

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

ROBIN REIDELL, et al.,	:	NO. 11 – 00,892
Plaintiffs	:	
	:	CIVIL ACTION - LAW
vs.	:	
	:	
JERSEY SHORE AREA SCHOOL DISTRICT,	:	
Defendant	:	Final Injunction

OPINION AND ORDER

On June 2, 2011, this Court granted Plaintiffs request for a preliminary injunction and thus prevented the School District from imposing certain disciplinary action which precluded Plaintiffs from participating in the school’s graduation ceremony. The Court determined that Plaintiffs had shown, inter alia, that there was a significant question as to whether the School Board committed a gross abuse of discretion, whether its actions were arbitrary and capricious, and/or whether its findings were supported by substantial evidence. A further hearing on that issue was scheduled for June 14, 2011, and subsequently continued at counsel’s request to July 12, 2011.

On July 12, 2011, counsel presented evidence which supports a finding that a controversy continues with respect to only one student: Aaron Eck.¹ The hearing therefore focused on the Board’s actions with respect to Aaron, and considering that evidence,² the Court finds the injunction must be dissolved and the matter remanded to the Board for further hearing.

¹ Contrary to counsel’s argument, the Court finds the action moot with respect to all students but Aaron as those who have graduated are no longer affected. Although counsel argued that the Board’s action remains on the students’ records, the Court finds this is not the case, based on the representations of counsel for the Board as well as the lack of any evidence to the contrary.

² Although counsel requested and was granted until Monday, July 18, 2011, to submit further authority in support of his request to this Court to reconsider its determination that the Board does have the authority to impose and enforce the rule at issue here under Section 5-511 of the Public School Code, such authority has not been submitted as of this date, July 20, 2011. The issue will therefore not be reconsidered.

Richard Emery, Superintendent of the Jersey Shore Area School District, testified that he, the principal and the assistant principal of the high school decided to impose the disciplinary action after learning of the attendance by certain students at an underage drinking party, and their belief that such attendance constituted a violation of the District's drug and alcohol policy. According to Mr. Emery, the identity of the students was gleaned from printouts of Facebook postings given to them by a parent on May 9, 2011. On May 13, 2011, a meeting with parents and students was held and the issue of possible hacking was presented. Mr. Emery testified that the students were then given the opportunity to produce evidence that hacking had occurred, and when none was forthcoming, the letters of May 26, 2011, were sent, imposing the disciplinary action which led to the complaint for injunction.

Mr. Emery testified that only where a student admitted on Facebook to being at the party did they impose discipline; not where another student named someone else as having been there. And, as noted above, although given the chance, no one presented information supporting a finding that the Facebook postings had been hacked. He also indicated that the student handbook informs students that attendance at functions which "embrace alcohol" constitutes a violation of the drug and alcohol policy. A student could, therefore, be expected to understand that attendance even without that student's actual drinking would constitute a violation. Further, and most importantly, the May 26 letter gave the student an opportunity to have the decision reversed by presenting further or contrary information or explanation. The Court therefore finds that the Board's actions were neither arbitrary nor capricious, that they were not an abuse of discretion and that they were supported by substantial evidence.

The Court will therefore dissolve the injunction entered June 2, 2011. Inasmuch as Aaron did not pursue his right to a hearing before the Board, however, and as the Court understands he may have felt he was foreclosed from doing so in light of the injunction proceeding, the Court will conditionally remand the matter to the Board for further hearing.

ORDER

AND NOW, this 20th day of July 2011, for the foregoing reasons, the injunction entered by this Court on June 2, 2001, is hereby dissolved. Should Aaron Eck request of the Board within ten (10) days of this date that they review the disciplinary action taken against him by letter dated May 26, 2011, the Board is directed to conduct such a review.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Joel McDermott, Esq.
J. David Smith, Esq.
Gary Weber, Esq.
Hon. Dudley Anderson