

**IOWA STATE BOARD
OF EDUCATION
(Cite as 18 D.o.E. App. Dec. 318)**

<i>In re Courtney Lansink</i>	:	
Dennis & Tammy Lansink, Appellant,	:	DECISION
v.	:	
Battle Creek-Ida Grove Community School District,	:	[Adm. Doc. #4211]
Appellee.	:	

The above-captioned matter was heard on April 4, 2000, before a hearing panel comprised of David Morgan and Susan Fischer, consultants, Bureau of Practitioner Preparation and Licensure; and Susan E. Anderson, J.D., designated administrative law judge, presiding. Appellants, Dennis and Tammy Lansink, were present and were represented by Steven E. Mauer, Courtney Lansink's maternal uncle. Appellee, Battle Creek-Ida Grove Community School District [hereinafter, "the District"], was present in the persons of Dr. Joseph Graves, superintendent; and Erin Fowkes, high school guidance counselor. The District was unrepresented by counsel.

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(1999).

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 of the District [hereinafter, "the Board"] made on January 10, 2000, that declared their daughter, Courtney, ineligible under the District's good conduct policy to participate in two athletic events and two non-athletic events and ineligible to act as an elected representative of the student body for one calendar year.

**I.
FINDINGS OF FACT**

The preponderance of the evidence from the record in the appeal hearing showed the following facts.

Appellants, Dennis and Tammy Lansink, are residents of the Battle Creek-Ida Grove Community School District. Their daughter, Courtney, is a junior at the high school. Courtney has been an honor roll student for three years and is a member of the National Honor Society. She has participated in many extracurricular activities, including cheerleading, band, choir, swing choir, drill team, softball, and student council. She has also served as a class officer.

On December 3 and 4, 1999, the high school drill team attended the State Drill Team Competition in Des Moines. Courtney was a member of the eleven-girl drill team representing the District in the competition. The team stayed in a Des Moines hotel on the night of December 3, 1999.

On Friday evening, after the drill team had practiced in preparation for the competition the next day, seven team members were present in one of the six hotel rooms that were occupied by the team and school personnel. At approximately 11:30 p.m., four more team members joined the other seven girls who were already in the hotel room. The four girls who joined the group were staying in a separate room together. These four girls included Courtney and her older sister, Callie Lansink, who was also a member of the drill team. As the four girls entered the room, Callie Lansink brought four wine coolers with her, which were hidden underneath a blanket.

Callie brought out three of the wine coolers and they were opened and passed from girl to girl around the room, until they were consumed. Courtney testified that as each bottle passed, she took a sip of the wine cooler for a total of two or three drinks. Ms. Collins, the drill team sponsor, was in and out of the room approximately three times between 11:30 p.m. and 12:30 a.m., but did not discover the alcohol.

Callie had bought the wine coolers in Ida Grove and had hidden them in her overnight luggage before boarding the bus to Des Moines. Courtney testified that she did not know that Callie had brought the wine coolers on the trip. Courtney also testified that she did not know that Callie had brought the wine coolers into the hotel room. Courtney testified that she had no prior knowledge or involvement in the purchase, transportation, or possession of the wine coolers and that she first became aware of them when the bottles were opened up in the hotel with all eleven girls present. Her sister, Callie, testified at the appeal hearing and her testimony confirmed Courtney's testimony.

The wine cooler incident was not discovered until Monday, December 6, when it was discussed at school. Ms. Erin Fowkes, the high school guidance counselor, was informed about the incident and it was reported to the principal, Ken McKenna. Courtney admitted to Mr. McKenna that she had taken approximately three drinks of the alcohol. Two other girls besides Courtney admitted having taken drinks of the alcohol. These three girls were suspended under the District's good conduct policy from participating in two athletic activities, two non-athletic extracurricular activities, and were ineligible to hold class office for one year. These three girls also served a ten-day in-school suspension under the school's disciplinary rules. Courtney, therefore, has missed two wrestling cheerleader events, two choir concerts, and served the ten-day in-school suspension. In addition, Courtney is ineligible to act as an elected representative of the student body for one year.

One additional girl admitted to being present in the room, but not to taking drinks of the alcohol. She did, however, admit that she was involved in the planning of getting the alcohol to the hotel. This girl was suspended under the good conduct policy for two athletic events, two extracurricular activities, and was declared ineligible to act as an

elected representative of the student body for one year. She served a three-day in-school suspension under the school's disciplinary rules.

In addition to the four girls discussed above, seven other girls admitted to being present in the room, but not to drinking any alcohol or to any involvement in getting the alcohol to the hotel. These seven girls were initially suspended for two athletic events, two non-athletic extracurricular activities, and were declared ineligible to act as an elected representative of the student body for one year. These seven girls were not disciplined under the school's disciplinary rules and served no in-school suspensions.

After Principal McKenna had applied the good conduct policy to all eleven girls, the seven girls who did not admit to drinking alcohol appealed their good conduct policy violations to Superintendent Graves. The basis of the seven girls' appeals was that the school had failed to conduct a bag check prior to the team's departure for Des Moines. The school did not have a written policy regarding bag checks for overnight school functions, but the school had routinely conducted bag checks if there was going to be an overnight function. In this situation, the bag check had not been done. The seven girls and their parents argued that if the bag check had been done, they would not have been put in the situation of being in the presence of alcohol.

In response to these appeals, Superintendent Graves developed a "bag check exception" and applied it to the seven girls who were only in the presence of alcohol. Superintendent Graves testified that he developed the bag check exception as a result of the drill team incident, because he felt that the District had failed in its duty to guard against alcohol being brought on the trip. Dr. Graves testified that he decided that the students who were only in the presence of alcohol should not be disciplined under the good conduct policy due to the bag check exception.

