



## TRAVEL OF THE CASE

This matter is before the Commissioner on the petitioner's request for an order directing her school committee to immediately hear her motion to be taken off social probation. In the alternative she is requesting the Commissioner to direct her immediate removal from social probation.

## FACTS OF THE CASE

The facts of this case are adequately stated in the Commissioner's prior decision in this matter. *In the Matter of A.L.*, Commissioner of Education, October 15, 1999.

In this prior decision the Commissioner sustained the school district's decision to place the petitioner on social probation except that the Commissioner decided that the petitioner should be allowed to participate in field hockey. Social probation bars the petitioner from all school activities except for participation in the school district's regular academic program. The Commissioner directed the school committee to reconsider this matter in six months in accordance with local rules. At this reconsideration the Commissioner expects the school committee to give timely consideration to allowing the petitioner to participate in senior activities such as the senior prom and graduation exercises.

## CONCLUSIONS OF LAW

Under the Commissioner's Decision the committee was not required to give the petitioner an immediate rehearing of her placement on social probation. The decision of the school committee not to immediately rehear this matter is therefore affirmed.

We understand that the school committee is reconsidering its general policy in this area. We commend this action. It may well be that a more nuanced approach to this facet of school discipline would benefit the school committee's effort to confront the serious problem of under age drinking. The school committee, in making its review, should "(a)cccept and encourage a variety of opinions from and communication with all parts of the community." R.I.G.L. 16-2-9.1(4) We therefore recommend to the committee that in making its review it consider the opinions of its school physician and school social workers, as well as the opinions of other professionals, who have appropriate knowledge concerning the subject before the committee.

We are sure that for some students--especially those who are involved in a wide range of healthy school activities--the threat of losing the opportunity to participate in these activities may have a serious deterrent effect. Still it may not be entirely appropriate to exclude these students from every school activity, without regard to how beneficial the specific activity is to the student's future. In fact, according to experts in

the field of substance abuse prevention, actively involved students have the best chance of avoiding problems with under age drinking.

We also recognize that not all students participate in extra curricular activities. The present policy of the school committee may not be addressing the problems of these students. And it may be these very students who are at greatest risk for the conduct which the committee wishes to deter. We are confident that the school committee will examine these issues when it restudies its policy.

We note that both parties have appealed this case to the Board of Regents. It is therefore probable that the Board's authority has now preempted the jurisdiction of the Commissioner. *Cavanagh v. Cavanagh*, 380 A.2d 964 (R.I., 1977) It seemed appropriate however to decide the pending question in the event that the Board deems that it was properly before the Commissioner.

### CONCLUSION

Petitioner's request that the Commissioner order the school committee to immediately rehear this matter is denied. The school committee is, however, expected to reconsider this matter in a timely enough fashion to decide whether the petitioner may be allowed to participate in major senior year activities.

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Forrest L. Avila, Hearing Officer

APPROVED:

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Peter McWalters, Commissioner

DATE: December 9, 1999