

WEST HAVEN BOARD OF EDUCATION EXPULSION MEETING MINUTES
August 16, 2004

A Meeting of the Board of Education as a whole was held at the Blake Building, 25 Ogden Street, West Haven. The meeting was called to order by Chairman Carrano at 5:30 p.m. The meeting opened with a pledge to the flag.

BOARD MEMBERS PRESENT: Anne Heffernan
 Krista Pickering
 Paul Messina
 John M. Carrano
 Toni Paine
 George Monahan
 Robert Guthrie

BOARD MEMBER ABSENT: Raymond Collins

ADMINISTRATORS PRESENT: Superintendent Paul Tortora
 Assistant Superintendent Neil Cavallaro

STUDENT REPRESENTATIVES: Jerome Calhoun

AGENDA

EXPULSIONS:
PRESENTED BY Rachel Krinsky

Chairman Carrano I would like to talk about the expulsion process. There are two distinct processes Classroom or In-School offense which is reported to School Administrator then reported to Central office Neil Cavallaro. Off- Campus Offense, police are notified, and then police notify Central Office Neil Cavallaro. Then second part Neil contacts the lawyers and Impartial hearing Office for Decision. I know everyone is concerned about inconsistency, and that's one of the reasons for tonight's meeting to try and understand the process.

Chairman Carrano, Mr. Horvath you wanted to speak.

Mr. Horvath asked to make a statement: Tonight I feel compelled to say that I am deeply saddened, upset and concerned.

How does a group of 4 middle school boys on a school bus back in March, surround a young girl, unbutton her blouse, grab at her underwear, and fondle her inappropriately in front of other students- all with an adult bus driver present?

How does this happen and only result in a ten day suspension for each of the boys?
How is it that even though this story made the local newspaper, no one, as best as I can tell, has shown any emotional response to it? Not parents, not taxpayers, not teachers, not the bus company, not the community?

How do the children deal with this information? And today's students don't need to read the newspaper to get the story. What does this tell about right and wrong? About the adults that are suppose to protect and guide them? About some of their fellow students? About their safety?

What does this mean to us as a town, as parents, grandparents, officials and students? And what do we as caring adults do?

I am not naïve. I know his incident is, on some levels, more complex. I know that we live in a city of over 50K people. That in our world today- a world we adults have allowed to develop, young children are subjected to an incredible wave of adult sexuality – TV shows, commercials, magazine covers, fashions, movies, billboard signs that invite those driving by exit 40 to stop on in to see and purchase the latest in adult entertainment. A much different world than existed when I was 12 or 13.

My guess is that we adults see all this and think it just can't be stopped. I'd ask when was the last time we tried. I am looking for this community and its leaders, who I know love their children dearly, to come together on this to send a message to our children that we are here, we are prepared to help them and that we care.

At the risk of not knowing the exact right thing to do. I feel compelled to take some action, headed hopefully, in the right direction. Starting with these comments and request tonight.

I hope in part, we can be mindful of these realities as we discuss tonight's topic on suspension, expulsion and school related discipline in general. I would also like to invite any one else that feels the same way to let me know their thoughts after this meeting, on how we might move forward positive on this and any related issues, for the benefit of our community, schools and our students.

Superintendent Tortora, we have asked Rachel Krinsky here tonight from Bercham & Moses.

Rachel Krinsky, you have been supplied with copies of several hand outs and a copy of the state statute:

Connecticut General State Statutes 10-233d

All student expulsion hearings must be advertised to the public at least twenty-four hours prior to the scheduled hearing. The posting must notice a Special Meeting of the Board to be conducted in executive session "for purposes of a student expulsion hearing during which the names of the students involved, their educational records and the personally identifiable information contained in those records are likely to be discussed".

The impartial hearing officer must first convene the hearing in public session, and then move the hearing into executive session, inviting only those individuals providing testimony or opinion to attend. Prior to moving in executive session, the student should be referred to by number, or as "the student who is subject of the expulsion hearing" The student's parents should be similarly referenced to protect the identity of the student.

At the conclusion of the hearing, the decision of the impartial hearing officer must be made in public session, without revealing the identity of the student and parents. The decision should state whether the student is to be expelled, for that period of time, and any conditions for the expulsion. If a decision is postponed pending briefs or for some other reason, an order should be issued by the hearing officer in public session to avoid the need to reconvene the hearing at a later date to announce the decision.

Minutes of the meeting should be prepared and issued in accordance with FOIA requirements. The identity of the student and parents should be protected as suggested above, but the identity of the persons who are invited to attend and present testimony on behalf of the administration and/or the student may be listed.

