

**IOWA STATE DEPARTMENT
OF EDUCATION**
(Cite as 15 D.o.E. App. Dec. 122)

**In re Amanda, Julie, & William
Hilliard** :

Linda Parochetti, :
Appellant, :

v. : DECISION

Cardinal Community :
School District, :
Appellee. :

[Admin. Doc. #3932]

This case was heard telephonically on January 7, 1998, before a hearing panel comprising Mr. Jeff Berger, Bureau of Administration, Instruction, and School Improvement, Mr. Don Wederquist, Bureau of Community Colleges, and Amy Christensen, J.D., designated administrative law judge, presiding. The Appellant, Ms. Linda Parochetti, could not be present at the hearing because she just started working at a new job and could not get time off. Therefore, her mother, Mrs. Theola Householder, appeared on her behalf. The appellant was unrepresented by counsel. The Appellee, Cardinal Community School District [hereinafter, "the District"], was present telephonically in the person of Mr. Roger Godfrey, Superintendent. 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 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 Appellant seeks reversal of a decision of the Board of Directors [hereinafter, "the Board"] of the District made on November 10, 1997, which denied her request for open enrollment for two of her children, Amanda and Julie, and which did not act on her application for home schooling for her son, William.

**I.
FINDINGS OF FACT**

The Appellant, Ms. Linda Parochetti, is the mother of three children who are the subject of this appeal: Amanda, Julie, and William Hilliard. Amanda is in sixth grade, Julie is in tenth grade, and William is in eighth grade.

Since Ms. Parochetti was unavailable to testify, her mother, Mrs. Theola Householder, testified on her behalf. At the beginning of the 1996-97 school year, Ms. Parochetti and her two daughters, Amanda and Julie, lived in the Davis County School District, and the children attended school in the Davis County District. Her son, William, has lived with his grandparents, Mr. and Mrs. Householder, for the past two years. He attended school in the Cardinal District during the 1996-97 school year.

In November 1996, Ms. Parochetti moved to Missouri, and Amanda moved to Missouri with her and attended school there. Julie lived with her aunt in Bloomfield and attended school in the Davis County District. In June of 1997, Ms. Parochetti took all three children to live with her in Missouri. All three children started school in Missouri in the fall of 1997.

In October or November of 1997, Ms. Parochetti lost her job in Missouri, so she and her three children moved back to Iowa and are living with her parents, Mr. and Mrs. Householder. The Householder home is in the Cardinal School District. Ms. Parochetti intends to move with her children to Bloomfield in the Davis County District as soon as she can. She had just obtained a job at the time of the hearing.

Because she intends to move to Bloomfield, Ms. Parochetti would like her children to attend school in the Davis County District. Therefore, when the family moved back to Iowa, she enrolled Amanda and Julie in Davis County. Amanda and Julie are currently attending school in Davis County. Ms. Parochetti intended to home school William. However, this did not work out. She enrolled William in the Davis County District, and he began attending school on Monday, January 5, 1998.

In late October 1997, the Superintendent of the Davis County District, Mr. Arvid Goettsche, called Superintendent Godfrey regarding the children. He told Mr. Godfrey he had the Hilliard children enrolled in school in Davis County, and asked if the Cardinal District would allow them to be open enrolled. He told Mr. Godfrey the mother planned to move to Davis County. Superintendent Godfrey told him they could apply, but that the Cardinal Board would be unlikely to grant the application because it was untimely.

On October 31, 1997, Ms. Parochetti submitted open enrollment applications for Amanda and Julie. At the same time, she submitted a request to home school William. At the meeting on November 10, 1997, the Cardinal Board denied the two open enrollment applications because they were not timely filed and did not meet any exceptions. The minutes of the Board meeting state that the applications were denied because they did not meet the good cause definition. The Board declined to act on the home school application because it does not act on those types of applications.

Mrs. Householder testified she talked with Board member Mr. Nick Adams after the meeting. She testified he told her he thought the children were attending school in the Cardinal District.

The Cardinal District has a written open enrollment policy which requires parents to comply with the open enrollment deadline of January 1st. The Board has consistently denied late-filed open enrollment applications out of the District. The only exceptions are for applications with good cause or continuation cases. The District does grant late-filed open enrollment applications into the District.

