

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

MR. & MRS. JOSEPH F. :
 :
 :
vs. :
 :
 :
PAWTUCKET SCHOOL COMMITTEE :
 :

D E C I S I O N

April 4, 1990

This matter was heard on the appeal to the Commissioner of Education by Mr. and Mrs. Joseph F. from a decision of the Pawtucket School Committee in accordance with §16-39-2 of the General Laws of Rhode Island, as Amended. The matter was heard by the undersigned Hearing Officer under authorization from the Commissioner.

Due notice was given to the parties as to the date, time and place of the hearing. The appellants appeared pro se. The respondent was represented by counsel. Mr. Robert E. Casey, Field Representative, Rhode Island Federation of Teachers (RIFT) intervened on behalf of the teacher, James Gnatek, since the question of the appellant's daughter's grade in English was raised as an issue by the appellants. Testimony was taken, a transcript of which was made and evidence was presented. Counsel for the respondent moved to dismiss the appeal on the grounds that the Commissioner does not have jurisdiction in this matter. In support of his position, he cites George F. Mumford vs. The Chariho School Committee, February 1985, McKeon vs. Warwick School Committee, 75 A.2d 313, Jane Doe I vs. Johnston School Committee, March 1987, Jane S.H. Doe vs. Tiverton School Committee, June 1989, Bogart vs. Middletown School Committee, June 1988 and William C. Hill vs. Tiverton School Committee, May 1988. Counsel for respondent argues that if the Commissioner determines that he does have jurisdiction, then "the hearing itself ought to be narrowed down". (Tr.p.6) The three issues raised by the respondent in its jurisdictional argument are (1) breach of confidentiality, (2) disciplining of staff, and (3) no substantial academic

loss. The intervenor joins respondent in the motion to dismiss.

A review of the cases cited, particularly Mumford, supra, Bogart supra, and Jane A.H. Doe, supra, indicates that counsel for respondent is correct when he states that the Commissioner does not review grades, nor does he substitute his judgment for a grade in place of faculty members whom the School Committee has selected to make such determinations. Respondent is also correct when it argues that the appellants' daughter did not suffer "substantial academic loss" as defined by the Commissioner in Jane S.H. Doe, supra. However, as the Commissioner has ruled in Bogart, supra, the Commissioner does review grades when the policy which promulgated the grade is either flawed or is not followed precisely and/or the School Committee acted arbitrarily, capriciously or in bad faith.

Accordingly, the motion to dismiss the appeal is denied and we shall proceed to the merits on the limited issues of:

1. Did the teacher adhere to the established School Committee policy when compiling the daughter's grade in English at the end of the 1988-89 school year?
2. Did the School Committee involve individuals other than School Committee members in its executive session when it deliberated and arrived at its decision relative to the appellants' appeal which was heard on September 7, 1989?
3. Did the School Committee act arbitrarily, capriciously or in bad faith in arriving at its decision on the appellants' appeal heard on September 7, 1989?

1] Mumford vs. Chariho, supra.

2] Eddie v. Columbia University, 8 Misc. 2d 795, 168 N.Y.S. 2d 643 (1957).

Upon the testimony taken and the evidence presented, we find the following:

1. The appellants' daughter, D , was a 10th grade student at Tolman High School during the 1988-89 school year.
2. D was a student in Mr. Gnatek's English class.
3. D received a failing grade in English, Math and Physical Education at the end of the 1988-89 school year.
4. On July 7, 1989, Mr. and Mrs. F filed an appeal with the Pawtucket School Committee concerning their daughter's grades. (See attachment to appeal letter dated December 8, 1989).
5. D attended summer school during the summer of 1989 and received passing grades in both English and Math.
6. In accordance with the policy of the Pawtucket School Committee, the marks in English and Math on D's transcript were changed to a seventy (70) respectively.
7. On September 7, 1989, a hearing on the F appeal was conducted by the School Committee.
8. The F were provided with the opportunity to present argument and to file a written memorandum to

support their position. (Ex. #1).

9. As a result of the Superintendent's investigation of the matter, he sent a memorandum of his findings to the School Committee on November 14, 1989. (See attachment to appeal letter).
10. By letter dated December 19, 1989 (Ex. #1) the Superintendent conveyed the School Committee's decision to the appellants.

Position of the Parties

The appellants testified that they are challenging whether or not Mr. Gnatek, their daughter's English teacher, precisely followed the established policy of the School Committee when he compiled D ³ 's English grade at the end of the 1988-89 school year. They also testified that he erred when he reported D 's absences as 46 when they were actually 66. They allege that they were never given the opportunity to question or meet with Mr. Gnatek in an attempt to resolve the matter. They further testified that their daughter was a B student prior to being involved in an automobile accident which caused her to be absent from school for a considerable period of time. Appellants also allege that they requested but never received the minutes of the executive session of the School Committee when it deliberated and made its decision which was relayed to them in the Superintendent's letter of December 19, 1989. They also allege that the vote of the School Committee was never affirmed in open session of the Committee. They argue that confidentiality was violated

3] See Appellant's Ex. A.

when executive session records were distributed to individuals other than parties of interest and that the warning slips issued in March of 1989 and May of 1989 were altered after they had signed them.

Mr. Francis T. Moran, Principal of Tolman High School testified that there is no established School Committee policy in effect with regard to grades. He testified that there are only guidelines, which are discretionary in nature. ⁴ Mr. Gnatek testified that he varies from the guidelines from time to time. He also testified that even if he had followed the guidelines precisely, D would have received a failing grade.

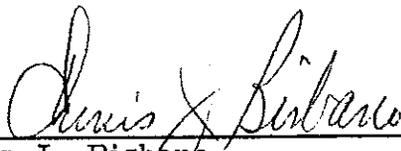
Respondent argues that the so-called policy regarding grades referred to by the appellants is in fact not a policy but guidelines to be utilized by teachers at their discretion. Respondent also argues that the School Committee did not act in bad faith, arbitrarily or capriciously in this matter. In fact, counsel argues that the actions of the Committee and the Superintendent in their investigation and decision were a "paragon of reasonableness". Counsel points to the fact that the Committee after hearing the F appeal, did sustain the appeal with regard to Physical Education by changing their daughter's grade from a failure to a passing grade. Counsel further argues that even if the Commissioner was to find that the Committee acted in bad faith, arbitrarily or capriciously, the only remedy that he could grant would be to remand the matter to the School Committee for a reconsideration.

4] See Appellant's Ex. A.

Opinion and Decision

This Hearing Officer can empathize with the appellants and their frustration in attempting to reach what they consider to be a reasonable compromise in this matter. However, based upon the testimony and the evidence before us and reviewing past decisions of the Commissioner and the Courts in similar matters (previously noted), we find that the teacher acted properly in compiling D [redacted]'s grade in English since there is no established School Committee policy which he must follow but only guidelines, which are subject to his discretion. We also find that the evidence does not support the allegation that individuals other than Committee members were present in the executive sessions when the School Committee deliberated and reached its decision relative to the appeal. And, finally, we find nothing in the evidence and testimony to support the allegation that the School Committee acted in bad faith, arbitrarily or capriciously in this matter.

Accordingly, the appeal is denied.



Ennis J. Bisbano
Hearing Officer

Approved: 

J. Troy Earhart
Commissioner of Education

April 4, 1990