

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

SANDRA	F	:
		:
vs.		:
		:
PROVIDENCE SCHOOL BOARD,		:
PROVIDENCE TEACHERS' UNION,		:
and		:
CYNTHIA MARSELLA		:

DECISION

Held:

Teacher's assignment of the grade of 74 on a makeup Chapter test was arbitrary and the grade should be recomputed. Matter is remanded to the School Board for such recomputation.

February 25, 1992

Travel of the Case

This grade dispute was appealed to the Commissioner of Education after a Marks Committee, convened pursuant to Section 8-10.1 of the Providence teachers' contract, denied the appellant's request that her daughter's grade in a make-up civics test be recomputed. The undersigned was designated by former Commissioner J. Troy Earhart to hear and decide this appeal on June 3, 1991, and the matter received an expedited hearing¹ upon the appellant's representation that without immediate intervention her daughter would be wrongfully disqualified from participating in Honors Night at Nathanael Greene Middle School. During the second full day of hearing, it became evident that the disputed grade prevented the child from receiving High Honors, but that she was eligible to participate in the ceremony and receive the next level of recognition for academic achievement, "Honors".²

At the conclusion of the hearing on June 5, 1991 counsel for both respondents requested opportunity to submit written memoranda and provide oral argument in this case, even though the honors ceremony was scheduled for that night, June 5, 1991. At that point, the undersigned granted the request because the obvious prejudice to the respondents in proceeding in an expedited fashion outweighed the interests of the appellant's daughter in receiving the higher award at a ceremony she would, in fact, be eligible to attend.³

Briefs were submitted and oral argument presented, a process which concluded on August 20, 1991.

Jurisdiction to hear this appeal lies under R.I.G.L. 16-39-1

1) over objection by counsel for the Providence School Board and counsel for the Teachers' Union.

2) According to the student handbook (Appellant's Ex.C) High Honors is reserved for those students who receive no grade below a B, whereas "Honors" is for those who have received no more than five C's with no mark below "C" in any subject.

3) The importance of the distinction between the two awards is not meant to be minimized, especially as it is perceived by an eighth-grader.

Findings of Relevant Facts

- K. was enrolled in the eighth grade at Nathanael Greene Middle School during 1990-91.
- K was enrolled in the gifted program, and for the first three quarters of the 1990-91 school year was assigned to Ms. Cynthia Marsella's civics class, initially in the period six class and later in the period three class. The change in class periods occurred sometime after January, 1991. (Tr.p.130-1, Vol.I).
- K's average for the first quarter in civics was 80.⁴ (Res. Ex.8).
- K's average for the second quarter in civics was 84.⁵ (Res. Ex.8).
- K's third quarter average is determined by several components - her grade of 74 in Chapter 4 "activities", 83 in her individual debate performance, 81 in the evaluation of her debate team performance, 49 in her current events quizzes and finally whatever grade one ascribes to the "makeup" Chapter test which is the focus of this dispute.
- K received a grade of 44 on the initial Chapter test entitled "Chapter 4 based on Preamble and 7 Articles" (of the United States Constitution). (Resp.Ex.2). This test was administered to her on February 6, 1991.
- At the request of Mrs. F and after discussion with Katia M. Paris, the Principal of Nathanael Greene, Ms. Marsella agreed to administer a "makeup" Chapter test to K. (Tr.Vol.I, p.197).
- Prior to taking the test, K requested direction on what material the makeup test would cover. Ms. Marsella responded in writing "Preamble and 7 Articles of Constitution:" (Tr..Vol.I,pp.61-64, App. Ex.A).
- On April 26, 1991 K was administered an eighty (80) question ob-

4) an 80.5.

5) an 84.33

jective test;⁶ two of the 80 questions called for two answers, i.e., questions 33 and 34. (Resp. Ex.5).

- K answered thirteen (13) questions incorrectly; one of her incorrect answers was to question 33. (App. Ex.B).
- Ms. Marsella gave K a grade of 74; she deducted two (2) points for each incorrect answer. (Tr.Vol.I p.199).
- Ms. Marsella's rationale for deducting two (2) points for each wrong answer was that the test contained twenty (20) questions on material she considered so familiar to students that they were "automatic" right answers. (Tr.Vol.I p.207).
- In the grading of other components of Ms. Marsella's civics class, the scoring was such that it was possible to achieve a grade of over 100; for example, a student could conceivably score as high as 150 on current events quizzes.
- Ms. Marsella also deducted two points for each incorrect answer when a substantially similar⁷ test was given to her period three gifted class on January 30, 1991, prior to K's entry into that class period. (App. D1-3).
- K was not told at the time Ms. Marsella handed her the makeup test that two points would be deducted for every wrong answer (Tr.Vol.I p.172) and the test itself did not indicate that each incorrect answer would result in a deduction of more than a mathematically proportionate percentage for each answer.⁸ (Res. Ex.5).

6) multiple choice, true and false, and fill-in-the-blank.

7) K's test had 80 questions; those of the other children offered in evidence had 78 questions.

8) Respondent's Exhibit 10 shows that 1.25 points would be deducted on an 80-item test wherein each answer counted its mathematically proportionate share; 1.22 points would be the deduction if one considers the makeup test an 82 item test because of the subparts to two of the questions.

