

IOWA STATE BOARD OF
PUBLIC INSTRUCTION

(Cite as 3 D.P.I. App. Dec. 196)

In re Mr. and Mrs. Robert :
Burgett :

Mr. and Mrs. Robert Burgett, :
Appellants :

v. :

Des Moines Independent Com- :
munity School District, :
Appellee :

DECISION

[Admin. Doc. 697]

The above entitled matter was heard on August 22, 1983, before a hearing panel consisting of Dr. Robert Benton, state superintendent and presiding officer; Dr. Max Morrison, chief, ECIA Consolidation and Dissemination Section, Instruction and Curriculum Division; and Ms. Mavis Kelley, chief, Federal Programs Section, Career Education Division. The hearing was held pursuant to Iowa Code Chapter 290, 1983, and Departmental Rules, Chapter 670--51, Iowa Administrative Code. The Appellants were present and represented by H. B. Wagoner. The Des Moines Independent Community School District (hereinafter District) was represented by Attorney Edgar Bittle.

The Appellants requested a hearing to review a decision of the District Board of Directors regarding the retention of educational materials for use in the school system.

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.

Mr. and Mrs. Robert Burgett reside in the District and have four children, ages ten, eight, five and four years. At the 1982-83 school year, the oldest Burgett child attended fourth grade in the District's

Howe Elementary Attendance Center. Sometime during the first semester of the school year, several aspects of a film shown in their oldest child's classroom and library materials came to their attention. Mr. and Mrs. Burgett considered the library materials inappropriate for their children and the film contradictory to personally held religious beliefs. They spent time with their children explaining what was "wrong" with the film.

In a letter to District school officials dated January 25, 1983, Mr. and Mrs. Burgett informed the school of their general concerns. The letter concluded as follows:

Therefore, we would like our children excused or alternative work provided when a film, book, or class discussion contains any of the following contradictions to our religion:

1. The use of profanity
2. Sex education (unless we have viewed previously)
3. Evolution (ape to man, dinosaurs, etc.)
4. Bible characters or stories that have been altered slightly to make them seem as though they are a "fun fairytale."
5. The term a "Great Spirit" because we believe there is only one God and what He has made and done is all recorded in the Bible.
6. The words medium, fortune tellers, spiritualists, or demons or pictures of such.

In a letter to the Burgetts dated January 26, the principal of the Howe Attendance Center stated that "[e]very effort" would be made by the school staff to fulfill the wishes expressed in the January 25 letter. The principal enclosed a "Reconsideration Request Form" on which the Burgetts could file objections to specific materials available to students in the school.

The Reconsideration Request Form was filled out and signed by Mrs. Burgett on January 31, 1983. The form identified four educational materials as being objectionable. Three books available to students attending the Howe Attendance Center were objected to on the basis of their use of profanity. The three books were: The House Without a Christmas Tree by Gail Rock; Between Friends by Shiela Garrigue; and Blubber by Judy Blume. A fourth objection was raised with regard to a film shown to the oldest Burgett child's fourth grade class entitled, "Apemen of Africa." The Reconsideration Request Form did not specify the Burgett's objection to the film.

In a letter to the Burgetts dated February 10, Edwin Richardson, the District's director of curriculum service center and secretary of the District's Reconsideration Committee acknowledged receipt of the request form filed by them. The letter informed the Burgetts of the time, place and date of the next meeting of the Reconsideration Committee and invited them to attend. The letter noted that the Committee members would not have had time to review the challenged materials and that actual discussion and deliberation on the request would not likely occur until a subsequent meeting. The Burgetts were assured that they would be notified of the subsequent meeting.

On February 17, 1983, the District Reconsideration Committee met to discuss the Burgett request for reconsideration. The film "Apemen of Africa" was not available at the time, and review by the Committee was rescheduled to a later date. Copies of the challenged books were distributed to Committee members. Mr. Burgett was in attendance and was afforded the opportunity to address the Committee concerning his request for reconsideration of the materials. He made a presentation and responded to questions from Committee members. Further discussion and consideration of the Burgett request was postponed until March 9, the earliest date the film would be available.

