

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

Anne Marie Quattrucci

v.

East Providence School Committee

DECISION

Held: The School Committee established good and just cause to dismiss Ms. Quattrucci from her position as a tenured teacher, but it did not take its action by the March 1st deadline established in R.I.G.L. 16-13-3. As a result, Ms. Quattrucci's dismissal could not take effect until school year 1999-2000.

DATE: October 28, 2002

Travel of the Case

On April 23, 1998 the East Providence School Committee voted to terminate the employment of Anne Marie Quattrucci, a tenured teacher then assigned to the Whiteknact Elementary School. The termination was to become effective May 1, 1998. Notice of this decision was sent to Ms. Quattrucci by letter dated April 27, 1998. Thereafter, through counsel, Ms. Quattrucci requested that she be accorded a full hearing in accordance with R.I.G.L. 16-13-4. According to the letter of appeal to Commissioner McWalters dated October 18, 1999 hearings by the School Committee had been held on a number of dates over a seventeen-month period, but were not completed at that time. Consequently, her letter of appeal to the Commissioner raised the issue of whether the East Providence School Committee had violated Ms. Quattrucci's statutory and due process rights.

The matter was assigned for hearing and decision on November 1, 1999. After the scheduling of a hearing date, the parties requested that the matter be held in abeyance pending their ongoing efforts to reach an agreed-upon resolution of the issues. On June 1, 2001 counsel for Ms. Quattrucci notified the hearing officer that settlement discussions were not successful, and that a hearing would be necessary. After a prehearing conference, the parties agreed to a number of hearing dates which concluded on October 4, 2001. Thereafter the parties agreed to submit, and did so on February 22, 2002, memoranda outlining their legal arguments and relevant citations. It should be noted that although the original letter of appeal to Commissioner McWalters raised the issue of compliance by the School Committee with Ms. Quattrucci's right to a full and timely post-termination hearing, the parties agreed to defer hearing on this issue and place before the Commissioner the issues of whether there was just cause for her dismissal and whether notice of her dismissal was timely under state law.¹

Issues

- I. Is the School Committee's dismissal supported by "good and just cause" as required by R.I.G.L. 16-13-3?
- II. Was notice of dismissal required to be provided to Ms. Quattrucci on or before March 1 of the school year immediately preceding the school year in which the dismissal was to become effective and if so, was it provided to her in time to be effective on May 1, 1998² or school year 1998-1999?

Findings of Relevant Facts:

- Anne Marie Quattrucci was initially employed as a long-term substitute teacher at Martin Junior High School during school year 1987-1988. She subsequently was hired as a regular teacher in the East Providence school system, first assigned to East Providence High School

¹ See Tr. Vol. I, pp. 7-20.

² The East Providence School Committee's April 27, 1998 notice of termination indicated it was effective May 1, 1998.

in the 1990-1991 school year and in 1991-1992 she was assigned to teach seventh grade at Martin Junior High School (hereinafter “Martin”). Appellant’s Ex.D;Tr.Vol.V, pp.18-20.

- At the completion of her second year at Martin, i.e. the 1992-1993 school year, Ms. Quattrucci became a tenured teacher in the East Providence School system. Tr.Vol.V, pp.20-21,26-27.³
- After receiving satisfactory performance evaluations during school years 1990-1991, 1991-1992 and 1992-1993, Ms. Quattrucci received a year-end evaluation in June of 1994 which rated her performance as “unsatisfactory” in nine categories of assessment, “needs improvement” in four categories, and satisfactory in the two remaining areas. S.C.Ex. 4,5,6,7, and 8.
- The June, 1994 evaluation (S.C.Ex.8) included a section referred to as a “Target Program” in which each of the unsatisfactory areas of Ms. Quattrucci’s performance was discussed in detail, with comments and suggestions for improving her performance indicated in writing. The Target Program also referenced discussions that had occurred over the course of the school year in which Ms. Quattrucci’s supervisors had discussed deficiencies observed in her performance as a teacher and given her direction on how to remediate these deficiencies.S.C.Ex.8.
- Other than relocating her desk in the classroom, Ms. Quattrucci did not implement the suggestions made by her supervisors to improve her teaching during 1993-1994. Tr.Vol.I,pp.156-158.
- The June, 1994 evaluation noted “Recommendation for continued employment will be based on Ms. Quattrucci’s performance on (the) Target Program”. S.C.Ex.8
- At the close of school year 1993-1994, Ms. Quattrucci was transferred to a different house within Martin where she was under the direct supervision of a different house leader and assigned to teach the eighth grade English.Tr.Vol.I,pp.50-52;Vol.V.pp.50-52.
- Ms. Quattrucci expressed complaints with respect to her house leader,⁴ and her house leader registered certain complaints against her during the early part of the 1994-1995 school year; On November 29, 1994 then-Superintendent Patricia Daniel relieved her house leader of all supervisory responsibilities involving Ms. Quattrucci and directed Principal John Rezendes to assume responsibility for supervision of her teaching duties and the Target Plan for the remainder of the 1994-1995 school year. S.C. Ex.17 and S.C.Ex.18;Tr. Vol.I,p.53, 59-60, 198-202; Vol.V.p.57-61;Vol.VI, pp.126-128,130-134.
- Ms. Quattrucci’s teaching performance was formally evaluated by Principal John Rezendes twice during school year 1994-1995. On the basis of classroom observations that began on November 21, 1994⁵, Mr. Rezendes assessed her performance in January, 1995 as unsatisfactory in thirteen out of the fifteen categories and again in June, 1995 unsatisfactory in eleven of the fifteen categories and needing improvement in two areas of assessment. S.C.Ex.10 and 11.

