

**STATE DEPARTMENT OF EDUCATION
(Cite as 17 D.o.E. App. Dec. 154)**

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| <i>In re Ken Bonnette</i> | : | |
| Ken Bonnette, Appellant, | : | |
| v. | : | DECISION |
| Jefferson-Scranton Community School District, Appellee. | : | [Adm. Doc. #4040] |

The above-captioned matter was heard telephonically on October 8, 1998, before a hearing panel comprising Jayne Sullivan, consultant, Bureau of Technical & Vocational Education; Dennis Brown, consultant, Bureau of Administration and School Improvement Services; and Ann Marie Brick, J.D., legal consultant and designated administrative law judge, presiding. Appellant, Ken Bonnette, was “present” telephonically and unrepresented by counsel. Appellee, Jefferson-Scranton Community School District [hereinafter, “the District”], was “present” in the person of Michael Haluska, superintendent. The District was represented by Attorney Michael Mumma of Jefferson, 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 in Iowa Code sections 290.1 and 282.18(1997).

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.

Appellant seeks reversal of a decision of the Board of Directors of the Jefferson-Scranton Community District [hereinafter, “the Board”] made on August 24, 1998, denying Appellant’s open enrollment request.

**I.
FINDINGS OF FACT**

At the time of the appeal hearing, Ken Bonnette was 18 years old and living with his grandmother in Scranton, which is part of the Jefferson-Scranton Community School District. He was enrolled as a senior at Paton-Churdan High School in the Paton-Churdan Community School District.

Mr. Bonnette testified that he moved to Scranton on August 23, 1998. Prior to that, he had lived for a time with his mother in Pennsylvania. During the summer of 1998 he and his mother made plans to move to Iowa, where they had previously lived,

and he decided that he wanted to attend high school in the Paton-Churdan District, primarily because of its small size and its teachers. His mother made arrangements to move to Churdan in January 1999. Until she did, Mr. Bonnette would live with his grandmother in Scranton.

Mr. Bonnette also testified that while he was still living in Pennsylvania he contacted the District about applying for open enrollment to Paton-Churdan and was told that he would be given the application form when he returned to Iowa. He returned to Iowa on August 23, 1998, a Sunday. On Monday, August 24, 1998, he gave his open enrollment application to Mr. Haluska, the District's superintendent, who agreed to present it to the Board at a special meeting to be held that evening. The Board considered the application at that meeting and denied it for being untimely filed. Mr. Bonnette appealed the denial on the basis that the Board had approved six other untimely-filed open enrollment applications and should have approved his as well.

Michael Haluska, the Jefferson-Scranton superintendent, testifying for the District, said that the three districts in Greene County have a long-standing agreement regarding open enrollment. Those districts are the Jefferson-Scranton Community School District, the Paton-Churdan Community School District, and the East Greene Community School District. The agreement is that students are able to open enroll freely among the three districts prior to the first day of classes in the fall. In practice, that means that open enrollment applications filed prior to the first day of classes would be approved, and applications filed after classes had begun would be denied. Mr. Haluska further testified that this agreement does not exist in writing, but was in effect when he assumed his position in 1995 and has been followed consistently by the Board.

Mr. Haluska explained about the six other late applications that Mr. Bonnette said were approved by the Board. He said that these applications were filed in time to be approved at the August Board meeting, which was prior to the first day of classes. The approvals were, therefore, consistent with the Board's practice. He stated that Mr. Bonnette's application would have been approved had it been filed before classes started on August 24, 1998.

II. CONCLUSIONS OF LAW

The open enrollment law was written to allow parents or guardians to maximize educational opportunities for their children. Iowa Code §282.18(1)(1997). However, in order to take advantage of the opportunity, the law requires that parents or guardians follow certain minimal requirements, including filing the application for open enrollment by January 1st of the preceding school year,

At the time the open enrollment law was written, the legislature recognized that certain events would prevent parents or guardians 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 §282.18(2), (4), and (16)(1997).

The legislature has defined the term “good cause”. The statutory definition of “good cause” addresses two types of situations that must occur after the January 1st 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 if applicable to the circumstances.

Iowa Code section 282.18(16)(1997).

The rules of the State Board of Education establish June 30 as the deadline for “good cause” applications. 281 Iowa Administrative Code 17.4.

Mr. Bonnette’s application was clearly untimely according to the statutory deadlines. He did not dispute that fact. Rather, he maintains that the Board’s decision was unfair because the Board approved six other late-filed applications, but denied his late-filed application.

The State Board of Education has been directed by the Legislature to render appeal decisions that are “just and equitable,” [Iowa Code section 282.18(1997)]; “in the best interest of the affected child,” [Iowa Code section 282.18(18)(1997)]; and “in the best interest of education,” [281 Iowa Administrative Code 6.11(2)]. The test is reasonableness. The State Board’s Standard of Review, based on this mandate, 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).

In applying the Standard of Review to this appeal, the question becomes whether the Board's decision to deny Mr. Bonnette's open enrollment application was a reasonable exercise of its authority. We conclude that it was.

The Board's agreement with the other two districts in the county to approve applications after the statutory deadlines is in keeping with the purpose of the Open Enrollment Law: "... to maximize parental choice and access to educational opportunities." Iowa Code section 282.18(1)(1997). We find no fault with this practice. Mr. Bonnette's application was denied because it did not comply with first-day-of-classes deadline that is part of this agreement. It is undoubtedly frustrating for the Appellant to realize that he missed this deadline by mere days. However, we cannot fault the Board for consistently enforcing it.

The Appellant has failed to show that the Board's decision was unreasonable. There is no other basis on which to reverse it.

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

III. DECISION

For the foregoing reasons, the decision of the Board of Directors of the Jefferson-Scranton Community School District made on August 24, 1998, denying Appellant's request for open enrollment is hereby recommended for affirmance. There are no costs to 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