

**IOWA STATE BOARD  
OF EDUCATION  
(Cite as 16 D.o.E. App. Dec. 252)**

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<i>In re Scott Martin</i>	:	
William & Alix Martin, Appellants,	:	DECISION
v.	:	
Marshalltown Community School District, Appellee.	:	[Adm. Doc. #4045]

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This case was heard on November 30, 1998, before a hearing panel comprising Steve Fey and Jeff Berger, consultants, Bureau of Administration & School Improvement Services; and Ann Marie Brick, J.D., legal consultant and designated administrative law judge, presiding. The Appellants, William and Alix Martin, were present and were represented by Attorney Barry Kaplan, of Fairall, Kaplan, Hogan, and Condon Law Firm, Marshalltown, Iowa. Appellee, Marshalltown Community School District [hereinafter, "the District"], was present in the persons of Jerry Stephens, high school principal, and Robert John Brinkman, German instructor. The District was represented by attorney John B. Grier of Cartwright, Druker, and Ryden, Marshalltown, 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(1997).

Appellants filed an affidavit seeking review of an August 24, 1998, decision of the Board of Directors [hereinafter, "the Board"] of the District which sustained an earlier decision of the administration. The administration had accepted the "good conduct investigative committee's" recommendation imposing a one-year suspension of eligibility on Scott Martin for a third violation of the student conduct policy.

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.

**I.  
FINDINGS OF FACT**

The relevant facts are undisputed. Scott Martin was 18 years of age on November 10, 1998. He is presently a senior at Marshalltown High School and is described as an "excellent student" by his high school principal. Scott participates in extracurricular activities and is subject to the District's good conduct policy. The student conduct policy states in pertinent part as follows:

Participation in student activities is viewed by the school as a worthwhile endeavor which enhances the educational process. Participation is considered an extension of, but separate from, the regular secondary school program. Participants in extra-curricular activities occupy leadership positions, represent the school and the community and depict its character, all of which brings additional expectations and responsibility. While the regular curricular program is a right afforded to each student, participation in the extra-curricular program is a privilege, and as such, carries certain expectations beyond those found in the normal, classroom situation.

...

One cannot ignore the fact that many teenagers chose to involve themselves in social situations during which some participants engage in conduct which is unhealthy or improper and which, in many cases, is also illegal.

...

Standards of the Good Conduct Code:

1. The student shall at all times be in compliance with the criminal statues of the state and nation and the ordinance of local communities, except for minor traffic violations, and shall not engage in conduct that subjects the student to the jurisdiction of the juvenile authorities because of antisocial behavior.
2. The student shall at all times abstain from the consumption, possession, control, acquisition, delivery or transportation of beer, alcoholic beverages, or any controlled substances, as defined in the Iowa Code, as amended.
3. Students shall not be in association with, or at gatherings where, others not of legal drinking age are in possession of beer, alcohol or controlled substances.

...

(Exh. A, p. 45.) (Emphasis in original.)

Scott was found to be in violation paragraph 2 of the Good Conduct Policy. He admitted drinking beer in Germany, while on a trip with other German language students over the summer. Scott was 17 years old at the time. In Germany, it is legal to drink beer at the age of 16.

The trip was arranged by Robert Brinkman through Ed-Ventures, Inc. of Rochester, Minnesota. The purpose of the trip was to provide German language students with an experience with the German people and culture. Each student paid \$2,100 to go on the trip. Students were invoiced by Ed-Ventures and paid the company directly. The travel took place from June 7, 1998, through June 30, 1998. Twenty-six Marshalltown students participated in this trip. The students ranged in age from 16 through 19. Some of the students were recent graduates of Marshalltown High School (MHS).

Robert Brinkman is a German teacher at MHS. He testified that this past summer was the ninth trip that he has arranged through Ed-Ventures. He was paid by the company to chaperone and help make arrangements for the trip. He was not paid by MHS. A handbook was provided to each student by Mr. Brinkman describing the itinerary, and accommodations on the trip. In addition, Mr. Brinkman held two meetings with parents and students prior to the trip. In these meetings, he reminded the students that they could not drink or use drugs in Germany. If they did, they would be punished under the Good Conduct Policy.<sup>1</sup> Even students who were not subject to the Good Conduct Policy could be sent home for flagrant violations of the “no drinking” rules. The participant rules provided prior to the trip stated, “[s]tudents are reminded that they are ‘ambassadors’ of their high schools, city, state, and the United States and that the image that they portray is often a lasting one for Europeans. Respect for the Europeans’ homeland is essential for the success of the trip.” (Exh. 1, p. 22.)

Mr. Brinkman obtained “approval” from the District Board for the trip, as he had done in several previous years. However, it is disputed whether or not the trip was a “school sponsored activity”. Mr. Brinkman testified that the approval given by the Board was sought by him for insurance purposes. In addition, Board policy requires prior approval of all out-of-state school-related trips.

The District contends that the operation of the Good Conduct Policy is not limited to school sponsored events. Therefore, the status of the trip is irrelevant.

There was drinking by several students while in Germany. Upon questioning, Scott admitted to the consumption of alcohol with some of his meals. This was Scott’s third violation of the Good Conduct Policy within one year. Consequently, Scott was suspended from participating in all extracurricular activities for one full year.

