

IOWA STATE BOARD OF
PUBLIC INSTRUCTION

(Cite as 3 D.P.I. App. Dec. 113)

In re Richard and Peggy Newell	:	
	:	
Richard and Peggy Newell, Appellants	:	DECISION
	:	
v.	:	
	:	
Chariton Community School District,	:	
Appellee	:	[Admin. Doc. 675]

The above entitled matter was heard on December 22, 1982, before a hearing panel consisting of Dr. Robert Benton, state superintendent and presiding officer; Dr. Carol Bradley, chief, instructional services section, special education division; and Mr. Gayle Obrecht, director, administration and finance division. The hearing was held pursuant to Chapter 290, The Code 1981, and Departmental Rules, Chapter 670--51, Iowa Administrative Code. The Appellants were present and gave evidence and made oral arguments on their behalf. The Chariton Community School District (hereinafter District) was represented by Attorney Jeffrey Krausman.

The Appellants appealed a decision of the District Board of Directors regarding a grade received by their two children in vocal music.

I.
Findings of Fact

The Hearing Panel finds that it and the State Board of Public Instruction have jurisdiction over the parties and subject matter.

On Monday, May 17, 1982, Scott and Nichol Newell, grades 7 and 9 respectively, were expected by District vocal music teacher Michael Deatz to take part in a vocal music concert to be held that evening beginning at 7:30. Nichol, a lead performer in a special school music production to be held on Friday of the same week, was expected on Monday to perform in a "preview" number from the production with several other members of the production cast. Both Nichol and Scott were expected to participate with their fellow students in several other musical numbers.

When it became apparent immediately before the concert was to begin that Scott and Nichol would not be present at the concert that evening, Mr. Deatz had to make some last minute rearrangements in the concert program. This was especially true regarding Nichol's role in the "preview" portion of the program.

Mr. Deatz was concerned about Nichol's absence from the concert and wondered whether her absence would continue and disrupt plans for the forthcoming musical production. Early the next day he telephoned Mrs. Newell to discuss the matter. Mrs. Newell indicated to Mr. Deatz that Scott and Nichol were involved with a "family matter" which conflicted with the concert. Mr. Deatz accepted the oral explanation which was followed up with a written note from Mrs. Newell.

At some time later during that same day, Mr. Deatz learned that the "family matter" to which Mrs. Newell referred had been a little league baseball game which was attended by the entire Newell family as well as an aunt and grandmother visiting from California. Mr. Newell was an assistant coach for one of the teams; Mrs. Newell was a "team mother;" and Scott was a starting player. Nichol apparently played no direct part in the baseball contest and was present only as a spectator. The baseball game was played about six blocks from the high school where the music concert was taking place. The baseball game began at about 6:00 p.m. The Newell's reside in a rural area of the District about 3½ miles outside the town of Chariton.

Mr. Deatz called Mrs. Newell a second time on May 18 and confirmed that Scott and Nichol had in fact attended the baseball game rather than attend the music concert. After Mrs. Newell confirmed the fact, Mr. Deatz replaced Nichol in a lead role for the Friday music production with another student.

The end of the school year and grading period occurred shortly after the May 17 incident, and Mr. Deatz gave both Scott and Nichol the grade of "C" on a traditional letter grading system on their report cards for the fourth quarter. That grade averaged with an "A" for the third quarter gave both Newell children "Bs" for the semester. Mr. Deatz acknowledged that but for the missed music concert on May 17, both Newell children would have received grades of "A" for the fourth quarter.

Mr. and Mrs. Newell met with Mr. Deatz and District High School Principal Daniel Redmond on May 28 to discuss the Newell children's receipt of "C" in vocal music. Following the meeting, the Newells remained dissatisfied and later decided to seek a review of the issue by District Superintendent James Fields.

In a letter to Superintendent Fields dated June 9, Mr. and Mrs. Newell formally protested the grades received by their children in vocal music class. The letter gave rationale for their position. Because Mr. Deatz left the community for the summer, a quick resolution of the problem was not available.

After some exchange of correspondence and a late summer review of the situation, Mr. Fields notified the Newells by letter dated August 30 that he would not recommend any adjustment in the protested grades. In a letter dated September 3, the Newells requested the matter be placed on a forthcoming District Board agenda for discussion, and the matter was placed on the Board agenda for September 15.

