

IOWA STATE BOARD
OF EDUCATION

(5 D.o.E. App. Dec. 25)

In re R.D. Meredith	:	
	:	
R.D. Meredith, et al.,	:	
Appellants	:	
	:	
v.	:	DECISION
	:	
Council Bluffs Community	:	
School District,	:	
Appellee.	:	[Admin. Doc. 871]

The above-captioned case was heard on July 23, 1986, before a hearing panel composed of Dr. James Mitchell, deputy director of education and presiding officer; David H. Bechtel, administrator, Administrative Services Division; and Dr. Orrin Nearhoof, chief, Teacher Education and Certification Bureau. Appellant appeared pro se; Appellee was represented by counsel John Phillips of Rogers, Phillips & Swanger of Des Moines. A mixed evidentiary and stipulated record hearing was held pursuant to departmental rules found at Iowa Administrative Code 670—51, adopted under the authority of Iowa Code chapters 290 and 17A.

Mr. Meredith and others timely appealed from a decision made on May 13, 1986, by the board of directors [hereinafter Board] of Council Bluffs Community School District [hereinafter the District] to close five elementary attendance centers at the close of the 1985-86 school year.

I.
Findings of Fact

The hearing panel finds that it and the State Board of Education have jurisdiction over the parties and subject matter of the instant appeal.

Appellant is a District resident and spokesman for a citizen's group called S.T.O.P. (Stop This Outrageous Process). He was not chosen as a member of the Board-appointed committees established to study the data and issues involved in the potential closing of some attendance centers, but he was in attendance at two of the four "cluster group" meetings involving his neighborhood school.

In May, 1985, pursuant to an established Board goal (May 14, 1985), Mr. Ted Stilwill, executive director of educational services, was asked to coordinate and conduct a study of District elementary schools. He began by gathering statistics on all twenty District elementary schools for the purpose of identifying inefficiently operated schools. The data included program equity and accessibility to all students, staff size and pupil-teacher ratios, demographics, enrollment projections, facilities,

and district finances. The criteria he used to make the identification were as follows:

- the school consumed an above-average share of resources on a per pupil basis
- the school did not fully utilize available space
- the school did not enjoy its fair share of the district's instructional programs

Appellee's Exhibit 2, "Information Handbook," at p. 1. As a result of the application of those criteria, sixteen elementary attendance centers (later seventeen, after the inclusion of Lewis and Clark Elementary) were targeted for scrutiny by the "cluster groups."

Following Mr. Stilwell's fact-gathering and identification process, a timeline was established for the remaining phases of the study: analysis, recommendations, and decision-making. A mid-April date was targeted for Board action, but was subsequently delayed one month, to May 13. Five "cluster groups" were then established, with principals appointed as chairpersons of four of them and Mr. Stilwell performing that function in a fifth. The clusters examined from two (Cluster #1) to five (Cluster #2) attendance centers. The chairpersons were asked to contact two staff persons and two parent representatives from each school in the cluster to be members of the committees. The groups began the data analysis in early March leading to recommendations by early April.

Each cluster was provided with a packet of information ("Information Handbook") which covered extensively the primary information needed to assess the efficiency of each building in terms of dollars and programs. The options available for study and recommendation included closing some attendance centers, changing district boundaries, or restructuring some schools "(for example, from K-6 to K-2)." Appellee's Exhibit 2, "Information Handbook," at p. 1. The necessity for some type of action had been predetermined by the Board in 1985.

Cluster groups were asked to meet "twice each week (or as needed) during the month of March . . ." to "allow the Superintendent the month of April to further develop a total recommendation to the Board of Education and hold public meetings prior to taking their recommendation to the Board for discussion and approval." *Id.* at p. 2. All recommendations were received by April 11, and that information was released to the public on April 15. On April 22 and 23, District Superintendent William Lepley made his tentative recommendations known, first to the cluster groups and then to the District parents and staff. His announcement was summarized as follows:

To provide the highest quality educational program for students in all schools, five elementary schools will be closed beginning with the 1986-87 school year with appropriate changes in staff and facilities. The five schools to be closed are Peterson Elementary, Madison Elementary, Tinley Elementary, De Forest Elementary and Myers Elementary.

Appellee's Exhibit 2, "Superintendent's Tentative Recommendation," at p. 2. At the same time, Dr. Lepley set public hearings at five sites for April and May, and announced that his final recommendation would be made to the Board on May 13, 1986. Letters were sent to all parents, through students, notifying them of the hearings and stating his recommendation for action respecting each school in the cluster and summarizing the "Impact on Education Program" for each school.

