

IOWA STATE DEPARTMENT  
OF EDUCATION  
(Cite as 14 D.o.E. App. Dec. 83)

---

<i>In re Nathan Vermeer</i>	:	
Marie Vermeer,	:	
Appellant,	:	DECISION ON
v.	:	APPLICATION FOR
	:	REHEARING
MOC-Floyd Valley Community	:	
School District, Appellee.	:	[Adm. Doc. #3806]

---

The above-captioned matter was originally heard telephonically on October 2, 1996, and a decision was rendered orally by the administrative law judge pursuant to the authority of Iowa Code section 282.18(5) (1995) and the Departmental Rules at 281--IAC 6.11(7). The latter provides in pertinent part as follows:

In an appeal from the denial of a parent's or guardian's request for open enrollment, where the denial was for missing the deadline for filing for open enrollment without good cause for being late, the parties to the appeal may request that the administrative law judge issue an oral decision on the merits of the case at the conclusion of the hearing. An agreement by the parties to waive their right to a written decision reviewed by the director or state board in favor of an oral decision after the hearing may be rescinded by either party if a request is submitted in writing and mailed or delivered in person to the administrative law judge within 30 days following the hearing. *A written decision will not be expedited but will be issued at a later date in sequence with other written decisions in the order in which the case was heard.*

281--6.11(7) (emphasis added.)

Pursuant to that provision, Mrs. Vermeer retained legal counsel and requested a written decision. The written decision was approved by the director on April 10, 1997, and on that date the decision was final.

On May 9, 1997, Appellant filed its "brief and argument" asking that the decision in this matter be reversed and tuition in the amount of \$3700 be reimbursed to the Appellant. This is being treated as an "Application for Rehearing of Final Decision" under the provisions of 281--IAC 6.13. That section states as follows:

Any party may file an application for rehearing with the administrative law judge stating the specific grounds therefor, and the relief sought, within 20 days after the issuance of any final decision by the board. A copy of the application shall be timely mailed by the department to all parties of record not joining therein. Such application for rehearing shall be deemed to have been denied unless the board grants the application within 20 days after its filing.

281--IAC 6.13

Appellant's Application for Rehearing is denied because it was not filed within the 20-day period required by 281--IAC 6.13. Even if the Application had been timely-filed, the facts presented therein would not compel a rehearing under the precedent established for the requirements of notification under the Open Enrollment Law. Therefore, Appellant is notified that further appeal to district court under the procedures of Iowa Code Chapter 17A may be taken within 30 days of this decision.

DATE

May 18, 1997

Ann Marie Brick  
ANN MARIE BRICK, J.D.  
ADMINISTRATIVE LAW JUDGE