

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

In The Matter of Student J.H.

v.

Narragansett School Committee

DECISION

Held: This is an appeal from a decision of the Narragansett School Committee to suspend a student for four days for selling pills to other students on a school bus. The discipline imposed in this case is affirmed, and the appeal is dismissed.

DATE: May 30, 2003

Travel of the Case

This is an appeal from a decision of the Narragansett School Committee to suspend a student for four days. This action was taken because the school committee found that this student had sold pills in a school bus to other students. The student's mother has filed this appeal.

Jurisdiction

Jurisdiction is present under R.I.G.L. 16-39-1, R.I.G.L. 16-39-2, and R.I.G.L. 16-2-17.

Positions of the Parties

Position of the Parent

The parent in this case argues that her son did not receive due process before his four-day suspension from school. She also argues that other students received only a three-day suspension for the same offense.

Position of the School Committee

The school committee submits that this student was accorded appropriate due process and that it has the right to tailor discipline to the needs of individual students. It also submits that this student's conduct was factually different from the conduct of the other students involved.

Findings of Fact

1. School officials received reliable information that pills were being distributed to students on a school bus. [SC. Ex 1] [Testimony of the Principal]
2. School officials took prompt action to investigate this matter and interviewed a number of students. [Testimony of Assistant Principal]
3. The student who is the subject of the present appeal was not named in the first interviews. [Testimony of Assistant Principal]
4. However, one of the students who had been interviewed returned to school authorities and informed them that the student who is the subject of the present appeal was, in fact, selling the pills. [School committee transcript, page 24] [Testimony of the Principal] We find this testimony to be credible.

5. No pills were ever confiscated by authorities and so no tests or observations could be made to determine what sort of pills were being sold. [Testimony of the Principal]
6. The student in this case was informed by the principal of the charge against him. When the student denied that he had sold the pills, the principal told him of the evidence against him. The student was also allowed to tell his side of the story. [Testimony of the Principal and of the student]
7. In fact the student had more than one opportunity to confront the charge of selling pills on the school bus. [Testimony of the Principal]
8. Indeed the school suspension in this case was not imposed until after the school committee heard the case. At the hearing before the school committee witnesses were presented and were cross-examined. [Transcript of the school committee hearing]
9. At the school committee hearing documents were received into evidence and the student was given an opportunity to testify. [Transcript of the school committee hearing, page 39]
10. Initially this student was to be suspended for 5 days for selling pills on the bus. He was also to serve another one-day suspension relating to a shoving incident. This one-day suspension was served, and the principal elected to reduce this student's total suspension obligation to four days. The school committee, in fact, imposed a four-day suspension. The other students involved in this matter received three-day suspensions [Transcript of the school committee hearing]

Conclusions of Law

1. For suspensions of fewer than 10 days the Regulations of the Board of Regents track the suspension procedures required by the Supreme Court in *Goss v. Lopez*:

For suspensions of ten (10) days or less:

- a. that the student be given oral or written notice of the charges against him/her;
- b. that if the student denies the charges, the student be given an explanation of the evidence the authorities possess;
- c. that the student be given the opportunity to present his/her version; and
- d. that the notice and hearing generally should precede the student's removal from school since the hearing may almost immediately follow the incident but if prior notice and hearing are not feasible, as where the student's presence endangers persons or property or threatens disruption of the academic process, thus justifying immediate removal from school, the necessary notice of hearing shall follow as soon as practicable.
- e. That in the event a student has not attained the age of majority (18 years), notice containing the reason for suspension and the duration thereof be given to the parent or guardian. Such notice shall be given in the parent's spoken language, unless it is clearly not feasible to do so.

2. Schools have the right to tailor discipline to the individual needs and situation of a student. [*In the Matter of A.B.*, Commissioner of Education, June 2, 2000]
3. The school handbook states: “No alcohol or other drugs are allowed on school property.” It also states that students are expected to: “Respect the rights and safety of others.” [Student Handbook, Page 4] The disciplinary section of the student handbook contains a specific prohibition against the:

Unauthorized possession, selling or consumption in or on school grounds of dangerous drugs, narcotics, or alcoholic beverages...Dangerous drugs or narcotics shall mean any controlled drug defined in RI General Statutes, classified generally as amphetamine-type, barbiturate-type, cannabis-type, cocaine-type, hallucinogenic, morphine-type and other stimulant and depressant drugs; and, in addition, those substances known as Methaqualone. Unauthorized use or possession of such substances shall mean use or possession without a valid prescription. [Student Handbook, Page 11]

The disciplinary section of the Student Handbook also states: “This list is not meant to be all-inclusive, and other situations may develop which will lead to suspension or expulsion.” [Student Handbook, Page 11] The school handbook states at another page: “This handbook, regarding rules, regulations, and disciplinary procedures, is to be considered a reference only and not inclusive of any other items or incidents deemed inappropriate or unsafe within a school environment.” [Student Handbook, Page 6]

4. The school handbook states: “Medication in school may be given only by the school nurse/teacher [for?] safety reasons, pharmacy labeled bottles are required. A medication request form must be signed by the parent or guardian of the student and for prescription medication by a doctor.” [Student Handbook, Page 12]
5. While nothing in the list of specific disciplinary offenses may literally cover the specific conduct at issue in this appeal we are convinced that the general prohibitions against misconduct contained in the Student Handbook allows the school committee to discipline students for distributing pills on a school bus. In any event, school discipline codes do not have to have the specificity of criminal codes. [*In the Matter of Student R.C. Doe*, Commissioner of Education, May 14, 2001]

Discussion

The student in this case received all the due process that is required for the imposition of a short-term suspension. In fact, the hearing this student received before the school committee extended to him all the due process that would be required in a long-term suspension case. We can, therefore, find no violation of due process in this case. On the merits of the case, we find that the credible evidence supports the charge.

[Testimony of the principal and testimony of another student] [School Committee transcript] We also find that the school committee had ample authority to impose discipline for the offense of selling pills to other students on a school bus. Finally we can find no disproportion in the school suspensions that were imposed in this case. The student in the present appeal was found to have been selling pills to other students. The fact that he, the seller of the pills and thus the creator of the danger, received a very lenient four-day suspension, while the students receiving the pills received only three-day suspensions, hardly shows disproportionate treatment.

Conclusion

The discipline imposed in this case is affirmed, and the appeal is dismissed.

APPROVED:

Forrest L. Avila, Hearing Officer

Peter McWalters, Commissioner

May 30, 2003
Date