

IOWA STATE DEPARTMENT  
OF PUBLIC INSTRUCTION

(Cite as 2 D.P.I. App. Dec. 284)

In re Rachel Hardman and Susan Stewart	:	
	:	
Rachel Hardman and Susan Stewart, Appellants	:	DECISION
	:	
v.	:	
	:	
Charles City Community School District, Appellee	:	[Admin. Doc. 587]

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The above entitled matter was heard on May 13, 1981, before a hearing panel consisting of Dr. Robert Benton, state superintendent and presiding officer; Mr. Dwight Carlson, director, school transportation and safety education division; and Mr. A. John Martin, director, instruction and curriculum division. The Appellants were represented by Attorney Ted Enabnit, and the Charles City Community School District (hereinafter District) was represented by Attorney Judith O'Donohoe. The hearing was held pursuant to Chapter 290, The Code 1981, and Chapter 670--51, Iowa Administrative Code.

The Appellants are appealing a decision of the District Board of Directors regarding the closing of the Floyd elementary attendance center.

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.

The Community of Floyd is about five miles northwest of the community of Charles City and has a population of about 400 persons. The Charles City and Floyd Districts merged as part of a school district reorganization in 1957.

The primary issue presented in this appeal is one of long-standing in the District. Rachel Hardman, one of the Appellants, testified that there had been discussion and consideration regarding the closing of the Floyd attendance center for about 10 years. She stated that the matter was considered frequently, "maybe annually," as a potential cost-savings action in the District. She testified that she personally had been actively involved in attempting to keep the Floyd building open since October, 1978. The record clearly verifies the regularity with which the question of maintaining the Floyd attendance center was considered by former District Boards. Several previous votes by District Boards on the issue resulted in the Floyd elementary building being kept open.

The most recent impetus for closing the Floyd attendance center came as a result of the multifaceted financial dilemma in which the District found itself during the 1980-81 school year. The District's student enrollment has continued to decline over the years, and budget constraints created by the enrollment decline were becoming more serious. During fiscal 1981, Iowa Governor Robert Ray was forced to reduce state budget expendi-

tures, including state aid to schools, by 4.6% which amounted to \$137,971.00 for the District. The problem was intensified by a decision of the State Comptroller to delay state school aid payments to districts and by an unusually high delinquency rate for local property tax payments. Delinquent property taxes were experienced at a 5% greater rate than the preceeding year. The District was forced, as a result, to borrow money through the issuance of anticipatory warrants in sums of up to \$1,000,000. This borrowing is expected to cost the District a previously unanticipated \$20,000.00 to \$25,000.00 in interest. When problems became apparent, the District took early action to aid its cash flow problem. Among other things, it canceled all nonessential orders for books, materials and supplies and started a successful campaign to reduce utility expenses.

The first official mention of the current consideration of the closing of the Floyd attendance center was in the Board agenda for the October 27, 1980 Board meeting. Questions of the possibility of closing Floyd or another elementary attendance center and other financial planning necessitated by declining enrollments and other financial pressures were raised by Superintendent George Lorber. At the request of the Board at that meeting, the District's administration prepared an extensive report which involved information on enrollments, transportation, expenses, facilities, cost-saving proposals and other data. The report was presented to the Board at the November 24, 1980 meeting.

The District Board, at its December 8 meeting, established January 5, 1981, as the date for a public meeting in Floyd to discuss the future of the Floyd attendance center in light of declining enrollment and financial constraints. The Board, at its December 29 meeting, continued to discuss the available data and the procedures to be followed at the January 5 public meeting.

On January 5, 1981, the Board met with Floyd area residents and received suggestions and questions. At the January 26 meeting, the District Board reviewed and discussed 53 suggestions for alternative savings presented by the Floyd residents. Information both supporting and opposed to those suggestions was presented and considered. Detailed information was discussed regarding recommendations by some Floyd citizens that several programs and administrator positions be reduced. The Charles City Community Education Association submitted written and oral comments on various cost-saving proposals. The Board considered the various alternatives presented and compiled a list that it desired to consider further at its February 17 meeting. Additional consideration to the closing of the Floyd attendance center was also given at a special meeting held on March 3.

The published agenda for the March 10 meeting indicated that the Board would review and make final decisions on proposed budget cuts for the 1981-82 school year, including the potential closing of attendance centers. A report presented to the Board and dated March 10 showed the District's estimated cash deficit for the 1980-81 school year would be \$64,069.00. Legislation then before the Iowa legislature signaled increased financial problems. House File 414 (1981) proposed to reduce school districts' 1981-82 budget growth by about one-half the figure previously anticipated. The District administration estimated that even with a savings of \$104,095.00 through staff reduction, the projected 1981-82 school year expenditures would exceed its likely authorized budget by about \$50,778. The total projected cash deficit for the combined 1980-81 and 1981-82 school years was \$114,847.00. In the minds of District officials, the proposed budget would have to be reduced.

A report submitted by the District's administrators to the District Board at its March 10 meeting outlined 24 potential cost-saving items which would have an estimated savings of \$68,294.00. Since this amount fell short of the \$114,847.00 anticipated two-year deficit, the administration report noted that the closing of the Floyd attendance

center would save the District an additional \$110,022.00 and would allow the District to carry over an estimated \$63,439.00 into the 1982-83 budget year.

