

**IOWA DEPARTMENT  
OF EDUCATION  
(Cite as 22 D.o.E. App. Dec. 28)**

*In re Casey M.*

|   |   |                    |
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| Greg and Lisa M.,<br>Appellants,                      | : |                    |
|   | : | DECISION           |
| vs.   | : |                    |
|   | : | [Admin. Doc. 4540] |
| Dike-New Hartford Comm. School District,<br>Appellee. | : |                    |

The above-captioned matter was heard telephonically on April 24, 2003, before designated administrative law judge Carol J. Greta. The Appellants, Greg and Lisa M., were present on behalf of their son, Casey, who was also present. The Appellants were represented by legal counsel, Linda Madison Levey, of the Levey Law Firm of Iowa City. Appellee, the Dike-New Hartford Community School District [D-NH], was represented by legal counsel, Beth Hansen of the Waterloo law office of Swisher & Cohrt. Also appearing on behalf of the Appellee were superintendent Gary Currie, high school principal Mike Williams, high school Spanish instructor Sara Paar, board president Karla Greer, and board vice president Tom Boe.

An evidentiary hearing was held pursuant to agency rules found at 281 Iowa Administrative Code chapter 6. Authority and jurisdiction for the appeal are found in Iowa Code § 290.1. The administrative law judge finds that she and the State Board of Education have jurisdiction over the parties and subject matter of the appeal before them.

The Appellants seek reversal of the March 10, 2003 refusal of the local board of directors of the Dike-New Hartford district to change Casey's first semester grade (2002-2003 school year) in Spanish IV from an A- to an A.<sup>1</sup> They filed a timely appeal to this agency on behalf of their minor son.

**I.  
FINDINGS OF FACT**

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<sup>1</sup> The minutes of the March 10 board meeting state in pertinent part that “[t]he board did not take any action on the hearing.” This lack of action is appealable to the State Board of Education pursuant to Iowa Code section 290.1 as a “decision or order” of the board because the local board’s own policy – number 502.4 – gives a student the right to have a complaint placed on the local board’s agenda. Having conferred this right by policy, the board could not refuse affirmatively to take formal action on the student’s complaint. We hastily add that the district did not argue that this matter could not be appealed; rather, we add this note by way of explanation to all readers.

The parties stipulated to the following facts:

1. Ms. Paar uses the same grading procedure in her Spanish III classes as she uses in Spanish IV.
2. The grade is a percentage of total points converted to a letter grade. In the conversion, 94 – 100% is an A; 90 to 93% is an A-. Fractions of at least .5 are rounded up; therefore, a numerical average of 93.5 is an A, not an A-.
3. The final grade for Spanish III and Spanish IV is a percentage of the total points for both quarters (first and second nine week periods) added together for the semester grade.
4. Casey earned a total of 770 out of 831 possible points (92.7%) for the entire first semester of Spanish IV. No mathematical errors were made in arriving at this total and at the percentage of 92.7.

The gist of the Appellant's argument is that the total number of possible points available to be earned by her students for the first semester was inequitably allocated by Ms. Paar between the two nine week quarters. It is undisputed that of the 831 possible points in Spanish IV, 530 were allocated to the first quarter and 301 to the second quarter. The Appellants characterized this allocation as a failure to give students an opportunity to improve the final semester grade if the first quarter grade left room for improvement.

The Appellants also argue that Ms. Paar's failure to make the specifics of the point allocation known ahead of time to students is so unfair as to compel relief to Casey. The relief sought by the Appellants is to have Casey's grade for the first semester of Spanish IV changed from an A- to an A or, in the alternative, to have the A- not count toward his overall grade point average.<sup>2</sup> Failing either of those options, the family asks that Casey be given the opportunity to do extra credit to raise his grade. Finally, the Appellants ask that we order the District to do more to make Ms. Paar's grading policies known to her students.

Casey, who was 17 years of age at the time of this hearing, is a senior at Dike-New Hartford High School. He has already been accepted to Iowa State University for admission in the field of computer science. Casey has had Sara Paar as a Spanish instructor for three of the four years in high school that he took Spanish courses.

