

IOWA STATE BOARD
OF EDUCATION
(Cite as 6 D.o.E. App. Dec. 377)

In re Gerald Schwartzhoff, et al. :
Gerald Schwartzhoff, Donald :
Schwartzhoff, Tom Teff and :
Donald Klauke, :
Appellants, : DECISION
v. :
Allamakee Community :
School District, :
Appellee. : [Admin. Doc. #1085]

The above-captioned case was heard on July 18, 1988, before a hearing panel composed of David H. Bechtel, special assistant to the director and presiding officer; Dr. Maryellen Knowles, assistant chief, Bureau of Instruction and Curriculum; and Sharon Slezak, administrative coordinator -- communications services. Appellants were present in person and represented by Mr. Dennis Larson of Larson & Paskech, Decorah, Iowa. Appellee Allamakee Community School District [hereafter the District] was present in the person of Dr. Joseph Schmitz, superintendent, and Ms. Beverly Shafer, president of the board of directors [hereafter the Board], and represented by Mr. Ron Peeler and Mr. Terry Munson of Ahlers, Cooney, Dorweiler, Haynie, Smith & Allbee, Des Moines.

A mixed evidentiary and on-the-record hearing was held according to departmental rules [then] found at Iowa Administrative Code 670--51, codified at Iowa Administrative Code 281--6. A preliminary decision was issued on August 24, 1988.

I.
Findings of Fact

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

The District lies in far northeastern Iowa and has a projected 1988-89 enrollment of approximately 1600 students in kindergarten and twelve grades. At the time of hearing the District was structured as a K-6, 7-9, 10-12 system with four elementary schools. One of those elementary schools was located in the town of Dorchester, close to the Minnesota border in a sparsely populated area of the District.

In 1986 the District Board appointed a task force to study several issues, among them the possible closing of elementary attendance centers, a topic that was not new in the recent history of the District. The task

force studied the issue and made recommendations to the Board. A decision was made in March, 1987, not to close any attendance centers, and to keep all four elementary schools open as long as feasibly possible. Other cost-saving measures, including combining classes, were undertaken.

However, facing a 1987-88 budget deficit of nearly \$200,000, a projected deficit for 1988-89 of approximately \$270,000, and the trend of declining enrollment,¹ the issue again arose in the fall of 1987 and early 1988. Superintendent Schmitz estimated that the closing of the Dorchester elementary attendance center would result in a significant savings -- somewhere between \$150,000 and \$170,000.²

On February 15, 1988, the Board decided, on the Superintendent's recommendation, to reconsider closing Dorchester on the Superintendent's recommendation, along with making other budget and personnel cuts, and set up a public hearing for March 7 for citizens to comment on the issue. A decision was to be made on March 14 by the Board. Superintendent Schmitz stated that in his opinion this action was necessary and was indeed a "last resort" option if the District was to regain some measure of fiscal stability. This statement comported with a Board resolution adopted on March 9, 1987.

At the public hearing almost 300 District patrons, the majority being Dorchester residents, were allowed three minutes each to speak on the school closing issue. The superintendent opened the hearing by delivering a message of explanation of the proposed cuts and the rationale behind them. Appellants' Exhibit 16 at Tape #A. Most speakers at the hearing opposed the closing of the Dorchester school. Many raised questions that were left unanswered. The Board agreed to consider the points raised by the objectors and an announcement was made that a decision would be reached the next week.

Immediately prior to the March 14 regular Board meeting, the Board met in a work session to review the superintendent's recommendations as well as to discuss comments and suggestions offered at the previous week's public hearing. This data included an alternative cost-cutting proposal by Donna Herman and a list of recommended savings items by Peggy Teff. The Board's discussion covered programs, transportation, employee reductions, and extracurricular activities. Adjourning the work session, the Board entered regular session and thereafter voted 3-2 to close the Dorchester attendance center, as well as adopting other of the superintendent's budget recommendations.

¹ The enrollment figures from 1967-1986 plunged 28%. The Dorchester building was operating in 1986-87 at under 50% capacity. Appellee's Exhibit A at p. 1. Some Dorchester children were attending other schools, however, due to the location of their homes on the bus routes.

