

**IOWA STATE BOARD
OF EDUCATION**

In re J. Michael Pringle :
J. Michael Pringle, :
Appellant, :
v. : DECISION
Interstate-35 Community :
School District, :
Appellee. :

[Admin. Doc. #3903]

This case was heard on August 18, 1997, before a hearing panel comprising Ms. Sandy Schmitz, Bureau of Special Education; Ms. Susan Fischer, Bureau of Practitioner Preparation & Licensure; and Amy Christensen, J.D., designated administrative law judge, presiding. The Appellant, Mr. J. Michael Pringle, was present and was represented by attorney Mr. James Sayre. The Appellee, Interstate-35 Community School District [hereinafter, "the District"], was present in the persons of Mr. Don Brichacek, former superintendent, Mr. Andrew Gross, current superintendent, Mr. Ross Cornelison, school board president, Ms. Sue Meggers, teacher and committee chair, and Mr. Bernard Gray, school board member. Attorney Mr. Peter Pashler represented the District.

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 section 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 the appeal before them.

The Appellant seeks reversal of a decision of the Board of Directors [hereinafter, "the Board"] of the District made on June 23, 1997, to restructure the attendance centers of the District.

**I.
FINDINGS OF FACT**

The District has school buildings in three towns: New Virginia, Truro, and St. Charles. Elementary students have attended classes in both New Virginia and St. Charles. Grades kindergarten through sixth grade have attended St. Charles, and grades

kindergarten through eighth grade have attended New Virginia. Each elementary grade has had two classes at St. Charles and one class at New Virginia. All seventh and eighth graders have attended classes in New Virginia, and the high school is in Truro.

On June 23, 1997, the Board voted to restructure the attendance centers of the District. Under this plan, all kindergarten through fourth grade classes would be held at the building in St. Charles, grades five through eight would be held at the building in New Virginia, and the high school would remain at Truro. This is commonly called the K-4-4-4 plan.

The Appellant, Mr. Pringle, has two daughters who attend school in the District. The Pringles have lived in the District near New Virginia since 1994. Mr. Pringle's daughters are Danielle, age 8, who will be a third grader during the 1997-98 school year, and Amanda, age 16, who will be a junior. Mr. Pringle's concerns regarding the Board's action relate to the effect it will have on his younger daughter, because his older daughter has always been shuttled to the high school in Truro.

Danielle attended kindergarten through second grade at the elementary school in New Virginia. She was picked up by the bus in front of her house at about 7:45 a.m., and rode the bus for about twenty-five minutes to school in New Virginia. School began at 8:20 a.m. Under the restructuring plan adopted by the Board, Danielle will be picked up and taken to the New Virginia school at about the same time as before. However, she will then ride a shuttle to the school in St. Charles. The shuttle takes about 15 minutes to drive from New Virginia to St. Charles. School in St. Charles will start at 8:40 a.m.

Mr. Pringle has a number of concerns about the decision made by the Board. One is that since school will start twenty minutes later each day, there will be twenty minutes less of instructional time each day. This adds up to a total of sixty hours less instruction time for this year than last year. Mr. Pringle is also concerned about safety of the shuttle from New Virginia to St. Charles. The plan is to have the shuttle drive along Interstate-35. Mr. Pringle submitted data regarding the number of injuries and fatalities along I-35 between New Virginia and St. Charles. The data is for the years 1992 through July 8, 1997, and a graph for the school years 92/93, 93/94, 94/95, 95/96, and 96/97. For those five school years, there were a total of 31 injuries and fatalities. Mr. Pringle also presented a letter from a realtor with an attachment showing recent residential real estate activity in the three towns. The realtor believes that the decision to move elementary classes to St. Charles will result in a slower rate of home sales in New Virginia, and parents in the area are concerned property values in New Virginia would drop if all elementary grades are moved to St. Charles.

