

STATE OF RHODE ISLAND

COMMISSIONER OF EDUCATION

AND

PROVIDENCE PLANTATIONS

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 JOHN C.H. DOE \*  
 V. \*  
 WILLIAM M. DAVIES, JR. CAREER AND \*  
 TECHNICAL HIGH SCHOOL \*  
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DECISION

Held: Suspension is sustained but is limited to remainder of the school year.

DATE: July 18, 1997

The student in this case was indefinitely suspended from the Davies Vocational High School for possession of marijuana. He had been sent to the principal's office

because it was alleged that he had been rude to a teacher. At the principal's office an administrator noticed an item on the student's belt which looked as if it might be an electronic "beeper". Possession of such an item on school grounds is contrary to Rhode Island law. G.L. 16-21.2-11. The item turned out to be just such a device. To facilitate a search the student was asked to raise his hands over his head. This process revealed a second beeper on the student's person. A bulge about the size of a beeper was also noticed in the student's pocket. He was asked to empty his pockets. Instead of another beeper this search revealed a transparent plastic cassette case which appeared to contain a marijuana cigarette. Obviously possession of marijuana is contrary to school rules. A Lincoln police officer who was visiting the school on another matter was informed of the results of the search. He took a sample of the alleged marijuana and, at a later time, performed a field test on the sample which was positive. Still, since this was only a field test, it was regarded as non-conclusive.

The only real issue in this case appears to be that at the suspension hearing at the Davies School the student's parent was not informed about the "non-conclusive" nature of the field test. While we think that the parent should have been informed about the nature of the test we think that in the context of this school suspension hearing any error present was harmless. The student, in speaking with school officials, acknowledged that the item in question was a "joint". The school officials recognized it as such by its appearance and odor. There was never any real dispute that the item was a marijuana cigarette. In fact the nature of the cigarette was confirmed by a subsequent lab test conducted by the forensic science section of the Rhode Island Department of Health. This report was received onto evidence at the present hearing.

In sum we find that this student did possess a marijuana cigarette on the grounds of the Davies School. We therefore affirm the suspension that has been imposed. However since indefinite suspensions are not allowed under Rhode Island school law we limit the duration of the suspension to the current school year. We also find that this student is to be allowed to enroll at Davies for the 1997-1998 school year.

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Forrest L. Avila, Hearing Officer

Approved:

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Peter McWalters, Commissioner

DATE: July 18, 1997