At the March 9 Committee meeting, the film "Apemen of Africa" was reviewed. Mrs. Burgett was afforded the opportunity to state her specific objections to the use of the film. She responded that her objection was based on the film's use of profanity and the presentation of the theory of evolution as fact. A motion was made to not place any restrictions on use of the film by classroom teachers because it met all of the District's established criteria for selection of educational materials. A discussion ensued in which the Burgetts were invited to participate. Following the discussion a vote was taken upon the motion. The motion carried by a vote of 11 to 2.

Following the vote, Mrs. Burgett was allowed to read a prepared statement to the Committee. The Committee then proceeded to consider each of the challenged books. After discussion of the book Between Friends, the Committee voted unanimously not to recommend restricted use of the book on the basis that it met all the District's criteria of materials selection. The same action was taken with the book The House Without a Christmas Tree.

Following the Committee discussion of the book Blubber, a motion was made to restrict the use of the book in grades kindergarten through five on the basis that it was not appropriate for its intended audience. The motion failed by a vote of four to nine. No subsequent action regarding the book was taken by the Committee. It was assumed by District officials that the Committee did not intend that any restrictions be placed upon the book.

At a regular meeting of the District Board of Directors, Dr. James Bowman, Assistant Superintendent for the District, reported that the Committee recommended that the film and three books be retained for use in the schools without restriction. Dr. Bowman noted that school administrative officers had reviewed the Committee action and recommended upholding the Committee's recommendation.

Later in the same meeting, Mr. and Mrs. Burgett were afforded an opportunity to appear before the Board to "appeal" the Committee's recommendation on the film and three books and spoke in opposition to the Committee recommendation. The Board placed the issue on the April 19 District Board agenda and made copies of the books and film available to Board members.

At the April 19 District Board meeting, Mr. Burgett briefly addressed the Board on the issue, and David Woodyard made a presentation regarding the film that suggested that opposing viewpoints should be presented whenever the film is shown. Dr. Bowman reviewed the background of the request for reconsideration and noted that the books questioned were library books and not books assigned to be read by all students. He reviewed the Committee recommendation and the District criteria for selection of educational materials. He concluded with the District administration's recommendation that the film and the books be continued to be used in an unrestricted manner.

After discussion of the matter, a motion to affirm the Committee recommendation was made. The motion carried by a vote of seven to zero. It is that decision which is the subject of our review here.

District Board Policy 607 regarding the selection of materials is lengthy and contains provisions for review of materials upon request of any resident or employee of the District. Because the policy is lengthy, only relevant parts are reproduced here. Those relevant parts read as follows:

SELECTION OF INSTRUCTIONAL MATERIALS, Code 607

II. Criteria for Selection of Materials

A. The following general criteria will be used as they apply:

1. Materials shall support and be consistent with the general educational goals of the District and the objectives of specific courses.
2. Materials shall meet high standards of quality in factual content and presentation, and shall be by competent and qualified authors and producers.

3. Materials shall be appropriate for the subject area and for the age, emotional development, ability level, and social development of the students for whom the materials are selected.

4. Materials shall have aesthetic, literary, or social value, and their physical format and appearance shall be suitable for their intended use.

5. Materials shall be chosen to foster respect for minority groups, both men and women, and ethnic groups and shall realistically represent our pluralistic society, along with the roles and life styles open to both men and women. Materials shall be chosen that are designed to help students gain an awareness and understanding of the contributions to our civilization of the above.

These materials shall present and analyze intergroup reactions objectively, placing emphasis upon resolving social and economic problems.

Materials shall also be selected to motivate student and staff to examine their own attitudes and behaviors and to comprehend their own duties, responsibilities, rights and privileges as citizens.

