IOWA STATE DEPARTMENT
OF EDUCATION
(Cite as 16 D.o.E. App. Dec. 71)

In re Christopher Woltman and Abbi, Kody, and Jessi Riggs,	:	
Lloyd & Kathleen Woltman and John & Patti Riggs, Appellants,	:	
v.	:	DECISION
River Valley Community School District, Appellee.	:	[Docket #s 3985 & 3993]

This case is a consolidation of two appeals, and was heard telephonically on May 27, 1998, before a hearing panel comprising Ms. Sara Petersen, Bureau of Instructional Services; Mr. Lee Crawford, Bureau of Technical & Vocational Education; and Amy Christensen, designated administrative law judge, presiding. The following Appellants were present telephonically and were unrepresented by counsel: Mr. Lloyd and Mrs. Kathleen Woltman, and Mr. John Riggs. Mrs. Riggs was not present. The Appellee, River Valley Community School District [hereinafter, "the District"], was present telephonically in the persons of Mr. Ronald Pilgrim, Superintendent; Ms. Cheryl Spear, Elementary School Principal; and Mrs. Julie DeStigter, Middle School Principal. The District was unrepresented by counsel.

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(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.

The Appellants seek reversal of decisions of the Board of Directors [hereinafter, "the Board"] of the District made on March 16 and April 20, 1998, which denied their requests for open enrollment for their children. The basis of the Board's decisions was that the applications were late.

I.
FINDINGS OF FACT

The Riggs live in the town of Quimby, Iowa with their children. Quimby is in the River Valley Community School District. The Woltmans live north of Quimby with their son, Christopher, and their home is in the River Valley District. Until January 1998, the District had four attendance centers. The two elementary schools were in Cushing and Washta. The middle school was in Quimby. The high school was in Correctionville. On approximately December 26, 1997, while the District was on Christmas break, there was a small fire in a janitor's closet at the Quimby building. The janitor was able to put out the fire, and the District reported it to the fire marshal. The first fire marshal's inspection of the Quimby building was done on January 20, 1998. The District received the inspector's report on January 22nd. The report stated that the school's wiring was unsafe, and presented "an imminent hazard to the students of the school." As a result of the inspection report, and due to insurance requirements and the advice of the District's attorney, the District decided to temporarily close the Quimby center. All elementary students from Washta were moved to the Cushing building. All middle school students, who had been attending at Quimby, were moved to the Washta building. The students changed buildings in late January. High school students did not change their attendance center. After a second inspection, the District received a second report from the State Fire Marshal's office dated February 4, 1998. After meeting with representatives of the Fire Marshal's office, and learning the cost to repair the Quimby building, the District decided to permanently close the Quimby building. Superintendent Pilgrim also testified the Board felt it was in the best interest of the District to close the Quimby building, because the District had four buildings and only 650 students, and did not have the funds nor the staff to keep all four buildings.

Christopher Woltman

Christopher is in second grade, and attended school in Washta. As a result of the changes in attendance centers, Christopher is now attending school in the Cushing building. The Woltmans filed an application for open enrollment for Christopher on March 12, 1998. The Woltmans would like Christopher to attend school in Cherokee. The Board denied the Woltman's application at the meeting on March 16, 1998, because the application was filed past the January 1 deadline.

The Woltmans are unhappy with the decisions made by the District after the fire. Mrs. Woltman feels the District made the decision to close the Quimby school behind the parents' backs and without considering their wishes. She went to Board meetings regarding the issue, but felt there was no interaction between the Board and the parents regarding the closing. Mrs. Woltman questions the District's statements of the severity of the safety hazard posed by the Quimby building. She testified parents would have

worked with the District to raise money to make necessary repairs, or worked together to repair the building. She testified Western Iowa Technical School offered the District classrooms and materials for the middle school students, which the District turned down. She testified that the District should not have moved the youngest children, because the change to Cushing is too hard on them. Mrs. Woltman testified the move has created overcrowded conditions.

