

0030-02

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

JILLIAN K.

V.

BURRILLVILLE SCHOOL COMMITTEE

Decision

Held: Decision to suspend student from
cheerleading for the 2002-2003
school year is arbitrary.

Date: September 3, 2002

Introduction

This matter concerns an appeal of a School Department decision to suspend a student from cheerleading at Burrillville High School for the 2002-2003 school year.¹

For the reasons set forth below, we sustain the appeal.

Background

Jillian attended the 8th grade at Burrillville Middle School during the 2001-2002 school year. She was an excellent student, with no disciplinary record.

For the past 6 years, the Middle School has conducted an enrichment activity program for students. Under the program, one class period a week is set aside for student participation in a selected activity. Jillian chose cheerleading as her activity for the 8th grade.²

The enrichment activity program does not begin until the second quarter. Activity advisors are appointed by the School Committee some time later.³ Cheerleading, however, begins in the summer when the team is selected by the cheerleading advisor. In the past, the cheerleading squad cheered at Middle School athletic events and participated in cheerleading competitions, including the annual state cheerleading championship.⁴ In the summer of 2001, Jillian was one of 16 students chosen for the team by the previous year's advisor. Team members were given uniforms bearing the name of the school. Beginning in September 2001, the team practiced three days a week after school in the school gymnasium with the advisor. The team cheered at school athletic events in the fall.

On or about December 12, 2001, the cheerleading advisor's appointment was not renewed by the School Committee.⁵ A day or two later, the principal of the Middle School assembled the cheerleaders and informed them that the advisor had not been reappointed. According to the principal, he told the cheerleaders that there no longer was a cheerleading enrichment activity, that they had the option of selecting another activity, and that they would temporarily attend a study hall during the enrichment activity period. The principal also

¹ The Commissioner of Education designated the undersigned hearing officer to hear and decide the appeal. A hearing was held on July 8, 2002. The record was later supplemented by the parties.

² Jillian participated in the cheerleading activity in the 6th grade as well.

³ The superintendent of schools testified that "we have not had the good practice in the district of appointing [advisors] prior to the beginning of the seasons." [Tr, p. 112].

⁴ The state cheerleading championship is generally recognized as the premier event of the cheerleading season.

⁵ The advisor also was asked to resign from her position as Burrillville High School cheerleading coach, which she did.

testified that he asked the students for the names of any individuals who would be interested in supervising the cheerleading activity. The principal did not ask the students to return their cheerleader uniforms nor did he provide any notice to parents that the cheerleading activity had been discontinued.

Jillian chose another enrichment program activity. During Christmas vacation, some of the cheerleaders, but not Jillian, appeared outside the superintendent's office and performed cheers, including a "we want our coach" cheer. About the same time, Jillian's mother was contacted by the former cheerleading advisor who asked her if Jillian would be interested in joining a "recreation league" cheerleading team. Jillian agreed to join the team. The former advisor later told the principal that she had formed the recreation league cheerleading team. She also asked him if the team could practice at the school gymnasium. The principal denied the request.

Beginning in January 2002, Jillian and the other 15 students from the cheerleading enrichment activity program began practicing cheerleading four times a week with their former advisor at a lodge in Burrillville. Some of the practices were held after school. Jillian and some other students asked for, and received, bus transportation from school to the lodge. Some of the parents informed the school that the purpose of the alternative transportation was to enable their children to attend cheerleading practice. In addition, the principal testified that he became aware of the practices at the lodge and that on one occasion the former advisor appeared at school and distributed pompons to cheerleaders.

Jillian testified that in January or February 2002, there was an announcement on the public address system at school asking the cheerleaders to report to the office where they were informed of new bus assignments for traveling from the school to the lodge.

There was testimony at the hearing that some of the cheerleaders engaged in fundraising to buy new uniforms. Specific mention was made of cheerleaders wearing their Middle School cheerleader uniforms soliciting donations at a local market. Jillian did not participate in the fundraising activity.

A photograph of the cheerleading team, including the former activity advisor, was taken at the lodge in early 2002 for the Middle School yearbook. The cheerleaders wore their Middle School uniforms. The photograph appeared in the sports section of the Middle School yearbook, which was distributed at the end of the school year.

