

**IOWA DEPARTMENT
OF EDUCATION
(Cite as 23 D.o.E. App. Dec. 90)**

In re Board Policy

Duane and Mary Dornath, Appellants,	:	
	:	PROPOSED DECISION
vs.	:	
	:	[Admin. Doc. 4599]
Fort Dodge Community School District, Appellee.	:	

The above-captioned matter was heard telephonically on January 7, 2005, before designated Administrative Law Judge Carol J. Greta. The Appellants, Duane and Mary Dornath, were present, as was their legal counsel, Marcy Lundberg of Fort Dodge. Appellee, the Fort Dodge Community School District, was represented by Superintendent David Haggard. Also appearing on behalf of the Appellee were Activities Director Tom Kinseth and Board President Jerry Schnurr.

An evidentiary hearing was held pursuant to agency rules found at 281 Iowa Administrative Code 6. 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.

The Dornaths seek reversal of a decision the local Board of Directors of the District made on November 22, 2004, to approve the District's existing guest policy for high school dances. Said policy requires guests to be current students in good standing at any high school or students who graduated within the past two years from Fort Dodge High School.

**I.
FINDINGS OF FACT**

The Dornaths are the parents of Ashley Dornath, a 17-year-old senior at Fort Dodge High School. At the beginning of the 2004-05 school year, Ashley signed a document to verify that she received the school's student handbook and was aware of the rules contained within the same. One of the rules – the "guest policy" – states that school-sponsored dances "are open to high school students with a current activity ticket or Fort Dodge Senior High graduates within the last two years."

Prom is a school-sponsored dance. Ashley desires to attend the upcoming Fort Dodge High School prom with her boyfriend, a young man who graduated in 2004 from Manson Northwest Webster High School. Under the District's guest policy, her

boyfriend cannot attend prom with her. Ashley and her date have previous experience with the District's guest policy, having discovered that the young man could not attend the Fort Dodge High School Homecoming dance with Ashley last fall.

The guest policy is the result of a recommendation of the High School's Dodger Senate (the student governing body). In the 2001-02 school year, the Senate was asked by the District's administration for assistance in dealing with specific problems regarding school-sponsored dances. The bottom line was that if changes for the better were not made, the dances would cease to exist. Dr. Haggard identified several problems, including attendees under the influence of drugs and/or alcohol, and inappropriate behavior on the dance floor. The specific issue to be addressed by a guest policy was that the presence of non-high school guests was changing the character of the dances from school dances to community dances.

In the 2001-02 school year (when Ashley was a freshman at Fort Dodge High School), the Dodger Senate recommended the guest policy as it presently exists. It has been challenged twice before now, but the Senate has never wavered from its support of the current policy. As Dr. Haggard stated, it was appropriate for the administration and Board to seek the opinion of the Dodger Senate, but the Board was free to take or leave the students' recommendation.

The record does not establish if the local Board was involved in any review of the policy until now. The record does show that the Board discussed the policy at two meetings in the fall of 2004, that the Board members were fully aware of the concerns of the Dornath family, and that the Board voted 4-3 to retain the present language of the guest policy.¹

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(2003). The administrative rules adopted by the State Board for appeals before it also state that the "decision shall be based on the laws of the United States, the state of Iowa and the regulations and policies of the department of education and shall be in the best interest of education." 281—IAC 6.17(2). Therefore, the standard of review as first 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.

¹ The three local directors in the minority supported language that would have expanded the guest policy to include recent (within two years) graduates of any high school.

This case is governed by Iowa Code section 279.8, which states as follows:

The [local] board shall make rules for its own government and that of the ... pupils, and for the care of the schoolhouse, grounds, and property of the school corporation

The Dornaths do not argue that either section 279.8 or the local policies are unreasonable *per se*. Rather, they propose that the local Board applied the pertinent law and policies unlawfully.² Specifically, the Dornaths' arguments are as follows:

1. That the local Board abused its discretion;
2. That the local Board violated Ashley's rights to equal protection under the law; and
3. That the policy is applied arbitrarily.

Whether the District abused its discretion

The abuse of discretion standard means that neither we nor any court may substitute our judgment for that of the underlying decision-maker absent a showing that the local Board's decision was "unreasonable and lacked rationality." *Sioux City Community School District v. Iowa Department of Education*, 659 N.W.2d 563, 571 (Iowa 2003). In that case, the Iowa Supreme Court further explained that, just because rational people can disagree about a decision, an appellate body does not have the authority to override the original decision and replace it with one that it finds more palatable. The local Board must have either erroneously applied the relevant law or failed to base its decision upon substantial evidence.