On August 24, 1998, the District Board entered closed session to hear Scott’s appeal of his suspension. The Board unanimously upheld the suspension. This appeal followed.

The minutes of the closed session reflect that Appellants’ counsel raised three objections to Scott’s suspension from extracurricular activities in the appeal hearing before the District Board:

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<sup>1</sup> Graduates of MHS were told that if they drank alcohol, they were to do so only in the company of the chaperones.

1. Drinking is legal at the age of 16 in Germany and since Scott was 17, there should be no sanction of his behavior;
2. The trip to Germany was not an extracurricular activity so Scott's behavior could not be regulated; and
3. The punishment does not fit the violation under the circumstances;

The first two objections were renewed by counsel for Appellants on appeal before the State Board. The third issue was not raised again. Basically, Appellants' issues on appeal can be recast as follows:

**ISSUE #1:**

Whether a good conduct policy that prohibits the use of drugs or alcohol by students during the summer, in another country, is a reasonable exercise of the Board's authority?

**ISSUE #2:**

Whether a good conduct policy that punishes a student for behavior that would be legal if done by a student who is not a participant in extracurricular activities is a reasonable exercise of the Board's authority?

## II. CONCLUSIONS OF LAW

In appeals to the State Board under Iowa Code chapter 290, the State Board has been directed by the Legislature to render a decision that is "just and equitable" and "in the best interest of education". See, *Iowa Code* section 290.3(1997); 281 Iowa Administrative Code 6.11(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).

In applying the appropriate Standard of Review to the facts of this case, we must ask whether the District's good conduct policy is a reasonable exercise of the Board's authority. This is because Appellants have objected to the policy on two grounds:

- (1) It regulates the use of drugs or alcohol by participants in extracurricular activities, even during the summer months, when school is not session; and

(2) it penalizes a student covered by the policy for conduct which is otherwise legal and for which a non-covered student would not be punished.

School districts do have the authority to promulgate rules for the governance of pupils. Iowa Code Section 279.8 mandates that the board of directors of a school corporation “shall make rules for its own government and that of its directors, officers, employees, teachers, and pupils ... and shall aid in the enforcement of the rules ... .” *Id.* (Emphasis added.)

In general, school discipline policies address student conduct which occurs on school grounds during the school day. This is because a school district’s regulation of student conduct must bear some reasonable relationship to the educational environment. This principle was enunciated over 100 years ago in the case of *Lander v. Seaver*, 32 Vt. 114 (1859). But districts can 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). Therein it was stated:

The present case involves the advantages and enjoyment of an extracurricular activity provided by the school, a consideration which we believe extends the authority of the school board somewhat as to participation in that activity. The influence of the students involved is an additional consideration. Stand-out students, whether in athletics, forensics, dramatics, or other interscholastic activities, play a somewhat different role from the rank and file. Leadership brings additional responsibility. These student leaders are looked up to and emulated. They represent the school and depict its character. We cannot fault a school board for expecting somewhat more of them as to eligibility for their particular extracurricular activities.

Id. at 564.

Scott Martin is certainly an example of an “excellent” student. 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-stand-out students. Students like Scott are higher profile students who represent the highest standards of the school district. 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. *See, e.g., In re Joseph Fuhrmeister*, 5 D.o.E. App. Dec. 335 (1988). In reviewing the legality of these rules, it is commonly held that a valid school rule must pertain to conduct that has a direct relationship to the management and operation of the school. *Bunger v. Iowa High Sch. Ath. Assn.*, 197 N.W.2d 555, 558 (Iowa 1972). The possession and consumption of drugs or alcohol during the summer by a student like Scott, meets the test.

Appellants' second objection to the Board's decision to discipline Scott under the good conduct policy is that his conduct was not illegal. Scott was 17 years old. In Germany, drinking of beer by 16 year olds is allowed.

Appellants' position would be tenable if Scott were not involved in extracurricular activities. The School does not have much control over the conduct of a non-participant student while the student is in his own home under the supervision of his parent(s). That is not the case here. Scott, by participating in extracurricular activities, has implicitly agreed to abide by the conditions of the good conduct policy. The conduct prohibited by the good conduct policy need not be synonymous with the criminal code. A student who is covered by the good conduct policy need not engage in illegal activity to be punished under the terms of that policy. *In re Jesse Bachman*, 13 D.o.E. App. Dec. 363(1996).

It is reasonable for the District to have good conduct rules prescribing the use of alcohol and tobacco by an athlete, even if it is not contrary to the Law. This is a reasonable means to deter the use of alcohol and tobacco by those representing the school in extracurricular activities. *See, Braesch v. DePasquale*, 265 N.W.2d 842 (Neb. 1978).

The fact that the trip to Germany was not, in itself, an extracurricular activity, does not change this result. The behavior is subject to regulation even if it occurs outside of a school-sponsored activity. As a practical matter, Scott's behavior might have gone unnoticed if he had not been in Germany with the student tour. He was chaperoned by his German teacher. He had been warned that drinking would be punished under the Good Conduct Policy.

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 Marshalltown Community School District made on August 24, 1998, is hereby recommended for affirmance. There are no costs of this appeal to be assigned.

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DATE

It is so ordered.

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ANN MARIE BRICK, J.D.  
ADMINISTRATIVE LAW JUDGE

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DATE

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CORINE HADLEY, PRESIDENT  
STATE BOARD OF EDUCATION