Mrs. Woltman testified that Christopher has had a difficult time adjusting to the move, although he has been much better in the last two weeks, and told her he was sorry school was ending. After the move, Christopher was sick each week for three weeks, and Mrs. Woltman had to take him to the doctor. He had hives and stomach pains. At one point after the move, two students held him down while another student hit and kicked him on the playground. Mrs. Woltman is understandably upset that no one from school called her. She found out the incident happened when she found apology notes to Christopher from the other students in his book bag two days after the incident. Mrs. Woltman did not call anyone from school regarding the incident, and no one from school called her. Mrs. Woltman testified the Cushing children pick on the Quimby children, and tell them they don't belong. She testified she has told Christopher to try to get along and not fight back, and to play near the supervising teacher on the playground. This appears to have worked for Christopher. Mrs. Woltman also testified that Christopher's grades went down a little after the move, which concerns them because he has always been an excellent student.

Mrs. Woltman is upset that she could not have filed for open enrollment by the deadline, because the decision to close the Quimby school and move all elementary students to Cushing was made after January 1st. Prior to the move, she testified the children were fine, so they had no reason to apply before the deadline.

Abbi, Kody, and Jessi Riggs

Abbi is a seventh grade student, Kody is a first grade student, and Jessi is in kindergarten. The Riggs filed for open enrollment on March 30, 1998. They believe it would be in their children's best interest to attend school in Cherokee. The applications were denied at the April 20, 1998 Board meeting, on the ground that they were filed late.

Mr. Rigg is also unhappy with the decisions the Board made after the fire, and feels the District lied to the parents. Mr. Rigg is a member of the fire department, and he testified they were never called, so he questions the severity of the fire and the Board's decision to close the Quimby building. He testified the District should have cooperated with the parents better.

Mr. Rigg testified that Jessi's attitude toward school changed since she was moved to Cushing, and she is very emotional. He testified Cody's grades have slipped, and he has no interest in school since the move, and doesn't want to be there. He testified Abbi's grades have not gone down, but she does not want to go to school in the District, and wants to go to Cherokee. He testified Quimby students had been threatened, and he fears for his children's safety. He does not believe the District cares about educating the children, and cares only about finances. Therefore, he testified, he wants his children to go to school where they can get the best education.

The District

The District has a written open enrollment policy, Policy No. 501.14, which requires parents to file applications for open enrollment by January 1st. The policy was adopted December 17, 1996. Mr. Pilgrim has been the superintendent of the District since July 1996. Since then, the Board has never approved any late-filed applications. The only applications filed after January 1st which were approved, were applications from parents of children who will be kindergarten students.

The District publishes notice of the open enrollment deadlines each year. In 1997, the notice was published in the school newsletter in August or September. Notice is also published in newspapers in each of the four communities served by the District during the summer.

Superintendent Pilgrim testified the applications were denied because they were filed past the January 1, 1998 deadline.

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). However, in order to take advantage of the opportunity, the law requires that parents follow certain minimal requirements, including filing the application for open enrollment by January 1st of the preceding school year. Iowa Code section 282.18(2)(1997).

At the time the open enrollment law was written, the legislature recognized that certain events would prevent a parent 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 sections 282.18(2), (4), and (16)(1997).

The legislature has defined the term "good cause" rather than leaving it up to parents or school boards to determine. 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 is applicable to the circumstances.

Iowa Code §282.18(16)(1997).