Administrators and Board members were present at all of the hearings. Issues raised by those in attendance were ones of safety, class size, program needs, financial and facility impact, transition and orientation, and employee transfer procedures. Dr. Lepley expounded upon his recommendations and answered questions from concerned citizens.

On May 9, in a memorandum to the Board, Dr. Lepley affirmed his tentative recommendation to close five Elementary attendance centers at the end of the school year. In accordance with the procedure announced in the posted notice and agenda of the May 13 Board meeting, persons desiring to address the Board were asked to contact the Board secretary no later than one-half hour prior to the meeting. At the May 13 Board meeting, President Jo Anne Carrithers asked that patrons' remarks be confined to three minutes. Seven people, including five of the signatory Appellants in this case, delivered remarks.

Prior to the vote, Board members spoke individually. Director Faust, absent from the meeting, had sent comments in writing to President Carrithers, who read his letter aloud. The remaining directors then spoke in turn, each stating his or her reasons for favoring the superintendent's recommendation. Several of them clearly stated that they felt comfortable and well informed with the data they had received from Mr. Stilwill's study, the cluster groups, and Superintendent Lepley. Appellee's Exhibit 2, Notice & Minutes, at pp. 5-9. The ensuing vote on the resolution to close the five named attendance centers passed 6-0.

II. Conclusions of Law

Appellant has not challenged the District's right to make the decision at issue in this case. Iowa Code section 279.11 authorizes a district's board of directors 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" Further, a decision to close attendance centers does not fall within the powers of electors as defined in Iowa Code chapter 278.

Appropriately, however, Appellant concentrates his argument on the process, for we have stated on numerous occasions that in reviewing discretionary decisions such as the one before us, the State Board of Education, reluctant to establish the role of a "super school board," will overturn a local board's action "only if made fraudulantly, 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, citing In re Janice Anderson, 4 D.P.I. App. Dec. 87. See also In re C. Donald MacCormack, 5 D.o.E. App. Dec. 1, 5.

In setting a standard by which to measure such action in regard to school closing decisions, the State Board established a seven-step recommendation which deals primarily with the process used by a local board in reaching such an important decision. See in re Norman Barker, 1 D.P.I. App. Dec. 145, 149-50. The "Barker guidelines" were subsequently approved by the Iowa Supreme Court in Keeler v. Iowa State Board of Public Instruction, 331 N.W. 2d 110 (Iowa 1983). Therefore, it is against those guidelines we measure the Council Bluffs Board's decision in this case. Those seven steps are as follows:

1. A timeline should be established in advance for the carrying out of procedures involved in making an important decision. All aspects of such timelines would naturally focus upon the anticipated date that the board of directors would make its final decision in the matter.
2. All segments of the community in the school district should be informed that a particular important decision is under consideration by the board of directors.
3. The public should be involved in providing sufficient input into the study and planning involved in important decision making.
4. Sufficient research, study and planning should be carried out by the board and groups and individuals selected by the board. Such things as student enrollment statistics, transportation costs, financial gains and losses, program offerings, plant facilities, and staff assignment need to be considered carefully.
5. There should be an open and frank public discussion of the facts and issues involved.
6. A proper record should be made of all the steps taken in the making of the decision.
7. The final decision must be made in an open public meeting and a record be made thereof.

In re Norman Barker, 1 D.P.I. App. Dec. at 149-150.

The timeline for Board action on elementary attendance centers began in this case in May, 1985, with the adoption of District Goal IV by the Board: "To initiate a comprehensive study of elementary schools to ensure equal opportunities for students and equal distribution of district resources." Appellee's Exhibit 2, "1985-86 Goals and Standards," at p. 3. Below that goal was written the implementation plan for attaining that goal. It reads

By March of 1986, a plan will be approved by the Board of Education which will provide a basic level of instructional programs to all elementary schools and will provide for the allocation of district staff and financial resources so that the per pupil costs will not differ by more than [plus or minus] 10% at any attendance center.

Id. (emphasis added).

This goal was not stated in terms of closing schools because, as Mr. Stilwell's directive to the cluster groups explained, there were at least three options available to achieve that goal, only one of which was school closings. Nevertheless, it is clear that the impending decision was to be made in March, 1986; the fact that it was later postponed to May only supports the District's contention that adequate time was taken to reach the decision.

