

IOWA STATE DEPARTMENT
OF PUBLIC INSTRUCTION

In re Wilma R. Vinall, et al. :

Wilma R. Vinall, et al. :

Appellants :

Grinnell-Newburg Comm. Schl. Dist. :

Appellee :

* * *

DECISION

In re Evelyn M. Osborn, et al. :

Evelyn M. Osborn, et al. :

Appellants :

Grinnell-Newburg Comm. Schl. Dist. :

Appellee :

[Admin. Doc. 351]

The above entitled matter came for hearing on the 12th day of September, 1975, at approximately 9:00 a.m. Testimony was heard the entire day of the 12th and part of the morning of the 13th. The Hearing was held pursuant to Chapter 290, The Code 1975, and Departmental Rules Chapter 670--51, Iowa Administrative Code. The Hearing Panel consisted of Dr. Robert Benton, state superintendent and presiding officer, Dr. Richard Smith, deputy state superintendent, and Dr. Donald Cox, associate state superintendent. The Appellants were represented by Mr. Dennis F. Chalupa and the Appellee was represented by Mr. F. W. Tomasek and Richard Vogel.

I.

Statement of the Issues

On June 25, 1975, the Board of Directors of the Grinnell-Newburg Community School District (hereinafter District) voted to implement changes in the District's transportation procedure as a result of plans to implement the joint use of the senior high school building for junior and senior high educational programs. On July 9, 1975, six patrons of the District filed an appeal of the decision with the State Board of Public Instruction. On July 9, 1975, the Board of Directors voted to implement a plan of split-shifting for the use of the senior high facility by both junior and senior high students. Some modification of the original transportation plan was made. On July 31, 1975, a second appeal was filed by nine District patrons objecting to the decision made at the July 9 Board meeting. The parties to the second appeal asked that theirs be joined with the earlier appeal on the same subject matter. The two matters were joined for hearing and decision without objection by the parties. Delay in hearing the matter was largely a result of requests of the parties.

The combining of the appeals presents three related District Board of Director's decisions which are contested by the Appellants:

1. The order and decision of the Board of Directors to split-shift high school and junior high students for the 1975-76 school year.
2. The order and decision of the Board of Directors to commence the split-shifting of the high school and junior high students for the 1975-76 school year at hours commencing for high school students at 8:00 o'clock A.M. so that they are returned home at approximately 2:00 o'clock P.M. and the decision of the Board to commence junior high school at approximately 1:00 o'clock P.M. and ending at 6:00 P.M.
3. The decision of the Board of Directors not to repair the junior high building for use for the coming school year.

II.

Statement of facts

The questions at issue before the Hearing Panel have long roots. As early as January, 1969, the Grinnell-Newburg Community School Board established a School Study Committee to consider ways of handling the maintenance and building needs of the District. The Committee was made up of citizens of the District who met over a period of ninety days and submitted oral and written reports to the Board on May 14, 1969. The portion of the report dealing with the junior high structure recommended construction of a new building rather than remodeling the existing structure. Two of the reasons given by the Committee--prohibitive costs and inadequate site--were heard repeatedly by the Hearing Panel as testimony progressed.

In December, 1969, a "Master Plan for the Grinnell-Newburg Community School District" was presented to the Board by three educational consultants headed by Dr. Richard P. Manatt of Iowa State University. The "Manatt Report," as it came to be called, recommended the abandonment of the junior high structure and provisions be made for a new facility.

The record is not clear on what happened over the next four years regarding the structure, but in December, 1973, the junior high school building was inspected by Robert Leber, deputy state fire marshall. In a report issued on December 6, violations of numerous fire safety regulations were enumerated which were to be corrected by September 1, 1974. The District expended about \$20,000 in making repairs and alterations in an attempt to comply with the directives of the fire marshall's office.

On February 8, 1974, Gayle Obrecht, then chief, plant facilities unit of the Department of Public Instruction, sent a letter to the Grinnell-Newburg Superintendent of schools as a follow-up on his site inspection of the District's facilities. His letter listed 13 "major educational and structural deficiencies" of the building.

Mr. Leber of the state fire marshall's office was requested to conduct a further inspection and suggest ways in which the District might comply with the fire marshall's regulations. Present during this inspection was the District's architect, Ken Wallerstedt. Mr. Leber's report was made on February 10, 1975. The Board directed its architect to prepare cost estimates for the necessary repairs and for more extensive remodeling to bring it up to an acceptable educational standard. Extensive testimony by Mr. Leber and Mr. Wallerstedt was heard by the Hearing Panel. Mr. Wallerstedt estimated the cost of bringing the junior high structure into compliance with the fire marshall's directives to run between \$195,000 and \$215,000, exclusive of architect fees.

In March, 1975, the Board of Directors called a public meeting to discuss the problem. The meeting was attended by 200 to 400 persons who were given the opportunity to express their opinions.

Presented with the reports of the architect's estimates in March, 1975, the Board decided that the voters of the District should make the final decision on the spending of money on the existing structure. The issue was broken down into two propositions, one to make repairs required by the state fire marshall, not to exceed \$250,000, and the other, not to exceed \$1,500,000, for making other educational improvements in the building. Both issues were soundly defeated in the June 18, 1975 election. The first proposition received about 43 per cent and the second about 21 per cent of the votes cast with a 60 per cent favorable vote required for approval.

This was not the first election relative to the junior high school situation which was defeated by the Grinnell-Newburg electorate. On December 8, 1969, a bond issue for \$571,000 to build additions at Fairview Elementary School and the senior high school was defeated. On October 3, 1973, a bond issue for \$5,325,000 to build a middle school which would include the seventh and eighth grades and additions to the high school that would house the ninth grade was defeated, and on December 11, 1974, a \$4,450,000 bond issue to be used partially to expand the senior high building was defeated.

In May, 1975, immediately prior to the June election, the District's problems with the junior high building were compounded as a result of findings of violations of O.S.H.A. regulations by the Iowa Bureau of Labor. An inspection of the building, following an employee complaint, resulted in twenty-six citations for violations of O.S.H.A. standards and an order to comply with the standards by September 1, 1975.

Faced with the foregoing set of circumstances the Board of Directors, after due deliberation and upon advice of the school's administration, voted on June 25, 1975, to approve the transportation plan for the implementation of split-shifting. The final decisions relating to split-shifting were made at the Board's July 9, 1975 meeting. The later action also modified earlier action of the Board relating to the transportation of the students. In essence, the Board's decisions were to provide utilization of the District's high school building in the morning hours for the holding of high school classes and in the afternoon hours for the holding of junior high classes. Transportation times for students were staggered so that senior high and elementary students were transported at the same time with the junior high students being transported at other times to make more efficient use of the District's transportation capabilities.

On September 9, 1975, the Board of Directors placed before the District's electorate, a proposal to expand the existing high school building to make additional room available for the junior high students and ultimately end the split-shift situation. The proposal received approval from about 54 per cent of the voters, but fell short of the required 60 per cent majority.

Several of the Appellants testified that the split-shifting decisions worked hardships on the families in the district. In their opinion, split-shifts meant that various family members would be eating, working and studying on different schedules and would result in a general weakening of the family unit. Their testimony also disclosed that because of the overlapping school schedules, four to twenty high school students are required to wait for about two hours in the school library in order to ride the midafternoon bus.

Walter Rixen, the senior high principal, testified that the disadvantages of split-shifting to the senior high program were minimal. He cited the two greatest disadvantages to the program as the loss of five minutes from each time module and the elimination of the school's hot lunch program. It was emphasized that the school's educational program continues to meet the state minimum requirements and that no curriculum or activities were cut as a result of split-shifting.

Michael Fitzgerald, the junior high principal, testified that the decision to split-shift resulted in a definite advantage to the junior high program. The use of the newer facility in place of the older one allowed a better managed educational program. He indicated that no courses or activities had been cut from the educational program as a result of split-shifting and a new program for learning disabilities had been added. The greatest disadvantage, in Mr. Fitzgerald's opinion, was that four minutes had to be cut from each time module. He testified that the current schedule continues to meet or exceed the state's minimum requirements.

The testimony of several persons, especially Superintendent Michael Slusher and Board member Maynard Rafferty, indicated that the situation is considered temporary and that efforts are being made to improve the situation. There is currently a planning study being conducted to develop solutions to the problem.

The Hearing Panel finds that the District's Board of Directors in this matter made their decisions after due and sufficient consideration, had sufficient basis in fact for their decisions and did not deprive the children of the Appellants of their equal right to an education.

III. Conclusions of Law

Few issues of law were presented by the facts or the parties in this matter. The primary question at issue involves the decision of the Board of Directors to institute a split-shifting plan of attendance for the junior and senior high educational programs. The inconveniences to be borne by the citizens of the district are indeed unfortunate. However, the decision of the Board resulted from a combination of long study and thought and a crisis situation brought about through circumstances largely beyond its control. The Board is to be commended for making the best of an unfortunate situation.

The original petitioners alleged in their appeal affidavit that their children, as opposed to students residing in town, would be deprived of their equal right to a free public education. Under the circumstances found in the record, we find no such deprivation.

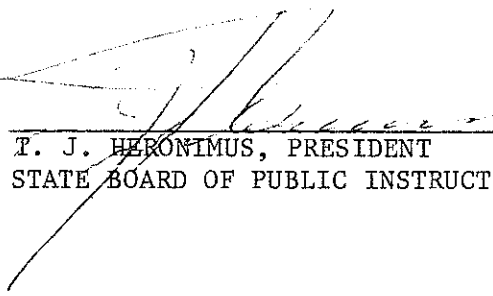
All objections of the parties not previously ruled upon are hereby overruled.

IV.
Decision

The decisions of the Board of Directors of the Grinnell-Newburg Community School District in this matter are hereby affirmed. Appropriate costs are hereby taxed to the Appellants.

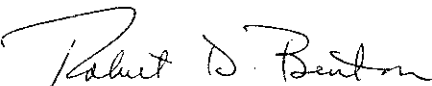
January 8, 1976

DATE


T. J. HERONIMUS, PRESIDENT
STATE BOARD OF PUBLIC INSTRUCTION

December 29, 1975

DATE


ROBERT D. BENTON, Ed.D.
STATE SUPERINTENDENT, AND
PRESIDING OFFICER