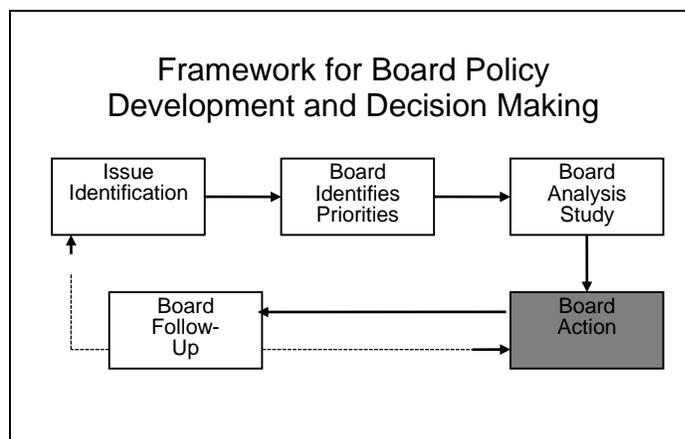


Iowa State Board of Education

Executive Summary

November 19, 2014



Agenda Item: *In re Open Enrollment of S.H. (Ankeny Community School District)*

Iowa Goal: All PK-12 students will achieve at a high level.

State Board Role/Authority: Under Iowa Code sections 282.18(5) and 290.1 the State Board of Education has authority to hear appeals from local school board decisions denying applications that seek open enrollment due to a “serious health condition of the student that the resident district cannot adequately address.”

Presenter: Nicole Proesch, designated Administrative Law Judge and Legal Counsel, Office of the Director

Attachments: 1

Recommendation: It is recommended that the State Board approve the proposed decision REVERSING the decision of the local board of directors of the Ankeny Community School District and REMANDING the case back to the district to decide the case by applying the appropriate legal standards.

Background: S.H. and her mother reside in the Ankeny Community School District (ACSD). S.H. began attending ACSD in December of 2013. After enrolling and returning to school from Christmas Break S.H. began experiencing anxiety, stomach issues, and vomiting. S.H. began seeing Dr. Melissa Pote in February 2014 for ongoing physical symptoms but they were unable to diagnose a cause. From February 19, 2014, until May 16, 2014, S.H. missed 28 days of school due to illness and appointments related to the illness. ACSD officials tried to work with S.H. and accommodate her when she had to miss school. Over the summer, S.H. seemed better and then as school approached her symptoms returned. S.H.’s mother filed an application for open enrollment citing that S.H. was ill 28 days during the spring semester of 2014.

ACSD Superintendent Kimpston received the application and recommended to the ACSD Board to deny the application because it missed the March 1, 2014, deadline. Neither Superintendent Kimpston nor the board reviewed the application to see if S.H. had a serious medical condition that could not be adequately addressed by the district.

In reviewing an open enrollment decision involving a claim of a serious medical condition under Iowa Code § 282.18(5) this Board has set out four criterion that all must be met in order to overturn the decision of the local board. Here the district failed to apply that criterion to this case. Since the law contemplates that the resident district is in the best position to make a decision about an open enrollment application filed on the basis of a serious medical condition, the local board must now review S.H.'s application in light of this criterion.

Thus, it is recommended that the State Board REVERSE AND REMAND the decision of the ACSD with instructions to review the facts of this case in light of this Boards recent decision in *In re Samantha H.*, 26 D.o.E. App. Dec. 373 (2013).

IOWA DEPARTMENT OF EDUCATION
(Cite as ___ D.o.E. App. Dec. ___)

<i>In re Open Enrollment of S.H.,</i>)	
)	
Lynette H.,)	
)	PROPOSED DECISION
Appellant,)	
)	
v.)	
)	
Ankeny Community School District,)	Admin. Doc. No. 4789
)	
Appellee.)	

STATEMENT OF THE CASE

The Appellant, Lynette H. (“Lynette”), seeks reversal of an August 18, 2014, decision by the Ankeny Community School District Board (“ACSD Board”) denying a late filed open enrollment request on behalf of her minor daughter, S.H. The affidavit of appeal filed by Lynette on August 26, 2014, attached supporting documents, and the school district’s supporting documents are included in the record. Authority and jurisdiction for the appeal are found in Iowa Code §§ 282.18(5) and 290.1 (2013). The administrative law judge finds that she and the State Board of Education (“the State Board”) have jurisdiction over the parties and subject matter of the appeal before them.

