

**Iowa State Board
of Education**
(Cite as 20 D.o.E. App. Dec. 331)

<i>In re Amanda Jones</i>	:	
Sheila Rice, Appellant,	:	
v.	:	DECISION
Paton-Churdan Community School District, Appellee.	:	[Adm. Doc. #4449]

The above-captioned matter was heard on April 11, 2002, before a hearing panel comprised of Charlotte Burt, consultant, Bureau of Instructional Services; Joe DeHart, consultant, Bureau of Planning, Research & Evaluation; and Susan E. Anderson, J.D., designated administrative law judge, presiding. Appellant, Sheila Rice, was present along with her niece, Amanda Jones. Mrs. Rice's husband, Greg Rice, was also present. Appellant was unrepresented by counsel. Appellee, Paton-Churdan Community School District [hereinafter, "the District"], was present in the persons of James Paulsen, superintendent; Mike Minnehan, secondary school principal; and Rochelle Guess, board president. The District was represented by Attorney Rick Engel of Engel Law Firm, Des Moines, Iowa.

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

Appellant seeks reversal of decisions of the Board of Directors [hereinafter, "the Board"] of the District made on February 13, February 27, and March 13, 2002, to expel Amanda Jones through the end of the 2001-2002 school year.

**I.
Findings of Fact**

Amanda Jones began her eighth-grade year at Paton-Churdan Middle School in August 2001. The middle school consists of grades six through eight, but is housed in the same building as grades kindergarten through six and grades nine through twelve. Amanda lives with her maternal aunt, who is also her legal guardian, in the Paton-Churdan School District. Amanda is a good student and has had no prior disciplinary problems. She participates in extracurricular activities.

Amanda testified at the appeal hearing that sometime between December 25, 2001, and January 1, 2002, she was at a friend's house with a group of students from a different school district. She testified that one of the male friends had a "butterfly" knife, which he was displaying and handling in what Amanda felt was a dangerous manner. A "butterfly" knife is a knife whose handle splits and folds up over the blade when it is not in use. The blade of the knife is about four inches long and the handles are about five inches long. Thus, when the handle is folded up over the blade, the knife is about five inches long when not in use. Photographs of the "butterfly knife" were admitted as Exhibit 2. At the appeal hearing, the hearing panel saw the actual butterfly knife, both in and out of its case and handled the knife when the handles were folded up over the blade. The knife itself, however, was not admitted as an exhibit.

Amanda testified that she took the knife away from the boy and put it into one of the outside pockets of her duffel bag. Amanda's duffel bag is about two feet wide by four feet long. It is made of heavy black material. Amanda testified that she put the knife in one of several outside pockets that were fastened by velcro. She testified that at the time, she used the duffel bag for transporting clothes and other belongings. She later began using the duffel bag as a school bag and gym bag, as well.

Amanda testified that after she put the butterfly knife in her duffel bag in December 2001, she forgot that the knife was there. However, she also testified that she didn't take the knife out of the duffel bag because she was afraid to leave it at home where her younger cousins might find it.

Some five or six weeks later, on February 4, 2002, Amanda left the duffel bag in the girls' locker room up against the wall because there was not room for the bag in her locker. Amanda testified that she had packed the bag with extra clothing because she was preparing to go out of town for the weekend to visit her mother in another state. The bag was unattended in the locker room and was not locked.

Principal Minnehan testified that on the morning of February 5, 2002, he received an anonymous phone call that Amanda's school bag contained a knife. Principal Minnehan asked Superintendent Paulsen to accompany him to look in Amanda's locker, but they did not find the duffel bag. Amanda happened to be in fifth period P.E. class, but they didn't find her bag in the gymnasium. They found her duffel bag in the girls' locker room and brought it to the office. Amanda was brought to the office as well. At that point, Mr. Minnehan called Mrs. Rice to see if she wanted to be present while the bag was searched. Mrs. Rice consented to the search, but could not come to the school building right away. Therefore, she remained on the speakerphone as Mr. Paulsen and Mr. Minnehan searched Amanda's duffel bag.

