



Reciprocal Enforcement of Suspension/Expulsion Policies

Last October, the Pennsylvania Commonwealth Court issued a decision that may have an effect on school districts regarding their admission policies for transferring students who committed serious disciplinary offenses at their prior school. In *Hoke v. Elizabethtown Area School District*, 833 A.2d 304 (Pa. Cmwlth. 2003), the Commonwealth Court held that a high school student who withdrew from a private school to avoid expulsion for a drug and weapon offense could not be refused admission to a public school where the sending school failed to conclude disciplinary action. In addition, the Court held that a public school district could not expel the student for the offenses which happened at the private school.

In this case, Hoke was a 9th grade student at Lancaster Catholic High School, and was found to have sold prescription drugs to another student and to be in possession of a pocketknife with a four-inch blade. Both acts were expellable offenses under the Lancaster Code of Student Conduct. However, the school informed Hoke's parents that in lieu of expulsion, it would allow him to withdraw from the school. Hoke's parents subsequently withdrew their son from the private school and enrolled him in the Elizabethtown Area School District.

The Elizabethtown Area School District had a policy that it would give "full faith and credit" to the decision of another school to suspend or expel a student for disciplinary reasons and not admit such students who attempted to transfer to their district. In addition, the District had a policy that if a student withdraws from another school to avoid an expulsion hearing, it would conduct its own hearing to determine whether an expulsion should be imposed for the offenses that occurred at the prior school.

When Elizabethtown school officials discovered the incident that occurred at Lancaster, they informed Hoke that he would be required to attend an expulsion hearing regarding the incidents at Lancaster. Hoke subsequently filed a court action seeking to have the school's "full faith and credit" policy declared unlawful as it was applied against him. The trial court found the policy unlawful as it was applied to Hoke and permanently enjoined the District from conducting an expulsion hearing against Hoke or prevent him from enrolling and attending the public school. On appeal, the Commonwealth Court affirmed the trial court's decision and concluded the Pennsylvania School Code does not authorize the District's "full faith and credit" policy as it applied to Hoke. The Court found that

school districts could discipline only those students who are enrolled in their district and are under the district supervision at the time of the incident.

The Commonwealth Court's decision seriously weakens any "full faith and credit" policy or reciprocal enforcement of suspension and/or expulsion policies and, at present, schools currently may not refuse to admit students or institute their own suspension and/or expulsion proceedings against transferring students for unresolved offenses that happened at a prior school except as specifically permitted in the Public School Code.

This case does not impact a school district's right to place a newly enrolled student in an alternative education program if the student's past discipline or behavioral record indicates that he or she is a "disruptive student" as defined in Section 19-1901-C of the Public School Code, 24 P.S. § 19-1901-C, or when the student has been expelled for possession of a weapon under Act 26, 24 P.S. § 13-1317-2(e.1). While a school district may not refuse to admit and may not expel a student for offenses which he or she committed at a previous school, a district could keep the student out of its day program if he or she is deemed to be a disruptive student or an expulsion has been imposed, either through agreement or after a formal hearing, based on possession of a weapon.

Maiello, Brungo & Maiello has extensive experience in school law matters and is available to assist you if you have any questions regarding this recent decision or the development of reciprocal agreements with other schools.

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