³ Evidence in this case indicates that completion of three years of teaching under three successive annual contracts would have occurred no earlier than the close of the 1992-1993 school year. She had some initial confusion on this point, ultimately concluding that she became tenured at the close of the 1991-1992 school year and that she had worked as a tenured teacher for one school year before her evaluations were unsatisfactory. This conclusion is not supported by the evidence of her employment history.

⁴ these complaints will be discussed later in this decision.

⁵ At the time Mr. Rezendes was directed to assume responsibility for evaluating Ms. Quattrucci.

- Throughout school year 1994-1995 Mr. Rezendes received complaints from approximately seven to ten students and their parents with regard to Ms. Quattrucci not preparing lessons, not engaging the students in productive work during class, and students being inattentive and unhappy in class. Tr. Vol.I. pp.236-241.
- At the time of both the January, 1995 and June, 1995 evaluations, Mr. Rezendes recommended to Dr. Daniel that her employment be terminated. Tr.Vol.I, pp. 81, 83-84, 89.
- Dr. Daniel did not accept Mr. Rezendes recommendation to terminate Ms. Quattrucci, but instead transferred her to teach at the Whiteknact School (hereinafter “Whiteknact”) because Dr. Daniel “felt that Miss Quattrucci deserved an opportunity to try teaching at the elementary level” and she held the appropriate certification to do so. Tr. Vol.I, pp.91-92, 223-224.
- Upon transferring to Whiteknact, Ms. Quattrucci was assigned to teach the fifth grade and was supervised and evaluated by Principal David Britto, who monitored her progress on the previously-developed Target Program. Tr.Vol.II, p.7-9.
- At the conclusion of her first year at Whiteknact, Ms. Quattrucci was formally evaluated by Mr. Britto, who assessed her as “unsatisfactory” in three of the fifteen categories, “needs to improve” in six areas and “satisfactory” in six areas. S.C.Ex. 12. The areas in which her performance was unsatisfactory included planning work of pupils, effectiveness in instructional planning and implementation, and rapport with students. S.C.Ex.12.
- The June 3, 1996 evaluation noted that while Ms. Quattrucci seemed capable of effective classroom instruction and had accomplished this “a number of times”, her classroom performance was “inconsistent” and lessons were observed which lacked, “tremendously” in structure, sequence, purpose, teacher/student engagement, quality time on-task, and closure. S.C. Ex.12.
- Mr. Britto’s written comments directed Ms. Quattrucci to a specific lesson design for use in her future lesson plans so that she might become more adept at planning, implementing, and following through with effective instructional practices. S.C.Ex.12.
- At the end of her second year at Whiteknact, Ms. Quattrucci was again formally evaluated by Mr. Britto. Her June 9, 1997 evaluation indicated that she performed unsatisfactorily in thirteen areas of assessment, needed to improve in one area and was satisfactory in one performance category. S.C. Ex.13.
- Two central office administrators also observed and evaluated Ms. Quattrucci’s teaching at the request of interim Superintendent Robert Ricci. Tr.Vol.II, pp.35-37. Both of these evaluators noted serious deficiencies in Ms. Quattrucci’s instructional methods and inadequacy of her teaching in content areas after observing her class twice during May, 1997. S.C.Ex.13.
- Mr. Britto’s comments to his June 9, 1997 evaluation noted that lesson plans were not followed and that Ms. Quattrucci failed to use instructional time effectively. He recommended that Ms. Quattrucci continue on an intensive Target Program from September to December, at which time a decision would be made about her continued employment in the school system. S.C. Ex.13.
- Mr. Britto continued to monitor Ms. Quattrucci’s performance during school year 1997-1998, although he did not formally evaluate her that year. Tr.Vol. I, pp.45-46;
- During a classroom visit on October 2, 1997, Mr. Britto observed a lack of interaction between Ms. Quattrucci and her students, who were practicing cursive letter formation for

