

**STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS**

**COMMISSIONER OF  
EDUCATION**

.....

**Student D.**

**v.**

**Johnston School Committee**

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**DECISION**

**Held:** The school committee is ordered to review the results of the student's program of home instruction to determine if he earned any allowable credits towards graduation. The appeal is otherwise denied and dismissed.

**DATE: December 18, 2008**

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

This is an appeal of an academic placement decision.

## **Positions of the Parties**

### **The Parent**

The parent contends that as a result of education obtained in a private academy and in a home schooling program should allow this student to receive sufficient academic credit to allow him to play sports in accordance with the rules of the Rhode Island Interscholastic League. The parent contends that this student should be eligible for placement in the 11<sup>th</sup> grade instead of the 12<sup>th</sup> grade.<sup>1</sup>

### **The School District**

The school district contends that the student's home school program was never approved by the school committee as required by R.I.G.L. 16-19-2 and that in any event the student's academic record provides little basis for the awarding of academic credit.

## **Findings of Fact**

1. The petitioner, who is acting as the parent of the student in this case, has a good relationship with the respondent school district. She has worked closely with the district's special education director.
2. The student completed the eighth grade at a private school.
3. He then enrolled in a private Academy for the ninth grade and tenth grades. He had academic difficulties at the academy and by the end of four semesters there he was told that for academic reasons he could not return. We find, after, examining the available information, that this student probably accrued little useable credit for the 10<sup>th</sup> grade at this Academy.<sup>2</sup> His grades fell well short of the Academy's standards. (The grades are show on the student's report card because, as a result of a disputed bill, an official transcript is not available.
4. The petitioner then sought a special education placement for this student through the respondent public school district for the 2007-2008 school year in which he would repeat the 10<sup>th</sup> grade. After some discussions about possible alternative programs it seems clear that the district and the parent agreed to a "home schooling program" for this student. The district special education director agreed to provide tutors and guidance counseling to provide partial support to this program of home instruction. An IEP was prepared in October of 2007. It is

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<sup>1</sup> Transcript, Volume 1, at pages 20 and 21.

<sup>2</sup> Transcript, Volume 2, at pages 106-107 and page 114.

undisputed that this home schooling program was never approved by the district's school committee as required by R.I.G.L.16-19-2. The parent testified: "There was never anyone [referring to school professional staff] who once said to me, 'Stop, you need to get this approved. Never ever, ever, ever."

5. Sometime in December of 2007 the parent, through a basketball coach, learned that the student could not play sports because he was not in an approved home school program as required by the rules of the Rhode Island Interscholastic League. The parent then submitted a request for a home school plan to the districts superintendent as required by local school committee's rules. The superintendent indicated that the proposed plan was defective because it did not include a physical education component. The parent contends that it was never explained to her that an alternative method to comply with the physical education requirement might be available.
6. In August of 2008 the parent spoke with school officials about getting the student enrolled back into a public school program. The student eventually enrolled in a public charter school while he was considered for placement as a junior the charter school, based upon his lack of academic credit enrolled him in its sophomore class.
7. The upshot of this academic meandering was that the student had a very sparse academic record through the 10<sup>th</sup> grade. This academic difficulty left the student ineligible to play sports during his first quarter at the charter school.
8. The student is now enrolled in the 10<sup>th</sup> grade at a Rhode Island charter school.

### **Conclusions of Law**

1. The General Laws at R.I.G.L.16-19-2 require prior approval of a home instruction program by a student's school committee as prerequisite to demonstrating compliance with Rhode Island's compulsory attendance law.
2. The Commissioner of Education has no direct authority over the rules of the Rhode Island Interscholastic League.<sup>3</sup>
3. While the commissioner has more authority than a court does to review an academic decision, in most cases review of a local grading decision is limited to determining whether the academic decision was arbitrary, contrary to state-wide academic policy, incorrectly computed, or made in bad faith.<sup>4</sup>

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<sup>3</sup> *Hebert v. Ventetuolo*, 638 F.2<sup>nd</sup> 5 (1<sup>st</sup> Cir. 1982); *Hebert v. Ventetuolo*, 480 A.2d 403 (R.I.1994)

<sup>4</sup> *Feit vs. Providence School Board*, Commissioner of Education, February 25, 1992. *Jane B.B. Doe v. Warwick School Committee*, Commissioner of Education, June 10, 1998.

## Discussion

We think that a great deal of the confusion in this case was caused by the school districts failure to fully advise the parent in this case that the home instruction program she was proposing had to receive prior approval from the local school committee. It is to be noted here that the parent was proposing a home instruction program with a special education component that was to be provided under a school district IEP with tutors paid for by the school district. It seems clear to us that the district had an obligation see that the program it was participating in met the requirements of state law.<sup>5</sup>

For compulsory education purposes it is clear to us that *prior approval* of a home schooling program is a prerequisite to compliance with the state's compulsory attendance law. However in a case of this nature, where the school district participated in the formulation of the home instruction program without taking steps to see that it was approved by the school committee, we see nothing amiss in requiring the school district to review the results of the home instruction program to see if the student earned any usable credit in the home instruction program that can be applied towards graduation from the charter school the student is now enrolled in.

We find that we are without jurisdiction to make any determination about this student's eligibility to play interscholastic sports. This question must be addressed to the Rhode Island Interscholastic League.<sup>6</sup>

## Conclusion

The school committee is ordered to review the results of the student's program of home instruction to determine if he earned any allowable credits towards graduation. The appeal is otherwise denied and dismissed.

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Forrest L. Avila, Hearing Officer

APPROVED:

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Peter McWalters, Commissioner

December 18, 2008  
Date

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<sup>5</sup> R.I.G.L.19-19-2

<sup>6</sup> *Hebert v. Ventetuolo*, 638 F.2<sup>nd</sup> 5 (1<sup>st</sup> Cir. 1982); *Hebert v. Ventetuolo*, 480 A.2d 403 (R.I.1994)