At the September 15 meeting the matter was discussed by and among the Board members, the Board's attorney, Mr. and Mrs. Newell, Mr. Deatz and Mr. Fields. At the conclusion of the discussion, the Board voted to sustain the grades awarded by Mr. Deatz, but it did direct him to send home a written copy of his grading system with each student in the future. Mr. and Mrs. Newell filed a timely appeal of the matter with the Department on October 15, 1982.

The record disclosed a number of relevant facts regarding the Newell family's knowledge or opportunity for knowledge about the attendance of the Newell children at concerts prior to the May concert at issue here. While it cannot be determined whether Mr. and Mrs. Newell had actual notice of a potential loss of grade for absence from a music concert, there were numerous opportunities for them to be made aware of the situation. Their children certainly should have been aware of the consequences.

As early as February, 1981, when District students were provided information regarding registration for high school classes, students planning to register for

mixed chorus were forewarned in written materials provided that they would be involved in three musical productions. While Scott would not likely have been familiar with the registration materials, Nichol was given a copy of the materials. Registration materials are available to parents, and parents are generally requested to approve their childrens' planned schedule before the schedule is final.

At the beginning of the school year, all District high school teachers are required to furnish the Principal with a list of criteria to be used in awarding grades to students. Mr. Deatz's criteria were filed with and approved by the Principal.

Mr. Deatz testified at the Hearing that while he did not provide students with written copies of his grading criteria, he orally discussed the grading criteria with students, stressing the importance of attendance at concerts at the beginning of the year and several times later during the school year. The Newell children certainly had the opportunity to know of the requirement, and it is, therefore, very likely that both the Newell children knew that for the awarding of an "A," attendance at all music concerts was required. The criteria for an "A" in Mr. Deatz's mixed chorus class included the following:

1. Participate in class
2. Attend all rehearsals & performances
3. Improve music reading skills
4. Help out your own section
5. Have an enthusiastic attitude toward
 - A. the class
 - B. the music
 - C. the director
6. Keep the room clean & music in good condition
7. Have good discipline habits (be on time, don't chew . . . talk out of turn, mess around on chairs, etc.)
8. Participate with extra duties, popcorn, musical, contest when needed [emphasis added]

The criteria for a "C" included the following:

Have a definite problem with

1. Attitude
2. Behavior
3. Participation
4. Lack of sufficient interest

The grading criteria materials turned in to the Principal included the following with regard to absence from performances:

An F will be given for missing a performance without notifying the director before the performance time with a legitimate excuse.

The grading criteria turned in to the Principal concludes as follows:

A letter grade is not given for "musical talent" but for how that talent improves and is used in the group and individually to achieve satisfying experiences in creating music and performing. Private lessons are voluntary and do not affect grades. [emphasis added]

The Newells apparently did not actually learn of their children's responsibility to be at the concert until they were told by their children on the day of the concert. Mr. Newell testified that the early part of the day on May 17 was rainy and that he did not know whether the previously scheduled little league game would be played or not. He therefore decided not to give Mr. Deatz advance warning of the possibility that his children would not be present for the concert that evening. The weather improved, and the baseball game was played as scheduled. Nichol had apparently neglected to tell her parents that she had an important role in the "preview" of the forthcoming music program, and they were unaware of the special importance of her attendance at the concert on Monday. There are indications in the record that Scott was given his choice of which conflicting event he would like to attend on Monday night and that Nichol was given no alternative. The record does not disclose why Nichol could not have walked the six or so blocks between the baseball field and the music concert.

A number of students missed the concert besides the Newell children. Three others received lowered grades, the others did not. Those students which did not attend and whose grades were not lowered were involved in a regional track meet which conflicted with the concert. The school-approved track meet had originally been scheduled for the previous Friday, but had been postponed on account of rain. The Iowa High School Athletic Association and the Iowa Girls' High School Athletic Union apparently established the alternate date for the track meet, and the matter was outside the control of District officials. When Mr. Deatz learned that the track meet was in preparation for the State Track Meet and not within the control of local school officials, he reluctantly allowed those students involved to be absent without penalty.

