

**Iowa State Department
of Education**

(Cite as 13 D.o.E. App. Dec. 205)

In re Nichole and Katherine Pike	:	
Tracey Pike,	:	
Appellant,	:	
v.	:	
	:	DECISION
Cedar Rapids Community School District,	:	
Appellee.	:	[Adm. Doc. # 3647]

The above-captioned matter was heard telephonically on July 17, 1995, before a hearing panel comprising Vince Bechtel, Bureau of Data and Word Processing; Lee Crawford, Bureau of Technical and Vocational Education; and Ann Marie Brick, J.D., legal consultant and designated administrative law judge, presiding. The Appellant was "present" telephonically, unrepresented by counsel. Appellee, Cedar Rapids Community School District [hereinafter "the District"], was also "present" in the person of Ms. Janice Keyes, also *pro se*.

A hearing was held pursuant to Departmental Rules found at 281 Iowa Administrative Code chapter 6. Appellant seeks reversal of a decision of the board of directors [hereinafter "the Board"] of the District made on March 27, 1995, denying her applications for open enrollment out of the District beginning in the 1995-96 school year. Authority and jurisdiction for the appeal are found in Iowa Code § 282.18(5) (1995).

**I.
Findings of Fact**

The administrative law judge finds that she and the Director of the Department of Education have jurisdiction over the parties and subject matter before them.

Allan and Tracey Pike have three children and live in the Cedar Rapids Community School District. Alexandria will attend kindergarten in the Fall of 1995 in College Community School District through open enrollment. However, her two sisters,

third grader Katie and sixth grader Nichole, were denied open enrollment out of Cedar Rapids because their applications were filed late (on March 6, 1995) -- almost five months after the October 30 deadline for the 1995-96 school year.¹ The parents said they were not aware of the early deadline for inter-district open enrollment. They have participated in intra-district open enrollment for the past few years and there is no "deadline" for that process. Appellants wanted to send all three girls to the College Community School District because the mother works at Prairie Crest Elementary School there. At least two of her daughters would be attending at the school where she works which would be much more convenient for the family.²

The hearing panel was not certain of the reason for the denial of the Appellants' applications because the minutes of the Board's March 27th meeting received by the time of the hearing contained no reference to either the identity of the applicants or the reasons for the Board's denial of their applications.³

As a result, the District's representative was questioned extensively about the details of the Board's decision as well as the application of any policies guiding that decision.

The only representative of the Cedar Rapids School District present for the telephonic hearing was Ms. Janice Keyes. She stated that she occupies the position of "confidential secretary" in the Superintendent's Office who administers open enrollment. We asked her to identify the District's policy or policies on handling applications filed after the October 30th deadline and how the existence of "good cause" is determined. Ms. Keyes was asked to read any policies pertaining to late applications. She read policies numbered 602.6 and 602.6A, which pertained to the general open enrollment application process. However, she could not identify any policy pertaining to the treatment of "good cause" and stated that the District did not have such a policy. Ms. Keyes testified that it was the District's policy to deny any application, with the exception of kindergarten students, filed after the October 30 deadline.

¹The deadline for open enrollment applications is October 30 of the preceding school year. The deadline for perspective kindergarten students is June 30 of the same year. Iowa Code § 282.18(2)(1995).

²Parents should understand that when an open enrollment application is granted, the parents may send their children to the district, but are not allowed to determine the school or attendance center which their children will attend. The authority to assign students to a specific school belongs to the district administration. (See 281--IAC §17.6(4).)

³Apparently, there were Exhibits attached to the Board minutes which contained the names of the applicants who filed open enrollment applications after October 30. The Exhibit also contained the recommendation of the administration that the application be denied as untimely. However, at the hearing, all that was available for the panel to consider were minutes that said "Denial 1995-96 ... the administration recommended that the Board deny the open enrollment requests of these students commencing with the 1995-96 school year." The record was held open for receipt of this evidence which was faxed to the ALJ and Appellants on July 17, 1995.

Ms. Keyes was also asked by the parents how the deadlines for open enrollment were published. Ms. Keyes stated that at the end of each school year, the District published the open enrollment deadlines in the **WINDOW**, which is a school newsletter publication. She was not aware of any other publication sent directly to parents which contained the open enrollment deadlines.⁴

II. CONCLUSIONS OF LAW

The Open Enrollment Law, as enacted by the General Assembly, has a procedure and deadline set by statute. Iowa Code §282.18 (1995). The deadline is October 30th of the school year for which open enrollment is sought. There are two "legal reasons" for filing after that date: 1. If there is "good cause;" or 2. "if the request is to enroll a child in kindergarten." Id. at subsection (2).⁵

"Good cause" is defined by statute and not by parents or local school districts. This means that although the parents feel that they have very "good reasons" for seeking open enrollment after the deadline, that does not mean their reasons satisfy the statutory "good cause" requirement. "Good cause" relates to only two general areas:

- (1) There is a change in a status of the pupil's resident district (e.g., dissolution or reorganization); or
- (2) There is a change in the residence of pupil ... (the pupil moves into or out of the district after the open enrollment deadlines).

Id. at subsection 282.18(18) (1995).

