

**IOWA STATE BOARD  
OF EDUCATION**  
(Cite as 14 D.o.E. App. Dec. 276)

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**In re Devin Kruger** :  
  
Wendi Kruger, :  
Appellant, :  
  
v. : DECISION  
  
Saydel Consolidated School :  
District, :  
Appellee. :

[Admin. Doc. #3883]

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The above-captioned matter was heard telephonically on June 18, 1997 before a hearing panel comprising Ms. Diana Billhorn, Bureau of Special Education; Mr. Don Wederquist, Division of Community Colleges and Workforce Preparation; and Amy Christensen, J.D., designated administrative law judge, presiding. The Appellant, Ms. Wendi Kruger, was present telephonically and was unrepresented by counsel. The Appellee, Saydel Consolidated School District [hereinafter, "the District"], was present telephonically in the person of Dr. David Arnold, Superintendent. The District was also *pro se*.

An evidentiary hearing was held pursuant to Department of Education rules found at 281 Iowa Administrative Code 6. The authority and jurisdiction for this appeal are found at Iowa Code sections 282.18 and 290.1(1997). The administrative law judge finds that she and the State Board of Education have jurisdiction over the parties and subject matter of the appeal before them.

Ms. Kruger seeks reversal of a decision of the Board of Directors [hereinafter, "the Board"] of the District made on April 21, 1997, which denied her application for open enrollment into the District for her son, beginning in the 1997-98 school year, on the basis that there is insufficient classroom space.

During the hearing, the District was directed to send a certified copy of the minutes of the April 21, 1997 Board meeting to the Department with a copy to the Appellants. The District hand delivered the certified copy to the Department on the same day the hearing was held.

**I.**  
**FINDINGS OF FACT**

Mrs. Kruger has a son, Devin, who will be in kindergarten during the 1997-98 school year. Mrs. Kruger lives in the Des Moines District. She plans to move to Saydel within the next few years. She would like to open enroll Devin into the Saydel District for the 1997-98 school year.

Mrs. Kruger's parents live in the Saydel District. Devin attends Headstart in the Saydel District. Devin's grandparents take care of him before and after school, and could do so next year. If Devin were allowed to open enroll to Saydel, he could get on and off the bus in front of his grandparents' house. Mrs. Kruger is a single mother and works hours which would make it difficult for her to transport Devin to and from school in Des Moines.

Mrs. Kruger signed Devin up for kindergarten in the Saydel District in the Fall of 1996. At that time, she did not know she had to go through open enrollment to have Devin attend kindergarten in the Saydel District. Devin went to kindergarten round-up in Saydel. Since she signed him up in Saydel, Devin was counted by the principal at Norwoodville in the Saydel District as one of the kindergarten students who would be attending in the Fall of 1997-98. After kindergarten round-up, Mr. Voss, the principal at Norwoodville, reported there were 23 or 24 students per class signed up for kindergarten for the 1997-98 school year. There are two kindergarten classes at Norwoodville.

Mrs. Kruger filed her application for open enrollment with the Des Moines District. The Des Moines District granted her application. Mrs. Kruger requested that Devin be allowed to attend Norwoodville school in her application to the Saydel District. As the receiving district, the Saydel District denied her application because it found there was insufficient classroom space.

The Saydel Board tries to be consistent with open enrollment procedures. They are concerned about class size for students who live within the District, and that is what they look at when deciding whether to grant a request for open enrollment into the District. The Board looks at each application on a case-by-case basis to determine whether there is classroom space for a student at that particular grade level during the year requested.

The Board does not know what the actual class size for kindergarten will be in the fall. The Board is concerned that several kindergarten students may move into the district during the summer. This is typical for the District. Kindergarten enrollment numbers for

the other elementary school in the District are the same or a little higher than at Norwoodville. As of the date of the hearing, Dr. Arnold testified there will be about 24 or 25 students per kindergarten class in the District. The Board feels this is too high for kindergarten classes. The Board is concerned that resident kindergarten students will be placed in an environment which is not educationally sound. The Board, therefore, determined there was insufficient classroom space for kindergarten for the 1997-98 school year. No applications for open enrollment into the District for kindergarten for the 1997-98 school year have been granted, except that siblings of students already in the District were allowed in.

Even though Ms. Kruger signed Devin up for kindergarten in the Saydel District, he attended kindergarten round-up in the District, and he was therefore counted by the Norwoodville principal as a kindergartner for next year, the District does not believe Devin should be allowed in because Ms. Kruger does not live in the District. The Board's first concern is for pupils who are residents of the District, and they need the kindergarten spaces for the resident pupils. The Board also wants to leave space for kindergarten students who may move into the District over the summer. It, therefore, denied Ms. Kruger's application for open enrollment.

Ms. Kruger then filed this appeal.

## II. CONCLUSIONS OF LAW

There are very few reasons a receiving district may use to deny a request for open enrollment into the district. In re Jason Beebe, 14 D.o.E. App. Dec. 96 (1997). One of these reasons is insufficient classroom space. Iowa Code section 282.18(2)(1997); 281 IAC 17.6. The Iowa Code at section 282.18(2) states: "The board of the receiving district shall enroll the pupil in a school in the receiving district for the following school year unless the receiving district does not have classroom space for the pupil."

The Open Enrollment Law and Department of Education rules require each school district to adopt a policy which defines the term "insufficient classroom space" for that district. Iowa Code subsection 282.18(11)(1997); 281 IAC 17.6(3). The policy must be reviewed annually. 281 IAC 17.6(3).

In this case, the Board has a policy which defines insufficient classroom space which it applies consistently. The determination of whether there is insufficient classroom space for a particular grade level is made each year. The Board's determination that it will first look to the needs of its resident pupils, and that students coming into the district may have an adverse impact on educational quality when teacher-

pupil ratios become too high is reasonable and is to be supported. One prior case of the Department of Education called a determination such as this "highly responsible". In re Amanda J. Baker, 12 D.o.E. App. Dec. 210, 212 (1995).

We agree with the Board that the fact that Ms. Kruger signed up Devin for kindergarten in Saydel, and he was counted in the initial numbers for kindergarten, should make no difference. Ms. Kruger and Devin do not live in the District. Even if Devin is removed from the current total in one class at Norwoodville, it was reasonable for the Board to determine there was still insufficient classroom space for kindergartners in the District. The Board applied its open enrollment/insufficient classroom space policy consistently, and to allow Ms. Kruger to open enroll Devin into the District would be inconsistent with the policy.

This does not mean we are not sympathetic to Ms. Kruger's difficulties. We are very sympathetic to working parents who must arrange transportation for their children to and from school. However, our sympathy for her situation does not mean that the District was incorrect in denying her application. The District must look out for the needs of all the children who live in the District, not just what would be easiest or best for one child who does not live there.

We see no error in the decision of the Board of the District. The Board's decision was consistent with state law, the rules of the Iowa Department of Education, and its own policy. Therefore, there are no grounds to justify reversing the District Board's denial of the open enrollment application for Devin Kruger.

All 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 Saydel Consolidated School District made on April 21, 1997, which denied Ms. Kruger's application for open enrollment for Devin to attend kindergarten in the District for the 1997-98 school year, is hereby recommended for affirmance. There are no costs of this appeal to be assigned.

June 27, 1997  
DATE

Amy Christensen  
AMY CHRISTENSEN, J.D.  
ADMINISTRATIVE LAW JUDGE

It is so ordered.

Aug 8, 1997  
DATE

Corine Hadley  
CORINE HADLEY, PRESIDENT  
STATE BOARD OF EDUCATION