

State of Rhode Island
And Providence Plantations

Commissioner of Education

Parents of Student Doe

v.

A Rhode Island School Committee

DECISION

Held: The evidence does not support Student Doe's entitlement to obtain his diploma at this time. He has not met graduation requirements and has not established a basis for an exemption from such requirements, i.e. that his failure was due to the fault of school officials or otherwise legally excusable.

DATE: June 6, 2006

Travel of the Case

The decision of school officials to deny Student Doe opportunity to attend graduation ceremonies on the evening of June 6, 2006 was appealed to Commissioner Peter McWalters on June 5, 2006. The matter received an expedited hearing later in the afternoon on that same day. Given time constraints, the decision of the undersigned hearing officer is based on the notes taken at the hearing and the exhibits entered on the record at that time.

Issue

Is Student Doe entitled to graduate even though he did not receive a passing grade in English, which is required of all students and leaves him with 19 out of the 20 credits required to receive his diploma?

Findings of Relevant Facts¹

- Student Doe was enrolled as a senior during the 2005-2006 school year.
- Student Doe is a talented athlete who experienced some academic difficulties throughout the school year.
- In late April, Student Doe's parents became aware that he was again struggling academically when they were notified that he was ineligible to participate on the school's baseball team. Although his eligibility issue was resolved, it was determined that he was failing English, a course he was required to pass in order to meet the district's graduation requirements.
- On May 12, 2006, Student Doe's English teacher, responding to his parents' concerns, told Student Doe and his parents that if he "got a 95 on everything" (from that point in the semester) he would have a 67.7 average for the year which, although not a passing grade² would enable them to "work this out".
- Student Doe and his parents understood this statement to mean that if Student Doe did very well on the work for the remainder of the year, he would pass English.
- On May 16, 2006 Student Doe was diagnosed with depression which, according to his doctor, was significantly compromising his ability to perform academically. Appellant's Ex. B.
- Student Doe's parents provided documentation of his illness to school officials on May 17, 2006. At this time, the school principal convened a team³ which included Student Doe's teachers and informed them of his health status, and the need for certain accommodations. It was agreed that Student Doe could complete two of his courses

¹ Given time constraints, the decision is based on the hearing officer's notes, and no citation to the transcript of the hearing is possible.

² A grade of 70 is passing.

³ Although not specifically described as such, we assume a 504 team, minus Student Doe's parents.

from home, a course he did not need to graduate was dropped, and he was exempted from regular attendance requirements.

- With respect to English, it was necessary for him to continue to attend classes; however, he was given extended time, when needed, to complete the work that remained to be done in that class.
- On or about June 1, 2006 Student Doe's parents learned that he was in danger of failing English and as a result, would not be able to graduate.
- Student Doe's health problems have worsened, and on June 3, 2006 he was admitted to Bradley Hospital where he remained at the time of the hearing.
- Student Doe received a final grade of 65 in English for the year. His fourth quarter grade was 75. From the time of his diagnosis on May 16, 2006, he had received a grade of "B" and 80 on two graded assignments, and a grade of 74 on the final exam.
- Student Doe received a grade of "F/S" in English, which means that he failed but is eligible to repeat the course in summer school.

Positions of the Parties

Student Doe's Parents

Citing concern for the effect exclusion from graduation will have on their son's health, Student Doe's parents request that an exception be made to the district policy which restricts attendance at graduation to only those students who have met graduation requirements. They presented medical documentation establishing the fragility of Student Doe's present mental status and the possible effect exclusion from graduation ceremonies will have.

Although the parents are appreciative of the steps that have been taken at the school level to address their son's disability, they argue that more flexibility is needed at this difficult time in their son's life. They point out that communication from school officials was not always efficient during times that their son missed classes or was in academic difficulty, implicitly arguing that the failure of school staff to keep them informed throughout the year contributed to their lack of understanding of the extent of their son's problems.

