

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF  
EDUCATION

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**Student W. L. Doe**

v.

**Lincoln School Committee**

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**INTERIM ORDER**  
**DECISION**

Held: This is an interim order hearing in which a student is seeking to overturn the decision of Lincoln school authorities to deny him the opportunity to participate in graduation exercises. The record in this case demonstrates that this student is not passing 12<sup>th</sup> grade English and that neither he nor his parent were ever misled about this fact, or about any opportunity (such as taking the midterm examination) to remedy this deficiency. The appeal is therefore denied and dismissed, and the decision of the Lincoln school district not to allow this student to participate in graduation exercises is affirmed.

DATE: June 10, 2005

## **Jurisdiction and Travel of the Case**

This is an interim order hearing in which a student is seeking to overturn the decision of Lincoln school authorities to deny him the opportunity to participate in 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.

## **Positions of the Parties**

### **The Parent and the Student**

The parent argues that Lincoln's policy of not allowing a student to participate in graduation exercises is not explicitly enough stated in the school handbook to constitute a binding policy. She also argues that her son was misled into believing that he did not have to take a midterm examination in 12<sup>th</sup> grade English because he believed that his score on a state standardized test, in accordance with a local Lincoln policy, allowed him not to take the examination. She further argues that if her son had taken this midterm examination, and if he had received an A on it, he would have passed 12<sup>th</sup> grade English. She also contends that she should have been informed that her son was exercising the option not to take the midterm examination. She argues that since her son was misled into not taking this examination an appropriate remedy for this error would be to allow her son to participate in graduation exercises. She is not arguing that her son should receive a diploma. She concedes that her son must go to summer school to make up 12<sup>th</sup> grade English

### **Position of Lincoln**

Lincoln argues that its policy of not allowing a student to participate in graduation exercises unless the student has completed all academic requirements for graduation is a well-established policy of long standing. Lincoln also argues that this policy is stated clearly enough in its handbook on page 11 where it is stated that 22 credits are required for graduation. Lincoln also submits that this student was never misled into not taking his midterm examination in 12<sup>th</sup> grade English.

## **Conclusions of Law**

1. Some Rhode Island school committees allow a senior who lacks a credit needed for graduation to participate in graduation exercises. The student receives a blank diploma at the graduation, and then makes up the work over the summer. Other Rhode Island school committees have a policy of not allowing any student who lacks a graduation credit to participate in graduation exercises. The Commissioner has held that either of these policies, if consistently applied, is allowable.<sup>1</sup>

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<sup>1</sup> *Jane B.B. Doe v. Warwick School Committee*. Commissioner of Education, June 10, 1998. *Jane E. Doe v. North Kingstown School Committee*, June 1989. *Jane F. Doe v. a Rhode Island*

2. However the Commissioner has also held that if a school district has defaulted in providing a clearly required service or if it has misled a student about a graduation requirement an appropriate remedy for such default may be an order to the school district to allow the student to participate in graduation exercises and to make up the academic deficiency over the summer.<sup>2</sup>

### **Findings of Fact**

1. The Lincoln school district has a policy of allowing students who do well on state standardized testing to elect not to take midterm examinations. Teachers are informed of which students did well on the tests, and the teachers in turn tell the individual students of the option the students have not to take the midterm examination.
2. On the whole the student in this case has been content during his academic career to exert himself only to the point of attaining a marginal level of success in his studies. Last year he failed 11<sup>th</sup> grade English and he elected not to attend summer school to make up this deficiency. This has meant that he has had to take 11<sup>th</sup> and 12<sup>th</sup> grade English during his senior year. He is barely passing 11<sup>th</sup> grade English and he is failing 12<sup>th</sup> grade English.
3. Lincoln is a school district that has a long-standing policy of not allowing students who lack a credit for graduation to participate in graduation exercises.
4. Since this student has failed 12<sup>th</sup> grade English Lincoln will not allow this student to participate in graduation exercises.
5. Based upon the testimony in this case we must find that this student was never misled into not taking a midterm examination. At various times this student has stated that he took the midterm examination but the teacher must have lost it, that he did not take the examination because he was absent on the date of the examination, and that he did not take the examination because he was excused from it because he did so well on the state standardized test. He also stated at another time that he made a mistake in not showing up to take the midterm examination.
6. The testimony shows that the student did not do well on the required standardized test. Moreover he was never told that he had done well on the test and no teacher ever told him he had the option not take the midterm examination. In fact, the

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*School Committee*, June 1989. *In the Matter of Heather W.*, Commissioner of Education, June 18, 1999.

<sup>2</sup> *Jane Doe v. Portsmouth School Committee*, June 7, 2002, *Gerald S. v. North Kingstown School Committee*, June 16, 2000, *Jane Doe v. East Greenwich School Committee*, June 14, 2002, *Michael L. v. Johnston School Department*, June 13, 2001, *Richard L. v. Johnston School Department*, June 12, 2001.

evidence is compelling that this student simply did not bother to take the midterm examination now at issue.

**Discussion**

We have found in a prior case that a well-established unwritten policy of not allowing students who have earned insufficient credits to participate in graduation exercises is sustainable.<sup>3</sup> In any event, we think the plain statement in the school handbook that 22 credits are needed for graduation is sufficient notice to students that if they lack 22 credits they will not graduate and that they will not therefore be participating in graduation exercises.

There is nothing in the record to suggest that this student was misled into not taking his midterm examination in 12<sup>th</sup> grade English. Since this student never had the option not to take his midterm examination there was never any need to notify his parent about this nonexistent option.

**Conclusion**

While we have given close attention to the parent's arguments in this case, which have been placed on the record with vigor and skill, we cannot accept them. The record in this case demonstrates that her son is not passing 12<sup>th</sup> grade English and that neither he nor she were ever misled about this fact, or about any opportunity (such as taking the midterm examination) to remedy this deficiency. The appeal is therefore denied and dismissed, and the decision of the Lincoln school district not to allow this student to participate in graduation exercises is affirmed.

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Forrest L. Avila, Hearing Officer

AFFIRMED:

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Peter McWalters, Commissioner

June 10, 2005

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<sup>3</sup>See: *Jane B.B. Doe v. Warwick School Committee*, Commissioner of Education June 10, 1998 and *John B.A. Doe v. Warwick School Committee*, Commissioner of Education June 10 1994.