an extended period of time. She was not teaching the lesson indicated in her plan book for that period of time. S.C.Ex.24.

- During a classroom visit on December 18, 1997, Mr. Britto observed that the lesson plan was not being followed and students were copying multiple items off the chalkboard as Ms. Quattrucci wrote them. S.C.Ex. 24.
- On four occasions from November 24, 1997 to January 5, 1998 Ms. Quattrucci did not submit timely lesson plans to Mr. Britto for his review and approval. S.C. Ex.24⁶
- Mr. Britto's overall assessment of Ms. Quattrucci's performance during school year 1997-1998 was that it was unsatisfactory. Tr.Vol.II.p.73.
- Superintendent Taras Herbowy made a written recommendation to the East Providence School Committee on February 13, 1998 that Ms. Quattrucci be dismissed for cause. He based his recommendation on: unsatisfactory performance, a continuing pattern of unprofessional conduct, a continuing pattern of insubordination, and disrespect to students, parents, and colleagues. S.C.Ex.1.
- Dr. Herbowy testified her performance was unsatisfactory because of insubordination, rather than any pedagogical inadequacies. Tr.Vol.III p.59; from the information he reviewed he concluded that she wasn't performing because "she just wanted to do her own thing and refused to do what he (Britto) asked her to do". Nonetheless, he considered her "unable to teach what she was supposed to teach" because she hadn't participated in the necessary professional development for such initiatives as Chicago Math. Tr. Vol. III, pp. 59-64.
- Following its receipt of Dr. Herbowy's recommendation and after conducting a pretermination hearing on April 23, 1998, the East Providence School Committee voted unanimously to accept the Superintendent's recommendation to terminate Ms. Quattrucci's employment, effective "as of midnight" May 1, 1998. S.C. Ex. 2.

Positions of the Parties

East Providence School Committee

It is the contention of the East Providence School Committee that the record compiled before the Commissioner's designee demonstrates, by a preponderance of the evidence, that good and just cause existed for its decision to terminate Anne Marie Quattrucci's employment as a tenured teacher. Documentation of numerous professional inadequacies has been submitted and the record shows that these inadequacies have existed over the course of several years during which she was employed by the school system. The nature of these ongoing professional inadequacies was serious and included a lack of effective instructional practices and failure to establish a rapport with students. They were observed and documented by more than one supervisor in different teaching environments.

⁶ Some evidence was presented that timely submission of lesson plans was an issue that existed in the 1996-1997 school year, but this evidence was not presented by, or relied upon by the school department. See Tr. Vol.IV, pp.81-84. The primary criticism with respect to lesson plans noted by Mr. Britto for 1996-1997 was Ms. Quattrucci's consistent failure to follow the lesson plans she had submitted. See comments to the June, 9, 1997 evaluation which are dated June 20, 1997.

In addition to her unsatisfactory performance from 1994-1998, Ms. Quattrucci exhibited a “pattern of noncooperation” over the same time period. The School Committee asserts that this pattern of noncooperation continued up to the time of her actual dismissal, undermining her supervisors’ attempts to make her teaching effective. Ms. Quattrucci dismissed negative evaluations as inaccurate, biased, or reflective of a preference for a different teaching approach than that which she utilized. Supervisors’ attempts to discuss their observations were resisted and when discussions did occur they were not productive. It is the administration’s position that Ms. Quattrucci was not receptive to most suggestions for improved teaching performance made to her over the course of several years. For the most part, the suggestions that were made were not implemented. Ms. Quattrucci’s lack of responsiveness to suggestions made to improve her performance evolved into a persistent pattern of non-cooperation which is cited by the School Committee as an additional item of cause for her dismissal.

