

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

LINDA ANN D'AMBRA

V.

NORTH PROVIDENCE SCHOOL  
COMMITTEE

DECISION ON REMEDY

Held: Appellant is entitled to back pay,  
with statutory interest for school  
years 1979 to date.

Date: July 7, 1994

### Travel of the Case

In a January 10, 1992 decision the Rhode Island Supreme Court affirmed the decisions of the Board of Regents and Commissioner in this matter. D'Ambra v. North Providence School Committee, 601 A2d 1370 (R.I. 1992). The parties apparently attempted to settle the issue of an appropriate remedy for Ms. D'Ambra over the period of January, 1992 through June, 1993 and upon determining their inability to agree to a remedy, notified the Commissioner's office of the need to schedule a hearing on the issue of remedy. See letter of Attorney Richard A. Skolnik dated June 1, 1993.

Thereafter a hearing was held by the designated hearing officer and memoranda on the legal issues were submitted by counsel. This process was completed on October 8, 1993.

### Findings of Relevant Facts

- The difference between the compensation paid to Ms. D'Ambra for school year 1983-84 through 1991-92 and the salary she should have earned during those years is fifty-one thousand three hundred and eight (\$51,308)dollars. Joint Exhibit II.
- For school years 1979-80 through 1982-83 the salary differential<sup>1</sup> is six thousand nine hundred and ninety (\$6,990) dollars, assuming step advancement during this period.
- If Ms. D'Ambra receives compensation as a regular teacher for 1979-1983, but her placement on the salary schedule remains at step one throughout this period, the amount of back pay to which she is entitled for this same period is three thousand four hundred and twenty two (\$3,422) dollars. Joint Exhibits III and IV.

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<sup>1</sup>Including what Ms. D'Ambra should have earned as a regular teacher rather than as a tutor paid at an hourly rate.

## Decision

By prior decision<sup>2</sup> in this matter Ms. D'Ambra was found to be a regular teacher in the North Providence School system during school years 1979-80 through 1982-83. It was also determined that each of these school years was a "year of service" under R.I.G.L. 16-7-29 and that in determining the appellant's placement on the salary schedule for regularly-employed teachers, she was entitled to credit for each of these years.

In returning for a ruling on the issue of remedy, the parties have identified areas of continuing dispute, as well as issues which they have resolved by agreement. We will take up the latter first.

There is no dispute that consistent with our prior decision in this matter, Ms. D'Ambra is entitled to \$51,308.00 in back pay for the period 1983 through the date of the Rhode Island Supreme Court's decision affirming our ruling. This amount reflects additional compensation resulting from her placement at step 5, rather than step 1 in school year 1983-84 when she was appointed to a full time teaching position.

The parties have also agreed that Ms. D'Ambra is owed the amount of \$500.00 for each year from 1979-1983, for a total of \$2,000.00. This amount represents a \$500 stipend under the contract for those teachers who elected not to participate in the school department's medical insurance plan.

Also, the appellant is agreed to be entitled to itinerant pay in the amount of \$200.00, \$50.00 for each year in which her job assignment required travel from school to school within the district. This, again, was the period prior to her appointment as a full-time teacher, i.e. 1979-1983.

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<sup>2</sup>Dated January 3, 1990.

With regard to any monies paid to Ms. D'Ambra which constitute compensation, the parties have agreed to make their respective contributions to the state employees' retirement system, unless they mutually agree otherwise<sup>3</sup>.

The parties are at odds on the issue of the extent of back pay for the period 1979-1983. The North Providence School Committee argues that since the appellant's representative "confined the claim"<sup>4</sup> to the period subsequent to 1983, she is barred from asserting any claim for monies owed to her for the period 1979-1983. During this period she was a part-time teacher, paid at any hourly rate. Her compensation was not pursuant to the salary schedule governing the compensation of regularly-employed teachers.

