

**IOWA STATE BOARD
OF EDUCATION
(Cite as 14 D.o.E. App. Dec. 178)**

In re Kristie & Joshua Pruitt	:	
Dawn Pruitt, Appellant,	:	
v.	:	PROPOSED DECISION
Stuart-Menlo Community School District, Appellee.	:	

[Admin. Doc. #3767]

The above-captioned matter was heard telephonically on June 11, 1996, before a hearing panel comprising Mr. Dick Boyer, administrative consultant, Bureau of School Administration and Accreditation; Dr. Cordell Svengalis, consultant, Bureau of Instructional Services; and Ann Marie Brick, J.D., designated administrative law judge, presiding. The Appellant, Ms. Dawn Pruitt, was present telephonically and was unrepresented by counsel. The Appellee, Stuart-Menlo Community School District [hereinafter, "the District"], was also present telephonically in the person of Mr. Larry Nulph, superintendent. The District was 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(5)(1995) and 290.1(1995).

The Appellant seeks reversal of a decision of the Board of Directors [hereinafter, "the Board"] of the District made on March 14, 1996, which denied her request for open enrollment for her children, Joshua and Kristie Pruitt, for the 1996-1997 school year.

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.

I. FINDINGS OF FACT

The Appellant, Ms. Pruitt, is the mother of three children: Kristie, Joshua and Brandon. During the 1995-96 school year, Kristie was a ninth grader; Joshua was a seventh grader; and Brandon attended elementary school. During the 1995-96 school year, Kristie was 15 years old.

In May, 1995, the Pruitts moved from the Dexfield Community School District to the Stuart-Menlo Community School District. At that time, Ms. Pruitt requested applications for open enrollment for all three children, so they could continue in the Dexfield School District. The Dexfield and Stuart-Menlo Districts share grades 6 through 12. They do not share elementary grades. At the time she requested open enrollment applications in 1995, Ms. Pruitt was told by Superintendent Turner, superintendent of the Dexfield Community School District, and Superintendent Nulph, superintendent of the Stuart-Menlo Community School District, that it would make no difference which district Kristie and Joshua were in because of the gradesharing. Therefore, Ms. Pruitt did not request open enrollment for Kristie and Joshua at that time. She did request open enrollment for her youngest son, Brandon, and this request was granted.

Kristie and Joshua are both active in school activities. The Pruitts live in the country. Ms. Pruitt works full time in West Des Moines. This creates a hardship regarding transportation.

Kristie needs a school driving permit to be able to get to and from school and numerous school activities. If the children were open enrolled in the Dexfield District, there is a good chance that Kristie could get a school driving permit. Kristie is only 15 years of age. Since they are in the Stuart-Menlo District, Kristie cannot get a school permit because the District will not give Kristie a permit.

In addition, Joshua goes to school in Redfield. The family lives near Dexter. When Joshua rides the bus, he has to be on the bus at 7:10 a.m. but he does not get to school until 8:30 a.m. Ms. Pruitt worked with the District to try to get this revised, but as of the time of the hearing, had been unsuccessful. The Pruitts are transporting the children to and from school, because of the length of time of the bus ride and the inability of Kristie to obtain a school driving permit from the Stuart-Menlo Community School District.

Ms. Pruitt would like Kristie to be able to drive to school and to school activities with a school driving permit, and she would like Joshua to have busing that does not entail him riding the bus for an hour and 20 minutes in the morning before he gets to

school. These are the reasons Ms. Pruitt applied for open enrollment for Kristie and Joshua. She filed her applications for open enrollment on March 13, 1996. The Board denied the applications on March 14, 1996, because they were not filed by the October 30, 1995, deadline.

The request for a school driving permit for Kristie was denied by the Stuart-Menlo District because the District does not grant school driving permits to students. The District did not give a reason for this policy to Ms. Pruitt. Mr. Nulph testified the policy of the District is that they do not give student permits, and they have not given one for 15 years. Mr. Nulph did not give any reason for this District policy.

At the hearing, Mr. Nulph testified he would change the busing schedule for the 1996-97 school year, so that Joshua doesn't have to ride the bus for an hour and 20 minutes each way. In order to accomplish this, Ms. Pruitt had to request that the District revise the bus schedule for the following year.

At the time Superintendent Nulph told Ms. Pruitt it would make no difference which district the children were enrolled in, he meant that it would make no difference in the school the children would attend. Ms. Pruitt interpreted this to mean that there would be no difference in any respect if her children attended either district.

II. CONCLUSIONS OF LAW

The Open Enrollment statute requires parents to file applications by October 30th of the year preceding open enrollment. Iowa Code §282.18(2)(1995). (The deadline was changed to January 1st by S.F.2157 during the 1996 Session of the General Assembly. Therefore, the change does not apply to this case.) At the time the open enrollment law was written, the legislature apparently recognized that certain events would prevent a parent from meeting the October 30 deadline. Therefore, there is an exception in the statute for two primary groups of late filers: the parents or guardians of children who will enroll in kindergarten the next year and parents or guardians who have "good cause" for missing the October 30 filing deadline. Iowa Code § 282.18(2)(1995).

