

IOWA STATE DEPARTMENT  
OF PUBLIC INSTRUCTION

(Cite as 1 D.P.I. App. Dec. 216)

In re Erik Sessions	:	
	:	
Robert & Linda Sessions	:	
Appellants	:	DECISION
	:	
v.	:	
	:	
Decorah Community School District	:	
Appellee	:	[Admin. Doc. 429]

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The above entitled matter was heard on May 4, 1978, by a hearing panel consisting of Dr. Robert Benton, state superintendent and presiding officer; Dr. LeRoy Jensen, associate superintendent, administration branch; and David Bechtel, administrative assistant. Robert and Linda Sessions were present and represented themselves. Superintendent Wayne Burns and Board President Erlin Lomers represented the Decorah Community School District (hereinafter District). The hearing was held pursuant to Chapter 290, The Code 1977, and Chapter 670--51, Iowa Administrative Code.

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 parties in this appeal have appeared previously before the State Board of Public Instruction on a nearly identical issue. In that appeal, In re Erik Sessions, 1 D.P.I. App. Dec. 181, the State Board ruled that the Sessions had developed a satisfactory instructional program for providing private instruction for their son, under the provisions of Section 299.4, but that they failed to satisfactorily comply with the provisions of Section 299.1, in that they did not meet the test of "equivalent instruction by a certified teacher. . . ." The Sessions' program of instruction in that appeal included "supervision" provided by a certificated teacher on a monthly basis and more frequent consultation on a social basis.

At the regular District Board meeting on March 7, 1978, the Board reviewed materials submitted by the Sessions regarding a proposed change in their son's planned instructional program. The sole program change envisioned was a change in the amount of time Erik would spend with a certificated teacher. The "supervision/instruction" time was increased from that ruled inadequate in the prior appeal to two hours a week. Part of the two hours would be spent evaluating Erik's learning progress and part of the time would be spent discussing Erik's learning progress with his parents. The Sessions analogized their role in carrying out the certificated teacher's instructions to that of a teacher aide. This program was implemented on February 13, 1978.

After discussing and reviewing the materials for about an hour the District Board voted unanimously to refuse the Sessions another hearing before the Board. The record shows that the Board did so because it felt that the changes made in the proposed program were insufficient to cause it to change its previous decision to refuse to grant the Sessions the opportunity to provide their son private instruction. There had been three previous meetings between the Board and the Sessions regarding the proposed instructional program. Through an individual contact initiated by the Sessions, they were told by one Board Member that the Board felt the time involved in instruction by a certificated teacher must be identical to that provided in the public school.

II.  
Conclusions of Law

The Sessions argue, first, that the District Board acted unfairly in not allowing them to appear and discuss the matter and that the Board acted unreasonably in refusing their request without adequate knowledge of their situation. We do not agree. While we feel generally that persons wishing to appear before a board of directors should be granted that opportunity, the circumstances present here do not dictate such a finding. The District Board was very familiar with the issues and facts involved. It had previously spent many hours studying and discussing the matter before it. There was only one proposed change in the program to be considered and that could reasonably be discussed in the absence of the Sessions. We find, under the facts present here, no sufficient reason, at this time, to require the District Board to allow the Sessions another hearing.

The Sessions also argue that the proposed change in their program now brings it into compliance with the law concerning the requirement of instruction by a certificated teacher. Again we do not agree. On May 10, 1978, the Department of Public Instruction issued Declaratory Ruling #22, 1 D.P.I. Dec. Rul. 38, to Mr. & Mrs. Sessions. The finding in that ruling was that, ". . . the appropriate standard to be used to determine the amount of instruction required by a certificated teacher is that portion of the normal school day during which instruction occurs in the public school district of residence." We feel that under the provisions of Section 17A.9 and Departmental Rule 670--53, in the absence of distinguishable facts or applicable law, we must follow the finding in Declaratory Ruling #22. We do not see any such distinguishable facts or applicable law here. While the record in this appeal does not disclose the specific amount of time during which instruction occurs in the Decorah Community School District, we feel that it is safe to assume that such instruction is in excess of the two hours a week which the Sessions have planned for "supervision/instruction" by a properly certificated person.

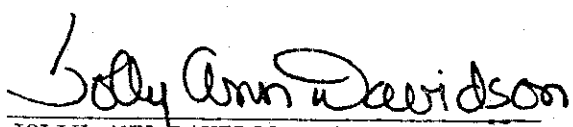
All objections and motions not previously ruled upon are hereby overruled.

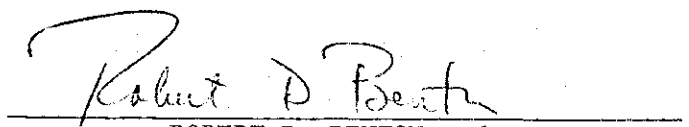
III.  
Decision

The decision of the Decorah Community School District Board of Directors in this matter is hereby affirmed. Appropriate costs, if any, under Chapter 290, are hereby assigned to the Appellants.

June 8, 1978  
DATE

May 31, 1978  
DATE

  
JOLLY ANN DAVIDSON, PRESIDENT  
STATE BOARD OF PUBLIC INSTRUCTION

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