

IOWA STATE BOARD OF  
PUBLIC INSTRUCTION

(Cite as 3 D.P.I. App. Dec. 83)

In re Michael Riley, et al.	:	
	:	
Michael Riley, et al., Appellants	:	DECISION
v.	:	
	:	
Des Moines Independent Community School District, Appellee	:	[Admin. Docs. 619-628]

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The above entitled matter was heard on August 30, 1982, by a hearing panel consisting of Dr. James Mitchell, deputy state superintendent and presiding officer; Dr. Carol Bradley, chief, special education instructional services section; and Mr. Gayle Obrecht, director, administration and finance division. Dr. Mitchell served as Presiding Officer pursuant to Section 257.22, The Code 1981. The authority and jurisdiction for this appeal are found in Chapter 290, The Code 1981, and Departmental Rules, Chapter 670--51, Iowa Administrative Code. The Appellants were represented by their attorneys, Rick Olson, William Price and John Gajdel. The Appellee, the Des Moines Independent Community School District (hereinafter District) was represented by Attorney Ed Remsburg.

Ten separate appeals were received by the Department regarding this matter. For purpose of hearing, and with no objection from the parties, the appeals were joined for hearing and decision.

The Appellants are appealing a decision of the District Board of Directors regarding the closing of Technical High School (hereinafter Tech) and turning it into a vocational and technical resource center.

I.  
Findings of Fact

The Hearing Panel finds that it and the State Board of Public Instruction have jurisdiction over the parties and subject matter.

The basic underlying fiscal issues of decline enrollment and corresponding budget constraints in the District and District officials' efforts to resolve those problems are not new to the State Board. They have been before the State Board in previous appeals entitled: In re Shirley Brown, 2 D.P.I. App. Dec. 1 (1979) (closing of Franklin Junior High); In re North Central Community Organization, 2 D.P.I. App. Dec. 108 (1980) (locating District's vocational-technical program at North High School); and In re Edward J. Comiskey, 2 D.P.I. App. Dec. 306, (1981) (closing of Kurtz Junior High School). All of those decisions contain information relevant to the background and history of the issues currently before the Hearing Panel, and the second expressly dealt with issues surrounding Tech. We therefore incorporate those decisions within this decision, and those decisions should be consulted for a more extensive background of the fiscal issues confronting the District.

Tech has received wide recognition for its fine vocational and technical programs. It also provides good basic academic and support programs. Attendance at Tech is currently available to any student in the District regardless of the regular attendance boundaries of the District's other high schools. While the vast majority of students are full-time, resident students in the District may attend on a part-time basis. Only a few have thus far chosen to do so. Enrollment for the 1982-83 school year is 1491 students.

Due to smaller class size than average for the District, the need for more expensive equipment purchase and repair and more facility space available per student, the per student cost of educating Tech students is somewhat more expensive than educating students in the District's other high schools.

The vocational and technical portions of the curriculum are structured so that specific vocational and technical programs, called "core areas," take about two and one-half years to complete. These programs often include on-the-job training. Several core area programs take longer than two and one-half years to complete.

For some time, District officials struggling with problems of declining enrollment and budget constraints have considered alternative methods of providing District students with vocational and technical programs. About two years ago they considered closing the Tech facility and merging the vocational and technical programs with the more academically oriented programs at North High School.

The issue of merging the educational programs at Tech and North High Schools, which was the subject of In re North Central Community Organization, supra, was dependent upon voter approval of an extension of the existing schoolhouse tax levy. When that proposed extension was defeated on September 9, 1980, the merger of Tech and North programs became unfeasible. Rather than bring the issue before the voters a second time, the District Board directed the administration to study the matter and bring to the Board a recommendation as to an appropriate delivery system for vocational and technical education in the District at the high school level.

A planning conference for career and vocational education in the District was held on June 16 and 17, 1981. A group of about seventy persons, composed of parents, students, public and private employers, teachers, administrators, counselors, consultants and representatives of community agencies was in attendance. A specific purpose of the conference was to seek input in planning future delivery systems for providing career and vocational education to high school students. A resource center concept was considered by the participants as a viable delivery system for vocational and technical programs.

