

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

JENNY ROSARIO

VS.

R.I. DEPARTMENT OF
EDUCATION

DECISION

Date: July 15, 1993

Petitioner Jenny Rosario was first issued a provisional teaching certificate valid for Secondary Spanish and English, on September 22, 1983. This was a six year provisional certificate expiring on August 1, 1989. On January 5, 1984 she was granted an emergency elementary certificate with a bilingual endorsement. This certificate had an expiration date of August 1, 1984. In 1987, on July 13th, she was issued a professional certificate in English which expired on August 1, 1992. In 1987, on September 23, she was issued a professional Spanish certificate expiring on August 1, 1992. The record in this case established that petitioner Rosario has not earned the academic credits beyond a Bachelors Degree which would enable her to renew any of her teaching certificates or to qualify for a life teaching certificate.

Petitioner Rosario has been an outstanding teacher in the public schools of Providence. Of course, without a valid and current teaching certificate she can not continue to teach in Providence (G.L. 16-11-1). The law states:

16-11-1. Certification of public school teachers required --
Deductions from state aid for noncompliance.-- No person shall be employed to teach, as principal or assistant, in any school supported wholly or in part by public money unless the person shall have a certificate of qualification issued by or under the authority of the state board of regents for elementary and secondary education. In case any city or town shall pay or cause to be paid any of the public money to any person for teaching who did not, at the time of teaching, hold a certificate, then the department of elementary and secondary education shall deduct a sum equal to the amount so paid from the amount of the state's money due, or which may thereafter become due, to the city or town, before giving his order in favor of the city or town for any of the public money under the provision of § 16-1-10, 16-1-11, and 16-5-22.

Petitioner Rosario argues two points. First of all she contends that she is an

outstanding teacher and that therefore she should not be required to obtain further post graduate credits. The short answer to this contention is that the Board of Regents has not granted the Commissioner discretionary authority to wave certification requirements. The Board may well have concluded that such discretionary authority would introduce an improvident element of subjectivity into certification decisions. Such discretionary authority might also tend to subvert the general principle that teachers should obtain graduate credits or advanced degrees.

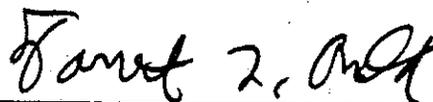
Petitioner also argues that under Reback v. R.I. Board of Regents 560 A.2d 357 (1989) she is entitled to receive an extension of her professional certificate until August 1994. She argues that she had a provisional certificate which was valid until 1989. She points out that the Board of Regents enacted a regulation requiring those who had provisional certificates to attain professional certificates by 1987 even if their certificates were scheduled to expire after 1987. She further points out that the Rhode Island Supreme Court ruled in Reback, supra that the Board of Regents could not, under G.L. 16-11-2, terminate a teaching certificate until the original expiration date marked on it had expired. She therefore argues that she could have, under Reback, supra waited until 1989 to apply for professional certificate and that if she had applied for the certificate then it would not have expired until August 1994.

Of course the problem with this argument is that the petitioner, in fact, did obtain professional certificates in 1987 which expired in 1992. The fact remains therefore that at this time petitioner Rosario lacks a teaching certificate.

Finally the petitioner argues that the Commissioner should exercise his discretion to grant her an extension of time to complete the applicable course requirements. Assuming that the Commissioner has such authority we think it would not be permissible to exercise it in this case. The petitioner has had ten (10) years to start the course work, yet the record fails to show the completion of any courses. Under the circumstance we must deny the petitioner request for an extension of time.

Conclusion

Petitioner appeal must be denied.



Forrest L. Avila
Hearing Officer

Approved:



Peter McWalters, Commissioner

Date: July 15, 1993