

IOWA STATE DEPARTMENT  
OF PUBLIC INSTRUCTION

(Cite as 2 D.P.I. App. Dec. 100)

In re Scott Haner

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Rex Haner, Appellant

:

DECISION

v.

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:

Woodbine Community School District,  
Appellee

:

[Admin. Doc. 523]

The above entitled matter was heard on January 21, 1980, by a hearing panel consisting of Dr. Robert Benton, state superintendent and presiding officer; Dr. LeRoy Jensen, associate superintendent, school administration; and Mr. A. John Martin, director, instruction and curriculum division. The Appellant, Rex Haner, was present and acted upon his own behalf. Attorney Raymond Frank represented the Woodbine Community School District (hereinafter District). The hearing was held pursuant to Chapter 290, The Code 1979, and Chapter 670--51, Iowa Administrative Code. Mr. Haner appealed a decision of the District Board of Directors affirming disciplinary action taken against his son by the District's high school principal.

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 November 1, 1979, Scott Haner was a sophomore in the District's high school. On that date, he was involved in an altercation in the halls of the school with a senior boy. The Appellant testified that there was a history of physical and verbal harrassment perpetrated by the older boy upon his son. He further testified that on the date in question, his son was merely engaged in self-defense and should not be punished for fighting.

Pat Morgan, the high school principal, investigated the altercation by interviewing the two boys involved, four other student-witnesses and one teacher-witness. Mr. Morgan testified that during his investigation, neither of the boys directly blamed the other for starting the fight. From the interviews with witnesses and the students involved, the principal could not make a determination as to which boy was the aggressor in the altercation. After his investigation, he decided to suspend both boys from school for two days. After the Appellant made his objections to the suspension known to Mr. Morgan, Mr. Morgan again interviewed the witnesses and tape-recorded the second interview with the students. The recorded interview occurred about four days after the incident. From the taped interview, Mr. Morgan prepared a summary of his conversation with the witnesses and gave a copy to Mr. & Mrs. Haner in a communication dated November 7. The District

has refused to provide Mr. & Mrs. Haner with a copy or transcript of the taped interviews. All four students interviewed were 9th grade students.

Mr. Haner discussed the matter of the suspension with District Superintendent David Lynch who upheld the principal's decision. Mr. Haner requested an appearance before the District Board of Directors and was allowed to appear at the November 12 meeting. Following a discussion on that date, the Board voted four to zero to uphold the administration's decision to suspend both boys for two days.

Mr. Morgan testified that during the current school year, three fights, including the one at issue here, involving six students had come to his attention. He reported that all six students involved had been suspended from school for short periods of time. Scott had no record of prior discipline problems.

## II. Conclusions of Law

The Appellant here alleges that his son has been treated unfairly by the District's administrative staff and Board of Directors. Based upon evidence before us, we do not agree. We find that the Appellant has not shown us sufficient reason for overturning the District Board's decision to uphold the principal's decision to suspend Scott. The evidence obtained through interviews with witnesses was not conclusive as to which boy was the aggressor, but the fact that both boys were engaged in an altercation in school is not disputed. We find no reason to assume that a school administrator, in the absence of clear and convincing evidence as to which party was the aggressor, cannot discipline all parties involved in an altercation which violates school policy and rules as is the case here.

Mr. Haner requested, and was refused, a copy of the tape recording of witnesses' interviews with the principal. He was, in effect, denied the right to cross examine witnesses which gave information to the principal. We believe that school principals engaged in the administration of discipline should be allowed some room for discretion in providing procedural due process above the minimum required by law to students when the most likely severe penalty is a short-term suspension. We feel that this view is substantiated in the United States Supreme Court decision in Goss v. Lopez, 419 U.S. 565, 95 S.Ct. 729 (1975). The following is found at page 583:

We stop short of construing the Due Process Clause to require, countrywide, that hearings in connection with short suspensions must afford the student the opportunity to secure counsel, to confront and cross-examine witnesses supporting the charge, or to call his own witnesses to verify his version of the incident. Brief disciplinary suspensions are almost countless. To impose in each such case even truncated trial-type procedures might well overwhelm administrative facilities in many places and, by diverting resources, cost more than it would save in educational effectiveness. Moreover, further formalizing the suspension process and escalating its formality and adversary nature may not only make it too costly as a regular disciplinary tool but also destroy its effectiveness as part of the teaching process.

We want to make it clear, however, that our not requiring parental access to a tape recording of witness interviews in this appeal does not necessarily require the same result in another instance where the potential penalty is more severe, such as a long-term

suspension or expulsion. The greater the interest of the student in not being treated arbitrarily, the greater the burden is on the school to provide due process.

At one point during the hearing, the Presiding Officer sustained an objection by the Appellee to the introduction of evidence regarding earlier disputes the Appellant had with the District Board which he alleged prejudiced the Board against him and his son. The Appellant was not precluded from introducing evidence specifically related to his allegation of acts of prejudice, but he did not introduce any. The fact that witnesses' accounts were inconsistent on the issue of aggressiveness of the combatants, and that all six students previously engaged in fighting brought to the principal's attention were treated identically, weigh heavily against a finding of prejudice in this matter.

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

III.  
Decision

The decision of the Woodbine 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.

March 12, 1980

DATE

*Susan M. Wilson*

SUSAN M. WILSON, PRESIDENT  
STATE BOARD OF PUBLIC INSTRUCTION

March 4, 1980

DATE

*Robert D. Benton*

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