In the event that a freedom of Information Act request is submitted to the board for records pertaining to expulsion hearings, the notice of the Special Meeting and the Minutes of the meeting will be considered public information and should be disclosed in accordance with FOIA. Any educational records of the student who is the subject of the hearing should remain confidential under the Family Educational Rights and Privacy Act(FERPA). Although we continue to recommend keeping a verbatim record of the expulsion hearing in compliance with the Uniform Administrative

Procedures Act (which also applies, in a limited way, to expulsion hearings), the recording and any subsequent transcript made of the recording should be considered a confidential educational record of the student who is the subject of the expulsion hearing.

(a)(1) Any local or regional board of education, at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast. In making a determination as to whether conduct is seriously disruptive of the educational process, the board of education or impartial hearing board may consider, but such consideration shall not be limited to: (A) Whether the incident occurred within close proximity of a school; (B) whether other students from the school were involved or whether there was any gang involvement; (C) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (D) whether the conduct involved the use of alcohol.

(2) Expulsion proceedings pursuant to this section, except as provided in subsection (i) of this section shall be required whenever there is reason to believe that any pupil (A) on school grounds or at a school sponsored activity, was in possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, (B) off school grounds, did possess such a firearm in violation of section 29-35 or did possess and use such a firearm, instrument or weapon in the commission of a crime under chapter 952, or (C) on or off school grounds, offered for sale or distribution a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with intent to sell or dispense, offering, or administering is subject to criminal penalties under sections 21a-277 and 21a- 278. Such a pupil shall be expelled for one calendar year if the local or regional board of education or impartial hearing board finds that the pupil did so possess or so possess and use, as appropriate, such a firearm, instrument or weapon or did so offer for sale or distribution such a controlled substance, provided the board of education or the hearing board may modify the period of expulsion for a pupil on a case by case basis.

(3) Unless an emergency exists, no pupil shall be expelled without a formal hearing held pursuant to sections 4-176e to 4-180a, inclusive, and section 4-181a, provided whenever such pupil is a minor, the notice required by section 4-177 and section 4-180 shall also be given to the parents or guardian of the pupil. If an emergency exists, such hearing shall be held as soon after the expulsion as possible.

(b) For purposes of conducting expulsion hearings as required by subsection (a) of this section, any local or regional board of education or any two or more of such boards in cooperation may establish an impartial hearing board of one or more persons. No member of any such board or boards shall be a member of the hearing board. The hearing board shall have the authority to conduct the expulsion hearing and render a final decision in accordance with the provisions of sections 4-176e to 4-180a,

(c) In determining the length of an expulsion and the nature of the alternative educational opportunity to be offered under subsection (d), the local or regional board of education, or the impartial hearing board established pursuant to subsection (b) of this section, may receive and consider evidence of past disciplinary problems which have led to removal from a classroom, suspension or expulsion of such pupil.

(d) Notwithstanding the provisions of subsection (a) of section 10-220, local and regional boards of education shall only be required to offer an alternative educational opportunity in accordance with this section. Any pupil under sixteen years of age who is expelled shall be offered an alternative educational opportunity during the period of expulsion, provided any parent or guardian of such pupil

who does not choose to have his or her child enrolled in an alternative program shall not be subject to the provisions of section 10-184. Any pupil expelled for the first time who is between the ages of sixteen and eighteen and who wishes to continue his or her education shall be offered an alternative educational opportunity if he or she complies with conditions established by his or her local or regional board of education. Such alternative may include, but shall not be limited to, the placement of a pupil who is at least sixteen years of age in an adult education program pursuant to section 10-69. A local or regional board of education shall count the expulsion of a pupil when he was under sixteen years of age for purposes of determining whether an alternative educational opportunity is required for such pupil when he is between the ages of sixteen and eighteen. A local or regional board of education may offer an alternative educational opportunity to a pupil for whom such alternative educational opportunity is not required pursuant to this section.

(e) Notwithstanding the provisions of subsection (d) of this section concerning the provision of an alternative educational opportunity for pupils between the ages of sixteen and eighteen, local and regional boards of education shall not be required to offer such alternative to any pupil between the ages of sixteen and eighteen who is expelled because of conduct which endangers persons if it is determined at the expulsion hearing that the conduct for which the pupil is expelled involved (1) possession of a firearm, as defined in 18 USC 921, as amended from time to time, or deadly weapon, dangerous instrument or martial arts weapon, as defined in section 53a-3, on school property or at a school-sponsored activity or (2) offering for sale or distribution on school property or at a school-sponsored activity a controlled substance, as defined in subdivision (9) of section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with the intent to sell or dispense, offering, or administration is subject to criminal penalties under sections 21a-277 and 21a-278. If a pupil is expelled pursuant to this section for possession of a firearm or deadly weapon the board of education shall report the violation to the local police department or in the case of a student enrolled in a regional vocational-technical school to the state police. If a pupil is expelled pursuant to this section for the sale or distribution of such a controlled substance, the board of education shall refer the pupil to an appropriate state or local agency for rehabilitation, intervention or job training, or any combination thereof, and inform the agency of its action. Whenever a local or regional board of education notifies a pupil between the ages of sixteen and eighteen or the parents or guardian of such pupil that an expulsion hearing will be held, the notification shall include a statement that the board of education is not required to offer an alternative educational opportunity to any pupil who is found to have engaged in the conduct described in this subsection.

