

IOWA STATE BOARD  
OF EDUCATION  
(5 D.o.E. App. Dec. 10)

In re Ron Puhrmann	:	
	:	
Ron Puhrmann, Appellant	:	DECISION
v.	:	
Havelock-Plover Community School District, Appellee.	:	[Admin. Doc. 851]

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The above-captioned matter was heard on May 19, 1986, before a hearing panel consisting of Dr. Robert D. Benton, [then] commissioner of public instruction, presiding officer; Charles R. Moench, director, Area Schools Division; and Sharon Slezak, chief, Publications Section. Appellant was present in person and by counsel, Mr. James C. Hanks of Klass, Whicher & Mishne of Sioux City. Appellee school district [hereinafter the District] was present in the persons of Mr. Dean Shimon, board president, and Mr. Garland Smith, board member, and was represented by Mr. William Thomas, attorney in Pocahontas, Iowa. An evidentiary hearing was held pursuant to Iowa Code chapter 290, contested case provisions of Iowa Code chapter 17A, and departmental rules found at 670 Iowa Administrative Code 51.

Mr. Puhrmann timely appealed a decision of the District board of directors [hereinafter the Board] made on March 17, 1986, to discontinue grades 7-12 and tuition that portion of the student population to the Pocahontas Community School District for the school year 1986-87.

I.  
Findings of Fact

The hearing panel finds that it and the State Board of [then] Public Instruction have jurisdiction over the parties and the subject matter of this appeal.

Appellant Ron Puhrmann has resided in Havelock, Iowa, for five years. He is a contractor and the father of two school-aged children and three children who have graduated. Mr. Puhrmann acted as spokesperson for a group of concerned citizens opposed to the decisions reached in the instant case. Appellant prefers that the District continue a status quo operation until such time as its financial situation requires reorganization with another school district.

Appellee is an approved school district situated in Pocahontas County in the northwest quarter of the state. It has a current student population of approximately 155 students, kindergarten through twelfth grade, housed in one attendance center. Contiguous districts are Rolfe to the east, Pocahontas to the south, Laurens-Marathon to the west, and Mallard to the north. Rolfe and Mallard have student populations under 250; Pocahontas and Laurens-Marathon have student populations between 400 and 600.

The District has a five-member board. In the past, the Board has entered into sharing agreements with neighboring districts, and in the 1985-86 school year it shared its administrative team (Superintendent Dennis Pierce and two principals) with Pocahontas and a guidance counselor and home economics teacher with Rolfe. Extracurricular activities have also been shared with contiguous school districts. The Board has discussed the possibility of reorganization since 1981; Pocahontas was the district mentioned at that time.

On October 21, at a regular meeting, the Board was presented with a petition signed by approximately forty parents, requesting that the Board consider the possibility of tuitioning the seventh through twelfth grade students to Pocahontas. Their petition was prefaced as follows:

As parents, we feel obligated to provide the best possible educational opportunities for our children, within the limits of geography and our financial abilities.

We believe, therefore, the time has come to realize that providing those opportunities in our own community is becoming increasingly impossible. A steady decline in enrollment (to the current level of under 150 students in all grades) indicates our school is in danger of receiving even less state funding. That could mean an additional burden on local taxpayers.

. . . . Therefore, we respectfully request the School Board consider tuitioning our Junior and Senior high students to Pocahontas Community School (or closest neighboring districts, at an equal cost) at the beginning of the 1986-87 school year.\*

\*We request, if possible, that grade school children be allowed to remain in the Havelock-Plover school building, for the time being.

#### Appellee's Exhibit C.

At that meeting, the Board received the petition and appointed an ad hoc "advisory committee" of volunteers both in favor of and opposed to the proposal to study the issue and report to the Board at the next meeting. The committee did so, having gathered factual material such as test scores, curricular comparisons between the District and neighboring districts, enrollment data, class schedules, facility comparisons and available extracurricular activities, among other data.

The report included a summary of the sharing-type options available to school districts, along with their relative advantages and disadvantages, based upon information relayed to the committee by Mr. Guy Ghan, a consultant at the [then] Department of Public Instruction who regularly works with school districts on these issues. The word "sharing" as used was understood to reflect administrative sharing (of the type the District was then utilizing), the transporting of students and/or teachers between districts for certain classes, and the tuitioning option being considered by the Board.

The "pros and cons" of sharing were listed as follows:

1. Decision totally in the hands of the School Board.
2. Must be decided by February or March in order to implement the following year.
3. Board relinquishes control [in tuitioning cases].
4. Board must draw lines to place students in other districts [in tuitioning cases].
5. Decision can be reversed.
6. Board can elect to tuition students to more than one school.
7. Parents of tuitioned students lose voice in determining curriculum.
8. Students must abide by rules [of] receiving school.
9. Financially, sharing is beneficial to sending school.
9. [sic] Influx of new students may enable receiving district to make curriculum improvements.

