

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

MELISSA P.

V.

BURRILLVILLE SCHOOL COMMITTEE

Decision

Held: Suspension of student from cheer-
leading for entire school year is
arbitrary.

Date: October 7, 2002

Introduction

This matter concerns an appeal of a School Department decision to suspend Melissa P. from cheerleading at Burrillville High School for the 2002-2003 school year.¹ The appeal involves the same decision, as articulated in the superintendent's April 8, 2002 letter, as that addressed in the ruling we issued on September 3, 2002 in the case of Jillian K. v. Burrillville School Committee.

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

Background

Except as modified or clarified below, we adopt herein the findings of fact set forth in the general background of our decision in Jillian K.

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

Melissa was one of 16 students chosen for the Middle School cheerleading team in the summer of 2001. Melissa received a new uniform from the cheerleading advisor at that time.² The new cheerleader uniforms were purchased with fundraising monies and contributions from the parents of team members. The School Department reimbursed the cheerleader advisor for the cost of the new uniforms. Melissa's mother testified that she did not receive any money from the School Department's reimbursement of the advisor.

Melissa testified that she participated in car wash (summer of 2001) and candy sale (winter of 2002) fundraising activities.³ She did not solicit donations at a local market nor did she cheer outside the superintendent's office in protest of the nonrenewal of the cheerleader advisor. The School Department provided Melissa with transportation to the lodge for cheerleading practice following the nonrenewal of the advisor.

¹ The Commissioner of Education designated the undersigned hearing officer to hear and decide the appeal. A hearing was held on September 3, 2002.

² Melissa had been a member of the cheerleading team as a 7th-grade student. She returned her cheerleader uniform at the end of the year.

³ The superintendent testified that the district has a fundraising policy that is "very strictly enforced." [Tr, p. 259]. She also testified about a report from a School Committee member in the summer of 2001 that cheerleaders were selling scratch tickets. When asked what she did with that information, the superintendent replied "I didn't do anything with that information at that point in time. It had already taken place, it was after the fact. Everything else seemed to be relatively in place. I didn't do anything with the information." [Tr, p. 265].

When Melissa was asked to return her cheerleader uniform, she initially refused, believing that it was hers because she had paid for it. She later wrote a letter to the school principal on this subject, stating that the team was not part of the school's after-school activities following the advisor's nonrenewal and that the cheerleaders were not allowed to practice in the school gym or auditorium in preparation for competition. Melissa testified that although the cheerleading activity program at school had ceased, she felt that the cheerleading team still existed. Melissa also testified that the photograph of the cheerleading team at the lodge in early 2002 was taken by a photography studio that had taken other student photographs for the Middle School yearbook.

Positions of the Parties

Appellant contends that the School Department never made it clear that the cheerleading team no longer existed following the advisor's nonrenewal. Had Appellant been informed that Melissa could not represent the school as a cheerleader, she would not have done so. Given the circumstances of Melissa's case, Appellant argues that the punishment exceeds whatever offense was committed.

The School Committee contends that Melissa understood the ramifications of the cheerleader advisor's nonrenewal. Those ramifications were explained by the principal: without a coach there could be no team. Despite this knowledge, Melissa engaged in fundraising for the team and participated in the state competition as a team member. Her punishment is limited in its nature and scope, and therefore is reasonable.

Discussion

As in the case of Jillian K., Melissa's cheerleading privileges for the 2002-2003 school year were suspended pursuant to an April 8, 2002 letter from the superintendent. The same letter was sent to the parents of all 16 students whose names appeared on the registration form for the state cheerleading competition in March 2002. The letter asserts that the students knowingly misrepresented themselves as the Burrillville Middle School cheerleading team 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 in December 2001: 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 sent to the principal concerning the uniforms.

Melissa's case is similar to that of Jillian K. in that the underlying premise of the punishment -- loss of a year's cheerleading privileges due to the illegitimate gain of a year's cheerleading activity -- is not supported by the facts of the case. In addition, the School Department failed to consider its admitted "bad practices" regarding the appointment of activity advisors and the return of uniforms. The School Department also did not take into account its knowledge and support (by way of transportation) of the cheerleading at the local lodge. Like Jillian, Melissa is a very good student with no prior disciplinary record.

Unlike Jillian, Melissa did engage in fundraising activity after the nonrenewal of the advisor. To raise money for the team, she sold candy sometime after Christmas 2001. According to the superintendent, this type of fundraising is prohibited under the district's "very strictly enforced" fundraising policy. This issue is clouded, however, by the superintendent's testimony that she "didn't do anything" about another prohibited form of fundraising, i.e., the selling of scratch tickets by cheerleaders in the summer of 2001. While the evidence does not show that Melissa engaged in any student protest or cheering outside the superintendent's office following the advisor's nonrenewal, she did write a letter to the principal explaining her refusal to return her cheerleader uniform. We find the letter to be somewhat disrespectful. We cannot view the letter outside of the circumstances, however, in that the record shows that the School Department believed it had unconditional rights to the uniforms by virtue of its reimbursement of their cost to the advisor, and Melissa, not having received any of that reimbursement, believed that the uniforms were purchased with fundraising monies and parental contributions. As with the fundraising allegation, we again find mitigating circumstances.

In summary, we find the record in this matter to contain the same, if not more, confusion about the status of the cheerleading team. We again find that the involved parties all share responsibility for what happened here. It is unfair and arbitrary for Melissa to bear all the blame. To the extent she acted improperly in this matter, her

exclusion from cheerleading for the first month of the school year is clearly sufficient punishment.⁴

Conclusion

In light of all the circumstances, the decision to suspend Melissa from cheerleading at Burrillville High School for the entire 2002-2003 school year is patently unfair and arbitrary. The appeal is sustained and the suspension is commuted as of this date.

Paul E. Pontarelli
Hearing Officer

Approved:

Peter McWalters
Commissioner of Education

Date: October 7, 2002

⁴ As we stated in Jillian K., it is our view that, given the dishonesty associated with the cheerleading team's registration in the state competition, Melissa participation in that competition was not legitimate. We therefore expect Melissa to return any prize or award that she may have received at that event.