

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

JOHN C.R. DOE *
V. *
COVENTRY SCHOOL COMMITTEE *

DECISION

Held: Student Doe's three-month suspension for assaulting another student was not proven to be an excessive or disproportionate penalty. Although there is an inference on the record of a violation of Student Doe's procedural rights, the record was not fully developed on this issue.

DATE: February 2, 1998

Travel of the Case

On November 13, 1997 Commissioner Peter McWalters received an appeal filed on behalf of John Doe, a student at Coventry High School. The appeal sought the Commissioner's review of a November 10, 1997 decision of the school committee which continued Student Doe's suspension from the high school through the end of the first semester of this school year. He had been suspended since October 8, 1997 for assaulting another student.

The undersigned was designated to hear and decide this appeal on November 24, 1997. The matter was scheduled to be heard by agreement of the parties on December 11, 1997. At the hearing the parties submitted the transcript of the hearing before the Coventry School Committee, and supplemented that record with some additional information and legal argument. The record closed upon receipt of the transcript of the December 11, 1997 hearing before the Commissioner's designee, i.e. on January 8, 1998.

Issue:

Was Student Doe's suspension from
Coventry High School from October 8, 1997
for the balance of the first semester valid?

Findings of Relevant Facts

- Student Doe is eighteen (18) years old and a junior at Coventry High School. S.C. Ex. A. p. 9.
- On October 8, 1997 he assaulted another student at the high school. The student received injuries which later in the day required treatment at the hospital. S.C. Ex. A. p. 6.¹
- Immediately after the assault, Student Doe went to the Vice Principal's office and reported his involvement in what had happened. S.C. Ex. C. pp. 5-6.

¹ Testimony before the school committee was that the student required stitches to close a pre-existing cut over his eye. The cut had been reopened in the fight. S.C. Ex. C. pp. 34-36.

- Student Doe has been diagnosed with Attention Deficit Hyperactivity Disorder, (ADHD) and has been taking Ritalin for this condition since April of 1997. S.C. Ex. C. pp. 6-9
- In school year 1996-1997 Student Doe was found to have a substance abuse problem, which along with ADHD contributed to his school failure that year. (S.C. Ex. C. pp9, 21). He actually dropped out of school in the spring of 1996-97. S.C. Ex. A. p. 8.
- Student Doe then became involved in intensive counseling, which is ongoing; Student Doe has overcome his drug problem and is drug-free². His attitude toward school has also improved. S.C. Ex. C. pp. 9-10.
- After dropping out of school near the end of the spring semester of 1997, Student Doe returned to school in September, 1997 to repeat his junior year. Although his grades have been inconsistent, he had been doing better academically this year prior to his suspension. S.C. Ex. A. p. 8.
- The Superintendent recommended to the school committee on November 10, 1997 that, based on the incident which occurred and taking into account all relevant information³, Student Doe should be expelled for the remainder of the school year. S.C. Ex. C. pp. 28-29.
- The decision of the school committee dated November 10, 1997 was to suspend Student Doe for the remainder of the first semester of the 1997-98 school year. The decision notes that it thereby “adopted the recommendation of the superintendent of schools”. S.C. Ex. D.

Positions of the Parties

Student Doe

From a factual standpoint, Student Doe takes little or no issue with the specific findings on which the school committee based his three-month suspension. He fully admits his wrong doing in seeking out and assaulting a student who had angered him for reasons only alluded to in the record. He does note that although the other student required stitches, this was due to the reopening of an existing injury. He does acknowledge the student received bruises. He disagrees that the student who was

² A fact confirmed by random drug screenings conducted at his counselor’s request. S.C. Ex. C. pp. 18-19.

assaulted sustained some “fairly serious injuries” as alleged by counsel for the school committee (see p. 6 S.C. Ex. A). His counsel points out that directly after the incident, Student Doe realized what he had done and turned himself in to the appropriate administrator to account for his actions.

Counsel for Student Doe argues that although the incident was serious, there are other factors which should be taken into account in determining his penalty. These other factors include:

- His immediate remorse.
- Student Doe’s diagnosed attention deficit disorder
- His ongoing counseling for ADD and for a prior substance abuse problem.
- The fact that he is an average student who is repeating his junior year at the age of eighteen (18) and struggling to complete requirements for his diploma.
- This is the first serious act of misconduct he has committed during his enrollment at the high school.

Counsel takes the position that in light of all the circumstances in this case, a three month suspension was excessive.

