

0015-04

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER
OF
OF EDUCATION

.....

Student D.

v.

A Rhode Island School Committee

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DECISION

Held: The decision of local school authorities to prohibit the petitioning student from attending graduation exercises is affirmed.

DATE: June 11, 2004

Travel of the Case and Jurisdiction

This matter is before the Commissioner on the basis of a petition for an interim order filed on behalf of a student who has been barred from graduation ceremonies as a result of a disciplinary infraction. The penalty now at issue was imposed by the superintendent of schools on the recommendation of the student's principal. Jurisdiction is present under R.I.G.L.16-39-1, R.I.G.L. 16-39-2, and R.I.G.L. 16-39-3.2. The school committee concerned has not yet acted in this matter. Normally this fact would cause us to remand this matter to the local level. However the short time available before graduation makes it obvious that the school committee will not be able to assemble and hear this matter on a timely basis. No party has suggested that school committee action in this matter is a realistic review option. Given this fact we will hear this matter on an expedited basis.

Findings of Fact

Several days ago the petitioning student attended a school dance. When she arrived at the dance those in charge of admitting students felt that she might be under the influence of alcohol. Her speech was loud and slow. She seemed to smell of alcohol. Her date appeared to be giving her support by holding her by the elbow to steady her. The student was admitted, but teacher chaperons at the dance were requested to locate the student and check on her.

One of the chaperons found the student in the ladies room, in a stall, vomiting into a toilet. A friend of the student was helping her by preventing the student's head from descending into the water in the bowl. The student's vomiting was severe and persistent. Other chaperons arrived, and began to help and comfort the student. The student relations officer was called, and he summoned the rescue squad. Chaperons heard the student admit that she had been drinking and smoking. The student told one of the chaperons that she had been smoking marijuana. The student was unable to stand up to place herself in the rescue squad's rolling chair. She was assisted into the chair and taken to the hospital.

These events occurred at a time when seniors were no longer attending classes. The principal recommended to the superintendent that the student, as a disciplinary measure, be barred from participation in graduation exercises.¹ The student's mother had a chance to meet with school officials to argue against the imposition of this sanction. In the end however the superintendent of schools concluded that barring this student from graduation was proportionate to the student's misconduct given the school's

¹ Exhibit 2

firm stand against alcohol use at school events. The superintendent also testified that she felt that imposition of this penalty was required by the terms of the school's disciplinary code and the school's zero tolerance policy. Account was also taken of the fact that at a dance a few weeks ago the student was involved in another sort of disciplinary problem which caused a school official to admonish her at the time that her behavior at the next dance would have to be "perfect."

Positions of the Parties

Position of the Student

The student argues that the penalty imposed in this case is too harsh. She suggest as an alternative penalty that she be allowed to participate in graduation exercise, but not be allowed to receive her high school diploma until she completes twenty hours of community service. She also argues that the exact discipline imposed in this case is not supported by a close and precise reading of the school discipline code.

Position of the School System

The school system argues that the penalty imposed in this case is proportionate to the misconduct at issue, and that the penalty corresponds to the requisites of the schools disciplinary code.

Standard of Review

The Rhode Island Supreme Court has held that the commissioner exercises de novo review authority in school law matters.² This means that the Commissioner completely rehears any matter that has been appealed.

Conclusions of Law

We recognize that counsel for the petitioner has attempted to argue that the discipline imposed in this case does not fit within the exact language of the discipline code. We disagree with this argument but, in any event, we do not find that such arguments are of great moment in school law matters. The United States Supreme Court has held that a school discipline code does not need to have the specificity of a penal law code:

² *Jacob v. Board of Regents*, 117 R.I. 164 (1976); *Slattery v. School Comm.*, 116 R.I. 252, 354 A.2d 741 (1976); *Altman v. School Comm.*, 115 R.I. 399, 347 A.2d 37 (1975).

We have recognized that “maintaining security and order in the schools requires a certain degree of flexibility in school disciplinary procedures, and we have respected the value of preserving the informality of the student-teacher relationship.”³ Given the school’s need to be able to impose disciplinary sanctions for a wide range of unanticipated conduct disruptive of the educational process, the school disciplinary rules need not be as detailed as a criminal code which imposes criminal sanctions.⁴

The First Circuit Court of Appeals has said:

We would not wish to see school officials unable to take appropriate action in facing a problem of discipline or distraction simply because there was no preexisting rule on the books.⁵

Furthermore the Rhode Island law that requires teachers to "implant...the principles of morality and virtue" creates:

[A] good cause standard for disciplining a student whose misconduct violates the fundamental rules of decent behavior in a context which impacts the school program, but which does not fall within the exact domain of a specific item in a general school discipline code. The standard of good cause is, of course, constitutional.⁶

We therefore find no procedural defect in the discipline that was imposed in this case. The petitioner also argues that the penalty imposed here was too harsh. Given the fact that this is a *de novo* hearing we must make an independent decision concerning what penalty is to be imposed in this case.

We recognize how important graduation ceremonies are to a student, and to the parents, relatives and friends of a student. Still we are dealing with a very serious infraction here. Furthermore, the conduct involved is exactly the conduct that the school discipline program and the school health program have counseled against for four years. Seniors are expected to exemplify the instruction they have received from their school when they stand on the stage and receive their diplomas at a graduation ceremony. We are very concerned that if a significant penalty is not imposed in this case the student will fail to learn the lesson that serious consequences to her health and well being may attend the type of misconduct for which this student is

³ Citing: *New Jersey v. T.L.O.*, 469 U.S. 325 (1985).

⁴ *Bethel School District v. Fraser*, 478 U.S.675 (1986),

⁵ *Richard v. Thurston*, 424 F.2d 1281, (1st Cir.1970); *Nicholas B. v. School Committee of Worcester*, 587 N.E.2d 211 (Mass. 1992)

⁶ *In the Matter of Student R.C. Doe, Commissioner of Education*, May 14, 2001.

being disciplined. It would be better for the student to learn this lesson now rather than having this lesson taught by consequences even more severe than missing a graduation ceremony.

Conclusion

It is our independent decision that the discipline imposed by local school authorities is to be affirmed. The appeal is denied and dismissed.

APPROVED:

Forrest L. Avila, Hearing Officer

Peter McWalters, Commissioner

June 11, 2004
Date