IOWA STATE BOARD
OF EDUCATION
(Cite as 5 D.o.E. App. Dec. 300)

In re Decisions of the Boards of Directors of Arrowhead Area Education Agency (V) and Heartland Area Education Agency (XI)

Glidden-Ralston Community School District,
Appellant,

v.

Arrowhead AEA (V) and Heartland AEA (XI) Boards of Directors Acting Jointly,
Appellees.

DECISION

[Admin. Doc. #943]

The above-captioned matter was heard on October 28, 1987, before a hearing panel consisting of David H. Bechtel, acting director of the Department of Education and presiding officer; Dr. Carol M. Bradley, administrator, Division of Instructional Services; and Mr. Richard E. Fischer, assistant chief, Bureau of Special Education. An on-the-record hearing was held pursuant to the authority of Iowa Code section 275.16 and procedures found in departmental rules, Iowa Administrative Code chapter 670-51. Appellant Glidden-Ralston Community School District (hereafter Glidden-Ralston or G-R) was represented by Mr. Richard L. Wilson of Wilson, Bonnett & Christensen, P.C., Lenox, Iowa. Appellees Arrowhead AEA (hereafter AEA 5 or Arrowhead) and Heartland AEA (hereafter AEA 11 or Heartland) were represented respectively by Mr. Fred Breen of Price, Breen & Breen, Fort Dodge, and Ms. Patricia J. Martin of Ahlers, Cooney, Dorweiler, Haynie, Smith & Allbee, Des Moines.

Third party status was granted prior to the hearing to Scranton Community School District (hereafter Scranton) who later filed a "Statement of Non-participation." Nevertheless, Scranton appeared at the hearing in the person of its board president, Mr. Dean Gibson. Third party status was also granted to Jefferson Community School District (hereafter Jefferson), appearing through counsel Mr. Michael Mumma, Mumma Law Firm, Jefferson.

Glidden-Ralston appealed the decision of the AEA 5 and AEA 11 boards of directors, acting jointly, in dismissing a petition for school district reorganization between Glidden-Ralston and Scranton Community School District on June 30, 1987.

I.

Findings of Fact

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

In the spring of 1987, the Scranton board of directors voted 3-2 to enter a four-year whole-grade sharing agreement with neighboring Jefferson Community School District beginning in the fall of 1987. The only other district given serious consideration as Scranton's partner had been Glidden-Ralston. Just prior to the signing of the agreement, resident voters of both Scranton and Glidden-Ralston filed a petition for reorganization with their respective AEA boards pursuant to Iowa Code chapter 275. Dissatisfied patrons from Scranton then filed an appeal of the sharing decision to the State Board of Education. At that hearing, evidence and argument presented included the contention that the filing of a reorganization petition should have given the Scranton board pause; that the directors should not have signed the agreement as the petition for reorganization should take precedence over a sharing agreement.

The State Board affirmed the hearing officer's decision to uphold the sharing agreement. In re Eugene Naberhaus, 5 D.o.E. App. Dec. 283 (August 1987). Thereafter the petition for reorganization proceeded through the statutory process which culminated in a hearing, properly noticed, before two area education agency boards (Appellees herein) as Glidden-Ralston lies in Area 11 and Scranton lies in Area 5. See Iowa Code §275.16. The petition proposed that all of the Glidden-Ralston and Scranton districts would be united in one new district, to be called Glidden-Ralston-Scranton Community School District. Those seeking dismissal of the petition or seeking to have their property set out were required to submit affidavits to that effect by June 22. Five hundred thirty-three individuals filed dismissal objections, and 197 qualified persons filed opt-out objections.

At the hearing before the joint boards on June 30, 1987, documents were received and an opportunity was given for proponents and opponents of the petition for reorganization to address the directors. Thirteen persons, some speaking as representatives of groups or organizations, spoke in favor of the petition. Most argued that as the statutory prerequisites had been met, the petition ought to be placed before the voters of the affected districts.

Four representatives of groups opposed to the merger, including the Scranton board of directors, addressed the joint board. The opponents spoke of the sharing agreement between Scranton and Jefferson and the arguably superior educational programs at Jefferson which would benefit Scranton students more than if they were to merge with G-R. The comparative size of the two districts, G-R and Jefferson, was also mentioned frequently.[1] Twenty-two individual objectors then addressed

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[1] Scranton's enrollment is approximately 210 students; Glidden-Ralston's '87-88 enrollment is 434. Jefferson's enrollment is 1,072. Minimum enrollment from a merger must be in excess of 300 students. The combined student enrollments from a Scranton and Glidden-Ralston merger would be approximately 645. A Jefferson-Scranton merger would result in a district of about 1,280 students.

the joint board, some seeking outright dismissal and others asking for property set outs. Their arguments were similar to those of the group spokespersons. The main issues emerging from the hearing were the advantages of a sharing agreement over reorganization, the right of the people to vote, the size of the combined districts and speculation as to where declines in population would occur between the three school districts in the future, and the relative merits of G-R and Jefferson educational programs.

