0021-01

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

- -

Michael L.

v.

Johnston School Department

- -

DECISION

Held: This is an appeal from the decision of the Johnston public schools to deny the petitioner a high school diploma, and to disallow his participation in high school graduation exercises. We sustain the school's decision not to award this student a diploma. We find however, based upon the school's failure to promptly remove this student from a Chemistry course that he was clearly unprepared for, and based upon the school's failure to move him into an appropriate English class in a timely fashion, that this student is entitled to participate in graduation exercises.

DATE: June 13, 2001

Travel of the Case

This is an appeal from the decision of the Johnston public schools to deny the petitioner a high school diploma, and to disallow his participation in high school graduation exercises. Jurisdiction is present under R.I.G.L.16-39-1. R.I.G.L.16-39-2, and R.I.G.L.16-39-3.2 The petitioner argues that he should be allowed to graduate with his class, or at least participate in graduation exercises. The school district contends that this student has not met the academic requirements for graduation and that under district policy only those who are to receive a diploma are eligible to participate in graduation exercises.

Conclusions of Law

- The commissioner reviews a local grading decision to determine whether it was arbitrary, contrary to statewide academic policy, incorrectly computed, or made in bad faith.[1]

- In Rhode Island some school systems allow seniors who are short a credit for graduation to participate in graduation exercise with their class, and receive a blank diploma. An actual diploma is awarded after the student completes all academic work. Other Rhode Island school districts---and Johnston is one of them---only allow students have completed all requirements for graduation to get up on the stage.

- The commissioner has ruled that school districts may, as long as they act properly, follow either of these policies. Still there are times when fault on the part of the school may lead to a commissioner's ruling that a student is entitled to participate in graduation exercises even though the student is not yet eligible to receive a diploma.[2] Of course no diploma can be awarded until the student has completed all required work.[3] Diplomas are awarded on the basis of merit, never on the basis of equitable estoppel.

Findings of Fact

School records describe this student as "hard working and industrious." He "participates in class discussions." During this year "his work shows improvement." In fact, during this quarter he attained "Third Honors."

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[1] *Jane B.B. Doe v. Warwick School Committee*, Commissioner of Education, June 10, 1998
[2] *Gerald S. v. North Kingstown*, Commissioner of Education, June 16, 2000
[3] *Richard L. v. Johnston School Department*, June 12, 2001

The student in this case is being denied a diploma because he has failed to pass English III and Botany. He started his senior year by signing up for a college preparatory course in chemistry. He soon realized that he was not going to succeed in this course. He made fairly immediate efforts to drop it and get enrolled in Botany. Paperwork and administrative difficulties, none of which can be attributed to this student, seemed to have delayed this change until the second quarter. Difficulties with repeated changes in guidance counselors for this student caused further difficulties.

The student's first quarter grade in Chemistry was 25. Under Johnston policy this first quarter grade of 25 in Chemistry became as his first quarter grade in Botany. While he made great efforts to achieve in Botany (his 4th quarter grade was 91) his late start in the course, and his poor first quarter grade, have potentiated into final grade of 63, despite the fact that he has been allowed to take a make up examination. We find the Johnston policy of carrying over a grade earned in an unrelated dropped subject into the computation of the grade for an added subject is, on the record before us, arbitrary and unreasonable. A grade in Botany should represent work done in Botany---not Chemistry.

This student is taking third and fourth year English this year. He started the year in college prep English courses but soon realized that he could not handle the work. He tried to transfer into Basic English III and IV, but this change was not made until January 8. His grades in Basic English III and IV during the last two quarters have been A's and B's. In spite of these grades he barely passed English III with a final grade of 65. He failed English IV with a final grade of 51. The reason for these low final grades is found in the fact that he received zeros in several English examinations which he failed to take during the first semester. A vice-principal had specifically directed him to take these examinations.

The student explains his failure to take these examinations by pointing out that he knew he could not do the work---that was why he was trying to get into Basic English. He also argues that he had significant chest surgery in January, and this surgery contributed his un-preparedness to take these examinations. A letter from the student's physician documented this surgery, but the school misplaced this item until recently.

The fact remains however that this student was directed by school authorities to take these examinations whether he was prepared for them or not. In most circumstances we would find that the student's failure to even try to take the examination would foreclose relief. In the end however we are persuaded that this student's academic difficulties are, for the most part, the result of the schools administrative inertia in failing to heed requests to move this student

into courses in which he had a chance of success. The need to make these moves was manifest, but for some reason they did not take place in a timely fashion. In this respect we find this case to be very similar to our recent decision in Richard L. v. Johnston School Department.[4]

Conclusion

We sustain the school's decision not to award this student a diploma. We find however, based upon the school's failure to promptly remove this student from a Chemistry course that he was clearly unprepared for, and based upon the school's failure to move him into an appropriate English classes in a timely fashion, that this student is entitled to participate in graduation exercises.

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Forrest L. Avila, Hearing Officer

APPROVED:

_____ _____ June 13, 2001
Peter McWalters, Commissioner Date

[4] Commissioner of Education, June 12, 2001.