- K was not previously administered an objective test in which each wrong answer resulted in the deduction of a mathematically disproportionate number of points. (Tr. Vol.II pp.201-202).
- Three of the questions on the makeup test were based on material not contained in either the Preamble or the Articles of the Constitution.

DECISION

In proceeding before the Commissioner, the appellant challenges the reasonableness and fairness of just about every element of Ms. Marsella's civics class. Evidence was presented in an attempt to show that the teacher, at the outset of the course, miscommunicated the preparation⁹ that was necessary in order for a child to do well in the current events quizzes. The appellant also alleged that the grading of the quizzes was unfair in terms of the teacher's unreasonable rejection of "close" or misspelled correct answers. The ultimate weight given to the current events quizzes in computing the student's grade for the quarter was alleged to be inconsistent with Ms. Marsella's indication to Mrs. F. that the quizzes were an "insignificant" portion of the civics' grade. (Tr. Vol. II, p.8). The student's score on the third-quarter debate was alleged to be unfair because K was assigned a partner whose individual score resulted in a lower averaged team grade. This, together with the fact that K's team had the alleged disadvantage of being the first team to debate,¹⁰ is offered to show a deliberate scheme on the part of this teacher to thwart K's attempt to get a grade of B or above in civics. Implicit¹¹ in the appellant's presentation was that the grading of her daughter was not only arbitrary, but in bad faith as well.

9) K testified that Ms. Marsella told her students that either watching the television news or reading the daily paper was sufficient preparation for the quizzes, when in fact the source of the questions was consistently The Providence Journal. (Tr. Vol.I, pp.47-50).

10) Thereby allowing those who followed to learn from K's team's mistakes.

11) The bad faith argument is made explicit and amplified in the appellant's written final argument, received June 27, 1991.

Our review of all the evidence presented in this case, including each and every quiz administered to Ms. Marsella's classes, does not indicate that Ms. Marsella acted in bad faith. From the information in the record before us it is clear that her civics classes for gifted students, i.e., period three and six in school year 1990-91, were rigorous. The components of the course demanded much work by the students. Likewise, in structuring the course the way she did, the teacher demanded much of herself in terms of class preparation time and grading of students' work.

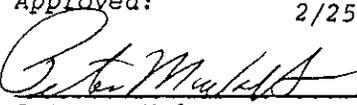
Ms. Marsella agreed to allow K to take a makeup test for the third quarter Chapter test on which K had received a grade of 44. The fairness of the original grade on the Chapter test is not contested. K's grade on the makeup Chapter test was the focus of this appeal, and it has become our focus on review as well. The test was substantially similar to that administered over several years to all class levels taught by Ms. Marsella. The evidence showed conclusively that the scoring of the test was consistent with the manner in which the test was scored when administered to the period three class (Ex. D 1-3) earlier in the academic year. Despite the fact that the test and grading process were shown to be "consistent", we are troubled by the fact that the test, as administered to K, covered material that went beyond "Preamble and 7 Articles of Constitution" as the teacher had indicated in writing prior to the test.¹² Also of concern is the fact that without any prior indication, a student finds an "objective" test is no longer objectively graded in that instead of 1.25 or 1.22 points per answer, each wrong answer results in a penalty-like deduction of two points. The explanation for this scoring system (i.e., twenty of the questions were automatic right answers) does not provide a logical

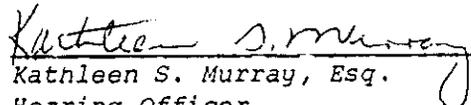
12) Perhaps students in other classes who took this test understood that the test material covered amendments when an amendment modified an Article of the Constitution. However, we would note that two of the other three students whose test results are in evidence got the disputed "amendment" questions wrong, and the other student, who received a 92 got one out of the three incorrect.

reason for a two point deduction.¹³ Given the lack of a reasonable explanation for the scoring and the lack of notice to the student, we find that the grade on the test was arbitrary. We do not, in so finding, mean to imply that every objective test must be graded with mathematical precision or that penalty-type grading formulae are unacceptable. On many occasions students, especially gifted students, could be expected to meet the challenge of a wrong answer or grammatical error resulting in drastic consequences, i.e., a zero or weighted penalty. Under the circumstances presented here, however, especially with the lack of notice to the student, to deduct two points for each incorrect answer was arbitrary.

Given our findings, this matter is remanded to the Providence School Board for recomputation of this student's grade consistent with our findings herein. Assuming in recomputing K 's grade that the School Board determines her grade for any quarter, or any component of any quarter to be .5 or less away from the next highest number, the School Board should determine its policy on "rounding off", and apply this policy to any calculations relevant to the redetermination of K 's grade.

We think it necessary that disputes of this type be heard first by the school committee involved. But for the fact that at the time of hearing it was our understanding that the child would be unable to attend an honors night scheduled for that evening, we would have remanded the matter forthwith and required exhaustion of remedies as counsel for the respondents have argued.

Approved: 2/25/92

Peter McWalters
Commissioner of Education


Kathleen S. Murray, Esq.
Hearing Officer

13) Sixty (60) questions which were not "giveaways" remained and under the teacher's scoring system, one could still get 10 correct and receive a zero. Had the teacher testified that 30 questions were considered automatic right answers, our analysis would probably be different.