On March 17, 2002, the superintendent received a phone call from a School Committee member informing her that a group identified as the Burrillville Middle School cheerleading team and wearing Middle School cheerleading uniforms participated in the annual state cheerleading championship the previous day. At the Superintendent's request, the principal obtained a copy of the registration form for the competition. The form registers the "Burrillville Middle School" in the junior high/middle school division of the competition. It names the former advisor as the team's head coach, and it lists 16 team members -- Jillian and the other 15 original participants in the cheerleading enrichment activity. The School Department also obtained a copy of the form certifying the eligibility of the participants to represent the Burrillville Middle School. The coach's signature line on the form bears the former advisor's name, and the signature line for the "Athletic Director or Principal" contains an illegible scribble. [School Committee Exhibit 2(a)]. Neither the Middle School principal nor the athletic director signed the form.

The superintendent directed the principal to retrieve the school's cheerleading uniforms.⁶ The principal's efforts met with resistance, including the submission of several harshly-worded letters of protest from students. Jillian did not write a letter.

On April 8, 2002, the superintendent mailed a letter to the parents of all the Middle School cheerleaders. The letter informs the parents that the Middle School cheerleading squad was "effectively disbanded when a coach was not appointed." It states that "the lack of a coach meant there was no squad, and any group claiming to be a Burrillville Middle School squad was misrepresenting itself. This applies to competition and it applies to fundraising . . ." The letter further states that the students were "clearly aware" of the disbanding of the squad and

they protested lengthily and loudly. Some of them actually cheered outside the Administrative Offices during a school vacation. They wrote letters. They even tried to avoid being seen by the High School Principal and a School Committee Member when they took their seats at the Interscholastic Competition. . . . In fact, the Principal of Burrillville Middle School has received letters from seven (to date) of the members of the team, claiming to speak for all, who have refused to return the uniforms that they earned by fundraising under the

⁶ When asked about the failure to collect the cheerleaders' uniforms in December 2001 when the advisor was not reappointed, the superintendent stated that it was an "unfortunate bad practice" that the district is attempting to change. [Tr, p. 136].

false pretenses that they were members of a nonexistent Burrillville Middle School Squad. No uniforms have been returned.

Consequently, all students whose names appeared on the registration form for the state competition were suspended from participation in middle school and high school cheerleading for one year. [School Committee Exhibit 3].⁷

The superintendent did not speak to Jillian or her parents prior to imposing the one-year cheerleading ban. Jillian testified at the hearing that, prior to the state competition, the former advisor told the cheerleaders that it was permissible to wear their Middle School uniforms to the competition. Jillian's mother testified that she asked the former advisor what the team would wear at the competition and the advisor replied that the principal had given permission for the cheerleaders to wear the Middle School uniforms.⁸ She also testified that she told Jillian to return her uniform when it became an issue.

Positions of the Parties

Petitioner contends that Jillian's one-year suspension from cheerleading is an arbitrary and capricious decision that resulted from a flawed investigation of her involvement in this matter. Jillian was not given any opportunity to be heard prior to the decision herein. The April 8th letter is unclear as to the grounds for Jillian's punishment. The evidence shows that the cheerleader advisor made misrepresentations about the team's ability to participate in the state competition, but it does not show that Jillian had the required knowledge to support the finding of a misrepresentation on her part. Furthermore, the district's admitted "bad practice" regarding the handling of the cheerleader uniforms bears significant responsibility for what occurred in this matter.

The School Committee contends that the April 8th letter constitutes an appropriate group punishment in this case. Jillian and the other cheerleaders were told that the advisor had not been reappointed to her position and that cheerleading therefore was no longer an enrichment program activity. Jillian demonstrated her understanding of these facts when she chose another enrichment activity. Her subsequent participation in the state competition as

⁷ The superintendent chose a one-year suspension period based on her belief that the cheerleaders had illegitimately gained one year of cheerleading.

⁸ While we have no basis to doubt the testimony of Jillian's mother, we cannot find the statement attributed to the principal by the adviser to be credible in light of the dishonest registration statement previously described.

part of the Burrillville Middle School cheerleading team therefore was a knowing misrepresentation of that team's status. Finally, the nature and scope of her punishment fits the circumstances of her offense.

Discussion

The suspension of Jillian's cheerleading privileges for the 2002-2003 school year is set forth in the superintendent's April 8th letter. The same letter was sent to the parents of all 16 students whose names are listed on the registration form for the state cheerleading competition. As acknowledged by the School Committee, the April 8th letter conveys a group punishment.

