

Due process...

Student's right to hearing

before suspension on trial

The National Education Association has asked the U.S. Supreme Court to require hearings in student suspension cases. Now before the Court is a suit involving suspension of Columbus, Ohio, students following a racial disturbance.

NEA declared that "students, like all other members of our society, have a right to fair treatment as required by the due process clause of the Fourteenth Amendment."

The Court's decision, the brief notes, will have a significant impact on which procedural rights will be made available to students threatened with expulsion or suspension in the years ahead. In 1971

a special NEA task force produced a code of student rights and responsibilities detailing procedural rights for students threatened with an expulsion or suspension for longer than one day.

The brief emphasizes that what is at issue in the court case is not a school administration's right to suspend students when the circumstances are appropriate, but only its right to suspend without a hearing.

NEA is supporting the case (Goss vs. Lopez) as a friend-of-the-court through its DuShane Emergency Fund, established to protect the civil and human rights of teachers and students. The Association is

joining the National Committee for Citizens in Education and the Educational Law Center, Inc. in the brief.

The case grew out of the summary suspension of many black high school students in Columbus in February 1971 in the wake of racial disputes involving Black History Week. None of the students, the joint brief indicates, was given even the most rudimentary procedural protections. Some students were never told why they were suspended.

Because of the suspension, all students received zeros for work missed during the period. Some

were transferred to other schools as punishment, while permanent notations of suspension were included in the school records of others.

A federal court suit challenged the Ohio statute permitting a public school system to suspend a student for up to 10 days without any hearing. The court said that a school administration should provide a student written notice of the reasons for the suspension and an opportunity before suspension to present a defense or explain his or her conduct.

If the student's conduct is believed to be disruptive, the hearing must be granted within three days after the suspension begins, the lower court ruled. In view of the defendants' failure to follow minimally acceptable procedures in this case, the court ordered all references to the suspensions involved in the present case deleted from the school records.

The City of Columbus appealed the ruling to the Supreme Court.

The brief by NEA and co-sponsors points out that the appellants "would teach the children of this nation that our principles of government allow school authorities to suspend a student for substantial periods of time without giving the student a reason for the suspension or any opportunity to defend in even a rudimentary manner against the most egregious cases of mistake, bias or overreaction by school authorities, even though serious personal consequences to the student may follow."

There were many non-emergency cases among the Columbus suspensions, the brief argues, thereby requiring a prior hearing. The City of Columbus had asserted that student disruption always creates an emergency.

Not only do the suspensions violate the due process clause of the Fourteenth Amendment but they also infringe on a protected liberty and property interest of students, since Ohio law requires school attendance of all children between the ages of 6 and 18, the brief notes. Substantial student interests could be affected by the disruption of scholastic continuity to learn; the effect of references to suspensions in school records; and the stigma of suspension.

Many school systems—Pittsburgh, Houston, Seattle, and others—have been operating for years on a prior-hearing basis without significant difficulties, the brief points out.

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