Prior to a discussion, the directors placed into evidence the statutorily required reorganization plans developed by each AEA. See Iowa Code §275.1 (1987). Arrowhead AEA's plan was adopted in May, 1986 (Exhibit 4), and Heartland AEA's plan was finalized in 1985 (Exhibit 3). At the hearing and after a review of the plans compared to the petition at issue, the joint board concluded unanimously that the petition was either in accord with or not inconsistent with either AEA's plan, and therefore conformed to the two plans. See Exhibit 4 at p. 4 and Exhibit 3 at pp. 112-125. A motion to dismiss the petition was made and discussion was held mirroring the comments heard that evening. Thereafter a vote was taken and the motion passed unanimously. This appeal followed.

II.
Conclusions of Law

Several legal issues were raised at the departmental hearing before the panel. The primary issue involves a question of legislative interpretation: Whether joint boards have a statutory duty to place a proposal before the voters of the two districts when the petition meets the statutory prerequisites and is in accord with or not in conflict with the AEA reorganization plans.

Legislative intent regarding reorganization has been codified:

> It is the policy of this state to encourage economical and efficient school districts which will ensure an equal educational opportunity to all children of the state. . . . The area education agency boards shall develop detailed studies and surveys of the school districts within the area education agency and all adjacent territory for the purpose of providing for reorganization of school districts in order to effect more economical operation and the attainment of higher standards of education in the schools.

Iowa Code §275.1 (1987). Furthermore,

> It is the intent of this chapter that the area education agency board shall carry on the program of reorganization progressively <u>and shall, insofar as is possible, authorize submission of proposals to the electors as they are developed and approved</u>.

Iowa Code §275.6 (1987)(emphasis added).

Appellant argues forcefully that there is a clear intent to let the people voice their opinion on a proposed merger at the ballot box. In support of that proposition, Appellant cites the language of section 275.6, above, and the fact that "school reorganization is a citizens' process and may be accomplished [with or] without any board involvement." Brief of Appellant at p. 12.

Moreover, the right of the electors to vote on the future of their district has been further frustrated in Scranton and Glidden-Ralston because of the sharing agreement entered into by the Scranton and Jefferson boards. Contracts for whole-grade sharing do not require an election and, until July 1, 1987, did not even require a public hearing. See 1987 Iowa Acts, Senate File 499 §61. Therefore, the only direct input the voting residents of Scranton had, and will have unless the joint board decision is overturned, is in casting ballots for the school board candidates. The residents of Scranton desiring to share or merge with Glidden-Ralston were twice defeated and have had no opportunity to vote on either issue.

Appellees contend that the mandatory placement before the voters issue has been resolved by the Iowa Supreme Court, citing Ledyard Community School District v. County Board of Education, 261 Iowa 165, 153 N.W.2d 697 (1967). In that case plaintiffs appealed the Kossuth County school board's dismissal of plaintiffs' petition for reorganization on the ground that the voters were entitled to exercise their electoral rights if the petition conformed to all statutory requirements. The Iowa Supreme Court rejected that concept, stating

> We do not interpret the minimum standards set by the legislature as maximum standards which would deprive the [county] board of discretion if the standards are met. The board may properly find that the plan espoused in a given petition is not to the best interest of the people affected. What is required is that their action be within the board's jurisdiction and not arbitrary. This is the sole issue.

Ledyard Community Sch. Dist. v. County Bd. of Education, 261 Iowa 165, ___, 153 N.W.2d at 700.

While it is true that the Ledyard case involved a decision by a county board of education and the case before us involves two area education agency boards acting jointly, we do not see the distinction as significant. Area education agencies were created by statute in 1975 and were clearly the successors to the county boards of education. The reorganization functions of the county boards were fully transferred to the AEAs when the county board system ceased to exist. Much of the statutory language remained the same. Compare Iowa Code §275.1 (1973) with Iowa Code §275.1 (1975).

We therefore feel compelled on the authority of Ledyard to reject Appellant's right to vote on the reorganization proposal unless we find, as the Court stated, that the dismissal action was made arbitrarily.

