

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

JANE B.E. DOE

VS.

CUMBERLAND SCHOOL COMMITTEE

DECISION

Held: School Committee's decision to
retain student in 7th grade is not
unreasonable or arbitrary.

August 27, 1998

Introduction

This matter concerns an appeal by the mother of student Doe from a decision¹ of the Cumberland School Committee requiring student Doe to repeat the 7th grade.

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

Background

Student Doe attended the 7th grade during the 1997-98 school year.² First quarter report cards were issued in November 1997. Of the 5 subjects in which student Doe received a numerical grade, she received a 77 in reading, 76 in English, 72 in science, 71 in social studies, and 67 in mathematics. All of her teachers in these courses indicated on the report card that student Doe was capable of better work, and her social studies and science teachers further noted her failure to complete homework and/or³ assignments.

Also in November 1997, student Doe's parents attended a conference with their daughter's mathematics, science and social studies teachers. The teachers again informed student Doe's parents that she was capable of better work.

In late November and mid-December 1997, student Doe's parents received

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- 1 The Commissioner of Education designated the undersigned hearing officer to hear and decide the appeal. A hearing was conducted on July 13, 1998.
 - 2 Student Doe completed the 6th grade with a failing grade (65) in social studies and grades of 70 in mathematics and science. A passing grade is 70 or above. Final grades are determined by averaging the 4 quarterly grades.
 - 3 In a letter to student Doe's mother dated October 15, 1997, the mathematics teacher expressed her concern with student Doe's performance and stated that extra help was available after school three days a week. Student Doe did not take advantage of this opportunity.

progress reports. The student handbook, which student Doe's parents acknowledged receiving at the beginning of the school year, states that

Students who fail two or more subjects will receive progress reports which indicate current grades, effort, conduct and homework. These bi-weekly reports must be signed by a parent and returned the following day. [School Committee Exhibit 4].

The December 1997 progress report, signed by student Doe's mother, listed grades of 77, 76 and 42 in science, mathematics and social studies, respectively. Each of those teachers indicated that student Doe had failed to complete her homework assignments. Student Doe's second-quarter report card contained grades of 73 in mathematics, 61 in social studies and 60 in science, with notations of missed homework assignments⁴ in each subject. During this time, student Doe's mother signed failed tests and assignments that were sent home by her daughter's teachers.

On January 30, 1998, student Doe's parents were notified in writing that their daughter "is failing or in danger of failing" the subjects of reading, mathematics, social studies and science after the second quarter. The notice further stated that "[a]ny student who fails three subjects will repeat the grade."⁵ [School Committee Exhibit 11].

While student Doe received a grade of 76 in reading on her third quarter report card, she received grades of 63 in social studies, 62 in science, and 61 in mathematics. The teachers in all three failing subjects indicated that student Doe failed to complete her homework, and that she was inattentive and/or disinterested in class. On April 6, 1998,

4 Student Doe also received a grade of 65 in reading, following her grade of 77 in the first quarter.

5 The school district's promotion/retention policy contains an identical provision.

student Doe's parents received a form similar to the January 30, 1998 notice which stated that student Doe "is failing or in danger of failing" mathematics, social studies and science after the third quarter. The notice again warned that the failure of three subjects would result in the student being retained in the grade. [School Committee Exhibit 13].

Student Doe's parents acknowledged the receipt of additional progress reports on April 29 and May 13, 1998. Those reports indicated grades of 77 and 71 in mathematics, 71 and 73 in social studies, and 65 and 82 for science. The same notations regarding homework and attentiveness appeared on the reports.

In June 1998 student Doe received her fourth-quarter report card. Her quarterly grades in social studies, science and mathematics were 68, 62, and 60, respectively. She received failing final grades of 66 in mathematics, 66 in social studies, and 64 in science.

Student Doe's mother testified that upon receiving the first-quarter report card, she telephoned her daughter's guidance counselor for the purpose of exploring ways to improve student Doe's academic performance. Student Doe's mother further testified that she did not get a return telephone call from the guidance counselor on this or any of the approximately half-dozen telephone messages she left for the guidance counselor during the course of the school year. According to student Doe's mother, when her daughter mentioned the phone messages to her guidance counselor, the counselor stated that he had returned the call and left a message on the answering machine. Student Doe's family does not have an answering machine. Testimony further revealed that student Doe's parents did not attempt to contact any of their daughter's teachers or school administrators during the school year, nor did they try to contact the guidance counselor

by any means other than the telephone.

