

BEFORE THE STATE BOARD OF EDUCATION
STATE OF NEBRASKA

Trent and Kelli Loos)	
78009 472 nd Avenue)	
Litchfield, NE 68852)	CASE NO. 12-06
)	
Petitioners,)	
)	
v.)	FINAL ORDER
)	
Loup City Public Schools)	
Tom Hinrichs, Superintendent)	
800 N. 8 th Street)	
Loup City, NE 68853-0628)	
)	
Respondent.)	

Petitioners filed this appeal pursuant to Neb. Rev. Stat. § 79-239 (Cum. Supp. 2010) and Title 92, NAC, Chapter 61, effective October 1, 1997. Petitioners request that the State Board of Education reverse the Respondent School District's decision disapproving the application, filed by the Petitioner to option enroll their daughter, Libbi Loos, in the Ravenna Public School District for the 2012-2013 school year.

The hearing on this matter was convened pursuant to notice at 10:25 a.m. on April 25, 2012, before Jim Titus, Hearing Officer, appointed by the State Board of Education, by telephone conference by which each participant in the hearing had the opportunity to participate in and hear the entire proceeding while it was taking place. Petitioner Kelli Loos appeared on her own behalf and provided testimony. Petitioner Trent Loos did not participate or appear. The Respondent appeared through Tom Hinrichs, Superintendent of Loup City Public School District, who also provided testimony. The hearing was recorded by Precision Reporting, Inc. of Lincoln, Nebraska.

The State Board of Education, having considered the record in the case and the Hearing Officer's Proposed Findings of Fact, Recommended Conclusions of Law and Recommended Decision, and having been fully advised in the matter, finds that it should adopt and


incorporate by reference in its Order as its Findings of Fact and Conclusions of Law, the Hearing Officer's Findings of Fact and Conclusions of Law.

WHEREFORE, the Nebraska State Board of Education, finds, decrees, orders and adjudges:

1. Respondent's decision to deny the Petitioner's option enrollment application is affirmed.
2. The Hearing Officer's Findings of Fact and Conclusion of Law are hereby adopted in all respects and made a part of this Order by this reference to the same extent and like effect as though such Findings of Fact and Conclusions of Law were fully set forth verbatim herein.

Dated this 11th day of July, 2012.

NEBRASKA STATE BOARD OF EDUCATION



 Jim Scheer, President
 State Board of Education

The vote by the State Board of Education to approve the Final Order in Case No. 12-06 on July 11, 2012, was 7 in favor, _____ against, _____ abstaining, and 1 absent.

Individual State Board members voted as follows:

IN FAVOR: R. EVNEN, J. SCHEER, R. VALDEZ, P. TIMM, L. CRONK, M. O'HOLLERAN, J. SIELER

AGAINST: _____

ABSTAINING: _____

ABSENT: M. QUANDAHL

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Final Order was served upon Trent and Kelli Loos, 78009 472nd Avenue, Litchfield, NE 68852; Tom Hinrichs, Superintendent, Loup City Public Schools, 800 N. 8th Street, Loup City, NE 68853-0628; via United States Mail, first class postage prepaid and hand delivered to Margaret Worth, General Counsel, Nebraska Department of Education, 301 Centennial Mall South, 6th floor, Lincoln, NE, on this 11th day of July, 2012.

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BEFORE THE STATE BOARD OF EDUCATION
STATE OF NEBRASKA

Trent and Kelli Loos)	Case No. 12-06
78009 472 nd Avenue)	
Litchfield, NE 68852)	
)	
Petitioner,)	HEARING OFFICER'S PROPOSED
v.)	FINDINGS OF FACT, RECOMMENDED
)	CONCLUSIONS OF LAW AND
Loup City Public Schools)	RECOMMENDED DECISION
Tom Hinrichs, Superintendent)	
800 N. 8 th Street)	
Loup City, NE 68853-0628)	
)	
Respondent.)	

INTRODUCTION

Petitioners have filed this appeal, pursuant to Neb. Rev. Stat. § 79-239 (Supp. 2010), and Title 92, NAC, Chapter 61. Petitioners request that the State Board of Education reverse the Respondent School District's decision disapproving the application filed by Petitioners to enroll their daughter, Libbi Loos, in the Ravenna Public School District for the 2012-13 school year.

The hearing on this matter was convened pursuant to notice at 10:25 a.m. on April 25, 2012 before Jim R. Titus, Hearing Officer, appointed by the State Board of Education, by telephone conference by which each participant in the hearing had the opportunity to participate in and hear the entire proceeding while it was taking place. The Petitioner Kelly Loos appeared on her own behalf and testimony was presented by Kelly Loos. Petitioner Trent Loos did not participate or appear. The Respondent appeared through Tom Hinrichs, Superintendent of Loup City Public School District, who also provided testimony. The hearing was recorded by Precision Reporting, Inc. of Lincoln, Nebraska.

The hearing was conducted pursuant to the Nebraska Department of Education Rules of Practice and Procedures for hearings in contested cases before the Department of Education,

Title 92, NAC, Chapter 61. One exhibit was offered and received without objection, namely, Exhibit 1, the petition of the Petitioners, with attached letter dated February 27, 2012, from Mr. Hinrichs.