Although Ms. D'Ambra's representative at the initial hearings in 1989 did not explicitly argue for additional compensation due to step advancement during 1979-83, his argument that in 1983-84 Ms. D'Ambra should have been given service credit for these years implicitly raised this claim. The eligibility of part-time teachers for service credit, and the extent of credit required by the statute were issues of first impression. It is therefore not surprising that the appellants' representative failed to articulate a claim for monies owed for step advancement during the appellant's period of part-time teaching service. Having found that Ms. D'Ambra is entitled to a year of credit for each year of part-time service<sup>5</sup>, it would be manifestly unfair to reject her claim for monies attributable to advancement from step 1 to step 4 during this period. This is especially so when there is no evidence of a clear and unequivocal waiver of her claim to these sums.

Therefore, we find that the appellant is entitled to the amount of \$6,990.93. This represents her pro-rata salary determined for the period 1979-1983 in

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<sup>3</sup>And, we would assume, such contributions are not required to be made under any law a regulation applicable to such payments.

<sup>4</sup>As we noted in footnote 5 of the January 3, 1990 decision.

<sup>5</sup>And thereby precisely quantified her claim for monies attributable to step advancement.

accordance with the salary schedule in effect during that period, with her placement on that schedule reflecting advancement for each year of part-time service. We believe this remedy is consistent with our ruling which noted specifically at page 6 that once the appellant's placement on the salary schedule was correctly determined, her compensation should be pro-rated according to the number of hours she worked during these years.

The issue of whether statutory interest should be added to the monies owed by the school committee to Ms. D'Ambra is a significant one. Given the amounts involved and the time that has elapsed between the accrual of Ms. D'Ambra's cause of action and the date of this decision, an award of interest at the statutory rate of twelve (12%) per cent per annum will produce a significant additional recovery for the appellant. Counsel for the school committee, in briefing the issue, argued that without specific statutory authority the Commissioner is not empowered to include interest in decisions awarding monetary damages. Alternatively, it is argued that if the Commissioner does have authority to award interest, its inclusion is discretionary. In this instance, since there was no bad faith on the part of the school committee, and the issues presented in the case were matters of first impression under Rhode Island law, counsel argues that any award of interest should be calculated only from the date of the Rhode Island Supreme Court's decision in this matter.

The policy regarding inclusion of interest in back pay awards under decisions of the Commissioner of Education changed with our Supreme Court's decision in Paola v. Commercial Union Assurance Cos., \_\_\_ R.I. \_\_\_ 461 A2d 935 (1983). Prior to Paola it was the policy of the Commissioner to deny requests for the addition of statutory interest to back pay awards.<sup>6</sup> More recently in cases

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<sup>6</sup>See decisions of the Commissioner in Schiavulli v. North Providence School Committee, Sept. 27, 1976 at footnote 5 and Hill v. Providence School Committee, November 30, 1978 at footnote 5.

where the decisions included monetary awards to the appellants, statutory interest was included.<sup>7</sup> We are bound by the substantial administrative precedent on this issue. We further agree with the logic of extending the court's ruling in Paola to decisions of the Commissioner. As with arbitration awards, decisions of the Commissioner ripen into final judgments, enforceable by mandamus in the Superior Court. See R.I.G.L. 16-39-3.1. Inclusion of statutory interest is, in our opinion, incidental to the provision of an adequate remedy for those appellants who must proceed with their claim to the Commissioner in disputes arising under any law relating to schools or education. We therefore direct that statutory interest at the rate of twelve (12%) per cent per annum be added to the monies owed to Ms. D'Ambra by the school committee.

The parties have indicated some confusion as to how statutory interest should be computed and have raised the issue of whether "compounding" of interest is required. It would seem that simple prejudgement interest would be applied to those sums owed to Ms. D'Ambra in each year from 1979 to date. In determining the amount owed to Ms. D'Ambra in each year, one would add the amounts owed from previous years, exclusive of interest, and calculate twelve percent (12%) of that sum. Compounding of interest is not required, Welsh Mfg. Div. of Textron, Inc. v. Pinkerton's Inc., 494 A2d 897 (R.I. 1985).

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<sup>7</sup>See decisions of the Commissioner in Simmons v. Tiverton School Committee, March 4, 1986; Chadwick v. Pawtucket School Committee, February 27, 1989; D'Ordine v. North Providence School Committee, February 26, 1990.

Kathleen S. Murray  
Kathleen S. Murray, Hearing Officer

Approved:

Peter McWalters  
Peter McWalters, Commissioner

July 7, 1994  
Date