² Appellants were greatly upset during the January-March period over the discrepancies in the cost-savings figures and their inability to obtain hard data to show exact savings. Even central administration's figures fluctuated. The hearing panel recognizes that there are nearly innumerable methods for computing costs and savings. No method is clean and exact; some discrepancies are to be expected.

II. Conclusions of Law

At this hearing, Appellants raised some thirteen issues with respect to the propriety of the Board's decision, many of which reflect the requisite steps the State Board has previously recommended for local boards to follow in school closing decisions. See In re Norman Barker, 1 D.P.I. App. Dec. 145 at 149-150 (1977). In essence, the Appellants concede that the seven steps in Barker were followed, most recently in the 1986-87 study leading to the March 1987 decision to keep the school open. Appellants' complaint, among others, is that no new study was undertaken in 1988 leading to this decision. They have, in fact, asked the State Board to hold that Barker must be followed each and every time a school closing decision is contemplated, regardless of the point in time or proximately to the last study and vote. Understandably, Appellants point to the fact that after such study in 1986-87 of issues such as "student enrollment statistics, transportation costs, financial gains and losses, program offerings, plant facilities, and staff assignment," Barker at p. 167, the Board concluded and resolved not to close Dorchester, or any attendance center. How then could the same study be relied upon to reach an opposite conclusion one year later?

The answer, in the hearing panel's eyes and minds, lies not in the fact that essentially the same data led to different conclusions a year apart, but rather in the fact that the March 1987 decision was merely a decision to postpone the inevitable; the 1987 decision was not so much to keep all attendance centers in operation, but instead to delay the closing at least one year. Considering the budgetary crisis facing the District, the maintenance of the Dorchester center would be akin to putting a bandaid over one's navel to stave internal hemorrhaging. The issue of closing the outlying attendance center in Dorchester had been considered years before. In the panel's opinion, only public sentiment and a sense of responsibility to the residents of that town kept the school open as long as it did. With only 24 students in kindergarten and six grades under the direction of five teachers, and no significant increase in Dorchester's population on the horizon, there was little or no justification for the Board, faced with such a serious budget deficit, to continue to operate the building.

Although Appellants have invited the hearing panel and State Board to scrutinize the cost savings, explore alternatives to closing Dorchester, and divine the actual enrollment and dollar figures from a series of documents with varying numbers, we decline to do so. It is within the power of a local school board to "determine the number of schools to be taught, divide the corporation into such wards or other divisions for school purposes as may be proper, [and] determine the particular school which each child shall attend . . .". Iowa Code §279.11 (1987). Appellants must prove by a preponderance of the evidence that the decision made by the Board on March 14, 1988, was made "fraudulently, arbitrarily or unreasonably, not supported by substantial evidence, not within the Board's jurisdiction, or based on an erroneous theory of law." In re James Darst, et al., 4 D.P.I. App. Dec. 250, 258. This they have not done.

There is substantial evidence to show that the Board's decision was made on the basis of the data available, and this decision was unquestionably within the Board's power to make. Appellants have not raised fraud or "erroneous theory of law." They are simply disappointed that this measure was taken when other options existed to save dollars. Those options, in all likelihood, would also have been "Bandaid" solutions to a very serious problem. We might add that the District's condition is still not healthy. Residents and Board members will, it appears, have to face more and perhaps increasingly difficult decisions in the future, judging from the District's financial situation. District residents should be prepared to strap themselves in for a bumpy ride in the next few years.

All motions or objections not previously ruled upon are hereby denied and overruled. Costs of this appeal, if any, are assigned to Appellants under the authority of Iowa Code section 290.5.

III.
Decision

For the foregoing reasons, the decision of the Allamakee Community School District board of directors made on March 14, 1988, to close Dorchester Elementary School is affirmed. Appeal dismissed.

Jan. 12, 1989
DATE

Jan 4 1989
DATE

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

David H. Bechtel
DAVID H. BECHTEL, SPECIAL ASSISTANT
— POLICY AND BUDGET
AND PRESIDING OFFICER