

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

JANET WARD, et al and

LINCOLN TEACHERS'
ASSOCIATION

vs.

LINCOLN SCHOOL
COMMITTEE

D E C I S I O N

August 15, 1991

This matter was heard on October 17, 1990 upon appeal to the Commissioner of Education by the Lincoln Teachers' Association on behalf of Janet Ward, et al from a decision of the Lincoln School Committee concerning placement on the salary schedule.

The Commissioner has jurisdiction to hear this appeal by virtue of the provisions of §16-39-1 and §16-39-2 of the General Laws of Rhode Island, as Amended. The matter was heard by the undersigned Hearing Officer under appointment by the Commissioner of Education.

Due notice was given to the interested parties of the time and place of the hearing. Both parties were represented, witnesses sworn, testimony taken, a transcript of which was made, and evidence presented.

The Issue

Several certified nurse-teachers hold that they are entitled under §16-7-29 to certain credits for past nursing experience to appropriately compute their placement on the teachers' pay scale of the Lincoln School Department.

Jurisdiction

In order to clarify this appeal it is necessary to separate Betty Ann Reynolds from this case. Ms. Reynolds was hired in 1986 as a certified nurse-teacher at Step 1 of the salary scale. Ms. Reynolds was part of an arbitration action filed for several members of the Bargaining Unit in the 1986-87 school year which dealt with the issue of placement on

1] In the interim between the request for hearing (June 13, 1990) and the hearing (October 17, 1990) one of the appellant parties, Ms. Ward, left the Lincoln School Department and was dropped from the case. Her name had become the subject Title of this case (Ward, et al) and so remains for identification purposes only.

the salary scale by recognizing previous private school teaching experience.

The Arbitrator found that a past practice existed in Lincoln which gave teachers credit for all prior teaching experience, public or private; Rhode Island or out-of-state. The teachers were ordered adjustments. The Arbitrator, however, found differently for Ms. Reynolds, a nurse-teacher.

There was no evidence the past practice encompassed giving nurses credit for outside nursing experience. Further, there was no evidence the clinical and theoretical courses she taught were in any way comparable in substance or duration to a year's teaching experience in a public or private school. . . . was not aggrieved by. . . and is not entitled to any retro-active step advancement.

By the fact that this issue has been adjudicated under the Collective Bargaining Agreement for Ms. Reynolds, this precludes her from participation under this appeal.

Facts in the Case

1. The Lincoln School Committee hired nurse-teachers and placed each on the first step of the pay scale.
2. A newly-hired nurse-teacher received no credit for experience prior to her hiring in September of 1989.

2] The election of remedies doctrine (Cranston Teachers' Association vs. Cranston School Committee, 423 A.2d at 69) precludes this action since her election of arbitration foreclosed the option of subsequently seeking relief for an identical claim through the Commissioner's pursuant to §16-39-1 and §16-39-2.

3] This is based on the testimony of Roberta Ryan, the only person who gave testimony other than Ms. Reynolds. By implication the appellants offered other

Decision

This appeal is filed under the charge that the Lincoln School Committee did violate §16-7-29. The appellants allege that nurse-teachers should receive recognition for nursing services prior to their attaining state certification as nurse-teachers.

Nowhere in the record did the nurse-teachers or their representative offer believable testimony or evidence that would equate their "experience in nursing" to be the same as or equal to, that of "teaching experience" in either its substance or its duration.

The determination of this issue is directly found in §16-7-29. The language of that statute demands that the School Committee have a salary schedule ". . . recognizing years of service, experience and training . . ." In interpreting this statute the Rhode Island Supreme Court, in 1984, ruled in Howard Union of Teachers vs. State of Rhode Island, 478 A.2d 563. In that case the Court ruled that ". . . a community is required only to include teaching experience and training in the public schools within the state in determining a teacher's placement on the salary schedule." The Supreme Court further treated the statute by analyzing the terms service, experience and training. That careful analysis is summed up on p.566. ". . .Having concluded that 'service' includes only teaching experience in public institutions in Rhode Island, we similarly construe the words 'experience' and 'training' to reach a consistent result." Further, the Court said, "Our reading of the statute convinces us that the statutory

3] continued

nurse-teachers in similar circumstances through the introduction of a document summarizing employment history for Judith Frank, the fourth nurse-teacher in this initial appeal.

meaning intended by the Legislature, in enacting §16-7-29 is to give credit in salary placement only for prior teaching in public institutions in Rhode Island."

At no time have the appellants offered proof of prior teaching experience in public institutions which would qualify for coverage under the statute.

The language of the Rhode Island Supreme Court in interpreting §16-7-29 is limited to institutions established by communities to serve children up to the completion of Grade 12 and/or to age 21 for certain other qualified students, i.e., exceptional or handicapped students.

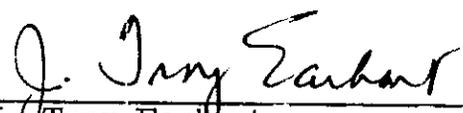
Teaching, for this statute, can only be construed to be experience obtained in such institutions.⁴

The appeal is denied.

4] This is not to preclude that a school district could, on its own, adopt a policy giving credit for work in non-public schools. If this rule was part of the salary schedule then the district would be required to follow its own rule.


Donald J. Driscoll
Hearing Officer

Approved:


J. Troy Earhart
Commissioner of Education

August 15, 1991