They note that Student Doe's English teacher stated on May 12, 2006 that if this student did very well during the remainder of the quarter, he would pass the course, even though it would have been mathematically impossible for him to attain a passing grade. This flexibility should be extended to him now, argue the parents, even though the English teacher has determined that the conditions for his exercise of discretion have not been met. Although Student Doe did not receive a grade of "95" in all his remaining work in English, he did very well, considering he suffers from a serious illness. Also, they argue, more could have been done in the way of modifications to the English course requirements that would have helped Student Doe to meet the expectations of his teacher and enable him to justify an exercise of his discretion in grading.

The School District

Representatives of the district are sympathetic to the plight of Student Doe and his family. Upon receiving notice of his disability, the principal notified his teachers and other professionals at the school. They convened to determine the best way to enable this student to finish what he needed to graduate with his class. Despite these efforts, his grade in English still fell below a passing grade, primarily because of the low grades he received in the first, second and third quarters of the school year. Although he did bring up his grade in the latter part of the fourth quarter, he did not meet the condition set by his teacher in early May for his award of a passing grade even though Student Doe's average would still be below a 70.

The district has fifteen other students who have not met graduation requirements and who will also not be allowed to participate in graduation exercises. In order for school officials to be consistent and fair, they need to apply the graduation requirements to all students, and not make exceptions. Even though they are concerned with the effect their final decision may have on Student Doe, they are not able to approve his attendance at graduation ceremonies.

DECISION

Over the years the exercise of the Commissioner's de novo authority in matters of this type has resulted in the overturn of the district's decision only in the cases in which, through some fault or neglect of the district, a student has not met graduation requirements. This is not one of those cases. The principal at the school took immediate steps to adjust Student Doe's program and schedule. The doctor's note, submitted to the school by Student Doe's parents, suggested certain accommodations. There is no evidence that the suggested accommodations were not implemented. In fact, with respect to English, the teacher evidently permitted extra time on all class projects and tests. Although there was no evidence of a formal meeting convened under Section 504, or of a written plan, given the time constraints, the principal acted as quickly as possible to address the situation.

The English teacher did not appear as a witness, but did supply information by telephone as to the work done and grades Student Doe earned subsequent to the school's receipt of the knowledge that he suffered from a disability. The teacher also indicated that Student Doe had been provided with extra time. We infer from the facts which were compiled on this hastily-made record, that the English teacher did not find the grades earned by Student Doe (the B (on a presentation), 80 (on an essay), and 74 (on the final exam) to be deserving of the exercise of discretion he had previously discussed with Student Doe, even taking into account the fact of his recent diagnosis of a medical disability.

On the basis of this record, we find there is no basis on which the Commissioner has authority to overturn the district's decision in this matter. However, we do remand this

matter to the Superintendent for her immediate review. There is nothing in the record which indicates that the Superintendent participated in the decision. On remand, she should review the grade assigned by Student Doe's English teacher to ensure that it comports with district policies⁴ and confirm that the teacher did in fact reassess Student Doe's performance and appropriately exercise his discretion in light of the diagnosis of Student Doe's medical condition on May 16, 2006. The district can then make its final decision, taking into account any updated medical information which may be available at this time.

For the foregoing reasons, the appeal to the Commissioner is denied. The matter is remanded to the Superintendent for her further review and decision.

For the Commissioner,

Kathleen S. Murray
Hearing Officer

APPROVED:

Peter McWalters, Commissioner

June 6, 2006
DATE

⁴ An act clearly within her authority as chief administrative agent of the School Committee . See Pawtucket School Committee et al. v. Pawtucket Teachers Alliance et al. 610 A2d 1104 (R.I. 1992). If the Superintendent determines that Student Doe is still ineligible to graduate, a 504 team should be convened promptly to consider additional accommodations and modifications which might assist this Student and determine whether Student Doe's medical condition during the final quarter of the school year warrants further opportunity to bring his grade up to a 70 and thereby obviate the need for his attendance at summer school.