Mr. Pringle is also concerned about the speed with which the Board made its decision. He believes the Board did not study the issues thoroughly, did not engage in planning when it made the decision, did not have adequate reports and information to provide support for the decision it made, did not provide adequate information to the public, and did not provide for meaningful public input. He points out that the public meetings were held on June 16 and June 18, and the Board voted on the issue June 23rd. He believes this compact scheduling shows that the Board was going through the motions of holding public hearings, but was not really seeking public input. He is upset that the Wilson report, on which the Board based its decision, was not available in writing until after the two public hearings. He believes the Board did not follow the recommendations made in the Wilson report. He also believes the District did not engage in long-range planning, and did not follow its own policies concerning class size, budget procedures, and planning and needs assessment. Board Policy 603.1 recommends K-3 class sizes be 18-23 students per section, and grades 4-6 class sizes be 20-25 students per section. Mr. Pringle questions the District's statements that the change was made to improve educational quality, and asks how the District will measure improvement. Approximately three to four years ago, the District remodeled the kindergarten room in the New Virginia building, and it was designed for small children. Mr. Pringle questions why a significant amount of money was spent at that time, only to move the kindergartners to St. Charles now. He also questions the logic of putting fifth through eighth graders in rooms designed for smaller children. He is also concerned that the change will increase the District's transportation costs by \$22,000, when in April of 1997, the Board considered (although rejected) cutting one bus route. He is concerned that the restructuring of classes and attrition of teachers will lead to increased class sizes. Mr. Pringle and the other parents who do not support the K-4-4-4 plan like to have their young elementary students attend school closer to home, and want to continue things as they are. Mr. Pringle presented testimony by others who live in the New Virginia area who share his concerns. There were a number of persons in the audience who did not testify who were present to support Mr. Pringle.

Evidence from both the Appellant's and the District's witnesses and documents in the record show this has been a very emotional, divisive issue in the District for a number of years.

In 1978, the Iowa Department of Public Instruction prepared a written School Building Survey report for the Interstate 35 District. The report was prepared by two Department employees: Mr. C. Milton Wilson, and Dr. Leonard Gustafson. The report contains detailed information about the past, current, and projected population of the District as a whole and of the student population. The report also contains a detailed survey of the school buildings in the District in 1978. The Truro building referred to in the report is the old Truro building which no longer exists. The St. Charles and New Virginia buildings remain, although both have had additions and been remodeled since the report was written. In 1978, the St. Charles building housed two sections each of grades kindergarten through sixth grade. The New Virginia building housed one section

each of grades kindergarten through sixth grade, and all students in grades seven through nine. The Truro building housed grades ten through twelve. The St. Charles building was built in 1915-1917, with additions built in 1938 and 1955. The New Virginia building was built in 1924, with additions built in 1953 and 1974. Finally, the report contains a number of recommendations for building improvement in the District. These recommendations included that the District ultimately has its entire school plant at one site in Truro. The report recommended that the District immediately build a new facility housing grades kindergarten through four and nine through twelve facility at Truro, and formulate plans to house all grades at the site in Truro. In the interim, the report recommended that the New Virginia building be used as the junior high school. If not feasible to house grades kindergarten through fourth at the Truro site, the report states that the St. Charles building could possibly be used until a new building could be built at the Truro site. The District built a new high school in Truro, but otherwise did not follow the recommendations regarding building locations of grades made in the report.

Superintendent Brichacek testified that in 1982, Mr. Milt Wilson prepared another report for the District, and made essentially the same recommendations as were made in the 1978 report. A copy of this 1982 report cannot be located by either the District or the Department of Education. Grades continued to be housed in the same buildings as they had been.

In 1992, the District again considered the issue, and began extensively studying the K-4-4-4 plan. The issue was very controversial. The patrons of the District who were opposed to the plan were opposed for reasons similar to those expressed by the Appellant and his witnesses. (The one exception to this is the speed at which the Board made its decision in 1997. This issue did not exist in 1992-93.) The Board, District staff and citizens studied pros and cons of the issue. A study committee of patrons was formed, with three subcommittees: Educational Programming, Transportation, and Community Development. The subcommittees met from January through April, and made recommendations to the Board. Ms. Susan Meggers, currently a teacher for the District, was a parent in 1992, and served as Chair of the Committee and a member of the Community Development subcommittee. She testified regarding the work of the Committee and subcommittees. The Education subcommittee's recommendation was that the plan would be good for the students educationally. The Transportation subcommittee determined that the plan would increase transportation costs about \$19,000. There was also concern about increased length of bus rides. The Community Development and Impact subcommittee was split on the issue, and Ms. Meggers testified their research showed no evidence of adverse or positive impact on the communities. There was a difference of opinion on the subcommittee. Most of the members of the Committee and subcommittees were parents, grandparents, and community members rather than school officials. There was a high level of community involvement in the study process. The plan was discussed at several Board meetings, and members of the public expressed their views to the Board at several Board meetings. A survey of the District was conducted. Of 453 people surveyed, 23% felt the District should adopt the K-4-4-4 plan, 71% felt the current system should be kept, and 6% were undecided. One

of the parents actively involved in the study was Mr. Ross Cornelison. He opposed the plan. Superintendent Brichacek supported the plan. Discussion involved both the pros and cons of housing all elementary grades in one building, and the pros and cons of a middle school with grades 5 through 8. Three public hearings were held in April and May 1993.