Ms. Paar has taught Spanish for a total of 21 years, 19 of those years at the Dike-New Hartford District. She stated that the point system she uses (i.e., how many points to allocate toward what activity) changes from year to year only if she changes the course curriculum, but that her grading scale is constant for all levels of Spanish that she teaches. Her grading scale (94% - 100% = A; 90% - 93% = A-; etc.) is reflected in part in Exhibit G. She verbally makes students aware of her grading scale at the beginning of each semester and reminds them of the scale by often converting the students' numerical

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<sup>2</sup> In the D-NH District, pluses and minuses are given fractions of numerical values. The end result to Casey is that, instead of carrying an overall GPA of 4.0 after first semester of his senior year, he carries a 3.993 GPA.

scores to a grade on tests, papers, and other projects. She does not, however, tell her students how many total points are available or how they are allocated between the two quarters of the semester. It is not practical to try to impart this information, according to Ms. Paar, because she does not know how many units of the course her students will be capable of completing. She also testified that she specifically set aside time one day in class during first semester of Spanish IV to allow students to privately discuss their progress with her, and that Casey did not take advantage of this time.

Casey testified that he was aware of the percentage of points that he would need in Ms. Paar's classes to get an A, but that he had not looked further into her grading procedure because, having received As in all previous grading periods in the courses taught by Ms. Paar, he felt no need to do so. Casey did state that he asked Ms. Paar for his specific overall percentage at a certain point toward the end of the first semester, and that she was unable to provide him with this information. While not contradicting this, Ms. Paar stated that she did not recall this instance. The high school principal, Mike Williams, testified that weekly progress reports are available to any student's family upon request.

As confirmed by the grading sheets for Casey in Spanish IV, Ms. Paar testified that during the first quarter Casey had a D on one test, received no credit for one worksheet, and received only 50% credit on another worksheet. *Exhibit C*. Casey and his parents do not dispute the accuracy or the fairness of the marks for these individual items. Overall, Casey had a B+ at the mid-term of the first quarter. Ms. Paar stated that she specifically pointed this out to Ms. M. because she believed that the Appellants would be concerned. Ms. M. acknowledged this in her testimony, but stated that she was not overly worried because Casey had a history of pulling himself up and because "Casey knows where he stands at all times in his classes." Ms. M. did not state whether she discussed his mid-term grade of B+ with Casey, and Casey testified that he did not recall if he and his mother talked about it.

The grading sheets show also that there were 11 students in the first semester Spanish IV class, and that six of them earned an A or A- for the final semester grade. While Casey earned 286 of 301 available points during the second quarter, two of his classmates performed better than did he, one of them earning a near-perfect 299 points. *Exhibit D*.

A project that required 12 class periods of work during the second quarter (26.7% of the class time for the second quarter) was not graded at all. This project consisted of making piñatas, and fulfilled the requirement that a component of the course provide a cultural experience to students.<sup>3</sup> The Appellants contend that the provision of no points for this project contributed to Casey's inability to improve his grade to an A for the semester. The Appellants testified that it was their understanding that at one point the

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<sup>3</sup> Iowa Code § 256.11 requires that a multicultural approach be used by accredited schools and school districts in offering instruction to students, and that global perspectives be incorporated into all levels of the educational program.

District was willing to give Casey up to 100 points credit for the piñata project. There was conflicting testimony about this. In any event, no extra points were awarded to Casey for this project. However, even if Casey had been awarded a full 100 of 100 additional points, 870 of 931 points is 93.4%, not enough to raise his grade to A from his present A-.

The District's handbook for high school faculty members includes a provision regarding grading. A part of that provision states as follows:

Our grade scale is A through F utilizing plus and minus marks. ... Please base your grades on many and varied activities so the evaluation is as accurate as possible. Report cards are sent every 9 weeks and mid-terms every 4 ½ weeks. Our mid-term reports encourage positive as well as negative reporting. Whatever personal comments we can make in addition to the grade we mark may improve a Parent's/Guardian's understanding of how well their student is doing and why they received the grade. ... The more open we are on our grading procedures, the better for all concerned.

