

0029-99

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER
OF
EDUCATION

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In Re Christopher D.

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DECISION

Held: Imposition of a five day suspension for fighting with another student was supported by the facts and consistent with the penalties and procedures outlined in the school disciplinary handbook.

DATE: November 15, 1999

Travel of the Case

On May 25, 1999 the father of Christopher D. appealed the issue of his son's suspension from Cranston West High School to Commissioner Peter McWalters. Mr. McWalters designated the undersigned to hear and decide the appeal. Hearing was scheduled for June 17, 1999, and then rescheduled for July 9, 1999. The appellant did not attend the scheduled hearing, but agreed to the presentation of evidence by the school department, with the understanding that he would receive a copy of the transcript and have subsequent opportunity to place any additional evidence and argument on the record. A copy of the transcript was forwarded to the appellant and, after his review, he requested that the hearing be reconvened. On October 22, 1999 the parties were in attendance and placed additional information on the record.

Jurisdiction to hear this matter arises under R.I.G.L. 16-39-1 and 16-39-2, as well as 16-2-17, entitled "Right to a safe school".

Issues:

Is Christopher D's five-day suspension from school justified and in conformity with the procedures set forth in the Cranston School Department's handbook "Disciplinary Procedure for Cranston High Schools Grades 9-12?"

Is suspension an appropriate disciplinary measure for misconduct by students?

Findings of Relevant Facts

- On March 8, 1999, Christopher D., a sophomore at Cranston West High School, received a five (5) day suspension for fighting with another student. S. C. Ex. 5.
- He was walking to his bus after school when he became involved in a fistfight with the student, after some words were exchanged. A teacher intervened to break up the fight. S. C. Ex. 2 and 3.
- There were no injuries, but one of the students was bleeding. Both students were examined by the school nurse and were referred to an assistant principal for a determination of appropriate discipline. Tr.p.18-20.
- Separate discussions with each of the boys involved in the fight were held to go over what happened, and to emphasize the need for them to resolve their conflict without resorting to violence. The boys were then brought into the same room. Their attitude toward each other remained unchanged, so they were separated again and their parents were called. Tr. p.19, 21.
- Based on the fact that both boys admitted engaging in the fight, and the fact that their hostility toward one another continued, each was given a five-day suspension from school. Tr. p.23, 33-34.
- The penalty set forth in the school handbook for fighting is three to ten school days. Appellant Ex. A.
- Prior to this incident, Christopher D. had not been involved in any altercations at school, and had a good disciplinary record. S. C. Ex. 5.

Positions of the Parties

The School Committee:

Representatives of the school department, and in particular the principal of Cranston West High School, emphasize the need for a clear, consistent message that fighting at the school is simply not acceptable. This message is sent by the clear description of fighting as a “serious matter of misconduct” (p.8 of the Handbook), reinforced verbally by teachers and administrators, and confirmed by consistent imposition of the sanction of suspension when this rule is violated. In this case, since Christopher admitted his involvement in the fight, and

did not have a willingness to talk to the other boy involved so that the two could work on a non-violent resolution of the issues between them, a five-day suspension was imposed. Also taken into account was the fact that it was the only altercation in which this student had been involved at the high school.

In appealing his son's suspension through the various levels of the school district, Christopher's father did not substantially dispute the facts, the school department points out. Rather, he based his appeal on his philosophical disagreement with suspension as an appropriate sanction for misconduct at school. The district argues that this is the sanction imposed for this type of misconduct as a matter of school policy, and points out that it has been an effective deterrent to fighting in school, although such behavior has not been totally eliminated from the school environment.

In response to the appellant's claim that the handbook requires those who engage in fighting at school to receive counseling, the school department states that the assistant principal did counsel the student to a limited, but sufficient, extent. The nature of the incident, and the absence of a prior history of aggressive behavior indicated that more extensive, formal counseling was not necessary.

The Appellant:

As a factual matter, Christopher's father takes the position that his son was not the aggressor in this fight. He does acknowledge that, after provocation by the other student, his son became involved in the fight, but he notes that it was broken up quickly and there were no injuries to either one of the boys. It is his understanding that after the boys were separated and the assistant principals spoke to each of them, his son and the other boy shook hands and did

in fact show remorse for the incident. His son is of good character, and has no prior infractions of any substance in his disciplinary record at the high school. Implicitly, if not expressly, he argues that a suspension of five school days is not supported by the facts of this case.