They found the butterfly knife in one of the outside pockets of the duffel bag. Amanda told Mr. Paulsen and Mr. Minnehan that a friend had given her the knife and that she was afraid that her cousins would find the knife at home, so she had left it in her duffel bag. Mrs. Rice was told over the phone that Amanda would be suspended for ten days. Mr. Minnehan collected

Amanda's homework for the rest of the week. Mr. Minnehan knew that Amanda was leaving on the trip to visit her mother and would be gone for several days. Mrs. Rice was told that a date for an expulsion hearing would be set before the Board of Education on February 13, 2002.

Mr. Minnehan testified that he walked Amanda to the front door of the school building. He kept the butterfly knife in the school's possession. On the way to the front door, Amanda told Mr. Minnehan that she had seen another student with a butterfly knife in his bag in study hall the day before. She told Mr. Minnehan the name of the student and that the student had taken the knife out of his bag, walked over to her at a computer station, and shown the knife to her. He then sat down and put the knife back in his bag. Amanda testified that she did not notify anyone at that time that this student had a knife in study hall.

After telling Principal Minnehan about the male student having a knife the day before, Amanda walked the two blocks home, where her Aunt was waiting for her. Principal Minnehan testified that after Amanda had left the building, he then went to the male student's locker and searched it. He found no knife. He then went to get the male student and brought him into the office for questioning. Principal Minnehan found no evidence that the male student had had a knife at school.

Amanda and her Aunt visited Amanda's mother as they had planned. On February 7, 2002, Principal Minnehan sent Mrs. Rice a letter confirming that there would be a disciplinary hearing for Amanda at the Board Meeting on February 13, 2002. Superintendent Paulsen testified that on February 12, 2002, he had left a telephone message for Mrs. Rice about the hearing. He had also spoken to Amanda's grandfather over the phone and had urged the family to appear at the hearing. On February 13, 2002, Mrs. Rice talked with Superintendent Paulsen on the phone. Superintendent Paulsen testified that he urged her to come to the hearing that night. Mrs. Rice testified that it was inconvenient for her to attend the hearing because it was at the same time as her boys' bedtime.

On February 13, 2002, the Board of Education met in closed session at the request of Mrs. Rice to discuss whether Amanda should be expelled for possession of a weapon or dangerous object on school grounds. Mrs. Rice chose not to attend. Principal Minnehan and Board President Guess testified that Mr. Minnehan told the Board the events that had taken place on February 5, 2002, and showed them the butterfly knife. He also told the Board that Amanda's academic and disciplinary records were good. In open session, the Board voted unanimously to expel Amanda.

On February 14, 2002, Principal Minnehan met with Mrs. Rice and told her that Amanda had been expelled for the remainder of the 2001-2002 school year. At that point, Mrs. Rice said Amanda's mother had been seriously ill and that Mrs. Rice had been preoccupied with that. She asked if she could address the Board of Education at its next meeting in closed session on February 27, 2002. The Board agreed to allow Mrs. Rice to come to the meeting with her request for reconsideration of the expulsion.

On February 27, 2002, Mrs. Rice, Amanda, Amanda's private counselor Andrea Olson, and other members of Mrs. Rice's family attended the closed session meeting. Mrs. Rice and Amanda told the Board what had occurred from their point of view and also explained that Amanda's mother had been seriously ill. Amanda's counselor, who had been seeing Amanda regarding issues not pertaining to anything related to school, also spoke to the Board in support of Amanda as a good student with no prior disciplinary problems. Mrs. Rice testified that she stated to the Board that she thought Amanda's expulsion was, at least in part, racially motivated because Amanda is part Hispanic.

