IOWA STATE BOARD
OF EDUCATION
(Cite as 9 D.o.E. App. Dec. 11)

In re Eileen Cadarr :

Eileen Cadarr, :
Appellant,

v. : DECISION

Indianola Community
School District, :
Appellee. [Admin. Doc. #3117]

The above-captioned matter was heard on May 7, 1991, before a hearing panel comprising Joseph Wolvek, consultant, Bureau of Planning, Research and Evaluation; Lee Crawford, consultant, Bureau of Technical and Vocational Education; and David H. Bechtel, [then] special assistant to the director of education and presiding officer. Appellant Eileen Cadarr was present in person and represented herself. Appellee Indianola Community School District [hereafter the District] was present in the person of Superintendent David Scala, also unrepresented by counsel.

Appellant timely appealed seeking review of a decision of the District board of directors [hereafter the Board] made on February 25, 1991, to cease using Hawthorne Elementary School as a K-4 attendance center, send these students to Irving Elementary School, and operate the District's Head Start and child care programs out of the Hawthorne building beginning in the 1991-92 school year.

An evidentiary hearing was held pursuant to procedures found at 281 Iowa Administrative Code 6. Authority for the appeal lies in Iowa Code section 290.1.

## I.
## Findings of Fact

The presiding officer finds that he and the State Board of Education have jurisdiction over the parties and subject matter of this appeal.

Appellant is the mother of three children, the youngest of whom was in third grade in the 1990-91 school year, enrolled at Hawthorne. She has lived in the District for approximately eight years and provides a day care service in her home and attends college in the evenings.

The District in 1990-91 operated four elementary attendance centers. Hawthorne Elementary School is a single section building built in 1893 with additions in 1952. It is situated near the junction of Routes 92, 65, and 69, near "downtown" Indianola. Ninety-five students in kindergarten through fourth grade were enrolled there in the 1990-91 school year. The average (kindergarten through fourth grade) teacher-pupil ratio was 1:19.

The Hawthorne building is not accessible to those with physical disabilities. The average teacher-pupil ratio was 1:19. With respect to special services and programs, the building was crowded. The school nurse shared her space with the Chapter 1 (reading and math) program. The resource room teacher used the kindergarten room in the morning and the music room in the afternoon. The art room was a former coal room, and only recently had the media center moved into its own room from displays on the stairway landings. The playground area was minimal because the school building occupies most of the approximately one-half block site. The basement was being utilized, but has no windows and apparently is somewhat hazardous in more than one respect. There was no room at Hawthorne to serve preschool children with disabilities, so they were served at Irving.

Also of impact on the decision made in this case was the fact that in the spring of 1990 the Board had approved adoption of a before and after school care program. In May, 1990, the Board approved Hawthorne as the site for the new program, but also specified that Hawthorne would continue to operate as a K-4 elementary attendance center in 1990-91. Appellant's Exhibit 13; Appellee's Exhibit A.

In early December, 1990, the Board reviewed a school standards site visit report prepared by Department of Education consultant Stan Kerr. Mr. Kerr had recommended closing the Hawthorne building.[1] At the same meeting, Superintendent Scala informed the Board that a study of building usage should be done, and the Board directed that the administration report at one of the January Board meetings as to its recommendations.

On January 28, Superintendent Scala, representing the District administrators who had discussed and reviewed the elementary and middle school facilities issue, made a recommendation to the Board that Hawthorne be used for the District's day care and Head Start programs, and all of its elementary students be moved to Irving Elementary. The advantages and rationale for the recommendation included increased opportunity for teaming for the Hawthorne teachers, an equalization of class sizes in the District, greater student and teacher interaction, greater access for Hawthorne students to specialized staff, more playground space, and a newer building. The recommendation also proposed that the Hawthorne family of students would stay together in moving to Irving (as opposed to being split among the three other elementary buildings). There were also advantages from the day care, Head Start and general early childhood perspective. Board Minutes of January 28, 1991 at p. 3.

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[1] Mr. Kerr stated forthrightly,

> Finally, it is past time that the students in Hawthorn school be assigned to the Irving center. Operating this building for less than a hundred students in [sic] a luxury you cannot afford. The use of the basement area for student use has never been recommended. Also, it is not accessible for the handicapped student. This building should be abandoned after this year and razed or given to another governmental agency.

Appellant's Exhibit 11 at p. 5.

The Board did not take immediate action on the recommendation. Board minutes reflect that this would occur "at a future meeting." Id. The Board members also planned to tour the District's facilities themselves; the elementary schools tour occurred on February 7, 1991.

Mr. Dick Stock, principal at Irving and Hawthorne, met with interested parents of children in those two buildings on February 19 at 7 p.m. Thirty-four persons attended, included three directors on the Board.

On February 25, the Board met; included on the agenda was action on the administration's recommendation regarding the Hawthorne and Irving buildings and programs. A number of persons spoke in opposition to the recommendation, or raised questions and concerns, and petitions were presented urging the Board to reject the recommendation. Prior to the Board's vote on the issue, Superintendent Scala reviewed the Board's and administration's activities over the previous ten months that laid the groundwork for the decision. Following a failed motion to delay the decision, the Board voted 5-2 to approve the recommendation to move the Hawthorne students to Irving and relocate the Head Start program from Irving to Hawthorne, which would consolidate the District's early childhood programs. This appeal followed.

