

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF  
EDUCATION

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**In Re Student Doe**

**v.**

**Warwick School Committee**

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**Interim and Final Order**

Held: Warwick School Committee policy requires that the operation of the honors program at the high school level will be governed by appropriate regulations and procedures. Regulations governing the entry to an honors class from a non-honors class do not preclude a student who has dropped an honors class in the previous year from enrolling in an honors class in the subsequent year. Applying the written regulations to the facts in this case, Student Doe is clearly eligible, and was properly placed in Chemistry I Honors at the beginning of this school year. His request to return to this class should have been granted, and school officials must provide him with the necessary make up work and tutoring to facilitate his transition to the Chemistry I Honors class.

DATE: October 7, 2004

## **Travel of the Case**

The issue of Student Doe's eligibility to remain in the Chemistry I Honors class, from which he was unilaterally transferred on September 9, 2004, was raised by a petition filed by his parents with Commissioner McWalters on September 23, 2004. The petition included a Motion for the Issuance an Interim Protective Order under R.I.G.L. 16-39-3.2. The matter was assigned to the undersigned for hearing and decision on September 30, 2004. A hearing was scheduled as soon as practically possible, and this matter was heard on October 5, 2004. The petitioners appeared pro se and the Warwick School Department was represented by its legal counsel. Given the time constraints imposed on the issuance of this decision under R.I.G.L. 16-39-3.2, the decision in this matter is based on the hearing officer's notes of the testimony presented and the exhibits introduced into evidence. The parties received a full hearing, and neither side requested opportunity to present additional evidence at another time. On this basis, this matter is ripe for a final decision.

### **Issue**

Was Student Doe properly scheduled for and enrolled in the Chemistry I Honors (SC63) class at Toll Gate High School at the beginning of this school year?

### **Findings of Relevant Facts:**

- The Warwick School Committee has adopted a policy entitled "Honors Program/Advanced College Placement" which provides that operation of the honors programs/advanced placement programs offered in the high schools shall be governed by "appropriate regulations and/or procedures". Appellants' Ex. A.
- Written regulations developed pursuant to this School Committee policy set forth the requirements to enter high school honors classes, to remain in the honors program and to reenter the program if the student has been exited because of failure to maintain a B- cumulative grade.<sup>1</sup> Appellants' Ex.A.
- The regulations were approved by the Superintendent of Schools for the city of Warwick and last revised by him in March of 2002.
- The regulations provide that a student is eligible to enter a high school honors class from a non-honors class when they have attained an "A" in the non-honors class and have their teacher's recommendation. Appellants' Ex.A.
- The prerequisites for entry into the Chemistry I Honors class at Toll Gate, and at all of Warwick high schools, are previous "Honors" standing or SC 41 and Algebra I and permission from the student's teacher. Appellants' Ex.D.
- Student Doe met the entry requirements set forth in the Superintendent's regulation, and had the prerequisites described in the High School Program of Studies for

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<sup>1</sup> it is not clear if the policy contemplates reentry to the honors curriculum if a student has received a failing grade, or if it is just those who receive lower than a B- cumulative grade at the end of the year who may be considered for re-admittance after a one-year period.

Chemistry I Honors and was placed in the Chemistry I Honors course at the outset of this school year. H.O. notes; Appellants' Ex.B and C.