Both Mrs. Rice and Superintendent Paulsen testified at the appeal hearing that during the February 27, 2002 Board's closed session, the discussion became quite heated and that people raised their voices. Although the District did tape record the closed session and although Mrs. Rice sought to have the tape admitted as an exhibit at the appeal hearing, the tape was inaudible and could not be admitted or considered as part of the record. The Board minutes of February 27, 2002, stated: "No action was taken on the matters discussed in closed session. Further investigation will be conducted."

On February 28, 2002, Mrs. Rice filed this appeal of the February 13, 2002, decision of the Board to expel Amanda for the remainder of the 2001-2002 school year. Mrs. Rice stated that she believed that Amanda should only have been suspended for ten days. She stated that the expulsion was too harsh a penalty for Amanda because she had forgotten that the knife was in the duffel bag. Also, in her affidavit of appeal, Mrs. Rice stated,

I feel this is a racist issue. She is a biracial child that has been treated unfairly by the school board because of it. The knife was found by a student going through Amanda's bag and nothing has been done about this student going through people's belongings. Nothing was done with the other student who students saw with a knife and no one has helped with Amanda's education. The superintendent is an irate person who has not handled things professionally.

(Affidavit of Appeal.) Mrs. Rice further stated that she had been getting Amanda's homework from the school and was trying to teach her at home.

The appeal hearing was then set for April 11, 2002. On March 13, 2002 (before the appeal hearing), the Paton-Churdan Board met and voted "[t]o reaffirm the prior student disciplinary decision with modifications to the education delivery system." On March 15, 2002, Board President Guess signed a written decision regarding Amanda's expulsion. The decision states:

On March 13, 2002 the Board again met to consider the appeal to the State Board of Education filed by the family relating to the expulsion decision and to further consider the request for reconsideration. The Board passed a motion to "reaffirm the prior student disciplinary decision with modifications to her education delivery system." Those modifications

clarified the Board's intent that while Amanda Jones remains expelled for the remainder of the 2001-2002 school year, the Board desires to continue to provide certain academic services to her so that she can continue her academic progress and stay on course for graduation. She has been offered homework opportunities prior to March 13, 2002 and the opportunity to take the Iowa Tests of Basic Skills. For the remainder of the academic year, she will continue to receive the opportunity to receive homework and will be provided tutorial services as feasible and as arranged by school administration. She will also have the opportunity to take tests and receive academic credit for second semester coursework premised upon satisfactory completion of assignments and satisfactory performance on tests.

Factually, the Board finds that Amanda Jones, an eighth grade, regular education student, violated school rules and Board policies in that she possessed a dangerous object/weapon, i.e. a "butterfly knife" on school premises on February 5, 2002. The knife was found in a bag that Amanda brought to school. Administration was informed of the possibility that she was in possession of a knife in her bag. A consent search was conducted of the bag and the knife was discovered. The Board believes that the possession of a knife, especially this type of knife on school premises is a serious infraction of school rules and is a threat to the health and safety of students and other personnel on school premises. This possession of a weapon/dangerous object on school premises violates Board policy 502.1 and its regulations, Policy 502.2 and is likewise proscribed by sections of the student handbook.

(Exhibit 1, March 15, 2002.)

Board Policy 502.1 states, in pertinent part, as follows:

The board believes inappropriate student conduct causes material and substantial disruption to the school environment or presents a threat to the health and safety of students, personnel and visitors on school premises.

...

Students who fail to abide by this policy and the administrative regulations supporting it may be disciplined for conduct which disrupts or interferes with the educational program, conduct which disrupts the orderly and efficient operation of the school or school activity, conduct which disrupts the rights of other students to obtain their education or participation, or conduct which interrupts the maintenance of a disciplined atmosphere. Disciplinary measures, include, but are not limited to, removal from the classroom, detention, suspension, probation and expulsion.

...

Expulsion means an action by the board to remove a student from the school environment, which includes, but is not limited to, classes and activities for a period of time set by the board but no longer than one school year.

(Exhibit 8.)

