IOWA STATE BOARD
OF EDUCATION
(Cite as 17 D.o.E. App. Dec. 344)

In re Martin Noah	:	
Dan & Martha Noah, Appellants,	:	DECISION
v.	:	
Tripoli Community School District, Appellee.	: :	[Adm. Doc. #4144]

The above-captioned matter was heard on September 17, 1999, before a hearing panel comprising Jeff Berger and Steve Fey, consultants, Bureau of Administration and School Improvement Services: and Ann Marie Brick, J.D., legal consultant and designated administrative law judge, presiding. Appellants, Dan and Martha Noah, were present and were represented by Christopher Foy of Leslie, Collins & Foy, Waverly, Iowa. Appellee, Tripoli Community School District [hereinafter, "the District"], was present and represented by Gaylen Hassman of Engelbrecht, Ackerman, and Hassman, of Waverly, 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 May 5, 1999, to expel their son for the remainder of the second semester of the 1998-1999 school year and set certain conditions for his readmission.

I.
FINDINGS OF FACT

On May 5, 1999, Martin Noah [Marty] was a 17-year-old junior at Tripoli Senior High School. He and his friend were expelled for the remainder of the semester after they wore black trench coats[1] to school on April 22, 1999. Because there were only a few weeks remaining in the semester, Marty was also expelled for the first semester of the 1999-2000 school year. However, he could be readmitted in the Fall if he fulfilled certain conditions imposed by the Board. The Board imposed three conditions:

1. That Marty immediately receive counseling every two weeks through the end of the first semester of the 1999-2000 school year. The Noahs were to extricate a

[1] **Marty's coat was actually a dark green, army-style trench coat.**

patient's waiver to allow the counselor to share information and records with the school administration and guidance counselor;

2. Marty was encouraged to issue a public apology to the staff, students and patrons of the District; and

3. Upon return to school, Marty was to keep his locker free of offensive materials like the ones found in his locker on April 22, 1999; a poster of Adolph Hitler, references to illegal drugs, and any sexually degrading material, posters, or signs.

It was understood by the parents and the Board that if Marty fulfilled these requirements, he would be readmitted to school beginning in the Fall semester.

At the time of the appeal hearing, Marty had been attending classes at the Hawkeye Success Center. He had not returned to Tripoli High School for the Fall semester.[2]

Marty and his friend thought, "it would be funny and a little shocking". Once inside entering the school, they were only in the hallway for about five to ten minutes before they were confronted by a group of 10-12 students. A couple of the boys appeared angry at them and told them to take the coats off. At this time, one of the students said, "Don't you think it's a tragedy -- what happened in Columbine?" To which Marty replied, "For the students, maybe, but not the teachers." The boys then took the coats off and put them in their lockers, and did not wear them again.

The District presented evidence which showed that the trench coat was viewed in a larger context of threatening behavior. Christina Ladage testified that she was frightened by Marty because of an incident that occurred almost a month before the trench coat incident. She was Marty's study hall monitor. On March 26, 1999, she saw Marty wielding a metal stick used as an automobile gear shifter. He was "utilizing the tool in a weapon-like manner" in study hall. He had pretended to strike another student. Marty testified that he never intended to hurt the other study, he was "just joking around". She asked Marty to give her the tool. Marty refused. He said it didn't belong to him. After some discussion, Marty gave Mrs. Ladage the tool. As she turned to take the tool to the principal, she heard Marty say, "Next time, I'll bring a gun to school -- we'll see what you can do then".

Two other incidents occurred in Mrs. Ladage's study hall about the same time. The first involved the superintendent, Charles Missman. Mr. Missman came into the study hall to reprimand Marty for continuing to park his car on the sidewalk. As Mr. Missman left the room, Marty pretended to shoot him in the back of the head by using a "fake" shooting motion with his hand. Mr. Missman did not see it.

The second incident involved "fake" shooting motion to the back of the head of a student in study hall. Mrs. Ladage had given the student permission to close a window over Marty's objection. Mrs. Ladage testified that she reported all three incidents to the

---

[2] **Evidence concerning Marty's status vis a vis be "conditioned" at the time of the appeal hearing was not admitted. His status was the subject of settlement discussions between the parties.**

principal, Randall Stanek. Because after Marty's comment about "bringing the gun", she was afraid of him.

Mr. Stanek met with Marty and asked for an explanation of his behavior. Marty told him he was "just joking around". He said it was a meaningless threat because he didn't own a gun. Mr. Stanek told Marty that with the violence in the school, his type of "joking around" could be misunderstood. Mr. Stanek testified that he advised Marty that in this day and age, that kind of joking around could not be tolerated. Mr. Stanek then inormed both Marty and his mother, that Marty should not engage in threatening behavior or "joke around" with statements simulating violence, if he did, he would be removed from school. Marty admitted that these statements had been made.

II.
CONCLUSIONS OF LAW

School districts have the authority to promulgate rules for the governance of pupils. Iowa Code section 279.8(1997); In re Joseph Anderegg, supra at 113. "Inherent in the notion of a good conduct policy is the idea that participants in extracurricular activities should be held to a higher standard than non-standout students ... . Extracurricular activities are not mandatory. By electing to participate, the student agrees to abide by the terms of the good conduct policy even when school is not in session." In re Jesse Bachman, supra at 370.

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. However, districts may also reach out-of-school conduct by student athletes and those involved in extracurricular activities. Because of the leadership role of these "stand-out" students, their conduct, even out of school, directly affects the good order and welfare of the school. Bunger v. Iowa High School Athletic Assn., 197 N.W.2d 555, 564 (Iowa 1972). The State Board has recently affirmed the ability of a district to impose sanctions on student athletes for the possession and consumption of alcohol during the summer. In re Jesse Bachman, 13 D.o.E. App. Dec. 363, 369 (1996).

"Applying the appropriate standard of review to the facts of this case, we must ask whether the District Board's action in upholding the discipline imposed by the administration, is a reasonable exercise of the Board's authority." In re Joseph Anderegg, 14 D.o.E. App. Dec. 107, 112 (1997). 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). With respect to the violation on Saturday night, the District acted according to the good conduct policy, and its actions were reasonable and in the best interest of education. With respect to the party on Friday night, the District's actions were not reasonable, and were not in the best interest of education. The policy formerly contained a paragraph that explicitly prohibited presence at a party with alcohol. This paragraph was in addition to the possession paragraph.
Given that this prohibition was inadvertently omitted from the current policy, and given the particular situation Friday night, the possession paragraph of the policy cannot reasonably be interpreted to include Josh's presence at the party on Friday.

The parties had some question as to whether the District could impose a sanction for a second violation when there was no time for the policy to work in between the first and second violation. Although we no longer have this situation, since we have held there was no violation on Friday night, we offer the following guidance. There is nothing in the policy or in Iowa law which would prevent the District from imposing punishment for a second violation in this type of situation. If Friday night had been a violation, there clearly would have been two separate events and two separate violations. The fact that the District did not know of the second violation, or have time to impose a penalty for the first violation, before the second violation occurred, does not prevent the District from imposing a penalty for the second violation. Additionally, so long as it 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.

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

III.
DECISION

For the foregoing reasons, the decision of the Board of Directors of the Tripoli Community School District made on May 19, 1999, is hereby recommended for reversal. There are no costs of this appeal to be assigned.

_____ _____

DATE AMY CHRISTENSEN, J.D.
ADMINISTRATIVE LAW JUDGE

It is so ordered.

_____ _____

DATE CORINE HADLEY, PRESIDENT
STATE BOARD OF EDUCATION