

IOWA STATE BOARD OF  
PUBLIC INSTRUCTION

(Cite as 3 D.P.I. App. Dec. 41)

In re Shaun Benson	:	
	:	
George Benson, Appellant	:	DECISION
v.	:	
	:	
Lawton-Bronson Community School District, Appellee	:	[Admin. Doc. 618]

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The above entitled matter was heard on May 25, 1982, before a hearing panel consisting of Dr. James Mitchell, deputy state superintendent and presiding officer; Mrs. Mavis Kelley, chief, federal programs section; and Mr. A. John Martin, director, instruction and curriculum division. Dr. Mitchell served as presiding officer pursuant to Chapter 290, The Code 1981, and Departmental Rules, Chapter 670--51, Iowa Administrative Code. The Appellant was represented by Attorney R. Scott Rhinehart, and the Lawton-Bronson Community School District (hereinafter District) was represented by Attorney James Hanks.

Mr. Benson appealed two decisions of the District Board of Directors regarding the denial of early graduation for his daughter, Shaun.

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.

Shaun Benson will be a senior in the District during the 1982-83 school year and for personal reasons would like to graduate at the end of the first semester of her senior year. She is a student who has achieved above-average grades during the time she has attended school in the District and has been active in school activities.

Shaun's greatest personal accomplishments have occurred as a baton twirler. She has been active with the District band as a twirler since she was in the fifth grade. She has received many awards and trophies for her twirling and is ranked as one of the state's and nation's leading baton twirlers.

There appears to be no doubt that Shaun plans to continue twirling into her college years and would like to use her twirling skills to obtain a college scholarship or other educational financial aid. Her father feels that in order to best take advantage of her twirling skills in securing financial aid, Shaun needs to spend time during what would normally be the spring semester of the senior year visiting college and university campuses across the nation and competing in baton twirling tryouts. It is for this reason that Shaun desires to graduate at the end of the first semester of the 1982-83 school year.

Shaun first entered the District's high school as a freshman in the fall of 1979. The District's graduation policy, number 605.3, in effect at that time had been adopted by the Board in 1973. That policy required the successful completion of 32 semester credits in academic courses, one credit for physical education and eight semester's attendance. The policy in effect at that time clearly did not allow for early graduation.

Although not a part of the written policy, it was the custom and practice in the District to not generally allow credits from correspondence courses and out-of-District programs to be counted toward graduation requirements. The only general exceptions were in instances of student transfers into the District and for student make up such as that necessary when a course had been failed by a student.

On September 10, 1979, shortly after Shaun had begun her freshman year, the District's graduation policy was amended to allow students completing the 32 semester credit and physical education requirements by the end of the first semester of their senior year to leave school during the second semester and return for graduation ceremonies at the end of the school year. The amendment also expressly stated that correspondence credit may not be used as credit toward graduation without the existence of "extenuating" circumstances and the Superintendent's approval.

At the District's regular Board meeting on January 10, 1980, the Board discussed the high school curriculum and considered adding four additional required credits to two subject areas. On January 21, 1980, the District Board adopted an amendment to the District's graduation policy which resulted in the addition of two required credits each in mathematics and science. Although the amendment did not expressly increase the minimum number of credits required for graduation from 32 to 36, it was the understanding of school officials that such was the result of the Board action. The January, 1980 amendment was to be first applied to the 1979-80 freshman student class of which Shaun was a member. District policy number 605.3, as it existed in the District policy book, was inadvertently overlooked, and no mention of the additional credits requirement was registered there.

The addition of credits in the graduation requirements was made known to District students, parents and staff through student assemblies, staff inservice, registration materials and student counseling sessions. The record does not indicate any instance of a misunderstanding on the part of any other student and parent other than that at issue here.

At the beginning of Shaun's junior year, her father visited with District High School Principal Lee Burns and counselor Patrick Robeson about the number of credits that would be required for Shaun to complete her education early. Mr. Benson left the meeting with the understanding that Shaun needed a total of 36 semester credits and that there would be no problem with her graduating early. Actually, she needed 36 semester credits in academic classes and one credit for physical education.

Sometime later in the fall of 1981, Mr. Benson became aware of the misunderstanding and recognized for the first time that Shaun actually needed 37 credits for graduation. With her then current academic schedule and the planned schedule for the fall of 1982, she would be one credit short of that required for early graduation.

In December, 1981, Mr. Benson talked with Mr. Robeson and Superintendent George Dobrovlny about the possibility of Shaun taking a course for District credit at the Individualized Learning Center located at Western Iowa Technical Community College in Sioux City. After the conversation, Mr. Benson felt assured that there would be no

problem in obtaining final approval for the course in psychology. Mr. Dobrovolny and Mr. Robeson remember the conversation differently, however. They did not remember giving Mr. Benson any great hope that the Board would approve a waiver of its practice of not accepting credits obtained at institutions other than the District when the purpose is for early graduation. Mr. Robeson did sign an application form for Shaun to be enrolled in the Individualized Learning Center, but expressly included the condition that credit for the course to be applied toward graduation requirements was conditioned upon the approval of the District Board.

