

RORY FREEDMAN AND	:	
LORRAINE HENNESSY,	:	
	:	
PETITIONERS,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION	:	DECISION
OF THE BOROUGH OF	:	
PARK RIDGE, BERGEN COUNTY,	:	
	:	
RESPONDENT.	:	
	:	

SYNOPSIS

Petitioners, former students at Park Ridge High School in 1992 who were barred from participating in year-end school ceremonies, including graduation, due to consumption of alcoholic beverages, challenged the Board’s policy on alcohol consumption, contesting regulations referenced as “Prom/Snowball” regulations. Petitioners contended the regulations were illegal, *i.e.* contrary to certain statutory provisions.

ALJ found that the relief sought by petitioners in the current matter was the same as that sought by petitioners’ parents in 1992. The ALJ in the prior matter considered petitioners’ arguments and found that the regulations were not illegal and inconsistent with the Board’s policies. That decision was affirmed by the Commissioner and the State Board. The State Board’s decision, which urged rephrasing of the policy, was affirmed by the Appellate Division and the Supreme Court denied certification. Although the prom regulations in effect in 1992 did not specifically address the possession/consumption of alcohol or drugs during travel to a prom, which subject is addressed in the current regulations, it is clear that the legality of the Board policy barring a student from attending graduation ceremonies because he/she consumed and/or possessed alcohol or drugs during travel to a prom was considered, and upheld, in the prior litigation. Thus, the ALJ was convinced that the issues raised by petitioners herein were litigated and determined in prior relevant proceedings. Therefore, the ALJ concluded that *res judicata* and collateral estoppel should be applied in the current matter against petitioners. Board’s motion for summary decision was granted; petitioners’ cross-motion for summary decision was denied. Petition was dismissed.

Commissioner concurred with and adopted as his own the findings and conclusions of the ALJ and, thus, accepted her recommended decision dismissing the within Petition of Appeal on the basis of *res judicata* and collateral estoppel.

SEPTEMBER 12, 1997

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The record of this matter and the initial decision of the Office of Administrative Law (OAL) have been reviewed. Petitioners' exceptions and the Board's reply thereto were timely filed pursuant to *N.J.A.C. 1:1-18.4*.

Petitioners' exceptions essentially recast and reiterate the arguments advanced in their brief in opposition to respondent's motion for summary judgment advanced to the Administrative Law Judge (ALJ) prior to her decision in this matter, which the Commissioner finds were addressed and considered by the ALJ and will not be revisited herein.¹

Upon an independent review of the record in this matter, the Commissioner concurs with and adopts as his own the findings and conclusion of the ALJ and, thus, accepts her recommended decision dismissing the within Petition of Appeal on the basis of *res judicata* and collateral estoppel. A thorough assessment of the submissions in this matter make it clear that no new substantive issue has been raised by these petitioners, notwithstanding their arguments to the contrary. That the within Board regulations differ from the ones challenged in the 1992 matter

before the Commissioner is of no import here in that the gravamen of petitioners' allegation in both instances vis-a-vis these regulations is identical, *i.e.*, they challenge the Board's legal authority to discipline students consuming alcohol in transit to the prom. Confirmation that the substantive merits of petitioners' arguments have previously been litigated and determined is fully evident from the Commissioner's decision in the prior matter, *R.F., et al. and L.H., et al. v. Board of Education of the Borough of Park Ridge*, 93 N.J.A.R. 2d (EDU) 79; *aff'd* State Board of Education 416; *aff'd* Appellate Division, No. A-5058-92 (App. Div. November 22, 1993); *cert. den.* 135 N.J. 469 (1994), wherein he specifically stated:

***the Commissioner cannot express strongly enough his agreement with the ALJ's determination that the Board's assessing the penalties it did against the pupils in question was in accord with its regulations, education policy and state law. Let there be no misunderstanding of the Commissioner's conviction in this regard: be it a sip, a slug, or a keg of alcohol consumed on the way to, during or following a school-sponsored event, such behavior as exhibited by these teenaged students, who were fully cognizant of the consequences that could flow from their voluntary act, cannot and will not be sanctioned, excused or mitigated in the face of the Legislature's clear intent as stated in *N.J.S.A. 18A:37-1*² and reflected in the Board's policy on prom department, "that the public schools of the State of New Jersey will act to 'help control the problem of youth/alcohol abuse, especially in the school.' (Senate Education Committee Statement)" *G.L.H., by his guardians ad litem, G.H.H. and G.R.H. v. Board of Education of the Hopewell Valley Regional School District et al., Mercer County*, 1987 S.L.D. 891, 901, *aff'd* as moot State Board 906.

Further, as bespoken by the ALJ and embodied in case law, the Board's disciplinary authority in such situations extends beyond the four corners of the school building, to include school functions that take place off premises. See, e.g., *A.F. by her guardian ad litem B.M.H. v. Board of Education of the Township of Holmdel, Monmouth County*, 1991 S.L.D. 914. Moreover, ***such activities as attending a school-sponsored prom or graduation ceremonies are special privileges. As such these privileges can be revoked for infractions of school rules, of school policy and of state

¹ It is observed that the Board's reply exceptions urge the Commissioner to reach to the issue of standing in this matter. He declines to do so in that he concurs with the ALJ that such a determination is unnecessary herein.

² The Commissioner notes that consideration of this matter under the provisions of *N.J.S.A. 18A:40A-11* would in no way alter his determination.

law.***Thus, the Commissioner finds the Board was entirely within its discretionary authority and exhibited no abuse of such authority in assessing the penalties at issue herein. *Boult and Harris v. Board of Education of Passaic*, 1939-49 *S.L.D.* 7 (1946), aff'd State Board 15, aff'd 135 *N.J.L.* 329 (Sup. Ct. 1947), aff'd 136 *N.J.L.* 521 (*E. & A.* 1948). (at 82)

Accordingly, the initial decision of the OAL is adopted as the final decision in this matter for the reasons clearly articulated therein. Respondent's motion for summary decision is hereby granted and the within Petition of Appeal is dismissed.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

SEPTEMBER 12, 1997