Supporters of the K-4-4-4 plan believed that putting all students in grades K - 4 in one building would assure equity in educational opportunities for all children in the District. They believe it would help with coordination of activities for all the children. They believe it would allow all students to meet each other at an earlier age and help students think of themselves as I-35 students rather than separately as New Virginia or St. Charles students. If one grade level had fewer students, it would be easier to change from three classes to two classes of that grade level if all students were in one building. (The Community Development subcommittee expected numbers of school children to decrease in the District.) They believed putting all K-4 grades together would allow all three teachers for each grade to work together and coordinate activities, and would reduce isolation of the teacher and students at New Virginia. They believe this could use the strengths and expertise of each teacher for the benefit of all the students in the grade. They believe education for each student would be improved. They believe there would be greater uniformity of student activities if all classes were together. They believe there would be less duplication of purchases, such as books for the library, musical instruments, and playground equipment, if all elementary classes were together. They believe putting all fifth through eighth graders together in the same building will allow teachers and administrators to better address the special needs of early adolescents.

The Board was scheduled to vote on the plan at their meeting on May 17, 1993. However, since the issue was so controversial, the Board did not want to vote on the issue. Instead, they decided to put the issue on the ballot so voters in the District could decide. When they attempted to do this, they were told the issue could not legally be placed on the ballot, and the Board would have to decide the issue. At the Board meeting to vote on the issue, one Board member moved that the District adopt the K-4-4-4 plan. The motion died for lack of a second. There was no subsequent motion or action on the issue in 1993.

The District formed a Plans and Goals Committee to perform a needs assessment for the District. The work of this committee was completed in the fall of 1995.

In the fall of 1996, a surtax levy for the District failed to win approval of the voters.

In February 1997, the principal at the New Virginia school resigned. At the February 17, 1997 Board meeting, the Board voted to eliminate one principal position from the District to save money. The District is struggling financially, and this allowed a saving of between \$54,000 and \$62,500. The District's enrollment has declined slightly in recent years, and projections estimate it will decline slightly in the next few years.

Some Board members attribute some of the decline to the effects of open enrollment and home schooling.

At the April 14, 1997 Board meeting, the Board considered a proposal to cut the bus routes from 11 to 10 beginning in May 1997. The Board was looking for ways to save money. However, the Board voted to delay any bus route changes until the 1997-98 school year and to study the issue.

On May 6 and 7, 1997, Mr. Milt Wilson of the Iowa Department of Education conducted a facility utilization study for the District. He orally presented his findings at a special Board meeting held on May 7, 1997. Mr. Wilson discussed a number of recommendations not at issue in this case. These will not be discussed. Mr. Wilson noted that there were a number of physical problems at both elementary buildings and on the playgrounds. For example, he noted both buildings were non-accessible, needed to be tuck-pointed, and needed new windows. Some of the items were fairly major. New Virginia needed to have major work done on the plumbing system, and the boiler probably needed to be replaced. Nonetheless, Mr. Wilson noted that St. Charles appeared to be in reasonably good condition, except for the older section. He also noted that New Virginia was in reasonably good condition. He recommended that a structural engineer be hired immediately to assess the buildings to determine the life expectancy of the buildings. He said in particular to have the engineer look at the New Virginia plumbing and boiler system. He said that if there is not a minimum of 20 more years of useful life on the buildings, he did not want the District to put major amounts of money into them. He said the District should not add onto these older buildings, and the ultimate goal should be to move all classes to the Truro site so the District can deliver the educational programs needed by the students.

Mr. Wilson also recommended the District do long range planning. He stated that the District could no longer afford to use the neighborhood school concept currently used. To better utilize the facilities of the District, he recommended that the District use St. Charles for grades K-4, and New Virginia for grades 5-8. He chose St. Charles as the building for the earlier grades because it has more classrooms on the first floor. He stated that although busing costs would increase, the money would be saved in duplication costs, and travel time and costs of teachers. Mr. Wilson said financially the plan would be a wash at worst, but that the District would be enhancing educational programming tremendously. He said that making this move would help with financial constraints and give the District time to do some serious planning. He also recommended that an addition be built on the high school, and the seventh and eighth grade be moved to the high school at some point. He said financially the District could not continue to operate the way it has, and would have to make changes. He discussed educational programming reasons for making these changes, and the need to unify the district. He also said this would not be a permanent solution, and that the District needed to consider having a central campus for all grades in about twenty to twenty-five years. He pointed out that his recommendations were essentially the same as he had made in 1978. The Board and Mr.

Wilson discussed the fear held by some people in the community that if the school in the town closes, the town will die.