B. The selection of materials on controversial issues will be directed toward maintaining a balanced collection representing various views.

1. Materials shall be selected for their strengths rather than rejected for their weaknesses.

2. Biased or slanted materials may be provided to meet specific curriculum objectives.

IV. Objection.

B. Request for Reconsideration

1. Any resident or employee of the School District may formally challenge instructional materials used in the District's educational program. The challenge shall specify which of the criteria set forth in Section II are the basis for the challenge. This procedure is for the purpose of considering the opinions of those persons in the schools and the community who are not directly involved in the selection process.

4. Within five business days of the filing of the form, the principal shall file the Reconsideration Request Form, and a report of all actions taken at the building level, with the Director of the Curriculum Service Center. The Director will file these materials with the Chairperson of the Reconsideration Committee within five business days of receipt.

7. The Reconsideration Committee

a. The Reconsideration Committee shall be made up of thirteen members, appointed by the Assistant Superintendent for Instruction, as follows:

(1) Two teachers, one elementary and one secondary, designated annually by the Assistant Superintendent for Instruction.

(2) Two school library media specialists designated annually by the Assistant Superintendent for Instruction.

(3) The Director of the Curriculum Service Center.

(4) Five members from the community, nominated annually by the Executive Committee of the Des Moines Council of Parent-Teacher Association. The list shall include fifteen (15) nominees.

(5) Three secondary school students from a list of nominees submitted annually by the Student Council Organizations or high school principals.

(6) If any member of the committee is absent without excuse more than two meetings during a school year, that member shall be automatically removed from the committee and a replacement shall be appointed.

g. The Committee shall receive all Reconsideration Request Forms from the Director of the Curriculum Service Center.

h. The procedure for the first meeting following a receipt of a Reconsideration Request Form is as follows:

(1) Distribute copies of written request form as submitted.

(2) Give complainant or a group spokesperson an opportunity to talk about and expand on the request form.

(3) Distribute reputable, professionally prepared reviews of the materials when available.

(4) Distribute copies of challenged material as available.

i. At a subsequent meeting, interested persons, including the complainant, may have the opportunity to share their views. The Committee may request that individuals with special knowledge be present to give information to the Committee.

j. The complainant shall be kept informed by the Secretary concerning the status of his or her complaint

throughout the Committee reconsideration process. The complainant and known interested parties shall be given appropriate notice of such meetings.

k. At the second or a subsequent meeting, as desired, the Committee shall make its decisions to (1) take no removal action, (2) remove all or part of the challenged material from the total school environment, or (3) limit the educational use of the challenged material. The primary criteria for the final decision will be those listed in Section II. This decision will be based on a vote of the Committee. A simple majority of a quorum is required. A quorum will be nine members present. A written decision and its justification shall be forwarded to the Assistant Superintendent for Instruction and the Director of the Curriculum Service Center. [emphasis added]

l. The Assistant Superintendent for Instruction shall notify the Board of Directors of all decisions reached by the Committee and the action to be taken by the Assistant Superintendent for Instruction based upon that decision at the next regular meeting following the decision.

m. If the complainant or any member of the Reconsideration Committee is not satisfied with the decision of the Committee or the action to be taken by the Assistant Superintendent for Instruction, he or she may request that the matter be placed on the agenda of the meeting of the Board of Directors within one month following the decision of the Reconsideration Committee. The Board shall consider the appeal and may affirm, reverse, modify, or make any other appropriate decision.

n. Any person dissatisfied with the decision of the Board may appeal to the State Board of Public Instruction pursuant to Chapter 290, Code of Iowa.

o. A decision to sustain a challenge shall not be interpreted as a judgment of irresponsibility on the part of the professionals involved in the original selection or use of the material.

