

**IOWA STATE DEPARTMENT
OF EDUCATION
(Cite as 15 D.o.E. App. Dec. 88)**

In re Jasmine Hutchinson	:	
John & Cyndy Hutchinson, Appellants,	:	
v.	:	DECISION
Sentral Community School District, Appellee.	:	
	:	[Admin. Doc. #3919]

This case was heard telephonically on November 10, 1997, before a hearing panel comprising Mr. Don Wederquist, Bureau of Community Colleges; Mr. Steven Fey, Bureau of Administration, Instruction, and School Improvement; and Amy Christensen, J.D., designated administrative law judge, presiding. The Appellants, Mr. John and Mrs. Cyndy Hutchinson, were present telephonically and were unrepresented by counsel. The Appellee, Sentral Community School District [hereinafter, "the District"], was present telephonically in the persons of Mr. Dennis Tassel, Superintendent, Mr. Steve Mitchell, high school principal, Mr. Al Miller, School Board President, Board members Mr. Wayne Gerhart and Ms. Laurie Thilges, and Board Secretary Ms. Joanie Underwood. The District was also unrepresented by counsel.

An evidentiary hearing was held pursuant to departmental rules found at 281 Iowa Administrative Code Ch. 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 a decision of the Board of Directors [hereinafter, "the Board"] of the District made on September 15, 1997, which denied their request for open enrollment for their daughter, Jasmine.

**I.
FINDINGS OF FACT**

The Hutchinsons are residents of the Sentral District, and Jasmine is the daughter of the appellants. Until Jasmine was in the ninth grade, she did well in school, although Mr. and Mrs. Hutchinson stated there were some problems in their affidavit of appeal.

However, once Jasmine reached the ninth grade, she began having numerous problems at school. She received many disciplinary referrals, most for infractions involving disrespect of teachers or tardiness. Her grades fell dramatically. The situation worsened as the year went on. Mr. Hutchinson testified he believed Jasmine had fallen in with a group of students who thought it was “cool” to be disrespectful. Mr. and Mrs. Hutchinson also testified regarding problems they perceived with the district, and that they believed Jasmine became more aware of those problems, and this contributed to her poor behavior at school. They also testified that one teacher told Jasmine she couldn’t succeed and accused her of using drugs.

Mr. and Mrs. Hutchinson have spoken with school officials several times to try to improve the situation. The view of the Hutchinsons and the view of the District are diametrically opposed with regard to whether the District has attempted to help Jasmine and work with her parents. In any case, things have broken down to the extent that Jasmine did not return to Sentral High School in September. The Hutchinsons home schooled Jasmine for a short time at the beginning of the 1997-98 school year. Jasmine is currently attending alternative high school at the Iowa Lakes Community College Center in Algona. Her parents testified she is doing fine at the alternative school, but they are concerned about the other students attending there, and the potential adverse influence they may have on Jasmine. For this reason, they would like her to open enroll to the North Kossuth District. They believe she needs a fresh start in another district.

The Hutchinsons first filed a request for open enrollment on July 9, 1997, which was denied by the Board at its meeting on July 21, 1997 because it was late-filed. The Hutchinsons did not file for open enrollment by the January 1st deadline because they were still hoping they could work out Jasmine’s difficulties with the District until later in the spring of 1997. The Hutchinsons did not appeal the July 21st denial by the Board within 30 days, so they filed their second request for Jasmine to open enroll out of the District on September 12, 1997. The Board denied the application on September 15, 1997, because it had been filed after the January 1st deadline.

The District published notice of the open enrollment deadlines in the school newsletter in August or September of 1996. The District has consistently denied open enrollment applications which were filed after the January 1st deadline without good cause.

II. CONCLUSIONS OF LAW

Parents must file open enrollment requests by a deadline of January 1st. Iowa Code section 282.18(2)(1997). However, 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 sections 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).

Although the State Board of Education has rulemaking authority under the open enrollment law, the rules do not expand the types of events that constitute good cause. 281 IAC 17.4. The State Board has chosen to review potentially "similar sets of circumstances" on a case-by-case basis through the contested case appeal process. In re Ellen and Megan Van de Mark, 8 D.o.E. App. Dec. 405, 408.

The good cause exception relates to two types of situations: those involving a change in the student's residence, and those involving a change in the student's school district. Iowa Code sec. 282.18(16)(1997); 281 IAC 17.4. The problems Jasmine was

having with school, and the apparent inability of Jasmine, her parents, and the District to work together to solve the problems, are not good cause for a late-filed open enrollment application as defined by the legislature and the departmental rules. 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. 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 bright 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 building was closed and the elementary and middle school grades were realigned, In re Peter and Mike Caspers, et al., 8 D.o.E. App. Dec. 115 (1990); 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 recently 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). Although we sympathize with the difficulties this family is having, their problems do not constitute good cause for filing their request for open enrollment after the January 1st deadline. Nor do we believe this is an extraordinary case which cries out for State Board intervention pursuant to Iowa Code section 282.18(18)(1997).

The Hutchinsons allege the Board members violated the open meetings law when they went into closed session at the Board meeting on September 15, 1997. The Iowa Department of Education has no jurisdiction to decide questions related to violation of the open meetings law, as the exclusive means of enforcement is an action in the District Court of the county where the District has its principal place of business. In re Nielsen, et. al., 13 D.o.E. App. Dec. 284, 300 (1996).

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 Sentral Community School District made on September 15, 1997, which denied the Hutchinson's

late-filed request for open enrollment for Jasmine 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
IOWA DEPARTMENT OF EDUCATION