After further study by District administrators, a proposal for utilizing a resource center as a delivery system of vocational and technical education and special programs was submitted to the District Board on October 20, 1981. Persons working on that report examined a variety of options available to the District, including the closing of either North, Hoover or Roosevelt high schools, and adjusting all remaining high school boundaries. The report recommended maintaining the Tech building as a resource center, but dismantling it as a comprehensive high school. Rationale and a listing of advantages as well as relevant data were contained in the report.

Following submission of the proposal, numerous speeches and presentations were made to public groups on the various aspects of a resource center. Numerous Board members and District staff visited other cities to view their resource centers first hand and to talk with school officials in those cities. In the meantime, planning and additional data gathering continued. Data was gathered on staff,

costs, curriculum, transportation, enrollment and other relevant areas.

In December, 1981, the Des Moines Tech Booster Club presented the Board with a counter proposal for its consideration. The issues raised were considered and responses were later given.

On January 21, 1982, the District Board held a public hearing on the resource center proposal in the Tech High auditorium. Eighteen persons requested and were granted the opportunity to speak. Three spoke in favor of the resource center concept and 15 spoke in opposition.

The issue was placed on the February 4, 1982 Board agenda, and after discussion and consideration, which was summarized in 21 single spaced pages of minutes, the District Board of Directors voted to close Tech as a comprehensive high school and utilize the facility as a resource center available to all of the students enrolled in the District's five other high schools. The decision was based on a plan submitted by Dr. William Anderson, District Superintendent. The plan includes the phasing out of Tech as a comprehensive high school over a four-year period. The ninth grade, as a comprehensive program, would be eliminated starting in the fall of 1983, and one additional grade will be eliminated each subsequent year with the last class graduating in the spring of 1986. The Resource Center will continue to offer specialized instruction and vocational programs, but only on a part-time basis. Under the plan, basic academic programs will be provided only at the District's remaining high schools. Introductory vocational and technical classes and prerequisite courses will be offered at the five local high schools. Transportation to and from the Resource Center will be provided as needed. Out of concern over a previous attitude of nonsupport toward Tech on the part of some of the District's high school principals, the administration of the program at the Center will rest with a committee of all five of the District's high school principals. The curriculum at the Center will be an extension of the curriculum in each of the five high schools.

Estimated cost analysis figures and enrollment figures were prepared for the District Board's consideration. It was estimated that the Resource Center will result in a net savings to the District of approximately \$750,000.00 through the 1986-87 school year.

All of the various details of the phase-out plan were not worked out in advance of the actual decision. As part of the decision, Dr. Anderson is to submit a more detailed plan for implementation to the Board of Directors on or before November 4, 1982. Dr. Paul Devin, the current Tech Principal, testified that he preferred a flexible plan which would allow him and other building administrators the opportunity to work out problems as they arose. He indicated that in his opinion, it would be impossible to anticipate and plan for all eventualities.

Several general reasons were given by the District for discontinuing a comprehensive high school program at Tech and utilizing the facility as a resource center. Among those are the following:

1. Closing Tech as a comprehensive attendance center reduces costs to the District;
2. Allows greater efficiency in providing vocational, technical and low demand courses;

3. Allows the continued utilization of the Tech building for administrative offices and support functions;
4. Does not require extensive high school boundary adjustment; and
5. Allows for flexibility in programming.

## II.

### Conclusions of Law

The Appellants do not dispute the District Board's authority to close attendance centers and assign students to attendance centers pursuant to Section 279.11, The Code 1981. That Section reads as follows:

279.11 Number of schools--attendance--terms. The board of directors shall determine the number of schools to be taught, divide the corporation into such wards or other divisions for school purposes as may be proper, determine the particular school which each child shall attend, and designate the period each school shall be held beyond the time required by law. [emphasis added]

Implied authority for such decisions arises from other sections. See 274.1, 279.8, 280.3 and 280.14.

