

IOWA STATE BOARD OF
PUBLIC INSTRUCTION

(Cite as 3 D.P.I. App. Dec. 232)

In re Susan Hutchinson	:	
	:	
Richard W. Hutchinson, Appellant	:	DECISION
v.	:	
	:	
Indianola Community School District, Appellee	:	(Admin. Doc. 718)

The above entitled matter was heard on December 5, 1983, before a hearing panel consisting of Dr. Robert Benton, state superintendent and presiding officer; Mr. Virgil Kellogg, director, field services and supervision division; and Ms. Sharen Slezak, chief, publications section. The hearing was held pursuant to the authority of The Iowa Code Chapter 290, 1983, and Departmental Rules, Chapter 670--51, Iowa Administrative Code. The Appellant was present and presented written and oral testimony. The Indianola Community School District (hereinafter District) was represented by Attorney Elizabeth Gregg Kennedy.

The Appellant is appealing a decision of the District Board of Directors denying his daughter's request for a certificate of completion in a summer driver education course.

I.
Findings of Fact

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

The facts involved in this matter are largely undisputed. Susan Hutchinson is currently in the eleventh grade in the District high school. During the spring of 1983, students who were eligible to participate in the District's summer driver education program were provided a memorandum from High School Principal Charles Miller. The memorandum set out the dates for classes, length of the course, dates for registration and other information. The memorandum also set out in clear terms the three conditions for successful completion of the course and receipt of a certificate of completion verifying successful completion of the course. The three conditions established in the memorandum were; satisfactory completion of the on-the-road driving experience, satisfactory completion of classroom work, and attendance at a minimum of 30 of the scheduled 35 classroom sessions.

Testimony from several persons indicated that establishment of a minimum number of classes for attendance was to help assure a minimum contact with academic materials related to driver education and to accommodate conflicts with summer activities and family vacations. Testimony indicated that regular attendance in the program was important for both academic and attitude development. The practice had been observed in the summer school driver training program for almost ten years.

Sometime during the spring of 1983, Ms. Hutchinson visited with Principal Miller about class scheduling. She told him that she would be absent the first five days of the summer driver education program. She was orally reminded by Mr. Miller of the 30 session requirement and was advised that it was important that she not miss any more than the five sessions. Ms. Hutchinson assured Mr. Miller that she felt there would be no problem. Her anticipated absence for the first five days involved a church-related trip to do volunteer work in an economically deprived part of the nation.

On the first day of driver education in the summer of 1983, Michael Shell, the teacher, handed out to students a two-page letter which included the terms of the absence policy related to the summer driver education program. The letter clearly indicated that an absence from any more than five one-hour class sessions would result in the receipt of no credit by students. Students were told in the letter that students who were absent had to make up all missed assignments.

Ms. Hutchinson went on the scheduled church trip and returned after missing five driver education class sessions. Upon her return and at her first class attendance, Mr. Shell discussed the absence policy with her. She was advised that she would have to attend the next 30 consecutive class sessions in order to successfully meet the course requirements. She advised Mr. Shell that she did not anticipate any additional absences and that there would be no problem.

About three or four weeks later, a problem did arise. Ms. Hutchinson overslept and missed that day's driver education session. She arrived at school a few minutes after the session was over and approached Mr. Shell. She asked if there was some way she could make up the missed class. She was informed that no make up would be allowed for the sixth day.

Mr. Shell later discussed the matter with Mr. Miller, and it was determined that Ms. Hutchinson would be given an opportunity of making up the time missed by attending a minimum of 12 hours of driver education class sessions during the fall. There had been precedent for such an alternative from previous years. One other student having absence problems during the summer of 1983 was also provided the opportunity to obtain a certificate of completion after attendance at 12 hours of fall class sessions. Students who do not successfully complete the driver education program are not prohibited from re-enrolling in driver education programs at some later time in their school career.

Ms. Hutchinson continued to pursue possible alternative ways of making up the one day of class missed. Due to her heavy academic schedule planned for the fall, she did not feel she would be able to find time to make up the required 12 hours of class sessions in driver education. She suggested making up the one class session missed by attending a session in a course offered in another district, or by a special one-hour tutoring session. The District's administrators considered those options but found them unacceptable. They saw no special or extenuating circumstances existing which would entitle her to special consideration under District policy and practice. Principal Miller suggested the idea of taking an academic course in the fall on a self-study basis during the six weeks necessary to complete the driver education make up sessions. This would allow Ms. Hutchinson to be enrolled in two courses at the same scheduled time. Apparently, after six weeks, she would return to her scheduled academic class. Ms. Hutchinson rejected the proposal.

Remaining dissatisfied with the position taken by the instructor and principal, Ms. Hutchinson and her parents met with the District superintendent, Dr. Carol Seevers, to discuss the matter. Dr. Seevers investigated the matter and determined that the attendance policy and practice of fall make-up should be upheld.