As to the argument that the School Committee failed to comply with the notice requirements of R.I.G.L. 16-13-3 by providing Ms. Quattrucci with notice of her dismissal on or before March 1st, counsel responds that the February 13, 1998 letter to Ms. Quattrucci from Superintendent Herbowy constitutes such required notice. There is no language in Section 16-13-3 which requires that the notice of dismissal come from the governing body⁷, so notice from its chief executive officer is sufficient, he argues.

The School Committee also argues that the action it took subsequent to Dr. Herbowy’s February 13, 1998 notice fully complied with the hearing and appeal procedures referenced in 16-13-3 and specifically set forth in R.I.G.L. 16-13-4. After a “pretermination”⁸ hearing on April 23, 1998 the School Committee voted to accept the recommendation of dismissal. The reasons were identified as those specified in Dr. Herbowy’s letter. Ms. Quattrucci then was sent a clearly-worded letter dated April 27, 1998 confirming that such action had been taken and the reasons for the decision. In the period after her dismissal and preceding her October 18, 1999 appeal to the Commissioner, Ms. Quattrucci received hearing by the full complement of school committee members on a number of dates, a process which was preempted by her appeal to the state level.⁹

Finally, with respect to the dismissal’s timeliness under the statute, the School Committee argues in the alternative that any failure to comply with a March 1st deadline has not been preserved as an issue before the Commissioner. Counsel asserts that Ms. Quattrucci failed to raise this issue at the pre-termination hearing, or even at the multiple hearings which followed. This precludes her from raising this issue now. In addition this claim has been expressly waived. Counsel argues that a stipulation by Ms. Quattrucci’s counsel at the pretermination hearing established that she had no objection to the timeliness of her dismissal notice. Not only did her counsel at that time stipulate that minimal due process had been complied with to that point

⁷ unlike the language governing notice to non-tenured teachers. R.I.G.L. 16-13-2’s notice provision requires that the non-tenured teacher’s contract shall be deemed continuous unless the *governing body* of the schools shall notify the teacher in writing on or before March 1 that the contract for the ensuing year will not be renewed;

⁸ despite the argument that Dr. Herbowy’s letter of February 13, 1998 constitutes timely notice of actual termination under 16-13-3, in describing the School Committee’s hearing of April 23, 1998 it is referred to as a pre-termination hearing.

⁹ The issue of whether these post-termination hearings before the East Providence School Committee complied with Section 16-13-4 has been raised, but counsel have agreed to defer consideration of this until after a ruling on the merits of Ms. Quattrucci’s termination.

(April 23, 1998) but she went on to list the specific matters which would be contested at a full hearing by the School Committee, concluding that:

Should this matter proceed to a full hearing under this statute, those are the areas which we would reserve the right to bring forward to the Committee without deliberating further this evening in this pre-termination context.(School Committee Memorandum at page 17.

Since timeliness of the notice was not an issue listed by counsel at that time, Ms. Quattrucci has waived this issue and is precluded from raising it before the Commissioner.

Anne Marie Quattrucci

Counsel for Ms. Quattrucci argues that the School Committee has failed to meet its burden to prove by a preponderance of the evidence that good and just cause existed for her dismissal on April 23, 1998. Counsel asserts that Principal David Britto's February 6, 1998 "Chronology" of events remains unsubstantiated. He argues that the February 6, 1998 memorandum cites some facts which, although true, require explanation, and Ms. Quattrucci has, at this hearing, provided such explanation. Some of the incidents cited do not warrant an inference that Ms. Quattrucci engaged in wrongdoing, however because of their inclusion in the "Chronology of Events (1997-1998)" the implication is that each incident listed reflects negatively on Ms. Quattrucci's performance. This implication has been rebutted, counsel submits.

If the incidents documented in Britto's chronology were significant, counsel poses the question of why Ms. Quattrucci's personnel record contains no written reprimands relating to these matters and why these incidents were never even discussed with her. Mr. Britto's inclusion of "distorted and fabricated" facts in his February 6, 1998 memorandum is argued to indicate his overall lack of objectivity with respect to Anne Marie Quattrucci. It also calls into question, counsel argues, his credibility and the weight to be given his entire testimony. For these reasons, the unsubstantiated allegations and trivial matters contained in the memo from Mr. Britto and relied on by Superintendent Herbowy in making his recommendation could not possibly establish good and just cause for Ms. Quattrucci's termination.