Appellee's Exhibit 23 at p. 2. The report contained 30-40 pages of documents.

Minimal discussion, pro and con, took place following the report. At that same meeting, Area Education Agency (AEA) V Representative Quentin Hart appeared to speak about AEA reorganization plans for districts with a student population under 300.

A special board meeting was scheduled for December 4. Prior to that meeting, Superintendent Dennis Pierce asked Board Attorney Bill Thomas to draft a resolution, at the Board's request, for tuitioning the 7-12 students to Pocahontas. Mr. Pierce contacted, through the Board secretary, several Board members to urge a decision on the issue that night, "In the interest of the community and especially the teachers."

The minutes of that meeting reflect that each Board member commented on the issue prior to the vote. The discussion revealed that each director brought a different perspective to the issue. Patsi Nyström stated that although the report was well done, she found nothing in it to indicate a need for change; Robert Henderson applauded the District's consistently low dropout rate and the positive attitude of the teachers in the District, which he worried might be lost if the students were tuitioned out. Director Piantz acknowledged that

the District has done a good job but expressed concern for the lack of competition, challenge, and stimulation resulting from small classes; director Shimon cited declining test scores and a newspaper article alleging a connection between that fact and small schools. Appellee's Exhibit 13.

The visitors at the meeting also commented, many in support of small schools, citing the benefits available to students. The Board was urged both to vote and to refrain from voting. They were encouraged both to wait until the state forced them to do something and to act while a choice was still available. A vote to reject the resolution failed; the subsequent motion to adopt the resolution carried. The minutes (Appellee's Exhibit 13) contain no reference to the time of adjournment, but Appellant and his witnesses testified at the hearing that all who sought an opportunity to speak were heard by the Board prior to the vote.

At subsequent meetings the Board indicated that it did not view the adoption of its resolution as the final step in its decision-making process and passed another resolution to extend the thirty-day statute of limitations for appeals from local school board decisions until "after the board has determined that the tuitioning procedure as specified in said December 4 resolution will be followed." Appellee's Exhibit 14 at p. 2. The Board decided to contact Mr. Guy Ghan and contiguous boards of directors for the purpose of discussing alternatives to the tuitioning decision.

A special board meeting was held for that purpose on January 9, 1986. Mr. Ghan spoke, and discussion was held between visitors and the Board where questions and concerns were heard. No action was taken with respect to the decision.

At ensuing meetings on January 20, March 11, and March 17, Appellant appeared and personally requested that the Board rescind its vote. On each occasion the request was denied for lack of a like motion, second, or vote by the Board. At one of those meetings, however, the Board did decide to send a survey form out to District residents to see whether tuitioning was favored and whether requests would come to attend other districts. Replies were due on March 1, 1986. Of the nearly two hundred and forty responses, only approximately forty people expressed a desire that the students attend elsewhere than Pocahontas. At the time of the hearing, it was stated that all but one student would be attending Pocahontas.

Subsequently, a telephone survey was conducted of District parents, which revealed some 68% were unhappy with the tuitioning decision. We do not know what questions were asked, or in what form. Appellant subsequently presented a petition in support of the maintenance of the entire student population in Havelock-Plover. Some two hundred fifty persons "signed" that petition.<sup>1</sup> The Board nevertheless declined to rescind the original vote.

The final action taken on the issue came at an open meeting on March 17 when the Board approved the drawing of boundary lines used to effectuate the tuitioning agreement. An affidavit of appeal was filed with this agency on April 3.

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<sup>1</sup>A cursory viewing of the signatures reveals that in some cases signatures of presumed spouses were identical, indicating that one spouse had apparently "signed" for the other.

11.  
Conclusions of Law

Iowa Code section 282.7 provides the statutory authority for the action taken by the Havelock-Plover board in this case. That section reads, in pertinent part, as follows:

1. The board of directors of a school district by record action may discontinue any or all of grades seven through twelve and negotiate an agreement for attendance of the pupils enrolled in those grades in the schools of one or more contiguous school districts having approved school systems. If the board designates more than one contiguous district for attendance of its pupils, the board shall draw boundary lines within the school district for determining the school districts of attendance of the pupils. The portion of a district so designated shall be contiguous to the approved school district designated for attendance. Only entire grades may be discontinued under this subsection and if a grade is discontinued, all higher grades in that district shall also be discontinued. A school district that has discontinued one or more grades under this subsection has complied with the requirements of section 275.1 relating to the maintenance of kindergarten and twelve grades. A pupil who graduates from another school district under this subsection shall receive a diploma from the receiving district. Tuition shall be paid by the resident district as provided in section 282.24, subsection 2. The agreement shall provide for tuition, transportation, and authority and liability of the affected boards.

