

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

STUDENT R. DOE

v.

NORTH KINGSTOWN SCHOOL COMMITTEE

DECISION

Held: Student Doe, who previously attended North Kingstown High School, has not demonstrated a valid reason to require the North Kingstown School Department to reopen the first semester grades she earned in Math, English and Earth Science so that she can complete additional work and take tests that she did not take. In early April, North Kingstown sent to Narragansett High School a first semester grade report that accurately reflects Student Doe's grades in these three subjects. Administrators at North Kingstown High School sent the grade report at Student Doe's request in order to provide staff at Narragansett High School with the information needed to plan for how Student Doe would complete her coursework, meet Narragansett's graduation requirements and become eligible to graduate from Narragansett High School.

DATE: June 2, 2011

Travel of the Case:

On May 4, 2011, Student Doe and her parent requested a hearing to dispute her second-quarter grades for Math, English, and Earth Science and the process by which they were obtained at North Kingstown High School. Commissioner Deborah A. Gist designated the undersigned to hear this matter. Given that the appeal letter indicated that this grade dispute also presented a graduation issue, the hearing and decision in this matter have been expedited.

The hearing officer requested by letter dated May 5, 2011 that these issues be heard as soon as possible by the North Kingstown School Committee, but indicated that there would be no delay in holding the hearing at RIDE. The Commissioner traditionally exercises jurisdiction over grade disputes only after they are first considered at the local level. School committees exercise the prerogative to act on (and potentially resolve) disputes having their origin in district schools. At the conclusion of the May 16, 2011 hearing at RIDE, the parties waived their right to proceed to the hearing scheduled for May 24, 2011 before the North Kingstown School Committee, indicating that doing so would be both futile and have a negative impact on Student Doe's health.

At the May 16, 2011 hearing before the undersigned, testimony was taken and several exhibits were submitted into evidence. The North Kingstown School Committee was represented by counsel and Student Doe, who is eighteen years of age, appeared with her mother who advocated on her behalf. The record in this case closed on May 20, 2011 at which time the transcript was received by the hearing officer. Given the assertion that the grades in dispute affect Student Doe's eligibility to graduate from Narragansett High School, the decision in this appeal has been expedited.

Findings of Relevant Facts:

- Student Doe is eighteen years old and currently enrolled in her senior year at Narragansett High School. She transferred to Narragansett from North Kingstown High School in late January of this year. Tr. pp.4-5; 82-83 App. Ex.1.
- Student Doe is a student with a disability and, while at North Kingstown High School, had an Individualized Education Program (IEP). App. Ex. 1; S.C. Ex. C; Tr. p. 11.
- During her senior year, Student Doe has had certain medical issues, including a jaw infection that required surgery, anxiety and depression. Tr.pp. 31, 46, 133-135; S.C. Ex. C.
- Because of these medical issues and the fact that Student Doe had been absent from school for forty-one (41) days, an IEP team at North Kingstown High School was convened for a meeting on December 16, 2010. At the meeting, the team discussed her current medical condition, her grades and her attendance issues. The team determined that the situation would be addressed, in part, by assignment of a grade of "Incomplete" for second quarter grades "as needed" with an extension of the timeline for submission of makeup work that needed to be done in these subjects. S.C. Ex.C.
- Because ongoing health and attendance issues persisted for Student Doe in late December 2010 and continued into early January 2011, Student Doe's mother raised home schooling and home tutoring options with the Director of Pupil Personnel Services

and the Assistant Superintendent for Teaching and Learning. The Director of Pupil Personnel Services recommended that the IEP team be reconvened to discuss “what [Student Doe’s] current condition [is] and what the plan will be” and encouraged Student Doe’s mother to submit any “new information regarding her medical concerns.”¹ S.C.Ex.E.

- The Assistant Superintendent for Teaching and Learning emailed Student Doe’s mother on January 10, 2011 that he agreed with the suggestion that the IEP team be reconvened to consider Student Doe’s current educational needs. S.C. Ex.E.
- At some point in late January, 2011, Student Doe transferred to Narragansett High School.² On February 3, 2011, Narragansett High School made a formal request for her school records. Tr. pp. 5, 70, 82-83.
- In late January the principal of North Kingstown High School met with Student Doe and her mother and agreed that she could continue to do makeup work in Math, English and Earth Science even after she officially transferred to Narragansett.³ The principal then communicated this information to the teachers of these three subjects. Tr. pp.82-83.
- Throughout February and March of 2011 Student Doe came to North Kingstown High School after attending classes at Narragansett High School. The principal testified that she came to North Kingstown on almost a weekly basis and it was his assumption that she continued to work with her teachers on make up work that she needed to do. Tr. p.83.
- Student Doe testified that she did makeup work in each of the three subjects after her transfer to Narragansett (Tr. pp. 17-22), but that the grades she ultimately received did not reflect her makeup work. Tr. pp. 23-24.
- In late March, 2011, Student Doe requested that the principal send her final grade report from North Kingstown High School to the guidance office at Narragansett High School so that a determination could be made as to “where she stood.” Tr. pp. 83-84, 92-97.
- After verifying Student Doe’s grades with each of her teachers, the principal prepared a grade report and sent it to the guidance office at Narragansett High School on April 4, 2011. Tr. pp.84-85.
- Student Doe’s final grades in these subjects were: English: 39; Math: 50; and Earth Science: 34. Her final grade report, together with the electronic grade book records of each of the individual teachers in these subjects, indicate that in Math she had received a “0” on the mid-term exam; that in English she had received a “0” for the second quarter; and in Earth Science she had received a “0” for both the second quarter and the final