The second item of cause, unsatisfactory performance, has not been supported as well. Ms. Quattrucci argues that the only evidence supporting such contention is the evaluations for school years 1993-1997. It is submitted that these performance evaluations are inaccurate and result from bias. In the case of each of the administrators who assessed her classroom teaching as unsatisfactory, outside factors are alleged to have impeded their objectivity. Counsel asserts that there is no logical explanation as to why a teacher would be outstanding from 1990 to 1993 and then suddenly become inept in the 1993-1994 school year.

Counsel asserts that Ms. Quattrucci's file would contain substantially more documentation of her inadequacies as a teacher if she were professionally deficient. There would be other evidence, such as records of poor test results of her students, especially in the subject

areas that the administration contends she failed to teach. In addition, if these deficiencies were so serious and persisted for such a long period of time, why would the school department have waited so long in removing Ms. Quattrucci from her position. Wouldn't school administrators have acted sooner to prevent any additional negative impact on students if her teaching was as inadequate as it is alleged to be? Counsel for Ms. Quattrucci contends that school officials did not act earlier because a situation warranting intervention did not truly exist.

Counsel further argues that the evaluations indicating unsatisfactory performance should be disregarded because they were not relevant to Superintendent Herbowy's decision. In describing his reasons for recommending that Ms. Quattrucci be dismissed, Dr. Herbowy set forth his concerns and, significantly, he concluded that her poor performance was based on insubordination and poor relationships with other teachers, students and parents. His concerns did not include unsatisfactory performance pedagogically in the classroom. On the basis of this testimony, evidence of her instructional inadequacies has no bearing on the school committee's case.

The other grounds which are cited as establishing "good and just cause" are argued to be unsubstantiated. Evidence that Ms. Quattrucci engaged in a "continuing pattern of unprofessional conduct" consists in those few isolated instances described in Mr. Britto's memorandum of February 6, 1998. Counsel argues that these incidents have not been proven by a preponderance of evidence, and even if they were, a few instances is not a "continuing pattern" of such conduct. Similarly with respect to a "continuing pattern of insubordination" a factor which figured prominently in the Superintendent's decision, there has been no proof that Ms. Quattrucci refused to comply with Principal Britto's directions. As to the delay in submission of lesson plans, all were ultimately submitted. On those occasions when Ms. Quattrucci did not attend scheduled professional development activities, there was a good reason, which she had not previously been asked to provide. Finally, as to the assertion that she was disrespectful to students, parents and colleagues, it is argued that no evidence of disrespect to students or parents has been presented at this hearing. While there may have been negative interaction between Ms. Quattrucci and her supervisors, they testified that she remained respectful at all times.

An additional argument advanced on Ms. Quattrucci's behalf is that the East Providence School Committee breached its duty to provide her with the direction, guidance, and assistance necessary for her to fulfill her teaching duties and responsibilities. Assuming, *arguendo*, that there were deficiencies in Ms. Quattrucci's teaching, this placed an obligation on the school department to give her specific directions on how to improve. The Target Program, which formed a part of the evaluation process, was designed to identify and remedy the teacher's specific weaknesses. In Ms. Quattrucci's case, the written Target Program given to her at the end of school year 1993-1994 is argued to be general, vague, and inadequate to provide her with sufficient guidance. When it proved unsuccessful in remedying the perceived deficiencies, it was not amended. No resources were directed to Ms. Quattrucci to help her achieve the goals of the Target Program.

When the East Providence administration transferred her to the elementary level, where she was required to teach many different subjects for the first time, the opportunity for success was not real because she needed more guidance and direction, coming from a secondary school environment. When her transition to teaching at the elementary level was not successful, the

administration had the obligation to set up a mentoring group or program to provide guidance and direction so that she could be a successful teacher. On the occasion when a proposal was made for an experienced science teacher to model an appropriate lesson for Ms. Quattrucci, and she was receptive to this, the principal never followed through to make this happen.