Secondly, the appellant argues that suspension is a sanction for misconduct that is counterproductive to the educational process. He sees his son's anticipated absence from school as a clear impediment to his learning. He also views other sanctions – such as Saturday detention, compulsory essays on the dangers of fighting, etc. as better ways to teach students that they cannot fight in school, or outside of school, for that matter. He has offered to have Christopher serve detention, or write an essay, in lieu of the five day suspension which has been imposed.

As the appellant interprets the disciplinary handbook, any suspension for fighting is conditioned on the administration's providing his son with counseling. He argues that Christopher did not receive counseling and this prevents the school administrators from suspending his son. His position is that school administrators are required to do what the handbook states if students are required to adhere to the code of conduct established in the handbook. Another requirement under the disciplinary procedures was for the school to send him a written notice of the proposed suspension, action which was taken, he argues, only after he called the school to point out that he had not yet received any written notice.

For all of the foregoing reasons, he argues that the five-day suspension should be invalidated or set aside, and replaced with a more reasonable, educationally sound penalty.

Decision

As the findings of fact indicate, Christopher D. engaged in a fist fight with another student at Cranston West High School on March 8, 1999. The record made at this hearing did not include eye witness testimony of what led up to the fight. It did include, however, a signed statement from Christopher that his involvement was preceded by verbal and even physical provocation by the other student. Nonetheless, the record at this level does not establish that Christopher's involvement was solely in self-defense, or that the fight was actually an assault by the other student. Given the entire record in this case, we conclude, as did the other previous fact finders in this matter, that Christopher violated that portion of the school code which prohibits "fighting between and among students"(p.8). This infraction is characterized in the handbook as a serious matter of misconduct, and school officials emphasized that the goal of such provisions for their school is to maintain a school climate which emphasizes mutual respect and peaceful coexistence. While some school codes may impose lesser penalties for fighting, the importance of this provision to the school community at Cranston West High School is clear not only from the way the matter is dealt with in the handbook, but also from the earnest testimony of the three administrators who appeared at the hearing.

The penalty set forth in the handbook is suspension from three to ten school days. Representatives of the school district testified quite clearly as to the factors which will determine the penalty imposed in each individual case. It is unnecessary to discuss all of the factors bearing on such decision, except to say that in Christopher's case the fact that hostile attitudes continued on that afternoon resulted in a suspension beyond the minimum three days. The record supports the decision to impose a five day suspension in this case, rather than three or four days.

The appellant claims that his son did not receive counseling and this fact prevents school officials from imposing any punishment. This claim is without merit. First, the handbook states that when an incident of fighting occurs, the administrator will counsel the offending student. This language does not establish that formal counseling sessions are a precondition to punishing a student for misconduct. A reasonable interpretation of this language is that the administrator whose role is to deal with the offending student will attempt to talk to the student about his or her behavior in a way which will help the student understand why such conduct is not acceptable and how the student can resolve differences in other, non-violent ways. This is exactly what school administrators tried to do, with little success, on the day the fight occurred. While there are incidents which would result in referral of students for formal counseling sessions, given the nature of this incident and what school administrators knew about each of these children, further counseling was not deemed necessary. The failure to provide counseling beyond that which was provided does not invalidate Christopher's suspension.

Finally, a school's disciplinary code and the sanctions for behavior proscribed by the code are, absent extraordinary circumstances, within the purview of local school committees. At this point in the "reform" movement, we take administrative notice of the fact that in many cases the school discipline code is the result of the assessments and decisions made by the school improvement team. While the local decision as to the use of suspension as a response to misconduct may not always be the same decision that would be made at the state level, our law gives this prerogative to those making such decisions at the local level. Thus, the appellant's argument that suspension undermines educational progress and is not as useful as other more creative forms of school discipline is a point that he must raise with members of

his local education community, in particular the Cranston School Committee and members of the school improvement team. In principle, suspension violates no state or federal law, or Board of Regents policy.

For the foregoing reasons, the appeal is denied.

Kathleen S. Murray, Hearing Officer

APPROVED:

Peter McWalters, Commissioner

DATE: