

**IOWA STATE BOARD  
OF EDUCATION  
(Cite as 17 D.o.E. App. Dec. 341)**

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***In re Ashley N. Glover*** :  
  
Yolanda Harris, :  
Appellant, :  
  
v. : DECISION  
  
Waterloo Community School :  
District, Appellee. : [Adm. Doc. #4086]

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The above-captioned matter was heard telephonically on June 9, 1999, before a hearing panel comprising Thomas Andersen, consultant, Bureau of Administration & School Improvement Services; Connie Cannon, consultant, School to Work Office; and Ann Marie Brick, J.D., legal consultant and designated administrative law judge, presiding. Appellant, Yolanda Harris, was "present" telephonically and was unrepresented by counsel. Appellee, Waterloo Community School District [hereinafter, "the District"], was also "present" telephonically in the person of Bernard Cooper, director of student services. The District was represented by Attorney Steven Weidner of the Swisher & Cohrt Law Firm 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). The administrative law judge finds that she and the State Board of Education have jurisdiction over the parties and subject matter before them.

Appellant seeks reversal of a decision of the Board of Directors [hereinafter, "the Board"] of the District made on January 25, 1999, that denied open enrollment for her daughter.

**I.  
FINDINGS OF FACT**

Yolanda Harris and her daughter, Ashley N. Glover, subject of this appeal, are residents of the Waterloo Community School District. At the time of the appeal hearing, Ashley was entering grade 9 for the 1999-2000 school year.

Ashley attended Price Laboratory School under open enrollment from grade 1 through grade 7. Her sister, Marnisha Glover, also attended the Lab School under open enrollment. In the 1998-99 school year, both girls attended the Waterloo schools because

their mother had lost her job and could not afford to pay the required fees at the Lab School. Ms. Harris has since found employment as a substitute teacher's aide with the District. She applied for open enrollment for Marnisha and Ashley to attend the Lab School again, beginning with the 1999-2000 school year. Marnisha's application was approved by the District Board. Ashley's application was received by the District on December 18, 1998. It was denied by the Board at its January 25, 1999, meeting because her departure would adversely impact the District's desegregation plan.

Bernard Cooper, the District's director of student services, testified for the District concerning the policies and procedures that were applied to the application for Ashley.

The Waterloo Community School District has an open enrollment/desegregation policy and plan. The Board's policy on open enrollment states:

Maintaining the District's current racial characteristics is critical to its desegregation efforts, ability to comply with state guidelines on minority/nonminority ratios [and] long-term racial and economic stability. Therefore, minority/nonminority student ratios at both the District level and the building level will be primary determinants when making decisions on transfer requests.

(Bd. Policy 501.12, 1993, reviewed 1997.)

The Board's Administrative Regulation 501.12-R details the guidelines that will be followed in approving or denying open enrollment applications. Among those guidelines is the following:

To maintain racial diversity in district schools, minority students wishing to transfer from the District will be denied approval if they attend a school with a minority enrollment percentage which is at least five percent less than the District average.

For the 1998-99 school year the minority enrollment in the District as a whole was 30.6 percent, and the nonminority enrollment was 69.4 percent, according to Mr. Cooper. Ashley Glover, a minority student, was assigned to attend West High School, with a minority enrollment of 20.6 percent. Since that figure is at least five percent less than the District's average of 30.6 percent, Ashley was deemed ineligible for open enrollment.

The policy and accompanying administrative regulation also contain a sibling provision that states: "Applications of siblings of previously approved students will be given first priority." [Administrative Regulation 501.12-R.] Mr. Cooper testified, however, that the "building guideline" must be met before the sibling priority provision would be applied.

The District also uses a District-wide ratio of 1:3 for the total applications that would be approved for the 1999-2000 school year. This ratio means that for every minority student approved for open enrollment out of the District, three nonminority students would be approved. This provision was not applied to Ashley's application, however, since it is applied only to applications that have met the "building guideline". [Administrative Regulation 501.12-R.]

The District's practice of denying open enrollment applications under its open enrollment/desegregation policy and plan was upheld by Black Hawk District Court Judge Briner in the Decision on Appeal in *Waterloo v. Iowa Department of Education*, Case Nos. LACV075042 and LACV077403, August 8, 1996. The policy and plan are unchanged since this decision was entered by Judge Briner, and the District has been consistent in their application.

## II. CONCLUSIONS OF LAW

The Board's decision to deny the open enrollment application for Ashley was based on specific provisions of Iowa's Open Enrollment Law.

Iowa Code section 282.18(3) (1999) states:

In all districts involved with voluntary or court-ordered desegregation, minority and nonminority pupil ratios shall be maintained according to the desegregation plan or order. The superintendent of a district subject to voluntary or court-ordered desegregation may deny a request for transfer under this section if the superintendent finds that enrollment or release of a pupil will adversely affect the district's implementation of the desegregation order or plan. If, however, a transfer request would facilitate a voluntary or court-ordered desegregation plan, the district shall give priority to granting the request over other requests.

Iowa Code section 282.18(12) (1999) states:

The Board of directors of a school district subject to voluntary or court-ordered desegregation shall develop a policy for implementation of open enrollment in the district. The policy shall contain objective criteria for determining when a request would adversely impact the desegregation order or plan and criteria for prioritizing requests that do not have an adverse impact on the order or plan.

This case, then, represents a conflict between two important interests: the right of parents to choose the school they believe would be best for their children under the Open Enrollment Law, and the requirement that school districts act affirmatively to eliminate segregated schools. If the Waterloo District did not have a desegregation plan, there is no question that the Ms. Harris could open enroll Ashley, since the application was timely filed. However, the District does have such a plan, adopted in 1973. *Waterloo Community School District v. Iowa Dept. of Education*, Black Hawk County District Court Decision on Appeal, Nos. LACV075042 and LACV077403, August 8, 1996.

The District adopted its current open enrollment/desegregation policy/procedures in 1993 (*Id.*) in conformance with Iowa Code section 282.18(12) (1999). It contains objective criteria for determining when open enrollment transfers would adversely impact the District's desegregation plan and for prioritizing requests that would not adversely impact the plan. These criteria are detailed in Board Policy 501.12-R. The policy contains criteria for determining how transfers from individual school buildings would be approved or denied. It also contains a composite ratio provision, discussed above in the Findings of Fact, which is a method of determining when open enrollment out of the District would have an adverse impact on the desegregation plan by affecting the District-wide ratio of minority to nonminority students and the procedure for prioritizing transfers deemed not to have an adverse impact. This provision was upheld by the District Court Decision *Waterloo Community School District v. Iowa Dept. of Education*, *supra*.

The State Board of Education has been directed by the legislature to render decisions that are "just and equitable" [Iowa Code section 282.18(18) (1999)], "in the best interest of the affect child or children" [Iowa Code section 282.18(18) (1999)], and "in the best interest of education" [281 Iowa Administrative Code 6.17(2)]. Based on this mandate, the State Board's Standard of Review is as follows:

A local school board's 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).

The State Board has previously upheld the Waterloo Board's decision to deny open enrollment applications on the basis of its open enrollment policy and accompanying administrative regulation. *In re Zachary Sinram, Stephanie Dusenberry and Dale Schultz*, 14 D.o.E. App. Dec. 216(1997). Under Iowa Law [Iowa Code section 282.18(3)(1999)], the Waterloo Board clearly has the authority to deny open enrollment transfers that would negatively affect its desegregation plan. Finally, its method of making that determination was upheld by the Black Hawk District Court Decision *Waterloo Community School District v. Iowa Dept. of Education, supra*.

The evidence does not show that the Board's policy was incorrectly or inappropriately applied to the facts of Ashley's case. Therefore, the decision to deny the application was reasonable.

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

### III. DECISION

For the reasons stated above, the decision of the Board of Directors of the Waterloo Community School District made on January 25, 1999, denying the open enrollment application for the Appellant's daughter, Ashley N. Glover, 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