On January 11, 1982, Mr. & Mrs. Benson attended the District Board meeting and asked the Board "to change the policy of accepting credits from other schools." (Board minutes, January 11, 1982) After a lengthy discussion, the Board voted unanimously to not change the policy on graduation requirements.

Later in the same meeting, the Board considered and adopted a revised graduation policy. The new policy expressly stated that 36 academic credits and one credit for physical education was required for graduation. The new policy also required eight semesters of attendance. No early graduations would be allowed under the new policy.

As a back-up plan to enable his daughter to graduate early, Mr. Benson had earlier investigated with school officials the possibility of Shaun dropping band class during the second semester of her junior year and the first semester of her senior year for the purpose of her freeing class time to enroll in a class which gave a full semester's credit. Band students are awarded only one credit for completion of four years of band. Had Shaun been able to drop band and enroll in and pass courses offering full semester credit, she would have been eligible for early graduation. In the absence of that ability, she would be one credit short of the graduation requirement at the end of the first semester of the 1982-83 school year.

In early January, 1982, Shaun obtained a permission slip for dropping band and adding art and took it to the appropriate teachers for review. She attempted to obtain the approval of Mr. Robeson, but he referred the matter to Mr. Burns. Mr. Burns and Mr. Robeson discussed the matter, but Mr. Burns either refused or neglected to approve the schedule change.

At its regular meeting on February 8, 1982, the District Board was attended by several parents who objected to the eight semester requirement in the new graduation policy. Apparently their children had anticipated early graduation but would not be able to graduate early under the new policy. The Board agreed to rewrite the policy.

At its March 8, 1982 meeting, the District Board adopted a new graduation policy. The new policy required the completion of 36 academic semester credits, and one physical education credit, but was silent on the number of semesters of attendance required. The effect was the removal of the eight semester requirement and the allowing of early graduation.

The new policy expressly stated that credits received outside the District would be considered for make-up purposes only, and that "[a]dvance placement" programs would not be accepted. The policy did not contain an effective date. Presumably the policy was effective immediately.

The District has previously accepted course credits from correspondence schools and the Individualized Learning Center, but only for course make up. District officials are concerned about their lack of control over outside credits. They allow outside

credits for make up because there is no acceptable alternative in the District for students to make up credits not received due to failure. District officials also feel that it is advisable to keep students involved in classes locally.

The only exception in the record to the District's longstanding practice of not accepting credits earned outside the District, except for make up, occurred in 1975. A district senior married, moved from the District and enrolled in classes at the Individualized Learning Center. She later requested that her courses at the Learning Center be applied toward a District diploma so she could graduate from the school she had attended most of her life. The District Board agreed to allow the Learning Center credits to be applied toward a District diploma.

The District requires each student to enroll in a minimum of four credit courses each semester. However, the District's Administration consistently recommends to students that they enroll in a minimum of five credit courses each semester. Students in the District can earn up to 12 academic credits in one year. Had Shaun taken more courses in earlier years, especially her sophomore year, she would have had enough credits to graduate early.

The District currently has no policy prohibiting Shaun's early graduation, nor do District officials object to her graduating early, so long as she meets the District's policy for graduation requirements. The issue is whether she meets those requirements.

Mr. Benson has filed two appeals regarding District Board decisions. He is challenging the January 11, 1982 decision refusing to waive the prohibition against counting out-of-District credits toward District graduation and the contents of the current Board graduation policy adopted on March 8, 1982.

## II. Conclusions of Law

Before this Hearing Panel, the Appellant asks in two separate appeals that the State Board reverse the January 11, 1982 refusal of the District Board to waive, for his daughter, the Board practice of not allowing credits earned outside the District to be applied toward graduation requirements, except for make-up credits, and to overrule the same requirement as enacted by the Board on March 8, 1982. We are not inclined to do either.

Section 280.14, The Code 1981, clearly mandates that each local board of directors establish graduation requirements. While the laws of the state authorize dual enrollment of a student in high school and a post secondary institution, there is no provision that we can find which would require a school district to accept, as credits toward graduation, those courses received at a post secondary institution in a situation similar to that currently before us. The only recognized standards applicable to those graduation requirements are that they be reasonable and not illegally discriminate. See Board of Directors v. Green, 147 N.W.2d 854, (Ia. 1967) Within this broad discretionary authority, the State Board has been reluctant to interfere in locally-established requirements for graduation. See In re Sherry Bennink, 2 D.P.I. App. Dec. 167. Only upon a showing of good cause will the State Board interfere with locally-established policies and practices, and we have not been shown sufficient cause here.