Since the children attended school in Missouri prior to their return to Iowa, this is not a continuation case.

II. CONCLUSIONS OF LAW

The open enrollment law was written to allow parents 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 follow certain minimal requirements. These include filing the application for open enrollment by January 1st of the preceding school year, unless they have good cause for the late filing or the student will be in kindergarten the following year. Iowa Code §282.18(2)(1997).

The legislature recognized that certain events would prevent a parent from meeting the January 1st 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 1st filing deadline. Iowa Code §§282.18(2) 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).

According to the statute itself, since Ms. Parochetti and her children moved after January 1, 1997, they have good cause for the late filing, and their applications should have been granted. The minutes of the November 10, 1997 Board meeting are in error when they state that the applications did not meet the good cause definition, since the family moved into the District after January 1, 1997. However, the State Board rules add an additional requirement for parents with good cause, and for parents of kindergarten children. The rules state that “A parent/guardian may apply for open enrollment after the filing deadline of January 1 and until June 30 of the school year preceding the school year for which open enrollment is requested if good cause exists for failure to meet the deadline”. 281 IAC 17.4. The rule goes on to say that, “Good cause related to a change in the pupil’s residence shall include: a) A change in the family residence anytime from January 1 through June 30 of the school year preceding the school year for which open enrollment is requested”. 281 IAC 17.4(1). In 281 IAC 17.2, the term “Timely filed application” is defined as “an open enrollment request postmarked or hand delivered on or before January 1, an open enrollment request for ‘good cause’ as defined in Iowa Code §282.18(18) postmarked or hand-delivered on or before June 30, ... and an open enrollment request for an entering kindergarten student postmarked or hand-delivered on or before June 30”. 281 IAC 17.7 states that “While the regular time frame in requesting open enrollment is that an application should be made no later than January 1 of the school year preceding the school year for which the enrollment is requested, a parent/guardian requesting to enroll a kindergarten pupil in a district other than the district of residence may make such application through June 30 of that school year.”

The State Board recently considered the validity of the June 30th deadline in the rules in In re Zachary Juhl, 15 D.o.E. App.Dec. 75 (1997) and in In re Justin & Katelyn Thompson, 15 D.o.E. App. Dec. 93 (1997). In those cases, the Board and the Department upheld the validity of the rule and its application to the appellants, who had also moved into their districts after the June 30th deadline.

Iowa Code section 282.18(17)(1997) provides: “The director of the department of education shall recommend rules to the state board of education for the orderly implementation of this section. The state board shall adopt rules as needed for the implementation of this section”. This provision has been in the code since 1989. 1989

Iowa Acts Ch 12, sec. 1, p.13. Therefore, so long as the deadline is for “orderly implementation” of the open enrollment law, the director may recommend it to the State Board, and the Board may adopt it if it “is needed for the implementation” of the open enrollment law. Iowa Code section 282.18(17)(1997).

In order to implement any number of statutory provisions, the Department puts specific deadlines in rules so schools and parents know what their respective responsibilities are, and specifically what is expected of them. This was true in implementing the open enrollment statute.

Since it followed the deadlines contained in state law, which included the requirement that Ms. Parochetti file for open enrollment by June 30th, the District was justified in denying the requests for open enrollment, since the open enrollment requests were filed in October. Since Ms. Parochetti did not file an application for open enrollment for William, and the Cardinal Board therefore did not act on an open enrollment application, there is nothing for this panel or the Department to rule on with respect to William. It appears that Ms. Parochetti no longer wishes to home school William, which is the only application she submitted for him.

Mrs. Householder testified a Cardinal Board member told her he thought the children were enrolled in the Cardinal District. This is not legally significant. We do not know whether this Board member would have voted differently had he known Amanda and Julie were attending school in Davis County. There was no evidence presented which leads the panel to believe the decision of the entire Cardinal Board may have been different if this Board member had known where the girls were attending school.

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 Cardinal Community School District made on November 10, 1997, which denied Ms. Parochetti’s requests for open enrollment for her daughters, Amanda and Julie, to attend school in Davis County is hereby affirmed. 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