The Board interpreted Mr. Wilson's remarks to mean they should implement the K-4-4-4 plan immediately, and engage in long range planning to move to a central campus with all grade levels in a twenty-year time frame. Mr. Pringle and other parents opposed to the K-4-4-4 plan were not present at the May 7th meeting. However, they did get Mr. Wilson's written report on June 20th, and interpreted his recommendations to mean the District should engage in long range planning before making any changes regarding class location. Mr. Wilson did not testify at the hearing. However, after listening to the tape of the May 7th meeting, the panel believes the interpretation by the Board fits more accurately with Mr. Wilson's recommendations to the District. In any case, it was reasonable for the Board to interpret Mr. Wilson's remarks as a recommendation that they proceed with the K-4-4-4 plan as soon as possible, which could have been for the 1997-98 school year. It is clear from the discussion on the tape that Mr. Wilson believed implementation of the K-4-4-4 plan was financially feasible for the District for the 1997-98 school year.

The K-4-4-4 plan studied in 1992-93 is essentially the same plan voted on in 1997 and at issue in this appeal, although it is now clearer that the District views the plan as an interim measure. The long-range goal of the District is to move to one central campus for all grade levels.

At the May 19, 1997 Board meeting, many members of the community and District staff were present. Superintendent Brichacek reported on Mr. Wilson's recommendations made at the May 7th meeting. He reported that the District has an ultimate plan for a central campus in 20-25 years. He reported there is a cost savings, and there are educational reasons to move K-4 to St. Charles, 5-8 to New Virginia, and leave 9-12 at Truro. He reported that Mr. Wilson recommended hiring an engineer to study the New Virginia and St. Charles buildings to determine their useful life, and "the district should consider making changes before next fall". (Bd. Min. May 19, 1997.) Superintendent Brichacek told the Board members of the Barker guidelines and the need to inform the public. The Board discussed the recommendations, stated they needed a work session before the June Board meeting, and passed a motion to pursue Mr. Wilson's recommendations for location of classes for September 1997 pending information brought to the Board. Although community members were present at the meeting, they did not speak to the Board.

On May 28, the Board met for a work session. Members of the community were present. Superintendent Brichacek presented handouts regarding St. Charles Building Use during 1996-97 and possible use for 1997-98 if the K-4-4-4 plan were implemented, Greatest Student Benefits of the plan, and Anticipated Savings of the plan. The handouts had been prepared by the elementary principal with input from teachers. Under the plan, the St. Charles building would be two plus part of a third classrooms short if each grade had three sections. If two grades were reduced from three to two sections, only an AEA

speech classroom problem would remain. Projected enrollment for the 1997-98 school year shows a first grade with 43 students, and kindergarten and grades two through six with enrollments near 60 students each. New Virginia would have enough classrooms. The Greatest Student Benefits document listed similar benefits to those discussed in 1993. Anticipated savings included not duplicating kindergarten materials, elimination of teacher and counselor travel time, fewer extra textbooks required, shared library, technology and media programs and books, special programs like music would not have to be bussed, and less travel time for the nurse, TAG, and Title 1 staff. The list also noted that if the move were a pathway to a single school site and new facilities, the district would stop spending money on the old buildings. Mr. Brichacek told the Board the transportation costs would increase about \$20,000. The Board discussed the issue in detail. Members of the community expressed their concerns and opinions to the Board. At the meeting, Board President Ross Cornelison said his mind was made up in favor of the plan, but that there were four other Board members, and dates for the public hearings needed to be set. The Board voted to set public hearings for June 16th and 18th, and a special Board meeting on June 23rd, at which time the Board would vote on the plan. The Board did not establish a citizen's committee to study the issue as had been done in 1992-93. Superintendent Brichacek testified he did not feel this was necessary in 1997 because he viewed it as one continuous process. Board President Cornelison testified he did not want to extend the time the Board considered the issue because it would allow the opposition a greater chance to defeat the issue.

On June 9, 1997, the Board met and hired an engineering firm to assess the useful building life of the St. Charles and New Virginia school buildings. Superintendent Brichacek had hoped to hire the firm earlier, but originally received only one response to the Request for Proposals, and had to take more time to obtain another bid. The District did not receive (the engineering firm's report until July 1997. Since the report was not available to the Board when it made its decision, it was not considered by the panel.) Board President Cornelison reported that the main community concerns regarding the K-4-4-4 plan involved bussing, classroom space, and staffing, and that the Board would try to answer questions at the public hearings on June 16th and 18th. Although members of the community and staff were present, they did not speak to the Board.

On June 10, 1997, Superintendent Brichacek retired. His official retirement date was July 1st, but he took vacation until the end of the month. Superintendent Andrew Gross took over on June 10th, although he had been at the June 9th meeting and knew of the K-4-4-4 issue. Superintendent Gross came from the West Harrison District, which had successfully moved from a three-school, three-town system to one site with all schools. He supported the K-4-4-4 plan.

