

**IOWA STATE DEPARTMENT
OF EDUCATION**

(Cite as 13 D.o.E. App. Dec. 260)

In re Caroline Schoonover :

Michael & Jeanne Schoonover, :
Appellants, :

v. : DECISION

Martensdale-St. Mary's Community :
School District, :
Appellee. : [Admin. Doc. # 3782]

The above-captioned matter was heard telephonically on June 20, 1996, before a hearing panel comprising Sandy Sandvick, Bureau of School Administration and Accreditation; Roger Stirler, Bureau of Internal Operations; and Ann Marie Brick, J.D., legal consultant and designated administrative law judge, presiding. The Appellants were telephonically "present," unrepresented by counsel. The Appellee, Martensdale-St. Mary's Community School District [hereinafter "the District"], was also "present" by telephone in the person of John Della Vedova, superintendent, also *pro se*.

A hearing was held pursuant to Departmental rules found at 281--Iowa Administrative Code 6. Appellants sought reversal of a decision of the Board of Directors [hereinafter "the Board"] of the District made on May 13, 1996, denying their application for open enrollment.

Authority and jurisdiction for this appeal are found in Iowa Code §282.18(5) (1995).

**I.
FINDINGS OF FACT**

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.

Michael and Jeanne Schoonover are the parents of two young girls: Caroline, who is the subject of this appeal, will be in kindergarten in the fall of 1996. Caroline's younger sister is four years old.

After carefully reviewing the various educational options available to them, Appellants chose to homeschool Caroline. Because this is their first child to attend school and because they have never homeschooled before, Appellants chose to open enroll to the Des Moines' Competent Private Instruction program.

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Appellants' timely-filed open enrollment request was recommended for approval by the Superintendent. However, the District Board voted to deny the application on May 13, 1996, in a 3 to 2 vote. According to testimony by Jeanne Schoonover, the parents were advised that their application had been denied because the District had a program of homeschooling that could sufficiently serve their child.

II. CONCLUSIONS OF LAW

Iowa's Open Enrollment Law provides that, in general, applications for open enrollment out of the school district must be filed between July 1st and October 30th of the year preceding the school year in which open enrollment will take place.¹ We have previously stated that the use of the term "application" in the statute is a misnomer because it implies that the parents seek Board approval of the open enrollment request. See, e.g., In re Amanda and Emily Lyman, 9 D.o.E. App. Dec. 118, 119 (1991). The State Board has clearly stated that

[i]f the form is timely-filed, the resident district board has no discretion to deny the open enrollment, unless the district is under voluntary or court-ordered desegregation. That exception is not applicable in this case. Therefore, there is literally no reason to be found in the law for the Board to deny applicants' 'request.' ...

Id.

We hesitate to speculate why the District Board thought it could deny Appellants' request. The minutes indicate that there was some mention of the fact that since the District has a home-schooling program, there would be no need for this family to go to

¹ Beginning July 1, 1996, the Legislature has lengthened the period of open enrollment for children in grades 1 through 12 to January 1 of the year preceding the school year for which open enrollment is sought. S.F. 2201, 76th G.A., 2d Sess. (1996).

the Des Moines District for schooling that takes place "in the home." However, the parents' testimony revealed the importance to them of the network of homeschooling families that exists in Des Moines. The Des Moines program offers organized "get togethers" for homeschooling parents and students, along with other opportunities for support which are not available to the Appellants in their home district. Perhaps the Board's denial of Appellants' application was due to a lack of understanding of the importance of

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these factors to the homeschooling parents; rather than a disregard for the operation of the Open Enrollment Law.

In any event, since there is no legal reason for the Board to deny these Appellants' their "request" for their daughter to open enroll to the Des Moines District for competent private instruction, the Board's denial of the request must be reversed.

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

**III.
DECISION**

For the foregoing reasons, the decision of the Martensdale-St. Mary's Community School District's Board of Directors made on May 13, 1996, denying Appellants' timely-filed open enrollment request for Caroline Schoonover is hereby recommended for reversal. Costs of this appeal, if any, are to be borne by the Appellee District.

DATE

ANN MARIE BRICK, J.D.
ADMINISTRATIVE LAW JUDGE

It is so ordered.

DATE

CORINE HADLEY, PRESIDENT
STATE BOARD OF EDUCATION