Does a Student’s Property Right to an Education Extend to Participation in Extracurricular Activities?

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ABSTRACT

It is clear that students have a property interest in their education and cannot be denied attendance without due process of law; however, this property right to attend school does not extend to extracurricular activities. The prevailing view of the courts is that conditions can be attached to extracurricular participation, because such participation is considered a privilege rather than a right. Although school officials are not required by the Fourteenth Amendment to provide due process when denying students participation in extracurricular activities, a hearing is always advisable.

Property Right to an Education

It is clear that students have a property interest in their education and cannot be denied attendance without due process of law (Goss v. Lopez, 1975). In Goss v. Lopez (1975), the Supreme Court ruled that public school students possess liberty and property interests in their education, and therefore that constitutional principles of due process apply to school officials in dealing with regulations governing student conduct and other school-related activities. Due process of law is derived from the Fourteenth Amendment to the United States Constitution, which stipulates, in part, that “no state shall . . . deprive any person of life, liberty or property, without due process of law.”

Basically, due process is a procedure of legal proceedings following established rules that assure enforcement and protection of individual rights. The guarantees of due process require that every person be entitled to the protection of a fair hearing and a fair judgment. Following Goss, several significant federal laws also emerged in the early 1970s and extended through the early 1980s, which further expanded the scope of students’ rights. During this period, the courts often upheld students’ legal challenges of school policies, rules, and regulations.
Participation in Extracurricular Activities

On the contrary, this property right to an education does not extend to participation in extracurricular activities. Courts generally hold that conditions can be attached to extracurricular participation, because such participation is a privilege rather than a right (James v. Tallahassee High School, 1996; Ryan v. California Interscholastic Federation, 2001; Taylor v. Enumclaw School District No. 216, 2006). The reasoning of the courts is that extracurricular activities, as the name implies, are usually conducted outside the classroom before or after regular school hours, usually carry no credit, are generally supervised by school officials or others, are academically non-remedial, and are of a voluntary nature for participants.

For these reasons, the conditions typically attached to extracurricular participation have been upheld by the courts. School administrators may not be required by the Fourteenth Amendment to provide due process when denying student extracurricular participation, unless the school board has established policies for suspending or expelling students from extracurricular activities. Courts have upheld the suspension of students from interscholastic athletics for violating regulations prohibiting smoking, drinking, use of drugs, or other disciplinary infractions, including off-campus and off-season conduct providing the regulations so stipulate (Ferguson v. Phoenix-Talent School District No. 4, 2001). Members of athletic teams and other extracurricular groups (drama, band, debate, cheerleading, and clubs) often are selected through a competitive process, and students have no property right to be chosen.

Conclusion

It is clear that students have a property interest in their education and cannot be denied attendance without due process of law; however, this property right to attend school does not extend to extracurricular activities. The prevailing view of the courts is that conditions can be attached to extracurricular participation, because such participation is considered a privilege rather than a right. Although school officials are not required by the Fourteenth Amendment to provide due process when denying students participation in extracurricular activities, a hearing is always advisable.

References

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