The term "arbitrary" is defined by Black's Law Dictionary to mean "done capriciously or at pleasure," "non-rational," "not done or acting according to reason or judgment," "tyrannical" or "despotic." Black's Law Dictionary at 134 (rev. 4th ed.). The Iowa Supreme Court has stated,

> The terms 'arbitrary' and 'capricious,' when applied to test the propriety of agency action are practically synonymous and mean that the action complained of was without regard to established rules or standards [citations omitted]; or without consideration of the facts of the case.

Churchill Truck Lines, Inc. v. Transportation Reg. Bd. of the Iowa D.O.T., 274 N.W.2d 295, 299-300 (Iowa 1979). Clearly then, the burden is on the Appellant to show that the action complained of was arbitrary; that is, it had no basis in reasoned judgment or was made in disregard of the factual evidence presented. No issue has been raised regarding compliance with the statutory procedures. Therefore, Appellant's argument must center on the reasons for the dismissal.

Appellant contends that because the joint board did not specifically find that the proposed reorganization petition failed to provide a more economical and efficient school district or attainment of higher standards of education, we must find they failed to address the standard for approval or dismissal, which, presumably, constitutes arbitrary action requiring reversal by the panel and the State Board. We reject this notion for two reasons. First, there is no statutory requirement that an AEA board or boards acting jointly make "findings of fact" and "conclusions of law" regarding a reorganization petition decision. Compare Iowa Code §275.16 with Iowa Code §279.23, e.g. Second, the issue of articulated reasons or the lack thereof was raised in the same context in Ledyard. "The reasons given by the board in dismissing the petition need not have been all the reasons it had in mind." Ledyard, supra, at 700. Similarly, in a case involving the absence of written reasons by a county board taking other statutorily authorized action, the Iowa Supreme Court wrote, "The learned trial court correctly held that there was no obligation on the part of the county board of education to establish its reasons for making this change, that it was plaintiff's burden to prove the board's action arbitrary and capricious and that its discretion was abused . . . ." Rollins v. Halverson, 257 Iowa 399, ___, 132 N.W.2d 465, 469-70 (1965).

In looking to the transcript and minutes of the June 30 hearing, it is clear that the directors based their decision on all evidence before them, including the comments made at the hearing. Individual directors raised questions about the number of objectors who wanted property set out, and what effect that would have on the size of the newly established district. Board minutes of Joint Meeting of Heartland AEA 11 and Arrowhead AEA 5 Board meeting, p. 7; Transcript at pp. 153-54.

Comments were made regarding the change of schools for Scranton students that would occur over a three year period if the reorganization passed. (Scranton in 1986-87; Jefferson in 1987-88 pursuant to the sharing agreement; and G-R possibly beginning in 1988-89.) The

whole-grade sharing agreement was discussed. The attorneys present for the hearing had made it abundantly clear to the directors that the existence and apparent validity of the agreement was not controlling on the issue before them, but that it was a factor which they could consider. The fact that consultants from the department of education had favored Jefferson over G-R as Scranton's partner was also mentioned in the comments at the hearing, as was the fact that Scranton has been sharing athletic programs with Jefferson for over two years.

In addition, the two AEA plans before the directors covered all of the statistical data and opinions required by Iowa law:

> The scope of the studies and surveys shall include the following . . .:
>
> The adequacy of the educational program, pupil enrollment, property valuation, existing buildings and equipment, natural community areas, road conditions, transportation, economic factors, individual attention to the needs of students, the opportunity of students to participate in a wide variety of activities related to the total development of the student and other matters that may bear on educational programs meeting minimum standards required by law.

Iowa Code §275.2 (1987).

Appellant has not met the burden of proof required to show that the decision was made arbitrarily. On the contrary, there is abundant evidence suggesting this decision was made considering all of the evidence and with the best interests of the affected districts and adjoining territories in mind.

Appellant also seeks to resolve the financial liability of Jefferson Community School District for expenses incurred in connection with the reorganization proceedings. The applicable statute reads, in pertinent part:

> If the proposition is dismissed or defeated at the election all expenses shall be apportioned among the several districts in proportion to the assessed valuation of property therein.
>
> If the proposed district or boundary change embraces territory in more than one area education agency such expenses shall be certified to and, if necessary, apportioned among the several districts by the joint agency board.

Iowa Code §275.26 (1987).

It is alleged that the law contemplates assessing a portion of the costs of the petition procedures to Jefferson as one of "the several districts." Further, the argument proceeds that by granting third party

status to Jefferson for the purposes of this hearing, the presiding officer has concluded that Jefferson is substantially involved in the issues. Therefore, justice would be better served by requiring Jefferson to share the costs.

We have no definition of the term "several" in the provision above. The legislature did define the term "school districts affected," limiting it by express terms to districts named in the reorganization petition. Iowa Code §275.1(3)(1987). Had the legislature meant that the costs of a dismissed petition were to be shared among the "school districts affected," we would have no trouble ascertaining intent. The fact is the legislature did not use the defined term. Thus we are left to speculate on the meaning of "among the several districts."