We do not find, as the Appellant has alleged, that the District acted in an arbitrary and capricious manner or that the District has illegally discriminated against his daughter. We feel that although some of the actions of District officials may be

subject to question, such as the failure to modify the written policy after Board action and recent reversal in this policy, overall, the District Board and Administration acted generally in the best interest and welfare of Shaun and her fellow classmates.

The Appellant has contended that his daughter and the District are bound by the District policy in effect at the time of Shaun's entrance into the senior high school in the fall of 1979, and there is some logic in such a contention. The problem for the Appellant lies in the fact that although the policy established in 1973 and in effect in the fall of 1979 required only 32 academic credits for graduation, it also required eight semesters of attendance. Under the latter provision, Shaun could not graduate early.

The most favorable policy language to Shaun would be the graduation policy amendment adopted shortly after her enrollment in the high school on September 10, 1979. That policy required only 32 credits and allowed graduation after seven semesters of attendance. There is, however, little logical rationale to support the 1979 policy as the one governing this circumstance.

We are most inclined to say that Shaun's right to graduation is governed by the District policy adopted in January, 1980, but which was not codified in District policy. We have no doubt that all official District policy is created through official Board action as evidenced by minutes of meetings. The issue of not codifying a policy in a district's policy book goes only to the question of giving notice to the public. Clearly, the students and the parents had adequate notice of the January, 1980 policy change through sources other than the official District policy manual.

We think that a better test as to applicable graduation policies than that which was in effect at the time of entrance, is that which was the latest adopted and which does not cause the student undue prejudice in his or her goal of timely graduation.

When the January, 1980 amendments were made to the District's graduation policy, Shaun and her classmates had adequate time remaining in which to meet those requirements. Good planning and successful completion of courses could have provided Shaun with early graduation under the 1980 policy.

A possible example of undue prejudice toward students created by an untimely change in graduation requirements may have been the January, 1982 Board amendment to the graduation policy which required eight semesters of attendance. Since January, 1980, students and parents had felt that early graduation was available in the District, and apparently some had planned to take advantage of it. With a planned early graduation in January, 1983, a change in the requirements in January, 1982, from seven to eight semesters could have caused some students and parents undue prejudice in planning the student's future. Long-range plans of post secondary education, military service, employment and marriage often need more than one year's warning of changes of requirements for graduation. Schools should not change graduation requirements in an untimely fashion when it unduly prejudices the future plans of its students and patrons.

The District Board apparently saw the logic of patron complaints raised at the February 8, 1982 meeting. At the March 8 meeting, it removed the eight semester attendance requirement.

From the foregoing discussion, it appears that the District can appropriately require Shaun to meet its graduation requirements established either in January, 1980, or the current requirements established on March 8, 1982. The only appreciable differ-

ence is that the unwritten, longstanding practice of not allowing credits earned outside of the District to be used for graduation, except as make-up credits, has been expressly included in the 1982 policy statement. The unwritten practice is now written policy.

The Hearing Panel has been somewhat distressed throughout these proceedings by the gnawing feeling that the issue before the State Board in this appeal is one that should have been resolved at the local level. It is difficult for us to visualize that an attentive and conscientious parent like Mr. Benson would not have realized that the District School Board can establish graduation requirements and that his daughter would have to meet those requirements if the Board refused his request for waiver.

So too, do we find it a little difficult to understand the District's position in this matter. Clearly the District officials have the right to expect students to meet valid graduation requirements in order to obtain a diploma. But, where a student has contributed to the school's marching band program since the fifth grade, we are a little surprised that school officials have not shown more compassion and developed a creative solution to Shaun's problem. Departmental Rule 670--3.5, Iowa Administrative Code, provides that credit toward graduation may be awarded through the administration of an examination which covers the appropriate course content. Additionally, there are many educational areas where a program of independent study could be developed which would allow a motivated student with appropriate abilities to complete work equivalent to a semester's credit in a traditional classroom setting. All that is needed is a little cooperative effort on the part of local District officials and the Appellant. The Hearing Panel strongly urges that such a joint cooperative undertaking recognizing the needs of both parties be worked out.

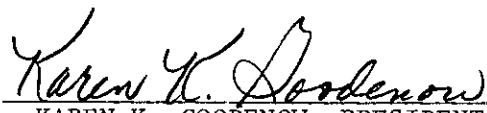
All motions and objections not previously ruled upon are hereby overruled.

III.  
Decision

The decision of the Lawton-Bronson Community School District Board of Directors in this matter is hereby affirmed. Appropriate costs under Chapter 290, if any, are hereby assigned to the Appellant.


August 13, 1982

DATE

  
KAREN K. GOODENOW, PRESIDENT  
STATE BOARD OF PUBLIC INSTRUCTION

July 20, 1982

DATE

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