

IOWA STATE BOARD OF PUBLIC INSTRUCTION

(Cite as 3 D.P.I. App. Dec. 25)

In re Georgia Hutchison, et al. :
Georgia Hutchison, et al., Appellants : DECISION
v. :
Oelwein Community School District, Appellee : [Admin. Doc. 629]

The above entitled matter was heard on June 8, 1982, before a hearing panel consisting of Dr. Robert Benton, state superintendent and presiding officer; Mr. Gayle Obrecht, director, administration and finance division; and Mr. David Bechtel, administrative assistant. Attorney J. W. McGrath represented the Appellants. The Oelwein Community School District (hereinafter District) was represented by Superintendent Eldon Pyle and Board President Robert Turney. The hearing was held pursuant to Chapter 290, The Code 1981, and Departmental Rules 670--51, Iowa Administrative Code.

The Appellants appealed a decision of the District Board of Directors to close the elementary attendance center at Hazleton, Iowa.

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.

On April 18, 1980, the State Board of Public Instruction rendered a decision entitled In re Rebecca Dudley, 2 D.P,I. App. Dec. 104, which has an indirect effect on the issues present in the current appeal. In the Dudley appeal, residents of Stanley, Iowa, appealed a decision of the District Board to close an elementary attendance center. The State Board upheld the District Board's decision, and the State Board's decision was subsequently affirmed by the District Court in and for Polk County on February 5, 1981. (C.L. 35-20473)

The indirect effect of the Dudley appeal on this current proceeding is the result of a conscientious effort on the part of District officials to study the procedures which they had successfully defended previously before the State Board and which had been reviewed by the District Court in Polk County. Because they had been successful in defending that procedure previously, they felt it advisable to follow it again as closely as possible when they again considered closing an attendance center.

District officials also felt that the residents of the communities of Stanley and Hazleton should be treated equally. They did not wish to be charged with partiality by providing the Hazleton patrons with more or less opportunity for input than the Board had previously granted the Stanley patrons in a similar circumstance.

The events most relevant to the current appeal began in July, 1981, when the District Board established committees to plan for the attainment of long-range goals for the District. The Board President, Superintendent and three principals were appointed to one of the committees which was to study and bring about efficient District facility utilization. The majority of the committee members met frequently and brought together data relevant to the study of future utilization of the District's building. In addition to reviewing the elementary and other building situations, the committee studied the possibility of moving all of the District's sixth grade students into the Junior High School building in order to better utilize that facility.

During the months of October and November, various administrators discussed possible changes in building utilization with members of their respective staffs. Word spread among the teachers that changes in building utilization were possible, but the general public was apparently not aware of any of the developments.

At a Board and Administration Workshop on November 5, 1981, members of the Facility Study Committee discussed with the other administrators and Board members several alternative proposals for more efficient building utilization. All of the proposals contained the common element of the closing of the Hazleton Elementary Attendance Center. During succeeding months, Board members toured many of the District's buildings, including the Junior High building. Several Board members visited another school district which had previously assigned its sixth grade students to its junior high attendance center.

In December, 1981, the Superintendent and Board President reviewed the circumstances of the previous closing of the Stanley Elementary building and laid out a comparable timetable and procedure for Board consideration of the possible closing of the Hazleton building. Information and data was to be presented formally to the Board at its meeting on January 25, 1982, and the public was to be allowed the opportunity to express its views at a public meeting on February 8. The Board discussion and vote was to take place on February 22.

On January 21, Board members and Administrators met with teachers' representatives during a work session and advised them of four alternative plans under consideration for more efficient building utilization. All four included the closing of the Hazleton Attendance Center.

The agenda for the January 25 Board meeting noted that a report from the Facility Study Committee would be presented; and at the meeting, the Committee studying facility utilization gave its report and recommendations on alternative approaches to more efficient building utilization. The written report consisted of 19 pages of factual data on enrollment plans, financial expenditures, projected savings and other relevant data important in making a decision on building utilization. The report included the four alternative plans originally discussed at the Board and Administrator's Workshops in previous months. Again, each proposal included the closing of the Hazleton Center.