The District published notice of the two public hearings on grade restructuring. The first public hearing was held on June 16, 1997. Members of the Board, many members of the community, and District staff were present. Board President Ross Cornelison made an opening statement in which he expressed the belief that a move to a central campus was necessary for the District, and discussed the duplication of services

required because of the three separate school buildings in three towns. He discussed reasons to support a move to a central campus, and Mr. Wilson's recommendations. He discussed the need for a structural assessment of the buildings to determine building life expectancy so the District could establish a target date for a move to a central campus. He discussed known physical problems with the buildings. He stated that the District could no longer afford to maintain neighborhood schools. He discussed the K-4-4-4 plan as an interim plan, and listed its advantages. He said this would better utilize the District's facilities until the move to the central campus. He stated savings in duplicate goods and services would likely offset increased bus costs. He stated the District would be better organized, administrators could better manage schools, teachers could function as teams, and exceptionally challenged students' needs could be better met. He stated that a recent I-35 teacher survey showed that most teachers supported the plan. (Ms. Meggers, who had headed the study committee in 1993 and is now a teacher in the District, testified in favor of the plan.) Mr. Cornelison stated that the future of the District hinged on a central campus. He discussed the two old elementary buildings and the drain on the district's budget to operate both of them. He discussed the need to duplicate goods and services, such as libraries, kitchens, athletic facilities, computers, books and supplies. He discussed the travel time by teachers, librarian, counselors, and administrators. He discussed required services, and the District's financial difficulties. He discussed the format of the two public hearings and the Board meeting on June 23rd at which time the Board would decide whether to implement the K-4-4-4 plan. He listed three concerns expressed at the May 28th meeting: bussing, classroom space, and staffing, and turned the meeting over to Superintendent Gross. Superintendent Gross discussed why he believed the plan would improve the quality of education provided to students. Mr. Randy Jones gave a transportation report. Miles per bus route would be shortened under the plan, but some students would have to ride a shuttle in addition to the route. He reported that each bus route would be 45 minutes or less, with the shuttle added to that. Mr. Rich Gray described the plan. Many members of the community spoke, and most were opposed to the plan. They expressed a number of concerns and asked a number of questions. Topics included travel time, cost, textbooks, questions related to the libraries for both buildings, need for maintenance, how the junior high would function, effect on bus drivers, discipline, whether the ultimate plan was to go to a central campus, pulling students out of class for additional help, cutting first grade to two sections, speed of the decision, ability grouping, conflicts with staff and between students, open enrollment, people like New Virginia elementary, requests to put the plan for a move to central campus in writing, and effect on kindergartners who went to kindergarten roundup at New Virginia. District staff and Board members responded to concerns expressed and answered questions. All members of the public who wished to speak were allowed to.

On June 18, the District held its second public hearing on restructuring. Board President Cornelison made essentially the same statement he made at the June 16 meeting. Superintendent Gross discussed the ability to change class sizes, capitalize on the strengths of the teachers, better utilize of supplies and materials, and try pilot programs. Mr. Jones presented additional detail of transportation costs. He estimated the total cost to be \$22,402.75. Mr. Gray again explained the plan.

Members of the public again spoke regarding their concerns and questions. Many of the points were similar to those raised at the June 16th meeting. Parents stated they did not understand how bringing children to St. Charles would be better for them. Mr. Pringle asked for a more detailed plan for the restructuring and move to a central campus, and a method of objectively evaluating improvements to the quality of education provided. Some members of the public expressed the view that the District should keep things as they are, and develop a five-year plan for a move to a central campus. Some wished to wait a year and form a study committee to involve the community. Many members of the public who spoke were opposed to the K-4-4-4 plan. They questioned why money had been spent on a kindergarten room at New Virginia when it wouldn't be used. They were concerned with the speed at which the Board was making its decision. They believed the Board did not have enough information to make the decision. New Virginia parents did not want their children bused to St. Charles. A petition to leave the District as it is was presented to the Board. One member of the community spoke in favor of the plan.

