

0028-05

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

K. DOE

V.

CUMBERLAND SCHOOL COMMITTEE

Decision

Held: Student failed to complete necessary science credits and therefore does not meet graduation requirements.

June 7, 2005

Introduction

This is an appeal of a failing grade in a course that a high school student must pass in order to graduate.¹

Background

Student Doe is a senior at Cumberland High School. He is a special-education student, receiving resource services and writing, testing and organizational aids and modifications.

Graduation requirements at Cumberland High School include the successful completion of two science credits. Doe completed a science credit in his freshman year. He was placed in a two-semester general biology course for his senior year. The one-credit course is on the college-preparatory level, usually taken by students in the 9th grade.²

Doe struggled in this biology course from the outset. He received failing grades for the first three quarters. During the third quarter, Doe's individualized education program (IEP) was reviewed. Agreement on a new IEP was reached on February 15, 2005.³

In early April, Doe's parents spoke to the High School principal regarding their concerns about the biology course and the importance of their son's graduation.⁴ After discussing the matter, school staff, Doe and his parents came to an agreement. The parties agreed that if Doe were to attend his biology classes, give his best effort concerning homework and class participation, and take advantage of the extra-help opportunities offered by his biology and resource teachers, he would pass the course. Doe also was assigned a student tutor and referred to the homework assistance center. At this point, there were approximately 30 school days remaining in the year.

¹ The appeal in this case was filed on June 3, 2005. The Commissioner of Education designated the undersigned hearing officer to hear and decide the appeal. A hearing was held on this date, the same day of the graduation ceremony.

² Doe's resource teacher, who has been assigned to him for 3½ years, testified that she felt that Doe would be reasonably challenged by the course and able to complete it by relying on the support services in his IEP.

³ The IEP states that it "was delayed to review 1st semester progress, transition needs, and other issues." [School Committee Exhibit 1].

⁴ Doe plans to attend plumbers school after high school.

Doe missed a few biology classes in April. His absences soared to 12 in May. He also was absent from his resource sessions, missing 10 of the 18 classes in May. Doe did not seek extra help after school in May.

Given Doe's absences, his biology teacher did not expect Doe to take the final examination scheduled for June 2nd. When Doe did appear for the final, he was mistakenly given the wrong modified version of the exam. So as to not penalize Doe, he was given an "A" for the exam. Even with this grade, Doe's final average in biology is 52, an "F." Due to the extenuating circumstances of this case, the High School has agreed to provide Doe with a summer-school course in biology so that he may receive his diploma this summer.⁵ It is district policy that students who do not complete graduation requirements may not participate in graduation exercises.

Doe, who turned 18 in October 2004, testified that he knew he needed to pass the biology course, but he did not understand any of the subject matter. He did not like the course and in May came to believe that he would not pass it. He therefore chose not to attend, viewing the situation as hopeless.

Positions of the Parties

Petitioner contends that Doe was inappropriately placed in the biology course, that he should have been moved to a lower-level class during the school year, and that he should not have his diploma withheld when he inevitably failed the course.

The School Committee contends that in April 2005 the High School offered Doe a reasonable plan to pass the needed biology course, that Doe and his parents agreed to the plan, and that Doe failed to abide by the agreement, thereby spurning his opportunity to graduate with his class.

Discussion

Under the Board of Regents' Regulations Governing the Education of Children with Disabilities, graduation from high school with a regular diploma constitutes a change in placement requiring written prior notice to the parents of the procedural safe-

⁵ Normally, students must achieve a grade of 60-69 in a course to be eligible for summer school.

guards.⁶ Part of the purpose of this notice is to inform parents of the progress of their child and to provide for transition planning. On its face, the IEP signed in February 2005 appears to have addressed these matters. To the extent that Doe's difficulties in biology persisted, we find that the High School offered Doe a most generous accommodation in April. School officials acted in good faith and stood by their agreement. Doe, on the other hand, wavered in his commitment and spent very little time with his biology and resource teachers in the month of May. Regrettably, he did not exert the type of effort that would legitimize a passing grade in his biology course. We understand Doe's dislike of the course, but given the terms of the parties' agreement, the available supports, and the short amount of time left in the school year, we find that Doe was given a fair opportunity to pass this course. His failure to do so therefore precludes him from graduating at this time.

The appeal is denied.

Paul E. Pontarelli
Hearing Officer

Approved:

Peter McWalters
Commissioner of Education

June 7, 2005

⁶ Section 300.122(b).