The letter asserts that the students knowingly misrepresented themselves as representing the Burrillville Middle School when they participated in the state competition and engaged in fundraising. In finding a knowing misrepresentation, the letter relies on certain student activity that occurred after the advisor's nonrenewal: protests, letters, and cheering outside the administrative offices. The letter also makes a general reference to the cheerleaders' attempts to avoid being seen at the state competition, their refusal to return uniforms, and letters concerning the uniforms.

We find this case to be a telling example of the inherent risks in imposing group punishments. Student discipline is not a pair of tube socks -- one size does not fit all. Instead, student discipline must be tailored to meet the relevant circumstances of the individual case. And as with any disciplinary case, when school authorities do not provide students with an opportunity to be heard prior to imposing sanctions, the task of tailoring the punishment to the offense becomes more difficult.

A review of the record herein shows that the one-year suspension of cheerleading for Jillian based on the reasons stated in the April 8th letter did not fit the circumstances of her case. First, the superintendent testified that she imposed a one-year ban on cheerleading because the students illegitimately gained a year of cheerleading. The record shows, however, that the cheerleading enrichment activity commenced in the summer of 2001 and continued in legitimate fashion until the middle of December 2001. We therefore fail to understand how Jillian illegitimately gained a year of cheerleading when approximately 5 months of her cheerleading took place within the enrichment activity program.

Second, it is admitted by the School Committee that Jillian did not engage in fundraising for the recreation team. Jillian therefore is not guilty of one of the two charges that form the basis of the one-year suspension. Third, with regard to the advisor's nonrenewal, there is no evidence that Jillian participated in any student protest, cheered outside the superintendent's office, or sent any type of letter to a school administrator.⁹ In addition, there is no specific evidence pertaining to Jillian's behavior at the cheerleading competition, and the record shows that Jillian returned her uniform once it became an issue. Fourth, the School Department did not take into consideration its admitted "bad practices" with regard to the appointment of activity advisors and the return of uniforms. Jillian was in her fifth month of cheerleading when the advisor was not renewed in December 2001. Her parents were not informed that the cheerleading activity had been discontinued. More importantly, the school allowed the students to keep their uniforms.

If cheerleading at Burrillville Middle School had truly been eliminated in December 2001, one would reasonably expect the school to have asked the students to return the cheerleading uniforms. This did not happen. Instead, months passed without any effort by the school to retrieve the uniforms. In the meantime, the students resumed cheerleading at a local lodge, with the school's knowledge. In fact, the school supported this cheerleading when it provided Jillian and other students transportation to the lodge for after-school cheerleading practice, and it officially recognized this activity when it sent a yearbook photographer to the lodge to take the cheerleaders' picture with their former advisor.

These circumstances were not considered by the School Department when it decided to discipline Jillian. It also failed to consider the misleading statements made by the former advisor to Jillian and her mother. The focus of the April 8th letter is entirely on the students, who are assigned full responsibility for the conduct found to be improper.

We are therefore unable to find that the April 8th letter is based on all the relevant circumstances of Jillian's case. As stated above, important pieces of the puzzle were not placed on the table. When we look at all the circumstances of this case, we find that the actions (and inaction) of the School Department and the former cheerleader advisor are largely responsible for creating the conditions that led to Jillian's participation at the state cheerleading competition. To assign all the blame to Jillian is patently unfair and arbitrary.

⁹ Jillian is not referenced by name in any other student's letter nor did she sign anyone else's letter.

In our opinion, the School Department, the former advisor and Jillian all share responsibility for what happened here. The School Department needs to factor its culpability into disciplinary decision. The former advisor needs to be held to the standard of behavior expected of a cheerleader coach. And Jillian needs to understand that, given the dishonesty that occurred, her participation in the state competition was not legitimate.

In light of the above, we sustain the appeal. Jillian is eligible to participate in cheerleading activities at Burrillville High School for the 2002-2003 school year. We shall refer the former advisor's conduct to the Office of Teacher Certification for an investigation into her fitness to hold a coaching certificate. We ask Jillian and her parents to reflect on the substance and spirit of this decision. It is our expectation that, after having done so, Jillian will return any prize or award that she may have received at the state cheerleading competition.

Conclusion

In view of all the circumstances, the decision in the April 8, 2002 letter to suspend Jillian from cheerleading at Burrillville High School during the 2002-2003 school year is patently unfair and arbitrary. The appeal is sustained and the suspension is invalidated.

Paul E. Pontarelli
Hearing Officer

Approved:

Peter McWalters
Commissioner of Education

Date: September 3, 2002