On June 20, 1997, the District received the written report from Mr. Milt Wilson. The written report was similar to the report given to the District in 1978, and contained the same recommendations as those made orally at the May 7th Board meeting. Mr. Wilson discussed building utilization and physical problems with the St. Charles, Truro, and New Virginia buildings. He recommended a process for the District to evaluate whether it would move to a central campus. He stated the recommendations in the report were not mandates from the Department of Education. He made a number of recommendations not pertinent to the issues in this case. He recommended employment of a structural engineer, and if the buildings would be structurally sound for at least the next twenty years, that they be brought up to code and. He stated the opinion that the District must make changes to operate more efficiently and that it could not continue to operate as it had in the past. He recommended the District begin long range planning considering the engineering report regarding useful life of the buildings. He recommended the District look at enrollment trends and consider the impact of these trends on curriculum and facility use, as well as the financial stability of the District. He stated that new rules coming from the fire marshal, which will preclude the District from housing primary grade students above or below grade level, would cause the District to rethink its building usage patterns. He recommended the District house grades K-4 at St. Charles to compact and provide equality of opportunity to all students. He recommended that the District house grades 5-8 at New Virginia, and stated savings would outweigh the cost of transporting students. He recommended that the District eventually move grades 7-8 to the high school and locate them primarily in one wing. He stated this would require 6 classrooms at the high school, which would allow the District to use its faculty and special areas more efficiently. He stated this would also allow the District to get better utilization from the high school facility. He stated that at some point in the future, the District might want to consider moving all elementary students to a location near the high school and have all students together on one campus. He stated this would allow for more effective communication and sharing of equipment, supplies, and special functions.

Mr. Wilson's written report contains no recommendation to implement the K-4-4-4 plan by the fall of 1997.

On June 23, 1997, the Board met in regular session. All members of the Board were present. Many members of the community and staff were present, although they did not speak to the Board regarding the K-4-4-4 issue. The Board voted 4-1 to arrange the District by K-4 at St. Charles, 5-8 at New Virginia, and 9-12 at Truro, to be implemented by the fall of 1997.

There is only one Board member currently on the Board who was also on the Board in 1993. This member is Mr. Bernard Gray. In 1993, Mr. Gray was opposed to the K-4-4-4 plan. He voted against the plan in 1993 because he wanted smaller class sizes, and he was hoping the District would have increased students. However, he testified, open enrollment and home schooling have decreased the District's student population since 1993. He changed his mind and voted for the plan in 1997. One major factor in his change of position resulted from the trip several Board members took to Mondamin to interview Mr. Andrew Gross, the District's new superintendent. The West Harrison District formerly had school buildings in several towns, but moved to one central campus about three years ago. This move was successful for the District, and its success caused Mr. Gray to rethink his former opposition. He testified this decision was the hardest decision the Board has had to make since he's been on the Board, and that he believes it will be better for education of all the students. There are four new Board members who were not on the Board in 1993. One of those Board members is Board President Ross Cornelison. As a result of his involvement in opposition to the plan in 1993, Mr. Cornelison became interested in Board business, and subsequently was elected to the Board. In 1997, he voted for the plan. He testified he believes the primary benefits are the ability of teachers to work as a team and to unify the students, since the entire grade will be at one location. He is also concerned about the deteriorating condition of the buildings and the cost to repair them. In 1993, the other current Board members were involved in the study and meetings on the issue to a greater or lesser degree, although they were not on the Board at the time. One current Board member, Mr. Brian Mitchell, was opposed to the plan in 1993, and also voted against it in 1997. One current Board member, Mr. George Hutton, supported the plan in 1993, and voted for it in 1997. The final current Board member, Mr. Tim Porter, was undecided in 1993, and voted for the plan in 1997.

II. CONCLUSIONS OF LAW

Iowa Code section 279.11(1997) provides that "The board of directors shall determine the number of schools to be taught, divide the corporation into such wards or other divisions for school purposes as may be proper, [and] determine the particular school which each child shall attend ...". Clearly, the Board had the authority to make the decision whether to send all K-4 students to St. Charles and all 5-8 students to New Virginia.

Review of the I-35 Board's decision in this case by the Iowa Department of Education is *de novo*. In re Debra Miller, 13 D.o.E. App. Dec. 303 (1996). The decision must be based on the laws of the United States and Iowa, the regulations and policies of the Department of Education, and "shall be in the best interest of education". 281 IAC 6.11(2). Essentially, the test is one of reasonableness. In re Jesse Bachman, 13 D.o.E. App. Dec. 363 (1996). The question is, was the decision the I-35 Board made to change attendance centers for elementary grades reasonable?

The Appellant argues that the Board's decision was arbitrary, capricious, and unreasonable, and an abuse of discretion, for the following reasons. He states the Board made the decision without the written report of the structural engineer, that no factual basis for the decision was given at the public hearings, that the Board did not follow recommendations of Mr. Milt Wilson to engage in long-range planning, and decided to implement the K-4-4-4 plan when Mr. Wilson's written report contained no recommendation to implement it by the fall of 1997, that they made the decision without the feasibility study concerning bus routes authorized by the Board on April 14, that it was in violation of several Board policies related to class size, budget procedures, and planning and needs assessment, and that the change will result in a significant decrease in instruction time.