¹ The Director of Pupil Personnel Services also attached to her January 7, 2011 emails certain forms to be completed by Student Doe’s physician for the team’s consideration.

² Student Doe’s mother testified that Student Doe went to live with a family member in Narragansett for reasons related to the mother’s health.

³ The record indicates that Student Doe needed to complete the work in these three subjects in order to fulfill high school graduation requirements.

exam. S.C. Ex. A and B. The principal testified that he verified each of the grades in the electronic grade book and in the final grade report with each of Student Doe's teachers before sending her final grade report to Narragansett High School. Tr. pp. 75, 81, 83-86.

- Subsequent to the principal's submission of the grade report from North Kingstown High School to Narragansett High School, Student Doe's mother has sought to have her daughter provided with the opportunity to submit more makeup work to her teachers at North Kingstown High School so that she can obtain a grade of 65 in each of these three subjects. Student Doe's mother indicated that because of North Kingstown's refusal to do so, her daughter's failing grades in these subjects will render her ineligible to graduate from Narragansett High School in June of this year. Appellant's Ex. 1 and 5.

Positions of the Parties:

Student Doe

Student Doe's mother has argued that the grade report submitted by North Kingstown High School to Narragansett High School reflects grades that existed as of February 3, 2011, a date on which her daughter was actively working to complete makeup work in Math, English and Earth Science. Thus, the information transmitted to Narragansett does not accurately reflect the grades she had when the grade report was sent on April 4, 2011. If it were accurate, her daughter would have passed all three of these subjects with a grade of 65 (a passing grade in Narragansett)

Alternatively, Student Doe's mother argues that at no time did her daughter request that the principal send her grades to Narragansett or indicate to him that she was ready to have her grades "closed." The principal arbitrarily chose to send these grades without prior notice and without telling Student Doe what her grades in each of these subjects were, thereby denying her the opportunity to remedy any deficiencies. Furthermore, when the principal sent Student Doe's grades on April 4, 2011, he arbitrarily cut off her opportunity to submit enough work, and do what she needed to do, in order to obtain a grade of 65. This jeopardizes her eligibility to graduate in Narragansett, she maintains, implicitly arguing that she has fulfilled all other applicable graduation requirements at Narragansett High School.

The closing of Student Doe's grades by North Kingstown (and the subsequent refusal to reopen them so that she could do more work) violates the provisions of her IEP. When the IEP team met to consider the educational issues that existed on December 16, 2010, it determined that Student Doe required an indefinite extension to do makeup work in her courses. Notes of the team meeting reflect that a consensus was reached on this point. When she transferred a little over a month later to Narragansett High School, the principal explicitly agreed that this indefinite extension relating to her "I" or incomplete grades and ability to submit makeup work would remain in place. The principal of North Kingstown High School acted inconsistently with this provision of the IEP when he arbitrarily closed her grades to her obvious detriment. His decision, together with the lack of structure during the extension period and inadequate communication with Student Doe's teachers has placed her in this predicament.

Based on the record and considering Student Doe's status as a disabled student, she has not been treated in a fair and appropriate manner by North Kingstown school officials. Student Doe's

mother requests that the Commissioner direct North Kingstown to reopen her grades to give her time in which to complete these three courses so that she can graduate in June.

North Kingstown School Committee

Counsel for the North Kingstown School Department points out that it was Student Doe herself who asked the principal to send her grades along to Narragansett High School where the guidance office was trying to make a determination in early April of where she stood with respect to meeting its graduation requirements. There was nothing arbitrary about the timing of the closing of her grades. With respect to the accuracy of the final grade report, the principal testified that he verified the accuracy of the grades with each of her teachers before he printed out the final grade report. He knew that the grades were not passing - by either North Kingstown standards or Narragansett's standards - but he also knew that Narragansett needed to know this in order to put together some sort of plan for Student Doe to be able to graduate in June. There is a substantial amount of work that remains to be completed in each of these subjects despite the extended period of time provided to Student Doe to complete her assignments. North Kingstown takes the position that at this late point in the semester, the determination of what coursework Student Doe needs to complete in order to graduate should be made by staff at Narragansett High School.