The regulations accompanying Board Policy 502.1 state, in pertinent part, as follows:

The board may, by a majority vote of the members present at a hearing to determine the severity of the alleged mis-conduct [sic], expel a student from school. The legal grounds for expulsion are:

...

1. Immorality
2. Violations of rules and regulations set or approved by the board.
3. Evidence that the presence of the student is detrimental to the best interests of the school.

...

...Examples of other conduct and penalty involved:

...Possession of weapons or dangerous objects	Expulsion
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...

The Board of Education supports these disciplinary procedures and the uniform enforcement of such procedures by school personnel. These policies and regulations will be distributed annually to students and parents by the issuance of student/parent handbooks.

(Exhibit 8.)

Board Policy 502.2, entitled “Weapons,” states, in pertinent part, as follows:

Parents of students found to possess a weapon, a dangerous object, or “look-alike” on school property shall be notified of the incident. Confiscation of weapons, dangerous objects, or “look-alikes”, shall be reported to the law enforcement officials, and the student will be subject to disciplinary action including suspension or expulsion.

(Exhibit 9.)

Paton-Churdan's student handbook, which is distributed to every student in the District, states, in pertinent part, as follows:

- S. Weapons: The board believes weapons, other dangerous objects, and "look-alike" weapons/objects, in school district facilities cause material and substantial disruption to the school environment or present a threat to the health and safety of student, employees and visitors on the school district premises or property within the jurisdiction of the school district.

School district facilities are not an appropriate place for weapons, dangerous objects, or "look-alikes." Weapons, other dangerous objects and "look alike" can be taken from students and others who bring them onto the school district property or onto property within the jurisdiction of the school district or from students who are within the control of the school district.

Parents of students found to possess a weapon, a dangerous object, or "look-alike" on school property shall be notified of the incident. Confiscation of weapons, dangerous objects, or "look-alikes" shall be reported to the law enforcement officials, and the student will be subject to disciplinary action, including suspension or expulsion.

(Exhibit 7.)

Early in the school year, Mrs. Rice had signed and returned the following statement to the Junior-Senior High School Office: "I have read and understand the Paton-Churdan Student Handbook rules for 2001-2002."

(Exhibit 5.)

At the appeal hearing, Mrs. Rice stated that she is appealing Amanda's expulsion on two grounds: 1) that the expulsion until the end of the 2001-2002 school year is too harsh of a penalty for Amanda's possession of the knife in her duffel bag on school premises; and 2) that the expulsion was racially discriminatory because Amanda is the only biracial (White/Hispanic) student in the middle school. Mrs. Rice testified that she feels that because another student anonymously reported the knife, the students were targeting Amanda due to her race. She also feels, because the male student whom Amanda said she saw with a similar knife in study hall was a white student, that the administrators and board treated Amanda differently due to her race.

When asked by the hearing panel to give specific examples and testimony as to her racial discrimination allegations, Mrs. Rice stated that she didn't have any specific evidence to support them but she just felt that Amanda was treated differently because she is Hispanic. Principal Minnehan testified that he didn't know that Amanda was Hispanic until after the affidavit of appeal had been filed. He testified further that other students had been expelled for possession of

weapons in the Paton-Churdan District, and that they had all been white students. Therefore, he testified that even if he had known that Amanda was Hispanic, he had not treated her any differently from white students who had been expelled for possessing weapons at school. The BEDS information from the District for 2001-2002 showed that the District reported seven white females and seven white males in the District's eighth-grade class of 14 students. (Exhibit 6.)

Principal Minnehan and Mrs. Rice both testified at the appeal hearing regarding the measures that had been taken by the District to aid in Amanda's educational program while she is out of school until the end of the 2001-2002 school year. Amanda's expulsion had taken place about halfway through the third quarter. Prior to March 13, 2002, the District had been collecting Amanda's homework and giving it to Mrs. Rice at her request. Since March 13, Amanda has been receiving tutorial assistance from Paton-Churdan teachers at the local library on Tuesday and Thursday evenings for at least one hour. She is receiving help in math, English, science, social studies, art, and keyboarding. At the time she was expelled, Amanda was earning A's and B's and the testimony at the appeal hearing showed that she will most likely earn A's and B's by the end of her eighth-grade year if she continues following the homework and tutorial plan that the District now has for her while she is expelled. (Exhibit A.)