Board Policy 607 contains a form on which persons seeking a formal review of educational materials may initiate the process and a list of instructions to the Committee regarding the philosophical basis for the establishment of the Committee. One of the most important aspects of the instructions to the Committee is found in paragraph six which reads as follows:

The Committee will listen to the views of all interested persons before reaching a decision. In deliberating its decision, the Committee should remember that the school system must be responsible to the needs, tastes, and opinions of the community it serves. Therefore, the Committee must distinguish between broad community sentiment and attempts to impose personal standards. The deliberations should concentrate on the appropriateness of the material. The question to be answered by the Committee is, "Is the material appropriate for its designated audience at this time?" In determining whether material is appropriate, the criteria set forth in Section II shall govern.

Very little testimony, evidence or argument dealt specifically with the three books challenged in the Burgett's request for reconsideration. All three are library books and are not used as classroom textbooks. The books are not potentially offensive and are not challenged as being obscene. The crux of the challenge is that the language in the books offend the personal tastes and values of the Burgetts.

The book Between Friends, relates the story of a girl who befriends a retarded girl and is forced to make a choice between that friendship and friendships with peers who are not retarded. Our review of the book indicates the use of "damn" on one page and the phrase "Oh, God, . . ." on another. No other words or phrases generally accepted as objectionable or vulgar appear in the book.

A second book challenged, The House Without A Christmas Tree, is about a young girl who lives with her father and grandmother. The girl cannot understand her father's refusal to have a Christmas tree in the house at Christmas time. After her bringing a tree home caused her father to be

very upset, the girl learned that the tree recreated sad memories of the girl's first Christmas when her mother was still alive. The word "damn" is found twice in the book, "damndest" once and "hell" once. No other words generally considered to be objectionable or vulgar were found in the book.

The third book challenged, Blubber, contains the most number of potentially objectionable words and phrases. The word "damn" is used six times along with one "bitch," one "ass" and one "Oh God." No other words generally considered to be objectionable or vulgar were found in the book. The book portrays cruelty to peers and how one fifth-grade girl learned to cope with and expose the source of the cruelty.

None of the objected to words in the books appeared to be inappropriate to the context of the stories presented. While it is possible for authors to tell the same story without the use of such words, as evidenced by a second copy of The House Without a Christmas Tree in the record, that is a matter for the author and publishers to determine. While the use of these words may not be considered appropriate vocabulary in some settings, and we do not necessarily recommend their usage, we do not find their use in the context of the stories presented to be overly objectionable. Use of the three library books was consistent with District educational goals and objectives.

The primary focus of testimony, evidence and argument at the hearing centered around the film entitled, "Apemen of Africa." The film is not owned by the District, but is loaned to District staff members for classroom use by Area Education Agency 11. The film itself is relatively short and portrays various anthropological discoveries which tend to substantiate the theory of evolution of man from lower forms of life. In one portion of the film, men who were working in Africa on an anthropological dig for fossil evidence of man in a lower form made reference to having a couple of beers with their lunch. One of the men related his surprise at being shown a fossilized bone fragment determined later by the men to be from an early ancestor of man by saying, "I'll be damned." The film did not include potentially offensive or vulgar terminology. The Area Education Agency Media Center also contains materials available to District staff regarding "creation science" and its theory of man's origins.

The film was presented by the teacher to students in a fourth grade social studies class as a demonstration of methods used by social scientists in making discoveries by digging up and analyzing evidence of the past. The record shows that the concepts presented in the film were in conformance with the goals and objectives of the teacher and the District. The record also shows that some school officials now feel that the vocabulary used in the film may have been somewhat advanced for fourth grade students and inappropriate for that reason. After reviewing the film, we are in agreement on this point. The film is not a requirement in all fourth grade social studies classrooms, but was utilized by teachers on an individual basis.

The record is not totally clear as to the teacher's actions or remarks to the students regarding the issue of evolution theory presented in "Apemen of Africa." It is obvious, however, that the teacher was somewhat sensitive to the issue of potential conflict with students' personally held beliefs because she warned the students before showing the film that it presented one theory about the way man came into being. She emphasized that other theories do exist.

