

**IOWA DEPARTMENT  
OF EDUCATION  
(Cite as 23 D.o.E. App. Dec. 244)**

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<i>In re Dismissal of Student from</i>	:	
<i>National Honor Society</i>	:	
Courtney Rae Jackson,	:	
Appellant,		
v.	:	DECISION
	:	
Jefferson-Scranton Community School	:	
District,	:	
Appellee.	:	[Admin. Doc. 4611]

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The above-captioned matter was heard telephonically on August 9, 2005, before designated administrative law judge Carol J. Greta. Appellant, Courtney Rae Jackson, was present, as was her mother, Diane Jackson. Appellee, the Jefferson-Scranton Community School District, was represented by legal counsel Michael F. Mumma. Also present on behalf of the Appellee were Superintendent Michael Haluska, Secondary Principal Karen Younie, and faculty member and National Honor Society Advisor Ruth Broman.

Hearing was held pursuant to agency rules found at 281 Iowa Administrative Code 6. Documents submitted to this Board prior to the hearing comprise the entire evidentiary record. Neither party solicited any testimony or presented any additional evidence before the undersigned hearing officer. Authority and jurisdiction for the appeal are found in Iowa Code § 290.1. The administrative law judge finds that she and the State Board of Education have jurisdiction over the parties and subject matter of the appeal before them.

Ms. Jackson objects to a decision of the local Board of Directors of the Jefferson-Scranton District made on May 18, 2005. The local Board unanimously upheld Ms. Jackson's dismissal from the local chapter of the National Honor Society. She filed a timely appeal to the State Board of Education.

**I.  
FINDINGS OF FACT**

The underlying facts are undisputed. Ms. Jackson participated in a school-sponsored trip of the District's high school band to Minnesota in April of this year. While on this school trip, Ms. Jackson and other students consumed alcohol in their motel room. Ms. Jackson does not dispute that her consumption of alcohol was a violation of school policy. She did not self-report her violation, which she characterized as being non-disruptive to the band trip.

Approximately ten days after the band members returned from the Minnesota trip, school officials heard rumors of illegal drinking, and began an investigation. As a result of the investigation, Ms. Jackson and her parents received a letter dated April 20 from Secondary Principal Younie. The letter informed the Jacksons that their daughter's illegal possession and consumption of alcohol would result in the following:

1. A three day out-of-school suspension;
2. Ineligibility for certain Student Council, National Honor Society, band, and golf events under the District's Good Conduct Policy;
3. A meeting with personnel from a substance abuse treatment program; and
4. "[T]he consequences established by the National Honor Society Faculty Advisory Board which will be meeting on April 21."

The first three consequences have been completed and are not the subject of this appeal. All that is before the State Board is Ms. Jackson's dismissal from the National Honor Society (NHS).

During the 2003-04 school year, Ms. Jackson had been inducted by the District as a member of the National Honor Society. NHS is the national umbrella organization for local chapters. As a nominee to NHS membership, Ms. Jackson does not dispute that she received a form letter from the District, which stated in part as follows:

National Honor Society members have a honor code which has very high standards and, of course, the Jefferson-Scranton Student Handbook rules and regulations and Good Conduct Policy are also in effect. Being an honor society member is an honor and a privilege that carries with it an on-going commitment to leadership, character, scholarship and service.

Article X of the NHS Constitution<sup>1</sup> addresses dismissal of a member. The pertinent provisions of Article X state as follows:

*Section 1.* The Faculty Council in compliance with the rules and regulations of the National Honor Society shall determine the procedure for dismissal. A written description of the dismissal procedure shall be available to interested parties.

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<sup>1</sup> Agency rule 281—IAC 6.12(2)“o”(5) states that the hearing officer may take judicial notice “of all facts of which judicial notice may be taken.” As an official and duly adopted document, the Constitution is a document of which judicial notice may be taken. The undersigned hearing officer found the NHS Constitution on the web site of that organization, [www.nhs.us](http://www.nhs.us).

*Section 2.* Members who fall below the standards that were the basis for their selection shall be promptly warned in writing by the chapter adviser and given a reasonable amount of time to correct the deficiency, except that in the case of flagrant violation of school rules or the law, a member does not necessarily have to be warned.

...

*Section 4.* In all cases of impending dismissal, a member shall have a right to a hearing before the Faculty Council. This is considered 'due process' for all members.

...

*Section 6.* A member who has been dismissed may appeal the decision of the Faculty Council under the same rules for disciplinary appeals in the school district.

