

**IOWA STATE BOARD
OF EDUCATION
(Cite as 17D.o.E. App. Dec. 239)**

<i>In re Jonathan Bassett</i>	:	
Jackie Bostic, Appellant,	:	
v.	:	PROPOSED DECISION
Davenport Community School District, Appellee.	:	[Adm. Doc.#4109]

The above-captioned matter was heard on April 14, 1999, before a hearing panel comprising Klark Jessen and Ron Parker, consultants, Office of the Director; and Ann Marie Brick, J.D., legal consultant and designated administrative law judge, presiding. Appellant, Jackie Bostic, was "present" telephonically and was unrepresented by counsel. Appellee, Davenport Community School District [hereinafter, "the District"], was "present" telephonically in the persons of James Blanche, superintendent; Denise Hollonbeck, board president; Linda Smith, board secretary; and David Lane, associate superintendent. Appellee was also 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 before them.

Appellant seeks reversal of a decision of the Board of Directors [hereinafter, "the Board"] of the District made on March 9, 1999, to expel her grandson for the remainder of the 1998-99 school year for violation of the discipline policy on controlled substances.

**I.
FINDINGS OF FACT**

The Appellant, Jackie Bostic, is a resident of the Davenport Community School District. She is raising four grandchildren and one great-grandchild. The oldest of these, Jonathan Bassett, age 18, is the subject of this appeal.

Jonathan was a 12th grade student at Davenport Central High School until the incident on February 18, 1999, that resulted in his expulsion for the remainder of the school year. On that date, Jonathan reported to school staff that \$500 had been stolen from his locker in the boys' locker room. The associate principal, Thomas Voorhees, and the police liaison, Officer Just Esthend, went to the boys' locker room and began to search the students present in groups of three. Jonathan left the locker room and went to the gym, where a school staff member saw him give something to another student. Officer Esthend then searched Jonathan and found on his person a baggie containing what appeared to be drugs. The Davenport Police Department later determined the substance to be eight "rocks" of crack cocaine, some packaged, with a total weight of 2.6 grams, enough for 26 doses. No prohibited items were found on the other students and the \$500 was not found.

On February 26, 1999, the District's Administrative Council held a hearing to consider Jonathan's possible expulsion. At that hearing, Jonathan admitted being a drug user and said the drugs found on him had been bought for his personal use. He also said that the \$500 he reported missing was the proceeds from the sale of the speakers from his car. The Administrative Council recommended to the Superintendent that Jonathan be expelled for the remainder of the 1998-99 school year for violation of District Policy 504.1, which prohibits the use, possession or distribution of controlled substances by students on school property. That recommendation was presented to the Board, which held a hearing on March 9, 1999, and voted to expel Jonathan for the remainder of the school year.

II. CONCLUSIONS OF LAW

The Appellant in this appeal does not dispute her grandson's possession of crack cocaine at school on February 18, 1999. Nor does she find fault with the policies and procedures followed by the District in disciplining him. Her dispute concerns the severity of the penalty imposed. She asserts that Jonathan should have been suspended and given the opportunity to enroll in a drug treatment program. Jonathan needed just three additional credits to graduate and she is concerned that now he never will.

The State Board of Education has been directed by the Legislature to render appeal decisions which are "just and equitable," [Iowa Code section 29.3(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 upon 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 before the State Board is whether the Davenport Board's decision to expel Jonathan for the remainder of the school year was a reasonable exercise of its authority. Boards of directors have the authority to establish rules governing student conduct. [Iowa Code section 279.8(1999).] The Board's rules on student behavior are detailed in policy, which states in pertinent part:

B. Tobacco, liquor, and other controlled substances

The use of tobacco and the use, possession, or distribution of alcoholic liquor or beer or any controlled substance or any drug paraphernalia or any look-alike drugs (as defined in the Uniform Controlled Substances Act) by any student on school property or while attending a school function as a participating representative of the school is prohibited, and *students may be suspended, expelled, or excluded for any violation of this rule.*

(Bd. Policy #504.1(III).) (Emphasis added.)

Superintendent Blanche testified that these behavior rules are reviewed with students at the beginning of each school year. Jonathan stated at the Administrative Advisory Council hearing on February 26, 1999, that he was aware of the policy regarding controlled substances. (Administrative Advisory Council, Summary of Min. 2/26/99.) The evidence showed that the District and the Board followed the policy in Jonathan's case, and there is, therefore, no procedural basis for overturning the Board's decision.

The remaining question then is the reasonableness of the penalty imposed on Jonathan. Mr. Lane testified that the Board has consistently made a distinction between the possession/use of drugs and the distribution of drugs. Expulsion has consistently been the penalty imposed for distribution. Superintendent Blanche testified that the District concluded that Jonathan's offense was distribution based on the quantity of drugs, the fact that some of the drugs were packaged and the large amount of

money he reported stolen. In contrast, the Appellant, Ms. Bostic, asserts the truth of Jonathan's statements that the drugs were for his own use and the money came from the sale of his car speakers. The fact that the parties in this appeal disagree does not mean that the Board's action was unreasonable. The District's determination that Jonathan was a distributor was based on reasonable factors and its past experience in applying the policy and rules concerning controlled substances.

Our decision to uphold the Board's decision is consistent with State Board precedent. See, e.g., *In re Kam Schaeffbauer*, 9 D.o.E. App. Dec. 188(1992) (expulsion affirmed for drug possession/distribution); *In re David Ward*, 11 D.o.E. App. Dec. 39 (1993) (expulsion affirmed for drug possession); and *In re Eric Plough*, 9 D.o.E. App. Dec. 234(1992) (expulsion affirmed for drug possession).

The Appellant has failed to show that the Board's decision was unreasonable. There is no other basis on which to reverse it.

All 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 Davenport Community School District made on March 9, 1999, to expel Jonathan Bassett for the remainder of the 1998-99 school year, is hereby recommended for affirmance. There are no costs to this appeal to be assigned.

DATE

ANN MARIE BRICK, J.D.
ADMINISTRATIVE LAW JUDGE

It is so ordered.

DATE

CORINE HADLEY, PRESIDENT
STATE BOARD OF EDUCATION