

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF  
EDUCATION

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**Student K.S. Doe**  
v.  
**Pawtucket School Committee**

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**DECISION**

Held: This case concerns a student who was dropped from a program for gifted and talented students when he failed to submit a required academic assignment. For this missed assignment he was awarded a grade which brought his class average below the district's requirement for remaining in the gifted and talented program. The grade now being contested was not arbitrary, contrary to a statewide academic policy, incorrectly computed, or made in bad faith. It therefore must stand. The school committee's decision in this matter must be, and is, affirmed.

DATE: July 9, 2004

### **Travel of the Case**

This case concerns a student who was dropped from a program for gifted and talented students because he failed to submit an assignment on time. This appeal was initially filed with the Commissioner's Office. Since no hearing had taken place at the local level this matter was remanded to the appropriate local school committee. After hearing this matter, the school committee affirmed the decisions and doings of its employees. The matter was once again appealed to the Commissioner's Office where hearings were held. We had hoped to be able to resolve this matter through the appointment of a special visitor, but appropriate arrangements could not be made. The school committee concerned has now moved that we decide this matter on the merits. The petitioner has moved for further wide-scale discovery, including the examination of many teachers and administrators. In our view, however, this matter involves only issues of law that are now in order for resolution.

### **Findings of Fact**

1. Student Doe is a fourth grade student in a Rhode Island public school. He is an excellent student who has performed in an exemplary way in his school program. He participated in his school's program for gifted and talented students. Students in the district's gifted program receive special instruction in Mathematics and Language Arts. Student Doe's participation came to an at least temporary end when he failed to submit a mathematics assignment to his regular classroom teacher.
2. For this missed assignment he was awarded a grade of zero. This grade brought his class average down to below a "B" level in the third quarter. District policy requires students in the gifted and talented program to maintain a "B" average. This average is checked on a quarterly basis.
3. The teacher testified that she requested this student three times to submit the required assignment.
4. The school committee has the following guideline for its gifted program: "The child's first responsibility is to complete regular classroom work. If this work is not being completed the classroom teacher has the responsibility to keep the child from the program until the problem is resolved."
5. The school committee allows teachers great professional latitude in making grading decisions.
6. A conference was held where the parents had an opportunity to discuss this grading matter with the teacher and school officials.

## **Positions of the Parties**

### **Position of the Parents**

The Parents argue that, since under Regents regulations a three person team makes the decision as to whether or not a student will be admitted to a school's gifted and talented program, one teacher should not be allowed to take an action which has the effect of removing a student from a school's gifted and talented program. The parents also contend that it is arbitrary and capricious to assign a zero grade for academic work which has not been submitted.

### **Position of the School Committee**

The school committee submits that this is a straightforward case in which a student has failed to submit a required academic assignment. Since the work was not submitted, there is nothing inappropriate about lowering the student's grade to reflect the absence of the missing work. The fact that the student's grade is now below a "B" level requires the student to be removed from the school's gifted and talented program until the student's grades improve. There is nothing arbitrary or capricious in such a policy.

## **Discussion and Conclusions of Law**

While the commissioner has more authority than a court does to review an academic decision, in most cases the commissioner's review of a local grading decision is limited to determining whether the academic decision was arbitrary, contrary to statewide academic policy, incorrectly computed, or made in bad faith.<sup>1</sup> At the outset we note that this is not a case in which an academic penalty is being imposed because of student misconduct. Instead this is a case where an academic grade is being lowered because of a failure to submit required academic work.

The grade now being contested was not arbitrary, contrary to a statewide academic policy, incorrectly computed, or made in bad faith. It therefore must stand.<sup>2</sup>

We recognize that as a result of this grade the student is, at least temporarily, being excluded from the district's gifted program. However, the policy further provides that once the student's grades again meet requirements, the student will again participate in the program. We can see nothing arbitrary about a school district requiring "B" grades in the student's regular subjects as a condition for participation in the district's gifted and talented program. In saying this we recognize that this may mean that the decision of one teacher may cause a student to be exited from the district's gifted and talented program despite the fact that a three-member team decides on admission to the program. We see nothing anomalous about this since the purpose of the three-person admission team is to

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<sup>1</sup> *Feit vs. Providence School Board*, Commissioner of Education, February 25, 1992. *Jane B.B. Doe v. Warwick School Committee*, Commissioner of Education, June 10, 1998.

<sup>2</sup> *In the Matter of Student R.R. v. Warwick School Committee*, Commissioner of Education, May 19<sup>th</sup>, 2004.

ensure a full and comprehensive eligibility decision. This is very different from making an academic subject matter decision in a particular course and subject.

**Conclusion**

Since we can find no error here, it is our de novo decision that the school committee's decision in this matter must be, and is, affirmed.

AFFIRMED:

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Forrest L. Avila, Hearing Officer

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Peter McWalters, Commissioner

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July 9, 2004  
Date