Having considered the sworn testimony of the witnesses and the exhibit, the Hearing Officer makes the following proposed findings of fact, recommended conclusions of law and recommended decision.

PROPOSED FINDINGS OF FACT

1. The Petitioners are residents of the Loup City Public School District and have been at all times relevant to these proceedings.
2. In 2003, the Petitioners, pursuant to the Nebraska Enrollment Option Program, applied to have their daughter, Libbi Loos, enrolled in the Litchfield Public School District, which application was accepted. Their daughter was of kindergarten age at the time of the selection and the Petitioners felt the educational opportunities were best suited to their daughter in the Litchfield Public School District.
3. Petitioners have been fairly happy with the educational environment at the Litchfield Public Schools since their daughter's enrollment. However, in the fall of 2011, the Litchfield School District Board voted to enter into a cooperative arrangement for sports with the Ansley Public School District, which has resulted in shortening academic courses to allow junior high students to commute an hour to Ansley at least twice weekly for physical education and sports practices. The Petitioners have concluded that such cooperative arrangement is not in the best interest of academics, but places sports in a higher priority. Based on their conclusion and their perception of a lack of other options for students who do not want to play junior high sports, the Petitioners have decided to send their daughter to the Ravenna Public Schools and

therefore made the request to their home district, the Loup City Public Schools, to allow their daughter, Libbi Loos, enroll in the Ravenna Public School District. These findings as to Petitioners' conclusions and perceptions only find in fact that these are the conclusions and perceptions of Petitioners, but does not determine whether such conclusions or perceptions are accurate.

4. Petitioners' application to transfer their daughter to the Ravenna Public School District is not part of the record, but is the subject of the February 27, 2012 response from Tom Hinrichs, Superintendent of the Loup City Public School District. Mr. Hinrichs, by such February 27, 2012 letter, disapproved such request and advised that the request could not be addressed by the Loup City School District's Board of Education since it was granting a second option enrollment request that was not permitted under the Nebraska Department of Education Rule 19. Petitioners filed their appeal on March 22, 2012.

5. Respondent school district has no other objection to the transfer of this student other than the statutory restriction limiting a student to one option enrollment prior to graduation.

6. Petitioners do not know of any facts to meet the exceptions in Neb. Rev. Stat. § 79-234 to allow an additional exercise of the option, other than their belief that the cooperative arrangement may be similar to a merger of school districts.

7. The Litchfield Public School District and the Ansley Public School District remain separate school districts.

RECOMMENDED CONCLUSIONS OF LAW

8. Petitioners perfected their appeal to the State Board of Education in a timely fashion and pursuant to Neb. Rev. Stat. § 79-239 (Supp. 2010). The State Board of Education has jurisdiction over this matter and the parties thereto.

9. Pursuant to Neb. Rev. Stat. § 79-239 (Supp. 2010), the hearing on appeal shall determine whether the procedures of Neb. Rev. Stat. §§ 79-234 to 79-241 have been followed.

10. Neb. Rev. Stat. § 79-234 (1) (Supp. 2010) provides in part as follows:

“The option shall be available only once to each student prior to graduation unless

- (a) the student relocates to a different resident school district,
- (b) the option school district merges with another district,
- (c) the option school district is a Class I district,
- (d) the option would allow the student to continue current enrollment in a school district, or
- (e) the option would allow the student to enroll in a school district in which the student was previously enrolled as a resident student.

11. The facts are not in dispute.

12. The Petitioners had previously exercised the option enrollment procedures for their daughter in 2003 and none of the exceptions in Neb. Rev. Stat. § 79-234 (1) are applicable. Under Article 4 of Chapter 79 of the Neb. Rev. Statutes, the term merger is used in connection with a new school district being formed from other school districts, which has not occurred in this case.

13. The Respondent School District correctly applied the existing law, Neb. Rev. Stat. § 79-234 (1), which provides that the option is available only once to each student prior to graduation, in denying the Petitioners option enrollment application.

RECOMMENDED DECISION

14. The following is recommended by the Hearing Officer:

- (a) That the Respondent School District’s decision to deny the Petitioners’ option enrollment application be affirmed;

(b) The State Board of Education as a part of its order shall adopt the Hearing Officer's findings of fact and conclusions of law in all respects, and that such be made part of its order by reference to the same extent and like effect as if such findings of fact and conclusions of law were fully set forth verbatim in its order.

Dated this 8th day of May, 2012.




Jim R. Titus, #16064, Hearing Officer
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CERTIFICATE OF SERVICE

The undersigned, Jim R. Titus, hereby certifies that the original of the foregoing with attached transcript was hand delivered to Leslie S. Donley, Assistant Attorney General, Nebraska Department of Justice, 2115 State Capitol, Lincoln, Nebraska on May 8, 2012, and a true and correct copy of the foregoing was served by first-class United States mail, postage prepaid on May 8, 2012 to the following parties:

Trent and Kelli Loos
78009 472nd Avenue
Litchfield, NE 68852

Loup City Public Schools
Tom Hinrichs, Superintendent
800 N. 8th Street
Loup City, NE 68853-0628



Jim R. Titus, #16064
Hearing Officer