

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

CATHERINE M. THIBAudeau :
 et al :
 :

vs. :

WARWICK SCHOOL :
COMMITTEE :

D E C I S I O N

February 15, 1991

This matter is moot. We, therefore, dismiss it. We should note, however, that we have reservations about the quality of the notice provided to the appellant teachers at the School Committee level. The notice of February 7, 1990 to be ambiguous and vague. Furthermore, the pretermination hearing provided in this case does not appear to comport with the requirements of Cleveland Board of Education v. Loudermill, 84 L Ed. 2d 494. In Loudermill the Court stated with regard to pretermination hearings that:

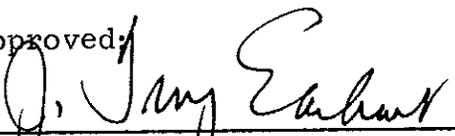
The essential requirements of due process, and all that respondents seek or the Court of Appeals required, are notice and an opportunity to respond. The opportunity to present reasons, either in person or in writing, why proposed action should not be taken is a fundamental due process requirement. See Friendly, "Some Kind of Hearing," 123 U Pa L Rev 1267, 1281 (1975). The tenured public employee is entitled to oral or written notice of the charges against him, an explanation of the employer's evidence, and an opportunity to present his side of the story. See Arnett v Kennedy, 416 US, at 170-171, 40 L Ed 2d 15, 94 S Ct 1633 (opinion of Powell, J.); *id.*, at 195-196, 40 L Ed 2d 15, 94 S Ct 1633 (opinion of White, J.); see also Goss v Lopez, 419 US, at 581, 42 L Ed 2d 725, 95 S Ct 729. To require more than this prior to termination would intrude to an unwarranted extent on the government's interest in quickly removing an unsatisfactory employee.

The above mentioned requirements do not appear to have been met in this case.

Conclusion

This matter is dismissed as moot.

Approved:



J. Troy Earhart
Commissioner of Education
February 15, 1991



Donald J. Driscoll
Hearing Officer