

**BEFORE THE STATE BOARD OF EDUCATION
STATE OF NEBRASKA**

**NORMAN NEWHOUSE and IRENE
NEWHOUSE, Parents of ABIGAIL L.
NEWHOUSE,
6521 Perry Circle
Lincoln, Nebraska 68516**

Petitioners,

vs.

**SCHOOL DISTRICT NO. 145 OF
LANCASTER COUNTY, NEBRASKA,
a/k/a WAVERLY PUBLIC SCHOOLS,
P.O. Box 426
Waverly, Nebraska 68462-0426,**

Respondent.

Case No. 98-05

ORDER OF DISMISSAL

Petitioners filed this appeal pursuant to §005, Title 92, Chapter 7 of the Nebraska Administrative Code, and §79-239, *et seq.* R.R.S. (as amended to date), and in accordance with Title 92, Chapter 61 of the Nebraska Administrative Code. Petitioners, in their appeal, requested that the State Board of Education enter an order requiring Waverly Public Schools to accept the option enrollment application submitted by the Petitioners, and to permit Abigail Newhouse to enroll as a student in the Lincoln Public Schools for the 1998-99 and following school years, under the Nebraska Enrollment Option Program. The administrative Hearing Officer duly appointed by the Nebraska State Board of Education has recommended that the Petition of the Petitioners be dismissed with prejudice, each party to pay their own costs.

The State Board of Education, having considered the recommendation of the Hearing Officer and having been duly advised in this matter, finds it should adopt the recommendation of the Hearing Officer.

Wherefore, the State Board of Educations finds, decrees, orders and adjudges as follows:

1. Petitioners' appeal is dismissed with prejudice, each party to pay their own costs.

2. The Hearing Officer's recommendation is hereby adopted in all respects and made a part of this order by this reference to the same extent and with like effect as through such findings and recommendations were fully set forth verbatim herein.

Dated this 13th ^{August} day of ~~July~~, 1999.

NEBRASKA STATE BOARD OF EDUCATION



Douglas D. Christensen
Secretary of the State Board of Education

The vote by the State Board of Education to approve the final Order in Case No. 98-05, on 8-13-99, 1999, was 8 in favor, 0 against, 0 abstaining, 0 absent.

The individual State Board members voted as follows:


IN FAVOR: B. Peterson, Wilmot, K. Peterson, Mactier, Savage, Scherr, Meyer, Piller

AGAINST: _____

ABSTAINING: _____

ABSENT: _____

DATE: August 13, 1999.



Douglas D. Christensen,
Commissioner of Education and
Secretary of the State Board of Education

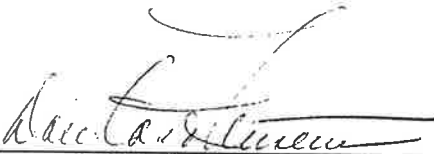
CERTIFICATE OF SERVICE

I hereby certify that a copy of this Order was served on the attorneys for all parties by certified mail, return receipt requested, on the 16th day of August, 1999, at the following addresses:

Neal Stenberg
Harding, Shultz & Downs
800 Lincoln Square
121 So. 13th Street
P.O. Box 82028
Lincoln, NE 68501-2028
Petitioners' Attorney

James B. Gessford and Gregory Perry
Perry, Guthery, Haase & Gessford P.C.
233 South 13th Street, #1400
Lincoln, NE 68508
Attorney for Respondent

Dennis C. Tegtmeier
Attorney at Law
140 No. 8th Street
Suite 250
Lincoln, NE 68508
Hearing Officer



Douglas D. Christensen
Secretary of the State Board of Education

**BEFORE THE STATE BOARD OF EDUCATION
STATE OF NEBRASKA**

**NORMAN NEWHOUSE and IRENE
NEWHOUSE, Parents of ABIGAIL L.
NEWHOUSE,
6521 Perry Circle
Lincoln, Nebraska 68516**

Petitioners,

vs.

**SCHOOL DISTRICT NO. 145 OF
LANCASTER COUNTY, NEBRASKA,
a/k/a WAVERLY PUBLIC SCHOOLS,
Box 426
Waverly, Nebraska 68462-0426,**

Respondent.

Case No. 98-05

**HEARING OFFICER'S
RECOMMENDATION
OF DISMISSAL**

Petitioners filed this appeal pursuant to §005, Title 92, Chapter 7 of the Nebraska Administrative Code, and §79-239, *et seq.* R.R.S. (as amended to date), and in accordance with Title 92, Chapter 61 of the Nebraska Administrative Code. Petitioners, in their appeal, requested that the State Board of Education enter an order requiring Waverly Public Schools to accept the option enrollment application submitted by the Petitioners, and to permit Abigail Newhouse to enroll as a student in the Lincoln Public Schools for the 1998-99 and following school years, under the Nebraska Enrollment Option Program.

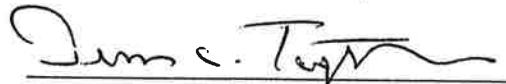
Respondent, in response, requested that the State Board of Education dismiss the petition on appeal with prejudice at Petitioners' cost, attorney's fees and other appropriate relief. On July 15, 1999, the parties filed a Joint Motion for Dismissal in which they jointly moved that the Hearing Officer and the State Board of Education dismiss the above-captioned matter with prejudice, each party to pay their own costs.

RECOMMENDATION

The Hearing Officer, based on the foregoing, recommends that the Petitioners' Petition be dismissed with prejudice with each party to pay their own costs.

Dated this 22 day of July, 1999.

Respectfully submitted,



DENNIS C. TEGTMEIER,
Hearing Officer
140 No. 8th Street, Suite 250
Lincoln, NE 68508
(402) 476-1829

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing Hearing Officer's Recommendation of Dismissal was duly served upon the following:

Neal Stenberg
Harding, Shultz & Downs
800 Lincoln Square
121 So. 13th Street
P.O. Box 82028
Lincoln, NE 68501-2028
Petitioners' Attorney

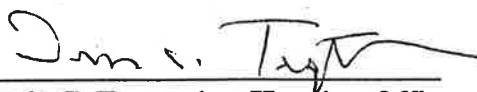
James B. Gessford
Perry, Guthery, Haase & Gessford, P.C.
233 South 13th Street, #1400
Lincoln, NE 68508
Attorney for Respondent

Nebraska Attorney General's Office
2115 State Capitol Building
Lincoln, NE 68508

Douglas D. Christensen
Commissioner of Education
Nebraska Department of Education
P.O. Box 94987
301 Centennial Mall South
Lincoln, NE 68509-4987

David C. Rasmussen
Agency Legal Counsel
Nebraska Department of Education
P.O. Box 94987
301 Centennial Mall South
Lincoln, NE 68509-4987

by placing same in the United States mail, postage prepaid on the 22nd day of July, 1999.


Dennis C. Tegtmeier, Hearing Officer