

IOWA DEPARTMENT OF PUBLIC INSTRUCTION

(Cite as I D.P.I. App. Dec. 169)

In re Lisa Ann Edgerton :
 :
 Ann C. Edgerton, Appellant :
 :
 v. : DECISION
 :
 Decorah Community School District :
 Appellee :
 : [Admin. Doc. 407]

The above entitled matter came for hearing on November 22, 1977, at approximately 1:00 p.m. The matter was heard by a hearing panel consisting of Dr. James Mitchell, deputy state superintendent and presiding officer; Dr. Donald Cox, associate state superintendent; and Dr. LeRoy Jensen, associate state superintendent. Dr. Mitchell sat as the presiding officer in the absence of the State Superintendent pursuant to Section 257.22, The Code 1977. The hearing was held pursuant to Chapter 290 and Departmental Rules, Chapter 670--51, Iowa Administrative Code. Ann Edgerton was present and represented herself. The Decorah Community School District (hereinafter District) was represented by Attorney Donald Gloe.

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.

Ann Edgerton holds an Iowa teacher's certificate with endorsements 10 (teacher elementary K-9) and 53 (prekindergarten - kindergarten), and is thus legally qualified to teach elementary subjects. She has completed a year's course of study in the theory and practice of the Montessori method of education from a training center in London, England, completed the Minnesota Department of Education requirements for human relations training and served as coordinator of head start programs for six southern Minnesota counties.

Lisa Edgerton has previously attended school in a laboratory school at Mankato State College and has attended the Decorah Schools in the 1976-77 school year. The record shows that Lisa is an above average student.

On September 19, 1977, Ann Edgerton appeared before the District Board of Directors and requested that she be allowed to remove her daughter, Lisa, from the District school system and institute a program of private instruction under the authority of Section 299.4.

The District's administrative staff reviewed the request and determined, on the basis of the program of instruction explained to them by Ms. Edgerton, that her planned instructional program was not equivalent to that offered in the District's schools. The District's administrative team recommended that the Board not approve the private instruction as proposed by Ms. Edgerton. It is apparent from the record that some of the administrators and some of the members of the Board felt that an instructional program implemented by a single parent could not be equivalent. They felt that the aid of specialized staff, such as in art and music, would not be available and aid from remedial teachers would also be lacking. Several persons showed concern for the lack of social interaction between Lisa and peers and the lack of specified procedures to evaluate Lisa's progress. After a discussion with Ms. Edgerton, which is outlined in more than three pages of Board minutes, the Board voted unanimously to deny Ms. Edgerton's request to instruct her 10 year old daughter, Lisa, at home.

At the conclusion of the September 19 meeting, Wayne Burns, District Superintendent, reminded Ms. Edgerton of her responsibilities and those of the District under the Iowa compulsory attendance statutes. Mr. Burns informed her that if her daughter was not in school the next day, he would be compelled to have legal papers served charging her with violation of the compulsory attendance statutes. Ms. Edgerton subsequently took Lisa to stay with the child's grandparents in California where Lisa was residing and attending school at the time of the hearing.

In testimony before the Hearing Panel, Ms. Edgerton presented a written list of 19 books which Lisa had read during the months of August through October. The list did not include those books read to Lisa or those read together. Also submitted was a summary of 1977 summer activities which included field trips related to ecology, geology and anthropology. A summer-long visit to France, in the company of Lisa's grandparents, is planned for next summer. Several textbooks, which are planned to be used in working with Lisa, were shown to the Hearing Panel. Little else in the form of a definite planned educational program or ongoing evaluation was presented to the Hearing Panel.

The Hearing Panel finds that Ann Edgerton failed to sufficiently show that her plans for the instruction of her daughter in a private instruction situation were "equivalent instruction." Her testimony on this point was very general and sketchy and was lacking in definite direction and goals. Only a general mention was made of materials and methods. While we are certain that all plans were well intended, they fall short of a showing of "equivalent instruction."

Ms. Edgerton's appeal affidavit alleged that the Board was biased and prejudiced and thus violated her right to due process. We find that she has failed to substantiate this allegation.

II.

Conclusions of Law

The two primarily relevant Code Sections involved in this matter are 299.4 and the last sentence of 299.1. Here follows the language of those statutes.

