IOWA STATE DEPARTMENT
OF EDUCATION
(Cite as 13 D.o.E. App. Dec. 382)

In re Candie Combs, Ryan Michael & Bryant Lee Morrison	:	
Shawne Combs, Appellant,	:	
v.	:	DECISION
Dexfield Community School District, Appellee.	:	[Adm. Doc. #3770]

The above-captioned matter was heard telephonically on July 18, 1996, before a hearing panel comprising Don Wederquist, consultant, Bureau of Community Colleges; Ron Riekena, consultant, Bureau of Food and Nutrition; and Ann Marie Brick, J.D., legal consultant and designated administrative law judge, presiding. The Appellant, Shawne Combs, was present "telephonically," unrepresented by counsel. The Appellee, Dexfield Community School District [hereinafter, "the District"], was also present on the telephone in the person of Superintendent Dean Turner, also *pro se*.

An evidentiary hearing was held pursuant to Iowa Code chapter 290 and Departmental Rules found at 281--Iowa Administrative Code 6. Authority and jurisdiction for this appeal are found in Iowa Code sections 282.18(5); 290.1(1995).

Appellant seeks reversal of a decision of the Board of Directors [hereinafter, "the Board"] of the District made on April 11, 1996, denying her late request for open enrollment for her children Candie J. Combs, Ryan Michael and Bryant Lee Morrison to attend Earlham Community School District for the 1996-97 school year.

I.
FINDINGS OF FACT

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.

Appellant Shawne Combs is a single-parent of three children: Candie Combs, who is in the ninth grade for the 1996-97 school year; Ryan Morrison, who is in the fourth grade; and Bryant Morrison, who is in the second grade. Appellant is a resident of the Dexfield Community School District.

The primary reason for her desire to open enroll out of Dexfield stemmed from friction between herself and the School after one of the teachers filed a child abuse report on her first grader, Bryant.[1] There was no evidence to suggest that the school was not acting reasonably when it filed the complaint. However, as a result of the complaint, Appellant withdrew her children from school and placed them with an aunt who lives in the Earlham Community School District. This happened about the time she filed for open enrollment which occurred on March 26, 1996.[2]

In answer to the question on the open enrollment form requesting an explanation of the applicant's "good cause" for filing after the deadline, Ms. Combs attached 18 handwritten pages detailing her problems with the School District. Although there was some mention of problems her daughter, Candie, had had with a teacher several years before, the primary focus of Appellant's "good cause" argument was that the School was overreacting about some of the problems Bryant was having. On April 2, 1996, the Department of Human Services notified Appellant that the allegation of abuse was "unfounded.".[3]

Appellant's application for open enrollment for her three children to attend Earlham Community School District was denied by the Dexfield Board on April 11, 1996. The reason given by the Board for the denial was lack of statutory good cause for the late filing. Appellant appealed the denial to the Department of Education.

II.
Conclusions of Law

The Iowa Open Enrollment Law creates a conditional right for parents to select the school district of attendance for their

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[1] Pursuant to Iowa Code section 232.69(6)(1995), all "licensed school employees" who reasonably believe a child has been abused are mandated to report this to the Department of Human Services.

[2] Appellant indicated that she has not been paying tuition to the Earlham District as a non-resident.

[3] The allegation of "denial of critical health care" was the basis for the report of abuse. Most of the record concerned the facts surrounding this issue. Since those facts are not relevant to the determination of the open enrollment issue on this appeal, it is unnecessary to recount those facts here.

children. Iowa Code section 282.18. One of the primary conditions is timely-filing. Id. at (2). At the time this appeal arose, there was an October 30th deadline imposed by law and applications filed by that date would be approved for open enrollment the following year.[4] In order for Appellant to be approved for the 1996-97 school year, she had to apply by October 30, 1995. She did not.

Appellant knows that she filed after the deadline, but insists that she has "good cause" for wanting to enroll in the Earlham Community School District. "Good cause," however, is defined by statute. The Legislature chose to define the term "good cause," rather than leaving it up to parents or school boards to determine. Although this may sound unfair to the parent, it was the Legislature's determination that all parents be treated equally in all school districts throughout the state. Therefore, the statutory definition of "good cause" addresses two types of situations that must occur before the filing deadline is excused: 1) A change in the child's residence; or 2) A change in the status of the resident school district. In particular, the statute states:

> . . 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

[4] Effective July 1, 1996, the Legislature lengthened the deadline for open enrollment applications for children in grades 1-12 to January 1 of the year preceding the school year for which open enrollment is sought. However, that does not change the outcome in this case. See, S.F. 2201, 76th G.A.2d Sess. (1996).

> 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).

These "statutory excuses" set forth above have been found inapplicable to the present case. We agree with the District in concluding that statutory "good cause" does not exist.

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. App. Dec. 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. We have heard nearly every reason imaginable deemed to be "good cause" by the Appellants. 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, In re Misty Deal, 12 D.o.E. App. Dec. 128

(1995); and was recommended for a special education evaluation, In re Terry and Tony Gilkison, 10 D.o.E. App. Dec. 205 (1993); even when those 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). Nor was "good cause" 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 exercise of discretion 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).

It is quite clear, given all the evidence in this case, that Appellant never established a bona fide residence in Earlham. She has never contended otherwise. Appellant has openly stated that she wants her children open-enrolled to Earlham so that they can live at home with her rather than their aunt. At the time of this appeal hearing, the children had moved back home with their mother for the summer.

Since she has never truly “resided” in Earlham, as the Law uses that term, Appellant is not entitled to attend the Earlham Community School District tuition-free. As a result, she will be "obligated" under the law to pay tuition to Earlham for the 1996-97 school year unless she moves her residence to Earlham, Iowa. We would caution Appellant to take this into account and discuss a resolution of this issue with the administration of both the Earlham and Dexfield districts.

As to the merits of this case, we see no error in the decision of the Dexfield Board since the District's application of its policy is consistent with the State Law.

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 Dexfield Community School District made on April 11, 1996, denying Appellant's untimely open enrollment requests for her children to attend the Earlham Community School District for the 1996-97 school year, is hereby recommended for affirmance. There are no costs to this appeal to be assigned.

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DATE ANN MARIE BRICK, J.D.
ADMINISTRATIVE LAW JUDGE

It is so ordered.

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DATE TED STILWILL, DIRECTOR
DEPARTMENT OF EDUCATION