

**IOWA STATE BOARD
OF EDUCATION
(Cite as 14 D.o.E. App. Dec. 199)**

In re Matthew Davis :

Pat Davis, :
Appellant, :

v. : DECISION

Cardinal Community :
School District, :
Appellee. :

[Admin. Doc. #3817]

The above-captioned matter was heard telephonically on November 18, 1996, before a hearing panel comprising June Harris, consultant, Bureau of Planning, Research and Evaluation; Christine Anders, consultant, Bureau of Food and Nutrition; and Ann Marie Brick, J.D., legal consultant and designated administrative law judge, presiding. Appellant, Pat Davis, “appeared” by telephone, representing herself. The Appellee, Cardinal Community School District [hereinafter, “the District”], was also “present” by telephone in the person of Superintendent Roger Godrey, also *pro se*.

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 §290.1(1995).

The Appellant seeks reversal of a decision of the Board of Directors [hereinafter, “the Board”] of the District made on September 16, 1996, denying her request for payment of two classes her son was taking at that time at Indian Hills Community College. Appellant appeals the denial of payment under the provisions of the “Postsecondary Enrollment Options Act,” Iowa Code §261C (1995).

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.

**I.
FINDINGS OF FACT**

Appellant lives in Agency, Iowa, and is a resident of the Cardinal Community School District. Her son, Matthew, is a 12th grade student attending Cardinal High

School, during the 1996-1997 school year. Matt has been identified, according to the District's criteria and procedures, as a Gifted and Talented pupil. Because of that, he was eligible to attend Indian Hills Community College as a 9th grader to take a class in "Technical Math I." This was done under the authority of the "Postsecondary Enrollment Options Act" [hereinafter, "PSEO"] enacted by the Legislature to "promote rigorous academic or vocational-technical pursuits and to provide a wider variety of options to high school pupils by enabling ninth and tenth grade pupils who have been identified as Gifted and Talented, and eleventh and twelfth grade pupils, to enroll part-time in nonsectarian courses in eligible postsecondary institutions of higher learning in this state." Iowa Code § 261C.2 (1995).

According to the terms of the Act, the school district will provide tuition reimbursement to an eligible postsecondary institution equal to the lesser of :

1. The actual and customary costs of tuition, textbooks, materials, and fees directed related to the course taken by the eligible student.
2. Two hundred fifty dollars.

Iowa Code §261C.6(1995).

The Act further provides that "high school credits granted to an eligible pupil under this section shall count toward the graduation requirements and subject area requirements of the school district of residence, ...". Iowa Code §261C.5 (1995). However, in order to be eligible for tuition reimbursement by the school district, the course taken at the eligible postsecondary institution must not be "comparable" to a course already offered by the school district. Iowa Code §261C.4 (1995).

A comparable course, as defined in rules made by the board of directors of the public school district, must not be offered by the school district or accredited nonpublic school which the pupil attends.

Id. (emphasis added).

Ms. Davis testified that last May, Matt went to the guidance counselor and asked to fill out the forms to participate in the PSEO program for the 1996-97 school year. He was told to wait until the Fall of 1996. When Fall arrived and it was time to sign up for classes, Ms. Davis took it upon herself to enroll Matt in two courses at Indian Hills. One was entitled,

“College Communications I” and the other was entitled, “U.S. History I.” Ms. Davis then sought authorization for payment from the principal, the superintendent and the finally, she went to the Board meeting on September 16, 1996, to address the Board.

The Board declined payment under the Postsecondary Enrollment Options Act because they felt that “comparable” courses were already offered at the Cardinal High School. After investigating the situation, the Board minutes state that Board members decided they “would not pay for these two courses as they were a duplication of high school curriculum.” (Bd. Min., September 16, 1996.)

At the appeal hearing, Superintendent Godrey stated that he had discussed the situation with an individual from Indian Hills Community College before the Board’s decision. In their discussion, the representative of Indian Hills stated that she felt that these entry-level college courses were “comparable” to those offered in the Cardinal District curriculum. In addition, she stated that she was not aware of any local high school which had paid for these courses under the PSEO Act. Superintendent Godrey shared this information with the Board.