The parents are understandably upset because the decision to close the Quimby school and move the students was made after the January 1st deadline, so they could not have filed by the deadline. Therefore, they believe that the changes in the District constitute good cause, because one of the definitions of good cause contained in the statute is a change in the status of the district in ways listed above. Iowa Code §282.18(16)(1997). However, the State Department of Education rules specifically state that good cause does <u>not</u> include a change in attendance centers within the district. When discussing good cause, 281 Iowa Administrative Code 17.4(3) provides: “A similar set of circumstances related to change in residence of the pupil or change in status of the resident district shall not include: a. Actions of a board of education in the designation of attendance centers within a school corporation and in the assignment of pupils to such centers as provided by Iowa Code section 279.11.” Iowa Code section 279.11 states that the Board of each District will determine the number of schools, divide the District into wards or other divisions, and determine the particular school where each student will attend. Furthermore, the State Board has previously held that closing a building and

restructuring of middle and elementary grades was not good cause. *In re Peter and Mike Caspers, et al.,* 8 D.o.E. App. Dec. 115(1990). Last year, the State Board decided that a Board's decision to change grades held in attendance centers within the district and reassign students to other schools in the district was not good cause for a late filed application. *In re Clark Daniel Campos,* 14 D.o.E. App. Dec. 301(1997). Earlier this year, the Department held that the decision by the River Valley Board to close the Quimby building and move students to different attendance centers within the district was not good cause for the late filed applications. *In re Austin Wahlers,* 15 D.o.E. App.Dec. 333(1998); *In re Shelby, Anthony, Brandon, and Davey Stevenson, Brittany and Scott Brown, Melissa Bush, Therese, Mark, and Anthony Schneider, and Timothy Smith,* 16 D.o.E. App.Dec. 49(1998).

This case falls squarely within 281 IAC 17.4(3) and the prior cases, which specifically provide that closure of a public school, redesignation of attendance centers within the district, and reassignment of pupils to those attendance centers, is not good cause. *Wahlers, supra; Stevenson et al., supra; Campos, supra; Caspers, et al., supra.* Furthermore, the statute and rules provide that permanent closure of a nonpublic school is good cause, not closure of a public school. Iowa Code section 282.18(16)(1997); 281 IAC 17.4; *Campos, supra; Caspers, supra.* Closure of the Quimby building and reassignment of students to different attendance centers did not provide the Appellants with good cause for filing their applications after the January 1st deadline.

The District published notice of the open enrollment deadlines in the school newsletter in August or September, and in a newspaper in each of the four communities within the District. The departmental rule requires that notice of the deadline must be given to all parents by September 30th of each year. 281 IAC 17.3(2). Therefore, the District complied with the requirement of the rule.

The Appellants want to open enroll their children because they believe the children are having problems adjusting to the change in attendance centers. They testified to the changes in attitude toward school for the worse since their children were moved. However, adjustment problems such as those testified to are not good cause as that term is defined by the legislature and State Board rules or case law. *In re Austin Wahlers,* 15 D.o.E. App.Dec. 333(1998). Some parents also want to open enroll their children because they believe there are better educational opportunities for their children in another district. They are concerned about overcrowding at the Cushing school. Mr. Riggs is concerned about his children's safety, and Mrs. Woltman testified to students' assault of Christopher on the playground. While these may be good reasons for wanting to open enroll the children, they are not good cause for filing an application late as defined by the law. There have been many appeals brought to the Iowa Department of Education regarding the definition of "good cause" since the enactment of the open enrollment law. Only a few of those cases have merited reversal of the local board's

decision to deny the applications. The State Board has refused to reverse a late application due to ignorance of the filing deadline, In re Candy Sue Crane, 8 D.o.E. App. Dec. 198 (1990); or for missing the deadline because the parent mailed the application to the wrong place, In re Casee Burgason, 7 D.o.E. App. Dec. 367(1990); or when a young man's probation officer recommended a different school that might provide a greater challenge for him, In re Shawn and Desiree Adams, 9 D.o.E. App. Dec. 157(1992); or when a parent became dissatisfied with a child's teachers, In re Anthony Schultz, 9 D.o.E. App. Dec. 381(1992); or because the school was perceived as having a "bad atmosphere", In re Ben Tiller, 10 D.o.E. App. Dec. 18(1993); or when a child experienced difficulty with peers and was recommended for a special education evaluation, In re Terry and Tony Gilkinson, 10 D.o.E. App. Dec. 205 (1993); or even when difficulties stemmed from the fact that a student's father, a school board member, voted in an unpopular way on an issue, In re Cameron Kroemer, 9 D.o.E. App. Dec. 302 (1992). "Good cause" was not met when a parent wanted a younger child to attend in the same district as an older sibling who attended out of the district under a sharing agreement, In re Kandi Becker, 10 D.o.E. App. Dec. 285(1993). The Department denied a request to reverse a denial of open enrollment by a parent who had not received notice of the deadline and did not know it existed. In re Nathan Vermeer, 14 D.o.E. App. Dec. 83(1997).