Positions of the Parties

Appellant contends that the retention of student Doe in the 7th grade is unfair and detrimental to her interests. Appellant argues that the guidance counselor's failure to contact the parents or to initiate any remedial measures during the school year deprived their daughter of the opportunity to successfully complete the 7th grade. Appellant claims that the school district sent mixed signals in that the progress reports generally reflected higher grades than those eventually recorded for the quarter. Appellant also maintains that her daughter is incapable of coming to terms with the School Committee's decision, with the likely result being an exacerbation of the difficulties she experienced in the 7th grade last year. Appellant therefore requests that student Doe be promoted to the 8th grade.

The School Committee contends that it offered student Doe numerous opportunities and interventions to address her academic problems during the school year. The School Committee asserts that student Doe's failing grades are the result of a poor effort on her part, and that it would be a disservice to student Doe to promote her to the 8th grade on the basis of her 1997-98 academic performance.

Discussion

Under Rhode Island General Law 16-2-16, school committees have the authority to establish rules "for the attendance and classification" of students. As noted above, the School Committee adopted a middle school promotion/retention policy stating, in part, that students who fail three subjects will repeat the grade. Appellant is not

contesting this policy or the accuracy of student Doe's grades. While there is agreement, therefore, that student Doe did not successfully complete the requirements for promotion to the 8th grade, Appellant claims that the school district is responsible for this outcome. We cannot agree.

Assuming for purposes of argument that the guidance counselor did not attempt to return any of the approximately 6 telephone messages left for him during the school year, we are unable to find that student Doe's poor academic performance was the result of this circumstance or, even if it were, that her promotion to the 8th grade is an appropriate remedy.

Student Doe's difficulties with the subjects of science, mathematics and social studies were apparent from the outset of the 1997-98 school year, just as they were the previous school year. Student Doe's parents were made well aware of their daughter's academic difficulties. Notice from the school was continuous and detailed. It reported student Doe's current quarterly grades and assessed her effort and homework. There is no question that a serious remedial effort was in order early in the year. In our view, both parties share responsibility for its failure to occur. There is no getting

6 Contrary to Appellant's argument, we do not find that the current quarterly grades listed in the progress reports were misleading or in any way suggestive that student Doe's academic work was satisfactory. Furthermore, as stated in the student handbook, progress reports are only given to students who fail two or more subjects. The mere receipt of a progress report indicates that a student is experiencing serious academic difficulties.

7 The numerical codes for effort/attitude on both the report cards and progress reports include a comment for "Parent Conference Requested." This code was never entered on a report card or progress report by any of student Doe's teachers. We find this fact to be baffling and disturbing.

around the fact, however, that student Doe has failed to demonstrate a sufficient knowledge of science, mathematics and social sciences to warrant promotion to the 8th grade. While we can speculate about what might have occurred had the parties approached this situation differently, we cannot ignore the significance of student Doe's final grades. And while the remedy requested by Appellant might restore her daughter's chronological standing, it cannot repair her poor academic standing. That problem is likely to worsen in the future if we were to grant the immediate relief requested by Appellant.

We therefore find that the School Committee's decision to retain student Doe in the 7th grade is neither unreasonable nor arbitrary. However, it is critical that appropriate school personnel meet with student Doe's parents at the start of the 1998-99 school year to develop a plan to ensure that student Doe's repeat of the 7th grade is not a repeated failure. The plan shall specifically include provisions for effective communication between the home and the school. We would observe that a special-education referral may be in order, and a discussion should occur with regard to necessary counseling services for student Doe for the upcoming school year. It is our expectation that, in the best interests of student Doe, the parties will cooperate in the implementation of the terms of this decision.

Conclusion

The School Committee's decision requiring student Doe to repeat the 7th grade is not unreasonable or arbitrary. The appeal is denied, however, the parties are directed

to engage in the planning and student support activities discussed above.



Paul E. Pontarelli
Hearing Officer



Peter McWalters
Commissioner of Education

Date: August 27, 1998