*Exhibit 2.*

After report cards were sent out for the first semester, Casey and his mother first spoke with Ms. Paar, and then with Mr. Williams about Casey's A- in Spanish IV. The family knew that Casey had improved his performance in that class during the second quarter of the semester, and wanted to know why this improvement was not sufficient to raise his semester grade from A- to A.

After both Ms. Paar and Mr. Williams re-checked the math calculations to make sure that a mathematical error had not occurred, the two of them worked together on various computations to confirm that Casey's A- accurately reflected his achievement in Spanish IV. Mr. Williams testified that Exhibit B represents those computations. As noted previously, of the 831 possible points in Spanish IV, 530 were allocated to the first quarter and 301 to the second quarter. Casey earned 484/530 (91.3%) and 286/301 (95.0%) points. His final grade was 770/831 points (92.7%), A-.

What Exhibit B shows is that neither an equal allocation of 831 points over the two quarters (415 and 416) nor adding enough points to the second quarter to equal the 530 points available in the first quarter (530 and 530) would cause a change in Casey's grade. The assumption accompanying these calculations is that Casey would have performed over the hypothetically-restructured grading periods as he did in actuality (91.3% and 95.0%). Regarding the last computation (530 points available in both quarters), the Appellants argue that Casey may have improved his performance from 95.0% to have earned enough of those additional 229 points to bring his total semester grade up to A. However, it is equally plausible that he may not have improved. We believe the District was justified in declining to speculate about Casey's hypothetical

performance, and to rely on his actual performance. Accordingly, what Exhibit B shows is that, given the quality of Casey's achievement for the totality of the first semester, the manner in which the available points were allocated had no effect on his final grade.

## II. CONCLUSIONS OF LAW

The Iowa Legislature has directed that the State Board, in regard to appeals to this body, make decisions that are "just and equitable." Iowa Code § 290.3. The standard of review, articulated in *In re Jesse Bachman*, 13 D.o.E. App. Dec. 363 (1996), requires that a local board decision not be overturned by the State Board unless the local decision is "unreasonable and contrary to the best interest of education." *Id.* at 369. In the context of this case the question becomes whether the board's decision to uphold Ms. Paar's grading procedures (and, therefore, Casey's A-) was a reasonable exercise of its authority.

In two previous cases involving grading policies and grade assignments, this Board affirmed the local boards' decisions to not change the challenged grades. Both of those previous cases, *In re Newell*, 3 D.P.I. App. Dec. 113 (1983) and *In re V. Smith*, 18 D.o.E. App. Dec. 10 (1999), centered around students who had not attended all required events, and had thus not met established criteria for a higher grade. The specific issues here are the apportionment of available points over the two grading periods of nine weeks each and the prior notice to students of the apportionment. However, the underlying concept of fairness – an argument pressed here by the Appellants – was also proffered by the appellants in *Newell* and *Smith*.

To determine whether a grading policy, and thus, an assigned grade, was "fair," this Board has examined factors such as whether the policy was fair "on its face," was known to students, and whether the policy was consistently applied. Additionally, in the *Newell* case, we also looked at the responsibility of the student to meet the grading criteria. We believe it is appropriate to do so in this case also.

One commentator on education law states as follows:

The discretion of a teacher to assign an appropriate grade is not tempered by a student's misplaced assumption regarding a teacher's grading practices. A teacher has discretion to fail a student for incomplete work despite making a statement that she 'had never failed a senior, and did not plan to do so now.'  
[Quoting *Barrino v. East Baton Rouge Parish Sch. Bd.*, 697 So.2d 27, 34 (La.Ct.App. 1997).] It is incumbent upon a student to monitor their own academic progress. [Emphasis added.]

§ 8.05[2][a], Rapp, Education Law (2002). We conclude that Ms. Paar was under no obligation to do more than she had done to alert Casey and his family about his grade.