- Student Doe attended the Chemistry I Honors class from September 3 to September 9, 2004, when he was removed from the class and placed in the non-honors Chemistry I class (SC 62). H.O.notes.
- Both Student Doe and his parents were subsequently told that he was not eligible for placement in the honors class in this his sophomore year because of his withdrawal from the Biology I Honors class in the previous school year. H.O.notes.
- Student Doe and his parents were notified that school policy rendered him ineligible for the Chemistry I Honors course because the policy rendered a student ineligible for honors coursework in science if the student had dropped a science honors course in the previous academic year.<sup>2</sup>
- Student Doe's parents immediately questioned school officials regarding the existence, implementation and rationale of the referenced policy, and requested a copy of it. H.O.notes.
- At each level of review, up through the Superintendent, the existence of a policy was referenced, but no written policy was produced. H.O.notes.
- The principal testified that her recollection was that the policy has been longstanding and consistently applied. She believed that it was reduced to writing in a memorandum, but was not able to find it at the time of the hearing.
- Student Doe's guidance counselor testified that he acted on Student Doe's request to be admitted to honors Chemistry in June, 2004, after his final grade in Biology qualified him for entry into science honors. The guidance counselor testified he was aware of a policy regarding student ineligibility due to dropping an honors course in the previous year, but determined that the policy did not render him ineligible for Chemistry I Honors this year, because he had dropped the honors Biology course last year after a very short period of time in the first quarter. H.O.notes.<sup>3</sup>
- Student Doe's Biology teacher, and the teacher of the Chemistry I Honors course discussed his qualifications for the honors course on or about June 12, 2004 and agreed that Student Doe was qualified. They agreed that the biology teacher would convey permission for Student Doe to enroll in the Chemistry I honors class by sending a letter to the Guidance Office. Student Doe's parents were notified of this discussion and that their son had the requisite permission and recommendation. Appellants' Ex.C.
- In addition to meeting the written requirements for placement in the Chemistry I Honors class, Student Doe has an exemplary school performance record. Most of his courses in his freshman year were honors-level, and he attained all A's and two B's. He brought his Biology grade up from a B to an A during his freshman year. He is described by his teachers as an outstanding and conscientious student.<sup>4</sup> Appellants' Ex.B.

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<sup>2</sup> the record is not clear on whether or not the policy operates in program areas outside of Science, but an inference is drawn that the policy extends to all subject areas in which honors courses are offered.

<sup>3</sup> testimony placed the point of Student Doe's withdrawal from honors Biology in his freshman year from two to four weeks into the year. It is not necessary to resolve this factual difference to decide this case.

<sup>4</sup> with almost perfect attendance

- Student Doe’s father testified that if the policy relied on to exclude his son from his choice of honors chemistry this year was mentioned to him at the time he met with the guidance counselor and the honors Biology teacher last year (September 24, 2003), he has no recollection of it. He testified he was unaware of such a policy until it was mentioned as the reason for his son’s removal from the honors class on September 9, 2004. H.O. notes.
- Student Doe’s guidance counselor testified that he has no recollection of a discussion of the policy which would exclude Student Doe from honors Chemistry at the time he met with Student Doe’s father and the honors Biology teacher on September 24, 2003. H.O.notes.
- The honors biology teacher distinctly remembers discussion of the policy at the time she met with Student Doe’s father and the school guidance counselor. She remembers it was she who brought up the policy and its consequences for this school year. H.O. notes.
- The purpose of the policy is to discourage a student enrolled in an honors class at the high school from dropping the class, and to encourage him or her to remain in the class, by imposing the consequence of disqualifying the student from an honors class for one school year. The bar is for the entire subsequent school year and is limited to the subject science if the honors course which was dropped was a science course.<sup>5</sup> H.O. notes.
- The principal testified that the rule is not intended to penalize students. H.O.notes.

### **Positions of the Parties:**

#### The Appellants

The Appellants argue that the policy referenced by school officials cannot be applied to their son because it is not contained in the written regulations which govern operation of the honors program at Toll Gate High School. He insists that the alleged policy was not mentioned at the time he, together with his wife and son, made a family decision that this student would drop Biology I Honors, and opt for the less rigorous biology course for his freshman year. He points to the testimony of the guidance counselor which affirms his own recollection that the policy was not brought to his attention. If the policy were in writing he could review it to determine if it was correctly and fairly applied to his son. In the context of this case, he argues that the application of this policy is unfair. His son has met all of the written requirements to be returned immediately to his placement in the Chemistry I Honors course.

#### Warwick School Committee

Counsel for the School Department argues that there is a consistent practice, if not a written policy, by which students who drop an honors course are precluded from taking an

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<sup>5</sup> the record does not indicate that the rule applies regardless of at what point in the semester a student drops the honors class.

honors course in the subsequent school year. The policy is designed to discourage quick decisions on withdrawal from an honors-level course. The practice in this regard has been consistent at the high school over a long period of time, as school officials have confirmed. As with any policy or practice, it is important that it be uniformly applied, and in making the decision with respect to Student Doe, school officials are attempting to be consistent and fair in applying this policy. In addition, counsel notes that according to the testimony of the honors Biology teacher, students really do need Biology I Honors in order to be adequately prepared to take Chemistry I Honors in their sophomore year. In any event, application of the policy will not preclude Student Doe from taking honors Physics in his junior year when he will again be eligible to reenter the honors program in science, assuming he receives a grade of A in his regular Chemistry course this year. The practice is not to bar a student permanently from participation in the honors science program.