It could be that the term "several" embraces all districts within the area education agency, or as in this case, agencies. That strikes us as unfair and unsound, even a ridiculous construction of the statute. The only interpretation that does make sense is that the affected school districts, or those actually named in the petition, which can be two or more -- thus "several" -- should bear the administrative costs of bringing the petition.

As Glidden-Ralston and Scranton were the districts affected by the reorganization petition, only those two should share the costs associated with the dismissed petition. Our ruling granting third party status to Jefferson in the appeal before the State Board's hearing panel was not based on anything but the plain language of departmental rules:

> 'Parties,' as used in this chapter, shall refer to the appellant, appellee, and third parties directly involved in the original proceeding but neither appellant nor appellee on appeal.

Iowa Admin. Code 670-51.1(5).

The decision to grant third party status to Scranton was not difficult. Scranton, as a school district affected by the reorganization petition, was clearly "directly involved in the original proceeding." The decision to grant third party status to Jefferson, on the other hand, was based on a liberal application of our rules and was made more from a desire to permit all relevant arguments to be made, even while recognizing that third parties do not have full evidentiary rights at our hearings under our rules.[2] We do not believe that there is a correlation between our granting third party standing to Jefferson under our rules and the Code's contemplated method of assessing costs.

The Appellant has not met the burden of proof on this issue. We therefore hold that Jefferson Community School District is not required to bear any costs of the dismissed petition under Iowa Code section 257.26.

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[2] Third party participation is limited to opening and closing arguments and the submission of briefs, at the discretion of the presiding officer. <u>See</u>, <u>e.g.</u>, Iowa Admin. Code 670-51.5(4); 51.6(2)(b), (l), (n).

Finally, the remaining issue raised by Appellant is whether whole-grade sharing has equal legal status with reorganization. We previously addressed this question in Naberhaus, et al. v. Board of Directors of Scranton Community School District. Therein the State Board stated,

> There is an absence of legal precedent on this issue. No statutory provision exists suggesting that the filing of a petition for reorganization stays or enjoins any other actions contemplated or in effect. . . . [T]he two options do not appear to be mutually exclusive.

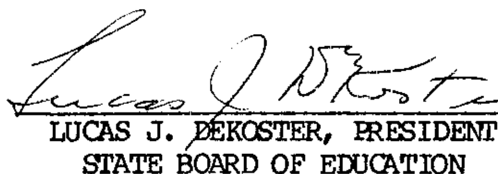
In re Eugene Naberhaus, 5 D.o.E. App. Dec. 283, 290-91 (August 1987). Both methods are authorized by statute. See Iowa Code chapter 275 (reorganization); Iowa Code §§256.13, 282.7, 280.15 (sharing options). Reorganization is an arguably permanent action whereas sharing is generally temporary, engaged in on a yearly or multi-year basis, but impliedly shorter in duration than reorganization. Sharing is the dipping of one's toe into the Reorganization Pond: if it feels good, the district is more enthusiastic about jumping in. Sharing is not a form of reorganization. The corporate status of the district does not change by a sharing agreement. Boards remain intact. Sharing and reorganization are two separate actions. We do not see a statutory preference for one action over the other. They serve some of the same purposes yet each retains its advantages and disadvantages.

All motions or objections not previously ruled upon are hereby denied and overruled. Costs of this appeal under Chapter 290, if any, are hereby assigned to Appellant. See Iowa Code §290.4 (1987). The parties shall notify the department of any costs, excluding attorneys fees, incurred in obtaining witnesses at the hearing for purposes of our certification of costs to the Glidden-Ralston board secretary.

III.
Decision

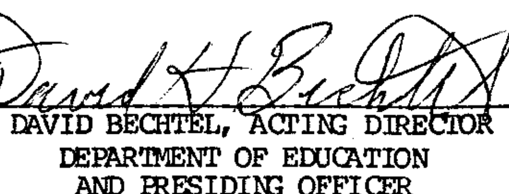
For the reasons cited above, the June 30, 1987 decision by the board of directors of Arrowhead Area Education Agency V and Heartland Area Education Agency XI acting jointly in dismissing the petition for reorganization brought by residents of the Glidden-Ralston and Scranton school districts is hereby affirmed.

December 11, 1987
DATE



LUCAS J. DEKOSTER, PRESIDENT
STATE BOARD OF EDUCATION

December 11, 1987
DATE



DAVID BECHTEL, ACTING DIRECTOR
DEPARTMENT OF EDUCATION
AND PRESIDING OFFICER