

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF  
EDUCATION

.....

**Student Doe**

**v.**

**Johnston 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 9, 2006

## **Travel of the Case**

This matter was appealed to Commissioner Peter McWalters from a decision of the Superintendent of Johnston public schools that Student Doe had not met the requirements for graduation with his class this evening at six o'clock. The matter received an expedited hearing by the undersigned, designated to hear and decide the case. The decision is based on the hearing officer's notes and several exhibits introduced at the time of hearing.

## **Issue**

Is Student Doe entitled to graduate even though he did not receive a passing grade in English and Chemistry, which was required for him to fulfill the graduation requirements set by the Johnston School Committee?

## **Findings of Relevant Facts**

- Student Doe was enrolled as a senior at Johnston High School during the 2005-2006 school year.
- The requirements for graduation from Johnston High School include the attainment of passing grades in four years of English and three years of science.
- Student Doe received a grade of 64.2 in English for this year and a passing grade is 70.
- Student Doe received a grade of 65.2 in Chemistry for this year and a passing grade is 70.
- Student Doe's failures in the above-listed subjects prevented him from attaining the four credits in English and the three credits in Science that are required of the Class of 2006 at Johnston High School.

## **Positions of the Parties**

Student Doe and his mother contend that there has been ongoing poor communication as to what his grades in English and Chemistry were over the course of this year. His grade for the third and fourth quarters in English was just calculated during this final week before graduation. His attendance and performance were affected by an automobile accident in December of this school year, although he did not contend that he was disabled or that school officials failed to adjust the school program on the basis of a disability. It is his position that at the end of the semester his guidance counselor indicated to him, and to others in similar academic difficulty, that the seniors would be "grandfathered" and receive the benefit of the previous grading system at the high school which counted grades from 65-69 as passing. This information proved incorrect, to his detriment. He also points out that since final grades were determined, some of the students who were notified that they had failures which made them ineligible to graduate were given the opportunity to do "make up" or extra credit work, which resulted in their ability to have their grades elevated to a 70. He was not given this same opportunity.

## **Johnston School Committee**

Counsel for the School Committee points to the clearly-established school policy which restricts attendance at graduation ceremonies to those who have fulfilled all requirements for graduation. There was indeed a change in the grading system, effective this year, which made 70, rather than the grade of 65, a passing grade. District officials clearly notified parents and students of this change, which signaled that performance expectations had been raised for students at the high school. Student Doe received the benefit of some adjustments to his grades when discretion would permit, but his final grades in English and Chemistry are valid and accurate and reflect all the discretion that can be accorded to him. He simply has not achieved the necessary grades and credits in required subject areas to fulfill graduation requirements, and there are no circumstances which would warrant that an exception be made to allow him to attend and participate in graduation ceremonies.

### **DECISION**

Student Doe forthrightly assumed responsibility for the grades he has attained this year in English and Chemistry. Although it may be (as his mother contended) that warning notices mailed to his home early in the year were not received (even though testimony indicated that they would have been mailed by the school) his mother acknowledged receiving one of them - a May 6, 2006 notice from the guidance office. This form indicated that Student Doe was failing both English and Science. This document (Exhibit 4c) also indicates that a copy of Student Doe's third quarter grade report was enclosed. While it is true that the third quarter grade report showed an incomplete (I) for English at that time, the attached notice that Student Doe was failing English (as well as Science) together with the English grades listed for the first two quarters of the year (a 60 and a 50) constituted sufficient notice to student and parents that graduation was in jeopardy.

Given that the grades were shown to be accurate, and in fact that they reflected the exercise of some discretion by his English teacher to Student Doe's benefit, this record demonstrates that he is ineligible to graduate at this time, and must complete summer school to fulfill his graduation requirements. Student Doe has indicated his intent to do so, if it is required of him and this is, unfortunately, the case.

We do agree with the argument of Student Doe and his mother that the opportunity for extra credit or make up work offered earlier in the week to other students similarly situated, i.e. who had not passed all required courses, creates the appearance of disparate treatment. It may be that there were circumstances which justified the manner in which these other students were treated. However, once all the grades were in, barring such exceptional circumstances, it should not have been the case that some teachers then exercised discretion or flexibility to permit extra credit work on an individual basis if this varied from the rules of their classroom during the course of the school year. We accept as a legitimate academic judgment the notion that some teachers permit extra credit work on an individualized basis,

and others (such as Student Doe’s English teacher) do not<sup>1</sup>; however if such opportunity was presented only because the other students in question would otherwise fail and not graduate, such a situation presents a potential case of inequitable treatment. We request that the principal, as soon as time permits, review the situation with respect to these other students who were similarly situated to Student Doe to determine if there may be a need to make a uniform school policy which would prevent “individualized” decisions where there is no legitimate reason for different treatment. If the principal determines that there was disparate treatment, she should consider whether Student Doe should be offered the opportunity to do makeup work in lieu of summer school.

The polite and respectful manner in which Student Doe presented his appeal must be commended, but for the foregoing reasons, we must deny his appeal.

For the Commissioner,

\_\_\_\_\_  
Kathleen S. Murray, Hearing Officer

APPROVED:

\_\_\_\_\_  
Peter McWalters, Commissioner

\_\_\_\_\_  
June 9, 2006  
Date

<sup>1</sup> The English teacher testified that any extra-credit assignments were made available to the entire class. This was her policy and she consistently applied it.