

IOWA STATE BOARD  
OF EDUCATION  
(Cite as 7 D.o E. App- Dec. 137)

In re Jerry Eaton, et al. :  
Jerry Eaton, Judith Patterson, :  
Sheryl Foster, Caroline Conkey- :  
Jamie Flynn, Barbara Swanson, :  
and Roberta Severeide, :  
Appellants, :  
v. : DECISION  
Sioux City Community School :  
District Board of Directors. :  
Appellee. : [Admin Doc. #2019]

The above-captioned matter was heard on February 7, 1989, before a hearing panel consisting of David H. Bechtel, special assistant to the director and presiding officer; Sharon Slezak, administrative coordinator, Communications Services; and Dr. Joseph Wolvek, consultant, Bureau of Planning and Accountability. Appellants Jerry Eaton, Jamie Flynn, Judith Patterson, Caroline Conkey and Barbara Swanson appeared in person, unrepresented by counsel; Appellant Roberta Severeide did not appear. Appellee Sioux City Community School District [hereafter the District] board of directors [hereafter the Board] appeared in the persons of Superintendent Thomas Brown, Board President Patricia Van Bramer, and director Milton Aunan. Appellee Board was represented by James Hanks of Klass, Hanks, Stoos & Carter, Sioux City.

An evidentiary hearing was held pursuant to Iowa Code chapter 290 and rules of the Department of Education found at Iowa Administrative Code 281--6. Appellants sought reversal of a Board decision made on September 27, 1988, to remove from Board consideration a change in the structure of the high schools in studying areas to reduce costs in the District.

I.  
Findings of Fact

The presiding officer finds that he and the State Board of Education have jurisdiction over the parties and subject matter before them.

Appellant Jerry Eaton is a former Board member in the District, serving in that capacity from February, 1987, until his defeat for re-election on September 13, 1988. During his tenure on the Board, Mr. Eaton was apparently known for and prided himself on the thoroughness with which he approached Board issues. Whether this was a good or bad trait depended upon one's perspective: a seated director on the Board, Milton Aunan, characterized Mr. Eaton as "never satisfied, always asking for more information in order to make his decisions." Mr. Aunan speculated that Mr. Eaton's demeanor contributed to a rather regrettable era of boardmanship in the District, one typified by constant "bickering and

sniping" and resulted in the cable-televized meetings being "embarrassing." It was also suggested that Board decisions were often avoided. Mr. Eaton's proponents, on the other hand, suggest that the Board, before and after his term, has made decisions on less than a fully-informed basis and thus, arbitrarily. That is the allegation before us on this issue.

The facts surrounding the instant controversy are budgetary in nature. The District's budget, as is the case with most school districts in Iowa, is very tight. The expensive spectre of asbestos removal hangs over the District. A study committee recommended significant purchases in the area of computers. If these two items alone were to be accomplished, some appreciable alterations needed to be made in the nearly \$48 million budget. Because the District has one of the highest property tax bases in the State, apparently voters are not expected to react well to a Board levy for the enrichment tax or for other forms of taxation to pay for special projects or otherwise increase the budget of the District.

Additional problems in the District compounded the complexity of the budget constraints. Elementary and middle schools were recognized as overcrowded, and the enrollment at the three high schools was not well balanced. These problems, among others, led to the initiation of a "study on schools" in the spring of 1987.

Earlier, in the spring of 1986, the Board voted to close two elementary schools, change the junior high schools into middle schools, and re-draw middle school boundaries. The structure in the District became kindergarten through fifth grade at the elementary schools, grades six through eight at the middle schools, and high schools with students in grades nine through twelve. Enrollment declines had leveled off and some increase in class sizes was on the horizon.

While he was on the Board and in his election campaign in the summer of 1988, Appellant Jerry Eaton voiced a preference first for examining as many options as possible and second, for looking again at the structure of the District. Mr. Eaton advocated Board consideration of closing one of three high schools, moving the ninth graders down to the middle school, and returning the sixth grade classes to elementary buildings. This restructuring could fairly be expected to involve reopening one of the elementary buildings closed in 1986, transforming one of the high schools into a middle school, and one of the middle schools into an elementary school. In effect, he proposed looking at a return to the former K-6, 7-9, 10-12 organizational structure as a means to deal with the overcrowding in some of the elementary and middle schools, and closing a high school and re-drawing boundaries to create a greater balance between and better utilization of the existing high school facilities.

This was more than an off-handed proposal to Mr. Eaton; his campaign statements in the fall 1988 elections suggest he advocated this proposal over other methods in order to create room in the budget to address computer needs and asbestos removal district-wide. See Appellants' Exhibit 20.

