

BOARD OF REGENTS' REGULATIONS
FOR GOVERNING DISCIPLINARY EXCLUSIONS FROM SCHOOL

The Rhode Island State Board of Regents is concerned about disciplinary exclusions of students from schools. Because the Rhode Island Constitution requires the General Assembly "to promote public schools, and to adopt all means by which they may deem necessary and proper to secure to the people the advantages and opportunities of education" (Article XIII Constitution of Rhode Island), we feel that Rhode Island students should not be denied these means nor be excluded from the "advantages and opportunities" of public education by arbitrary or unreasonable suspensions. Suspensions of students from school should occur only for serious reasons and never be used indiscriminately as a penalty for trivial offenses.

We know that our concern is shared both locally and nationally with those dedicated to the improvement of public education: students, teachers, parents, administrators, and policymakers.

Although the exact extent of the problem of school suspensions and expulsions has not been definitively ascertained and is currently being debated nationally, there appears to be no attempt to deny the magnitude of the problem or to discourage reasonable approaches to its solution.

The broad issue of discipline in the schools ranked first in the 1975 Gallup Poll making it the sixth time in the last seven years that "lack of discipline" has topped the list of educational problems. The popularity of the concern about school discipline is surpassed only by the complexity of the problem.

Any attempt to solve the discipline problems in the schools brings us back to the very purpose of public education. To juxtapose society's needs with those of the individual student in an educational setting is at once a difficult and challenging responsibility. Such a pursuit is intimately bound up with the question of the rights and safety of the majority vis-a-vis those of the individual. Indeed, the United States Supreme Court recognized the need to protect these rights in a school setting when it stated in *Tinker vs. Des Moines* that:

"It can hardly be argued that students or teachers shed their constitutional right to freedom of speech or expression at the school house gate. Students in school as well as out of school are "persons" under the Constitution. They are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligations to the State."

The Board of Regents' regulations herein do not purport to solve the larger problem of discipline in Rhode Island's public schools. Rather, they are an attempt to address one dimension of the discipline problem -- namely, fair treatment of students who are suspended -- in an immediate effort to insure our State's commitment to the Supreme Court's decision on suspension and to the rights of individuals.

By addressing with urgency the due process aspect of the suspension problem in order to promote fair and equitable treatment for our young, by no means do we wish to remove from the Department of Education and local school district the obligation to support alternative educational programs for those students whose behavior, motivation, ability, and interest warrant such programs.

We urge local policymakers and educators to continue their efforts to address the individual needs of the students and believe that with such effort lies the best solution to the problem of disciplinary exclusions of students from school in particular.

Before stating the Regulations for Governing Disciplinary Exclusions of Students from School it is important to review Rhode Island state law in the areas of school discipline and suspension:

16-2-16. Rules and Regulations -- Curriculum The school committee shall make and cause to be put up in each schoolhouse, rules and regulations for the attendance and classification of the pupils, for the introduction and use of the works of reference, and for the instruction, government and discipline of the public schools, and shall prescribe the studies to be pursued therein, under the direction of the department of education. (RI General Laws)

16-2-17. Suspension of pupils -- The school committee may suspend during pleasure all pupils found guilty of incorrigibly bad conduct or of violation of the school regulations. (RI General Laws)

As a first step, the Rhode Island Board of Regents reaffirms the following Policy Statement on Students' Rights adopted by the State Board of Education in June, 1970 and, wishes to articulate clearly the principles in which all school discipline policies and procedures should be rooted:

Policy Statement of Students' Rights (Adopted June 1970 - State Board of Ed.)

It is true of our era that the element in society that is probably most sensitive to the need for and the beauty of justice is its youth. This especially appears to be the case in our Nation, which was built on the concept of justice for all.

To acknowledge that in every society there exists some degree of discrepancy between "creed and deed" is not to say that the ideals of a particular society are lacking either in moral validity on the theoretical level or in practical efficacy with respect to their impact on the collective life of that society. Nor should such an acknowledgement be construed to excuse such discrepancies as do exist. Rather it should be interpreted as a humbling yet exhilarating challenge to that society to renew its fundamental commitments in the moral order and to strengthen its resolve to fulfill those commitments. And there are no places in which it would be more fitting to begin that challenge in earnest than those institutions which are dedicated both to inculcating a reverence for the stated goals of the society in the hearts and minds of its young and to meeting the needs of those very persons who seem to hunger the most for a setting in order of society's house. Those institutions, of course, are the schools, and those persons are students.

Every school constitutes a community in miniature, and each of those communities should -- and very well could -- serve as a model of advanced civilization, whose sinews are comprised of honest, open, respectful and equitable interpersonal relationships between and among citizens of all the types represented in the population.

It is the Board's purpose in promulgating this statement to call special attention to a subject that until very recently has been almost entirely neglected. Such focusing should in no way be interpreted as an implication that the subject of students' responsibilities -- which matter, of course is an insistent and inevitable companion to that of students' rights, has diminished in importance. Nothing could possibly be further from the truth. Indeed, the question of students' responsibilities, viewed in the light of its long ignored sister subject, now takes on heightened meaning. At this point and in this document, however, and in view of adequate past emphasis on the responsibilities of students, it should suffice to reaffirm that every student has a responsibility to act always in such a way that he does not abrogate the rights of any of his fellow students or of any school authority; further, every student has the responsibility to use his own abilities and talents to gain optimum learning benefits from the considerable opportunities which the observance of his rights by others guarantees him.