The District has a practice of attempting to recognize individual beliefs and respects the views of parents. Mr. and Mrs. Burgett were offered the opportunity to preview all school materials and restrict their children's future access to objectionable materials. There is no evidence in the record that the District has attempted to suppress ideas in opposition to the theory of evolution. There is nothing in the record to indicate that student and teacher discussions of creationism were prohibited or that materials expressing creationist ideas were prohibited. The issues before us deal strictly with educational materials provided to students by the District.

The term "creationism" and the phrase "creation science" generally refer to a body of theory and evidence which allegedly substantiates the Biblical version of the creation of the earth and all living things in six days. An important part of this view is that a world-wide flood occurred as a result of the sinful nature of man.

II. Conclusions of Law

For the purpose of discussion and analysis, the Hearing Panel finds that the issues present in this appeal should be divided into two distinct issues. The first issue is whether the District Board erred in deciding to affirm the recommendation of the District's Reconsideration Committee to continue the unrestricted use of three library books and a film which contain profanity. The second issue is whether the District Board erred in affirming the Reconsideration Committee's recommendation to continue the unrestricted use of a film depicting aspects of the scientific theory of evolution. The minor issue of a brief reference in a film to the drinking of beer at lunch was not of sufficient consequence to be of concern in this appeal. One cannot read the newspaper, watch television or drive down the street without coming face to face with the reality that some persons drink beer.

The real issue of profanity in educational materials is not so much the objectionable words themselves, but the appropriateness of the word in the context of the entire work. It is the book or film or article in its entirety which must be judged in the context of District and teacher educational goals and objectives. The issue is one of appropriateness of the educational material for its designated audience. This standard was first enunciated in the State Board decision entitled In re Ben See, 1 D.P.I. App. Dec. 82 (1975). In that decision, a parent challenged the

continued availability of three school library books to students. In ruling that appropriateness for the intended audience was the appropriate standard for educational materials, the State Board also concluded that the final arbiter of appropriateness was the local district board of directors. See Sections 274.1, 279.8 and 301.1.

The position of the State Board with regard to local school board discretion in determining the appropriateness of educational materials was strengthened as a result of a number of court decisions including the United States Supreme Court decision entitled Board of Education v. Pico, ___ U.S. ___, 102 S.Ct. 2799 (1982). The Pico decision involved a challenge to a public school board decision to remove specific books from the school library under unusual circumstances. While there was no clear majority opinion from the court, it was clear that a majority of the justices supported local board discretion on removal of library books so long as it did not remove books for the purpose of limiting students access to ideas.

District Board Policy 607 clearly establishes the criteria for selection, and by implication, the maintenance of materials in the school library. Section II of that policy provides, in part, that the materials must support the educational goals of the District and must be appropriate for the age and developmental level of the students for whom the material is intended. The general intent of the selection criteria in Section II is in total harmony and consistent with the State Board standard of appropriateness for its intended audience.

It is the criteria contained in Section II which the District Reconsideration Committee uses as its primary standard for making its decision on recommendations to the District Board regarding challenged materials. That, then, is presumably the criteria upon which the District Board bases its decision regarding challenges to educational materials at issue before us.

We find that the District Board used appropriate criteria and procedures in reaching its decision to continue the use of the three books and one film challenged by the Burgetts. We find no improper action existed with regard to District policies and procedures or to state statutes and rules. Actions of the District Board were proper, not arbitrary, and were within its authority.

