

IOWA STATE DEPARTMENT
OF PUBLIC INSTRUCTION

In re Sandra Foltz :

: Sandra Foltz, Appellant :

v. :

Area Education Agency 11, Appellee :

DECISION

[Admin. Doc. 511]

The above entitled matter was heard on October 30, 1979, before a hearing panel consisting of Dr. Robert Benton, state superintendent and presiding officer; Dr. LeRoy Jensen, associate superintendent, administration; and Mr. Dwight Carlson, director, transportation and safety education division. Sandra Foltz was present and presented her position to the Hearing Panel. Don E. Riemenschneider, superintendent, Boone Community School District (hereinafter District) represented the District and K. W. Miller, administrator, Area Education Agency 11 (hereinafter AEA) represented the AEA. The hearing was held pursuant to Section 285.12, The Code 1979 and Departmental Rules, Chapter 670--51, Iowa Administrative Code. The Appellant appealed a decision of the AEA Board of Directors upholding a decision of the District Board of Directors regarding school bus transportation. The Appellant agreed to waive the statutory 15 day time limit for the holding of such hearings.

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.

For at least the last ten years the Appellant's residence, and the immediate surrounding neighborhood, has received school bus transportation services provided by the District. The neighborhood is adjacent to, but outside of, the Boone city boundary. Under former District policy, areas outside the city were provided school bus transportation.

In June, 1979, the District residents, including the residents of the Foltz neighborhood, received notice that the District policy regarding transportation of students would be reviewed for possible changes. The District Board had directed the Superintendent to find ways to reduce District expenses, and the review was to seek ways to economize and to make the District's policy more equitable. The public was invited to attend the regular June Board meeting to discuss the various options available to the District. Eight District families were represented at the meeting. The District Board reviewed and discussed the proposed policy change again at the July and August Board meetings. At the regular meeting on August 14, the District Board unanimously approved the transportation policy change recommended by the District's Administration.

The new policy provided that the District would furnish transportation only for students residing more than two miles from the District high school. Only those students living in eight specified neighborhoods were exempted from the policy and provided transportation even though they were within the two-mile radius. Three neighborhoods, including the Appellant's, which had previously received transportation were not exempted and were thus not provided school transportation.

In determining whether an exemption should be granted under the policy, the District Administration and Board of Directors used five criteria upon which to base decisions. Not all the criteria had to be present for an exemption. Here follows a listing of the Board's criteria:

1. Where students have to walk parallel with, not merely cross heavily-traveled streets;
2. When it is not possible or practical to arrange to have students cross heavily-traveled streets with the aid of a crossing guard;
3. Where there are relatively long stretches of streets or roads where there are no residences;
4. Where there are no sidewalks;
5. Where students have physical handicaps.

The implementation of the policy was conditioned upon the placement of crossing safety guards at two intersections, including one at 16th and Division Streets.

The result of the policy change for the Appellants elementary-age children was that in order to get to school they will leave their home on 16th Street, walk east six blocks to the corner of Division and 16th, cross Division with the aid of a crossing guard and then continue through a residential area with sidewalks to school. The total distance is about 1.8 miles. The first six blocks are along a blacktopped county road which has shoulders available for walking but no sidewalks. Sixteenth Street at this location has a posted speed limit of 30 miles per hour, but the county sheriff has indicated that it may actually be a 55 mile per hour zone.

As a result in the policy change, the District now transports 60 less students than last year and, after redrawing its bus routes, has eliminated the need for one of the routes.

The Appellants appealed the establishment of the District Board policy to the AEA Board on August 20 and was heard before the AEA Board of Directors on September 10. Following the hearing and discussion, the AEA Board voted to "reject" Mrs. Foltz's appeal. Mrs. Foltz then appealed to the Superintendent of Public Instruction.

II. Conclusions of Law

The law very clearly gives boards of directors of local school districts the discretionary authority to determine whether elementary students residing within two miles of their attendance centers may receive school bus transportation. Section 285.1 contains the following provisions:

285.1 When entitled to state aid.

- 1(a) Elementary pupils shall be entitled to transportation only if they live more than two miles from the school designated for attendance.

* * * * *

Boards in their discretion may provide transportation for some or all resident pupils attending public schools or pupils who attend nonpublic schools who are not entitled to transportation. Boards in their discretion may collect from the parent or guardian of the pupil not more than the pro rata cost for such optional transportation, determined as provided in subsection 12.

Generally, the right of local boards to make such decisions will not be overturned on appeal. See *In re Vivian Northrup*, 1 D.P.I. App. Dec. 301. The State Superintendent and State Board of Public Instruction have only rarely reversed decisions of local school officials regarding discretionary bussing, and those instances involved extreme safety hazards to the students involved. See *In re Robert Marovich*, 2 D.P.I. App. Dec. 50.

While we find the conditions for travel along 16th Street less than ideal, we do not consider them so inherently hazardous as to overrule the decision of the District Board of Directors appealed from here. There is not likely to be found a community in the State that does not have some residential area with transportation problems similar to those presented by the Appellant. Only in those cases of apparent extreme hazard do we feel that it is appropriate to overrule a local board of director's decision regarding discretionary bussing of students.

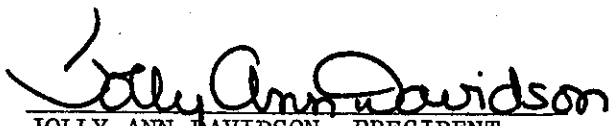
III.

Decision

The decision of the Area Education Agency 11 Board of Directors upholding the decision of the Boone Community School District Board of Directors in this matter is hereby affirmed.

November 4, 1979

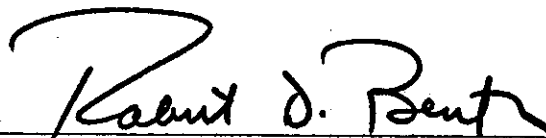
DATE



JOLLY ANN DAVIDSON, PRESIDENT
STATE BOARD OF PUBLIC INSTRUCTION

November 6, 1979

DATE



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