The Dornaths agree that the guest policy is not directed at any protected class of persons, nor does it impact any fundamental right.³ Therefore, the policy must only have a rational basis behind it. *Knapp v. Hanson*, 183 F.3d 786 (8th Cir. 1999). The Dornaths argue that no rational basis exists for support of the present guest policy.

² The Dornaths direct some of their arguments against the Dodger Senate. However, the Dornaths cannot appeal a student government decision to this Board. We have jurisdiction only over decisions made by local boards of directors.

³ It is well established in Iowa that dances – even prom – are extracurricular activities [*Wall Lake View Auburn Community School District v. Iowa Board of Education and Sharon Ortner* (#LACV017977, Iowa District Court for Sac County, 1999)] and that there is no "right" to participate in an extracurricular activity [*Brands v. Sheldon Community School*, 671 F.Supp. 627 (N.D. Iowa 1987)]. Moreover, even if there were such a right, Ashley is not prevented from attending her prom.

The goal of the guest policy, as quoted in the Dodger Senate written recommendation, is “that high school dances remain *high school* dances.” [Emphasis in original.] The Senate document goes on to state that the policy “prevents students from bringing significantly older guests to dances, which had been a problem at previous dances.” The Senate also felt that it was not “out-of-line to make exceptions for our own alumni. Being an alumnus of a school should allow you certain privileges.”

Both Iowa Code sections 279.8 and 274.1 (“Each school district shall...have exclusive jurisdiction in all school matters...”) give districts exclusive jurisdiction in pupil governance. We have repeated previously that 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).

There may be other ways of dealing with the issue of guests who are no longer secondary students. There may even be a better way of addressing this issue than the policy approved by the Fort Dodge Community School District Board. It matters not. Our duty, “regardless of personal views or individual philosophies, is to uphold a school regulation unless it is clearly arbitrary and unreasonable. Any other approach would result in confusion detrimental to the management, progress, and efficient operation of our public school system.” *Board of Directors of the Independent School District of Waterloo v. Green*, 147 N.W.2d 854, 858 (Iowa 1967).

The stated desire to keep the basic character of a school dance as a dance for secondary students is a rational basis for the guest policy. The closeness of the vote of the local Board indicates that reasonable minds may disagree as to the means by which to attain the desired goal. Our job, in the absence of any abuse of discretion, is to respect the decision of the local Board.

Whether the District violated any equal protection due to Ashley

In an equal protection claim, we must first determine whether a suspect classification or fundamental right is involved. *Lockhart v. Cedar Rapids Community School Dist.*, 963 F.Supp. 805 (N.D. Iowa 1997). We have already concluded that no fundamental right is involved. We further conclude that Ashley is not a member of a suspect, or protected, class of persons.

The group of persons similarly situated to Ashley are Fort Dodge High School students who desire to have a graduate from a difference high school as their guest at District dances. Such students are not exclusively male or female, minority or non-minority, foreign-born or native, etc. In other words, the group of persons that includes Ashley is not a protected class of persons. We, therefore, do not strictly scrutinize the guest policy. All that the law allows is for us to determine if the guest policy is rationally related to the District’s goal of ensuring that high school dances remain high school dances. We have concluded that there is a rational basis for the policy.

Whether the guest policy was arbitrarily enforced

Mrs. Dornath testified that she had heard that some dropouts attended school dances, but no proof was offered of this assertion. Nevertheless, Dr. Haggard offered three reasons for how this could happen:

1. Students who presently attend the District's alternate education program are considered students of the District whether or not the student had previously dropped out;
2. If a student recently dropped out, those in charge of a dance might not have that information; or
3. Some students defy the policy by attending a dance when they know that they have no privilege to do so.

None of these explanations show that enforcement of the policy is selective. No proof of selective enforcement of the policy was provided. We cannot conclude that the policy is enforced in an arbitrary manner.

**III.
DECISION**

For the foregoing reasons, it is recommended that the decision of the Board of Directors of the Fort Dodge Community School District made on November 22, 2004 be **AFFIRMED**. There are no costs of this appeal to be assigned.

Date

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

It is so ordered.

Date

Gene E. Vincent, President
State Board of Education