

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

ROSEMARY HOBSON

vs.

SOUTH KINGSTOWN
SCHOOL COMMITTEE

D E C I S I O N

April 4, 1988

Travel of the Case

This is an appeal from the dismissal of a tenured teacher.

On October 1, 1987 at a pre-hearing conference the parties agreed to submit to the Commissioner for a preliminary ruling the issue of the sufficiency of the procedures used by the South Kingstown School Committee when it terminated Rosemary Hobson on April 1, 1987. Counsel for both parties have submitted written briefs, a process completed on or about December 8, 1987.

Jurisdiction to hear the appeal lies under R.I. G.L. §16-39-1, §16-39-2, and §16-13-4.

Issue

Did the termination procedures followed by the South Kingstown School Committee violate Mrs. Hobson's right to procedural due process, as guaranteed by the Constitutions of the United States and the State of Rhode Island?

Findings of Relevant Facts

The facts as to what procedures were afforded Mrs. Hobson are not in dispute and are summarized as follows:

- On February 18, 1987, Superintendent Arthur B. Campbell recommended Rosemary Hobson's termination in a letter which detailed fourteen reasons for his recommendation.
- Following a pre-termination hearing on March 31, 1987, the School Committee voted to accept the Superintendent's recommendation, and dismissed Mrs. Hobson effective April 1, 1987.

- By letter dated April 1, 1987 Mrs. Hobson was notified of the fact of her termination, the reasons therefor, and the availability of post-termination hearing before the full School Committee.
- Mrs. Hobson availed herself of her right to a hearing before the full School Committee, and on May 4, May 8, May 28 and June 10, 1987; evidence was presented on the issue of "just cause" for her termination.
- Following the hearing, the full Committee met and voted unanimously:

that after review of all data relevant to the dismissal of Mrs. Rosemary Hobson as a teacher in the South Kingstown school system, the Committee votes to uphold its decision to terminate Rosemary Hobson based upon the reasons stated in the April 1, 1987 letter to Mrs. Hobson from James DeLuca. The reasons include items number 1 through 10 and 12 through 14 as well as the medical evidence presented to the Committee.

- In a letter dated June 15, 1987 the School Committee notified Mrs. Hobson of its vote to affirm her termination, the reasons therefor, and her right to an appeal to the Commissioner of Education.

Position of the Parties

The specific basis of the appellant's procedural due process claim is that after the extensive hearing conducted by the School Committee, neither its June 15, 1987 letter nor any other written communication

provided Mrs. Hobson with the reasons for the decision affirming her termination or a fair summary of the evidence relied on. Counsel for the appellant argues that in termination cases a tenured teacher who requests and receives a hearing is entitled to a statement of reasons and a summary of the evidence relied on. Counsel's position is that rudimentary requirements of due process, established in a line of cases starting with Goldberg v. Kelly, 397 U.S. 254, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970) require such post hearing procedures. In support, counsel for Mrs. Hobson cites the case of Lee v. Board of Education of City of Bristol, 434 A.2d 333 (1980 Conn). In addition, he references the Guideline promulgated by the Board of Regents on January 9, 1975 which states that school committees involved in dismissal of tenured teachers should:

- (5) render within a reasonable time a clear written decision based exclusively on the record detailing the reasons and factual basis therefor

In noting that due process is a flexible concept, the elements of which are not fixed, the School Committee argues that there is no constitutional requirement that in every case of termination of a tenured teacher that the school board provide a detailed statement of its reasons and a summary of the evidence relied on. It argues that the holding of the Connecticut Supreme Court in Lee, supra, is based on the circumstances of that case, i. e. that the statutory framework required the school board to give a statement of reasons and evidentiary basis in order to facilitate the type of limited judicial review available to the discharged teacher. Distinguishing the situation before the Commissioner is the fact

that in Rhode Island, the review of the School Committee's decision is de novo. Thus, failure to give a detailed statement of reasons and summary of the evidence relied on does not prevent effective review of Mrs. Hobson's termination, argues counsel for the School Committee.

The School Committee recognizes that elements of due process may result from the concept of fundamental fairness. Specifically, the School Committee acknowledges that a discharged teacher is entitled to know the reasons for her termination, even if the purpose of such notice is not to facilitate review. Thus, the School Committee's position is that to the extent that due process requires a statement of reasons, the June 15, 1987 letter to Mrs. Hobson adequately apprises her of the reasons for her dismissal.

DECISION

In dismissing a tenured teacher for cause,¹ a school committee in Rhode Island must comply with both the statutorily-prescribed procedures set forth in Title 16 Chapter 13, and those procedures required by constitutional due process. While the procedures used by the South Kingstown School Committee in dismissing Mrs. Hobson met the state's statutory requirements, they did not accord Mrs. Hobson the full panoply of procedural rights to which she is entitled under the "due process" clause.² Although there are a few cases holding to the contrary, the

¹Constitution of the United States, Amendment 14 section 1; Constitution of Rhode Island, Article I, section 2.

²Stewart v. Bailey, 556 F.2d 281 (5th Cir. 1977); Ferguson v. Thomas, 430 F.2d 852 (5th Cir. 1970); Potemra v. Ping, 462 F.Supp. 328 (1978), requiring only a statement of reasons supporting the decision against the teacher, not a summary of the evidence relied on.

weight of authority establishes that the rudimentary due process in terminating tenured public school teachers for cause includes:

a written statement of the decision reached, the reasons for the determination, and a fair summary of the evidence relied upon. See: Lee v. Board of Education of the City of Bristol, 434 A.2d 333 (1980).