DECISION

A review of the record in this case indicates that North Kingstown school officials have acted reasonably and fairly and in a manner that is consistent with Student Doe's rights as a student with a disability. The IEP team responded appropriately to the information and documentation it had on December 16, 2010 when it determined that assigning Student Doe grades of "Incomplete" and extending the timelines for her to complete second-quarter assignments⁴ would provide her with a free appropriate public education. In late December-early January, it appeared that her ability to do make-up work and utilize the other provisions made by the IEP team had not sufficiently addressed her school attendance and work completion issues. Consequently, both the Director of Pupil Personnel Services and Assistant Superintendent encouraged Student Doe's mother to submit additional documentation with respect to Student Doe's medical issues so that the team could meet to reconsider whether home tutoring or other additional services were appropriate to meet Student Doe's needs. The record indicates that this suggestion was made but not accepted by Student Doe's mother. The IEP team did not reconvene to consider the issue of whether or not there was a need for additional services or program modifications for Student Doe. Shortly thereafter she transferred to Narragansett High School.

Although the record does not establish the reason why Student Doe did not successfully complete the makeup work that she had opportunity to do after her transfer, it is quite clear that there were multiple incomplete assignments and missed or failed exams. See S.C. Exhibits A and B. In both English and Earth Science, she received a grade of "0" for the second quarter. She also received a "0" in her final exam in Earth Science⁵. In Math, she obtained a second quarter grade of 64, but then she either did not take, or dismally failed, the mid-term exam in which she received a grade of "0." Her final grades were: Earth Science: 34; English: 39; Math: 50. Although Student Doe testified that she

⁴ The Team Meeting Minutes dated December 16, 2010 lists other steps that would be taken to respond to Student Doe's needs at that time.

⁵ The exam in this subject may have been replaced by a project. The record indicates a disagreement as to whether her teacher for Earth Science received the work that Student Doe testified she handed in. Tr. p. 20.

continued to meet with and submit work to her teachers at North Kingstown High School after she transferred, the evidence would indicate that, with the exception of Math, she was completely unsuccessful in these efforts. Her second quarter Math grade was a 64, almost a passing grade⁶ but, when averaged with the “0” she received in her mid-term exam and the 62 she received for the first quarter, was reduced to a semester grade of 50 in Math. The principal testified credibly that he had checked with the teachers of each of these subjects to verify the accuracy of these grades and determined that they truly reflected the amount of makeup work that had been done -or in this case not done- by Student Doe. Her testimony that she had completed “most” of the work that she needed to do is contradicted by the weight of the evidence in this record.

The record demonstrates that on or about April 4, 2011 these grades were submitted by North Kingstown to the guidance office at Narragansett High School at Student Doe’s request. Student Doe did not deny this fact in her testimony at the hearing on May 16, 2011. Her mother’s argument that this act constitutes an arbitrary and unfair closure of her grades in these subjects is without factual support.

Student Doe’s mother immediately requested that North Kingstown reopen these grades and permit her daughter to do whatever is necessary to attain a grade of 65 in each of these courses so that Student Doe can graduate from Narragansett High School on an unspecified date in June.⁷ North Kingstown school officials denied this request because there was (and continues to be) a difference of opinion⁸ between Student Doe and her teachers on how much additional work would be needed for her to obtain a passing grade in each of these subjects. North Kingstown’s reasoning, expressed in the record through the testimony of its Assistant Superintendent and in emails that he sent to Student Doe’s mother, was that it was in Student Doe’s best interests at this point to work with Narragansett High School educators to determine what work she needed to do to establish her eligibility to graduate from Narragansett High School. Based on the foregoing, it is our conclusion that North Kingstown’s denial of the request to reopen Student Doe’s grades after they were submitted to Narragansett High School was reasonable, fair, and in Student Doe’s best interests.

Student Doe’s appeal is denied and dismissed.

For the Commissioner,

Kathleen S. Murray

June 2, 2011

Deborah A. Gist, Commissioner

⁶ Student Doe’s mother testified that it was her and her daughter’s understanding that a grade of 65 would permit her to receive credit for these courses at Narragansett High School.

⁷ The record does not indicate whether, other than the failing grades at issue from North Kingstown, Student Doe faces any other obstacles to a June graduation date. Her mother’s arguments seem to be premised on the fact that her daughter faces no other obstacles to graduating in June of this school year.

⁸ Based on Student Doe’s testimony with respect to her own assessment of her status in these three courses and the documentary evidence of her actual grades, this difference of opinion would likely be irreconcilable.