

**IOWA STATE DEPARTMENT
OF EDUCATION
(Cite as 15 D.o.E. App. Dec. 303)**

In re Amy Lynn Ashbrook :

Debbie Ashbrook, :
Appellant, :

v. : DECISION

Des Moines Independent :
Community School District, :
Appellee. :

[Admin. Doc. #3970]

This case was heard on April 1, 1998, before a hearing panel comprising Mr. Klark Jessen, Office of the Director, Ms. Mary Wiberg, Bureau of Technical & Vocational Education; and Amy Christensen, designated administrative law judge, presiding. The Appellant, Ms. Deborah Ashbrook, was present and was unrepresented by counsel. The Appellee, Des Moines Independent Community School District [hereinafter, “the District”], was present in the person of Dr. Tom Jeschke, Executive Director of Student Services. 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 March 3, 1998, which denied her request for open enrollment for her daughter, Amy. The Board’s decision was based on the determination that Ms. Ashbrook’s application was filed past the deadline and there was no good cause for the late filing.

**I.
FINDINGS OF FACT**

The Ashbrook family lived in Van Meter, and Amy attended school there beginning in the fifth grade. Amy has many close friends and is close to many teachers in Van Meter, which is a small district. Amy is now a junior in high school. Two years ago, Mr. and Mrs. Ashbrook were divorced, and Ms. Ashbrook moved to West Des Moines. Mr. Ashbrook and Amy continued to live in Van Meter so Amy could continue to attend school there.

In January 1997, Mr. Ashbrook moved to Michigan. He has essentially stopped all contact with Amy. Amy moved in with her mother in West Des Moines. She was allowed to open enroll back to Van Meter as a continuation student.

In August 1997, Ms. Ashbrook took a job in Iowa City, and Amy moved with her. She attended school in Iowa City, but hated it. She made one friend, and testified she was exposed to drug use and students with values other than her own. Amy was so unhappy, Ms. Ashbrook decided to move back so Amy could finish her junior year and attend her senior year in Van Meter with her friends and familiar school.

The decision to move back was made in January 1998. Unfortunately, Ms. Ashbrook could not find housing in Van Meter. She purchased a home just inside the Des Moines District limits. Ms. Ashbrook filed an application for open enrollment for Amy to attend school in Van Meter with the Des Moines District in February 1998.

At its March 3, 1998 meeting, the Des Moines Board denied the application on the ground that the application was late and no good cause as defined by state law was found. On March 4, 1998, the District sent a letter to Ms. Ashbrook informing her the application had been denied because it was received after the January 1st deadline and did not meet the good cause criteria.

Amy and Ms. Ashbrook moved to Des Moines on March 27, 1998, five days prior to the hearing in this case. Amy is attending school in Van Meter, pending the decision in this case.

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 §§ 282.18(2) and (16)(1997). Iowa Code § 282.18(2) states that: " If a parent or guardian fails to file a notification that the parent intends to enroll the parent's or guardian's child in a public school in another district by the deadline of January 1 of the previous year, and one of the criteria defined in subsection 16 exists for the failure to meet the deadline ..., the parent or guardian shall be permitted to enroll the child in the other district in the same manner as if the deadline had been met."

Iowa Code subsection 282.18(16)(1997) contains the definition of good cause. 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 State Department of Education rules contain the same types of events that constitute good cause, one of which is a change in family residence after the January 1st deadline. 281 IAC 17.4.

Ms. Ashbrook and Amy moved into the District on March 27, 1998, well after the January 1, 1998 deadline. Therefore, pursuant to both Iowa Code § 282.18(16)(1997) and the rules at 281 IAC 17.4, Ms. Ashbrook had good cause for the late filing of her application.

Since Ms. Ashbrook and Amy moved to Iowa City and Amy attended school there, this is not a continuation case pursuant to Iowa Code § 282.18(9)(1997).

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 Des Moines Independent Community School District made on March 3, 1998, which denied

Ms. Ashbrook's late-filed request for open enrollment for Amy for the 1998-99 school year, is hereby recommended for reversal. Ms. Ashbrook had good cause for her late filed application. 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