

**IOWA STATE BOARD
OF EDUCATION
(Cite as 18 D.o.E. App. Dec. 161)**

In re Ryan Doty	:	
Ed & Margena Doty, Appellants	:	DECISION
v.	:	
Colfax-Mingo Community School District, Appellee.	:	[Adm. Doc. #4188]

The above-captioned matter was heard on January 6, 2000, before a hearing panel comprising Joe Dehart, consultant, Bureau of Planning, Research & Evaluation; Lois Irwin, consultant, Bureau of Administration & School Improvement Services; and Ann Marie Brick, J.D., legal consultant and designated administrative law judge, presiding. Appellants, Ed and Margena Doty, were present and were represented by Attorney Brad McCall of the Brierly Law Office, Newton, Iowa. Appellee, Colfax-Mingo Community School District [hereinafter, “the District”], was present and represented by Tom Foley of Nyemaster, Goode, Voigts, West, Hansell & O’Brien, of Des Moines, 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(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 [hereinafter, “the Board”] of the District made on October 21, 1999, to expel their son for the remainder of the 1999-2000 school year for threatening to kill the high school principal.

**I.
FINDINGS OF FACT**

Ryan Doty is the 17-year-old son of Ed and Margena Doty. He resides with his parents in the Colfax-Mingo Community School District where he was attending high school as a senior at the time of his expulsion.

The District operates one high school. The principal of the high school is William Armstrong, who has served in that capacity since the beginning of the current school year. Mr. Armstrong reports to James Ferguson, who is the District’s superintendent of schools.

The District has enacted specific policies describing the type of conduct that can lead to suspension or expulsion. (Dist. Policy #502.A, Exh. A.) The policy identifies the following conduct that can result in punishment, including expulsion:

- Refusal to conform to school policies, rules or regulations;
- Conduct which disturbs the orderly, efficient and disciplined atmosphere and operation of the school or school-related activity;
- Refusal to comply with directions from teachers, administrators or other school personnel;
- Physical attack or threats of physical attack to students, teachers, administrators, or other school personnel;
- Abusive epithets or threatening gestures to other students, teachers, administrators, or other school personnel;
- Criminal or illegal behavior;
- Documented conduct detrimental to the best interest of the school district.

Id.

The high school also issues to all of its students a student handbook that contains specific provisions concerning student behavior and expulsion. The student handbook mirrors the previously referenced Board policy and lists the specific conduct that can result in suspension or expulsion. (Exh. B.) There is no dispute that Ryan received a copy of the student handbook or that Ryan was aware of the conduct which could result in immediate expulsion.

The incident giving rise to this appeal occurred on Monday, October 11, 1999. What exactly occurred on that date was hotly disputed at both the local board hearing, as well as the appeal hearing before the State Board panel. In both proceedings, the critical issue involved evaluating the credibility and demeanor of all of the witnesses to determine whose version of the incident appeared to be true – the version of Principal Armstrong or the version of Ryan and his fellow classmates?

During its hearing, the District Board resolved those credibility disputes in favor of the District's administration and concluded that Ryan "stood approximately one foot in front of Mr. Armstrong and stated, 'I'm going to take a big stick and kill you!'" (Bd. Findings of Fact, Conclusions and Decision, p. 2.) The Board also concluded that Ryan's friends, the three students who testified before the Board and at the appeal hearing were not credible

and that their testimony “stood in sharp contrast to [the] Arrest and Incident Report completed by Police Chief Huggins, and to shop teacher McCarthy’s signed statement.” *Id.* (See Exhibits D and E.)

Principal Armstrong, in contrast, testified during the Board hearing and at the appeal hearing, and was subject to intense cross-examination on both occasions. He also completed a written report shortly after the October 11, 1999, incident. (Exh. C.) Principal Armstrong’s description of what occurred on October 11, 1999 has remained consistent.

At the beginning of the sixth period on October 11, 1999, Principal Armstrong entered the high school’s shop class, which is located in a separate metal structure at the rear of the main school building. John McCarthy, the school’s industrial arts instructor, was preparing for his welding and residential construction classes at the time. Principal Armstrong stated he entered the area because the shop class is very difficult to supervise, and students often take advantage of the shop’s remote location as an excuse to leave campus or disrupt other classes. He was also concerned because earlier that same day, he had given a three-day suspension to students who had friends in that class and he knew those friends would be angry with that decision.