The second step of Barker was also met here. Board agenda, minutes, and newspaper articles submitted into evidence illustrate that it was general knowledge that a major decision with respect to the status of District elementary schools was underway. Those who attended meetings would have been made aware of the fact that a study was underway, even if they were not subscribers to the Omaha World-Herald. See, e.g., Appellee's Exhibit 2, "Chronology of Events," p. 1 and items cited therein.

With respect to public input as recommended in Barker step three, we cannot fault the District. Citizens were appointed to the cluster group committees, five public hearings were held in April and May of this year, and Board minutes reflect the fact that public comments addressing the issues were made at various Board meetings between January of 1986 up to and including the evening of May 13 when the decision was made.

The process implemented by the Board in this case -- data gathering by the Administration to be used in analysis and recommendation by community groups -- evidences the broad base of factors studied by the various segments of the community's citizenry: parents, educators, administrators, and ultimately the Board. Maps, budgets, enrollment trends and statistics, pupil-teacher ratios, costs per pupil, tax rates, building needs and capacities, and charts and graphs were supplied to the cluster groups along with clear directives as to the mission sought to be accomplished. See Appellee's Exhibit 2, "Information Handbook," at pp. 1-93. Supplemental information was supplied as feasible when individual groups sought additional data. Id. at "Sample Information Supplied to Cluster Committees."

Dr. Lepley and Mr. Stilwill personally met with the cluster groups and/or addressed the public in "open and frank" exchanges on several occasions between early March and May 13. In no way does the scenario before us smack of the type of chaotic misunderstanding which took place prior to the local board decision in the Barker case. The fifth recommendation has been met.

The final two suggestions in the guidelines are that a written record be maintained of all the steps taken leading up to the decision, and that the vote be made publicly and so recorded. Mr. Stilwill's data were carefully compiled and printed; the cluster groups' reports and recommendations were likewise packaged; Dr. Lepley's recommendations were printed and disseminated to parents in the community; and detailed Board minutes illustrate every occasion when a discussion took place regarding the elementary schools study, including the May 13 vote in open, public meeting.

In sum, we find that the Barker guidelines were met in each and every instance. This case presents a vivid and striking contrast to the situation which arose in the Van Buren district some nine years ago. There is simply no basis on which to find or rule that the Board acted arbitrarily in this case or without sufficient information.

Appellant, in a presentation commendable for its organization and attention to detail, will of course disagree with our conclusion. Reasonable minds may differ, depending upon perspective, but the mere fact that they do is not cause to reverse the action taken on May 13. See In re Elizabeth Cott, 4 D.P.I. App. Dec. 231, 238. Appellant Mr. Meredith asks us to focus on the process employed; he does not argue against the conclusion reached by the Board, but says that logic dictates if the process was flawed, a priori the result was flawed. While we agree that the focus should be on the process, we disagree that it was faulty. We reached our decision without reference to the District's justifications for taking the action it did.

The thrust of Appellant's arguments with respect to inadequacy of study and time in which to conduct the research seems to center on the amount of time the cluster groups were given to study the data and make recommendations. Appellant's Exhibit A is an article published in a 1982 issue of the American School Board Journal, which recommends a two-to-two-and-one-half year process to close a school. Included in that recommendation is one full year to acclimate the public and implement the decision. The gist of the authors' suggestions is not to spring such an action on an unwilling, resisting public, but to involve them. We agree. We also think the article is premised on a first-time closing. In Council Bluffs, other school closings have been effectuated recently. Any adult Iowan would be hard-pressed to allege surprise at declining enrollment. It follows that significantly fewer students in buildings mean higher costs per pupil and these costs translate into fiscal inefficiency. It is without question that something needed to be done and that closing schools would accomplish the most in the shortest period of time. This is a reasonable conclusion for the situation in Council Bluffs.

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

III. Decision

The decision of the Council Bluffs Community School District board of directors to close five elementary attendance centers effective at the end of the 1985-86 school year is hereby affirmed.

Aug 27, 1986

DATE

Aug 28, 1986

DATE

Lucas J. Dekoster
LUCAS J. DEKOSTER, PRESIDENT
STATE BOARD OF EDUCATION

James E. Mitchell
JAMES E. MITCHELL
DEPUTY DIRECTOR OF EDUCATION
AND RESIDING OFFICER