As evidence at the appeal hearing, Ms. Davis introduced descriptions of the courses at both the high school and at Indian Hills to show the differences between them. Although the course in U.S. History at Indian Hills covers a different period than the course offered at the District high school, Superintendent Godrey testified that during 8th grade, the same material is covered by the District’s history class. Superintendent Godrey further testified that it is the Board’s position that the purpose of the Postsecondary Enrollment Options Act is to allow the students to take coursework in an area not available at the high school. In contrast, Appellant contends that the purpose of PSEO is to promote “rigorous academic pursuit.” She disagrees that a history class offered in the eighth grade can be “comparable” to one available at a postsecondary institution. At the time of the hearing, Ms. Davis intended to enroll Matt in two additional courses at Indian Hills: Communications II and U.S. History II.

II. CONCLUSIONS OF LAW

The issue presented by this appeal is “What is a ‘comparable’ course for the purposes of the Postsecondary Enrollment Options Act?” The first place to go to answer that question is to the language of the statute itself.

Rules of statutory construction are to be applied only when the explicit terms of a statute are ambiguous. *Heins v. City of Cedar Rapids*, 231 N.W.2d 16, 18 (Iowa 1975). Precise unambiguous language will be given its plain and rational meaning in light of the subject matter. *Maguire v. Fulton*, 179 N.W.2d 508, 510 (Iowa 1970). Therefore, it is not the province of the court to speculate as to probable legislative intent without regard to the wording used in the statute, and any determination must be based upon what the legislature actually said, rather than what it might or should have said. Iowa R.App. P. 14(f)(13); *State v. Brustkern*, 170 N.W.2d 389, 392 (Iowa 1969).

Marcus v. Young, 538 N.W.2d 285, 289 (Iowa 1995).

Iowa Code §261C.4 states that in order for an eligible pupil to enroll in a postsecondary course for credit, a comparable course “as defined in rules made by the board of directors ... must not be offered by the school district.” *Id.* The Departmental rules implementing the Act did not elaborate on that definition. See, 281—IAC 22.4. Therefore, we believe the determination of “comparable course” is left to the local district board.

The term “comparable” as it is used in the statute does not appear to be ambiguous. When that is the case, the language should be given its “plain and rational meaning in light of the subject matter.” *Maguire v. Fulton*, 179 N.W.2d 508, 510 (Iowa 1970). According to Webster’s definition, comparable means “capable of being compared; having enough characteristics in common suitable for comparison.” *The Living Webster Encyclopedic Dictionary of English Language*, (6th Ed.1977).

This is a case where the reasonableness of the Board’s action is at issue. Appellant questions the reasonableness of the Board’s denial of approval for tuition reimbursement for courses which she enrolled her son in prior to receiving approval by the local district. Under the State Board’s standard of review, a local school board’s decision will not be overturned unless it is “unreasonable and contrary to the best interest of education.” In re Jesse Bachman, 13 D.o.E. App. Dec. 363, 369(1996).

In reviewing the facts of this appeal under the above-enunciated standards, we find that the District Board acted reasonably in denying Appellant’s request for tuition reimbursement for these courses. First of all, a student anticipating enrollment under this Act is required to do three things: 1) inform the school district of the intent to participate; 2) apply at the postsecondary institution; and 3) sign a statement indicating that the student and parent or guardian will be responsible for the payment of the tuition if the student fails to complete the course for credit. See, 281—IAC 22.3. A student’s coursework

is not eligible for participation under the Act until the school district completes the certification of eligibility. Id. In the present case, Appellant erred by enrolling her son in two postsecondary courses prior to receiving permission or certification from the school district. She testified that she tried to make arrangements for approval in the Spring, but was told to wait until the Fall. This was due to the fact that the District's guidance counselor was leaving and would not be in the position in the Fall. Although the delay occasioned by the personnel change was unfortunate, it does not excuse Appellant from receiving permission and a certification of eligibility before proceeding to enroll her son in the classes and expecting payment. Secondly, according to the plain and rational meaning of the statute, "comparable" is not synonymous with identical. Comparable simply means "having characteristics in common suitable for comparison.." We believe Appellee District showed that there were enough common characteristics between the classes desired by Appellant and those offered as part of the District's curriculum that the definition of comparable was met.

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 September 16, 1996, is hereby recommended for affirmance. There are no costs of this appeal to be assigned.

DATE

ANN MARIE BRICK, J.D.
ADMINISTRATIVE LAW JUDGE

It is so ordered.

DATE

CORINE HADLEY, PRESIDENT
STATE BOARD OF EDUCATION