Principal Armstrong entered the shop room through its garage door, which was open at the time. About five or six students, including Ryan, were gathered around a car. When Principal Armstrong entered the room, the students began “coughing profane epithets” toward Principal Armstrong. As Principal Armstrong demonstrated, the students would cough words like “f---off” into their hands, or they would cough “Get out of here”, “Prick”, “You’re an asshole”. Principal Armstrong heard the comments and continued to enter the room. As he approached the car, Ryan walked toward him and then stopped a couple of inches from Principal Armstrong. At that point, according to Principal Armstrong’s testimony, Ryan looked directly into Principal Armstrong’s eyes and said, “I’m going to take a big stick and kill you!” Ryan’s face was within a few inches of Principal Armstrong’s when he uttered that threat. Ryan is approximately six feet tall and of husky build and Principal Armstrong testified that he felt intimidated and threatened by his conduct and remark. The remark was also unexpected and momentarily startled Principal Armstrong.

As he regained his composure, Principal Armstrong told Ryan that his actions “just brought him a suspension”. He then walked past Ryan and approached Mr. McCarthy, who was in another area of the shop room. Principal Armstrong told Mr. McCarthy he was taking Ryan to the office. When Principal Armstrong told Ryan to follow him, Ryan became very argumentative and refused to leave. When Principal Armstrong raised his voice and Mr. McCarthy intervened, Ryan relented and walked with Principal Armstrong to his office.

As they walked across the school grounds and into the building where the Principal’s Office is located, Ryan remained obstinate and continued asserting threats toward Principal Armstrong. Among other things, Ryan told Principal Armstrong, “You’re going to pay for

this. You're going to be sorry. This is not going to change anything around here." (Exh. C.) He also let loose with a number of epithets, including calling Principal Armstrong a "prick," and "bastard."

When they entered the principal's office, Principal Armstrong told Ryan that he would be suspended for at least ten days and that Principal Armstrong intended to recommend his expulsion. Ryan testified that he grabbed the phone on Armstrong's desk intending to call his mother. Apparently, Principal Armstrong grabbed the phone from Ryan and Ryan stormed out of the office.

As Ryan left the office, Principal Armstrong ordered Ryan to leave the premises immediately. Ryan did not heed Principal Armstrong's instructions and headed down the hall toward shop class. Principal Armstrong told Ryan he could not go there and again instructed him to leave the premises. Ryan retorted that he didn't have a car and he needed to get a ride. Principal Armstrong then told Ryan that he had to leave and if he did not leave, Principal Armstrong would call the police and have him removed. Ryan left in a huff. Ryan testified that he went to his sister's house to get a ride home because he lives two miles from school. Principal Armstrong testified in response to a question that he did not call Ryan's parents before Ryan was sent home.

Principal Armstrong called the police to investigate the matter. A police officer came to the school and obtained a written statement from both Principal Armstrong and from the industrial arts teacher, John McCarthy. The officer then prepared a written report. That report showed that Principal Armstrong's account of the incident was consistent with his testimony at both the District Board's hearing and the appeal hearing. (Exh. E.)

The next day, Police Chief John Huggins continued the investigation, initially begun by the police officer. To complete the investigation, Police Chief Huggins reviewed the statements submitted by Principal Armstrong and Mr. McCarthy. He also interviewed Dave Corwin, Jason Smith, and Ryan. Police Chief Huggins interviewed Dave Corwin and Jason Smith because it was his understanding they "were in a location to see and hear the incident the previous day." He realized, however, that their accounts were suspect as "Corwin and Smith are considered part of a group of friends which includes Doty." He also recognized that their group "has been involved in several incidents leading to confrontations with Armstrong and resulting in several of them being suspended from the high school." (Exh. D, p. 5.)

When interviewed, Ryan, Dave Corwin, and Jason Smith essentially told Police Chief Huggins the same thing – namely, they recounted that Ryan walked toward Principal Armstrong, stated "I'm going to kill you with a stick" and then inserted the word, "Dave," at the end of the statement. They explained at the appeal hearing that this showed that the remark was not intended to be directed at Principal Armstrong because Ryan turned his head toward his friend, Dave Corwin, at the last minute. Police Chief Huggins also noted that

teacher McCarthy's statement indicated that Dave Corwin and Jason Smith told their teacher essentially the same story, shortly after the incident occurred. (Exh. D.)¹ After he completed an investigation, Chief Huggins arrested Ryan and charged him with the offense of harassment pursuant to Iowa Code section 708.7(2). (Exh. D.) Those criminal charges were still pending when this matter was heard on appeal.