In accordance with these beliefs -- and recognizing the legal rights of local school committees, parents, teachers and other citizens -- the State Board of Education strongly urges all school authorities in Rhode Island to adopt practices and procedures which recognize the following principles:

As an intellectual being, every student has a right to search vigorously for truth by examining opposing ideas, and to espouse and express in any orderly manner whatever views command the assent of his mind. Where the soundness of his position can neither be proven nor disproven with hard documentation, he should in no way be penalized academically for holding those views. And in no case should he be subjected to disciplinary action for committing what might appear to some -- and what might indeed be -- an intellectual error.

As a person with human dignity, every student has a right always and in all circumstances to be treated with respect and courtesy and never under any circumstances to be ridiculed.

As an individual entitled to some insularity, every student has a right to privacy with respect to matters of purely or predominantly personal concern to him, subject, of course to such legitimate limitations as are required to protect any superseding rights of others and of the individual student himself.

As a citizen living in a society of justice and order, every student has a right not to be disciplined in any substantial manner except under conditions that conform to reasonable standards of due process.

As a member of an institution committed to democracy as a way of life, every student has a right to participate, to a degree consistent with law and with the level of maturity characteristic of his age, in the making of decisions that affect the corporate life of the community existing within that institution.

As an individual with freedom to adopt and express unique tastes, every student has a right to choose his own manner of dress and otherwise to arrange his personal appearance under no restriction (other than those dictated by considerations of health and safety) that does not by law apply to adult citizens in the larger community.

As the principal consumer of the educational services which the school exists to provide, every student has a right to evaluate the quality and range of those services and the manner in which they are delivered, and to have his appraisal given serious consideration by those responsible for providing such services.

As a person with a unique set of potentialities to be actualized, and as a free human being responsible for carving out his own destiny, every student has a right to participate to a substantial degree in the shaping of his own educational program.

As a member of a democratic society, every student has a right, individually or in concert with his fellows, to petition in an orderly manner for redress of grievances.

So that all concerned will have full and clear knowledge of the limits within which they will be required to operate, it is suggested that local school authorities publish and distribute in convenient form to all parents, students, teachers and administrators all rules and regulations that are in force with respect to student behavior, as well as all procedures that have been established to enforce such rules and regulations and to safeguard the rights of those to whom they apply.

Next, in the context of the aforementioned Policy Statement on Student Rights and consistent with the requirements of the Rhode Island General Laws, decisions of the U.S. Supreme Court, including *Goss vs. Lopez*, 419 U.S. 565, 42L Ed 2nd 725, 955. Ct. 729, and consonant with our deep concern about student suspensions, the following are the Regulations for Governing Disciplinary Exclusions of Students from School:

1. That each school committee, in accordance with Section 16-2-16 of the Rhode Island General Laws, establish and post rules and regulations for the government and discipline of the public schools, such student discipline rules shall be distributed to students and their parents at the beginning of each school year and become effective only after they are widely distributed to students and parents;
2. that the student discipline code and all other rules governing student discipline shall be posted in conspicuous places within the school throughout the school year;
3. that each student discipline code and rules for governing student discipline shall clearly state the types of punishable offenses together with the penalty of the offenses;
4. that such student discipline code and rules for governing student discipline shall identify which administrative positions are authorized to suspend a student for ten (10) days or less, provided that all suspensions of more than ten (10) days shall occur only after formal action by the school committee.

5. that such student discipline code and rules for governing student discipline shall prescribe the procedure to be employed in the exclusion of any student shall provide as a minimum the following:

FOR SUSPENSIONS OF TEN (10) DAYS OR LESS

- a. That the student be given oral or written notice of the charges against him/her.
- b. that if the student denies the charges, the student be given an explanation of the evidence the authorities possess;
- c. that the student be given the opportunity to present his/her version; and
- d. that notice and hearing generally should precede the student's removal from school since the hearing may almost immediately follow the incident but if prior notice and hearing are not feasible, as where the student's presence endangers persons or property or threatens disruption of the academic process, thus justifying immediate removal from school, the necessary notice or hearing shall follow as soon as practicable.
- e. that in the event a student has not attained the age of majority (18 years), notice containing the reason for suspension and the duration thereof be given to the parent or guardian. Such notice shall be given in the parent's spoken language, unless it is clearly not feasible to do so.

FOR SUSPENSIONS OF MORE THAN TEN (10) DAYS AND EXPULSIONS

- a. Prior to suspension or expulsion, except for such time as not feasible, as where the student's presence endangers persons or property or threatens disruption of the academic process, thus justifying immediate removal from school, the necessary notice or hearing shall follow as soon as practicable, the student shall be afforded:
- b. A clear, written statement of the reason for suspension or expulsion;
- c. notice of the right to prompt public or private hearing, at the student's election, and the right to be represented by counsel at such hearing; and
- d. if a hearing is requested, the student shall be given prompt notice setting the time and place of such hearing, said time and place to be reasonably set so as to allow sufficient time for preparation, without undue delay.
- e. In the event a student has not attained the age of majority (18 years), the parent or guardian shall be afforded the procedures stated in section 1, 2, & 3 above. Such notice shall be written in the parent's spoken language, unless it is clearly not feasible to do so.
- f. The student shall be afforded a hearing at which the student shall have the right to
- g. representation and participation by counsel; and
- h. cross-examine witnesses and to present witnesses in his/her behalf.

- i. There shall be a complete and accurate stenographic (or electronic) record of the hearing including all exhibits. The record shall be presented for transmission to the Commissioner of Education as soon as possible in the event of an appeal
- j. The student shall be furnished a copy of the record without cost.
- k. A written decision shall be rendered, within a reasonable time, based exclusively on the record, detailing the reasons and factual basis therefor.
- l. The student shall promptly be provided with a copy of said decision.
- m. A copy of the decision, together with the record, shall be promptly forwarded to the Commissioner of Education if there is an appeal.

Adopted by the Board of Regents for Education on July 8, 1976

adopted 9/19/88