In this case, as in the others, we are not being critical of the Appellants' reasons for wanting open enrollment. We are very sympathetic to the adjustment problems experienced by the children, and realize that change is difficult for some students and their parents. We also admire parents who care about their children's education enough to want them to have the best educational opportunities available. However, the reasons given for not filing the applications by the deadline do not meet the "good cause" definition contained in the Iowa Code. Nor do they constitute a "similar set of circumstances consistent with the definition of good cause". Iowa Code section 282.18(16)(1997).

The Appellants would like us to exercise discretion and allow their children to open enroll to Cherokee, which they believe would be in their children's best interest, pursuant to Iowa Code section 282.18(18)(1997). The State Board has been reluctant to exercise its subsection (18) authority absent extraordinary circumstances. *In re Crysta Fournier*, 13 D.o.E. App. Dec. 106(1996); *In re Paul Farmer*, 10 D.o.E. App. Dec. 299(1993). This case is not one which is of such unique proportions that justice and fairness require the State Board to overlook the regular statutory procedures. *Wahlers, supra; Stevenson et al., supra; Campos, supra; Fournier, supra;* Iowa Code §282.18(18)(1997). This is particularly true when the main reason given for the late filing by the parents is specifically stated not to be good cause in the department's rules.

Mrs. Woltman testified that Christopher had been attacked by other students on the playground. The State Board developed guidelines which it uses to decide when to exercise its subsection (18) authority in harassment cases in *In re Melissa J. Van Bemmel*, 14 D.o.E. App. Dec. 281(1997). The situation with Christopher, although very unfortunate, does not meet the *Van Bemmel* criteria.

The Appellants argue that the District's true motivation in denying their applications is financial. They believe that their children's education and needs are being overlooked by the District because the District cannot afford to lose this many students through open enrollment. This does not provide a reason to overturn the Board's decision. The legislature put a deadline of January 1st into the open enrollment law. Iowa Code §282.18(2)(1997). The District has an open enrollment policy which requires filing by the deadline, and has consistently followed the policy. State law clearly allows the District to deny open enrollment if the applications are filed after the deadline, and the District acts consistently to deny late-filed applications. While there is obviously a financial benefit to the District if the Appellants' children stay, the evidence at the hearing showed that the District followed the procedures set out in its open enrollment policy, and those procedures conform to state law. Therefore, the financial benefit to the District does not mean that the Board's decision to act according to its open enrollment policy should be overturned.

We see no error in the decisions of the Board to deny open enrollment. The Board's decisions to deny open enrollment were consistent with state law and the rules of the Iowa Department of Education. Therefore, there are no grounds to justify reversing the District Board's denial of the open enrollment applications.

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

III.
DECISION

For the foregoing reasons, the decisions of the Board of Directors of the River Valley School District made on March 16 and April 20, 1998, which denied the Appellants' late-filed requests for open enrollment for their children for the 1998-99 school year, are hereby recommended for affirmance. There are no costs of this appeal to be assigned.

DATE	AMY CHRISTENSEN, J.D. ADMINISTRATIVE LAW JUDGE

It is so ordered.

DATE	TED STILWILL, DIRECTOR DEPARTMENT OF EDUCATION