While the second issue, that of use of a film depicting the scientific theory of evolution, is really part of the issue of appropriateness, the Burgetts have focused most of the attention of the hearing and their arguments on the second issue. It is their contention that the showing of a film on the scientific theory of evolution is in direct opposition to their religious beliefs and the religious beliefs they hope to instill in their children. They have focused on the idea that a presentation of the scientific theory of evolution in the public school classroom results in a "forced disbelief" of their own closely held values and beliefs which is

contrary to law. They ask that the District either be directed to stop using the film presenting the scientific theory of evolution, or, in the alternative, that the District provide instruction in creationism to offset the damage to their beliefs which they believe result from the showing of materials containing the concept of evolutionary theory.

When the District Board accepted the recommendation of the Reconsideration Committee, it effectively denied the Burgetts the focus of their appeal. We are in complete agreement with the District Board in its decision on the film "Apemen of Africa."

While District officials could provide education materials and instruction about creationism and perhaps does, it cannot and should not be forced to teach the concepts of creationism as dogma. Creationism and creation science have repeatedly been found by courts to be a religious belief with First Amendment ramifications. The District is, therefore, limited in what it can do and what it can be forced to do with regard to the inclusion of creationism in its educational programs.

The primary focus of the First Amendment provisions regarding the establishment and free exercise of religion is to make governmental bodies, such as public schools, neutral toward religion. This was stated by the Supreme Court as follows:

Government in our democracy, state and national, must be neutral in matters of religious theory, doctrine, and practice. It may not be hostile to any religion or to the advocacy of no-religion; and it may not aid, foster, or promote one religion or religious theory against another or even against the militant opposite. The First Amendment mandates governmental neutrality between religion and religion, and between religion and nonreligion. *Epperson v. Arkansas*, 393 U.S. 671, 103, 89 S.Ct. 266 (1968).

This neutrality is breached when state government attempts to force public schools to teach creationism along side the theory of evolution. In *Daniel v. Waters*, 515 F.2d 485 (6th Cir. 1975), and *McLean v. Arkansas Board of Education*, 529 F.Supp. 1255 (E.D. Ark. 1982), state statutes in Tennessee and Arkansas, respectively, were struck down on constitutional grounds for doing just that. The legislatures in both states attempted to force the public schools in those states to teach the concepts of creation science whenever the scientific theory of evolution was also taught. The courts have consistently rejected arguments that the theory of evolution is a religion and should not be taught in the public schools and that creation science meets the essential characteristics of being a true scientific theory which should be taught along side the theory of evolution. [For a detailed analysis of creation science as science, see *McLean v. Arkansas Bd. of Ed.*, 529 F.Supp. 1255 (E.D. Ark. 1982).] The Iowa Attorney General's office has stated in an official opinion that

teaching the creationist theory in science class in a public school would violate the First Amendment prohibition against the establishment of religion. Fleming to Anderson, No. 82-10-1, October 1, 1982.

While the First Amendment prohibits the District from teaching creation science on the same basis as the scientific theory of evolution, as the Burgetts have requested, so does practicality prevent the teaching of alternate theories of how things came to be. There are certainly more theories of how the world, man and living things came into being than just those involved in evolution and creationism. To require the public schools to teach all such theories is totally unrealistic.

This point was recognized in a federal court decision entitled, Wright v. Houston Independent School District, 366 F.Supp. 1208 (S.D. Tex. 1972), aff'd. 486 F.2d 137 (5th Cir. ____), cert. denied, 417 U.S. 964 (1974). In the Wright decision, parents challenged public school materials which presented the theory of evolution without critical analysis to the exclusion of other theories regarding the origins of mankind. Their challenge was framed much the same as that of the Burgetts, in that the teaching of the theory of evolution interfered with their religious beliefs. The parents in the Wright decision, like the Burgetts, requested either the removal of the theory of evolution from the curriculum or the giving of equal time to alternative theories of the origins of mankind, specifically creation science. The court declined to do either, and stated its position as follows at page 1211:

In the case at bar, the offending material is peripheral to the matter of religion. Science and religion necessarily deal with many of the same questions, and they may frequently provide conflicting answers. But, as the Supreme Court wrote twenty years ago, it is not the business of government to suppress real or imagined attacks upon a particular religious doctrine. Burstyn v. Wilson, 343 U.S. 495, 505, 72 S.Ct. 777, 96 L.Ed. 1098 (1952). Teachers of science in the public schools should not be expected to avoid the discussion of every scientific issue on which some religion claims expertise.

