

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

JANE E. DOE

vs.

NORTH KINGSTOWN
SCHOOL COMMITTEE

D E C I S I O N

June 13, 1989

Travel of the Case

This matter was appealed to the Commissioner of Education and heard under his authorization on June 9, 1989. The appellant, Jane E. Doe, requested interim relief from the decision of the School Committee upholding certain disciplinary action imposed on her. The effect of the disciplinary measures is to bar her attendance at graduation ceremonies at North Kingstown High School on June 13, 1989. Jurisdiction to hear the appeal lies under R.I.G.L. 16-39-2; the appellant's request for interim relief was based on R.I.G.L. 16-39-3.2.

Findings of Fact

Just prior to attending her senior prom, the appellant consumed four rum-and-cokes at the house of a friend. She then proceeded to the West Valley Inn in West Warwick where she was, upon her arrival, asked to leave the prom by the chaperone and Assistant Principal at the High School, Patricia Lehnertz, who observed that the appellant was intoxicated. After determining that, from all outward appearances, Doe's escort was capable of driving home, the appellant was allowed to leave.

On the following Monday, May 15, 1989, Ms. Doe was called to Ms. Lehnertz's office where, after a brief conference, she was placed on a 3-day academic suspension and a forty-five (45) day suspension from

¹ Ms. Doe admitted to Ms. Lehnertz that she consumed alcohol before attending her prom and testified that she arrived at the prom in an intoxicated state.

all extra-curricular activities, including the senior banquet and graduation ceremonies. She appealed this decision to the principal, the Superintendent of Schools and the School Committee.

Ms. Doe is a nineteen year old student who lives on her own, apart from her parents and supports herself. She dropped out of High School at the end of her Sophomore year, during which time she had family problems, and her grades were failing. With the encouragement of her Guidance Counselor, she re-enrolled in Grade 10 at North Kingstown High School in 1986 and since that time has received mostly A's and B's and has been on the Honor Roll. Since her re-enrollment in Grade 10, she has had only one other infraction of school rules, an unauthorized absence from school premises.²

The North Kingstown High School student handbook, 1988-89 (School Committee Exhibit B) sets forth general principles of discipline, a code describing offenses and disciplinary action that may be taken against the student.³ For the offense of "possession of or under the influence of alcohol" the penalty described includes a three-day academic suspension and a suspension from activities for forty-five (45) days. (Exhibit B p.17). In addition, students are warned on pages 29 and 30 of the Handbook that at school dances proper behavior is expected and "the presence of alcohol or drugs in any form is expressly forbidden".

²]The transcript was not available and the evidence on this point was unrecorded in this Hearing Officer's notes.

³]The Assistant Principal testified that the penalties set forth in the Handbook are used as a guide, and that school administrators exercise discretion in fashioning penalties for the specific infraction involved.

Both the Assistant Principal and the Superintendent of Schools described a policy of consistently invoking the 3-day academic/ 45-day school activity suspension for students found to have violated the school rule regarding use of alcohol and other drugs. Superintendent Kelleher stressed the importance of this sanction, especially for seniors who, as they approach the end of their school year, are particularly vulnerable to the temptations of illegal use of alcohol.

Decision

The appellant's first claim that the rudimentary due process procedures required by Goss v. Lopez, 419 U.S. 565, 95 S.Ct. 729 (1975) were not utilized in this case is not supported by the evidence. Prior to suspending the appellant, the School Administrator gave Ms. Doe an opportunity to explain or describe any extenuating circumstances which accompanied her already-admitted violation of the school rules. There was no possibility that Ms. Lehnertz was acting on erroneous information, as she had observed Ms. Doe in an intoxicated state and Ms. Doe had admitted to Ms. Lehnertz that she had been drinking before coming to the prom. Thus, we find that the pre-suspension procedures utilized by the School Administration here satisfy due process requirements.

The second challenge made by Ms. Doe is that excluding her from attending graduation ceremonies is excessive punishment, given the fact of her good school record, her prior disciplinary history, and the facts of the particular incident in question. The School Committee's position is that after consideration of all of the arguments made by the

appellant at a hearing on June 5, 1989, it exercised its statutory prerogative to uphold the penalty, even though it meant that Ms. Doe would be excluded from graduation ceremonies. Mr. Piccirilli, attorney for the School Committee, argues further that the Commissioner's review, although it is on a newly-created record created at the June 9, 1989 hearing, is limited to a determination of whether the School Committee's action is arbitrary and capricious. We do not agree. An appeal to the Commissioner for a de novo hearing under R.I.G.L. 16-39-2 involves not only the creation of a new record on which the Commissioner's decision will be based, but his independent consideration of the facts and applicable law as well.⁴ While the Commissioner's own statutory responsibility is, then, to consider independently the evidence before him, we are mindful of the statement cited in our decision in Gambardella, see footnote 4, from the Rhode Island Supreme Court's 1874 decision in Appeal of John T. Cottrell, 10 R.I. 615:

. . . a commissioner would seldom reverse a decision of a committee unless he was satisfied that the public good or justice to individuals required it. And for the purpose of securing uniformity in the administration of the law, this provision is very important. Cottrell at 618.

For reasons which we will go on to discuss, it is our decision that the sanctions imposed by the School Committee should be upheld. Although Ms. Doe has overcome serious obstacles to successfully com-

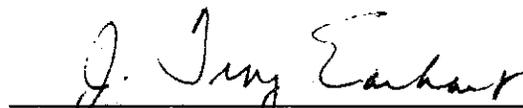
⁴See the discussions contained in Slattery v. School Committee of the City of Cranston, 116 R.I. 252, 354 A.2d 741 (1976) and the Commissioner's decision in Gambardella vs. Pawtucket School Committee, June 21, 1983.

plete her high school education and has maintained a good disciplinary record while at North Kingstown High School, the punishment she has received for the infraction to which she has admitted is not excessive. We are impressed with Dr. Kelleher's remarks concerning the importance of consistent imposition of this sanction, even if a student cannot attend graduation as a result, in terms of achieving deterrence to students' use of alcohol. Given the serious implications of alcohol use by students, we endorse the disciplinary response invoked by the School Administration.

Accordingly, the appeal is denied.


Kathleen S. Murray, Esq.
Hearing Officer

Approved:


J. Troy Earhart
Commissioner of Education

June 13, 1989