It was announced to the estimated 40 to 50 persons present that the Board would hear the views of persons wanting to comment on the facility utilization report at the February 8 meeting. Guidelines on procedure for the February 8 meeting were announced, and time limits for presentations were established. The local newspaper carried a story about the planned meeting and related details of the procedure for the conduct of the meeting.

At the regular meeting of the District Board on February 8, persons who had signed up in advance to speak on the topic of building utilization were given an opportunity to address the Board. Three individuals were allotted three minutes each and five group representatives were allotted five minutes each. No one was cut off due to time, and some finished their presentations in the time allotted. A number of new ideas and additional information were presented to the Board. There was discussion and consideration given to the possibility of District officials meeting with representatives of Hazleton patrons to discuss the matter. Apparently many administrative details had not been worked out at the time, and the patrons were concerned about what the final details might include.

It was informally agreed that three Board members and the Superintendent would meet with representatives of the Hazleton parents on February 18 to discuss the issues. It was agreed by those concerned that no representative of the media would be invited. Shortly before the scheduled meeting, a representative of the local newspaper insisted that the planned meeting be open to the press under the state's open meetings law. While the Board members did not agree with the accuracy of the press' allegation that the meeting had to be open, they apparently did not want to have a confrontation with the press over the issue. The planned meeting was cancelled, and no subsequent meeting between the parents and District officials was held.

On February 22, 1982, the District Board met in regular session to discuss the matter and consider final action on it. An opportunity was afforded persons present to address the Board on the building utilization issue, but no one asked to address the Board. The issues of building utilization, especially the closing of the Hazleton Attendance Center, were discussed by Board members for over an hour. Each Board member was given the opportunity to summarize his own position on the issues. The financial status of the District in a time of tightening school budgets and declining enrollments was commonly referred to by the Board members.

It was moved and seconded to table the issue for one year to allow further study and observation of developments. The motion was defeated by a vote of 5 to 2. It was then moved and seconded that the Hazleton Attendance Center be closed beginning with the 1982-83 school year and all the District's sixth grade students be moved to the Junior High School. The motion carried on a vote of 5 to 2.

The Appellants filed an appeal of the decision with the State Board on March 15, 1982.

The Appellants point out that several differences exist between the procedures utilized by the District Board for the decision to close the Stanley Attendance Center and those used in the decision to close the Hazleton Attendance Center. We do not necessarily agree that those historical aspects of the closing of the Stanley building were related only to the decision to close the Stanley Attendance Center. Rather, they are evidence of prior data gathering and public input into what has been an almost continual process in the District since at least 1975.

Approximately two years before the decision was made to close the Stanley building, the District Board received a written report of a building utilization and student enrollment study conducted by Dr. Wayne P. Truesdell. The 65-page detailed report discussed the strengths and weaknesses of the Stanley and Hazleton centers. One of the conclusions reached by Dr. Truesdell was that with the construction of a few new elementary rooms, the District could close both the Hazleton and Stanley attendance centers.

In preparation for Board consideration of the closing of the Hazleton Center at issue here, the District's Administrators again contacted Dr. Truesdell, but compiled their own data updating Dr. Truesdell's 1977 report. Dr. Truesdell's testimony before the Hearing Panel indicated that his 1977 projections for student enrollment in the District have been readjusted due to an unanticipated drop in the birth rate and an acceleration of emigration of persons with children of school age from the state due to current economic conditions. He now concludes that the District could close the Hazleton Attendance Center and not have to construct any new elementary classrooms.

A second alleged difference between the preparations for decision on the Stanley and Hazleton decisions is that about 18 months prior to the vote to close the Stanley building, the District Board received a report from a citizen's advisory committee entitled, "Student Enrollment and School Facilities -- Future Planning." That report recommended the phasing out of the Hazleton building and continuing the Stanley building as an elementary attendance center. That recommendation was not followed by the District Board. Both the advisory committee report and the Truesdell report noted that whichever of the two buildings was closed first, the second would also have to be closed a few years later.