II. Conclusions of Law

Mr. and Mrs. Newell have raised a number of interesting and unique arguments in this appeal regarding the grades their children received in mixed chorus. We commend them for the logical and forthright manner in which they have presented their appeal and for their efforts to work out a mutually satisfactory solution to the issue with local school officials.

The primary thrust of the Newell's appeal is that as a result of alleged acts and omissions of District staff, their children received a lower grade in mixed chorus than that to which they were entitled. In considering the issue, it is important to distinguish what is not at issue here. This is not a situation involving the reduction of grades previously earned. This is a situation where a lower grade was assigned as a result of students not fully meeting established criteria for a higher grade.

We feel after reviewing and considering the affidavit of appeal and the record before us, the primary issue to be resolved here is the "fairness" of Mr. Deatz's act of giving the Newell children a lower grade than they would have otherwise received had they attended and participated in the concert on May 17.

To Mr. Deatz's credit, and to the credit of the District, information regarding expected participation in three concerts was included in pre-registration materials which was made available to secondary students and parents. Also to the credit of the school is the requirement that District teachers establish their criteria for student evaluation in writing before the first day of school. It goes without saying that Mr. Deatz's review of his grading policy with students early in the year and repeated reminders of the importance of attendance at performances was appropriate and

commendable. Apparently, the only point on which the school and Mr. Deatz failed was the lack of a system which expressly and individually notified the parents of the importance of student attendance at performances.

Mr. Deatz, through experience, common sense, or both, had the foresight to recognize the potential problems which could develop for him and students involved in public performances when students who are expected do not show up. He did what he reasonably could to protect himself. He included surprise absences from performances without good cause in his evaluation criteria and repeatedly reminded his students of their responsibility to him and their classmates in that regard. While it is true that Mr. Deatz could have done more -- he could have sent home a written notice of required attendance or he could have telephoned each parent individually -- we do not feel under the circumstances that he was duty-bound to do so.

The parents on the other hand are also hard to fault. Faced with a conflict in demands on the time of family members, Mr. and Mrs. Newell gave priority to family attendance at the little league baseball game. We think it is not inappropriate to allow parents to make those decisions. The problem is that in making their decision, they must accept the responsibility which follows.

Possibly Mr. and Mrs. Newell were not fully aware of the ramifications of their decision to attend the baseball game rather than the music concert. But then, on whose shoulders should the weight of blame be placed? In our opinion, under the circumstances present here, it is the Newell family which must accept the responsibility for the two Newell children missing the concert.

Whether it is directly the fault of the Newell children for not carrying out their responsibility to Mr. Deatz and their peers, or whether it is the fault of their parents for not allowing them to fulfill that responsibility, the result is the same. At best, failure to notify Mr. Deatz of the planned absence from the music concert was rude. Mr. Deatz had done all that he could reasonably be expected to do to protect himself and his other students from the possibility of the unexpected absence of student performers.

From the tone of the Newell's arguments, they seem to feel that their children have not been treated fairly, and maybe there is some small truth in that. But to say that they have been treated so unfairly as a result of Mr. Deatz's grading policy that the grading policy should be set aside would go far beyond the bounds of fairness.

The Hearing Panel has taken great pain in balancing the interests of both parties presented on the facts and find that while the District staff and officials could have done more to have alleviated the problem, the greater weight of fault lies with the Newell family as a whole. That is not to say that the Newells were duty-bound to act differently, only that they made their choice and now they must live with the consequences of that choice.

The Newells have not shown us sufficient reason in fact or law to overturn the District Board decision in this matter.

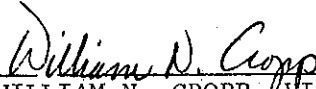
All motions and objections not previously ruled upon are hereby overruled.

III.
Decision

The decision of the Chariton Community School District Board of Directors in this matter is hereby affirmed.

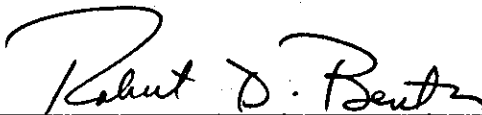
January 14, 1983

DATE


WILLIAM N. CROPP, VICE-PRESIDENT
STATE BOARD OF PUBLIC INSTRUCTION

December 29, 1982

DATE


ROBERT D. BENTON, Ed.D.
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
AND
PRESIDING OFFICER