Mrs. Rice testified that she would like Amanda to be reinstated back into the regular classroom immediately to finish her eighth-grade year. She also testified that she would like for Amanda to be able to try out for cheerleading. Although the actual cheerleading extracurricular activity would start when Amanda is in ninth grade (after her expulsion is over), the cheerleading tryouts themselves will take place this spring during Amanda's eighth-grade year while she is currently under expulsion. Mrs. Rice and Amanda would like for Amanda to be able to participate in the cheerleading tryouts even if she is still under expulsion when the tryouts occur.

The District, through its counsel, notified the administrative law judge in writing after the appeal hearing that the District will allow Amanda to participate in the cheerleading tryouts this spring even if she is still under expulsion.

II. CONCLUSIONS OF LAW

In hearing appeals brought under Iowa Code section 290.1(2001), the State Board must render a decision which is "just and equitable," and "in the best interest of education." Iowa Code section 290.3(2001); 281 IAC 6.17(2). A local board's decision will not be overturned unless it is "unreasonable and contrary to the best interest of education. *Id.* The decision must be based on the laws of the United States, the State of Iowa, and the Iowa Department of Education rules. 281 IAC 6.17(2). The State Board's standard of review, based on this mandate, is as follows:

[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, (1996). The standard of review is reasonableness. *In re Rashawn Mallett*, 14 D.o.E. App. Dec. 327, 334 (1997).

Iowa Code section 282.4(2001) sets out the local school board's authority regarding expulsions as follows:

1. The board may, by a majority vote, expel any student from school for a violation of the regulations or rules established by the board, or when the presence of the student is detrimental to the best interests of the school. The board may confer upon any teacher, principal, or superintendent the power temporarily to suspend a student, notice of the suspension being at once given in writing to the president of the board.

Id.

In applying the standard of review to this appeal, the question becomes whether the Board's decision to expel Amanda for the remainder of the 2001-2002 school year was a reasonable exercise of its authority. We conclude that it was reasonable for the reasons below.

Iowa statutory law is relatively terse regarding student expulsion. It is clear, however, that the local board, and only the local board, has the right to expel. The Code does not specify what constitutes an expulsion, nor does it address the rights of a student facing expulsion. Rather, those issues have been litigated over a period of time before the state and federal courts of this country. The State Board of Education has also had numerous opportunities to reflect on judicial decisions and articulate its expectations for the rights of students facing suspension and expulsion from school. In light of past decisions, we will now address Mrs. Rice's two arguments for why she believes we should reverse Amanda's expulsion.

1. Appellant argues that the expulsion until the end of the 2001-2002 school year is too harsh.

School districts have the authority to promulgate rules for the governance of pupils. Iowa Code section 279.8(2001); *In re Joseph Anderegg*, 14 D.o.E. App. Dec. 107, 113(1997). In general, school discipline policies address student conduct that occurs on school grounds during the school day. This is because the school district's regulation of school conduct must bear some reasonable relationship to the educational environment.

The State Board of Education finds that there is sufficient evidence to believe that Amanda's possession of a knife in her duffel bag on school grounds is a violation of the rules and regulations established by the Paton-Churdan Board.

Amanda must bear the responsibility for possessing the knife on school grounds. Whether she intended to possess the knife or whether she knew the knife was in her duffel bag on February 5, 2002, are not relevant to her violation of the Board's policy against possession of a weapon or dangerous object on school grounds. The District's policy prohibits the mere possession of a weapon or dangerous object, regardless of the student's intent. The evidence is undisputed that Amanda brought the butterfly knife in her duffel bag onto school property and that she possessed it in her duffel bag in the girls' locker room on February 5, 2002. For these reasons, we conclude that the Board acted reasonably and in the best interest of education when it expelled Amanda pursuant to its relevant Board policies and student handbook provisions.

