

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER
OF
EDUCATION

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In the Matter of Steven F. :
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DECISION

Held: The student is appealing a decision which prohibits his participation in graduation exercises, a penalty resulting from a school suspension. In this *de novo* review, we see nothing inappropriate or disproportionate in the penalty which school officials imposed. The appeal is denied and dismissed.

DATE: June 9, 2000

Statement of the Case

The appellant in this case is an 18-year-old high school senior who has been suspended from school as a result of possessing a marijuana cigarette on school grounds. The student is being denied the opportunity to participate in graduation exercises. The student is appealing from this denial. The local superintendent of schools and the local school committee have already considered this matter and rejected the student's appeal. The matter has now been appealed to the Commissioner of Education.

Jurisdiction

Jurisdiction is present under R.I.G.L. 16-39-1 and R.I.G.L. 16-39-2.

Standard of Review

We exercise *de novo* review in this case.¹ The scope of review is well expressed in *Appeal of Cottrell* where the Supreme Court stated:

It would no doubt make the office of commissioner easier and more pleasant, to take away this power. The decision of such cases leads frequently to enmities, or charges of being subject to improper influence. School committees, however honest, may be subject to local influences; and the very knowledge that their determination was likely to be reviewed by a disinterested person, in many cases, prevent an improper decision, and a commissioner would seldom reverse a decision of a committee unless he was satisfied that the public good or justice to an individuals required it. And for the purpose of securing uniformity in the administration of the law, this provision is very important.²

In a recent case we have pointed out that while the Commissioner exercises *de novo* review authority:

The Commissioner accords great weight to the reasoned discretion of school officials when they exercise this discretion in the cases that come before them. Unfortunately when School officials abdicate their discretion and take shelter behind inflexible rules they deprive the Commissioner

¹ *Slaterry v. Cranston*, 116 R.I. 252 (1976)

² *Appeal of Cottrell*, 10 R.I. 615 (1873) See: *Pawtucket School Committee v. State Board*, 103 R.I. 359 (1968)

of the opportunity to show proper respect for a discretion which they have failed to exercise.

Last year we decided a case where we stated:

We have pointed out that school officials must always exercise discretion in the imposition of school penalties. *John B.L. Doe v. A Rhode Island School Committee*, Commissioner of Education, June 13, 1995. We therefore never interpret school rules involving penalties as if they were a version of “the law of the Medes and the Persians” which must literally be applied in every case no matter what the consequences. It should be noted that this is a balanced approach since students cannot avoid school discipline just because of an inartfully drafted school rule.

Findings of Fact

No one disputes that this student possessed marijuana on school property. This possession may have been unintentional in the limited sense that the student states that he was using marijuana on the weekend and forgot that he still had a marijuana cigarette in a package of regular cigarettes that he brought to school. The student argues that despite some trouble in the past his overall school and community service record is a good one. He is now receiving substance abuse counseling. He points out that he has suffered serious embarrassment from his arrest on school grounds. He points out that he was lead from school grounds in handcuffs in the full view of other students. He suffered great anxiety as a result of a potential felony indictment for being a person over 18 who had brought an illicit drug to school. He has been barred from all senior activities—including the senior prom. He argues that his punishment has been severe enough and that he should be allowed to participate in graduation exercises.

We find in this case that although the school has a discipline code which speaks in the language of *zero tolerance* the superintendent of schools, in fact, exercises discretion in the imposition of school penalties. She testified that she gave prolonged consideration to the question of whether or not this student should be allowed to participate in graduation exercises. She decided to deny participation. The local school committee reconsidered this matter and reached the conclusion that this student should not be allowed to participate in graduation exercises.

The student argues that an attorney representing the school district seems to have argued to the school committee that it was simply bound by the school discipline code and that it therefore should not exercise its discretion in this matter. The superintendent testified however that she knew from prior disciplinary matters that the school committee was well aware of its authority to review all school penalties. We have no reason to doubt this testimony.

Discussion

Bringing an illegal drug to school is a serious offense. This student does not have an unblemished disciplinary record. The local officials considered all the facts and circumstances, and, using their own discretion, they made a decision about the appropriate penalty to be imposed against this particular student in this particular case. We see nothing inappropriate or disproportionate in the penalty which school officials have imposed. Based upon this and the exercise of our own independent *de novo* review authority we conclude that the discipline imposed should be sustained.

Conclusion

The Appeal is denied and dismissed.

Forrest L. Avila, Hearing Officer

APPROVED:

Peter McWalters, Commissioner

DATE: June 9, 2000