The Board began looking at the overcrowding and budget problems in earnest and from a very broad perspective in the summer of 1988. A "Study

on Schools" report issued in January, 1988, listed six options for relieving the overcrowding or "space concerns" at the middle school level. See Appellants' Exhibit 4. Two additional options arose in late January, but the Board voted to eliminate them in March. New options were proposed in August. The spectrum of options was divided into two main categories: "Maintaining Current Structure" and "Change Structure." In August, the Board acted to remove from consideration four of the existing options;<sup>1</sup> three of them came from "Maintain Current Structure," and one from "Change Structure." Two of the remaining five options at that point fell under the latter category.

One of the remaining options was to close one of three high schools. This was Option #2 under "Change Structure." It read: "K-6, 7-9, 10-12 -- Two senior high schools (10-12), Using one senior high as a middle school." Previous Record at p. 10 of Board Minutes of September 27, 1988. This option was approved for the District's Strategic Planning Committee's study (in spring or early summer 1987) even though maintaining three high schools was a goal stated in the Board's Five-Year Plan (1985). The rationale for including it in the options for the Committee to study was to enable the Committee to take a very broad look at the whole school system for areas to be cut or altered, not to tie the Committee's hands, so to speak, or limit its ability to examine a full range of options. In part, the option was opened to counter criticism that had been leveled at the Board in 1986 when the structure was changed to accommodate the middle school concept, and closing a high school was not a considered option. There was no evidence that in the summer of 1987 the Board or even a majority avored closing a high school, a position likely to be politically unpopular in Sioux City.

After the four options were eliminated on August 9 and 23, the Board voted, on September 27, 1988, to remove from consideration "at this time" both remaining options under "Change Structure." It is this voted decision that has been appealed by Appellants. The minutes of the September 27 meeting reflect the following dialogue leading to action:

President Van Bramer - I would like to propose for discussion that we discard the idea of organizational structure so that we can get some focus to the space problems at the middle schools--where are they and what are they.

Director Payer - I would be opposed to that.

Director Surbeck - I would approve of that. The current structure K-5, 6-8, 9-12 is what we should continue to have.

Director Anan - I would not be in favor of an organizational change at this time.

---

<sup>1</sup> Some of the options removed from consideration were characterized as "short-term solutions" and were, on that basis, eliminated.

Director Satterfield - I am not interested in changing the organizational structure at this time. There may be some other ways to approach the problems of the middle schools and elementary buildings where we have problems rather than focussing [sic] on reorganization of the whole district.

Director Zimmerman - The structure that we have by the input that I have gotten back, it seems that the people on the staff in the middle schools like the things that are going on relative to curriculum and the ways that they present them. Teaming has been a positive venture. While I think that has a lot of merit, the way that we are practicing it given the space constraints indicates that we have to take a hard look financially at what we can do, not only what we'd like to do. While I lean in the direction of thinking that we ought to retain the system we are in; it needs to be evaluated carefully as to whether we can afford to stay this way or that we are going to have to make some drastic changes to the way the system is being practices such that we can accommodate the numbers that we are talking about in a more palatable fashion.

I would like to reserve my options, and say yes I am interested if it's affordable to maintain the structure we are in, but to reserve the right to say--I don't think we can afford that if that is the way it turns out.

Director Aunan - There are some six options, four to leaving the system alone and two for making an organizational change. I would like to see the Board ask of Dr. Brown to prepare another option that deals with the educational program--what has to be done with our educational program making no organizational changes, opening no buildings--how can we deal with the problem? What effect is it on the educational programs? That option will be base-line and will help. With that information you can start making a decision using Lon's [Zimmerman's] analysis.

Director Satterfield - This is one of the things that we talked about but it sort of got lost in the shuffle; we needed to look at the total educational offerings of our system. That needs to come before you start making major changes.

Director Zimmerman moved, seconded by Director Surbeck

"that we reject for further study the conversion of the high school into some other kind of educational unit at this time."

Previous Record, Board Minutes of September 27, 1988, at pp. 10-11.

Discussion followed the motion. Director Milt Aunan, newly elected and sworn in, commented,

As a new board member, I will make an observation. Last January this board was presented with all of those options and it wasn't until August, eight months later, that any options were eliminated. I hope it doesn't take us eight more months to get rid of some of the options that at this point the community is not ready for or wants.

Id. at p. 12. A vote followed and the motion passed 5-1. (Board President Cynthia Deck was not present for the vote, but she arrived later.)

Appellants believe that this action, taken the night new director Milt Aunan was sworn in, was made arbitrarily without sufficient study. They appealed the action on October 27, 1988.

## II.

### Conclusions of Law

The issue in this case, as viewed by the presiding officer and hearing panel, is whether the Board's decision to "reject for further study the conversion of the high school into some other kind of educational unit at this time" was made arbitrarily, capriciously, without basis in fact, upon error of law, without legal authority, or constitutes an abuse of discretion. This is our standard of review of local board decisions. In re Marilene McCandless, 5 D.P.I. App. Dec. 45, 54 (1986).

The nature of the evidence presented by Appellants in this case suggests their goal was to convince the hearing panel and State Board of Education that the proposal and option favored by them was one of the best, if not the single best, avenue for attacking the District's problems. Nearly one hundred pages of documentation were submitted to illustrate the overcrowding problems, the underutilization of certain facilities, cost estimates for effectuating the advocated changes to the physical buildings affected by the option, the anticipated costs for implementing the asbestos removal plan and computer purchases, and general budget data.

Although we have carefully reviewed these documents and find no need to question their accuracy, the advisability or desirability of Option #2 is not the issue here. The State Board has often refused to sit as a "super school board," in effect passing judgment on the wisdom of a decision made at the local level. This is the reason behind the announced standard of review, supra; the State Board does not decide what decisions could have or even should have been made. Iowa has a long history of favoring educational decision making at the local level.

Appellants, recognizing this fact, argued that the alleged arbitrary nature of the decision made on September 27 is grounds for reversal. With

this argument the hearing panel concurs. The crucial issue is whether the decision made was, in fact, arbitrary. Judicial decisions in Iowa establish that "arbitrary" and "capricious" are in fact nearly synonymous. The total absence of reason is the hallmark of an arbitrary decision. Churchill Truck Lines Inc. v. Transportation Regulation Bd. of the Iowa Dep't. of Transp., 274 N.W.2d 295, 299-300 (Iowa 1979).

Mr. Eaton did not challenge and in fact voted in favor of the elimination of certain other options in March, 1988, from further study. These options were removed on the basis of being only short-term solutions. In the decision before us, we have proof that at least one director, Milton Aunan, voiced his reasoning for voting to eliminate Option #2 under "Change Structure": "I hope it doesn't take us eight more months to get rid of some of the options that at this point the community is not ready for [nor] wants." Previous Record, Board Minutes of September 27, 1989 at p. 12 (emphasis added). The discussion reprinted, supra, among all directors that preceded the vote to eliminate these options, reinforces the idea that Sioux City patrons would not favor or support closing a high school. Moreover, only two years before the Board had completely restructured the K-12 system, and this proposal would, in effect, have undone that action and all the implementation activities by teachers, transportation directors, administrators, and indeed students and their parents in the interim. The Board agreed with the administration that the middle school concept, including team teaching and other strategic changes, had to be given an opportunity to work.

Finally, it is evident that Option #2 would have affected every building in the District. Sixth graders would return to the elementary schools; ninth graders would return to the "middle schools." Surely these reasons, articulated by various directors in the course of discussion, are not arbitrary. The existence of rational reasons for a decision belies the allegation of arbitrariness.

While we support Appellants' conviction that sometimes difficult decisions, admittedly unpopular decisions, have to be made in the best interests of a school district, there is no precedent for the proposition that a school board is required to research and gather data on an option that none or only a small minority of directors would vote for. We note that statutory reorganization, for example, would have been an option open to the Board to cure its budgetary woes. Likewise, the Board could have looked at sharing some of its pupils with a neighboring district to eliminate the overcrowding in some elementary and middle schools. The fact that the Board did not accept these options for consideration is not evidence of arbitrary or capricious decision making. It is merely evidence that devoting a great deal of time to studying all available options is not necessarily a profitable investment of time and energy. If reorganization with another district would not pass, why study it? If returning to a K-6, 7-9, 10-12 structure with only two high schools would not pass, why study it further? We see the motion voted on, "to eliminate from consideration" the option championed by Mr. Eaton, as a test of sorts. It asked the question whether there was enough support among the directors to devote more time to its consideration. The answer was no; the reasons were articulated in discussion.

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

III  
Decision

For the foregoing reasons, the decision of the Sioux City Community School District board of directors made on September 27, 1988, to eliminate certain options from consideration in resolving district problems, is affirmed. Costs of this appeal, if any, under Iowa Code chapter 290, are hereby assigned to Appellants.

June 29, 1989  
DATE

June 22, 1989 :  
DATE

Karen K. Goodenow  
KAREN K. GOODENOW, PRESIDENT  
STATE BOARD OF EDUCATION

David H. Bechtel  
DAVID H. BECHTEL, SPECIAL ASSISTANT  
TO THE DIRECTOR  
AND PRESIDING OFFICER