What they do challenge is the manner in which the decision was made. In effect, they contend that the decision was made in the absence of "due and sufficient consideration and without sufficient study and planning," and that the actions of the District Board in this matter are arbitrary and capricious. We do not agree with either of these contentions.

In order for a school district board of directors to act in an arbitrary and capricious fashion, it must act in an erratic manner without reason and in the absence of judgment. See Black's Law Dictionary, 4th ed., 1968, page 134. We cannot say that the District Board so acted here. The basic underlying issues have been before the District for years. The Board, for instance, on a previous occasion, studied the issue of moving the Tech vocational and technical programs to North High, and as early as October, 1981, it was presented a formal proposal to convert Tech to a resource center. Considerable input was received from opponents and proponents. Board members visited vocational high schools and resource centers in other cities. Numerous informational speeches were given and meetings held to explain the concept and obtain input. There was a public hearing on the issue. The Board minutes of the February 4 meeting contain a 21 page, single spaced summary of the consideration and deliberation which took place. This kind of effort, study and consideration on the part of District officials can hardly be categorized as arbitrary and capricious.

The other aspect of the issue of inadequate study and consideration raised by the Appellants originally arose in the State Board decision entitled, In re Norman Barker, 1 D.P.I. App. Dec. 145. In that decision, a local school board decision to close an attendance center was overturned on the basis of inadequate planning, study and community involvement and input. We do not find the circumstances comparable. The factual inadequacies of the Barker decision simply and plainly are not present here.

What apparently lies as the basis for the Appellants' concern is the lack of a detailed plan outlining every conceivable issue which may arise and its resolution. We are not as concerned with this as are the Appellants. Obviously the details of transportation, continuity of programming and the color of band uniforms are of concern to the students most directly involved in this decision and their parents. But these have also been and continue to be the concern of District administrators and Board members. It should not be forgotten that the Board directed that a more detailed plan be submitted by the Superintendent at a November, 1982 Board meeting. Merely because every eventuality is not identified and planned out in minute detail before a decision is made does not mean that the basic underlying decision is defective.

The Appellants have charged that District officials are guilty of speculating that the establishment of the Tech Resource Center to replace a comprehensive Tech High School will benefit the District and the students it serves. We feel that while there may be some validity to that allegation, we also note that the Appellants have engaged in speculation when they say it will not. Since it is the District Board of Directors which is responsible and accountable for the decision, we feel that in the absence of sufficient evidence that the decision was in error, the District Board should be upheld. We have not been shown any sufficient reason for overturning the District Board decision at issue here.

Issues surrounding school closings are not new to the State Board, and a broad series of principles regarding State Board review of decisions has evolved. We feel that those principles, a few of which follow, govern our ruling in this appeal: In the absence of unusual circumstances, which we have not found here, the State Board will not disturb decisions made by local boards of directors regarding attendance centers, In re Dorothy I. Keeler, 2 D.P.I. App. Dec. 296; decisions determining when the interests of a segment of the school community must yield to the best interest of the entire district are best left to local boards of directors, In re Edward J. Comiskey, 2 D.P.I. App. Dec. 306; even when obvious alternative cost savings are available to that chosen by a district board, it is the local board which is in the best position to determine which alternative is best for the district, In re Robert Helmrichs, 2 D.P.I. App. Dec. 200.

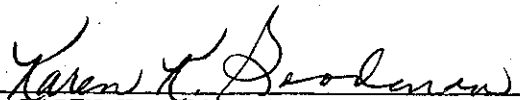
All motions and objections not previously ruled upon are hereby overruled.


III.  
Decision

The decision of the Des Moines Independent Community School District Board of Directors in this matter is hereby affirmed. Appropriate costs under Chapter 290, if any, are hereby assigned to the Appellants.

November 10, 1982  
DATE

October 27, 1982  
DATE

  
KAREN K. GOODENOW, PRESIDENT  
STATE BOARD OF PUBLIC INSTRUCTION

  
JAMES E. MITCHELL  
DEPUTY STATE SUPERINTENDENT OF  
PUBLIC INSTRUCTION, AND  
PRESIDING OFFICER