



July 31, 2012

## **APPELLATE DIVISION AFFIRMS PARAMETERS FOR OFF-CAMPUS STUDENT DISCIPLINE**

In a recent decision, the Appellate Division affirmed the Commissioner of Education's ruling that a school district can only discipline students for conduct occurring off school grounds when it substantially interferes with the orderly operation of the school district. G.D.M. and T.A.M. o/b/o B.M.M. v. Ramapo Indian Hills Bd. of Ed. (App. Div., July 24, 2012). The issue in this case was whether the Board exceeded its authority to discipline students under New Jersey Code when it enacted Regulation 6145, entitled "Extracurricular Activities" that conditioned student participation in extracurricular activities on abiding with the law both in school and off school grounds.

The regulation was enacted because the District was concerned with the "consumption, possession, and distribution of illicit drugs and alcohol by students occurring outside of school property." The regulation provided that a conduct violation "shall occur [for off-school conduct] if a student is formally charged and/or arrested by law enforcement for an alleged violation of the New Jersey Code of Criminal Justice, and/or applicable municipal codes or ordinance provisions." For first violations, the regulation prevented participation in extracurricular activities for seven (7) days; second violations, ninety (90) days; and third violations, one-hundred eighty (180) school days. The Board enacted the regulation claiming participation in extracurricular activities was a privilege, not a right, and sought to ensure that its participants were abiding by the law.

However, both the Commissioner and Appellate Court found that the regulation was overbroad. For instance, it potentially could prevent a student's participation in an extracurricular activity for littering on a municipal sidewalk or getting a speeding ticket. Importantly, the Court reiterated that there must be a nexus between the conduct at issue and the school district. It reaffirmed the rule that a school can only discipline off-school student conduct when that conduct "substantially and materially" interferes with the school's orderly functioning and when "it is reasonably necessary for the student's physical or emotional safety, security and well-being or for reasons relating to the safety, security and well-being of other students, staff or school grounds." N.J.A.C. 6A:16-7.6. As such, Boards must be cognizant that when drafting policies dealing with student discipline, a nexus is always required between the conduct at issue and the school's efficient operation.

As always, please do not hesitate to contact the school law attorneys at Schenck, Price, Smith, & King, LLP, if you have any questions regarding this decision.

DISCLAIMER: This Legal Alert is designed to keep you aware of recent developments in the law. It is not intended to be legal advice, which can only be given after the attorney understands the facts of a particular matter and the goals of the client. If someone you know would like to receive this Legal Alert, please send a message to Marc H. Zitomer, Esq. at [mhz@spsk.com](mailto:mhz@spsk.com). Mr. Zitomer is co-chair of the School Law Practice Group as well as a member of the Labor and Employment Practice Group at Schenck, Price, Smith & King, LLP.

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