On October 12, 1999, Principal Armstrong wrote the Dotys and advised them that their son was suspended from school pending expulsion due to his conduct the previous day. Principal Armstrong informed the Dotys that Ryan's conduct violated Board Policy #502.1A and that he intended to recommend Ryan's expulsion. The letter also contained the following description:

During 7th period residential construction class on October 11, 1999, Ryan threatened to kill me, William Armstrong, the principal. Mr. McCarthy, the residential construction teacher, witnessed the threat.

(Exh. G.)

Shortly after Principal Armstrong's letter was sent, Superintendent Ferguson met with Ryan and his mother. During this meeting, Ryan was given another opportunity to explain what occurred on October 11th and to apologize for his conduct. According to Superintendent Ferguson's testimony, Ryan rejected that opportunity. Instead, he vehemently denied doing anything wrong and demanded Superintendent Ferguson immediately return him to school. Superintendent Ferguson told Ryan and his mother that he intended to recommend that the District's Board of Directors expel Ryan for the remainder of the school year.

The next day, Superintendent Ferguson wrote the Dotys to formally advise them of his intent to recommend their son's expulsion from school. In that letter, Superintendent Ferguson advised the Dotys that his recommendation was the "result of an incident that occurred on Monday, October 11, 1999." The superintendent also described the incident. (Exh. H.) The letter told the Dotys that the Board would conduct a hearing concerning Superintendent Ferguson's recommendation and advised them of the date, time, and location of that hearing. *Id.* The Dotys were also advised of Ryan's right to appear before the Board, call witnesses to testify on his behalf, cross-examine any witnesses Superintendent Ferguson might call in support of his recommendation, and to be represented by legal counsel. *Id.*

¹ The written statement teacher McCarthy prepared after the incident described the following encounter between himself, Josh Noring, Jason Smith, and Dave Corwin: "During the 7th period, Josh Noring, Jason Smith and David Corwin came out to the shop and without any questions from me, Jason Smith proceeded to tell me that Ryan was just joking when he *walked toward* Mr. Armstrong and said '*I am going to kill you*' and at that point turned his head to Dave Corwin and said 'Dave.' I then sent them back to where they came from." (Exh. D.) (Emphasis added.)

Finally, Superintendent Ferguson identified the specific individuals he intended to call as witnesses during the hearing and enclosed a summary of the facts he anticipated each witness would establish. *Id.*

The letter Superintendent Ferguson prepared also specifically advised the Dotys that Superintendent Ferguson intended to call Terry Fox, the school's at-risk counselor, to "discuss Ryan's disciplinary history." In addition, Superintendent Ferguson advised the Dotys that if either they or their legal representative wished to review Ryan's disciplinary and educational records before the hearing, those materials would be made available to them. (Exh. H.) These disciplinary records were made available to the Dotys' legal counsel who reviewed them at the District's Central Administrative Offices. Superintendent Ferguson compiled a disciplinary summary using the same educational records that were made available to the Dotys and their legal counsel and that summary was offered and received into evidence at both the District Board's expulsion hearing and the appeal hearing. Documents establishing the discipline Ryan received during the 1998-1999 school year were likewise offered and received into evidence. (Exh. I.)

During the expulsion hearing held on October 21, 1999, in closed session, the administration was represented by Attorney Tom Foley. The Board was represented by Attorney Beth Groh, of the Ahlers Law Firm. The Dotys were represented by Attorney Brad McCall. At the conclusion of the expulsion hearing, which lasted over five hours, the Board issued a written document entitled, "Findings of Fact, Conclusions and Decision," that summarized the evidence presented and the Board's conclusions. The Board expelled Ryan because it concluded he threatened to kill Principal Armstrong on October 11, 1999. In so doing, the Board took into consideration Ryan's conduct, particularly the events that occurred during the 1998-1999 school year.

We also reviewed the evidence of Ryan's prior misconduct and found that it supported the District Board's conclusion that "over the course of the past year, [Ryan] ... conducted a campaign of threats and physical attack and harassment directed toward teachers and administrators." (Bd.'s Findings of Fact, Conclusions and Decision.)

