IOWA STATE BOARD
OF EDUCATION
(Cite as 9 D.o.E. App. Dec. 109)

In re Bette and Neil Jensen	:	
Bette and Neil Jensen, Appellants,	:	
	:	
v.		DECISION
	:	
Woodbine Community School District, Appellee.	:	[Admin. Doc. #3120]

The above-captioned matter was heard on August 30, 1991, before a hearing panel comprising Sherie Surbaugh and Stan Kerr, consultants, Bureau of School Administration and Accreditation, and Kathy L. Collins, legal consultant and designated administrative law judge by the director of education. Appellants Bette and Neil Jensen were present in person and unrepresented by counsel. The Woodbine Community School District [hereafter the District] was present in the persons of Dr. William Tyne, superintendent, and Mrs. Katherine Hull, business manager, board secretary, and secretary to the superintendent. The District was represented by Mr. Rick Franck of Franck, Mundt, & Franck, Denison.

A mixed evidentiary and on-the-record hearing was held pursuant to departmental rules found at 281 Iowa Administrative Code 6. Appellants sought review under Iowa Code chapter 290 of a decision of the District's board of directors [hereafter the Board] made on April 8, 1991, refusing to overturn an administrative determination that junior high school students may not attend the junior-senior prom in the District. Appellants seek reversal of this decision.

I.
Findings of Fact

The administrative law judge finds that she and the State Board of Education have jurisdiction over the parties and subject matter of the case before them.

Appellants are the parents of Curt Jensen, who, at the time this controversy arose, was a junior at Woodbine High School. In March, he asked a young lady named Maria to the junior-senior prom to be held on April 29. Maria, who was then 14 years old and an eighth-grade student at Woodbine Junior High School, accepted Curt's invitation. Both Curt and Maria bought new clothes to wear to the dance.

On April 3 or 4, an announcement was made over the public address system at the high school that junior high students would not be permitted to attend the prom. Curt was immediately concerned. Although he and his parents attempted to get the rule changed, they were unsuccessful. Curt and Maria went to the prom long enough to have their pictures taken. They were escorted in and out by school officials. The couple spent the rest of the evening watching movies at Appellants' home. Curt chose not to attend the prom rather than ask another student and renege on his invitation to Maria.

In their attempt to support Curt's taking Maria to the prom, Appellants spoke to Dr. Tyne about the rule and learned that it was not written but was in the nature of an administrative policy or past practice. Appellants believe it was not a past practice until Alan Wiese joined the District as high school principal in 1989; prior to that time, the prom had been a school dance. It then became a dance for juniors and seniors and their dates.

Appellants testified that in the past, a junior high school student from another school district had attended as the date of a District student and the only limitation placed on the District host student was that he had to sign something indicating the name and grade of the student he was taking to the prom. Appellants or District officials questioned the current prom advisor and the previous prom advisor, and neither was aware of an instance where a junior high student had been denied the opportunity to attend the dance.[1] Appellants alleged that Mr. Wiese made this decision after being approached by three high school girls who told him they didn't want junior high girls to go to the prom, complaining that they didn't get to go to the prom when they were in junior high.

The District Board heard Appellants' request to change the rule on April 8 at a Board meeting. They declined to change the decision of the principal and superintendent.

Superintendent Tyne testified that in his view, the rationale for denying junior high students the opportunity to attend the prom is due to the younger students' lower level of maturity and emotional judgment. The prom is a very romantic setting. The District has also, in the past, experienced some problems with alcohol at the prom or being consumed prior to the dance, and, although that's an unhealthy situation for high school students, it would be even worse if junior high-aged students were involved with alcohol. The superintendent also related bad experiences he was aware of at other schools where he had served as an administrator when junior high school students had attended senior high dances.

Neighboring schools surrounding the District responded to Appellants' request to know what their policies or practices are on this matter, especially in light of District administrators' assertions that none of their neighbors allowed junior high students to attend the prom. Appellants' Exhibit 1 indicates that is true at Dunlap Community School District. Appellants' Exhibit 2 is a letter from the superintendent at Missouri Valley who said that district does not set age limits, "although we do occasionally counsel with the student if we think their guest is either too young or too old." West Harrison's principal wrote that that district "does not want or encourage junior high students at the junior-senior prom," Appellants' Exhibit 3, but he stopped short of stating junior high students are prohibited from attending.

Appellants believe that the mix of junior and senior high students that occurs in some of the District's athletic programs, including bus travel to and from activities, both encourages socialization between the two age groups and belies the District's assertion that socialization between junior and senior high students isn't appropriate. Appellants also ask us to take note of the District's anti-discrimination policy as

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[1] It is also possible that the issue had not arisen previously.

stated in the student handbook (and presumably on all other District publications):

> It is the policy of the Woodbine Community School District not to discriminate on the basis of race, national origin, creed, sex, age, marital status, physical disability, or mental disability in its educational programs, activities, or employment policies as required by Title VI and VII of the 1964 Civil Rights Act, Title IX of the 1972 Educational Amendments, and Federal Rehabilitation Act of 1973.
>
> It is also the policy of this district that the curriculum content and instructional material utilized reflect the cultural and racial diversity present in the United States and the variety of careers, roles and lifestyles open to women as well as men in our society. One of the objectives of the total curriculum and teaching strategies is to reduce stereotyping and eliminate bias on the basis of sex, race, ethnicity, and/or religion or physical disability. The curriculum should foster respect and appreciation for the cultural diversity found in our country and an awareness of the rights, duties, and responsibilities of each individual.