A telephonic evidentiary hearing was held in this matter on September 25, 2014, before designated administrative law judge, Nicole M. Proesch, J.D pursuant to agency rules found at 281 Iowa Administrative Code chapter 6. The Appellant was present on behalf of her minor daughter, S.H. Superintendent Bruce Kimpston (“Superintendent Kimpston”) appeared on behalf of the Ankeny Community School District (“ACSD”). Also present was Jennifer Owenson, Chief Human Resource Officer, Dr. Jen Lindaman (“Principal Lindaman”), Principal at Ankeny Centennial High School (“Centennial”), and Jackie Black, the ACSD Board Secretary.

Lynette testified in support of the appeal. Appellant’s exhibits were admitted into evidence without objection. Superintendent Kimpston and Principal Lindaman testified for ACSD and the school district’s exhibits were admitted into evidence without objection.

FINDINGS OF FACT

On August 7, 2014, Lynette filed an application for open enrollment for S.H. from ACSD to Saydel Community School District ("SCSD"). The sole issue in this case is whether the ACSD Board erred by denying the late filed application for S.H. The record establishes the following facts and circumstances leading up to the application.

Lynette and her daughter S.H. moved to the ACSD in November of 2013 from Wisconsin. S.H. began attending school at Centennial on December 2, 2013, as a 10th grader. At the time of this hearing S.H. was attending SCSD as an 11th grader and paying tuition to the district pending the outcome of this appeal.

After enrolling at Centennial in early December S.H. appeared to be fitting in at her new school. S.H. is an A-B student and continued to get good grades. After returning to school from Christmas break S.H. began experiencing anxiety, stomach issues, and vomiting. In February 2014, S.H. began seeing Dr. Melissa Ehm Pote, D.O., for ongoing physical symptoms. Unfortunately, Dr. Pote was unable to provide a diagnosis for the symptoms. The first day that S.H. stayed home sick from school was on February 19, 2014. From that date until May 16, 2014, S.H. missed 28 days of school due to illness and appointments related to her illness.

Lynette spoke to the school counselor, Keri Joel, and the school nurse several times about S.H.'s illnesses and missing school. They were aware that doctors were trying to determine a diagnosis for S.H. but had not diagnosed her. Ms. Joel understood that S.H. could no longer participate in P.E. due to her illnesses. Centennial officials notified S.H.'s teachers to provide extra support to S.H. They continued to work with S.H. so that she could attend school even though she was ill. They allowed S.H. to attend school for half days. As the end of the school year approached S.H. seemed to be doing better. She had no reported missed days of school from May 16, 2014, until the end of the year. Lynette acknowledged that Centennial was very accommodating to S.H.

Over the summer S.H.'s was physically well. As the start of a new school year approached S.H. began having anxiety again. Due to this pattern of symptoms reoccurring as school approached Lynette believed S.H.'s symptoms were tied to S.H. attending school. Thus, Lynette filed an application for open enrollment on August 7, 2014. On the application for open enrollment Lynette filled out question 17(e) which provides:

"17. This section should be completed IF the application is being filed after March 1. . . e) Pervasive harassment or severe health. Briefly describe events occurring after March 1 or provide the name of a district employee familiar with the student."

Lynette provided the following response:

“Kari Joel – Counselor at Ankeny – [S.H.] would do better in a smaller school. Moved from WI in Nov. 2013. Has had severe stomach pains and treatment missed 28 days of school last semester.”

On August 11, 2014, Lynette was notified that SCSD approved her application for open enrollment. Lynette and S.H. met with SCSD school officials to discuss her classes and S.H. was excited to go to SCSD.

ACSD received her open enrollment application on August 14, 2014. Superintendent Kimpston reviewed the application and determined that it did not meet the March 1 deadline. He did not review the application for good cause. Superintendent Kimpston recommended the ACSD Board deny the late filed application. At the ACSD Board meeting on August 18, 2014, the Board denied the late filed application. The Board did not consider whether or not S.H. had a serious medical condition amounting to good cause for a late filed application.

