

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

PAUL M. :

vs. :

MIDDLETOWN :
SCHOOL COMMITTEE :

D E C I S I O N

October 12, 1990

This matter was heard on March 20, 1990 upon the appeal to the Commissioner of Education by Paul M. [redacted] from a decision of the Middletown 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 of Education.

Due notice was given to the interested parties of the time, date and place of hearing. The appellant appeared pro se. The School Committee was represented by counsel. Testimony was taken, a transcript of which was made and evidence was presented.

Issue to be Decided

Did the School Committee and/or its agents act in bad faith, arbitrarily or capriciously when it caused the appellant's son's quarterly grade in History to be lowered by five (5) points because of one (1) unexcused absence?

Facts of the Case

1. The appellant and his son, A. [redacted], are residents of Middletown.
2. The appellant's son, A. [redacted], is in the tenth grade at Middletown High School.
3. A. [redacted] is a student in Mr. William Rearick's United States History 10 class.
4. Mr. Rearick has developed a Management Plan for his History 10 class, which was submitted to the Administration for approval, and

which a copy thereof was given to every student in the class at the beginning of the school year. (Respondent's Ex.#4).

5. The Management Plan states that "If a student cuts a class, ten (10) points will be taken off of their quarterly grade each time they cut."
6. A missed one of Mr. Rearick's classes one day without an excuse, and, as a result Mr. Rearick lowered Adam's quarterly grade five (5) points, from a 73 to a 68. (Tr. p.12).
7. Mr. M appealed the lowering of A 's quarterly grade to the principal, the Superintendent of Schools and ultimately to the School Committee.
8. The School Committee granted a hearing to the appellant on February 8, 1990, in executive session.
9. By letter dated February 12, 1990, the School Committee through its Chairman responded to Mr. M 's appeal. (Appellant's Ex.A).

Prior decisions of the Commissioner of Education which were cited by respondent have addressed the circumstances within which the Commissioner may or may not review grades. In George F. Mumford vs. Chariho School Committee, February 25, 1985, Margaret A. Bogart vs. Middletown School Committee, June 2, 1988, Margaret A. Bogart vs. Middletown School Committee, July 29, 1988, and Jane A.H.Doe vs. Tiverton School Committee, June 27, 1989, the Commissioner made it clear that he does not review grades nor will he substitute his judgment for that of the professional educators who have been given the responsibility for making such decisions. 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 or its agents have acted arbitrarily, capriciously or in bad faith.

It has been said that Courts do not interfere with the management of a school's internal affairs unless "there has been a manifest abuse of discretion or where [the school official's] action has been arbitrary or unlawful." State ex rel. Sherman v. Hyman, 180 Tenn.99, 171 S.W.2d 822 L.Ed. 1703 (1942), or unless the school authorities have acted "arbitrarily or capriciously." Frank v. Marquette University, 209 Wis. 372, 245 N.W. 125 (1932), or unless they have abused their discretion, Coffelt v. Nicholson, Ark. 176, 272 S.W.2d 309 (1954), People ex. rel. Bluett v. Board of Trustees of University of Illinois, 10 Ill. App.2d 207, 134 N.E.2d 635, 58 A.L.P.2d 899 (1956).

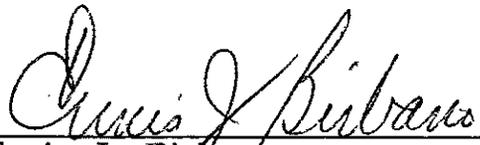
Appellant testified that he is challenging the action of the teacher when he implemented a classroom management plan which in the appellant's opinion contradicts the Student Handbook, Teachers' Handbook and Policy Manual of the Middletown School Committee because it places in effect a teacher policy which imposes a more severe penalty than what is stated in either of those publications. Appellant argues that the teacher policy which allows him to decrease a student's quarterly grade by anywhere from 1 to 10 points for each unexcused absence is much too harsh a penalty. He argues that the teacher action which decreased his son's quarterly grade by 5 points as a result of one unexcused absence is "way out of proportion to the offense." Finally, appellant argues that the action of the teacher when

he dropped appellant's son's quarterly grade by 5 points as a result of one unexcused absence is arbitrary and capricious.

Respondent argues that the action of the teacher in decreasing the quarterly grade by 5 points was not a disciplinary action but was an academic penalty. The teacher testified that a majority of the grade in his class comes from three main areas, namely homework, class participation and research projects. He testified that the final exam is worth 20% of the grade and quizzes and test scores make up about 40%. He further testified that he considers class participation to be the most important of the three areas stated above. He admitted under cross-examination that class participation accounts for 25% of the daily grade, and that using 30 days in a quarter, participation in class would account for approximately 1% of the quarterly grade. (Tr.p.22). He also admitted that lowering appellant's son's quarterly grade by 5 points for one unexcused absence was in excess of 1% of the quarterly grade.

In accordance with the testimony and evidence presented, it is our decision that the Middletown School Committee and/or its agents acted arbitrarily when it adopted the Teacher's Classroom Management Plan (Respondent's Ex.4), and when the teacher caused the appellant's son's quarterly grade in History to be lowered by 5 points because of one unexcused absence. We do not order any revision of the student's grade because the issue of substantial academic loss was not raised or addressed. However, we order the School Committee to review its

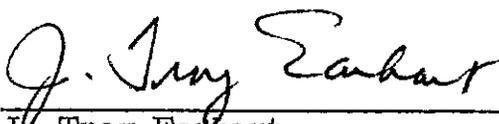
policies on grading, and ensure that the Teacher's Classroom Management Plan is in compliance with prior decisions of the Commissioner of Education as cited above so that any such future decisions will not be arbitrary.



Ennis J. Bispano
Hearing Officer

Approved:

October 12, 1990



J. Troy Earnhart
Commissioner of Education