As a nominee to the NHS in 2003, Ms. Jackson received a copy of the "Jefferson-Scranton National Honor Society Dismissal Procedure Guidelines." The Guidelines repeated that she had a right to a hearing before the faculty council prior to dismissal. Ms. Jackson points out that the Guidelines also include a statement that the "goal of disciplinary measures shall be to reeducate the student to more appropriate behavior."

By letter dated April 21, Ms. Broman, as NHS Advisor, informed Ms. Jackson that the local NHS Faculty Council had decided to dismiss her as a member. The Council determined that her consumption of alcohol at a school event "violated the character and leadership portions of the National Honor Society requirements. The specific areas of violation cited in the letter were as follows:

- Exercises positive influence on peers in upholding school ideals,
- Inspires positive behavior in others,
- Upholds principles of morality and ethics,
- Cooperates by complying with school regulations,
- Demonstrates the highest standards of honesty and reliability, and
- Observes instructions and rules, is ... faithful both inside and outside the classroom.

Ms. Jackson appealed to the Faculty Council, which granted her a hearing before that group. The Council, after hearing directly from Ms. Jackson, upheld its original decision of dismissal, explaining in a written statement to Ms. Jackson and her parents

that "the violation of alcohol at a school activity is in itself a major infraction of the character and leadership portion of NHS." She next appealed to the local School Board, which upheld the decision of the Faculty Council. Her timely appeal here followed.

## II. CONCLUSIONS OF LAW

The Iowa Legislature has directed that the State Board, in regard to appeals to this body, make decisions that are "just and equitable." Iowa Code § 290.3. The standard of review, articulated in *In re Jesse Bachman*, 13 D.o.E. App. Dec. 363 (1996), requires that a local board decision not be overturned by the State Board unless the local decision is "unreasonable and contrary to the best interest of education." *Id.* at 369.

Both Iowa Code sections 279.8 ("The board shall make rules for its own government and that of the...pupils...") and 274.1 ("Each school district shall...have exclusive jurisdiction in all school matters...") give districts exclusive jurisdiction in pupil governance. While we have authority to review the local Board's decision under the above standard, the "State Board of Education does not sit as a 'super school board' substituting its judgment for that of the elected board officials." *See, e.g., In re Jerry Eaton*, 7 D.o.E. App. Dec. 137, 141 (1987); *In re Zach Hodges*, 22 D.o.E. App. Dec. 279, 284 (2004).

Ms. Jackson's arguments go to procedure and substance. Procedurally, she states that she was not provided with a copy of the regulations that the NHS used in disciplining members. Regarding the substantive decision made by the Faculty Council and local Board, she argues that the punishment was arbitrary and inconsistent with past practice in the District, as well as excessive under the circumstances.

### ***Written Procedures***

Ms. Jackson does not dispute that she was provided with a copy of Dismissal Procedure Guidelines when she was first notified that she qualified as a nominee to NHS membership. These procedures quite adequately explain her rights. Indeed, if she encountered any procedural obstacles in pursuing her appeal through the various levels, there was no mention of such in the record or at this hearing.

It is an established principle of law that school codes need not be written "with the precision of a criminal code." *In re Justin Anderson, et al.*, 14 D.o.E. App. Dec. 294, 299 (1997), quoting favorably *Fowler v. Bd. of Educ.*, 819 F.2d 657, 664 (6<sup>th</sup> Cir. 1987). The Guidelines used by the Jefferson-Scranton District sufficiently delineate the procedural steps to be followed by a student member facing dismissal. Ms. Jackson availed herself of those steps. In fact, she has shown no prejudice to her, other than she disagrees with the punishment. She has been afforded three hearings now before three

different decision-makers. Her interest in avoiding an unfair decision or one based on mistake<sup>2</sup> has been satisfied.

### ***Issues Regarding the Punishment***

#### *Was the Punishment Arbitrary and Inconsistent with Past Practice?*

To show that dismissal from NHS for an alcohol violation was an arbitrary decision, Ms. Jackson would need to demonstrate that dismissal was clearly against reason and evidence or that the decision was reached without regard to the law or facts of the case. *City of Sioux City v. Iowa Dept. of Revenue and Finance*, 666 N.W.2d 587 (Iowa 2003). This, Ms. Jackson failed to do.