Iowa Code § 282.7(1) (Interim Supp. 1985). It is clear that such a decision rests exclusively with the local school board, and Mr. Puhmann does not challenge that except to argue that the Board should be responsive to the wishes of the majority.

Appellant raises two issues. First, did the Board establish and follow procedural guidelines consistent with the standards applicable to a decision to discontinue grades seven through twelve?

A. Procedural Guidelines

In re Norman Barker, 1 D.P.I. App. Dec. 145, was a school closing case decided by the State Board in 1977. That case concerned the propriety of closing an elementary attendance center without sufficient study. The State Board reversed the local board's hasty and unresearched decision and in doing so, laid down seven guidelines which were said to constitute "a reasonable and prudent procedure to follow in making decisions as important as the closing of an attendance center." 1 D.P.I. App. Dec. 145 at 149. A later school closing case was appealed through the system and finally decided by the Iowa Supreme Court. See Keeler vs. Iowa State Board of Public Instruction, 331 N.W.2d 110 (Iowa 1983). The Court affirmed our decision and in so doing, gave approval to the guidelines as precedent to be applied in school closing cases. Id. at 112.

The first appeal brought of a tuitioning decision such as the one before us was In re Thomas Miller, 4 D.P.I. App. Dec. 109. With respect to the applicability of the Barker guidelines to a tuitioning decision, we stated,

Although local boards have the authority to make both kinds of decisions, there exists no specific statutory scheme guiding a school board in its decision to close an attendance center, as there is in this case. . . . Where a statute gives specific authority for board action, . . . the dangers are not as great that a board will act beyond its authority or without adequate public involvement.

In re Thomas Miller, 4 D.P.I. App. Dec. at 116.

We concluded, therefore, that although technically a tuitioning decision may result in the closing of an attendance center, the Barker guidelines are not the touchstone of a tuitioning decision. This is especially true in this case because no attendance center will be closed. Nevertheless, the overall tenor of Barker is, as we said there, appropriate for all "decisions of local boards of directors on important matters." Barker, 1 D.P.I. App. Dec. at 149. Taken as a whole, the guidelines ask that boards make well-studied decisions and involve the public at all stages in those decisions. Certainly, in the final analysis, Barker represents sound management and business practice and sensitivity to the fact that board decisions often profoundly affect the constituency who, therefore, should be both apprised and involved. To that extent, Barker is applicable here.

#### B. The Standard

Appellant complains that the Board in this case did not establish a standard for this type of decision; that the Board never really announced the reason for the tuitioning resolution. In essence, Appellant argues that he could not effectively dissuade the Board from its course of action because he did not know what motivated them, or from which direction the winds of change were blowing. He invites us to identify the requisite factors which should form the basis of a tuitioning decision.

Because every district in this state has its own personality, as it were, it would be inappropriate for the State Board to delineate the specific elements which would indicate a necessity for such a change. At the same time, we recognize that to a great extent education is a business, albeit not a capitalistic enterprise. To that end, all have the same "bottom line" approach, and it was recognized and applied in the instant case. Local boards are, or should be, motivated by the best interests of the students.

Every facet of the operation of a school district is aimed at creating the best possible curriculum, obtaining and retaining the highest quality faculty and administration, and making each dollar go as far as possible toward a quality education for every student. Tough decisions may have to be made. Is it better for the students if we eliminate a teaching position and increase class size, or keep the teacher and eliminate a pilot program? Should we spend \$85,000 to repair a roof and add insulation or should we close down the building?

These types of decisions call for priorities to be set, but also call for an understanding of the "big picture" in each district. In this case, Board members did not overtly announce what their priorities were, but it was clear from their initial willingness to respond to the petition that they were concerned that their students obtain the best possible education. They knew,

III.  
Decision

For the foregoing reasons of facts and the application of law, the decision made by the Havelock-Plover Board of Directors on March 17 is hereby affirmed. Costs of this appeal under chapter 290, if any, are assigned to Appellant.

July 10, 1986

DATE

Lucas J. Dekoster

LUCAS J. DEKOSTER, PRESIDENT  
STATE BOARD OF PUBLIC INSTRUCTION

July 3, 1986

DATE

Robert D. Benton

ROBERT D. BENTON, Ed.D.  
COMMISSIONER OF PUBLIC INSTRUCTION  
AND PRESIDING OFFICER