(f) Whenever a pupil is expelled pursuant to the provisions of this section, notice of the expulsion and the conduct for which the pupil was expelled shall be included on the pupil's cumulative educational record. Such notice, except for notice of an expulsion based on possession of a firearm or deadly weapon as described in subsection (a) of this section, shall be expunged from the cumulative educational record by the local or regional board of education if a pupil graduates from high school.

(g) A local or regional board of education may adopt the decision of a pupil expulsion hearing conducted by another school district provided such local or regional board of education or impartial hearing board shall hold a hearing pursuant to the provisions of subsection (a) of this section which shall be limited to a determination of whether the conduct which was the basis for the expulsion would also warrant expulsion under the policies of such board. The pupil shall be excluded from school pending such hearing. The excluded student shall be offered an alternative educational opportunity in accordance with the provisions of subsections (d) and (e) of this section.

(h) Whenever a pupil against whom an expulsion hearing is pending withdraws from school after notification of such hearing but before the hearing is completed and a decision rendered pursuant to this section, (1) notice of the pending expulsion hearing shall be included on the pupil's cumulative educational record and (2) the local or regional board of education or impartial hearing board shall complete the expulsion hearing and render a decision. If such pupil enrolls in school in another school district, such pupil shall not be excluded from school in the other district pending completion of the expulsion hearing pursuant to this subsection unless an emergency exists, provided nothing in this subsection shall limit the authority of the local or regional board of education for such district to

suspend the pupil or to conduct its own expulsion hearing in accordance with this section.

(i) Prior to conducting an expulsion hearing for a child requiring special education and related services described in subparagraph (A) of subdivision (5) of section 10-76a, a planning and placement team shall convene to determine whether the misconduct was caused by the child's disability. If it is determined that the misconduct was caused by the child's disability, the child shall not be expelled. The planning and placement team shall reevaluate the child for the purpose of modifying the child's individualized education program to address the misconduct and to ensure the safety of other children and staff in the school. If it is determined that the misconduct was not caused by the child's disability, the child may be expelled in accordance with the provisions of this section applicable to children who do not require special education and related services. Notwithstanding the provisions of subsections (d) and (e) of this section, whenever a child requiring such special education and related services is expelled, an alternative educational opportunity, consistent with such child's educational needs shall be provided during the period of expulsion.

(j) An expelled pupil may apply for early readmission to school. Except as provided in this subsection, such readmission shall be at the discretion of the local or regional board of education. The board of education may delegate authority for readmission decisions to the superintendent of schools for the school district. If the board delegates such authority, readmission shall be at the discretion of the superintendent. Readmission decisions shall not be subject to appeal to Superior Court. The board or superintendent, as appropriate, may condition such readmission on specified criteria.

(k) Local and regional boards of education shall submit to the Commissioner of Education such information on expulsions for the possession of weapons as required for purposes of the Gun-Free Schools

Chairman Carrano, the seriously disruptive, Seems to be suggestive to interpretation. To me kids discussing a fight that broke out at a keg party over the weekend is not seriously disruptive.

Who determines

Rachel Krinsky, the Administration.

Chairman Carrano, does the Administrators just say it's disruptive and that's it.

Rachel Krinsky, it's done on a individual basis.

Chairman Carrano does this lead to inconsistencies

Toni Paine, you a have fight over the weekend, Monday morning they pick up where they left off and they meet outside, the word gets around and you have students walking out to see fight.

Neil Cavallaro, again each incident has to be taken on a case to case basis.

Mr. Horvath asked a liability for individual Board members.

Rachel Krinsky, said the Board as a whole can be sued

Mr. Monahan said he went to a CABE workshop last year and yes. Board members can be sued as an individual. Because the statute says you can assign a hearing officer, it does not divorce from the litigation. We are deferring the action not separating ourselves from it. So, as the Chairman said we need to talk about what we are doing now and is it as thorough as it should be. We need a committee, maybe on a rotating basis. So that someone on the Board is actually hearing what is going on and not hearing it third hand.

Mr. Horvath would also like the committee to get started.

Chairman Carrano, said the ad-hoc committee will be Howard Horvath, Chairman, Paul Messina, George Monahan and Krista Pickering.

Chairman Carrano, an arrest does not necessary constitutes guilt. How are the case investigated.

Rachel Krinsky, the administrator investigates, then turns report over to Neil Cavallaro, who then send information to the attorney and then it is decided if the offence it up for expulsion.

Chairman Carrano thanked everyone for coming and apologized to the Administrators that there was not enough time for everyone to ask questions.

Expulsion Chart Attached:

Expulsion Process Chart Attached:

Sample: WHBOE Disciplinary Summary Report Attached: