

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

.....

**In the Matter of
Four Rhode Island Students**

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DECISION
And
INTERIM ORDER

Held: This is an interim order hearing concerning four high school students who were suspended for entering school property while under the influence of marijuana. As a result of this suspension, these students have been denied the opportunity to participate in graduation exercises. While we affirm the decision of school authorities to prohibit each one of these students from participating in graduation exercises, we will, suggest, but not require, that local school authorities consider the imposition of an alternative penalty.

DATE: June 9, 2006

Jurisdiction and Travel of the Case

This is an interim order hearing concerning four high school students who were suspended from school for 10 days because they entered school property while under the influence of marijuana. These students have also been denied the opportunity to participate in graduation exercises. 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. Three of these cases were heard together and one of the cases was heard separately. Since the operative facts in these cases are essentially the same, and since we have only a short time to decide these matters, we have elected to consolidate these four matters for decision.

Positions of the Parties

Position of the parents and of the students

While the petitioning students concede that they were smoking marijuana before they entered school property, they do not quite concede that they were under the influence of marijuana when they entered. The petitioners also argue that the penalty of denying them the opportunity to participate in graduation exercises is too harsh for the offense committed. The students therefore argue that they should be allowed to participate in graduation exercises.

Position of the school district

The school district submits that these students admitted that they had smoked marijuana shortly before they entered school premises. The school district also submits that the evidence observed by school officials plainly demonstrated that these students were under the influence of marijuana when they entered. The district further submits that all senior students were notified that a serious disciplinary infraction could result in the loss of the opportunity to participate in graduation exercises. It submits that drug use is a serious problem in all schools and that the discipline imposed in this matter is appropriate. The school district therefore contends that the discipline imposed in this case should be affirmed.

Findings of Fact

1. Several days ago the petitioning students, following a graduation rehearsal and the distribution of yearbooks, left school premises. While off school premises they smoked marijuana. These students then returned to the school. At least some of these students were returning to school to assemble with other students for a graduation boat tour of Narragansett Bay.
2. An adult at the school heard a conversation to the effect that some of these returning students were under the influence of marijuana. School officials were notified of this suspicion and their investigation showed that these petitioning students were under the influence of marijuana. The school nurse and other school officials qualified to decide whether these students were under the influence of marijuana confirmed this suspicion.

Evidence included bloodshot eyes, rapid pulse, and elevated blood pressure, as well as general observation of the students' demeanor. The students' parents and the police were notified of this incident and called to the school.

3. Based upon the testimony before us we find that these students were under the influence of marijuana when they entered school property.
4. On a number of occasions these students were notified by the school district in writing and orally that: "Any serious violation of school rules, either at school functions, during the remainder of the school year may result in exclusion from all senior activities, including the graduation ceremony."¹
5. Since the date of the infractions now at issue, the students have not been allowed to participate in senior activities.
6. School rules state that: "The following breaches of conduct on school property, school transportation, or at any school-sponsored activity may lead to suspension or exclusion... 13. Unauthorized possession, selling, consumption or being under the influence of dangerous drugs, narcotics or alcoholic beverages. Note: Being present where such activities are occurring may result in suspension, as well."
7. Graduation exercises are extremely important events, not only for students, but also for parents and relatives who are gathered together to celebrate this day. For some students this may be the one and only academic exercise in which they will ever participate. Some at-risk students have achieved the goal of graduation by only the narrowest of margins and they, and their parents, will suffer a discouraging loss at a transitional moment if the opportunity to participate in a rare celebratory event is forfeited.
8. Drug use is a severe problem and must be discouraged through education and through measures that help students make wise choices. At times these measures must include strong discipline.
9. We find that the school professionals in this case acted appropriately and that their actions protected the safety and best interest of these students and their fellows.

Conclusions of Law

1. The Commissioner of Education has authority to review the discretionary decisions of school committees.² In fact, the Rhode Island Supreme Court has held that the commissioner exercises *de novo* review authority.³ This means that the Commissioner completely rehears any matter that has been appealed.

¹ Exhibit 3.

² *Appeal of Cottrell*, 10 R.I. 615 (1873)

³ *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). *Lusignan v. E.P. School Committee*, Commissioner of Education, June 17, 1999.

2. The conduct at issue in this case is prohibited by law and by school rules.
3. The only question in this case is the penalty to be imposed for the incidents of misconduct now at issue.

Discussion

We find that the students in this case have committed a very serious disciplinary infraction by coming onto school premises under the influence of marijuana. One of the students in this case had returned to school for the expressed purpose picking up his car which was parked on school premises. The other students were preparing to go on a cruise where their state of being under the influence of a drug might have put them or others at risk. We therefore cannot find that the penalty imposed in this case is unreasonable or disproportionate. We therefore affirm the decision of school authorities to prohibit each one of these students from participating in graduation. We will, however, suggest that local authorities give thought to an alternate penalty such as allowing these students to participate in graduation exercises and receive a blank diploma under the following conditions:

1. The student and their parents sign a written agreement for the student to perform 20 hours of community service to be determined by the superintendent of schools.
2. They agree that no diploma is to be awarded until this community service is completed.
3. They agree that completion of this community service requirement is now as to the student a graduation requirement for the issuance of a diploma.⁴

We leave this alternate to the entire discretion of local school authorities.

Conclusion

The decision of the local school authorities is affirmed.

Forrest L. Avila, Hearing Officer

APPROVED:

Peter McWalters, Commissioner

June 9, 2006
DATE

⁴ R.I.G.L.16-22-12, R.I.G.L.16-22-21, R.I.G.L.16-12-3. *et alii*.