

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

.....

Parents of Warwick Students

v.

Warwick School Committee

.....

DECISION

Held: This is the appeal from a decision of the Warwick superintendent of schools to change the examination process at all Warwick high schools. R.I.G.L.16-2-16 specifically vests in the school committee, and not in the superintendent, the authority to make major changes in both curriculum and instructional methods. We also note that, while the examination policy at issue concerning exempting "A" students from final examinations may not be a written policy, it has been the de facto policy of the school system for at least half a century. This matter is remanded to the school committee for a vote based upon regular procedure on whether or not to require all students to take final examinations. Since appropriate notice of school committee deliberations and concomitant input on this issue from the public will take time, a change in examination policy may not go into effect until the 2005-2006 school year.

DATE: May 23, 2005

Travel of the Case and Jurisdiction

This is the appeal of several Warwick high school students from a decision of the Warwick superintendent of schools to change the examination process at all Warwick high schools. The school committee has voted not to consider this matter. A direct appeal to the Commissioner is therefore appropriate in this case. Jurisdiction is present under R.I.G.L.16-39-1 and R.I.G.L. 16-39-2. Since examinations will take place within a few days after the close of the record before us we must write with a measure of haste. Our discussion of some of the issues in this case will therefore not be quite as extensive as we might wish.

Positions of the Parties

Petition of the Students and Parents

The students and parents in this case make several arguments. They contend first of all that an academic decision of this significance should have taken place only through the vote of the school committee. They next contend that the Warwick school authorities should be estopped from changing during the current school year well-established examination procedures that students have relied upon in making course selections.¹ They also argue that they were effectively denied an opportunity to be heard by the school committee before the complained of decision went into effect.

Position of the School Committee

The school committee argues that it had the right to delegate decision-making authority concerning the high school final examination process to the superintendent of schools. The committee also contends that since the policy to exempt students with “A” averages from final examinations was not written, it is not a real policy, even though the unwritten policy had existed for close to 50 years in the high schools of Warwick. The committee submits that parents and students had adequate opportunities to voice their concerns and that the school committee is both aware of and content with the superintendent’s decision to require all high school students to take final examinations.

Findings of Fact

1. For many years the high schools in Warwick have had a basic unwritten policy that students who have an A average in a course will not be required to take a final examination in that course.² The superintendent of schools testified that

¹ See: *Gould v. Chariho Regional School District*, Commissioner of Education, May 26, 1988.

² Warwick has other unwritten policies of long standing which the Commissioner has sustained. For example, Warwick has an unwritten policy of not allowing students to participate in graduation exercises

- when he came to the Warwick school system some 47 years ago this was the prevailing policy in the high schools of Warwick. While this policy was generally observed, there were, on occasion, teachers who did require all students to take final examinations whether or not the students concerned had A averages.
2. During the month of November 2004, it was directed by the superintendent that this policy would be changed, effective in May of 2005, so as to require all high school students to take final examinations.
 3. The school committee had appointed a curriculum study committee to consider academic issues at the high school including the question of whether “A” students should be required to take final examinations. This committee, which was made up essentially of school administrators and one member of the school committee reached the conclusion that all students should take final examination. The superintendent of schools had accepted this recommendation that concurred with his own opinion in the matter.
 4. Meetings of the curriculum study committee were duly posted in accordance with Rhode Island’s Open Meeting Law. While parents, teachers and students were allowed to attend meetings of the committee they were not allowed to speak at meetings. After the end of the meeting, at times, some members of the committee were willing to discuss issues informally with members of the audience who had attended the meeting.
 5. The Warwick school committee was kept aware of the work of the curriculum committee. Reports from the curriculum committee were filed with the school committee, and at times members of the curriculum committee addressed the school committee. The school committee was aware of the superintendent of schools’ decision to require all students to take final examinations.
 6. The school committee itself has never voted to change Warwick’s high school examination policy. A school committee member’s motion to have the issue discussed by the school committee failed for lack of a second to the motion. Parents’ efforts to discuss this issue were limited to two-minute comments at the beginning of school committee meetings.
 7. The parents and students in this case testified that students had planned out their course selections for this year with the prospect of not having to take final examinations if they had an “A” grade going into the examination period.

unless they have fulfilled all requirements for a diploma. *Jane B.B. Doe v. Warwick School Committee*, June 10, 1998.

Conclusions of Law

1. Rhode Island school committees have the authority: “To delegate, *consistent with law*, any responsibilities to the superintendent as the committee may deem appropriate.”³ (Emphasis added)
2. Rhode Island assigns authority over the school curriculum to the school committee:

R.I.G.L. 16-2-16 Rules and regulations – Curriculum. – The *school committee* shall make and cause to be put up in each schoolhouse rules and regulations for the attendance and classification of the pupils, for the introduction and use of textbooks and works of reference, and for the *instruction, government, and discipline* of the public schools, and *shall prescribe the studies to be pursued in the schools*, under the direction of the department of elementary and secondary education. (Emphasis added.)

Discussion

We have little doubt that it is within the authority of the school committee to decide that all high school students must take final examinations. The problem in this case is that the school committee has never voted to change the examination policy that is the subject of this litigation. We realize that the school committee is aware of the superintendent’s decision to require all students to take final examinations. Counsel for the school committee suggests that school committee’s tacit assent to the new policy should be inferred from the fact that the school committee has not voted to call the superintendent’s decision before the school committee for further review. However, in our view the issue of tacit assent is not the issue upon which this case hinges.

In our view the applicable law, R.I.G.L.16-2-16, requires school committees to make major curriculum decisions. The law specifically vests in the school committee, and not in the superintendent, the authority to make major changes in both the curriculum and instructional methods. The school committee may delegate much to the superintendent, but it would not be *consistent with law* (i.e. R.I.G.L.16-2-16) for the school committee to attempt to delegate a power whose exercise is specifically reserved to the school committee. By requiring the school committee to act in this matter we will be doing no more than requiring the appropriate officers to make their decision in the appropriate forum, with the required input from the those affected by the committees’ decision. We also note here that while the examination policy at issue concerning exempting “A” students from final examinations may not be a written policy, it has been the de facto

³ R.I.G.L.16-2-2 (23)

policy of the school system for at least half a century, and until the action of the superintendent in this case it was the prevailing rule in the Warwick school system.

Since we have found that this matter must be remanded to the school committee for a vote of the committee it is not necessary for us to discuss the arguments of the petitioners relating to estoppel and to the opportunity to be heard by the curriculum committee.

Conclusion

This matter is remanded to the school committee for a vote based upon regular procedure on whether or not to require all students to take final examinations. Since appropriate notice of appropriate school committee deliberations and concomitant input on this issue from the public will take time, a change in examination policy may not go into effect until the 2005-2006 school year.

APPROVED:

Forrest L. Avila, Hearing Officer

Peter McWalters, Commissioner

May 23, 2005
DATE