

**IOWA STATE BOARD  
OF EDUCATION  
(Cite as 21 D.o.E. App. Dec. 155)**

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In re Jason Chaffin	:	
Dan & Kelli Marquardt, Appellants	:	DECISION
v.	:	
Logan-Magnolia Community School District, Appellee	:	[Admin. Doc. #4500]

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The above-captioned matter was heard on August 7, 2002, before Susan E. Anderson, J.D., designated administrative law judge, presiding. Appellants, Dan and Kelli Marquardt, were present and were unrepresented by counsel. Appellee, Logan-Magnolia Community School District [hereinafter, “the District”], was present in the persons of Edwin Gambs, superintendent; Katy Sojka, secondary principal; Gordon Fleihe, athletic director; and Karen Jacobsen, board secretary. The District was represented by Attorney Rick Franck of Mundt, Franck & Schumacher of Denison, Iowa.

An evidentiary hearing was held pursuant to Departmental Rules found at 281 Iowa Administrative Code 6. Authority and jurisdiction for this appeal are found at Iowa Code section 290.1(2001). 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.

Appellants seek reversal of a decision of the Board of Directors [hereinafter, “the Board”] of the District made on June 17, 2002, that declared their son, Jason Chaffin, to be ineligible under the District’s good conduct policy to participate in extracurricular activities for three months, including two football games during the 2002 football season.

**I.  
FINDINGS OF FACT**

The preponderance of the evidence from the record in the appeal hearing and from the tape recordings of the Board’s closed sessions showed the following facts.

Appellants, Dan and Kelli Marquardt, are residents of the Logan-Magnolia Community School District. Their son, Jason, will be a senior at the high school during the 2002-2003 school year. His birthday is October 13, 1984. At the time of this appeal, Jason was 17 years of age.

Jason has attended high school in the Logan-Magnolia District since the beginning of his freshman year. During that year, he participated in football, basketball, track, Student Council and Spanish Club. As a sophomore, Jason participated in football, basketball, track, Spanish Club, National Honor Society, and a family sciences club. As a junior (2001-2002), Jason participated in football, basketball, Student Council, National Honor Society and Science Club. During the summer between his sophomore and junior years (2001), Jason violated the District's good conduct policy for the first time and served a three-week suspension during the football season as a consequence.

On April 6, 2002, Jason committed his second violation of the District's good conduct policy. Jason did not appeal the underlying circumstances of the April 6<sup>th</sup> violation, but he and his parents are concerned about when the three-month suspension for the second violation would begin and end. The focus of this appeal is the penalty for Jason's second violation of the District's good conduct policy. Jason testified that as a senior he wants to compete in football, Student Council, Science Club and National Honor Society. He does not intend to go out for basketball, track or baseball. Football practice started on August 14, 2002, and Jason will be practicing with the team. The first football game is scheduled for September 6, 2002.

After Jason's second violation of the good conduct policy on April 6, 2002, Principal Sojka sent a letter to the Marquardts dated April 15, 2002, which quoted applicable parts of the good conduct policy and which also stated:

This letter is being sent to inform you that your son, Jason has been suspended from extra-curricular activities for 3 months (beginning with the first activity in which he is eligible to participate) due to an infraction of the Logan-Magnolia School District's "Good Conduct Policy." Jason was in a vehicle where some of his classmates had received an MIP [sic?] on Saturday, April 6. This puts him in violation of the Mere Presence Rule of our Policy. Because Jason is not involved in any activities at this time, his suspension will begin with the first event in which he is eligible to participate. Prom is not an affected event, so Jason may attend this if he so chooses. ... Jason will not be able to join the baseball team to serve his suspension. This decision was made by Mr. Azinger [the baseball coach], Mr. Fleihe and myself this afternoon.

(Exh. B.) (Bracketed material added.)

The Marquardts asked the Board to review the administrators' decision. The Board met on April 25, 2002 and went into closed session to consider Jason's good conduct policy violation. Present in the Board's closed session were board members, Superintendent Gambs, Activities Director Fleihe, Principal Sojka, Mr. and Mrs. Marquardt and Jason.

Jason and his parents wanted Jason to be able to go out for baseball during the summer of 2002. They contended that Jason should be allowed to go out for baseball to start the three-month clock running, so that his suspension would be over prior to the beginning of the football season of 2002-2003. The baseball team would start practice on or about May 1, 2002. The Board decided that Jason would not be allowed to go out for baseball as a junior for the sole purpose of serving his three-month suspension. Jason had not gone out for baseball at any point in junior high or high school and did not intend to play baseball at the end of his senior year. The last time that Jason had played on an organized baseball team was back in sixth grade.