## II.
## Conclusions of Law

The threshold issue before us is whether or not the Board's action of February 25 constitutes the "closing" of an attendance center. If it does, the Board is strongly urged,[2] if not obliged, to follow the seven-step procedure recommended for school closings by the State Board of Education in 1977. In re Norman Barker, 1 D.P.I. App. Dec. 145. Appellant, of course, asserts that the Barker guidelines do apply and that they were not met in this case. The District Board denies Barker's applicability and points instead to its authority under Iowa law to

> determine the number of schools to be taught, divide the corporation into such wards or other divisions for school purposes as may be proper, determine the particular school which each child shall attend, and designate the period each school shall be held beyond the time required by law.

Iowa Code §279.11 (1991). See also §§274.1 and 280.3.

The Barker case stimulated the State Board into recommending procedural due process for the public when "making decisions as important as the closing of an attendance center." 1 D.P.I. App. Dec. at 149. In that case, the Van Buren school board had been presented with a recommendation in late fall of 1975 by a Department of (then) Public Instruction consultant to close one of the district's attendance centers in order to save money and heighten efficiency in light of declining enrollment. Id. at 145. The subject did not come up until the following April when the superintendent mentioned it in a letter to the Board, this time naming a specific building. Id. Eight months later the school board

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[2] The Barker decision states, "It should not be understood that the procedures described here are ones to be required . . . . They are only recommendations." In re Norman Barker, 1 D.P.I. App. Dec. at 149.

looked at the closing of that building along with a variety of other proposals and cost-saving measures. Id. A little over two months later, the possible permanent closing of an attendance center was an agenda item at a board meeting that surely rivaled any Keystone Kop adventure in terms of chaos and confusion. After lively discussion, a board member apparently moved to table any decision on closing an attendance center pending further study. Id. at 146. The crowd became extremely boisterous and vociferous at that point, so much so that the five board members had great difficulty later recounting the ensuing events. Id. To make a long (and painful) story short, the board apparently voted to table the decision until the next meeting, (whether they knew it or not). At the next meeting the directors effected the school closing by passing a motion to adopt "Plan No. 2," thus keeping those few in attendance[3] in the dark as to what action had been taken with respect to what subject matter. Id.

The decision-making process in that case was so devoid of reasoning thought, and rationale as to justify reversal. Id. at 148-150. Virtually nothing had been studied and only educated guesses made on the amount of savings to be generated from closing that school. Id. at 147. In reversing, the State Board set up a seven-point procedure that, in effect, amounts to due process: notice that a decision will be made, and an opportunity for the interested patrons of the school district to be heard on the subject prior to a decision being made. Id. at 148-9.

Certainly no matter how critical Appellant (and others whom she represented in this appeal) is of the decision made in this case, she and they cannot reasonably compare this Board's actions to the Van Buren board's in Barker. First, although the Hawthorne building would no longer house a K-4 program, the vote was not to close it permanently. In effect, the preschool programs will be consolidated in that building and the approximately 75 Hawthorne pupils in attendance in grades K-3 in 1990-91 will transfer to Irving to join three or four other sections of each grade.

Irving Elementary is geographically the closest school to Hawthorne -- only seven blocks away -- and the logical choice as another "downtown" location. (Irving abuts the Simpson campus boundary, a few blocks west and north of the Hawthorne site.)

We agree with the District Board that this is not a school closing, but rather a redesignation of attendance centers and a redrawing of boundary lines. See In re Dawn McCoy, 8 D.o.E. App. Dec. 1 (1990). Granted, the parents of Hawthorne children probably view it as a "closing," but it is not. However, for the sake of argument if we were to denominate it as a closing, we believe the Board's actions nevertheless passed muster under Barker.[4]

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[3] Most patrons apparently understood the earlier motion as calling for an indefinite tabling of the issue. Id. at 146. Thus, few residents attended the next meeting when the decision was actually made.

[4] The one step possibly given short shrift was a "study" of "such things as student enrollment statistics, transportation costs, financial gains and losses, program offerings, plant facilities, and staff assignment." Id. at 149. Even the absence of a specific study doesn't particularly detract from the Board's decision here, however. The data given to the Board (coupled with the Board's tour of elementary facilities and its knowledge of the remarkably short distance between Hawthorne and Irving) addressed all of the issues mentioned in Barker guideline number four with the possible exception of transportation costs.

Testimony by Mr. Stock, among others, evidenced the fact that the possibility of another use for Hawthorne was a subject of discussion with the Hawthorne Parents and Teachers Organization (PTO) last year. In fact, when the Board voted in late spring to begin a before and after school childcare program and place it in Hawthorne, it also specifically addressed the use of Hawthorne as an elementary attendance center for 1990-91. That implied, at least in retrospect, that decisions would be made about Hawthorne's use on an annual basis.

