

STATE OF RHODE ISLAND  
AND PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

***IN RE:     ERIC DOE***

**DECISION**

***Held:*** The decision by the School Committee to exclude the student from participation in extra curricular activities was not arbitrary and capricious and did not deprive him of his due process rights.

Dated:       MAY 8, 1998

## **Introduction:**

This case concerns an appeal by the parents of student, Eric Doe from an adverse decision of the North Smithfield School Committee contained in a letter dated March 30, 1998 affirming the school department's decision to impose disciplinary measures as set forth in a March 18, 1998 letter from the Superintendent of Schools to Eric's parents. The discipline imposed is a ten (10) days suspension from school as well as the following sanctions:

"Forfeiture of membership in the Lettermen's Club

A loss of Senior Privileges to exclude Eric from participating in senior and junior proms

Senior Class Trip  
Senior Awards Night

Senior Banquet

Additionally, Eric will be prohibited from participating in all extra-curricular activities including athletics, and he will not be allowed to participate in the graduation ceremonies with his class."<sup>1</sup> (Eric's exclusion from graduation exercises was modified to allow him to participate upon the condition that Eric not violate any school rules for the remainder of the school year.)

The Commissioner of Education designated the undersigned to hear and decide this appeal. A hearing was conducted on April 9, 1998. The appellant was represented by attorney Jonathan Oster and the School Committee by Attorney Richard Ackerman.

## **Background**

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<sup>1</sup>Letter dated March 18, 1998 to Eric Doe's parents from Richard Scherza.

Appellant, Doe, is a senior at the North Smithfield High School and is due to graduate in June 1998. At the time of the activities complained of by the School Committee, student Doe was Vice President of the North Smithfield High School Lettermen's Club. The Lettermen's Club is a school club comprised of athletes who have earned letters in school sports. The Club's advisor, Jerry Caito, is an instructor at the North Smithfield Junior and Senior High Schools. After the death of Mr. Caito's wife from cancer, the Lettermen's Club began an annual fund raising event to raise money for the American Cancer Society in memory of Mr. Caito's wife. The Fund raiser usually took place every year in April. The Letterman's Club would be provided with fund raising material from the American Cancer Society with the club's logo as well as the American Cancer Society logo evidencing the fund raising partnership between the two entities..

In February of this year, Mr. Caito received a telephone call from a former Lettermen who, presumably, graduated from North Smithfield High School and was residing in North Smithfield. This caller asked Mr. Caito why the American Cancer Society fund raiser was taking place in February as opposed to its usual time in April and that he had written a check for the fund raiser. After receiving the telephone call Mr. Caito contacted the principal of North Smithfield High School, Kevin Sheehan, and advised him of the telephone call. They agreed to wait until the check surfaced before investigating further.

At some point subsequent to the discussion between Mr. Caito and Mr. Sheehan, one or both of Eric's parents came to the school to meet with Mr. Sheehan.

They turned over to him documents pertaining to the Lettermen's Club and two pages of names, amounts of money and addresses with two checks from North Smithfield residents. This meeting with Eric's parents took place in March of 1998. After examining the documents which Eric Doe's parents presented to him, Mr. Sheehan summoned Eric to the office to question him about the documents and the checks.

When first questioned by Mr. Sheehan, Eric denied he was involved in any unlawful fund raising activities and insisted that the fund raising activities he engaged in was for the purpose of raising a minimum of \$50.00 which is necessary to participate in Lettermen's Club field trips. When confronted with the amount of money collected on the two pages which totaled approximately \$200.00 Eric admitted that he and his friends had, indeed, solicited money using the Lettermen's Club. Eric stated that he and his friends collected the money, divided it and spent the cash. As a result of the meeting Mr. Sheehan concluded that the activities engaged in by Eric and his friends were probably illegal, and the North Smithfield Police Department was notified.

Some point thereafter, Eric was summoned to Family Court and the charge or charges brought against him were administratively adjudicated with a disposition which required that restitution be made as well as 30 hours of community service.

After consulted with other faculty members at the school, Mr. Sheehan decided to suspend Eric from school for ten days and to impose the additional sanctions contained in the March 18, 1998 letter.

That decision was appealed by Eric Doe to both the North Smithfield School Department and School Committee. The Department in its letter of March 18, 1998,

and the school committee in its letter of March 30, 1998 affirmed the school's decision to impose the disciplined aforementioned.

Issue

**The issue here is whether the discipline imposed by the School Committee deprived the student of his due process rights**

Position of the Parties

Student Doe

Counsel for Eric advanced a number of arguments in seeking to have the discipline imposed on Eric modified by the Commissioner. He contends that Eric has been punished enough in that he has had to face adjudication of his activities in the Family Court and has been required to make restitution as well as perform 30 hours of community service. He further argues that the discipline imposed upon Eric is so punitive as to warrant modification by this office. While acknowledging the seriousness of the activities by Eric and the other students involved counsel, in essence, argues that the punishment imposed by the School Department is far in excess of the offense committed by Eric. He characterizes the punishment as "throwing the book at somebody" (Trp. P.7).

