News

Majority of Divisional Court Overturns Expulsion of Student at Private School

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What happens when a private school student smokes marijuana in his residence on the night before his final day in his final year of high school? This issue arose in a recent case before the Divisional Court, where the school allowed the student to withdraw (without his private school diploma and without permission to attend his graduation ceremony, but with his Ontario Secondary School Diploma), a situation the parties treated as tantamount to an expulsion. The school took the position that because the incident gave rise to the mandatory sanction of expulsion under its Lighting of Substances Policy, it had no discretion in the matter and thus it did not provide an opportunity to the student's parents to make representations on the appropriate sanction.

The majority of the Divisional Court disagreed, finding that the school had in fact acted under its Drug Abuse Policy which provided for discretion to determine a sanction other than expulsion. The student's parents had therefore been denied an opportunity to be heard and the decision was overturned.

For a discussion on the jurisdictional issue raised in this case and whether a decision of a private school to expel a student is one which is subject to judicial review or one which should be determined as a private contract matter, see our Case in Point blog, "Are Decisions of Private Schools Subject to Judicial Review? Does it Matter?"