

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

J. DOE

V.

CUMBERLAND SCHOOL COMMITTEE

Decision

Held: School Committee did not act unreasonably or arbitrarily in suspending a student for the remainder of the school year for a weapons offense.

Date: February 15, 2007

Introduction

This is an appeal of a student's exclusion from Cumberland High School for the remainder of the 2006-07 school year.¹

Background

Student Doe is a 17-year-old junior at Cumberland High School. He is a special-education student. On November 6, 2006, Doe was involved in a fight with another student in the main cafeteria during lunch.

After the fight, Doe met with the principal and school resource officer in the main office. He was advised he was being placed under arrest for disturbing the peace.² Incidental to his arrest, Doe was searched by the resource officer. A "butterfly knife" was found in the right front pocket of Doe's shirt. The knife measures 7 inches when closed. When opened, a blade of 4½ inches extends from the handle. Doe did not produce the knife during the fight nor did he make any reference to it. At the principal's hearing in this matter, Doe stated that he "brought [the knife] to school either [to] get rid of it or to show it to a friend and perhaps might sell it to this friend." [School Committee Exhibit 6]. An additional charge of possession of a dangerous weapon while committing a violent crime was lodged against Doe.

Both the principal and the resource officer testified that they knew Doe well and, but for a couple of minor incidents, considered his behavior to be exemplary. Doe has never displayed any hostility toward any member of the staff at the High School. He had no previous disciplinary history. On the date in question, he ceased fighting when staff intervened and he cooperated with the principal and resource officer.

Doe's behavior was found not to be a manifestation of his disability. He was assigned to a 45-day interim alternative educational placement. Following the hearing process, the School Committee excluded Doe from Cumberland High School for the remainder of the school year. Doe is scheduled to receive educational services for the rest of the year in the alternative placement. According to school officials, if Doe

¹ The Commissioner of Education designated the undersigned hearing officer to hear and decide the appeal. A hearing was held on January 22, 2007.

² The other student involved in the fight also was arrested.

completes his work in the alternative placement and maintains good behavior, he can return to the High School for his senior year.

According to the Cumberland High School handbook, fighting between students is subject to police action and one to 5 days suspension. For possession of dangerous weapons, the handbook provides for a 3 to 10 day suspension with a parent conference which may result in a recommendation of “expulsion.” [School Committee Exhibit 6].

Positions of the Parties

Petitioner contends that Doe’s suspension for the remainder of the school year is excessive in the circumstances of this case. The fight was an isolated, aberrant incident for Doe, who has no prior disciplinary record and a record of exemplary behavior. Doe used bad judgment in bringing the knife to school, but he did not use it or talk about it. He also was cooperative with school officials and the police on the date in question. In addition, Board of Regents special-education regulations limit interim alternative placements to 45 days.

The School Committee contends that Doe’s possession of the knife in question seriously undermined the school district’s effort to comply with its statutory duty to provide a safe and secure learning environment for students and staff. The knife on Doe’s person is a dangerous weapon and could easily have been introduced in the fight by Doe or the other student. Doe created a serious risk to the health and safety of the school, and the School Committee, after giving Doe his required due process, took appropriate action under the circumstances.

Discussion

R.I.G.L. 16-2-17 grants students and staff the right to attend and/or work at a safe school. R.I.G.L. 16-21-21 states that “Each school committee shall make, maintain, and enforce a student discipline code. The purpose of the code is to foster a positive environment that promotes learning.” Student Doe seriously compromised those rights and objectives by bringing this knife to school. That compromise was heightened when Doe fought another student in the main cafeteria during lunch with the knife in his shirt

pocket. Although Doe did demonstrate restraint during the fight, this incident had the makings of a tragedy. We therefore understand the substantial penalty imposed by the School Committee, even taking into account the mitigating factors that bear in Doe's favor. Based on the record in its entirety, we are not persuaded that the evidence in this case establishes that Doe's punishment is excessive.³ The appeal is therefore denied.⁴

Conclusion

The Cumberland School Committee did not act unreasonably or arbitrarily in suspending student Doe from Cumberland High School for the remainder of the school year based on the incident of November 6, 2006.

Paul E. Pontarelli
Hearing Officer

Approved:

Peter McWalters
Commissioner of Education

Date: February 15, 2007

³ As previously noted, Doe's behavior was found not to be a manifestation of his disability. Section 300.524(A) of the Board of Regents Regulations Governing the Education of Children with Disabilities states that "If the IEP team determines the behavior of the child was not a manifestation of the child's disability, the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner in which they would be applied to children without disabilities, except the child must continue to receive services as required in RI Regulation 300.521 and 300.121."

⁴ In so deciding, we rely on the representation of school officials that Doe is being afforded the opportunity to complete the necessary credits and other requirements that will allow him to enter his senior year in the fall and keep him on track for graduation in June 2008.