

State of Rhode Island

Commissioner of Education

and

Providence Plantations

John Doe

vs.

The North Smithfield School Department

DECISION ON INTERIM ORDER

Held: Request for Interim Order is Denied

10 June 1998

On June 8, 1998 Mrs. John Doe filed a request for an "immediate hearing" to appeal the "failing grade issued to my son." The request further claimed that because of the contested failing grade, John Doe would not graduate from North Smithfield High School as scheduled on June 10. The appeal was received by this office on June 9 and Nicholas Trott Long, Esq. was assigned to be the hearing officer.

A conference telephone call was held on the afternoon of June 9 among Mrs. Doe, Dr. Rick Scherza, North Smithfield Superintendent of Schools, Richard Ackerman, Esq., attorney for the North Smithfield School Department, Ms. Teodora Monteiro, Administrative Assistant in the Department of Elementary and Secondary Education, and Mr. Long. Mr. Long disclosed to the parties that he had submitted a professional proposal to the North Smithfield School Committee which had not yet been considered by the School Committee but was pending. He further disclosed that in the course of presenting this proposal he had made the acquaintance of the North Smithfield Superintendent, Rick Scherza. He stated that he nevertheless felt he could impartially hear the case and after some discussion, the parties agreed that Mr. Long need not recuse himself.

On 10 June the hearing commenced at approximately 12:30 p.m.. Present for the appellant were John Doe, his mother, Mrs. Doe, and Mrs. Sandra M., a friend of Mrs. Doe and a mother of a fellow student at North Smithfield High School. Present for the school department were Dr. Scherza and Mr. Ackerman.

John Doe, Mrs. Doe, Mrs. M. and Dr. Scherza all testified. In addition, several written exhibits were stipulated to and jointly submitted. These consisted of Mrs. Doe's appeal to the Commissioner, (Exhibit. 1), John Doe's English grade's for the 1997-98 academic year, (Exhibit 2), John Doe's English syllabus for the 1997-1998 academic year, (Exhibit. 3), and notices of academic deficiencies given either to John Doe or his mother at various times throughout the year, (Exhibit. 4). While Mrs. Doe asserted that she did not receive one of the Exhibit 4 notices and had no recollection of having received a phone call memorialized in another, it was agreed by both sides that the remaining 15 pages making up Exhibit 4 were sent to and received by either John Doe or his mother.

John Doe is not scheduled to graduate from North Smithfield High School with his class because he failed his senior English class, taught by Mrs. Wims. His English grades for the four quarters of this academic year were 60, 50, 71, and 45. His semester grades, which factor in end-of-semester tests, were 58 and 57. His final grade was 58. A passing grade in the course is 70. Contributing to John's poor grade were his failure to turn in seventeen of sixty-four projects, his turning in eleven of forty-four projects late¹, and his failing of nine of thirteen tests.

¹ It is not clear from the record why the remaining total is not forty-seven, as opposed to forty-four.

John and his mother acknowledge that his academic performance does not meet the published standards of the High School. They also acknowledge that he received a detailed syllabus at the beginning of the school year that outlined the course requirements. They further acknowledge that, as early as October 3, 1997, Mrs. Wims sent a notice to Mrs. Doe advising her that John was failing and that, as early as 18 November 1997, Mrs. Doe and her son were advised he was at risk of not graduating in June due to, *inter alia*, poor grades in English.

Notwithstanding the foregoing, John and his mother believe he has been treated unfairly because other students, similarly situated, have been permitted to "make up" work and graduate. If this were, in fact, the case, Mrs. Doe's and John's dismay would be understandable, if not necessarily remediable.

Although some evidence was presented indicating that other students who had done poorly were being permitted to graduate, Dr. Scherza testified that he had reviewed the records of every student in Mrs. Wims' class and, in fact, no other student's academic performance was as poor as John's. Indeed, Mrs. M., whose daughter is apparently going to graduate and who presented her daughter's academic performance as comparable, admitted that her daughter's final grade was a 66 as compared with John's 58. Moreover, Mrs. Doe agreed that she had no basis upon which to doubt the accuracy of Dr. Scherza's assertions on this point.

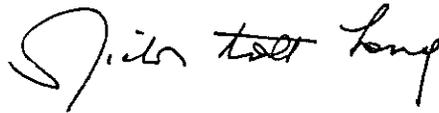
John Doe also testified that he felt he had been treated unfairly by Mrs. Wims and that his poor performance was due in part to the manner in which she treated him. Mrs. Doe also testified that she felt her son was being singled out as punishment for Mrs. Doe's having come to the defense of her son. The evidence, however, belies this conclusion. John acknowledged that he never raised his concerns with either Mrs. Wims, the English Department Chair at North Smithfield High School nor with the school principal. Mrs. Doe acknowledged that she didn't make contact with Mrs. Wims or other school authorities until midway through the Spring Semester.

In sum, it appears that John Doe is reaping the consequences of his year-long failure to meet his academic obligations. He is a personable young man and his current situation is most regrettable. However, there is nothing that the Commissioner of Elementary Education can or should do to alter the current state of affairs.

During the course of the hearing Mrs. Doe articulated a desire for her son to participate in the graduation ceremonies and receive a blank diploma if he could not actually graduate. There is, however, a North Smithfield School Department policy, published in the student handbook, that prohibits this. It states that "Only seniors who have attained all the necessary graduation requirements will be allowed to participate in the Commencement Exercises." This policy is in accord with those of many other Rhode Island school committees and the

Commissioner has consistent upheld policies such as these. The rationale was well articulated in a 1994 case involving the Warwick School Department. There the Commissioner wrote, "while Warwick policy on graduation ceremonies is stringent we can find no law or regulation which it violates. A policy of this sort certainly encourages completion of all course work and it serves to validate the achievement of those students who participate in the graduation exercise."²

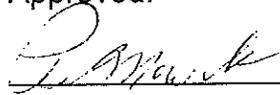
For all of the above stated reasons, the appeal and request for an interim order is denied.



—

Nicholas Trott Long, Hearing Officer

Approved:



10 June 1998

Peter McWalters

² John B. A. Doe vs. Warwick School Department, June 10, 1994