

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER
OF
EDUCATION

JAMES CAHALAN

vs.

WOONSOCKET SCHOOL COMMITTEE
AND
RHODE ISLAND DEPARTMENT OF
ELEMENTARY AND SECONDARY
EDUCATION

HELD: The Department's applica-
tion of the teacher certification
regulations to require the
appellant to obtain a "Building
Construction Trades" certificate
in order to return to his
position at the Woonsocket Area
Vocational Center was proper.

August 7, 1992

TRAVEL OF THE CASE

On July 17, 1991 Mr. Cahalan appealed to the Commissioner for resolution of:

any and all questions arising out of his possessing the appropriate certification for the position as Construction Trades Instructor.

The undersigned, designated to hear this matter by former Commissioner J. Troy Earhart conducted hearings on September 30, October 30, December 6, 1991 and January 28, 1992. The briefing schedule closed on May 1, 1992, upon the filing of the appellant's memorandum.

Jurisdiction to hear the case lies under R.I.G.L. 16-39-1.

FINDINGS OF RELEVANT FACTS

- James Cahalan has been teaching in the vocational program at the Woonsocket Area Vocational-Technical Facility since 1978 (Tr. Vol.I p. 38)
- Over the period 1978 up through school year 1989-90 he taught a vocational course which varied in both title and course content.

Throughout the years he taught electricity, plumbing, welding, construction, and all aspects of repair and maintenance of buildings (Tr. Vol.I p. 39) Over the years his coverage of these various subjects changed in terms of the "proportion" of what he taught and how he taught it. (Tr. Vol.I pp. 40,49)

- Sometime in 1987 the name of Mr. Cahalan's course was changed from Building Repairs to Building Construction Trades.

(Appellant's Ex. 2. July 6, 1987 letter from Rickie Wilson to William Nixon; Tr. Vol.I p. 73 Vol.II p. 63)

- Along with the change in course title, the content of the course changed to include a more in-depth focus on the construction aspects of the program (Tr. Vol.I pp. 73-74)¹
- The present curriculum guide for the Building Construction Trades course as offered at the Woonsocket Area Vocational Technical Center incorporates some of the "modules" or topics of instruction included in a state-approved curriculum guide for "building maintenance" i.e. module 6 and 7 covering the subjects of electricity and plumbing. (S.C. Ex. A)
- The focus of the course entitled "Building Construction Trades" is on construction - from the stage of building site preparation to the final steps of installation of trim, roof shingles and painting of the structure that has been built. (S.C. Ex. A)
- From 1987 up until school year 1990-91 when Mr. Cahalan went on a one-year leave of absence from his position, Mr. Cahalan continued to teach² the course entitled Building Construction Trades. (Tr. Vol.I pp. 50,52-53,57; Vol.IV p. 24)
- Mr. Cahalan holds a Professional certificate in Vocational

1 There is a conflict in the testimony as to other content changes in the program. For example Rickie Wilson, principal of the school at the time of the course change in 1987 testified that carpentry, lay out and design were incorporated into the program for the first time, welding was eliminated (Tr. Vol.III pp. 30-35; Mr. Keough of the Department of Education testified that the course previous to 1987 consisted of "primarily electricity and welding and some related systems" (Tr. Vol.III p. 10) Both Mr. Wilson and Mr. Keough characterized the course, prior to 1987, as a building "maintenance" course as opposed to a course on building construction.

2 At least for part of the school day. Testimony was that starting in 1987, Mr. Cahalan was also assigned to be a "floater" to cover shop classes while the teacher of a class was on a free period.

Education/Industrial Maintenance (valid for life) issued to him on August 1, 1984. He also holds a life certificate in Industrial Arts issued to him on February 3, 1989. (Appellant's Ex. I)

- The Woonsocket School Department learned of Mr. Cahalan's intention to return to his position at the Vocational-Technical Center for the 1991-92 school year. (Tr. Vol.I p. 13-14)
- On or about July 1, 1991 Mr. Joseph Trombetta, acting Director of the Woonsocket Area Vocational/Technical Center requested information concerning Mr. Cahalan's certification status. (Appellant's Ex. 14)
- Mr. Trombetta was advised by Constance T. Baker, of the Department's Division of Vocational and Adult Education, that Mr. Cahalan held a Vocational Education/Industrial Maintenance Certificate and that she and Mr. Roy (of the certification office) "concurred that the appropriate certificate was issued". (Appellants Ex. 14)
- As a result of subsequent telephone discussions between Mr. Trombetta and staff in the Department of Education, Mr. Trombetta concluded that not only was Mr. Cahalan "issued the appropriate certificate" but also that the certificate he held did not authorize him to teach the Building Construction Trades course to be offered that year. (Tr. Vol.I pp. 13-14)
- The Superintendent of Woonsocket schools, Dr. Josephine Kelleher, notified Mr. Cahalan that he could not be reinstated to his position without proof of appropriate certification. Joint Ex. I.