The Board members told the Marquardts that students cannot just choose to participate in a new activity in order to serve the penalty before the student's valued activity begins. Board members stated the Board wants students to miss something they value so that there is a meaningful penalty served; otherwise, students could make a mockery of the good conduct policy. (Exh. G and H.) The Board came out of closed session two hours later. The minutes state:

Randy Koenig called for a motion. There was no motion made by the board. Therefore, the administrative ruling according to the Good Conduct Policy ruling remains in force as implemented by the district's principal and activities director.

(April 25, 2002, Bd. Min.)

Jason and his friends organized a Student Council pizza party for May 8, 2002, hoping that that event would start the clock running on his three-month suspension so that he would be able to play the entire football season in the fall of 2002. Jason asked Principal Sojka if the pizza party could count as an event to start the clock and she said, "No." She determined that the pizza party was not an event at which Jason would be characterized as an ambassador for the school under the good conduct policy. Therefore, the administrators decided that the May 8, 2002, pizza party would not start the clock running on the three-month suspension under the good conduct policy. Jason then wanted to participate in a football fundraiser later in May 2002, in hopes that this event would start the three-month clock running on his suspension. Principal Sojka directed Jason to Athletic Director Fleihe when he questioned whether the football fundraiser could start the clock. Mr. Fleihe told Jason that it could not.

The administrators did decide, however, that the three-month clock could start to run with a football "passing camp" for quarterbacks and receivers at Iowa State University, which the coaches stress is important for seniors to attend. The camp started on June 16, 2002, and Jason was not allowed to attend. Three months from the start of the passing camp would be September 16, 2002. The result of that scenario would be that Jason would miss competing in the first two football games of the 2002-2003 season. In other words, he would miss the September 6<sup>th</sup> and September 13<sup>th</sup> football games, but would be eligible to compete

for the rest of the football season. Jason would be able to practice with the team before September 16<sup>th</sup> and would be able to sit along the sidelines with the team, but not in uniform.

On May 22, 2002, Principal Sojka sent another letter to the Marquardts, which stated, in pertinent part:

Mr. Straight, Jason's football coach, has agreed to let Jason begin serving his suspension on the date that some of the senior players are attending trip [sic] to Iowa State University. Jason's suspension will run from June 16 until September 16.

(Exh. E, Sojka letter, May 22, 2002.)

The Marquardts then requested the Board to reconsider its previous decision. The Board agreed to put the Marquardts' request on its next agenda. On June 17, 2002, the Board again met and again went into closed session to address Jason's situation. After approximately 45 minutes, the Board came out of closed session. The minutes state, in pertinent part, as follows:

Randy Koenig called for a motion. Hearing no motion no action was taken by the board.

(Bd. Min. 6/17/02.) Jason's parents appealed the Board's decision to the State Board of Education.

The District's current good conduct policy includes, in pertinent part, the following language found in a 2001 revision to the Student Handbook:

A student who has been found to have violated a state or school rule shall be penalized as follows:

1. First Offense\* (\* refers to a self-reporting provision not applicable to Jason's situation.)

Three (3) week suspension from all extracurricular activities starting with the first date of an event in which the student participates. Community Service hours will also be assigned by the building principal and/or activities director.

2. Second Offense

Three (3) month suspension from all extracurricular activities starting with the first date of an event in which the student participates.

### 3. Third Offense

One (1) year suspension from all extracurricular activities starting with the date of the determination of the violation.

### 4. Fourth Offense and Beyond

One (1) year suspension for each additional violation.

Students will not make the determination as to what activity will be penalized; this decision is to be left to the principal, activities director and coach or sponsor. ...

The Logan-Magnolia School Board specifically states coaches and sponsors will abide by all the rules set forth by the school district's Good Conduct Policy. However, the Board also states that individual coaches and sponsors may also implement additional consequences for Good Conduct Policy violations by students in their sports or activities. Such additions will be supplied in writing to all participating students.

(Exh. C-2, pp.2-3.) (Bracketed material supplied.)

Exhibit C-2 was handed out separately to the students in September 2001 as the newly revised good conduct policy for the District which had been approved by the Board. There was a separate assembly for the students for the sole purpose of explaining the contents of the revised good conduct policy from Exhibit C-2.

Board Regulation "Good Conduct Rule Regulation," Code No. 503.4R1, was adopted by the Logan-Magnolia School Board on August 30, 2001, which was after the time that the Student Handbook would normally have been printed and handed out at the beginning of the new school year. It reads, in pertinent part, as follows:

...