Casey had a goal of graduating from high school with a 4.0 grade point average. But that goal was not taken from him by Ms. Paar or the District administrators or the District board or anyone else. Casey was master of his fate at all times. It is unfortunate that he dug himself a hole with a poor (for him) academic performance at the beginning of Spanish IV, but the point is that he held the spade with which that hole was dug. As Superintendent Currie stated, a student's ultimate goal should not be the improvement of a grade. The grade will improve (or not need improvement) if a student gives consistent attention to his studies and not put himself in a position where sharp improvement is needed. Indeed, at one point during the first quarter of Spanish IV, Casey had earned only 84% of the available points. *Exhibit C*. While we acknowledge that Casey did well to elevate his final semester percentage to 92.7%, the need to improve from 84% was generated by him alone. We add that it is commendable that Casey made no excuses for his relatively lax performance at the start of the first semester other than his testimony that the material is "harder at the beginning of a school year."

There is nothing in the record to support the Appellants' claim that Casey's grade was "unfair." No one claims that Ms. Paar was inconsistent in applying her grading policy and procedures. All of the Spanish IV students were treated equally under the policy. Nor is the policy facially unjust. Points are awarded for worksheets, tests, quizzes, and projects designed to tell Ms. Paar whether her students are comprehending the material being taught. The same number of points are available to each and every one of Ms. Paar's students. There is nothing inherently unfair in this process.

While the Appellants may believe that the only issues here involve fairness to Casey, Ms. Paar has an equal interest in the outcome of this decision. Her academic freedom is being called into question. This issue was dealt with in *Parate v. Isibor*, 868 F.2d 821,828 (6<sup>th</sup> Cir. 1989), wherein a professor at Tennessee State University brought suit against university officials for ordering him to change a student's grade. The federal Court of Appeals for the 6<sup>th</sup> Circuit held that the school officials violated the instructor's rights to academic freedom when they ordered the grade change. The Court further stated:

To effectively teach her students, the professor must initially evaluate their relative skills, abilities, and knowledge. The professor must then determine whether students have absorbed the course material; whether a new, more advanced topic should be introduced, or whether a review of the previous material must be undertaken. Thus, the professor's evaluation of her students and assignments of their grades is central to the professor's teaching method.

868 F.2d at 828.

Accordingly, it not unreasonable for Ms. Paar to decline to specify to her students at the beginning of each semester how many points are available for each quarter as a matter of certainty. She cannot know for certain how quickly her class will be capable of

mastering one unit before moving on to the next. Inasmuch as no one is more capable than the classroom teacher of making the types of determinations written of by the *Parate* court, there is no basis for the local board or for this Board to overturn the judgment of Ms. Paar.

This is not to imply that local school boards and administrators have no authority to review a teacher's grading practices or to modify an individual student's grade, in cases involving clerical or mechanical (e.g., mathematical) mistakes, fraud, incompetence, or bad faith. However, as commentator Rapp writes, "[d]ifferences of opinion do not provide grounds for challenging student evaluations. A court will not re-weigh or re-evaluate grades because educators, rather than judges, are uniquely qualified to make these determinations... ." § 8.05[2][b], Rapp, *Education Law* (2002). There are no allegations here that Ms. Paar made a mistake, nor do the Appellants urge that she acted fraudulently, incompetently, or in bad faith.

We conclude that no basis exists for this Board to order that Casey's grade for the first semester of Spanish IV be upgraded from A- to A. There is no justification for this Board to order either that the A- not count toward Casey's overall grade point average or that he be given the opportunity to do extra credit to raise his grade. As to the request that we order the District to do more to make Ms. Paar's grading policies known to her students, this decision explains why we believe that is neither necessary nor feasible.

### **III. DECISION**

For the foregoing reasons, it is recommended that the decision of the Board of Directors of the Dike-New Hartford Community School District made on March 10, 2003, to leave intact the grade of A- awarded to Casey M. for the first semester of Spanish IV be AFFIRMED. There are no costs of this appeal to be assigned.

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Date

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Carol J. Greta, J.D.  
Administrative Law Judge

It is so ordered.

\_\_\_\_\_  
Date

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Gene E. Vincent, President  
State Board of Education