

IOWA STATE BOARD  
OF EDUCATION

(Cite as 6 D.o.E. App. Dec. 350)

In re Jeff Tresslar

:

Mary (Kate) Tresslar,  
Appellant,

:

:

v.

DECISION

:

Oskaloosa Community  
School District,  
Appellee.

:

[Admin. Doc. 1088]

The above-captioned matter was heard on May 19, 1988, before a hearing panel composed of David H. Bechtel, [then] administrator, Division of Administrative Services, and presiding officer; Mr. A. John Martin, chief, Bureau of Instruction and Curriculum; and Sharon Slezak, [then] consultant, Bureau of Internal Operations. Appellant Mrs. Tresslar appeared in person and was not represented by counsel. Appellee Oskaloosa Community School District [hereafter the District] was present in the persons of Superintendent Harold Westra and Terry Eagan, high school principal. Mr. Randy S. DeGeest of Oskaloosa, Iowa, represented the District. A mixed evidentiary and on-the-record hearing was held according to departmental rules then found at Iowa Administrative Code 670--51.

I.

Findings of Fact

The presiding officer finds that he and the State Board of Education have jurisdiction over the parties and the subject matter of the instant appeal.

Appellant's son Jeff Tresslar was enrolled as a junior in the District in school year 1987-88. On February 19, Jeff was suspended by the high school principal, Terry Eagan, for five days (commencing February 22 through the 26th) for misconduct. Mr. Eagan sent a letter to Mrs. Tresslar dated February 25 that indicated he would be recommending to the District board of directors [hereafter the Board] that Jeff be expelled for the remainder of the school year. Appellee's Exhibit 14. The expulsion recommendation was for repeated acts of defiance against school authorities. Id.

Prior to receiving the notice, Mrs. Tresslar and Jeff went to school on Thursday, February 25, and withdrew Jeff from school. She wrote out a check for \$24.00 (Appellant's Exhibit A) for fees owed<sup>1</sup>, and received a

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<sup>1</sup> Other than \$4.00 for the rental of a padlock for physical education, no explanation was offered for the \$20.00 balance of "fees" owed. We presume it was for lost books. A notation on the Transfer or Withdrawal slip to the effect that withdrawing pupils "must secure signatures of all their teachers before any fees will be refunded or grades sent to other schools" (Appellant's Exhibit D) troubles the hearing panel. See discussion of student records, infra, at page 1.

receipt from the District secretary in return. Appellant's Exhibit C. An official "Transfer or Withdrawal" slip was completed and dated February 29, 1988, marking over what appears to be the 26th. This action cleared Jeff of all obligation to the District, and at this point he was no longer a student of the District. See also Appellee's Exhibit 7.

Mrs. Tresslar sought, on Thursday the 25th, to obtain copies of Jeff's school records to take with him to La Belle or Ewing, Missouri, where his father lives and where Jeff intended to enroll. Mrs. Tresslar was denied copies on that date. Later, on March 17, the District received a request for Jeff's records from his Missouri school of enrollment, and the records were provided directly to the receiving school.

Thereafter, on March 8, 1988, the District Board met in a closed session, as the letter to Mrs. Tresslar had indicated, to consider Jeff's expulsion. Although the Board was aware that Jeff had withdrawn from school and transferred, the directors nevertheless voted unanimously to expel Jeff "effective at the beginning of the third trimester [March] for the remainder of the school year." Previous Record, certified Board minutes of March 8, 1988, at p. 2.

Testimony at this hearing by Superintendent Harold Westra and Principal Eagan indicated that the Board proceeded to expel Jeff despite his withdrawal from school because the Board had experienced situations in the past where a student, aware of pending expulsion, dropped out of school only to re-enroll freely a few weeks later. Superintendent Westra stated that in his opinion it would be difficult to start expulsion proceedings under those circumstances because of the passage of time between the infractions or rules violations leading to the expulsion recommendation and the Board's action. The Board did not consider "tabling" Jeff's expulsion, or even taking expulsion action by passing a motion such as "In the event of Jeff Tresslar's re-enrollment this school year, this expulsion action will become effective." Apparently the administration and Board believed that they had to expel Jeff then or accept his re-enrollment at any time without the ability to expel him then.

The Superintendent's letter to Appellant indicates that the Board's action was for the balance of the 1987-88 school year, and that in the event Jeff returned to the District in the 1988-89 school year, he would be entered under administrative probation.