Second Offense – 3 months suspension from all extracurricular events, starting with the first date of an event in which the student participates. ...

Students will not make the determination as to what activity will be penalized; this decision is to be left to the principal, activities director and coach or sponsor. ...

In order to serve the penalty, a student will not be allowed to add activities. The principal, activities director and coach of sponsor will make the determination as to which activity a student will begin serving a penalty. The only exception will be if the student can get prior approval from the principal, activities director and the sponsors of the two extracurricular events involved. If the student quits or is kicked out of the activity, the student will have to serve the suspension in the next activity in which they are involved.

The Logan-Magnolia School Board specifically states coaches and sponsors will abide by all the rules set forth by the school district's Good Conduct Policy. However, the Board also states that individual coaches and sponsors may also implement additional consequences for Good Conduct Policy violations by students in their sports or activities. Such additions will be supplied in writing to all participating students.

...

(Exh. C-3, pp. 3-4.). Four coaches have implemented separate and varying additional consequences to the good conduct policy for their individual sports. (Exh. F-1 through F-4.) The Logan-Magnolia baseball coach added:

Any player currently under suspension, or is suspended prior to the beginning of practice for all players, is not allowed to participate until their suspension is up. Dead time between seasons will not count as time served. Last contest of previous activity to the first contest of baseball will be used as a guideline. Again, missed practices need to be made up accordingly. ...

*Id.*

The Logan-Magnolia girls' basketball coach added:

We understand that any player or person associated with the Logan-Magnolia Girls' Basketball Team who violates the Good Conduct Policy during the 2001-2002 season will be removed from the team for the remainder of the season. ...

(Exh. F-2.)

The Logan-Magnolia boys' basketball coach added:

>Any player who violates the alcohol and drug component of the  
"Good Conduct Policy" will be dismissed from the basketball team  
for the entire season.< ...

(Exh. F-3.)

The Logan-Magnolia volleyball coach added:

Player will sit one full calendar year out of volleyball. They will  
be required to turn in their uniform and equipment. The date the  
suspension starts marks the beginning of the one-year suspension.  
This means no practicing, no games, and no traveling with the  
team. ...

(Exh. F-4.)

It is undisputed that the Logan-Magnolia Board did not formally adopt these four provisions added by individual coaches. At the two Board sessions that addressed Jason's situation, the Board President stated that, "coaches may supersede what the Board does if they wish," and "the Board is made aware of the individual coach's rules but does not formally approve them." (Exh. G and H.)

In this appeal, the Marquardts contend:

- 1) that Jason's three-month suspension should have started to run before the beginning of the passing camp on June 16<sup>th</sup>;
- 2) that administrators should not be allowed to determine when the penalty begins;
- 3) that the language of the good conduct policy portion of the student handbook is inconsistent with the language in the Board's good conduct policy and Regulations (because the handbook does not contain the regulation's language stating that students cannot add activities in order to serve a penalty); and
- 4) that the individual coaches should not be able to add inconsistent rules to the Board's good conduct policy and regulations.

## II. CONCLUSIONS OF LAW

In appeals to the State Board under Iowa Code chapter 290, the State Board has been directed by the Legislature to render a decision that is “just and equitable” and “in the best interest of education.” The decision also shall be based on the laws of the United States, the State of Iowa and the regulations and policies of the Department of Education. Iowa Code section 290.3(2001); 281 Iowa Administrative Code 6.17(2). The test is *reasonableness*. Based upon this mandate, a more precise description of the State Board’s standard of review is this:

A local school board’s decision will not be overturned unless it is  
“unreasonable and contrary to the best interest of education.”

*In re Jesse Bachman*, 13 D.o.E. App. Dec. 363, 369 (1996).

The District argues that the State Board of Education has no jurisdiction over this appeal because it feels that at the June 17, 2002, Board meeting, no action was taken on Jason’s situation. The District argues, therefore, that the thirty days in which to appeal for the Marquardts should have run from the April 25, 2002, meeting date. An affidavit of appeal was not filed until June 24, 2002, some seven days following the June 17<sup>th</sup> Board meeting.

We conclude, however, that we do have jurisdiction over this appeal due to the fact that the Board decided to put Jason’s situation back on the agenda for June 17, 2002. The Board went into closed session; a motion was called for; and there was no motion to change the administrators’ action. This is in essence the same thing that the Board did on April 25, 2002. If the State Board were to adopt the District’s view, then the Logan-Magnolia Board could be said to have not taken any action at any point on Jason’s situation. Under the District’s view, the Marquardts would have had no appeal rights from the Logan-Magnolia Board’s decisions, even on April 25, 2002. Therefore, we conclude that since Jason’s situation was placed once again on the Board agenda for June 17, 2002 and since the Board did once again reconsider Jason’s situation in closed session, the Board’s decision to take no further action was appealable within thirty days under Iowa Code section 290.1 (2001). The Marquardts’ affidavit of appeal was filed in a timely manner and the State Board has jurisdiction over the appeal. We will now proceed to address the substance of the appeal.

