hanson began purchasing their home at 3121 East Airline Highway in Waterloo in 1989. From 1989 to 1996, Kenneth attended kindergarten through 7th grade in the Waterloo Community School District. In 1996, the family relocated to a relative's

home in Jesup, Iowa, because repossession proceedings had begun on the Waterloo residence. Kenneth attended 8th and 9th grade in the Jesup Community School District. The family then moved back into their Waterloo residence in July of 1998.

Ms. Hanson completed an open enrollment application on July 31, 1998, with the Waterloo District because she wanted Kenneth to attend Dunkerton High School even though the family still resided at the Waterloo residence. While she was in the District's administrative office, an employee told Ms. Hanson that the application was late and would likely be denied for that reason. On August 17, 1998, Ms. Hanson and Kenneth moved into a friend's house in the Dunkerton Community School District. Ms. Hanson testified the reason for this move was because they had experienced a fire on August 15, 1998, at their Waterloo residence. Ms. Hanson did not report the fire. There is no written documentation which substantiates the fire. In the absence of credible evidence to substantiate the fire, we find that Ms. Hanson failed to establish that a fire occurred.

On August 17, 1998, Ms. Hanson filed the application with the Waterloo District that she had already completed on July 31, 1998. The Board denied that application on September 14, 1998, because it was late. Kenneth, nevertheless, attended Dunkerton High School during the 1998-1999 school year. During the second semester of that school year, Ms. Hanson and Kenneth moved back into their Waterloo residence and on February 22, 1999, filed a second open enrollment application with the District. This application was denied on March 22, 1999. Mr. Wede testified that the Dunkerton Community School District had counted Kenneth in its September 1998 count because the Dunkerton School District believed that he was a resident of that district. In fact, the family had maintained their Waterloo residence during the entire time that they were living with their friend in the Dunkerton District. Ms. Hanson intended to live with their friend only temporarily until she could find somewhere else to live. Ms. Hanson did not, in fact, find anywhere else to live besides her original home in Waterloo.

## II.

### CONCLUSIONS OF LAW

The purpose of the Open Enrollment Law is to allow parents and guardians to maximize educational opportunities for their children. Iowa Code section 282.18(1)(1999). In order to take advantage of this opportunity, the law requires that parents and guardians follow certain minimal requirements. These include filing the application for open enrollment by January 1 of the preceding school year, unless they have statutory good cause for the late filing or the student will be in kindergarten the following year. Iowa Code section 282.18(2)(1999). The rules of the State Board of Education establish a June 30 deadline for

good cause and kindergarten applications. 281--Iowa Administrative Code 17.4.

Ms. Hanson's applications for the 1998-99 and 1999-2000 school year were clearly filed past both deadlines. The Board followed the law and departmental rules when it denied both applications for being untimely filed.

The Board specifically found that, in spite of Ms. Hanson's insistence that she qualified for open enrollment under the continuation provision, her application was not a valid continuation application. We agree with the District that this is not a continuation under 281--Iowa Administrative Code 17.8(7), which provides:

*Change in residence when not participating in open enrollment.* If a parent/guardian moves out of the school district of residence, and the pupil is not currently under open enrollment, the parent/guardian has the option for the pupil to remain in the original district of residence as an open enrollment pupil with no interruption in the education program. The parent/guardian exercising this option shall file an open enrollment request form with the new district of residence for processing and record purposes. This request shall be made no later than the third Thursday of the following September. Timely requests under this subrule shall not be denied. If the request is for a high school pupil, the pupil shall not be subject to the initial 90-school-day ineligibility period of subrule 17.8(2). If the move is after the third Friday in September, the new district of residence is not required to pay per-pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment transfer.

Ms. Hanson's application does not fall under this language because she never moved out of the Waterloo Community School District, her district of residence. Furthermore, Dunkerton was never the "original district of residence" of the Hanson family. Kenneth was never authorized under the Open Enrollment Law to begin attending the Dunkerton Community School District in the first place. He, therefore, is not entitled to continue attending Dunkerton under the continuation provision of the Open Enrollment Law.

Any motions or 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 Waterloo Community School District made on March 22, 1999, denying the late-filed open enrollment application for the Appellant's son, Kenneth Hanson, is hereby recommended for affirmance. There are no costs to this appeal to be assigned.

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DATE

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ANN MARIE BRICK, J.D.  
ADMINISTRATIVE LAW JUDGE

It is so ordered.

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DATE

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CORINE HADLEY, PRESIDENT  
STATE BOARD OF EDUCATION