

**Iowa State Board
of Education**
(Cite as 12 D.o.E. App. Dec. 9)

In re Kyle Ruby

Dorothy Kay Ruby, Appellant,	:	
	:	
v.	:	DECISION
	:	
West Sioux Community School District, Appellee.	:	[Adm. Doc. #3530]

The above-captioned matter was heard telephonically on October 25, 1994, before a hearing panel comprising Judge Brown, consultant, Bureau of School Administration and Accreditation; Don Smith, consultant, Bureau of Vocational and Technical Education; and Ann Marie Brick, legal consultant and designated administrative law judge, presiding. Appellant was "present" by telephone through her mother, Dorothy Ruby, unrepresented by counsel. Appellee, West Sioux Community School District, [hereinafter "the District"] was also present on the telephone, in the person of Superintendent Neil Moritz, also *pro se*.

An evidentiary hearing was held pursuant to departmental rules found at 281 Iowa Administrative Code chapter 6. Authority and jurisdiction for the appeal are found in Iowa Code section 290.1.

Appellant seeks reversal of a decision of the board of directors [hereinafter "the Board"] of the District made on July 21, 1994, which denied Appellant's request to issue a graduation diploma to Kyle Ruby from the West Sioux Community School District.

**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.

Appellant Dorothy Kay Ruby is a single parent who is employed at Coil Craft, a manufacturing facility located in Hawarden, Iowa. Her shift hours are 3:00 p.m. to 9:30 p.m. daily. She is the mother of Kyle Ruby who was a junior at West Sioux High School at the time this action arose. He is no longer enrolled in the school. Kyle's mother could not be available for the hearing, so Appellant's mother, Helen Dorothy Ruby, represented

the Appellant and Kyle at the hearing. Ms. Ruby is the grandmother of Kyle and served as his home schooling teacher during the second semester of the 1993-94 school year.

Although the parties are in complete disagreement concerning the facts surrounding Kyle's departure from the high school, the hearing panel found the following facts to be credible:

1. During the first semester of his junior year, Kyle reported a number of negative incidents with his teachers at school.¹ About the same time, Kyle began losing a lot of weight. He was hospitalized and diagnosed as a juvenile diabetic and he now takes insulin every two weeks. There is no report from either side that Kyle was having trouble academically, although the Grandmother stated that Kyle had been evaluated for learning disabilities when he was in the 7th grade. However, he was not found to be in need of special education services at that time.
2. Some time prior to Christmas break in December 1993, the Grandmother approached the Superintendent and said, "something has to be done." The Superintendent agreed. He testified that Kyle's behavior at school was becoming "too errant for likely continuation and that it was the kind of behavior that needed professional attention." The family agreed to the Superintendent's recommendation that Kyle undergo a professional psychological evaluation. This took place at Charter Counseling Center in Sioux Falls, South Dakota, some time before Christmas, 1993. Two of Kyle's teachers accompanied him to the evaluation.² The school paid all costs associated with the testing. During this time, Kyle was withdrawn from school and was being tutored at home by his Grandmother. She testified that she was qualified to "home school" Kyle because she has an

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Administrative Certification and 38 years of teaching and administrative experience.³

¹As an example, the Grandmother reported one incident where a teacher allegedly pulled a gun out of his desk, pointed it at Kyle, and ridiculed him for being a "chicken." In another incident, just prior to Kyle's hospitalization for diabetes, the school nurse reportedly cornered Kyle and threatened him with "you tell me that you are on drugs or I'm going to call the department in Sioux Center and have you tested." There was no collaboration of any of the incidents by testimony of other students or teachers. The District denied having any knowledge of these events.

²The Grandmother testified that none of the family members own a car.

³She is presently working at a video store in Hawarden but it is not clear if this is her full-time employment.