The Iowa Legislature gave local school boards the sole authority to promulgate rules for the governance of pupils. Iowa Code Section 279.8(2001) mandates that the “board shall make rules for its own governance and that of its directors, officers, employees, teachers, and pupils ... and shall aid in the enforcement of the rules and require the performance of duties imposed by law and the rules.” *Id.* Districts can also govern out-of-school conduct by student athletes and those involved in extracurricular activities. *Bunger v. Iowa High School Athletic Assn.*, 197 N.W.2d 555, 564 (Iowa 1972). Extracurricular activities are not mandatory, and, by choosing to participate, students agree to abide by the terms of the good conduct policy. *See, e.g., In re Joseph Fuhrmeister*, 5 D.o.E. App. Dec. 335(1988).



Parents and students look to the good conduct policy itself to learn what is prohibited conduct. The language of the policy itself must be clear. Although school boards need not write rules that prohibit certain conduct “with the precision of a criminal code,” the rules must be written “with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement.” *In re Justin Anderson, et al.*, 14 D.o.E. App. Dec. 294, 299(1997), quoting *Fowler v. Bd. of Educ.*, 819 F.2d 657, 664 (6<sup>th</sup> Cir. 1987). *In re Josh Burns*, 15 D.o.E. App. Dec. 344, 349(1998).

In *Bunger, supra*, the Iowa Supreme Court addressed the reasonableness of a good conduct rule. The Court’s opinion includes the following reasoning:

It was plainly intended, therefore, that the management of school affairs should be left to the discretion of the board of directors, and not to the courts, and we ought not to interfere with the exercise of discretion on the part of a school board as to what is a reasonable and necessary rule, except in a plain case of exceeding the power conferred.

*Id.* at 563.

In the appeal now before us, the record shows that the Board’s decision with regard to Jason was not unreasonable. The student handbook language and the Board’s good conduct regulation may not be cast in exactly the same language, but both documents state that a student may not choose when his penalty starts. That decision is left up to the administrators, subject to review by the Logan-Magnolia Board. The Board affirmed the administrators’ decision to allow the three-month clock on Jason’s suspension to begin on June 16<sup>th</sup> at the beginning of the football passing camp. The Board’s decision was based on its reasonable intent to make sure that students serve meaningful penalties for violating its good conduct policy. The Marquardt’s have failed to show that the Board’s decision was unreasonable. Therefore, its decision should be affirmed.

Although we conclude that the Board’s decision with regard to Jason was reasonable, we do want to put the District on notice that the individual coaches’ inconsistent additions to the Board’s good conduct policy are not enforceable. In the *Bunger* case, *supra*, the Iowa Supreme Court held:

Rule-making by the school boards involves the exercise of judgment and discretion. The legislature has delegated rule-making to those boards, and the general principle is that while a public board or body may authorize ministerial or administration functions by others; it cannot re-delegate matters of judgment or discretion.

*Id.* at 559-60.

Therefore, local boards cannot re-delegate their rulemaking authority to individual coaches. All good conduct rules must be duly adopted by the school board and recorded in the minutes of a board meeting. *Manico v. South Colonie Cent. School District*, 584 N.Y.S.2d 519, 522(Sup. 1992). The four individual coaches' additions do not affect the result of Jason's appeal since he did not participate in the affected sports on or after the date of his second violation. However, local boards may be subject to reversal in future appeals if they rely on good conduct provisions that they have not formally adopted. We further emphasize that inconsistent good conduct rules within the same district, which vary depending on which activities a student participates in, foster confusion and encourage arbitrary enforcement.

All motions and objections not previously ruled upon are hereby denied and overruled.

### III. DECISION

For the foregoing reasons, the decision of the Logan-Magnolia Community School District Board of Directors made on June 17, 2002, declaring Jason Chaffin ineligible to compete in the first two football games of the 2002 season, is hereby recommended for affirmance. There are no costs to be assigned under Iowa Code Chapter 290.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SUSAN E. ANDERSON, J.D.  
ADMINISTRATIVE LAW JUDGE

It is so ordered.

\_\_\_\_\_  
DATE

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GENE VINCENT, PRESIDENT  
STATE BOARD OF EDUCATION