ACSD called Lynette and told her they had denied her application. S.H. missed orientation at ACSD. Ms. Joel and a truancy officer came to Lynette’s home to visit with her about accommodating S.H. S.H. was upset because she did not want to go back to Centennial. Shortly thereafter S.H. was admitted to Iowa Lutheran Hospital for inpatient treatment on Monday, August, 25, 2014 related to her anxiety. The details of her admission were not discussed at the hearing.

Lynette has since enrolled S.H. at SCSD and is paying tuition. S.H. is doing well at SCSD. S.G. has been working with a counselor and has not required any interventions from the school district. Lynette expressed that S.H. is doing wonderful in a smaller school. While she acknowledged that Ankeny was willing to work with S.H. she felt they could not do anything to change the size of the school or how S.H. felt attending there.

CONCLUSIONS OF LAW

The statutory filing deadline for an application for open enrollment for the upcoming school year is March 1. Iowa Code § 282.18. After the March 1 deadline a parent or guardian shall send notification to the resident district that good cause exists for the failure to meet the deadline. *Id.* The law provides that an open enrollment application filed after the statutory deadline, which is not based on statutorily defined “good cause,” must be approved by the boards of directors of both the resident district and the receiving district. *Id.* § 282.18(5).

A decision by *either* board denying a late-filed open enrollment application that is based on “serious health condition of the student that the resident district cannot adequately address” is subject to appeal to the State Board of Education under Code section 290.1. *Id.* § 282.18(5) (emphasis added).

The State Board applies established criteria when reviewing an open enrollment decision involving a claim of a serious medical condition. All of the following criteria must be met for this Board to reverse a local decision and grant such a request:

1. The serious health condition of the child is one that has been diagnosed as such by a licensed physician, osteopathic physician, doctor of chiropractic, licensed physician assistant, or advanced registered nurse practitioner, and this diagnosis has been provided to the school district.
2. The child's serious health condition is not of a short-term or temporary nature.
3. The district has been provided with the specifics of the child's health needs caused by the serious health condition. From this, the district knows or should know what specific steps its staff can take to meet the health needs of the child.
4. School officials, upon notification of the serious health condition and the steps it could take to meet the child's needs, must have failed to implement the steps or, despite the district's best efforts, its implementation of the steps was unsuccessful.
5. A reasonable person could not have known before March 1 that the district could not or would not adequately address the child's health needs.
6. It can be reasonably anticipated that a change in the child's school district will improve the situation.

In re Anna C., 24 D.o.E. App. Dec. 5 (2006).

The issue for review here is whether or not the local school board made an error of law in denying the late-filed open enrollment request. On the face of the open enrollment application there is no question that Lynette alleged a severe health condition existed. However, the evidence shows that Superintendent Kimpston reviewed the application and made a recommendation to the local board to deny the application solely because she missed the March 1 deadline. Superintendent Kimpston made no inquiries into whether or not there was a serious health condition of S.H. that was not being adequately addressed by the district. Neither Superintendent Kimpston nor the local board considered whether there was a serious medical condition when the decision was made to deny the application. Thus, the local board failed to apply the above criterion to Lynette's application.

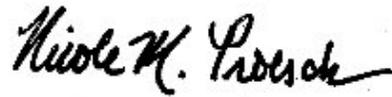
Under these circumstances we must conclude that the ACSD Board made an error of law by not applying the appropriate standards. Therefore, we must reverse the local board's decision. This does not end the role of the local board in this case, however. The law contemplates that the resident district is in the best position to make a decision about an open enrollment application

filed on the basis of a serious medical condition. Thus, the local board must now review Lynette's application in light of the criterion this board has established.

DECISION

For the foregoing reasons, the decision of the ACSD Board made on August 18, 2014, denying the open enrollment request filed on behalf of S.H. is REVERSED and REMANDED to the ACSD Board with instructions to review the Appellant's application for good cause under Iowa Code section 282.18(5) with respect to whether or not S.H. had a serious health condition that the district could not adequately address. In making its decision the ACSD Board should review this Board's decision *In re Samantha H.*, 26 D.o.E. App. Dec. 373 (2013).

REVERSED AND REMANDED WITH INSTRUCTIONS.



10/23/14
Date

Nicole M. Proesch, J.D.
Administrative Law Judge

Date

Charlie Edwards, Board President
State Board of Education