

IOWA STATE DEPARTMENT  
OF PUBLIC INSTRUCTION

(Cite as 2 D.P.I. App. Dec. 128)

In re Danae Weier

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Diane L. Igau, Appellant

:

DECISION

v.

:

:

Sutherland Community School District,  
Appellee

:

[Admin. Doc. 543]

The above entitled matter was heard on April 28, 1980, before a hearing panel consisting of Dr. Robert Benton, state superintendent and presiding officer; Mr. Gayle Oerecht, director, administration and finance division; and Mr. Carl Miles, director, field services and supervision division. The hearing was held pursuant to Chapter 290, The Code 1979, and Chapter 670--51, Iowa Administrative Code. The Sutherland Community School District, (hereinafter District) was represented by David Clayburg, staff member, and Diane L. Igau presented arguments on her own behalf.

The Appellant appealed a decision of the District Board of Directors affirming the District's administrative staff's decision to suspend her daughter from school for three days.

I.  
Findings of Fact

The Hearing Panel finds that it and the State Board of Public Instruction have jurisdiction over the parties and subject matter.

On March 4, 1980, Danae Weier, an eighth grade student, was suspended from school by David Clayburg for actions occurring during a Spanish class on the preceeding day. The facts surrounding the incident are largely not in dispute. Due to a previous absence, Danae did not have her class assignment completed, and instead of participating in class activities, she began to read a book which she had brought to class. Another student apparently felt that it was unfair to allow only Danae to read during class and followed her example. The teacher then took the reading books from both students. Danae became angry and kicked the desk in front of her. The teacher warned Danae regarding her behavior and threatened a detention. Recognizing that Danae was upset, and not wanting to provoke her, the teacher continued with class without further comment.

Apparently a boy in class, who had a long history of harsh verbal exchanges with Danae, made a remark to which Danae took offense. She left her seat, went across the room, stood over the boy and asked him to repeat what he said. She then hit him. The record is not clear as to the duration of the disturbance, but after the altercation was halted, Danae, in the heat of anger, spoke harshly to the teacher. The March 5

letter from Mr. Clayburg and Principal Leon Stanford to Ms. Igau related the incident as follows:

Miss Greenland then broke up the fight and told both students to go to the office. Danae then stated that she didn't care and this school could go to hell and burn and the teachers right along with it. She followed that statement by saying - shut up or I'll tear you to pieces too.

Both students were subsequently sent to the office. Because the teacher involved immediately left the building for a teaching assignment in another building, Mr. Clayburg, the teacher then in charge of the attendance center, was unable to visit with her until the next day. Mr. Clayburg discussed the matter with the two students, but because he was unable to complete his inquiry into the circumstances surrounding the incident until the next day, he assigned both students one hour detention for being sent to the office from class. The next day he visited with the classroom teacher, four students from the class, a custodian who was repairing a broken classroom window at the time of the incident and a second teacher who was passing in the hall and overheard the incident. After completion of his investigation, Mr. Clayburg called Danae to his office and suspended her from school for three days under the authority of School Board policies and rule. District Board Policy 4.6-8 reads in relevant part as follows:

Respect for Teachers and Employees. All students are expected to show proper respect and courtesy for all teachers and employees. Any student showing gross disrespect by assault, words, or deeds shall be subject to suspension.

Mr. Clayburg stated at the hearing that the suspension was for the disrespect shown the teacher and not for the fighting incident itself. The boy involved in the incident was given no additional punishment.

Mr. Clayburg indicated that he had been reluctant to punish Danae harshly for previous violations of school rules because she had only been in school for a short time and had attended several different schools previously. He indicated that he had previously exercised his discretion and did not punish her for excessive tardies.

The Appellant discussed the suspension with James Rhode, district superintendent, and when he did not accede to her request, she took the matter before the District Board on March 17. Immediately prior to the hearing before the District Board, the Board members met with the District Administrators privately, apparently to receive copies of Mr. Clayburg and Mr. Stanford's letter of March 5. At the meeting, the Board voted to uphold the suspension. Ms. Igau then filed an appeal with the State Board of Public Instruction.

## II. Conclusions of Law

The Appellant challenged the District Board decision at issue here on the grounds that the suspension was unduly severe, that both students involved in the incident should receive equal punishment, that Danae was provoked and that Danae was discriminated against due to her status in the community. Other grounds were alleged but were not sufficiently relevant to the matter at hearing to justify comment.

The Hearing Panel has reviewed the record, considered the oral arguments made at the hearing and concludes that the Appellant has not shown sufficient basis for overruling the District Board's decision in this matter. While there does appear to be some evidence regarding a long-standing feud between Danae and the boy she attacked, Mr. Clayburg indicated that Danae was not suspended for her participation in the altercation. She was actually suspended for her actions and words toward a teacher amounting to gross insubordination, which occurred after the altercation and which was a violation of District policy and rules. In light of the fact that Danae apparently lost complete control of her rationality and made the extreme statements which she did, we feel the District officials showed considerable restraint in suspending her for only three days. There was no evidence in the record regarding discrimination on the basis of community status.

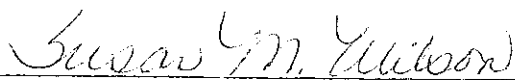
At the hearing before the Hearing Panel, Ms. Igau alleged that the District Board met secretly with the District Administration immediately prior to the hearing before the District Board. Mr. Clayburg stated that the Board Members did gather in the Superintendent's office immediately prior to the hearing but that the matter was not discussed. He stated that the only business which took place was the handing out of copies of his and Mr. Stanford's letter of March 5. There is no other indication in the record of school business transacted or discussed. While school boards would be well advised to not meet in such a way to cause persons to perceive the occurrence of clandestine meetings, we cannot be at all certain that such a gathering as described here was not a "ministerial" function of the Board and not subject to the State Open Meetings Law, Chapter 28A, The Code 1979. In any event, the appropriate remedies for violation of the open meetings law are spelled out in Section 28A.6.

### III. Decision

The decision of the Sutherland Community School District Board of Directors in this matter is hereby affirmed. Appropriate costs under Chapter 290, if any, are hereby assigned to the Appellant.

June 27, 1980

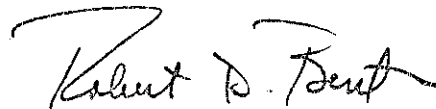
DATE



SUSAN M. WILSON, PRESIDENT  
STATE BOARD OF PUBLIC INSTRUCTION

May 16, 1980

DATE



ROBERT D. BENTON, Ed.D.  
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION  
AND  
PRESIDING OFFICER