Avoidance of any reference to the subject of human origins is, indeed, a decidedly totalitarian approach to the problem presented here. Book-burning is always dangerous, but never more dangerous than when practiced on behalf of young and impressionable minds. How is the teacher to respond to the inquiry of a high school biology student regarding the theory of evolution? Is he to be told that the subject is taboo, that the teacher is not permitted to speak of it, that he mustn't ask such questions?

Plaintiffs, however, would propose another approach that, at first glance, seems reasonable and fair: "equal time" for all theories regarding human origins. If the beliefs of fundamentalism were the sole alternative to the Darwinian theory, such a remedy might at least be feasible. But virtually every religion known to man holds its own peculiar view of human origins. Within the scientific community itself, there is much debate over the details of the theory of evolution. This Court is hardly qualified to select from among the available theories those which merit attention in a public school biology class. Nor have Plaintiffs suggested to the Court what standards might be applied in making such a selection.

Plaintiffs' case must ultimately fail, then, because the proposed solutions are more onerous than the problem they purport to alleviate. For this Court to require the District to keep silent on the subject of evolution is to do that which the Supreme Court has declared the Arkansas legislature is powerless to do. To insist upon the presentation of all theories of human origins is on the other hand, to prescribe a remedy that is impractical, unworkable and ineffective.

In conclusion, we find that the Burgetts request with regard to the removal of evolution from the curriculum or the teaching of alternate theories should not and cannot be granted. The force of case law authority and practicality are too great. See also *Crowley v. Smithsonian Institution*, 636 F.2d 738 (D.C. Cir. 1980).

So too, it should be recognized that the District has acted reasonably throughout this entire process. While the film at issue may have been utilized more profitably with students of more advanced age, its content did coincide with the teacher and District's educational goals and objectives. The teacher exhibited a sensitivity to the diverse beliefs of the students in the class when she stated that alternate theories of the origins of man exist which are contrary to those expressed in the movie. While it was not clear from the record what materials regarding creation science were available in Howe Elementary School, such materials were available through the Area Education Agency Media Center servicing Howe. Certainly, nothing prohibits the District from having creationist materials available in the library for student use if deemed appropriate. See *Ablington School Dist. v. Schempp*, 374 U.S. 203, 223 (1963), and *Fleming to Anderson*, No. 82-10-1, October 1, 1982.

In conclusion, we have not been shown where District staff or officials have acted improperly or contrary to policy or law.


We certainly do not want to minimize the legitimacy of the concerns of the Burgetts for potential conflict between what is taught in the public schools and what exists as personal religious beliefs by citizens of a school district. In this great nation, diverse opinions and beliefs are to be protected and respected, even when they are not always directly relevant to those things present in the public school curriculum. That is where the church and family societal partnership with the public schools becomes so very important. The public school cannot be all things to all people. It can only work with families, churches and other institutions to assure that the educational, social and value needs of students are met. From our brief encounter with Mr. and Mrs. Burgett, we have developed great confidence that their strength and sincerity of conviction will win out in the minds of their children.

III.
Decision

The decision of the Des Moines Independent Community School District Board of Directors in this matter, rendered on April 19, 1983, is hereby affirmed. Appropriate costs under Chapter 290, if any, are hereby assigned to the Appellants.

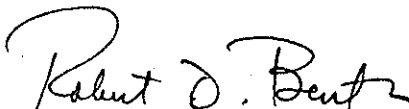
December 9, 1983

DATE


KAREN K. GOODENOW, PRESIDENT
STATE BOARD OF PUBLIC INSTRUCTION

October 26, 1983

DATE


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