

Court Denies Injunction to Student Claiming Denial of Rights to Participate in Extracurricular Activity

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T.W., a minor, through Waltman v. Southern Columbia Area School District (2020 WL 7027636) (M.D. Pa. 2020), Federal District Court for Middle District of Pennsylvania denies student's and parents' motion for preliminary injunction to lift suspension and allow student to participate in athletics for 2020-2021 school year.

SUMMARY AND FACTUAL BACKGROUND

A high school student, T.W., and his parents commenced a civil rights action against the Southern Columbia School District after the student was suspended from participating in all school athletic programs for the 2020-2021 school year for violating the School District's Code of Conduct. The District formalized its Code of Conduct in its High School Student Handbook. Indicating that participation in extracurricular activities is a privilege and not a right, Section VII of the Handbook set forth that those who participate in extracurricular activities were held to a higher standard than those who do not participate. Moreover, the Code stated that it would be enforced against students whether the offense occurred on or off school property. In particular, under a rule applicable only to those in extracurricular activities, students subject to the Handbook's Drug and Alcohol Policy were prohibited from attending any event in which underage drinking, smoking, or drug use was occurring. Actual consumption of alcohol or drugs was not required to establish a violation. The Handbook also set forth that when the student learns a violation has occurred, the principal/designee must give the student oral notice of the allegations and an opportunity to explain or defend his or her conduct.

T.W., a 17 year old student-athlete, had been suspended three times for violating the Drug and Alcohol Policy. First in November 2019, this student was arrested for driving under the influence and the District suspended the student for 25% of the games for the football season. Next in February 2020, T.W. attended a party in which underage drinking occurred, although he did not consume alcohol or drugs there. For this, the District suspended T.W. for the remainder of the school year and the first four football games for the 2020-2021 school year (the District eventually lifted the football game suspension). Third, on September 5, 2020, T.W. again attended a party where underage drinking occurred. This information was eventually conveyed to the high school principal.

The principal called the parents and scheduled a meeting with them and the student that day. At the meeting, after asking T.W. if he was in fact at the party, the stepfather directed T.W. not to answer any questions and demanded the principal present his evidence supporting the charges. The principal declined and the student and his family got up and left. T.W. did not contest that he was actually present at the party and he did not deny that he violated the Handbook's policy. Though the District sent a letter to the parents providing them an opportunity to seek an informal hearing with the District, the student's family never responded. Per the letter, T.W. was subsequently suspended from participating in athletics for a full calendar year.

LEGAL ANALYSIS

The student and the parents filed suit against the School District in the Federal District Court for the Middle District of Pennsylvania challenging the constitutionality of the District's policy forbidding students from attending parties where underage drinking or drug use occurred. The plaintiffs brought equal protection, procedural due process, substantive due process and state law claims challenging the policy. They sought both a temporary restraining order and a preliminary

injunction enjoining the District from enforcing this policy against T.W., thereby allowing him to participate in athletics for the remainder of the 2020-2021 school year.

In reviewing the request for an injunction, the trial court analyzed the student's equal protection claim based on the student's challenge of two aspects of the District Handbook. The student and family argued that the Drug and Alcohol Policy unconstitutionally discriminated against student-athletes both on its surface, and in operation, as it provided punishments that can only be applied to student-athletes.

The court found, though, that this discrimination claim was incorrect because Section VII as a whole did not distinguish between student-athletes and those participating in other extracurricular activities, as its language applied to all students. But even if T.W. could show that the Drug and Alcohol Policy on its face did discriminate against student-athletes, the plaintiffs failed to show why such discrimination was legally irrational. The District's Handbook stated that participation in interscholastic sports was to teach students positive qualities. According to the court, prohibiting student-athletes from attending parties where alcohol is present is rationally related to promoting these values. The court also found issue with the plaintiffs' argument that all students who participate in extracurricular activities must be treated exactly the same way: to accept the student's argument, every restriction that applies solely to student-athletes would be thrown into doubt.

The student's challenge to the Drug and Alcohol Policy as applied in operation also failed because there was no evidence demonstrating that the Policy was discriminatorily enforced against athletes. The court found this argument was premised entirely on the plaintiffs' subjective evaluation of the wisdom of the District's policy regulating those who participate in extracurricular activities. Instead, it was clearly rational for the District to condition the privilege of participating in extracurriculars on compliance with a heightened code of conduct. If a student did not want to be subject to these rules he or she could choose not to participate.

On the substantive due process claim, the court noted that under civil rights laws a plaintiff must prove a right or interest protected by the substantive due process clause of the federal constitution and that deprivation of that protected interest shocks the conscious. T.W.'s parents asserted that the substantive right at issue was their right as T.W.'s parents to direct and control their children's upbringing and education.

The parents, however, had not shown that the District infringed upon their right to control and direct the student's upbringing and education. The parents argued that the District's rule punishing students for attending parties where underage drinking or drug use occurred prohibits the parent from making decisions as to where and when it is acceptable for their children to socialize under what circumstances. But the court found that the parents do not show why "making these decisions as to where and when" should be considered a constitutional right. Even if it were such a right, the court found the District had a valid interest in discouraging and preventing alcohol and drug use among its students.

Turning to the plaintiffs' procedural due process claims, the court reiterated that students have a recognized property interest in education. This right, however, is in the "entire process of education" not numerous individual property rights as to various activities that combine to form a student's entire education. Generally, students do not have a recognized free-standing property interest in participating in athletic and extracurricular activities. However, such a property interest can be created by a state entity where it guarantees that it will provide students with due process.

Here the District had established a legal property interest in participating in extracurricular activities through the Handbook statement that all students subject to Section VII will be provided due process throughout disciplinary procedures. The District did provide T.W. with sufficient due process so long as it gave him oral or written notice of the charges against him, and if he denied the charges, an opportunity to present his side of the story. T.W. argued that he had not been provided due process because the principal did not provide him with the evidence against him, and without the evidence the District could not possibly have given the student sufficient notice.

But the court held that this argument was without merit. The District was not required to provide names of witnesses or any explanation of the basis of its reasonable suspicion. The District would need to present its evidence to the student if he challenged the factual basis of these charges, but the fact that the T.W. did not challenge these charges essentially undermined this claim. The student could not now circumvent the procedure set forth by the District that the student decided not to follow.

The court then looked at the remaining standards as to the issuance of a temporary restraining order. It was satisfied that the risk of harm from enjoining the District's ability to consistently enforce its disciplinary rules outweighed the risk that the student faced as a result of his suspension. As well as T.W. and his parents not proving a likelihood of success on their claims, the public had a strong interest in deterring underage drinking among students that would be harmed by enjoining the student's suspension. Taken together, the student and his parents did not meet their burden and the motion for injunction was denied.

PRACTICAL ADVICE

School districts that wish to require good behavior inside and outside of school as a condition for extracurricular behavior may do so, as long as thorough rules are established and punishments are proportional to conduct that is sought to be controlled. More important, though, schools must scrupulously follow due process procedures established so that parents and students who disagree with disciplinary outcomes cannot successfully turn to the courts to overturn disliked decisions.

For more information on this or other legal matters, contact John Vogel at jvogel@tuckerlaw.com.