Those incidents of misconduct are summarized as follows:

- On April 4, Ryan and Jason Smith were belligerent to a teacher and used racial epithets that have no place within the school environment. The incident began when Ryan said to the teacher, during class time, "Thanks for giving me an F, PRICK!" When he was asked to leave the room, Ryan denied that he directed the remark to the teacher and refused to leave. The teacher allowed Ryan to remain until Ryan attempted to defend Smith's use of a religious slur. Ryan was asked to leave for a second time, and complied. However, he kept

repeating the word, “Jew” as he was leaving the room and as he walked out the door he shouted the words “nigger” and “spick.” (Exh. F, p. 4.)

- On or about April 23, Ryan pulled the fire alarm at the high school and received a three-day suspension. (Ex. I, p. 2.) The following Sunday, Ryan called the high school office looking for David Morgan, who was the principal at the time. At approximately 2:12 p.m., Ryan left the following message on the school’s answering machine. “*Dave Morgan, what the hell do you think you’re doin tellin everyone I pulled the f----- fire alarm on Monday, er, Friday? [pause] I want you to call me back, right the f--k right now.*” (Exh. I, p. 3.)
- At the end of the school day on May 14, a teacher overheard Ryan scream in one of the hallways, “It’s Friday, let’s get f--ked up and drink Everclear.” The teacher then heard Ryan use the word “f--k” in another sentence. The teacher confronted Ryan and asked Ryan to accompany him to the office. Ryan refused to go and told the teacher that school was out and he could do anything he wanted. Principal Morgan was then called and he also instructed Ryan to go to his office. Ryan refused to accompany Morgan and left the building. As a last act of defiance, Ryan lit up a cigarette as he left the school building. (Exh. I, p. 1.)

When the Board expelled Ryan on October 21, 1999, it stated in its Decision as follows: “*The Board would like Ryan to complete his high school education and will assume fiscal responsibility for Ryan to attend the Basics and Beyond Program [at DMACC] so he may obtain his diploma in January 2000. ...*” (Findings of Fact, Conclusions & Decision, p. 4.)

According to the Dotys, Ryan has successfully completed the program at Basics and Beyond. They appealed the expulsion, however, because they want Ryan to participate in commencement exercises with his class in the Spring 2000 graduation ceremony.

In their affidavit of appeal, the Dotys asserted three distinct “grounds” in support of their request to reverse the District’s decision to expel Ryan:

1. The Dotys claimed that the decision to expel Ryan was “not supported by the evidence presented at the hearing.” This is because “Ryan and three other witnesses who were present when it is claimed the threat was made all testified under oath that no such threats were made.”

2. The District's Administration presented "evidence and testimony" during the Board hearing "that was not relevant or material to the expulsion proceeding and about which [Ryan] did not receive notice prior to the hearing in violation of his due process rights."
3. The District's Board of Directors was not an "impartial tribunal or finder of facts" because the Administration was represented by Attorney Thomas Foley throughout the expulsion hearing and Thomas Foley has also represented the Board of Directors as legal counsel.

II. CONCLUSIONS OF LAW

The State Board of Education has been directed by the Legislature to render appeal decisions that are "just and equitable" [Iowa Code Section 290.3 (1999)]; "in the best interest of the affected child" [Iowa Code Section 282.18 (18)) (1999)], and "in the best interest of education" [281 Iowa Administrative Code 6.11(2)]. The test is reasonableness. 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).

In applying the standard of review to this appeal, the question becomes whether the Board's decision to expel Ryan Doty for the remainder of the 1999-2000 school year was a reasonable exercise of its authority.

Iowa statutory law is relatively terse regarding student expulsions. It is clear, however, that the School Board and only the Board, has the right to expel. "The Board may, by a majority vote, expel any student, for a violation of the regulations or rules established by the Board, or when the presence of the student is detrimental to the best interest of the school" Iowa Code section 282.4 (1999). The Iowa Code does not spell out 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 1993, the State Board thoroughly reviewed the case law and summarized the elements of due process for students facing expulsion. See *In re Joseph Childs*, 10 D.o.E. App. Dec. 1 at 12-14 (1993). These due process principles were reaffirmed in the expulsion case of *In re Isaiah Rice*, 13 D.o.E. App. Dec. 13 (1996). Regarding the elements of the notice requirement under Due Process, the State Board said: “The student handbook, Board policy, the Code of Iowa, or ‘commonly held notions of unacceptable, immoral, or inappropriate behavior,’ may serve as sources of notice to the students of what conduct is impermissible and for which discipline may be imposed.” *Id.* at 12.

In the present case, the Board relied on District Policy No. 502.A1 to punish Ryan Doty for his behavior. There is no dispute that the behavior Ryan has been disciplined for during the 1998-1999 school year, as well as the incident occurring on October 11, 1999, comes well within the preview of the prohibited conduct listed in this policy. We find that the overwhelming weight of credible evidence shows that Ryan did face Principal Armstrong on October 11 and state, “I am going to take a big stick and kill you!” Under the circumstances, we think the action taken by the District Board in expelling Ryan was entirely reasonable. In addition, the Board went beyond the requirements under Iowa Law and assumed the fiscal responsibility by providing an expelled student with an alternative education so that he could meet graduation requirements. Nevertheless, we will address each of Appellants’ grounds for reversal.

1. *The decision to expel Ryan was “not supported by the evidence presented at the hearing because Ryan and three other witnesses who were present when the threat was made” testified to a different version of the facts.*

The State Board exercises *de novo* review in appeals brought under Iowa Code chapter 290. Under this broad standard of review, the State Board is not required to defer to the school board’s judgement. The State Board is not limited to finding a school board’s decision must be “arbitrary or capricious” before it can be overturned. Appellee District’s reliance on *In re Joseph Childs*, 10 D.o.E. App. Dec. 1, 15(1993) for the statement of the State Board’s Standard of Review is misplaced. *Childs* was overruled on that ground by *In re Debra Miller*, 13 D.o.E. App. Dec. 302, 318 (1996).² In spite of the State Board’s broader *de novo* review, we reach the same conclusion on the credibility of witnesses as the local District Board. The Dotys do not point to any evidence that would suggest that the Board’s decision to credit Principal Armstrong’s version of the facts was unreasonable, other than the fact that Ryan’s friends directly contradicted Principal Armstrong’s testimony. Those same witnesses

² “We take this time to clarify the proper standard of review for appeals brought to the State Board under Iowa Code section 290.1, because, as Appellee District Board has brought to our attention, a series of cases has evolved over several years which suggest that the State Board will not reverse a local board decision unless it ‘was made arbitrarily, capriciously, without basis in fact, upon error of law, without legal authority, or constitutes an abuse of discretion. This is our standard of review of local board decisions.’ (citing *In re Jerry Eaton, et al.*, 7 D.o.E. App. Dec. 137, 141(1989). That language is inconsistent with the *de novo* standard of review which is appropriate under Chapter 290, and is hereby overruled.” (*Miller* at 318 (emphasis added).)

appeared and testified before the hearing panel on this appeal. They testified to a different version of the facts, under oath, at the appeal hearing than they gave to the Chief of Police shortly after the incident. They were clearly motivated to distort the facts to help their friend. Principal Armstrong, Chief of Police Huggins, Superintendent Ferguson, as well as John McCarthy, had no such motivation to lie. The fact that Ryan could be oppositional to authority was well substantiated by his prior disciplinary record. The record of the appeal hearing also shows that Ryan's father was found to display oppositional behavior when he was dissatisfied with rulings on the evidentiary matters. In short, the Dotys provided no evidence that the District Board's decision to credit Principal Armstrong with the truthful version of the facts was unreasonable. On the contrary, the version of the facts presented by Ryan and his friends appeared not only untruthful, but unreasonable as well.

2. *The District's administration presented evidence and testimony during the Board hearing which was not relevant or material to the expulsion proceeding and about which [Ryan] did not receive prior notice in violation of his Due Process rights.*

During the hearing, the Dotys' attorney argued that Ryan's Due Process rights were violated because they did not receive adequate notice that Superintendent Ferguson intended to offer evidence concerning Ryan's disciplinary record in support of his recommendation that the Board expel Ryan.

The Due Process principles the State Board has asserted with respect to the type of notice a student must receive prior to an expulsion hearing are relatively straightforward. Those principles require that the student receive in advance of the hearing a written "notice" that contains each of the following pieces of information: a) the date, time, and location of hearing; b) a summary of the charges against the student written with "sufficient specificity" to enable the student to prepare a defense; and c) an enunciation of the right to representation (by parent, friend, or counsel to present documents and witnesses on the student's behalf, to cross-examine adverse witnesses, to be given copies of documents which will be introduced by the administration and to a closed hearing, unless an open hearing is specifically requested). *In re Isaiah Rice*, 13 D.o.E. App. Dec. 21(1996).

The letter from Superintendent Ferguson, hand-delivered, to the Dotys on October 19, 1999 (Exh. H.) clearly complied with these requirements. That letter advised the Dotys and Ryan that the expulsion hearing would occur on October 21, 1999 beginning at 7:00 p.m. The letter also described the October 11th incident and advised Ryan of his right to call witnesses to testify on his behalf, cross-examine any witness the superintendent might call in support of his expulsion recommendation, and of his right to be represented by legal counsel. Superintendent Ferguson also advised the Dotys that he intended to call Principal Armstrong, John McCarthy and Police Chief John Huggins. He also enclosed all the documents that set forth the facts

to which each witness would testify. Moreover, the letter advised the Dotys and Ryan that Terry Fox, the school's at-risk counselor, would discuss Ryan's "disciplinary history" and extended an invitation to the Dotys, Ryan, or their legal representative to review Ryan's entire educational record before the hearing date. (Exh. H.) In fact, the Dotys' legal counsel did review Ryan's disciplinary record and it was copied for him at his request.

We find that the Dotys' Due Process claim must fail because they cannot establish that any Due Process irregularities occurred or that use of prior disciplinary records is contrary to any Due Process principles enunciated in prior decisions of the State Board. On the contrary, we would expect school administrators to use their discretion in evaluating the appropriate punishment for a student based on whether the incident constituted a first-time offense or was the accumulation of a pattern of oppositional behavior that had become threatening to staff and students.

3. *The District's Board of Directors was not an impartial "finder of facts" because the District's administration was represented by the same legal counsel that had previously represented the Board.*

The Dotys argue that the District violated Ryan's Due Process rights because the District Board was biased against him and not an impartial decision-maker. To establish such a claim, the Dotys were required to prove *actual*, as opposed to theoretical, bias on the part of the Board. *In re John Lawler*, 18 D.o.E. App. Dec. 61, 75(2000); *In re Don A. Shinn*, 14 D.o.E. App. Dec. 185, 193-94(1997). The requirement of actual bias is broadly interpreted, and permits board members considerable discretion in determining whether they can fairly and impartially consider an expulsion recommendation. Under the applicable standard, "a board member is not disqualified from sitting on a hearing panel unless the board member feels personal knowledge would prevent him or her from reaching a fair decision." *Id.* (citing *Bishop v. Keystone Area Educ. Agency #1*, 275 N.W.2d 744 (Iowa 1979)). Stated differently, the individual board members enjoyed a "presumption of objectivity" that could only be overcome by evidence of actual bias or prejudice. *See Fairfield Community Sch. Dist. v. Jessman*, 476 N.W.2d 335, 339 (Iowa 1991)(neither the superintendent's role as prosecutor nor a non-participating board member's role as witness for the superintendent established actual bias on the part of the board in a teacher termination hearing.). Mr. Foley represented the administration in the expulsion hearing. He has also served in the past as the District's legal counsel and has advised the Board on various legal matters. However, the Board was represented throughout the proceedings by Ms. Beth Groh of a different law firm who served as the Board's attorney and advised the Board throughout the hearing and during deliberations. Evidence at the appeal hearing showed that Ms. Groh specifically advised the Board members prior to the expulsion hearing of their obligation to act as fair and impartial hearing officers. The Dotys simply imply that because of Mr. Foley's relationship to the Board, the Board members will be biased by his presentation of the facts on behalf of the administration. These assertions

are theoretical at best. They fall far short of the actual bias required under the Law for a determination that the District Board failed to impartially consider the facts. In summary, the Appellants have failed to show that the District Board's decision to expel Ryan Doty on October 21, 1999 was unreasonable. Because of that, there is no other basis for us to reverse that decision.

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

**III.
DECISION**

For the foregoing reasons, the decision of the Colfax-Mingo Community School District Board of Directors made on October 21, 1999, to expel Ryan Doty for the remainder of the 1999-2000 school year, is hereby recommended for affirmance. There are no costs to be assigned under Iowa Code Chapter 290.

DATE

ANN MARIE BRICK, J.D.
ADMINISTRATIVE LAW JUDGE

It is so ordered.

DATE

CORINE HADLEY, PRESIDENT
STATE BOARD OF EDUCATION