In judging whether the I-35 Board decision was reasonable, Mr. Pringle would like us to consider only the procedures followed in 1997. We do not believe this is appropriate, because it ignores reality. This District has been struggling with this issue for years. Therefore, we must consider whether the Board's decision was reasonable in the light of all that has happened in the District.

One way to judge whether the local Board's decision was reasonable is to determine whether it complied with the State Board policy with regard to school closings and restructuring of attendance centers set forth in In re Norman Barker, 1 D.P.I. App. Dec. 145 (1977). As was noted in In re Debra Miller, *supra*, and Keeler v. Iowa State Board of Public Instruction, 331 NW2d 110 (Iowa 1983), the Barker guidelines are not rules of the Department. Barker itself states they are only recommendations. The guidelines include the following procedures: Establishment of a timeline for procedures in the decision making process, with a focus on the anticipated date of the Board's final decision. Inform all segments of the community in the district that an important decision is under consideration by the Board. Obtain input from the public. The Board and groups and individuals selected by the Board should do sufficient research, study, and planning. Such things as student enrollment statistics, transportation costs, financial gains and losses, program offerings, plant facilities, and staff assignment need to be considered carefully. Hold an open and frank public discussion of the facts and issues involved. Make a proper record of all the steps taken in the decision making. The final decision must be made in an open public meeting, and a record made. When the Barker guidelines were written, they contemplated that the decision making process would take

place in an uninterrupted fashion, which is not the case here. However, they are still useful to consider in deciding whether the Board's action was reasonable.

Mr. Wilson first recommended a central campus and a grade consolidation plan to the District in 1978. In 1992-93, the District engaged in extensive study of the issue. The Board established a timeline for decision making. However, the Board's final decision was not to actively decide when the motion to adopt the plan failed for lack of a second. In 1997, another timeline for the decision was established. The Appellant is upset with the timeline in 1997. He questions how the Board could carefully make a decision when it held the public hearings on June 16th and 18th, and made their final decision on June 23rd. Although the State Board has reversed only a handful of school closing decisions, it has stated that Boards should allow time to pass between the initial, formal public input and the final decision, because "there are too many facts to register, too many questions unanswered and too much public sentiment to be measured to involve hasty decisions when time is not of the essence". In re Debra Miller, 13 D.o.E. App. Dec. 303 (1996). However, part of the decision making process in this community included the months of study done in 1992-93. All of the Board members were involved in that process to a greater or lesser degree. The Board did not come into the issue in a vacuum in 1997. Therefore, since they had studied the issues in 1992-93, albeit not as Board members in four of the cases, they were already familiar with factors to be considered. This allowed them to come up to speed on the issues much more quickly than if they had not considered the issue previously. The Barker guidelines do not mandate a certain period of time for study, and "reasonableness" is the polestar. Miller, supra at 322. Given the number of years this issue has been before the District, and the depth of study of the issues involved in 1992-93, we do not believe the timeline established by the Board was unreasonable.

Both in 1993 and in 1997, the Board informed the community that the issue was being considered by the Board. In 1997, the Board apparently began consideration of the issue when Mr. Wilson made his recommendations on May 7th. By the May 19th Board meeting, many members of the community knew the Board was considering the issue and came to the Board meeting to express their opinions. The Board published notice of the public meetings in June in the newspaper and a school newsletter, and posted notice of the meetings.

The public provided input into the study and planning for the issue in 1992-93. Citizens led the committee process. In 1997, the public did not provide input into the study and planning for the issue, except for comments made in the public hearings and at the May Board meeting. However, we agree with Superintendent Brichacek that it was not necessary to reconstitute the citizen's committee, since it had already been done in 1992-3, and this was a continuation of that process. Furthermore, the Barker guidelines do not mandate the use of a citizen's committee as was done in 1992-93. Although the Board could have involved additional public input into study and planning for the issue in 1997, the panel does not believe failure to do so mandates reversal, given the level of public input into planning and study which occurred in prior years, and given that the

Board held two public hearings in 1997. We do note that the panel is concerned about the testimony by Board President Cornelison that he did not want to extend the decision making process because it would allow the opposition more chance to defeat the issue. Public input is supposed to be meaningful. We also note that Board President Cornelison stated publicly that he had made up his mind prior to the public hearings. Ordinarily, Board members should wait to make up their minds on an issue until after the public has had a chance to provide input. However, the public provided a great deal of input in 1992-93, Mr. Cornelison being one of those members of the public in opposition to the plan. Many members of the public provided input to the Board at their May meeting and at the two public hearings. Also, there were four other members of the Board beside Mr. Cornelison. Therefore, we cannot say that the process followed by the Board mandates reversal. The fact that the Board did not agree with the comments made by the public does not mandate reversal. Miller, supra at 322. The right of the public to provide input does not imply that the Board must agree with the public. Miller, supra at 323, quoting In re Ilene Cadarr, 9 D.o.E. App. Dec. 11 (1991).

