

STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

IN RE: JOSHUA DOE

DECISION

HELD: The decision by the school superintendent/principal and vice-principal to exclude the student from participation in certain senior week activities is upheld.

DATE: June 5, 1998

INTRODUCTION:

This case is before the Commissioner of Education pursuant to his authority under 16-39-2 RIGL. The case concerns an appeal by parents of student Joshua Doe from the action of Superintendent/Principal Robert E. Terril and Assistant Principal for Discipline Dennis J. Smith of Tiverton High School that the student:

“will not be permitted to attend the senior activities of banquet, trip and senior prom”

(The student will be permitted to attend awards night and graduation ceremonies. The trip has since been cancelled.)

FACTS:

On May 28, 1998, Eric Marx, a teacher at Tiverton High School and class advisor to its senior class had set up a table during the school lunch period in the school commons area for senior students to purchase tickets to the various Senior Week events. Since students who had participated in fund raising were entitled to certain “credits” for their work and students were purchasing tickets for all or some of the events there was a need to make an individual account for each student. Because he was required to wait in line during this process, Joshua screamed “What the F---!” When Mr. Marx informed him his language and behavior were inappropriate, the student then retorted “You’re a F----- idiot!”

This behavior occurred in front of dozens of students and faculty members.

As a result of the incident school officials administered a three day out of school suspension to the student. This action is accepted and not appealed.

Previously during this school year this student:

- was administered a one day in school suspension after walking out of a conference with the Superintendent/Principal referring to him as a “f----- -hole.”
- was administered a one day in school suspension for smoking.
- was administered a two (2) day in school suspension for pushing another student.

Additionally, he was banned from attending basketball games at the school for the month of December for his behavior as a spectator at a game.

On May 28, 1998, Mr. Marx furnished his report of that day’s incident and requested that the student’s discipline includes loss of access to all senior week activities.

On May 29, 1998 the Superintendent/Principal and Assistant Principal granted Mr. Marx’s request as to the banquet, trip and senior prom. In doing so they cited his prior disciplinary record during the school year.

Position of the Parties:

In their appeal the parents rely upon the fact that the school disciplinary code provides for an external suspension for the offense of profanity/vulgarity directed to a teacher but no other consequences in addition to suspension are listed. Additionally, they cite the fact that the code specifies that during a suspension students are not allowed to participate in school related activities including social events. They reason that since the particular activities at issue are taking place after his three day suspension has been served he has a right to participate in them. Finally, the parents presented evidence of a conflict between another son, the Superintendent/Principal and the mother. They argue the discipline of Joshua is motivated by that conflict.

Mr. Marx has testified that he requested the discipline because the incident involved the senior activities themselves. He believes that as an adviser he should be able to seek independent discipline related to the activities in his purview, as would an athletic coach or other adviser in matters in their purview, separate and apart from academic suspension. Mr. Marx also testified that the activities of senior prom and banquet take place off school premises making group discipline and decorum of grave importance. Mr. Marx also states that in view of Joshua's behavior in this incident and the other incidents detailed above he is concerned that Joshua would be disruptive and threaten the necessary group discipline at these events.

Opinion

The parents' claim of bias or retaliation by the Superintendent/Principal is rejected. It is apparent from viewing the testimony that the Superintendent/Principal himself linked the behavior of Joshua and his brother and the response of the mother. This would make discipline imposed by the Superintendent/Principal alone suspect. That is not the case here. The discipline at issue was at the initial instance of Mr. Marx and was endorsed by the Assistant Principal Dennis J. Smith. The appellants readily admit that neither of these individuals is biased nor do they harbor any resentment to them or their sons. Their argument on this point is therefore rejected.

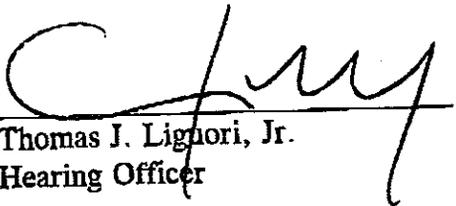
This office recently addressed the issue of senior week activities suspensions. IN RE: Eric Doe, (May 8, 1998). The student behavior at issue was fraudulent fundraising activities in connection with a school club. In addition to a school suspension the student was prohibited from attending his senior prom, senior class trip, senior awards night and senior class banquet. That decision states:

"As participation in extra-curricular activities is a privilege and not a right, under appropriate circumstances the exercise of that privilege can be denied... The action taken was not arbitrary or capricious..."

Clearly here the student's inappropriate behavior was directly related to the activity he now seeks to have us direct school authorities to allow him to participate in. By his actions however he forfeited any right to so participate. We would certainly not interfere with a coach suspending an athlete for such behavior and see no reason to interfere with a class advisor (or other activities advisors) exercising the same rights as long as such right is exercised in a manner which is neither arbitrary nor capricious.

In view of the public nature of this incident, the student's past disciplinary record and the advisor's concern for the decorum of the activities (which we find creditable) the discipline was neither arbitrary nor capricious.

For these reasons, the appeal is denied.


Thomas J. Lighori, Jr.
Hearing Officer

Approved:



Peter McWalters
Commissioner of Education

Dated: June 5, 1998