

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

IN THE MATTER OF STUDENTS JANE AND JOHN A. DOE :

DECISION

Held: Students are not entitled
to total exemption from high
school course requirements
in physical education/health.

DATE: FEBRUARY 4, 1997

Introduction

This matter concerns an appeal from the Barrington School Department's refusal to exempt Petitioner's children from the physical education/health portion of the high school curriculum.¹

For the reasons set forth below, we deny the appeal.

Background

Petitioner is the father of two children who attend Barrington High School. According to the "Graduation Requirements" section of the High School Program of Studies handbook, students must earn 22 credits, including two in physical education/health, in order to graduate. [Petitioner's Exhibit 2]. Physical education/health is a full-year course. A student earns a 1/2 credit for each course completed. The handbook also states that "[u]nder extenuating circumstances, the credit requirement for physical education/health may be waived for medical reasons."

Two other sections of the Program of Studies handbook were introduced into evidence at the hearing: (1) the "Physical Education/Health" section, which provides a description of the course [Petitioner's Exhibit 6; see Appendix I], and (2) the Early Graduation section, which states in part that

At the request of a student and parent, the four year requirement for graduation may be waived. Students who complete the requirements for graduation in less than four years may receive a diploma at the next scheduled graduation ceremony. [Hearing Officer's Exhibit 1].

1 The Commissioner of Education designated the undersigned hearing officer to hear and decide this appeal. A hearing was held on August 28, 1996, and the record was supplemented with additional information on September 5, 1996.

With regard to early graduation, Superintendent of Schools Ralph Malafronte testified that students may graduate at the end of their junior year or the first semester of their senior year provided they have 22 credits.² Early graduates who pursue post-secondary education must satisfy any physical education/health requirements in their first-year program in order to receive their Barrington High School diploma at the next scheduled graduation ceremony. If the first-year post-secondary program does not include coursework in physical education/health, the early graduate is excused from completing the remaining portion of the high school's two-credit physical education/health graduation requirement.

Mr. Malafronte further testified that although he denied Petitioner's request for a total exemption from the physical education/health requirement, Petitioner's children have been granted exemptions from selected areas of the health program as provided by state law.

Petitioner testified that instruction in physical education and health conflicts with his "family core beliefs and values." [Transcript, p. 6]. Petitioner declined to elaborate on the basis for his waiver request other than to say that three-quarters of the physical education activities involve "aggressive, contact competition." [Tr., pp. 24-25]. Petitioner also declined to identify the types of physical education activities that he would consider appropriate for his children.

2 According to Mr. Malafronte, 20 students opted for early graduation in the past 5 years. Four left at the end of their junior year, and 16 left after completing the first semester of their senior year. All 20 were enrolled in physical education/health while they were at Barrington High School.

Positions of the Parties

In seeking a total exemption for his children from the physical education/health requirement, Petitioner contends that (1) the School Department's early graduation policy and its practice of providing students with physical education/health 100 minutes a week violate R.I.G.L. 16-22-4; (2) the "Graduation Requirements" and "Early Graduation" sections of the Program of Studies document are inherently inconsistent and in effect provide early graduates with waivers from the physical education/health requirement for nonmedical reasons; and (3) the core beliefs and values of Petitioner's family warrant similar treatment as medical reasons for purposes of a waiver.

The School Department asserts that all students, except those excused for medical reasons, receive instruction in physical education/health consistent with state law and the Program of Studies handbook for as long as they attend Barrington High School.

Discussion

R.I.G.L. 16-22-4 states in pertinent part that

all children in grades one through twelve (12) attending public schools . . . shall receive therein instruction in health and physical education . . . during periods which shall average at least twenty (20) minutes in each school day.

R.I.G.L. 16-1-5(n) mandates a state health education, alcohol and substance abuse curriculum for grades kindergarten through 12. R.I.G.L. 16-22-17 directs that comprehensive AIDS instruction shall be a basic education program requirement. The statute includes a provision stating that

A parent or legal guardian may exempt his or

her child from the program by written directive to the principal of the school. No child so exempted shall be penalized academically by reason of such exemption.

R.I.G.L. 16-22-18 contains an identical waiver provision for students attending secondary schools that teach courses in family life or sexual education.

We initially find that the School Department's early graduation policy and its practice of providing students with 100 minutes of instruction per week in physical education/health are consistent with the requirements of R.I.G.L. 16-22-4. We note that all students who attend Barrington High School are required to take courses in physical education/health unless they are excused for medical reasons. This complies with the statute which applies to children attending public high schools and requires instruction averaging at least 20 minutes a school day. Early graduates no longer attend Barrington High School, and 100 minutes of physical education/health instruction per week represent an average of 20 minutes a school day.

As for the alleged inconsistency between the graduation requirements and the early graduation policy, school committees in Rhode Island have the authority to establish curriculum and to adopt reasonable requirements for graduation from high school. We do not find the School Committee's policies in this area to be arbitrary or capricious in light of the fact that they require all students, except those with medical excuses, to take courses in physical education/health for as long as they attend Barrington High School. The early graduation policy, particularly as it relates to instruction in physical education/health, does not violate any state

law, regulation, or basic education program requirement. We find it to be reasonable.

We also find the medical-reasons waiver provision of the physical education/health requirement to be reasonable. A student's medical condition is rationally related to his or her ability to complete coursework in physical education/health. A waiver limited to medical reasons is a permissible exercise of the School Committee's discretion. Of course, school committees must respect the constitutional rights of families and students in exercising their authority. To the extent Petitioner's request for an exemption may be based on religious considerations, it is well established that a party asserting a violation of his or her First Amendment rights has the initial burden of proving that the state requirement or restriction has a coercive effect on a religious belief or practice.³ Petitioner has failed to meet this burden. In addition, the United States Supreme Court has rejected the argument that the right of privacy should be extended to protect parental decisions concerning the manner in which their children are educated from state interference.⁴

Conclusion

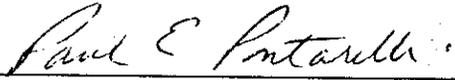
Petitioner has not established any basis for exempting his children from the physical education/health course requirements at Barrington High School. Aside from the statutory waivers provided in the areas of AIDS education and instruction in sex and family life, the course requirements in physical education/health apply

3 Abington School District v. Schempp, 374 U.S. 203 (1969).

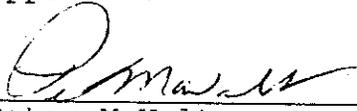
4 Runyon v. McCrary, 427 U.S. 160 (1976).

to Petitioner's children during their attendance at Barrington High School.

The appeal is denied.


Paul E. Pontarelli
Hearing Officer

Approved:


Peter McWalters
Commissioner of Education

Date: FEBRUARY 4, 1997