Appellants testified that their desire for open enrollment arose out of the desire to have the two youngest children attend Prairie Crest Elementary School in the College Community District because the mother works there. Naturally, this arrangement would be more convenient to the parents because of transportation

⁴Neither party introduced a Cedar Rapids Community School District handbook to demonstrate whether or not open enrollment guidelines were contained therein. Even though the hearing panel was unable to verify Appellants' statements about lack of information in the student handbook, that alone is not fatal to the District's position under the legal requirements of 281--Iowa Administrative Code 17.3(2), which states: "By September 30 of each school year, the District shall notify parents of open enrollment deadlines and transportation assistance for open enrollment pupils. This notification may be published in a school newsletter, a newspaper of general circulation, or a parent handbook provided to all patrons of the district." The hearing record was left open until Mr. Evans submitted evidence that the guidelines had been published. Proof of publication in The Window, a publication of the Cedar Rapids Community Schools, was sent to the ALJ on September 20, 1995. The newsletter was published July 3, 1995, and did contain prominent mention of all pertinent open enrollment guidelines.

⁵After July 1, 1996, the Legislature has lengthened the period of open enrollment for children in grades 1-12 to January 1st of the year preceding the school year for which open enrollment is sought. However, that does not change the outcome in this case. S.F. 2201, 76th Gen. Assem., 2d Sess. (1996).

considerations and where they work. As a result of missing the October 30th deadline, however, now the parents face a more compelling reason to have two of the girls open enrolled to College CSD -- the desire to keep the children together in the same district.

Although the hearing panel believes that open enrollment for the Pikes would be more convenient; and having the girls together in the same district is certainly a compelling reason, neither circumstance constitutes "good cause" grounds for excusing the late application for Nichole and Katie.

Although the State Board of Education has rulemaking authority under the open enrollment law, our rules do not expand the types of events that would constitute "good cause." The State Board has chosen to review, on appeal only, potentially "similar sets of circumstances" on a case-by-case basis. In re Ellen and Megan Van de Mark, 8 D.o.E. App. Dec. 405 (1991).

~~In the scores of appeals brought to the State Board following the enactment of the open enrollment law, only a few have merited reversal. We have heard nearly every reason imaginable deemed to be "good cause" by the Appellants. The State Board has refused to reverse a late application due to ignorance of the filing deadline, In re Candy Sue Crane, 8 D.o.E. App. Dec. 198 (1990); or for missing the deadline because the parent mailed the application to the wrong place, In re Casee Burgason, 7 D.o.E. App. Dec. 367 (1990); or when a bright young man's probation officer recommended a different school that might provide a greater challenge for him, In re Shawn and Desirea Adams, 9 D.o.E. App. Dec. 157 (1992); or when a parent became dissatisfied with a child's teachers, In re Anthony Schultz, 9 D.o.E. App. Dec. 381 (1992); nor because the school was perceived as having a "bad atmosphere," In re Ben Tiller, 10 D.o.E. App. Dec. 18 (1993); nor when a building was closed and the elementary and middle school grades were realigned, In re Peter and Mike Caspers, et al., 8 D.o.E. App. Dec. 115 (1990); nor when a child experienced difficulty with peers, In re Misty Deal, 12 D.o.E. App. Dec. 128 (1995); and was recommended for a special education evaluation, In re Terry and Tony Gilkison, 10 D.o.E. App. Dec. 205 (1993); even when those difficulties stemmed from the fact that a student's father, a school board member, voted in an unpopular way on an issue, In re Cameron Kroemer, 9 D.o.E. App. Dec. 302 (1992). Nor was "good cause" met when a parent wanted a younger child to attend in the same district as an older sibling who attended out of the district under a sharing agreement, In re Kandi Becker, 10 D.o.E. App. Dec. 285 (1993).~~

This case falls within the precedent established by In re Candy Sue Crane, above. In this case, as in that one, we are not

being critical of Appellants' reasons for wanting open enrollment. We are simply of a belief that the stated reasons do not meet the good cause definition, nor do they constitute a "similar set of circumstances consistent with the definition of good cause." Finally, we fail to recognize that the situation is one that "cries out for" the extraordinary exercise of power bestowed

upon the State Board; this is not a case of such unique proportions that justice and fairness require the State Board to overlook the regular statutory procedures. See Iowa Code § 282.18(20) (1995).

As to the merits of this case, we see no error in the decision of the Board of the District. The District's application of its policy is consistent with the State law and rules of the Department of Education. Consequently, there are no grounds to justify reversing the District Board's denial of the open enrollment applications for Nichole and Katherine.

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

**III.
Decision**

For the foregoing reasons, the decision of the Board of Directors of the Cedar Rapids Community School District made on March 27, 1995, denying Appellants' untimely open enrollment requests for Katherine and Nichole Pike to attend College Community School District for the 1995-96 school year, is hereby recommended for affirmance. There are no costs of this appeal to be assigned.

DATE

5/24/96

Ann Marie Brick
ANN MARIE BRICK, J.D.

ADMINISTRATIVE LAW JUDGE

It is so ordered.

DATE

5/24/96

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TED STILWILL, DIRECTOR

STATE DEPARTMENT OF EDUCATION