DECISION

1. Department of Education as a proper party in this case

As a threshold issue, we must address the Department's contention that it is not a proper party in this case. For the following reasons, we disagree. Operation of the area vocational centers is a joint venture, so to speak, between local school districts and the state. A consistent principle of operation of the area vocational centers throughout their existence has been that teachers providing instruction at these schools must meet state certification requirements and regulations have been adopted to ensure that vocational teachers are qualified to instruct the different vocational specialties. As with teacher certification requirements generally, regulations governing certification of teachers of vocational education must be reasonable, issued upon proper authority, and fairly construed and applied. The task of applying these regulations is that of the Office of Certification as well as the Division of Adult and Vocational Education of the Department of Education. The vocational office administers written and practical exams for these teachers and verifies the fact of appropriate work experience for the designated field.

3 See the 1967 Administration Plan for Vocational-Technical Education in Rhode Island. Appellants Ex. 7 p. 4. Also see the most recent regulations governing the Management and Operation of Area Vocational-Technical Centers in Rhode Island (July 19, 1990) p.3's definition of vocational-technical education and the reference to a properly certified teacher.

While it is not exactly clear on the record at exactly what point in time, who, or on what basis the determination was made that James Cahalan could not teach the course entitled Building Construction Trades,⁴ given the status of his certification, this was clearly the position of the Department of Education from the outset of this proceeding.⁵ Certainly, the Department of Education did more than convey information concerning Mr. Cahalan's certificate to the officials at the Woonsocket Area Vocational center in July of 1991. The determination of the propriety of Mr. Cahalan's certification to teach the course in question was made by the Department. This is a function under state law and regulations that only the state, and not the local school committee can perform. It is in making this determination that the Department "acts" in a way which aggrieves the teacher whose credentials are in dispute. Thus, we reject the notion that the Department of Education took no action on which an appeal against it can be based and that it is not a proper party in this matter.

II. Merits of the appeal

Mr. Cahalan's position is that he has taught essentially the same course over a twelve year period, whether it was

4 Ms. Constance Baker's letter of July 1, 1991 did not impart this information and Superintendent Kelleher's hearsay information on this point was unspecific as to its origin.

5 A position enunciated very clearly by Mr. Keough of the Division of Adult and Vocational Education of the Department in his testimony at page 9 of Vol.III transcript of the Dec. 6, 1991 hearing.

called "Industrial Systems Maintenance", "Building Repair" or "Building Construction Trades". Since he holds a professional certificate to teach this course, he argues that the state certification officials are not now free to require him to obtain an additional separate certificate, or endorsement, entitled "Building Construction Trades". The appellant argues this violates principles established by the Rhode Island Supreme Court in Reback v. R.I. Board of Regents, 560 A 2d 357 (R.I. 1989), specifically, that to require additional certification of him to teach a course of instruction for which he was certified for life has the effect of annulment of his certificate. The court in Reback declared such action to be in violation of 16-11-2 and 16-11-4.

We agree with the appellant that R.I.G.L. 16-11-2 and 16-11-4 guarantees him continued certification in the vocational field of Industrial Systems Maintenance. If the record in this case supported a finding that at the time Mr. Cahalan was issued his life certificate in Industrial Systems Maintenance (1984) that certificate authorized him to teach a course which was substantially the same as the Building Construction Trades course (S.C. Ex. A) we would agree that the Department could not now take the position that another certificate was required. We would, if presented with evidence that the appellant's certificate carried with it the "seal of approval" to teach in the specialized area of building construction (regardless of the title of the course) sustain

his position. However, we do not find that the 1984 professional (life) certificate issued to him carried with it that authorization.

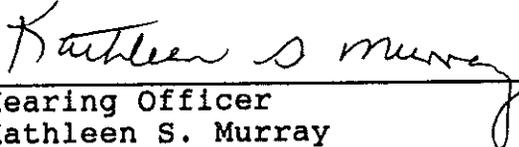
Even if the appellant established that what he taught in Industrial Systems Maintenance/Building Repair was the same as what he taught in Building Construction Trades this does not indicate that the written curricula or curriculum guides for those courses were substantially the same. It is course outlines and written curricula which would be utilized by the state in determining what the course consisted of and the certification requirements for a program. There is no evidence in the record that in 1984 Industrial Systems was a program which, as described by the Area Vocational Center in writing and approved by the state, was in essence the same as what we have described in School Committee Ex. A. In fact the only written description of "the program" prior to 1987 in evidence is in Mr. Wilson's July 6, 1987 letter to Mr. Nixon of the Department of Education. At that time the program consisted of:

The basics of carpentry, electricity, plumbing, painting and wallpapering, glazing, window repair, custodial, and some basic welding techniques.
(Appellants Ex. II letter of Rickie Wilson 7/6/87)

This describes a course substantially different from that presented in the curriculum guide for "Building Construction Trades". If documentation establishing the two courses as

6 According to even his own testimony, however, the emphasis of the course post-1987 was on construction.

substantially the same existed, the appellant certainly would have produced such documentation in meeting his burden of proof. From the record before us, we cannot conclude that the appellant's vocational certificate authorized him to teach a course or program substantially the same as that described in the curriculum guide for Building Construction Trades. For the above reasons, the appeal of Mr. Cahalan is denied and dismissed.


Hearing Officer
Kathleen S. Murray

Approved:


Peter McWalters
Commissioner

DATE: August 18, 1992