### **DECISION**

As with any interim order ruling,<sup>6</sup> the explanation of our finding that Student Doe should be reassigned to Chemistry I Honors class this year is necessarily brief. The Warwick School Committee under our law has the prerogative to develop school policy in the area of school programs and participation of students. R.I.G.L. 16-2-9; 16-2-16. The School Committee has evidently delegated its authority in the area of operation of its honors program to the Superintendent who must adopt appropriate regulations and has done so. Those regulations are contained in Appellants' Ex. A and control with respect to Student Doe's eligibility to enter the Chemistry I Honors course at Toll Gate. The regulations appear comprehensive, and were recently revised by the Superintendent. They include the subject of reentry to an honors course if a student has been exited, due to failure to maintain the required cumulative grade of B-. The written regulations approved by the Superintendent in March of 2002 do not include the one-year disqualification of a student who has dropped an honors course at any time during the prior school year. If the additional disqualification advanced by school officials were to be operative, it would have to be included within the context of these regulations. The Warwick School Committee has indicated through its own policy that the operation of the Honors Program will be controlled by written regulations, and not by unwritten policy or practice.

Having concluded that the Warwick school department was legally required to operate the honors program through written regulations, and that we find Student Doe eligible for the honors chemistry course pursuant to these regulations, we are constrained to note the confusion generated by the school department's reliance on unwritten policy and past practice. Student Doe was initially determined to be eligible for Chemistry I Honors by his guidance counselor,<sup>7</sup> and he was placed in honors chemistry this year. The assessment of the guidance counselor was that Student Doe had dropped the honors biology course so early in his freshman year, that the provisions of the policy did not bar him from placement in Chemistry I Honors this year. His interpretation of the policy at the time of hearing this matter

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<sup>6</sup> authority to proceed under the Commissioner's interim order authority was not challenged; it is clear that the issue in this case requires an expedited decision.

<sup>7</sup> who testified he was aware of the policy, and applied it correctly in Student Doe's case

had not changed. School officials need to make important decisions with respect to students, literally, from the same page. The need for incorporation of the unwritten policy or practice into the written document is clear.

From the testimony in this matter, it may be that when school officials go through the process of putting what is presently a practice into the form of a written policy, the provisions of the policy and its purpose may be explored by those who have the expertise to make these important decisions. We might observe that the expressed intent of the practice, i.e. to discourage students from a hasty decision to drop a challenging honors course, by imposing a consequence, actually works to bar a student from taking on the challenge of a different honors course in the subsequent year. If the purpose is to encourage qualified and motivated students to tackle the more difficult courses, why would there be an absolute bar in the subsequent year to a different course. The net effect is that a student desirous of undertaking the honors course is prevented from doing so, when there may be a strong likelihood that he could be successful in the course. Also, there could be a number of legitimate reasons why the student dropped the honors course in the first place, for example a determination that his or her overall course load for that year was too demanding.<sup>8</sup> The ineligibility called for by this policy could be viewed as a penalty (the term first used by the principal in her testimony) for such legitimate decisions even though it is not intended as such. All of these issues should be considered when it is determined whether or not the practice will be incorporated into the regulations.

For the foregoing reasons, the appeal is granted. Student Doe should be assigned to the Chemistry I Honors course for which he was originally scheduled. His transition back into this course should be accompanied by the opportunity to make up any work he has missed, and any remedial tutoring (at school department expense)<sup>9</sup> he may require to replace the instruction he has missed to date.

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Kathleen S. Murray, Hearing Officer

APPROVED:

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Peter McWalters, Commissioner

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October 7, 2004  
Date

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<sup>8</sup> We take administrative notice of the demands of a competitive high school environment, in which weighted courses and grade point averages impact a student's educational future.

<sup>9</sup> school officials could have let Student Doe remain in the class to which he was initially assigned while this dispute was pending. They chose not to do so and we do not feel the burden of having missed the more in-depth instruction of the honors class should fall upon him under these circumstances, and in the context of the other facts of this case.