

**IOWA STATE DEPARTMENT  
OF EDUCATION  
(Cite as 15 D.o.E. App. Dec. 93)**

---

<b>In re Justin &amp; Katelyn Thompson</b>	:	
Linda Thompson, Appellant,	:	
v.	:	DECISION
E. Greene Community School District, Appellee.	:	
	:	[Admin. Doc. #3920]

---

This case was heard telephonically on November 10, 1997, before a hearing panel comprising Mr. Steven Fey, 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 Thompson, was present telephonically and was unrepresented by counsel. The Appellee, E. Greene Community School District [hereinafter, "the District"], was present telephonically in the persons of Mr. Paul Sundholm, Superintendent, and Ms. Brenda Muir, 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 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 September 15, 1997, which denied her request for open enrollment for her children, Justin and Katelyn.

**I.  
FINDINGS OF FACT**

Ms. Thompson and her children previously lived in Grand Junction, Iowa, in the East Greene Community School District. Mr. and Ms. Thompson are divorced. In July of 1997, Ms. Thompson and the children moved to Montana, where Ms. Thompson intended to reside. However, since they could not move more than 150 miles from Mr.

Thompson, Ms. Thompson and the children moved back to Grand Junction on August 31, 1997. Ms. Thompson intends to live in Boone. She is living temporarily in a friend's motel in Grand Junction while she looks for housing in Boone. She enrolled the children in the Boone District, and transports them back and forth from their home in Grand Junction.

Ms. Thompson would like to open enroll her children into the Boone district so their education is not disrupted once she finds housing in Boone. In addition, when Justin attended school in the E. Greene district last year, Ms. Thompson testified he was under stress because of questions other children asked him related to his parents' marital problems. She believes it would be in her children's best interest to attend school in the Boone district.

Ms. Thompson filed her open enrollment applications on September 12, 1997. At the Board meeting on September 15, 1997, the Board denied the applications because they were filed after the June 30<sup>th</sup> deadline for late applications with good cause.

## **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 1<sup>st</sup> 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 1<sup>st</sup> 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<sup>st</sup> 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 1<sup>st</sup> 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. Thompson and her children moved after January 1, 1997, they have good cause for the late filing, and their application should have been granted. 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.”

Ms. Thompson asked in the hearing how she could have complied with this rule, since she moved after the June 30<sup>th</sup> deadline, and believes it is unfair to apply it to her. Although we are sympathetic to her and her children, the State Board rules and prior precedent require that we affirm the denial of the applications. The State Board recently

considered the validity of the June 30<sup>th</sup> deadline in the rules in In re Zachary Juhl, 15 D.o.E. App.Dec. 75. 75 (1997). In that case, the Board upheld the validity of the rule and its application to the Juhls, who had also moved into their district in August.

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 a State Board rule, which included the requirement that Ms. Thompson file for open enrollment by June 30<sup>th</sup>, the District was justified in denying the request for open enrollment, since the open enrollment request was filed in September.

Pursuant to Iowa Code section 282.18(4)(1997) and 281 Iowa Administrative Code 6.11(7), and with the agreement of the parties, an oral decision affirming the denial was issued at the conclusion of the hearing. This written decision is being issued at the request of the District.

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 East Greene Community School District made on September 15, 1997, which denied Ms. Thompson’s request for open enrollment for her children to attend school in Boone for the 1997-98 school year, 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