Appellants' Exhibit 4 at p. 4. Appellants urge us to view the unwritten rule in this case as age discrimination.

The District does not prohibit its students from inviting graduates or older dates to the prom. Appellant Mr. Jensen testified that in 1989, a 17 year-old senior girl was escorted to the dance by a 36 year-old man who drove one of the school buses. This, in comparison to the issue in this case, they characterize as unequal treatment. Finally, they urge that if the dance is "by invitation only," meaning it is solely open to juniors and seniors <u>and their dates</u> (by invitation), the decision of whom to invite should rest with the student and his or her parents.

II.
Conclusions of Law

When the State Board of Education exercises its appellate authority under Iowa Code chapter 290, it applies the following standard of review: We will not overturn a local board decision absent proof (and the burden is, of course, on Appellant) that the decision was made "arbitrarily, capriciously, without basis in fact, upon error of law, without legal authority, . . . or unless it constitutes an abuse of discretion." <u>In re Jerry Eaton</u>, 7 D.o.E. App. Dec. 137, 141 (1989). Thus, we look first to see if the local board had the authority to make the rule, then we look at the rule itself as well as the process employed at the local level to enforce the rules. In general, the State Board does not review a situation on appeal with an eye toward substituting its judgment for that of the elected officials of a school district. <u>In re Carl Raper</u>, 7 D.o.E. App. Dec. 352, 355.

Iowa law provides that a school board has the authority to establish rules for the governance of the school district, including its students. Iowa Code §279.8 (1991). School rules do not have to be written to be enforceable. Advance notice of a rule prior to its effectiveness is sufficient to meet due process. However, all school rules must be reasonable. Board of Dir. v. Green, 259 Iowa 1260, 147 N.W.2d 854 (1967). The question of the reasonableness of a given rule is determined, in part, by examining the purpose behind the rule; if it is based on sound educational principles, it will generally be held to be reasonable on its face because it is rationally related to a legitimate educational purpose. Id.; see also Kuhlmeier v. Hazelwood, 484 U.S. 260 (1988); Bethel School Dist. v. Fraser, 478 U.S. 675 (1986). There may be times, however, when a reasonable rule is applied in an unreasonable manner. See, e.g., In re Amy Cline, 2 D.P.I. App. Dec. 16 (1979); In re Korene Merk, 5 D.o.E. App. Dec. 270 (1987).

In this case, while we may not necessarily agree that junior high school students should be completely barred from the prom, we must look instead at the Board's authority to make the rule, the reasons for the rule, and the way it was applied. The Board had the legal authority to adopt and enforce the rule, as did the administration. The stated reasons for the rule are education-based; prom is a school function and the school officials sought to protect younger students from the potential of alcohol use, and acknowledged a belief that junior high age students are not sufficiently emotionally mature in general to be placed in such a romantic social setting. The rule was announced in advance and those objecting, Appellants, were given an opportunity to seek reversal by higher authorities prior to its being implemented. We cannot find evidence of arbitrariness in the rule or its application. Therefore, we upheld the Board's decision.

As to the argument raised by Appellants that the Board's action constitutes age discrimination, we need only point out that discrimination itself is not illegal, unconstitutional, or in violation of the Board's stated policy. Treating people differently ("discriminating") is only impermissible if there are no acceptable and legitimate reasons for doing so. If this were not true, the law that prohibits ten year-olds from driving a car or marrying would be age discriminatory. Because there is a valid reason for not allowing ten year-olds to drive or marry, it is not discriminatory. The same is true in this case. The Board has offered a valid educational reason for its rule. It is not guilty of age discrimination.

We also must reject Appellants' assertions that the school has usurped the right of parents to make decisions about whether their children are mature enough to attend the prom. If schools left every decision involving student conduct to the parents of the students, running a school would not be possible. Here the Board has not told Curt whom he may date, nor has it told Maria she is too young to go out with a junior in high school. They are free to socialize in every respect with the exception that when at school or school functions they are subject to the school's rules.

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

III.

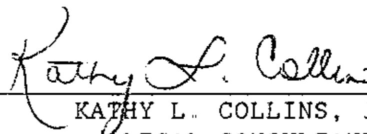
Decision

For the foregoing reasons, the decision of the Woodbine Community School District board of directors made on April 8, 1991, denying junior high school students the opportunity to attend the junior-senior prom is hereby affirmed. Costs of this appeal, if any, are hereby assigned to Appellants under section 290.4 of the Code of Iowa. Appeal dismissed.

11-20-91
DATE

11-8-91
DATE

RON McGAUVRAN, PRESIDENT
STATE BOARD OF EDUCATION



KATHY L. COLLINS, J.D.
LEGAL CONSULTANT
AND ADMINISTRATIVE LAW JUDGE