We recognize how difficult it is for parents to accept a change in their child's school, particularly at the early elementary level. The "neighborhood school" concept, once such a mainstay of education in Iowa as elsewhere, has fallen from the status of a "given," in mathematical parlance, to an expectation and from there to a hope or wish. While we do not intend to be glib about Appellant's sincere belief that the Board should not have relocated the Hawthorne pupils at Irving, her concerns and those of the people she spoke for at this hearing seem almost trivial or insignificant in comparison to other attendance center cases.

The typical school closing case in Iowa involves a permanent building closure, often in a town that once was its own school district, with a corresponding transporting of many more pupils to a site usually in another town over a highway for a ride of between 40 minutes and an hour. See, e.g., Keeler v. Marshalltown Comm. School Dist., 2 D.P.I. App. Dec. 296 (1981); In re C. Donald MacCormack, III., 5 D.o.E. App. Dec. 1 (1986); In re Kelly Gonder, 8 D.o.E. App. Dec. 12 (1990). Most of the parents and community members opposed to the school closings in those cases would undoubtedly gladly change places with Appellant. To them, a school closing meant the loss of the hub of the community and the town's identity and independence in addition to the trauma of placing youngsters on a bus for a daily ride over (invariably) "dangerous roads."

We simply do not see a single disadvantage to the District or its enrolled children in the decision made by the Board on February 25. Except for the loss to some students of the opportunity[5] to walk to and from school, there is nothing about this decision that is in any way detrimental to the pupils or the District.

Appellant and her silent counterparts in the District believe the Board owed them a greater "duty" to consider their views than it exhibited in this case. Translation: We (300+ persons signed a petition opposing the change of attendance centers) are many, we told you we didn't want you to do this, and you did it anyway. Therefore, you failed to give adequate consideration to public opinion.

On the contrary, no one was denied an opportunity to present his or her views on the subject. There was an information meeting held by Mr. Stock for interested parents at Irving. There were no less than four Board meetings at which Appellant and other residents spoke to the Board on this issue, and the meeting at which the decision was made lasted over three hours due to public comment. Appellant misconstrues the weight put on the right of public input. It does not imply that the Board must agree, even if every patron signed a petition.

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[5] Some would say "burden."

Appellant also asserted that she would prove that this decision will negatively affect the quality of education at both Hawthorne and Irving. This she failed to do.

Appellant made her third point well: the law does not require that a school district adopt a childcare program. Thus, her logic proceeds, the movement of Hawthorne pupils to Irving to make room for both Head Start and a noncompulsory childcare program evidenced a misplaced priority of the Board. The problem with this reasoning is her assumption that moving the Hawthorne students to Irving implies a priority for the daycare programs. In fact, placing the daycare programs at Hawthorne could be viewed by many as "dumping" those children in the worst possible building in the District. Again, there are significant long-term advantages directly to the Hawthorne children by relocating them: they're moving as a school group and not being split up; they'll be in a multi-section building with the opportunity to have many more friends from a broader social base; their teachers can team and work with small groups more effectively; their building is newer and cohesively houses many more programs; and their playground is larger, among other benefits. Those factors can only enhance the quality of the children's education.

Appellant's fourth argument, that this decision "puts the District in danger of large elementary class sizes" was effectively refuted by the District at hearing. The growth in the District is not in an area affected by this decision, and class sizes will remain stable.

Finally an attack was made on the Board's allegedly misplaced reliance on a department consultant's recommendation to close Hawthorne[6] and the administration's "misuse" of the recommendation. In support of this point, Appellant suggests that the Board may have believed (or been led to believe by the administration) that Mr. Kerr's suggestion about Hawthorne's future was somehow a reflection on the District's compliance with state accreditation standards, when in fact it was merely an observation of Mr. Kerr's related to efficient use of facilities. There was insufficient testimony to support Appellant's concerns that Mr. Kerr's recommendation was viewed as something stronger. In his testimony he made clear that it was not the number of students per se at Hawthorne that made it a "luxury" to operate, but rather the fact that it is a single section building, old and in some respects unsafe, and unless Hawthorne were absolutely needed as an elementary attendance center (which it is not), the students and programs would be better off in Irving.

Appellant has failed to carry her burden.

Any motions or objections not previously ruled upon are hereby denied and overruled.

## III.
## Decision

For the foregoing reasons, the decision of the Indianola Community School District board of directors made on February 25, 1991, to move

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[6] Mr. Kerr did not recommend continued use of the building at all, nor was his recommendation based on any estimated financial gain to the District.

Hawthorne Elementary students to Irving Elementary School and house the Head Start and District childcare programs at Hawthorne is hereby affirmed. Costs of this appeal, if any, under Iowa Code chapter 290 are hereby assigned to Appellant. Appeal dismissed.

8-15-91
DATE

RON McGAUVRAN, PRESIDENT
STATE BOARD OF EDUCATION

August 7, 1991
DATE

DAVID H. BECHTEL, (formerly)
SPECIAL ASSISTANT TO THE DIRECTOR
AND PRESIDING OFFICER