

**IOWA STATE BOARD
OF EDUCATION
(Cite as 16 D.o.E. App. Dec. 331)**

<i>In re Katie and Melanie Holt</i>	:	
Ron and Cindy Holt, Appellants,	:	
	:	
v.	:	DECISION
East Monona Community	:	
School District,	:	
Appellee.	:	[Docket # 4076]

The above-captioned matter was heard telephonically on March 15, 1999, before Ann Marie Brick, J.D., legal consultant and designated administrative law judge, presiding. Appellants, Ron and Cindy Holt, were present telephonically and were unrepresented by counsel. The Appellee, East Monona Community School District [hereinafter, "the District"], was present in the persons of Dave Thomas, superintendent, and Kathryn Holverson, board secretary. The District was also unrepresented by counsel.

An evidentiary hearing was held pursuant to departmental rules found at 281 Iowa Administrative Code 6. Authority and jurisdiction for the appeal are found at Iowa Code sections 282.18 and 290.1(1997). The administrative law judge finds that she and the State Board of Education have jurisdiction over the parties and subject matter of this appeal.

Appellants seeks reversal of a decision of the Board of Directors [hereinafter, "the Board"] made on January 11, 1999, denying open enrollment for their daughters, Katie and Melanie Holt.

**I.
FINDINGS OF FACT**

Ron and Cindy Holt are residents of the East Monona Community School District. They have two daughters currently attending school in the District: Katie, grade 6, and Melanie, grade 5. An older daughter is open enrolled to the Charter Oak-Ute Community School District, where she is in grade 9. The Holts filed open enrollment applications for Katie and Melanie to attend Charter Oak-Ute for the 1999-2000 school year. The applications were received by the District on December 17, 1998.

The Board met on January 11, 1999. A motion to approve the open enrollment applications for Katie and Melanie Holt failed on a 3-3 vote.

Superintendent Thomas, testifying for the District, stated that the Board is concerned about the number of students the District is losing due to open enrollment. This year, 38 students are open enrolled out of the District, and 4 students are open enrolled in. Next year, the figures will be 43 out and 4 in. He further testified that three members of the Board are so opposed to the open enrollment law that they have indicated they will continue to vote no on applications for open enrollment out of the District. In February Mr. Thomas again took the Holts' applications to the Board and recommended that the Board approve them. The Board failed to do so.

II. CONCLUSIONS OF LAW

The open enrollment law was written to allow parents to maximize educational opportunities for their children. Iowa Code section 282.18(1)(1997). In order to take advantage of this law, however, parents are required to follow certain minimal requirements, including filing the application for open enrollment by January 1 of the preceding school year. If an application is timely filed, the Board of the district of residence has no authority to deny it. The only exception to this is if the district is under voluntary or court-ordered desegregation. That exception is not applicable here. Therefore, there is literally no reason to be found in the law for the Board to deny Appellants' open enrollment applications. *See, e.g., In re Meranda Guse*, 13 D.o.E. App. Dec. 120(1996); *In re Brett Austin Hansen*; *In re Morgan Nelson*; *In re Stephen and Kevin Ballou*, 13 D.o.E. App. Dec. 7(1995); *In re Nicholas, Kimberly, Lindsay, and Justin Greenslade*, 10 D.o.E. App. Dec. 259(1993).

In denying these timely filed applications, the District Board acted outside of and in violation of the law. If it does so in the future, the State Board of Education might find it necessary to subpoena the Board members to appear at a State Board meeting to explain their actions.

It is no doubt frustrating for District Board members to watch students and funds leave the District. The solution, however, is to work to change the law, not disobey it.

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

**III.
DECISION**

For the foregoing reasons, the decision of the East Monona Community School District Board of Directors made on January 11, 1999, denying open enrollment for the 1999-2000 school year for Katie and Melanie Holt is hereby recommended for reversal. 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