3. Kyle remained at home under his Grandmother's instruction while everyone waited for the results of the psychological evaluation. On January 26, 1994, the Superintendent received a letter from the psychologist informing him that the evaluation had been completed, but that "upon the request of Kyle Ruby's mother and grandmother, the psychological evaluation ... will not be sent to you at this time. She (the grandmother) requested in writing that she be the only recipient of the evaluation for now."⁴
4. The grandmother enlisted the professional support of a Ms. Emerson, an experienced teacher not working for the District, and together they outlined a course of study for Kyle and continued to "home school" him throughout the second semester of his junior year.⁵ In the meantime, Kyle began working the graveyard shift at Coil Craft -- a position he still holds -- working from 9:30 p.m. until 6:00 a.m., 5 days a week. No application for competent private instruction or dual enrollment was completed during this time.
5. On June 10, 1994, the grandmother had a meeting with representatives of the District in which both sides became aware of their complete misunderstanding of the status of Kyle's arrangement. The grandmother learned for the first time that her home tutoring situation would not result in a graduation diploma for Kyle from the West Sioux Community School District. The superintendent and principal learned that the grandmother had been following the District's curriculum with the expectation that upon the completion of a few more credits, Kyle would receive a diploma.⁶ The superintendent believed the school's position was to allow the home tutoring in order to assist Kyle through the

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period of the evaluation until an alternative educational program could be found. When the superintendent realized that Ms. Ruby expected Kyle to receive a diploma, he told her that could not happen. She then filed a complaint with the school board.

6. The school board met in closed session on July 21, 1994, to consider Appellant's complaint. By letter dated July 22, 1994, the attorney for the Board advised Ms. Ruby that the superintendent's denial of the diploma had been unanimously supported "for the reason that there is no statutory authority or school district regulation or policy authorizing the issuance

⁴The psychologist suggested that the superintendent amend the District's consent form to include permission for the written evaluation to be sent back to the school to enable to the school to follow through for the child. We heartily agree.

⁵Ms. Emerson was not present at the hearing to testify.

⁶The number of credits remaining to be completed was in dispute.

of a diploma under these circumstances." Ms. Ruby's appeal to the State Board followed.

II. Conclusions of Law

Iowa statutes and rules do not require the awarding of a diploma to persons completing a board's graduation requirements. Local school authorities have wide discretion in determining the specific requirements for graduation. So long as the local graduation policy is reasonable (and Iowa courts have created a legal presumption that school board policies are reasonable) and does not illegally discriminate against a protected group, such as racial minorities or disabled persons, a local graduation policy is practically beyond legal challenge. Thus, if a school graduation policy requires the completion of 32 credits and 8 semesters of attendance, that is what every student must complete in order to graduate. Students who complete only 31 credits and 8 semesters of attendance and those who complete 32 credits and only 7 semesters of attendance, are not entitled to graduate. They have not met the board's graduation requirements. This is more fully discussed by the Iowa Supreme Court in the case of Valentine v. Independent School District, 191 IA 1100, 183 N.W. 434 (1921).

A high school diploma is a valuable commodity. It is awarded by the district to certify that a student has met the standards for graduation set by local board policy. Employers often consider the possession of a high school diploma a prerequisite for hiring.

When a high school issues a diploma, it is effectively certifying to society that the student possesses all of the knowledge and skills required by the district board of education. In order to assure complete confidence and the significance of that diploma, it is essential that the standards for issuance be left to the local district policy makers. 2 Educ. L. Rep. (Bender) § 8.06[6](d). The local school board has broad discretion

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to determine the requirements for graduation and the receipt of a diploma. In view of this discretion, we have no authority to interfere with the District's denial of a diploma to Kyle in this case. In the absence of any showing that the Board's decision is contrary to its established policy, or that the established policy is unreasonable, the denial of the diploma under these "home schooling" circumstances should be affirmed.

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

III. Decision

For the foregoing reasons, the decision of the West Sioux Community School District Board of Directors to deny a diploma to Kyle Ruby is hereby recommended for affirmance. There are no costs of the hearing to be assigned under Iowa Code section 290.

Date

Ann Marie Brick, J.D.
Administrative Law Judge

It is so ordered.

Date

Ron McGauvran, President
State Board of Education