Testimony of Mrs. Tresslar indicated that although Jeff had experienced disciplinary problems on and off throughout his school career, he was profoundly affected by his brother's suicide in school year 1986-87. This may have had some bearing on the increased number of disciplinary incidents in the fall and winter of 1987-88, including the incident that ultimately led to his expulsion. Despite a rather lengthy list of behavioral incidents, Appellant testified that she was unaware of the seriousness of his disciplinary record and had not been informed of the danger of expulsion by the school before she received the February 25 letter. To her knowledge, Jeff had not been referred for evaluation nor provided any special counseling services by the school.

## II.

## Conclusions of Law

The power of a school district board of directors to expel a student is found at Iowa Code section 282.5 which reads as follows:

When a scholar is dismissed by the teacher, principal, or superintendent, as above provided, the scholar may be readmitted by such teacher, principal, or superintendent, but when expelled by the board the scholar may be readmitted only by the board or in the manner prescribed by it.

The sole issue before the panel is whether a board may expel a student who is no longer enrolled in the district. We conclude that such action is without authority and therefore null and void. A board can no more expel a former student who withdrew two weeks prior to its action than they can expel a former student who withdrew two years earlier. In our opinion, the student's withdrawal effectively terminates a board's jurisdiction over the student. See In re Joseph Fuhrmeister, 5 D.o.E. App. Dec. 335, 343-44 n. 5 (1988) (Board cannot deny attendance privileges at a public function to former or expelled student).

We do not think that this decision ousts a board of all opportunities for action, as the administration apparently believes. We think it entirely possible to present the facts justifying the recommendation to expel a student to the board at the time a student who has dropped out (possibly to avoid expulsion) re-enrolls. The period of time between the student's withdrawal and the board's action would only constitute one more fact for the board to consider in reaching its decision. (It may be, for example, that the student could demonstrate his or her improved attitude, or rehabilitation, or that counseling or treatment had been received during the interim period. Such facts might cause a board to reject the expulsion recommendation. In the absence of such mitigation during the period of withdrawal, the board could legitimately uphold the recommendation, finding that the student dropped out of school only to avoid expulsion, and that the behaviors exhibited prior to withdrawal justify expulsion.)

One more issue deserves to be addressed here, and that is the administrative secretary's apparent refusal or unwillingness to provide copies of Jeff's records to Mrs. Tresslar upon the latter's verbal request on February 25 and the legend on the Withdrawal slip indicating records will not be forwarded until all fees are paid. Although we do not believe the law requires immediate copying of the records upon parental request, the regulations implementing the Family Educational Rights and Privacy Act (20 U.S.C. §1232g) state that a student's parent has the right to inspect and have a copy of the student's records within a reasonable time upon request. 34 C.F.R. Part 99, §99.10. Moreover, the rules of the Department of Education, applicable to all public schools and approved nonpublic schools, require that records be forwarded to the student's new school on request of the parent. 281 Iowa Admin. Code 11.3(11). The current rule states that the school may forward the student's record upon notification of enrollment from the receiving school. Here, school

officials acted as if the reverse were the law. Records may not be withheld, once the parent has made the request for copies or for transfer, for nonpayment of fees or other financial reasons. Declaratory Ruling #38 (Benton to Dowling High School), 1 D.P.I. Dec. Rul. 107). The appropriate final avenue for collection of outstanding fees is small claims court.

The panel also wishes to reaffirm an earlier decision urging administrators to employ reasonable means, including counseling, to keep a student in school prior to recommending expulsion. See In re Korene Merk, 5 D.o.E. App. Dec. 270 (1987). This would include the recognition that a student from a broken home, with an out-of-state paraplegic father and a working mother, whose brother recently committed suicide might need some special attention and counseling. We also urge administrators to work more closely with a student's parent or guardian to keep the channels of communication open. Parents may not be aware of the seriousness of a student's school problems, despite occasional notices home, and they traditionally have more power to effect a change in student behavior than administrators and teachers have.

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

III.  
Decision.

For the reasons cited above, the decision of the Oskaloosa Community School District board of directors made on March 8, 1988, is hereby reversed. If an expulsion is noted on Jeff's permanent or cumulative records, such notation shall be expunged and any parties who received copies of his records with the expulsion shall be notified of the error. Costs of this appeal, if any, under chapter 290, shall be borne by the District.

12/9/88  
DATE

Karen K. Goodenow  
KAREN K. GOODENOW, PRESIDENT  
STATE BOARD OF EDUCATION

11/23/88  
DATE

David H. Bechtel  
DAVID H. BECHTEL, SPECIAL ASSISTANT  
— POLICY AND BUDGET  
AND PRESIDING OFFICER