Dr. Graves testified that the other four students, who had made the deliberate choice to drink the alcohol or to plan its arrival, had placed themselves outside the bag check exception that he had developed.

After Superintendent Graves had applied the bag check exception to the seven girls, Courtney appealed her good conduct violation to Superintendent Graves. He declined to apply the bag check exception to Courtney because of her deliberate decision to drink the alcohol. Courtney and her parents then appealed Superintendent Graves' decision to the Board. The Board heard their appeal on January 10, 2000, and decided to uphold Courtney's violation of the good conduct policy and the penalties that Superintendent Graves had imposed.

This was Courtney's first offense under the good conduct policy. The District's good conduct policy provides, in pertinent part, as follows:

II. Good Conduct Policy

A. Violation of Policy.

1. Violations shall include, but not be limited to, the use and/or possession of tobacco, alcoholic beverages, and

controlled substances. Violations would also include, breaking the law (not including traffic citations).

Possession of alcohol and drugs would include being a passenger in a vehicle and/or being present at or on the premises where alcohol or drugs are being illegally served, present, or used. Any student who commits an offense, and is placed under the supervision of juvenile court services, shall be considered in violation of the policy.

2. Violations will be determined by a school administrator or designee through information from staff members, law enforcement officials, courts, and self-admissions. The student will become ineligible for the specified amount of time if evidence is produced to establish a violation. However, students need not be involved in the court system to be considered in violation of the Good Conduct Policy.
3. Separate penalties shall be applied for athletics and non-athletics. A student will be ineligible for the specified number of performances in both athletics and non-athletics.
4. Any offense of the Good Conduct Policy committed after the completion of the eighth grade will be treated as a first offense.

...

B. Consequences for Violation of Good Conduct Policy.

1. FIRST OFFENSE
There will be three levels of consequences for all first offense violations of the Good Conduct Policy. The consequences will be dependent upon the level of cooperation received by the alleged offender. The purpose of this is to encourage students to take responsibility for their actions. The number of performances/games to be missed are [sic] outlined below, based upon the number of scheduled performances/games in a given year. The three levels will be:
 - a. **STUDENT CONFESSION WITHOUT BEING APPROACHED BY A SCHOOL OFFICIAL WITHIN 48 HOURS.** If a student voluntarily and within 48 hours makes a school administrator, coach, or sponsor aware of the fact that they have violated the Good Conduct Policy, the student will be suspended from competition for the next two scheduled events.

- b. COOPERATIVE STUDENT AFTER AN ALLEGATION HAS BEEN MADE. If a student cooperates with the principal or designee, he/she will be suspended from competition for 1/3 of the season's contests.
- c. UNCOOPERATIVE STUDENT AFTER AN ALLEGATION HAS BEEN MADE. If a student is found to be guilty by a preponderance of evidence of violation the school's good conduct policy, he/she will be suspended from 1/2 of the season's contests.

...

Whenever a student violates the Good Conduct Policy, they are ineligible to act as an elected representative of the student body for one calendar year. These activities include, but are not limited to, Homecoming court, student council, class officer, etc.

(Emphasis in original.)

Courtney's parents appealed the Board's decision under its good conduct policy to the State Board of Education. At the time of appeal hearing, Courtney had already missed two athletic events and two non-athletic extracurricular activities and had already served her in-school suspension. At the time of the appeal hearing, therefore, the only remaining penalty affecting Courtney's ability to participate in leadership activities at school was her ineligibility to serve as an elected representative of the student body for one year. Courtney testified that she would like the opportunity to run for class office during her senior year in the 2000-2001 academic year.

Appellants' main argument on appeal is that the District should have applied the bag check exception to Courtney's situation. They argue that she would not have had the opportunity to drink the alcohol if the District had confiscated the wine coolers before the bus left for the drill team competition in Des Moines.

II. CONCLUSIONS OF LAW

The State Board has been directed by the Legislature to render a decision that is "just and equitable" [Iowa Code section 290.3] and "in the best interest of education" [281 IAC 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).

School districts have the authority to promulgate rules for the governance of pupils. Iowa Code Section 279.8(1999) mandates that the board of directors of a school corporation “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.” 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. *In re Joseph Fuhrmeister*, 5 D.o.E. App. Dec. 335(1988). There is no dispute that Courtney was subject to the District’s good conduct policy.

So long as the District acted uniformly with respect to students in the same situation, the District had the authority to reduce the penalty as it did because it felt imposition of the full penalty would be unfair under the circumstances. *In re Josh Burns*, 15 D.o.E. App. Dec. 350 (1998). In this case, the District acted uniformly in applying the bag check exception only with respect to the seven girls who were in the presence of the alcohol, but who did not admit to drinking the alcohol or to planning its arrival. The District acted uniformly in deciding not to allow a bag check exception with respect to students such as Courtney who did admit to drinking the wine coolers.

Appellants also argue that Courtney might have to disclose her good conduct violation on application forms for colleges and scholarships. We recognize that this possibility exists, but it is a residual consequence of a student’s good conduct violation that is not within a district’s control. Appellants further argue that some of the other seven girls in the hotel room drank the wine coolers and were dishonest with the administration in denying it. There is insufficient evidence in the record to support this argument.

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

III. DECISION

For the foregoing reasons, it is recommended that the decision of the Board of Directors of the Battle Creek-Ida Grove Community School District made on January 10, 2000, is hereby recommended for affirmance. There are no costs of this appeal to be assigned.

DATE

It is so ordered.

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

DATE

CORINE HADLEY, PRESIDENT
STATE BOARD OF EDUCATION