The fourth Barker guideline provides that sufficient research, study and planning should be carried out by the Board, and the Board should consider enrollment statistics, transportation costs, financial gains and losses, program offerings, plant facilities, and staff assignment. The fifth guideline states there should be an open and frank public discussion of the facts and issues involved. The panel finds that the I-35 Board followed these guidelines. In 1992-93, all of these issues were studied. They were studied again in 1997. In Mr. Wilson's oral report May 7, the Board and Mr. Wilson discussed many of these issues. They were discussed at Board meetings and at the two public hearings. We do not believe the fact that the engineering report was not available until July makes any difference. The engineering report was relevant to determine the useful life of the school buildings. This was far more relevant to the decision of whether and when to move to a central campus than to whether to approve the K-4-4-4 plan. The Board considered the slightly declining enrollment of the District in reaching its decision. The Board considered the additional transportation costs. Although the Appellant states that the Board did not have the transportation study authorized at the April 14th meeting, Mr. Jones reported at the June 18th public hearing that the plan would cost the District an additional \$22,402.75 for busses. The Board believes this cost will be offset by savings because services will not have to be duplicated. The Board considered the financial gains and losses when it made its decision. The Board considered program offerings, use of the plant facilities, and staff assignment when making its decision. Again, the Board is not required to agree with the assessment of these issues by the public. Miller, supra at 323. The fact that members of the public who live in New Virginia and the Appellant do not see why or how the K-4-4-4 plan will improve educational quality for all students in the District does not mean that the Board is unreasonable when it believes that it will. The Board believed the plan would better utilize the District's buildings. The fact that members of the public disagree with that belief, or would like a different use of buildings, do not mean the Board was unreasonable in choosing the use it did. Use of the St. Charles building for the lower elementary grades when upcoming fire marshal codes will mandate the District not house them below and above grade was reasonable when the

New Virginia building does not have as many classrooms on the main level as St. Charles. Although the Appellant does not believe the Board followed Mr. Wilson's recommendations, the Board believed it did and this panel believes it did. The Board was reasonable in interpreting Mr. Wilson's remarks to mean that it should implement the K-4-4-4 recommendations as soon as possible to buy it some time financially so it could engage in long range planning for a move to a central campus.

Therefore, we hold that the Board followed the Barker guidelines in making its decision.

The Appellant states that the Board did not follow its own policies 602.1(c), 602.15R, 603.1, 603.2, 102, 803.2, and 851.3. These policies relate to class size, planning and needs assessment, and budgets. We do not agree that the Board violated any of these policies when it approved the K-4-4-4 plan. With respect to Board policy 102, which requires a needs assessment every five years, Superintendent Brichacek testified the District last performed a needs assessment in 1995. Furthermore, even if the Board had not done so, we fail to see why this would mean adoption of the K-4-4-4 plan violated this policy. The Board did not violate any of the other listed policies in adopting the K-4-4-4 plan. The closest they might come to violating a policy would be with Board policy 603.1, which contains recommended class sizes. However, if enrollment for first grade is 43 students as projected, reducing the grade to two sections would still leave class sizes within the policy recommendations of 18-23 students per section. We fail to see how any of the policies were violated by the Board's action.

As has been stated before, the fact that there were other decisions the Board could have made does not mean that there is any legal reason to reverse the decision the Board did make. Miller, supra at 323. The Board made the decision it believed to be in the best interest of all the children in the District. Sometimes this means the residents of a certain part of the District will not agree with the decision made, and will believe it is detrimental to them, as is true in this case. However, this does not mean the decision made was unreasonable, or arbitrary and capricious. It merely means the Board disagreed with the opinions expressed by those residents in opposition to the plan.

We hold that the action by the Board in approving the K-4-4-4 plan as an interim measure was reasonable, was not arbitrary and capricious, and was not an abuse of discretion by the Board.

Any motions or objections not previously ruled on are hereby denied or overruled.

III. DECISION

For the foregoing reasons, the decision of the Board of Directors of the I-35 Community School District to restructure the classes in the District so that grades K-4

attend St. Charles, grades 5-8 attend New Virginia, and grades 9-12 attend Truro, is 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

CORINE HADLEY, PRESIDENT
STATE BOARD OF EDUCATION