While it is true that due process is a flexible concept and "calls for such procedural protections as the particular situation demands" (Morrissey v. Brewer, 408 U.S. 471, 481 (1972)), the notion of rudimentary due process involves a determination of minimal procedures required in a given type of situation. In certain situations, minimal due process may not suffice, and additional procedures may be required for adequate due process. However, those cases cited establish a general rule that in the situation where the termination of the teacher is for cause, and the facts constituting just cause are disputed, the teacher has a constitutional right to notice of the facts on which the school committee relies and evidence supporting those facts. In Goldberg v. Kelly, supra, and in later judicial opinions discussing this element of due process, the courts have indicated that the underlying rationale for this procedure is to ensure that the decision will rest solely on the legal rules and evidence adduced at the hearing. The procedure also reduces the likelihood of arbitrary and capricious decision-

³Staton v. Mayes, 552 F.2d 908, cert denied, 98 S.Ct.309, 434 U.S. 907, 54 L.Ed.2d 195 (C.A. Okla. 1977); Bogart v. Unified School District, No. 298 of Lincoln County Kansas, 432 F.Supp. 895 (D.C.Kansas 1977); Pratt v. Alabama State Tenure Commission, 394 So.2d 18 (1980), holding that specific findings of fact were not required, but that a statement of reasons together with the evidence relied on was required; Ferris v. Special School District No. 1, 367 F.Supp. 459 (D.C. Minn. 1973). McGhee v. Draper, 564 F.2d 902 (10th Cir. 1977). Ganyo v. Indep School District, No. 832, 311 N.W.2d 497 (Minn 1981).

making by the decision-maker. The import of the Guideline of the Board of Regents which suggests that this procedure in fact be used is that it indicates endorsement of the significant body of authority which would impose this requirement as a matter of procedural due process.

In this case there is obvious dispute as to the existence of just cause. (Mrs. Hobson has exercised her right of appeal on this basis as well as on the issue of constitutional deficiencies). Apparently, an extended evidentiary hearing was conducted and numerous documents were submitted to the School Committee. This is precisely the type of situation which brings into play the requirement that the School Committee state, at the conclusion of the hearing, the reasons for the decision to terminate and the evidence on which it relied.

It is our opinion that the June 15, 1987 letter to Mrs. Hobson from the School Committee does not conform to the procedural due process requirement that it state the reasons for its decision and the evidence on which it relied. In addition the written decision, perhaps because of poor draftsmanship, does not even indicate that the School Committee's decision is based exclusively on the record created at the hearing.⁴ While the reasons given by the School Committee are stated with sufficient specificity (the language is identical to that contained in an unchallenged statement of cause furnished to Mrs. Hobson prior to the hearing), they

⁴Note that the June 15, 1987 letter indicates the decision followed "review of all data relevant" to Mrs. Hobson's dismissal. This statement implies perhaps unintentionally, that relevant data went beyond facts adduced at the hearing.

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are not clearly stated. The reasons are not supported by reference to the evidence in the record on which they are based. The statement of reasons, read as a whole, does not demonstrate compliance with the requirement that the School Committee's conclusion rest "solely on the legal rules and evidence adduced at the hearing." Goldberg v. Kelly, supra, at 271. To demonstrate such compliance we do not mean to imply that it is necessary for a school committee to make formal findings of fact, or write a decision with the polish of a judicial opinion. What is required is that a school committee, in such circumstances, clearly state the reasons for its decision and the evidentiary basis relied on.

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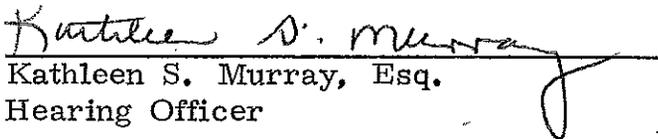
Given our conclusions as to the procedural requirements and deficiencies in the procedures afforded to Mrs. Hobson, the matter is

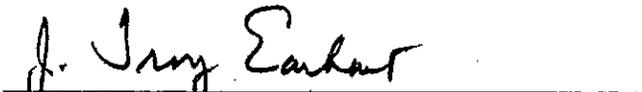
⁵The June 15, 1987 letter notes first that the decision is based on the reasons stated in the April 1, 1987 letter of Mr. DeLuca (which contained fourteen reasons plus "medical evidence" of Mrs. Hobson's inability to carry out her duties as a teacher). In conflict with this statement the Committee goes on to state "the reasons include (emphasis added) items numbered 1 through 10 and 12 through 14, as well as the medical evidence presented to the Committee." One is left wondering if there are other reasons, beyond even those originally listed in the April 1, 1987 letter on which the decision is based. Does the Committee clearly exclude item number 11 from the reasons? Did the Committee find that Mrs. Hobson's medical condition rendered her unable to carry out her duties as a teacher and is this an additional reason for its decision?

⁶Bogart, supra.

remanded to the School Committee for clarification and amendment of its decision. We decline to reinstate Mrs. Hobson, as we cannot, at this point in the proceedings conclude that her termination was not based on just cause. In addition, the Commissioner has indicated that only nominal damages are appropriate for violations of due process, unaccompanied by any determination that the termination itself was illegal.

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Dana Reed Simmons vs. Tiverton School Committee, Decision on Remand, March 4, 1986.


Kathleen S. Murray, Esq.
Hearing Officer

Approved: 
J. Troy Earhart
Commissioner of Education

April 4, 1988