Position of the School Committee

The School Committee contends that the actions taken by Eric and his three cohorts not only embarrassed the school, the Lettermen's Club, its members and the student body as a whole. They believe that the conduct and actions taken by these four (4) students has had an adverse impact upon fund raising activities in the North

Smithfield community and will especially make it difficult for the Lettermen's Club to raise funds in the future. They argue that pursuant to language contained in Section 8 of the "School Philosophy and Goals", (Respondent's Exhibit 2 and 3), the school has the authority to exclude students from extra curricular activities any time that a student's behavior is contrary to the best interest of the school or group. They believe and argue that the illegal fund raising activities by Eric and his three fellow students were so egregious as to justify the discipline imposed including to but not limited to exclusion from extra circular activities. They assert that participation in extra curricular activities is not a right but a privilege and thus when warranted this privilege can be denied to a student. (Trp. P. 24).

**Findings of Relevant Facts:**

- Student Doe was a senior at North Smithfield High School at all times relevant to this matter.
- That student Doe at the time of this incident was vice president of the Lettermen's Club at North Smithfield High School.
- That student Doe did collaborate with three fellow students to fraudulently solicit donations through the unauthorized use of the Lettermen's Club's name and annual cancer society drive.
- That Student Doe as well as the other three participants did collect approximately \$200.00 in cash donations as well as a number of donations drawn on checks.
- That the students involved did divide the cash donations and convert the money to their own use.

**Decision:**

The Facts in this case are substantially in accord (Trp. P9). Student Eric Doe is before the Department seeking relief from an adverse decision by the North Smithfield School Committee to impose disciplinary action on him after finding that Eric and his classmates had engaged in unlawful fund raising activities.

The record is clear, prior to activities of Eric Doe and three fellow students, enjoyed a respected reputation in the North Smithfield School as well as the surrounding North Smithfield community. The Club had a proud tradition of community service and had established an annual fund raising drive in conjunction with the American Cancer Society. This annual event was commenced after the Club's faculty advisor, Jerry Caito, lost his wife to cancer. This event with the American Cancer Society was done in memory of Mr. Caito's late wife.

Eric Doe and his fellow students concocted a scheme to fraudulently solicit donations in the North Smithfield community using the Lettermen's annual cancer drive as the vehicle, In furtherance of the plan, the four students created counterfeit fund raising materials and canvassed the North Smithfield community seeking donations. Their efforts were apparently successful in that they raised in excess of \$200.00 in cash and two donations written by checks. After collecting the money the four students then divided the cash and converted the money to their own uses.

The resulting publicity created a significant amount of negative attention directed at Lettermen's Club, the North Smithfield High School and the community-at-large. The events were described in two separate newspaper articles which are the subject of

Petitioner's Exhibit one.

Without question, the Club's reputation has been tarnished by the behavior of Eric and fund raising activities in the future will no doubt be viewed as suspicious. What is most disturbing is that this was not one single act but a repetitive act which Eric and his collaborators had to reflect on each and every time they solicited a donation. Thus they had an opportunity every time they sought a donation to examine their conscience and to weight the consequences of their behavior. These four were high school seniors on the verge of graduation and should have known their activities would have grave consequences. Eric indeed was 17 years old at the time. Rather than some amateurish scheme their conduct was the product of a relatively sophisticated scam to defraud unsuspecting charitable neighbors.

Counsel for Eric argues that the sanctions imposed by the school authorities are at best, harsh and at worse draconian in their reach. His reasons that since Eric had to face adjudication in the juvenile justice system the additional sanctions imposed by the school authorities amount to over kill.

The school authorities, on the other hand, believe that the discipline imposed on Eric was appropriate given the degree of harm their activities created and given the special injury to the reputation of the senior class, Lettermen's Club and all its members, past and present.

Clearly, the conduct of Eric and his fellow students was reprehensible as well as criminal in nature. While Eric has expressed his remorse for participation in the activity, which we accept as genuine, damage to so many others has already occurred

and the degree of sophistication required to perpetrate such a scheme underscores how repugnant the behavior was. It is undeniable that the school department is empowered to impose appropriate discipline including, but not limited to exclusion from extra curricular activities when the circumstances warrant such action. As participation in extra curricular activities is a privilege and not a right, under appropriate circumstances the exercise of that privilege can be denied. I believe that the facts of this case, support the decision by the school authorities to impose the within disciplinary measures. The action taken was not arbitrary or capricious nor did it deprive the student of his due process rights. I am satisfied that there is a rational basis for the school committee's decision under these circumstances.

For these reasons, the appeal is denied.



**William C. Clifton**  
**Hearing Officer**

**Approved:**



**Peter McWalters**  
**Commissioner of Education**

Dated:     MAY 8, 1998