

**STATE OF RHODE ISLAND
PROVIDENCE, SC**

SUPERIOR COURT

**BARRINGTON SCHOOL COMMITTEE,
Plaintiff**

v.

C.A. No.: PC-2019-10097

**COUNCIL ON ELEMENTARY AND
SECONDARY EDUCATION, and STUDENT
E. DOE by and through PARENT,
Defendants**

AMENDED COMPLAINT

Jurisdiction and Venue

1. This Complaint is an administrative appeal from a decision the Rhode Island Council on Elementary Education in the matter of *E. Doe. v. Barrington School Department*, in which the Council affirmed the decision of the Commissioner of the Department of Elementary and Secondary Education (“Commissioner”) vacating a three-day out-of-school suspension imposed on Student E. Doe (“E. Doe”) and ordering the removal of any documents relating to E. Doe’s suspension from the student record. This Court has jurisdiction pursuant to R.I. Gen. Laws §§ 16-39-4 and 42-35-15.
2. The Complaint filed on October 8, 2019 identified E. Doe as a party in the caption but did not identify them as a party in the body of the Complaint. This Amended Complaint does so.
3. Venue in this matter rests with the Providence County Superior Court pursuant to R.I. Gen. Laws § 42-35-15(b).

Parties

4. Plaintiff, Barrington School Committee (“Committee”), is an elected school committee vested with the entire care, control, and management of all public-school interests in the Town of Barrington in accordance with R.I. Gen. Laws § 16-2-9.
5. Defendant, Council on Elementary and Secondary Education (“Council”), is a public corporation empowered to sue and be sued and to exercise all powers entrusted with control of elementary and secondary education in the State, in accordance with R.I. Gen. Laws § 16-60-1.
6. Defendant, E. Doe, by and through his or her parents, is a student served by the Committee in its public schools, and the subject of the discipline in this action.

Facts

7. On or about February 18, 2018, while sitting in the school cafeteria, E. Doe and three other middle school students began discussing the recent school shooting in Parkland, Florida. Their conversation turned to what they would do if they were the shooter in a school event like Parkland. In that discussion, reference was made to grenades used in a video game, *Fortnite*, in which players build forts and use weapons to eliminate their opponents.
8. E. Doe testified that his participation in this conversation was to agree with others that if he were the shooter, he would come through the front door.
9. E. Doe stated that he considered the conversation “sort of a joke.”
10. Another student in the cafeteria overheard the conversation and reported it to a parent, who in turn made an anonymous report to the Barrington Police Department (“Police Department”).

11. That night, Police Department officers went to the homes of the students, including E. Doe, and questioned them. The next morning, Police Department officers reported to the middle school and conducted a search of the students' lockers. Nothing incriminating was found. No criminal charges were filed.
12. After the Police Department officers who conducted the search left the school premises, the Principal and Assistant Principal interviewed each of the students individually, including E. Doe, in the presence the School Resource Officer; after that meeting, a School Social Worker conducted a risk screening assessment of the students, including E. Doe. She concluded that E. Doe "does not appear to pose imminent danger to himself or others."
13. The Principal imposed a three-day out of school suspension upon E. Doe and the three other students who had speculated in the school cafeteria about being a shooter as a breach of the school policy against making a "threat/intimidation."
14. E. Doe appealed the suspension to the Superintendent, and on May 3, 2019, the Superintendent denied the appeal.
15. E. Doe appealed directly to the Commissioner, who conducted an evidentiary hearing on October 29, 2018.
16. In a decision that issued on January 4, 2019, the Commissioner invalidated the suspension on the ground that it violated R.I. Gen. Laws §§ 16-2-17 and 16-2-17.1.
17. The Commissioner also found that the suspension violated "due process" on two bases, each of which, according to the Commissioner, independently supported vacating that suspension. First, the student handbook, which proscribed disruptive and unsafe conduct, did not clearly proscribe the conduct at issue. Second, given the General Assembly's

expression of intent in R.I. Gen. Laws § 16-21.5-1, “it would have been the better practice for the Principal to have obtained the consent of E. Doe’s parents before allowing him to be questioned in the presence of the [School] Resource Officer.”

18. The Commissioner vacated the suspension imposed on E. Doe and ordered that the “any and all documents referring or relating to E. Doe’s suspension – including the March 1, 2018 Risk Screening Documentation Form” were to be removed from E. Doe’s school record. In a footnote, the Commissioner suggested that the same exact relief be afforded to the other students disciplined in conjunction with E. Doe.
19. The Plaintiff has exhausted all available administrative remedies before the Council and is aggrieved by the Council’s final order in a contested case.
20. The Plaintiff is therefore entitled to judicial review of the Council’s decision pursuant to R.I. Gen. Laws § 42-35-15.
21. The Council’s decision should be reversed because it is:
 - (a) in violation of constitutional or statutory provisions;
 - (b) in excess of the statutory authority of the Council;
 - (c) made upon unlawful procedure;
 - (d) affected by other error of law;
 - (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, and/or;
 - (f) arbitrary, capricious or characterized by an abuse of discretion, or a clearly unwarranted exercise of discretion.
22. The Council’s decision in the matter of *Barrington School Committee v. Student E. Doe*, has prejudiced the substantial rights of the Plaintiff and is improper under the standard articulated in §42-35-15(g) of the Rhode Island General Laws.

WHEREFORE, the Plaintiff, Barrington School Committee, respectfully requests that
this Honorable Court:

1. Reverse the Council's decision in *Barrington School Committee v. Student E. Doe*;
2. Award Plaintiff its costs, including attorneys' fees, of prosecuting this appeal; and
3. Award such other relief as this Honorable Court deems meet and just.

Respectfully submitted,

BARRINGTON SCHOOL COMMITTEE
By its attorneys,

/s/ Sara A. Rapport

Sara A. Rapport, Esq. (#6184)
WHELAN CORRENTE AND FLANDERS LLP
100 Westminster Street, Suite 710
Providence, RI 02903-2319
srapport@whelancorrente.com
(401) 270-4500 (Telephone)
(401) 270-3760 (Facsimile)

CERTIFICATE OF SERVICE

I hereby certify that, on the 10th day of October 2019, I filed and served this document through the electronic filing system on the Plaintiff.

Paul V. Sullivan, Esq.
Sullivan Whitehead & DeLuca LLP
86 Weybosset Street, Suite 400
Providence, RI 02903
psullivan@swdlawfirm.com

Aubrey L. Lombardo, Esq.
Henneous Carroll Lombardo, LLC
1240 Pawtucket Avenue, Suite 308
East Providence, RI 02916
alombardo@hcllawri.com

The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Sara A. Rapport