299.1 Attendance requirement.

* * * * *

In lieu of such attendance such child may attend upon equivalent instruction by a certified teacher elsewhere. [emphasis added]

299.4 Reports as to private instruction. Any person having the control of any child over seven and under sixteen years of age, who shall place such child under private instruction, not in a regularly conducted school, upon receiving notice from the secretary of the school district, shall furnish a certificate stating the name and age of such child, the period of time during which such child has been under said private instruction, the details of such instruction, and the name of such instructor.

Attorney General Opinions appearing at 1906 O.A.G. 130 and 1928 O.A.G. 293 clearly indicate that private instruction under 299.4 must meet the test of "equivalent instruction" by a certificated teacher. Since there is no issue here as to the certification of Ms. Edgerton, the primary issue revolves around the determination of "equivalent instruction." The Attorney General Opinions cited above lay a significant part of the responsibility for determining equivalency upon the local school district, particularly the board of directors. The District Board partially fulfilled its responsibility when it heard and refused to allow Ms. Edgerton to place her daughter "under private instruction, not in a regularly conducted school." In refusing Ms. Edgerton's request, the District Board impliedly determined that the planned instructional program was not equivalent.

At this point, we feel that clarification needs to be made with reference to several opinions expressed in the record regarding "equivalent instruction." We do not totally agree with those sentiments which indicate that no one person, regardless of qualification, could provide an instructional program equivalent to that of the District with its specialized staff and resources. The law appears to require "equivalent" instruction, not necessarily identical instruction. If the panel were to agree with those opinions in the record, the result would be that the provisions of Section 299.4, when read together with Section 299.1, would be virtually impossible to fulfill.

We agree, instead, with Ms. Edgerton that the legislature appears to have intended to provide for alternative educational experiences meeting the test of equivalent instruction under the supervision of a properly certificated teacher. The state of Iowa through its Constitution and statutes, has accepted its responsibility to provide a quality educational program for its citizens. The state further exhibits its commitment to education by allocating more than half its state revenue to this important responsibility. However, the state's commitment to provide its citizens with an opportunity to obtain a formal education does not necessarily reflect or intend to require complete uniformity. The Appellant expressed agreement with the law and stated a desire to provide "superior" equivalent education. However, Ann Edgerton has not, at this time, sufficiently shown her instructional program to be equivalent.

Appellee's Brief raises an interesting and difficult question. In effect, it asks whether the District Board, and impliedly the State Board, has the authority to grant an "exemption" to the compulsory attendance statute. We feel, as does the District, that no such authority exists. However, since local school officials are required to aid in the enforcement of the provisions of the compulsory attendance statutes, they have a responsibility in determining whether a violation has occurred. See Attorney General Opinions previously cited. Ms. Edgerton, in effect, did not ask for an exemption from the District Board, but a determination as to whether it considered her proposed instructional program to be equivalent. A favorable determination by a school board on such a question would likely preclude school officials from taking action against a parent until a contrary determination is made at a later time, and such a decision would likely carry weight with the county attorney and district court judge should someone else wish to pursue enforcement of Chapter 299.

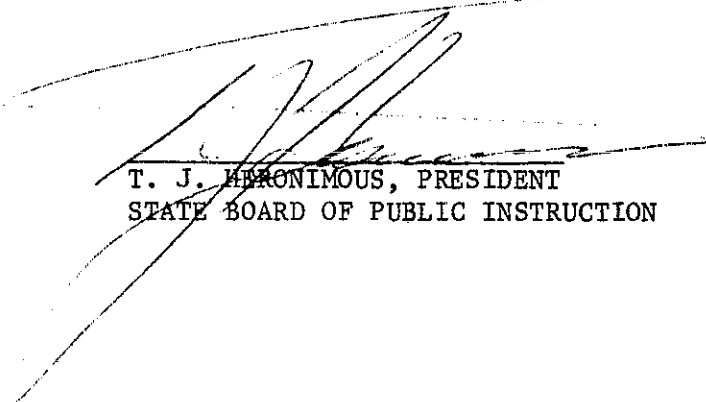
All other motions and objections not previously ruled upon are hereby overruled.

III.
Decision

The decision of the Board of Directors of the Decorah Community School District in this matter which was rendered on September 19, 1977, is hereby affirmed. Appropriate costs under Chapter 290, are hereby assigned to the Appellants.

December 8, 1977

DATE


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

December 1, 1977

DATE


JAMES E. MITCHELL
DEPUTY STATE SUPERINTENDENT
AND PRESIDING OFFICER