The School Committee

Given the nature of Student Doe’s offense—a violent assault on another student—the school committee argues that an adequate basis has been established for the sanction imposed on him. Although the committee was authorized by school policy to suspend Student Doe for the entire balance of school year 1997-98, it imposed instead the lesser penalty of a three-month suspension. Counsel for the school committee submits that all

³ Including the mitigating circumstances presented on Student Doe’s behalf at the school committee

of the factors surrounding the assault have been taken into account by the school committee. It is for this reason that the penalty was for the balance of the school semester, rather than for the balance of the entire school year.

The school committee's decision also permitted Student Doe to continue in a tutorial program set up for those students under long-term suspension. Although it is not required by statute or regulation to make such continued educational services available to suspended students, the school committee has done so to enable suspended students to continue coursework and earn credits.

In summary counsel argues that the committee properly exercised its authority to impose a long-term suspension in this case, and took into account all relevant circumstances, including the mitigating factors established at the hearings on October 28, 1997 and November 10, 1997.

Decision

Our de novo review of this matter requires a redetermination of the appropriateness of the penalty imposed on this student and a determination that his rights to procedural due process have been observed. The context of our review is a situation of which we take administrative notice: ongoing incidents of school violence which have escalated in number and type over recent years. Both state and local policies have addressed the issue of violence in school. At the state level, a 1992 statutory amendment to our school law provides a "right to a safe school". Section 16-2-17 of our General Laws provides that:

each student, staff member, teacher, and administrator has a right to attend and/or work at a school which is safe, secure, and peaceful; which is conducive to learning, and

hearings.

which is free from the threat, actual or implied, of physical harm by a disruptive student. R.I.G.L. 16-2-17

Local school districts have responded both to state law, and the situation with which they are confronted, by enacting student discipline codes which provide for stiff penalties in situations of violence in school. Invariably, districts have not hesitated to impose such penalties, upon finding that a student has been guilty of assault, on a student or staff member. Our findings of fact in this matter confirm the school committee's finding that Student Doe assaulted another student at the high school on October 8, 1997. Given the description of the incident, the only thing standing between his victim and serious injury was a fair amount of good luck.

Mitigating factors certainly exist here. We are influenced, as the school committee undoubtedly was, by the fact that Student Doe has ADHD, takes medication for this condition, and has been working with a counselor for an extended period to deal with the situation. To his considerable credit, he has evidently overcome a substance abuse problem, and reenrolled in school after dropping out at the end of the 1996-97 school year. His grades have improved.

Even considering these factors, however, the three-month suspension has not been shown to be excessive punishment, in and of itself. There is also no evidence in the record that would demonstrate that this penalty is disproportionate to sanctions imposed on other students, according to any disciplinary records at Coventry High School. While the sanction imposed may have been beyond what was necessary to punish Student Doe,⁴ we are mindful of the need to deter other students from engaging in such conduct.

⁴ Testimony from all those involved confirmed this student's immediate remorse and sincere regret for the incident.

The fact that the school committee's decision permitted Student Doe to continue his studies in a tutorial program, and potentially gain sufficient credits to retain his standing as a junior, is quite significant. It emphasizes that the primary purpose of this long-term suspension was to deter others at the school from engaging in acts of violence. This provision of his punishment recognized the considerable effort he is making by attending ongoing counseling sessions to ensure that he remains drug free, and can continue to give his studies his best effort.

From a procedural standpoint, we are troubled that an inconsistency in the record exists with regard to what sanction the superintendent actually recommended to the school committee. While in the transcript of the hearing it is clear that he recommended "expulsion" for the remainder of the school year, the school committee's decision would indicate he made a different recommendation. This inconsistency was not apparent until the hearing had adjourned and the hearing officer had opportunity to review the transcript of the hearing before the school committee which had been submitted into evidence by agreement of the parties. Thus, there was no opportunity for the hearing officer to clarify the apparent inconsistency in the record.⁵ While an inference may exist that the school committee received a different recommendation from the superintendent at some time, the record is insufficient for us to draw any conclusions in this regard.

For the reasons stated, the appeal is denied and dismissed.

⁵ In the recent case of Student John C.M. Doe v. Coventry School Committee, decision of the Commissioner dated November 19, 1997, the hearing officer clarified the record only to determine that a different recommendation had been made by the superintendent when he accompanied the school

Kathleen S. Murray
Hearing Officer

Approved:

Peter McWalters
Commissioner

DATE: February 2, 1998

committee into executive session and participated in a discussion of the case. This procedural violation formed part of the basis for invalidating the disciplinary action taken by the school committee in that case.