Since 1972, the Iowa Supreme Court has held that students involved in extracurricular activities at their schools may be held by their schools to a higher standard than other students. As to “students who represent the school in interscholastic activities as contrasted to less active students, school rules may be broader and still be reasonable.” *Bunger v. Iowa High School Athletic Ass'n*, 197 N.W.2d 555, 565 (Iowa 1972). The Court’s rationale is as follows:

The influence of the students involved is an additional consideration. Standout students, whether in athletics, forensics, dramatics, or other interscholastic activities, play a somewhat different role from the rank and file. Leadership brings additional responsibility. These student leaders are looked up to and emulated. They represent the school and depict its character. We cannot fault a school board for expecting somewhat more of them as to eligibility for their particular extracurricular activities.

*Id.* at 564.

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<sup>2</sup> Unquestionably, some minimal due process applies to students facing punishment from school authorities. In *Goss v. Lopez*, 419 U.S. 565, 95 S.Ct. 729 (1975), the United States Supreme Court held that a short term suspension, which the Court defined as ten days or less, could not be imposed “in complete disregard of the Due Process Clause [of the Fourteenth Amendment].” 95 S.Ct. at 737. The *Goss* Court stated that a student’s interest in the process used in a short-term suspension is “to avoid unfair or mistaken exclusion from the educational process, with all of its unfortunate consequences.” 95 S.Ct. at 739. Membership in NHS is not part of the regular educational process; membership is a right, not a privilege. Therefore, from *Goss* we determine that a student’s interest in the process employed for dismissal from NHS can be no more onerous than a process designed to avoid decisions that are patently unfair or based upon mistakes in fact.

The District's policies on student discipline also support the decision reached in this case. They specifically address the use of alcohol while engaged in a school activity. The policies (## 502.7 and 504.9A) give students fair notice that violation of the alcohol policy will result in suspension from classes and from extracurricular activities, as do the NHS Dismissal Procedure Guidelines. It is disingenuous to suggest anything to the contrary.

Ms. Jackson also alleged that the District enforced the policy in an inconsistent manner. She alleged, but produced no evidence, that other students had violated conduct rules and not been dismissed from NHS. The record herein sheds little light on this argument. A letter from Diane Jackson alleges that a student sometime earlier was arrested for operating a motor vehicle while intoxicated and was not dismissed from NHS because the arrest had no connection to a school activity. The same letter, however, states that other students *were* dismissed from NHS for consuming alcohol at the same school function as Ms. Jackson.

The District has the right to distinguish between illegal drinking behaviors that directly violate school rules and those illegal drinking behaviors that do not violate school rules. To make such distinctions is not unreasonable and thus is not arbitrary.

*Was the Punishment Excessive?*

Ms. Jackson also argues that dismissal is an excessive penalty for a first-time offender, which she admittedly is. We note that Ms. Jackson was given - and took advantage of - ample opportunity to argue before both the Faculty Council and the local Board that the option of community service would be more appropriate in her case.

Being careful not to minimize her offense, Ms. Jackson argued that community service would give her a chance to make amends, show that she takes her NHS membership seriously, and also give the District a chance to model "compassion and understanding" as qualities worth instilling in students. She also pointed out that when confronted with the rumors of drinking, she disclosed her violation.

We have previously taken the position that a "school board, as the final arbiter of a district's policies and views, may but is not required to consider mitigating circumstances in deciding whether or not to exact the full measure of punishment due a student for violating the rules." *In re Peter Carlson*, 22 D.o.E. App. Dec. 1 (2003); *In re Eric Plough*, 9 D.o.E. App. Dec. 234 (1992), citing *In re Carl Raper*, 7 D.o.E. App. Dec. 352 (1990).

Here, while we do not know what weight the Faculty Council or local Board gave to Ms. Jackson's arguments, we do know from the record that the dismissal decision was based on the following factors:

- The District's band program is held in high regard in the community and is well supported by the community.
- Ms. Jackson brought the alcohol with her on the band trip, showing that this violation was planned and did not happen at the spur of the moment.
- Ms. Jackson was on an activity that was a privilege given to some band members, based on their time spent in band.
- Ms. Jackson failed to self-report the violation.

The District decision-makers determined that dismissal was the most appropriate punishment in this case. Dismissal does not have to be the *best* decision. *Board of Directors of the Independent School Dist. of Waterloo v. Green*, 147 N.W.2d 854 (Iowa 1967). We conclude that dismissal was reasonable and not contrary to the best interest of education.

### III. DECISION

For the foregoing reasons the decision of the Board of Directors of the Jefferson-Scranton Community School District made on May 18, 2005, upholding the dismissal of Courtney Rae Jackson from the National Honor Society, is AFFIRMED. There are no costs of this appeal to be assigned.

\_\_\_\_\_  
Date

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Carol J. Greta, J.D.  
Administrative Law Judge

It is so ordered.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Gene E. Vincent, President  
State Board of Education