The legislature chose to define 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 October deadline and before June 30. 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 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.

Id. at subsection (18).

Although the State Board of Education has rulemaking authority under the open enrollment law, our rules do not expand the types of events that would constitute "good cause." The State Board has chosen to review, on appeal only, potentially "similar sets of circumstances" on a case-by-case basis. In re Ellen and Megan Van de Mark, 8 D.o.E. 405 (1991).

In the scores of appeals brought to the State Board following the enactment of the Open Enrollment Law, only a few have merited reversal. 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 Desirea 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 Gilkison, 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).

In this case, as in all of the others, we are not being critical of Appellant's reasons for wanting open enrollment. We are simply of a belief that the stated reasons do not meet the good cause definition, nor do they constitute a "similar set of circumstances consistent with the definition of good cause." Finally, we fail to recognize that the situation is one that "cries out for" the extraordinary exercise of power bestowed upon the State Board; this is not a case of such unique proportions that justice and fairness require the State Board to overlook the regular statutory procedures. See Iowa Code § 282.18(20)(1995).

The State Board has used its exercise of authority under Iowa Code § 282.18(20)(1995) in very few incidents. The first case involved the step-son of a minister whose study and work had taken him to four different locations in four years. In re Christopher Forristall, 10 D.o.E. App. Dec. 262 (1993). Christopher had not weathered the moves well, particularly when he was in a large school. His step-father was finally assigned to a church in a small community outside of the town of Ft. Dodge but the parsonage was within the school district of Ft. Dodge. Appellant wanted his step-son to attend school in the smaller district of Eagle Grove where his church and community were, but he had missed the June 30 deadline for "good cause" filing. Id. at 263. Christopher was entering his junior year, and his parents were convinced he would fare better in Eagle Grove, so they would be applying for open enrollment for his senior year anyway. In order that Chris not attend five or six different schools in as many years, the State Board used subsection (20) to order his release from Ft. Dodge for his junior year. Id. at 267.

The only other case justifying the use of this special exception to the normal timelines was one involving a student who moved here from California where he had been living in an abusive situation with an alcoholic mother. In re Ann and Patrick Taylor, 10 D.o.E. App. Dec. 285 (1993). Patrick was released by the State Board after he arrived in Iowa to live with his grandparents and older siblings in August, missing the open enrollment deadline. Id. at 291. Open enrollment for Patrick was advised to keep the children together as Patrick's older brothers were attending in Lamoni under a sharing agreement. Id. at 286.

We are very sympathetic to the plight of the Pruitt family in their attempt to find transportation to and from school and school activities which will work best for their family. However, the fact that Ms. Pruitt had a good reason for requesting open enrollment for her children does not mean that this meets the statutory definition of "good cause." Even though Ms. Pruitt interpreted what was said to her to mean there would be no difference if she did not open enroll her children, the panel is convinced there was no intent to mislead Ms. Pruitt by either district. The fact that the Stuart-Menlo District has a policy of not issuing school driving permits, in combination with Ms. Pruitt's belief that it would make no difference which district her children attended, does not rise to the level of "good cause" as defined by the Legislature.

At the hearing, there was some confusion regarding whether open enrollment into the Dexfield District would make any difference regarding which district reviewed Kristie's application for a school driving permit. Iowa Code § 321.194(1)(1995) provides the following:

Driver's license issued for travel to and from school. Upon certification of a special need by the school board or the superintendent of the applicant's school, the department may issue a class C or M driver's license to a person between the ages of fourteen and eighteen years who successfully completes an approved driver education course. However, the completion of a course is not required if the applicant demonstrates to the satisfaction of the department that completion of the course would impose a hardship upon the applicant. The department shall adopt rules defining the term "hardship" and establish procedures for the demonstration and determination of when completion of the course would impose a hardship upon an applicant.

Iowa Code § 321.194(1995) goes on to provide that an application for such a license must be accompanied by a statement from the school board or superintendent of the applicant's school. The section clearly contemplates that driver's licenses may be issued for the purpose of attending public school in a district either of the student's residence or a district into which the student is open enrolled.

The statute states that the certification of special need is by the school board or the superintendent of the applicant's school. It does not say the certification must be made by the school board or the superintendent of the applicant's district of residence. If a student is open enrolled, that student's school would be the school to which the student is open enrolled. Therefore, the district to which the student is open enrolled would make the decision regarding whether there is a special need for the school driving permit. Iowa Code § 321.194(1995).

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 Stuart-Menlo Community School District made on March 14, 1996, which denied Ms. Pruitt's request for open enrollment for her children, Kristie and Joshua, into the Dexfield

Community School District for the 1996-97 school year, 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

TED STILWILL, DIRECTOR
STATE DEPARTMENT OF EDUCATION