Several current District Board members have indicated in the record that they considered appointing a new citizens' advisory committee, but were reluctant to appoint one to study facilities because the advice of the previous advisory committee had not been followed. They did not feel that community members would be willing to serve on a committee when past experience showed that the work of such a committee had been largely ignored.

It was not disputed in the record that the Hazleton Attendance Center is generally in a state of disrepair. Much of the wall and ceiling area in the building is covered with unfinished plywood to keep the loose plaster from falling on students and staff. A main wooden stairway has separated from the wall and is supported by jacks. Neither was it disputed that considerable remodeling would be necessary to renovate the Hazleton structure. This unmitigated deterioration is likely the result of expectations that the building would be closed at some date in the near future. In preparing to make a decision in 1980 regarding the closing of the Stanley or Hazleton Attendance Centers, the District's Administration laid three alternatives before the Board in October, 1979. The report concluded, "[i]n any event, close the remaining building in May 1984." Even Mrs. Hutchison testified that she expected the Hazleton Attendance Center to be kept open for not longer than three more years.

The District has witnessed a steadily declining enrollment; and while no financial crises currently exists in the District, school officials expect finances to be a major concern in the near future. The annual savings to the District for closing the Hazleton Attendance Center and moving the 6th grade to the Junior High building was estimated at the time of the Board's decision to be between \$130,000.00 and \$140,000.00. A comparison of each of the District's attendance center's enrollment and its estimated capacity clearly show that the existing buildings can absorb the 175 students displaced by the Hazleton closing.

There is nothing in the record to show that the decision to close the Hazleton Attendance Center is not educationally and economically sound.

Board members discussed the issue privately with persons who expressed an interest to give them input for at least several months.

## II. Conclusions of Law

The Appellants have not challenged the legal authority of the District Board to make the decision at issue here. See § 279.11, The Code 1981. Neither have they aggressively attacked the decision to close the Hazleton Attendance Center on its merits. The primary focus of their attack has been on the procedures the District Board followed in making its decision and the alleged lack of opportunity for public input into the decision-making process.

For authority on their position, the Appellants rely heavily on the State Board decision entitled In re Norman Barker, et al., 1 D.P.I. App. Dec. 145. In that decision the State Board overruled a local school board decision to close an attendance center because of inadequate planning, study, deliberation and community input. The State Board said at page 148:

A decision as important as the closing of an attendance center should be made only after thoughtful, knowledgeable, open deliberation and consideration. Reasonable persons do not make important decisions governing their personal lives without sufficient study and planning. Neither should reasonable school boards of directors.

While we feel that the approach taken by the District was far from a textbook approach (See In re James Pettitt, 1 D.P.I. App. Dec. 239), we do not feel as the Appellants allege that the District Board has violated the spirit of open, public, informed decision-making. Certainly the District Board could have taken the procedures successfully utilized in the previous Stanley school closing and improved upon them, but out of an effort to treat the two situations on an equal basis, they did not. We do not feel compelled to penalize them for doing so.

In a final analysis, the District Board had before it sufficient data, public input and discussion on which to base an informed decision. The actions of the Board in this matter were not arbitrary, capricious, malicious or illegal in nature.

Certainly, in view of the longstanding knowledge in the District of the likelihood of the future closing of the Hazleton Attendance Center, the Appellants cannot claim to be surprised by the District Board decision at issue here. See In re Carolyn Page, 1 D.P.I. App. Dec. 266.

The Appellants have alleged that some of the considerations of the District Board in this matter were undertaken in violation of the state's open meeting laws. On the facts before us, we do not agree. Even if we did, a Chapter 290 appeal is not an appropriate remedy for redress of wrongs committed under the open meetings law. See § 28A.6, The Code 1981.

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

III.  
Decision

The decision of the Oelwein 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.

July 8, 1982

DATE

*William N. Cropp*

WILLIAM N. CROPP, VICE PRESIDENT  
STATE BOARD OF PUBLIC INSTRUCTION

June 28, 1982

DATE

*Robert D. Benton*

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