IOWA STATE DEPARTMENT
OF EDUCATION
(Cite as 13 D.o.E. App. Dec. 189)

In re Matthew Lars Egesdal	:	
Tim & Jill Egesdal, Appellants,	:	
v.	:	DECISION
Cedar Rapids Community School District, Appellee.	:	[Admin. Doc. # 3668]

The above-captioned matter was heard telephonically on September 18, 1995, before a hearing panel comprising Myril Harrison, consultant, Bureau of Technical and Vocational Education; Paul Hoekstra, consultant, Bureau of Instructional Services; and Ann Marie Brick, J.D., legal consultant and designated administrative law judge, presiding. The Appellants, Tim and Jill Egesdal, were telephonically "present," unrepresented by counsel. The Appellee, Cedar Rapids Community School District [hereinafter "the District"], was also "present" by telephone in the person of Nelson Evans, director of student services, also *pro se*.

A evidentiary 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 June 12, 1995, denying Appellants' late application for open enrollment for their son, Matthew, to attend the College Community School District for the 1995-96 school year. Denial was for failure to show statutory "good cause" for filing after the October 30th deadline. 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 Director of the Department of Education have jurisdiction over the parties and subject matter of the appeal before them.

Appellants are the parents of two boys: Matthew, who is attending second grade in the College Community School District for the 1995-96 school year; and his younger brother, who is attending kindergarten in the College Community School District. The Egesdals are residents of the Cedar Rapids Community School District. On May 17, 1995, they applied for open enrollment for

both of their sons to attend the College Community School District. They were not aware of the difference in the deadlines between kindergarten students, (June 30th) and students who attend grades one through twelve, (October 30th of the preceding school year). Consequently, the Board granted their application for their son who will be entering kindergarten, but denied open enrollment for Matthew. Appellants maintain that the District had never made them aware of the October 30th date; they thought June 30th was the only open-enrollment deadline.

Appellant Egesdal testified that their previous involvement with open enrollment had occurred two years earlier when Matthew was entering kindergarten. Although Appellants had requested 13 years of open enrollment, Matthew was only approved for one year out of the Monroe Kindergarten Center. He was denied open enrollment after that due to the fact that after kindergarten, he would be attending Johnson Elementary, a building that had been closed to open enrollment under the District's desegregation policy. The Egesdals then asked Nelson Evans, director of student services, how they could ever attend College Community School District. Mr. Evans testified that he told them, "the only way that could occur, unless there were some extenuating circumstances, would be for you to move out of the Johnson attendance area." So the Egesdals sold their home and moved to 26th Avenue Drive S.W., which was as close as they could get to the College Community School District. Mr. Egesdal testified that, "at this time, there is no housing available within the College Community School District."

After their move, the Egesdals re-filed for open enrollment for Matt and their younger son who was entering kindergarten in the fall of 1995. According to Mr. Egesdal, this is the first time that they were informed about missing the October 30th deadline or that there was an October 30th deadline. Appellants stated they do not recall seeing anything from Grant Elementary School, where Matthew attended last year, concerning any open enrollment deadlines. Appellants testified that in the Grant Elementary School handbook, there is no reference to open enrollment at all. In contrast, Appellants stated the College Community School District's handbook contains all of the pertinent information regarding open enrollment and how to apply.[1]

1Neither party introduced a Cedar Rapids Community School District handbook to demonstrate whether or not open enrollment guidelines were contained therein. Even though the hearing panel was unable to verify Appellants' statements about lack of information in the student handbook, that alone is not fatal to the District's position under the legal requirements of 281--Iowa Administrative Code 17.3(2), which states: "By September 30 of each school year, the District shall notify parents of open enrollment deadlines and transportation assistance for open enrollment pupils. This notification may be published in a school newsletter, a newspaper of general circulation, or a parent handbook provided to all patrons of the district." The hearing record was left open until Mr. Evans submitted evidence that the guidelines had been published. Proof of publication in The Window, a publication of the Cedar Rapids Community

Both boys are currently attending College Community School District in spite of the fact that College CSD has stated the Egesdals will be billed for Matthew's tuition if their appeal is denied. The boys are only 22 months apart in age and are very close. According to the parents, they are each other's best friend. One of the reasons Appellants requested open enrollment was to keep the boys in the same school. In contrast to the College Community School District, the boys would attend separate schools in Cedar Rapids, having different starting times and release times. Since the boys did not qualify for busing in Cedar Rapids and because both parents work, transportation to and from school would be a major problem. The Egesdals stated that they have applied for open enrollment for the 1996-97 school year and Mr. Evans verified that they should be approved from their present attendance center.

II.
CONCLUSIONS OF LAW

The Open Enrollment Law, as enacted by the General Assembly, has a procedure and deadline set by statute. Iowa Code §282.18 (1995). The deadline is October 30th of the school year for which open enrollment is sought. There are two "legal reasons" for filing after that date: 1. If there is "good cause;" or 2. "if the request is to enroll a child in kindergarten." Id. at subsection (2).[2]

"Good cause" is defined by statute and not by parents or local school districts. This means that although the parents feel that they have very "good reasons" for seeking open enrollment after the deadline, that does not mean their reasons satisfy the statutory "good cause" requirement. "Good cause" relates to only two general areas:

(1) There is a change in a status of the pupil's resident district (e.g., dissolution or reorganization); or

(2) There is a change in the residence of pupil ... (the pupil moves into or out of the district after the open enrollment deadlines).

Id. at subsection 282.18(18) (1995).

Appellants testified that their desire for open enrollment originally arose out of a dissatisfaction with the fact that the boys would attend separate schools in the elementary grades. In addition,

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Schools, was sent to the ALJ on September 20, 1995. The newsletter was published July 3, 1995, and did contain prominent mention of all pertinent open enrollment guidelines.

2After July 1, 1996, the Legislature has lengthened the period of open enrollment for children in grades 1-12 to January 1st of the year preceding the school year for which open enrollment is sought. However, that does not change the outcome in this case. S.F. 2201, 76th Gen. Assem., 2nd Sess. (1996).

there was the fact that attending in College Community

District would be more convenient to the parents' work and the children's day care. A more compelling reason, arising after Matthew's application was denied, comes from the desire to keep the children together in the same district.

Although the hearing panel believes that open enrollment for the Egesdals would be more convenient; and that having the boys together in the same district is certainly a compelling reason, neither circumstance constitutes the "good cause" necessary for excusing the late application.

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); nor because the school was perceived as having a "bad atmosphere," In re Ben Tiller, 10 D.o.E. App. Dec. 18 (1993); nor 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); nor 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).

This case falls within the precedent established by In re Candy Sue Crane, above. In this case, as in that one, we are not being critical of Appellants' 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).

As to the merits of this case, we see no error in the decision of the Board of the District. The District's application of its policy is consistent with the State law and rules of the Department of Education. Consequently, there are no grounds to justify reversing the District Board's denial of the open enrollment application for Matthew.

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

III.
DECISION

For the foregoing reasons, the decision of the Cedar Rapids Community School District's Board of Directors made on June 12, 1995, denying Appellants' untimely open enrollment request for Matthew Lars Egesdal to attend College Community School District for the 1995-96 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