The Hutchinsons appealed the matter to the District Board and were provided an opportunity to meet with the Board on September 12, 1983. The Hutchinsons did not directly challenge the absence policy. Their concerns were directed to what they thought were inadequate make-up alternatives. Following discussion in closed session, the Board went into open session and voted to seek advice from legal counsel before making a final decision. In a letter from legal counsel dated October 4, 1983, District officials were advised that District policy and practice with regard to attendance in the summer driver's education program was in compliance with the law.

At a regular meeting on October 10, the District Board went into closed session to again discuss the matter. After coming into open session, the Board voted unanimously to uphold the administration action in the matter. It is that decision which is the subject of this appeal.

Dr. Seevers testified that the attendance policy for summer driver education is needed to encourage regular attendance. The school does not give credit for the course to be applied toward graduation, and the grade received is not applied toward a student's grade point average. The absence policy serves to aid in motivating students to attend classes when they might be tempted by conflicting summer activities to be lax in regular attendance. Dr. Seevers testified that the absence policy, coupled with an available make-up option, makes the absence policy more instructional in nature than punitive. He testified that he considered registration in summer driver's education as a special privilege for students because the District is not required to offer a summer driver education program when it also offers a program during the school year. Also, he testified that the District's establishment of optional summer

programs allowed it to establish conditions of attendance for those programs which it might not otherwise establish.

II. Conclusions of Law

In this appeal, the Appellant is challenging a District policy regarding student attendance in a summer driver education course and application of that policy to his daughter. The primary thrust of the appeal has been directed to an alleged absence of reasonable alternative make-up opportunities for absences which exceed the established maximum.

In his efforts to pursue this appeal, the Appellant has overlooked or given insufficient attention to several important points. The brief filed by the Appellant argues in several places that District officials have not brought forth sufficient evidence justifying the summer driver education absence policy at issue. The Appellant is misinformed if he believes that it is the responsibility of the District to establish the reasonableness of the policy. The courts in Iowa have long held that policies of local school districts are presumed to be reasonable, and persons challenging school policies are presented with the burden of establishing the lack of reasonableness. See *Board of Directors v. Green*, 147 N.W.2d 854 (Ia. 1967). In this appeal, the Appellant has not established that the District policy was unreasonable, arbitrary, capricious, or overreaching.

So long as the District offered a driver education program during the school year, it was not required to offer students a summer driver education course. In providing an additional opportunity to complete a driver education program, the District had relatively more flexibility in establishing restrictions and conditions for the course. District officials articulated reasons for the attendance requirement and established that students enrolling in the course had advance notice of the requirement. It was established that Susan Hutchinson had actual knowledge of the conditions for successful completion placed upon enrollees in the summer driver education program, and that she knowingly and voluntarily placed herself on the brink of unsuccessful completion by attending a church work camp for the first five days of the driver education program.

While we do not fault Susan for attempting to expand her summer experiences by attending both the camp and driver education, we do have a problem with her now coming before us and asking assistance in getting her out of a situation which is of her own making. She was warned of the potential consequences by both Mr. Miller and Mr. Shiel after she returned. She appeared to know, understand, and accept the risks she was taking by attempting to schedule church camp and driver education at conflicting times. We think she should be held responsible for the choices she made.

It must be remembered that the District has a responsibility to those students who have met the attendance requirements over the years to not set those requirements aside without good reason. So too, it should not be forgotten that the District has a responsibility to Susan Hutchinson to hold her accountable for her actions. Would not the value of all school rules and even state statutes be lessened in the eyes of students if they were waived for less than objective and good cause?

While it may be true that the District could have provided other alternatives for making up absences, there is nothing in the law which indicates that they were required to do so. In anticipation of summer activity conflicts, the District allowed five absences with no loss of privileges if the academic work was made up. When Susan missed the sixth session, school officials considered several alternatives to total loss of credit. After consideration by school officials, some were rejected and one was approved. School officials were willing to give Susan credit for her summer program after attending twelve driver education sessions in the fall. They were even apparently willing to allow her to be enrolled in an academic course and driver education during the same class period for six weeks during the fall semester. That willingness attests to their faith in Susan's ability to make up the driver education sessions and carry the full academic load she desired. It was Susan who rejected the opportunity.

The State Board has previously ruled on issues related to absence policies and has determined that absence policies cannot punish students who miss classes for reasons of illness. See, *In re Sandra Mitchell*, 1 D.P.I. App. Dec. 201, and *In re Richard Caruth*, 3 D.P.I. App. Dec. 67. Such is not the case here. The District did not act unreasonably in the establishment of the absence policy for summer driver's education and acted reasonably in its application of the policy to Susan Hutchinson.

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

III.
Decision

The decision of the Indianola 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.

JANUARY 12, 1984

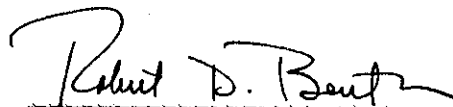
DATE



LUCAS J. DEKOSTER, PRESIDENT
STATE BOARD OF PUBLIC INSTRUCTION

December 29, 1983

DATE



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