

**IOWA STATE BOARD
OF EDUCATION
(Cite as 17 D.o.E. App. Dec. 75)**

In re Ben Young amd Zachary Janes :

Tanya Janes, :
Appellant, :

v. : DECISION

United Community School :
District, :
Appellee. :

[Admin. Doc. #4064]

The above-captioned matter was heard on February 22, 1999, before Ann Marie Brick, legal consultant and designated administrative law judge. Appellant Tanya Janes was present and was unrepresented by counsel. Appellee, United Community School District [hereinafter, “the District”], was present in the persons of Don Riemenschneider, superintendent, and Judith Hand, board secretary. The District was represented by attorney Ron Peeler of Ahlers Law Firm, 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 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 of the appeal before them.

The Appellant seeks reversal of a decision of the Board of Directors [hereinafter, “the Board”] of the District made on November 12, 1998, denying her open enrollment applications for her children, Ben Young and Zachary Janes.

**I.
FINDINGS OF FACT**

Tanya Janes and her husband live in Ames and are residents of the United Community School District. Residing with them are Zachary Janes, their son, and Ben Young, Mrs. Janes’ son from a previous marriage. At the time of the appeal hearing, Zachary, age 9, was enrolled in grade 3 in the District and Ben, age 12, was enrolled in grade 6, also in the District.

The Janes family moved to their current residence in Ames in July 1998. Prior to that time, they had lived in Webster City, and Zachary and Ben had received all of their education in the Webster City schools.

Mrs. Janes testified that a major consideration in purchasing a home in the Ames area was the school district the children would attend. Before purchasing their current home, and on the advice of their realtor, Mrs. Janes called the Gilbert Community School District to determine what district the home was in. She testified that a secretary who answered the telephone told her it was in the Gilbert District. Mrs. Janes asked parents and students in the area about the Gilbert schools and, based on their responses, the Janes decided that Zachary and Ben would be happy there. They purchased the home and assumed residency on July 17, 1998.

Mr. and Mrs. Janes were concerned about the adjustment of Zachary and particularly Ben to a new town and a new school. They decided that both children should remain in Webster City schools until they were ready to make the transition. They filed applications with Gilbert for open enrollment to Webster City for the 1998-99 school year under the continuation provision of the law. The applications were received by Gilbert on August 8, 1998, and approved by the Gilbert Board of Directors on September 14, 1998. The applications were approved by the Webster City Board of Directors, and Zachary and Ben attended school there through October 1998.

On October 26, 1998, Mrs. Janes went to the Gilbert Community School District to enroll Zachary and Ben. While there she met the superintendent, Douglas Williams. He asked her where the family lived, and when she told him the address, he informed her that they were residents of the United Community School District, not Gilbert. Mrs. Janes testified that she discussed with Mr. Williams the possibility of open enrollment and he told her that open enrollment into Gilbert was closed. Mrs. Janes further testified that Zachary and Ben were extremely disappointed to learn that they would be attending United District schools, rather than Gilbert. Ben expressed a desire to live with his father in Webster City if he could not attend Gilbert.

On October 27, 1998, Mrs. Janes filed open enrollment applications for 1998-99 out of United and into Gilbert. On November 12, 1998, the United Board denied the applications for being late without statutory good cause.

Testifying for the District, Board Secretary Judith Hand said that the United Board has consistently denied open enrollment applications that are not timely filed. She also testified that the Janes residence is very close to the boundary between United and Gilbert, and a detailed map would be required to determine in which district it is located.

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.

The Janes' applications for the 1998-99 school year were filed on October 27, 1998, and were clearly filed past both of these deadlines. The Board followed both the law and departmental rules when it denied them for being untimely filed.

Appellant argues that actions taken by the Gilbert Community School District and the Gilbert Board of Directors should be sufficient to reverse the denial by the United Board of Directors. She claims that her family was "misled by the Gilbert School District" to believe that their home was in the Gilbert District. (Appellant's Aff., par. 5.) She also claims that the children "have been emotionally injured by the Gilbert Community School District's actions." (Appellant's Aff., par. 5.)

We agree that Appellant and her family were misled by the Gilbert District and the Gilbert Board. They were misled twice. The first time was when a Gilbert secretary told Mrs. Janes, evidently without checking, that the home they were considering purchasing was in the Gilbert District. The second, more serious, occurred when the Gilbert Board approved their applications for continuation of educational programs at Webster City, even though they were not residents. In addition, we cannot dispute the claim of a parent that 9- and 12-year-old children would be disappointed and upset by moving to a new city and then being denied admittance to the school they had been planning for several months to attend. The actions by the Gilbert District regarding the issue of the Janes' residency were careless, at best.

Unfortunately for the Janes family, the Gilbert Community School District and the Gilbert Board of Directors are not parties to this appeal. The State Board's authority in appeals is clear. The State Board decides appeals brought by "a person aggrieved by a decision or order of the board of directors of a school corporation ..." Iowa Code section 290.1(1999). No decision by the Gilbert Board of Directors is before us; therefore, we can take no action regarding the Gilbert Community School District.

The decision before us is the November 12, 1998, decision by the United Community School District's Board of Directors. The Board acted in accordance with the law, departmental rules, and its own policy in denying the Appellant's late-filed applications. There is no basis on which to overturn the decision. Even if there were, we could not grant Appellant the relief she seeks: her children's admission to the Gilbert Community schools. Gilbert is not required to accept open enrollment students if it has insufficient classroom space, has a policy to that effect and follows its policy. 281 Iowa Administrative Code 17.6(3).

All 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 United Community School District made on November 12, 1998, denying Tanya Janes' late-filed open enrollment requests for Ben Young and Zachary Janes 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
STATE BOARD OF EDUCATION