With approximately 150 District citizens in attendance, the Board considered and voted upon over 25 separate motions on specific items to reduce the District's expenditures including the closing of the Floyd attendance center. The motion to close Floyd was approved by a vote of 3 to 2.

Of the four elementary attendance centers in the District, Floyd was the only one which could be closed totally and its students absorbed by the other attendance centers. Floyd enrollment for the 1980-81 school year was 128 students, and Jefferson, the school with the next smallest enrollment, had an enrollment of 295 students. The Floyd building has had the most rapid percentage decline of enrollment in recent years and was projected to have an enrollment of 119 students next year and only 84 students in five years. All but 45 of the students attending Floyd are rural students who are already bussed into Floyd. The Floyd building has the shortest projected useful life of the District's elementary attendance centers.

Helen Adams, the Charles City Board President at the time of the reorganization in 1957, testified that the Charles City Board met with the Floyd Board on several occasions and agreed that the Floyd elementary attendance center would be kept open indefinitely. Dale Vance, a member of the Floyd Board at the time of the consolidation, indicated that the Floyd Board was enticed to become part of the Charles City reorganization proposal as a result of representations made to it by the Charles City Board that the Floyd attendance center would not be closed. An undated document establishing attendance center boundaries, found in District files of papers dating back to the reorganization period, indicated that the Floyd elementary attendance center would have the same boundaries as the former Floyd School District. (Interestingly, the voters in the Floyd District rejected the reorganization proposal by approximately a 40%-60% vote, but Floyd became part of the reorganized Charles City School District under then existing laws, because the reorganization proposition carried in a sufficient number of the other districts included in the proposition.)

The proposition presented to the voters on the reorganization question did not contain any language regarding the maintaining of an elementary attendance center in Floyd or any mention of such an agreement of that nature. A search of school minutes and records did not reveal any written statement or memorial expressly establishing the existence of such an agreement.

While there was evidence in the record that school bus routes may approach a riding time of 60 minutes for elementary students, there was nothing to show that they will exceed 60 minutes when finalized. The Board, in its deliberations, considered the number of students residing in various portions of the District and the geographical location and convenience of its attendance centers. Appropriate consideration was given by the District Board to the effect the decision to close the Floyd attendance center would have on the community of Floyd.

## II. Conclusions of Law

The Appellants have raised six allegations as the basis for their request that the District Board decision to close the Floyd attendance center be overturned. We find that on the basis of the record before us, none of the six allegations are well-founded in law or in fact. The District Board, as had several of its predecessors, deliberated

at length on the general issues of declining enrollment and financial constraints and on the specific issue of closing of the Floyd attendance center. The record is quite clear that the decision made here was made after appropriate deliberation and was not arbitrary or capricious. The Board did take into account the effect of its decision on the town of Floyd, but in the final analysis, it had to consider also the best interests of the entire District.

There is nothing in the record which establishes that elementary school bus routes in the District for the 1981-82 school year will exceed the 60-minute riding time limitation found in Departmental Rule 670--22.1(3), Iowa Administrative Code.

While the Appellants allege that the Board, in making its decision at issue here, failed to consider the statutory factors required by §297.1 to be considered before closing an attendance center, we are not convinced that §297.1 is relevant to school closings. By its clear language, the terms of §297.1 are applicable to the establishment of new schoolhouse sites and has no apparent application to school closings. Even so, we find that those matters requiring consideration by §297.1 were considered by the Board in making the decision at issue here.

The District Board clearly acted within its statutory authority to close the Floyd attendance center and assign the students to another attendance center. §§274.1, 279.11 and 297.1. The underlying question here is whether representations made by members of former District Boards without being reduced to writing or being contained in a proposition submitted to the voters can bind the present Board. We feel that the evidence presented is strong enough to create a strong likelihood that the alleged representations were made. However, we feel that more than mere oral representation is required to bind future boards. In the previous State Board decision in In re Judi A. Johnson, et al., 1 D.P.I. App. Dec. 151, the State Board found that representations to continue maintenance of an attendance center "not placed on the level of a contractual or other binding obligation," were not binding on future boards. That decision was upheld by the Polk County District in Judi A. Johnson v. the Iowa State Department of Public Instruction, Eq. No. CE7-4033 (1978). We feel that this position is further buttressed by the Attorney General's Opinion appearing at 1976 O.A.G. 853. That opinion states in relevant part at page 854 as follows:

The proposition voted upon by the electors and the terms of any agreement incorporated by reference therein are binding on future school boards. Statements of board members made prior to the vote concerning interpretations and meanings of the consolidation agreement are helpful to the interpretation of such agreement but do not change the plain meaning of such agreement.

If an agreement is contained in a reorganization proposition submitted to the voters, it may be binding on future boards. However, the proposition submitted to voters in the 1957 reorganization proposition contained no agreement, even by reference, to maintain an elementary attendance center in Floyd.

III.  
Decision

The decision of the Charles City Community School District Board of Directors in this matter is hereby affirmed. Appropriate costs are hereby assigned to the Appellants.

June 11, 1981

DATE

May 29, 1981

DATE

*Susan M. Wilson*

SUSAN M. WILSON, PRESIDENT  
STATE BOARD OF PUBLIC INSTRUCTION

*Robert D. Benton*

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