In its prior decision of *In re Cohen Monson*, 18 D.o.E. App. Dec. 142(2000), the State Board affirmed the eight-month expulsion of a student who had written "KTP" ("Kill the Preps") on the school's walls. The State Board recognized the authority of local boards to exercise reasonable control over their own learning environment, as follows:

The school authorities, for their part, in order to carry out their important function, have both the inherent and the statutory power to maintain order and discipline in the schools and to exclude from the student body those who are detrimental to such body and whose conduct is inimical to the exercise of the institution's scholastic function.

...

The schools deal with increasing numbers of students from all walks of life. The problems presented to the various schools differ widely. Consequently their powers in these areas are plenary, subject only to the qualifications we have noted. They must not only provide a suitable environment for study and for relaxation, but also must also uphold and protect the authority reposed in the teachers in the institution. Without these powers they have no power to guarantee the attainment of the education entrusted to them. Thus it is that the school authorities may and do formulate rules and regulations thought necessary or desirable for classroom learning and conduct. In so doing, they have a wide latitude of discretion. And so it is, also, that the courts do not rule upon the wisdom of the rules, or their expedience, but merely, as a substantive matter, when in issue, whether they are a reasonable use of authorities' power and discretion to maintain order and decorum by all appropriate means, including suspension and expulsion.

In re Cohen Monson, 18 D.o.E. App. Dec. 142, 158-159 (quoting *Davis v. Hillsdale Comm. Sch. Dist.*, 573 N.W.2d 77, 79(Mich.App. 1997)). In its prior decision of *In re Anthony Main*, 12 D.o.E. App. Dec. 144 (1994), the State Board affirmed the seven-month expulsion of a male student who possessed a set of brass knuckles with a retractable three-inch blade at a football game on school grounds. *Id.*

We conclude that Amanda's expulsion until the end of the 2001-2002 school year was reasonably related to the Board's and the school officials' interest in protecting other students and staff from violence. The evidence is clear that Amanda possessed a weapon or dangerous object on school grounds. The Paton-Churdan handbook lists the penalty for that violation as expulsion. Board Policy 502.1 defines "expulsion" as "a period of time set by the board but no longer than one year." Therefore, the Board could have chosen to expel Amanda until February of 2003. Instead, it chose to expel her only until June 2002. The Board's action was not out of proportion to Amanda's conduct when it expelled her for four months for violating its weapons policy and threatening the general safety of the school environment. The Board acted reasonably and in the best interest of education when it expelled Amanda for the remainder of the 2001-2002 school year.

2. Appellant argues that the actions of the high school administration and Board are racially discriminatory toward Amanda Jones.

As long as the Board acted consistently with respect to students in the same situation, it had the authority to expel Amanda for the rest of the school year. The evidence in the record on the racial discrimination allegation was insufficient for the State Board to reverse the local board's expulsion of Amanda Jones on that basis. In fact, the record showed that neither the administrators nor the Board knew that Amanda was Hispanic when they investigated the incident and expelled Amanda. Even if they had known that Amanda was Hispanic, there is insufficient evidence in the record to show that she was treated differently from white students in similar situations. The record showed that several white students had been expelled by the District for possession of weapons or dangerous objects. Therefore, we have no basis upon which to reverse Amanda's expulsion on the allegations that it was racially discriminatory.

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

**III.
Decision**

For the foregoing reasons, the decisions of the Paton-Churdan Community School District's Board of Directors on February 13, February 27, and March 13, 2002, to expel Amanda Jones for the remainder of the 2001-2002 school year, are 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

GENE VINCENT, PRESIDENT
STATE BOARD OF EDUCATION