

IN THE IOWA DISTRICT COURT, IN AND FOR LINN COUNTY

KYLE SCHUMACHER, )  
DIANA SCHUMACHER, and )  
RICHARD SCHUMACHER, )  
 )  
 ) Plaintiffs, )  
 )  
 ) VS. )  
 )  
 ) LISBON SCHOOL BOARD, )  
 )  
 ) Defendant. )

LACV 027142

FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RULING

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LINN COUNTY, IOWA  
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Trial was held pursuant to assignment. The Plaintiffs were represented by Attorney Scott C. Peterson. The Defendant was represented by its attorneys, Brian L. Gruhn and Brett S. Nitzschke. Testimony was received and the cause was submitted.

The Court now renders the following Findings of Fact, Conclusions of Law, and Ruling:

FINDINGS OF FACT

1. On the 2nd day of October, 1995, the son of Plaintiffs Diana and Richard Schumacher, Kyle Schumacher, was involved in a confrontation with a teacher's aide at the Lisbon, Iowa, High School. The teacher's aide, Deb Lord, had initiated the incident and, after the school's administration conducted an investigation, it was determined that, because of their participation, Kyle Schumacher should receive a one-day suspension from school and Deb Lord should receive a disciplinary letter which was to be placed in her personnel file.

2. On October 4, 1995, the parents of Kyle Schumacher were informed of their son's one-day suspension "for the use of profanity directed at a staff member."

cc: client 1-2-97

3. On October 5, 1995, Diana Schumacher met with the Superintendent, Robert Torrence, and questioned Kyle Schumacher's suspension in light of the conduct of the teacher's aide. She expressed her view that she did not think that her son had been treated fairly because, in her opinion, Deb Lord should have received at least equal or greater punishment than Kyle. Mr. Torrence indicated to Diana Schumacher that the decisions regarding punishment for Deb Lord and Kyle were administrative in nature and, although she could appeal the decision of Kyle's punishment, she could not challenge the verdict with reference to the punishment of Deb Lord.

4. On October 8, 1995, Diana Schumacher spoke with the School Board president, Mr. David Prasil, who also stated that Kyle's suspension could be appealed; however, he said that he would require a written appeal and then informed Diana Schumacher that the hearing on the appeal would probably be considered at a closed meeting pursuant to the Iowa Code.

5. Diana Schumacher subsequently delivered a written appeal to Superintendent Torrence within the next few days. Mr. Torrence asked Diana Schumacher twice whether she wanted the appeal heard in open or closed session and Diana Schumacher verbally notified the Superintendent that the Schumachers insisted that the appeal be heard in an open meeting forum.

6. Deb Lord learned of the Schumachers' appeal and the request that their appeal be heard in open session. She became concerned that her performance in the manner she handled the incident with Kyle Schumacher would be intentionally called into question by the Schumachers during the open appeal hearing. She expressed concern that the

Schumachers would use the open session to attack her by negative statements concerning her personally, as well as her performance, which would harm her reputation. She asked Superintendent Torrence if there was anything she could do to protect her rights in the situation. Superintendent Torrence informed her that he would consider the matter with the School District's attorney and respond to her.

7. On October 13, 1995, the School District's attorney wrote the administration a letter outlining the options available to the District and Deb Lord. Deb Lord reviewed this information, met with Superintendent Torrence, and orally requested a closed meeting of the Schumacher appeal.

8. On October 30, 1995, Diana Schumacher delivered a letter from her attorney to Mr. Torrence. The letter formally requested that the Schumachers' appeal be held in open session. Mr. Torrence then provided Diana Schumacher with a copy of the October 13, 1995, letter he had received from the School District's attorney.

9. On October 31, 1995, Deb Lord followed her previous oral request with a written request for a closed meeting.

10. On November 2, 1995, the attorney for the School District notified the Schumachers, through their attorney, that he had advised the District to hold a closed meeting in this matter pursuant to Deb Lord's request.

11. On November 8, 1995, the Schumachers' attorney advised the School District, through its attorney, that it remained the Schumachers' position that the appeal should not be restricted to a closed meeting. The Schumachers reiterated their request that the appeal be heard and considered in open session. The School District's attorney

responded on November 17, 1995, notifying the Schumachers that the School Board would be holding the appeal of Kyle Schumacher's suspension in closed session.

12. The appeal was placed on the agenda as a closed session for the November 20, 1995, School Board Meeting. At the beginning of the meeting, the attorney for the School District advised the School Board that the meeting should be closed pursuant to Iowa Code Section 21.5(1)(I) and the attorney for the Schumachers argued that the meeting should be open pursuant to Iowa Code Section 21.5(1)(e). The School Board then voted 4-1 for a closed session pursuant to Iowa Code Section 21.5(1)(I). The Board afforded the Schumachers the ability to present their appeal, including any evidence and witnesses in support of their appeal, in the closed session. The Schumachers declined to attend or present their appeal in the closed session.

13. The School Board exited the closed session and voted 3-2 to deny the Schumachers' request that the appeal be heard in open session. The Board then voted 4 to 1 to stay the suspension in order to allow the Schumachers to litigate the issue.

14. The Schumachers have spent at least \$3,000.00 in attorney fees attempting to secure an open meeting. The Court believes the testimony of Diana Schumacher that even though she questioned the competence of the teacher's aide, her principal objective in attempting to secure an open meeting was to question the punishment given to Kyle as a result of the incident. She simply wanted an open record for the general public to observe what had occurred between Kyle Schumacher and the teacher's aide on the day of the incident. The Superintendent of the Lisbon School believed that Diana Schumacher had, as one of her objectives, the termination of the teacher's aide; however,