Ms. Quattrucci takes the position that she consistently sought direction and help in improving her teaching. She argues that throughout this entire period, despite her requests for help, the administration never fulfilled the responsibility it had to come to her assistance. If it had done so, she argues that she would have been a successful teacher. Counsel argues that termination under such circumstances is contrary to the notion of progressive discipline. Ms. Quattrucci has never been reprimanded by the East Providence school department for any of the conduct for which it seeks her termination. The drastic nature of final dismissal is disproportionate to any proven deficiencies or shortcomings she may have demonstrated

Finally, counsel argues that in dismissing Ms. Quattrucci, the East Providence School Committee failed to comply with R.I.G.L. 16-13-3. It did not notify her of her termination until after the date of March 1, 1998. Under state law, tenured teachers who are to be dismissed are entitled to be notified by March 1st. As a result of this procedural violation, her termination should be rescinded and she should be immediately reinstated to her teaching position at Whiteknact, retroactive to February 2, 1998.

DECISION

The record on appeal before the Commissioner demonstrates by a preponderance of the evidence¹⁰ that good and just cause supports Anne Marie Quattrucci's dismissal as a tenured teacher. Clearly, her record of performance as a teacher, documented in several evaluations made by different school administrators over the course of school years 1993-1994 through 1996-1997 support the conclusion that her teaching was inadequate. She lacked effective instructional strategies, did not plan and properly organize lessons, and lacked rapport with her students. These professional inadequacies were so basic and persisted over such a long period of time, despite clear notice as to what they were and steps that could be taken to address them, that they establish a firm factual and legal basis for her dismissal as a tenured teacher.

At the hearing, and in her memorandum, Ms. Quattrucci contested the fairness of the evaluation system utilized in East Providence. She disputed the accuracy and objectivity of her evaluators and alleges that if these evaluations were accurate assessments of her performance, why did the administration wait so long to take action to terminate her employment? Some of the reasons for delay in acting on the information contained in her evaluations were presented at the hearing. The record indicates that after her first unsatisfactory evaluation, at the close of the 1993-1994 school year her principal transferred her to a different "house" at Martin and assigned her to a different grade, in hope that the new environment, along with the Target Program, would enable her to improve her performance. When her performance did not improve during 1994-1995, her principal went on record twice to recommend her termination. His recommendation was rejected by Dr. Patricia Daniel¹¹. Her rationale for transferring Ms. Quattrucci, rather than

¹⁰ as well as by a "clear and convincing" standard of proof

¹¹ Dr. Daniel did not testify at the hearing

dismissing her, was related by Principal Rezendes. He testified that Dr. Daniel was of the opinion that Ms. Quattrucci deserved the opportunity to try teaching at the elementary level. An interim superintendent replaced Dr. Daniel shortly thereafter, and it was not until Taras Herbowy assumed the position of superintendent in East Providence in August of 1997 that the issue of retention of Ms. Quattrucci was addressed head on. Within six months (February of 1998) he acted on a situation which evidently had festered since school year 1993-1994. We cannot conclude that the delay in dismissing Ms. Quattrucci after receipt of clear reports of unsatisfactory performance was due to a determination that the evaluations were not accurate. Rather, the record would indicate the delay was due to an attempt to give her a second chance to prove herself. When she did not, administrative turnover further delayed action on her employment status.

It is true that Dr. Herbowy's February, 1998 review and analysis of Anne Marie Quattrucci's record, together with other information he received at that time, led him to conclude that the basis of her unsatisfactory performance was her insubordinate refusal to comply with directions of the principal of Whiteknact. This is not the same conclusion we draw from the extensive record in this case. The most persuasive evidence of just cause to terminate Ms. Quattrucci is the performance evaluations, supplemented by the testimony of supervisors who made these evaluations, which describe her pedagogical ineffectiveness, and her failure¹² to deliver appropriate and effective instruction in the classroom. In conducting a de novo hearing on the issue of just cause, we are constrained to consider the entire record, including evaluations. They clearly call into issue pedagogical effectiveness. Although the evaluations may not have been that part of her record on which the Superintendent focused in making his analysis of the situation, they are highly relevant and in fact are the most definitive evidence in the School Committee's case.

If we accept the argument made by Ms. Quattrucci, all of her evaluators lacked objectivity and, for one reason or another, were biased against her. On this record, there is insufficient evidence of bias of Mr. John Johnson, John Rezendes, and David Britto. Their evaluations contain consistent themes both in terms of perceived deficiencies and recommendations to address them. The testimony of Mr. Rezendes and Mr. Britto¹³ providing their recollection of what they observed in Ms. Quattrucci's classroom was credible. They clearly struggled to remain objective even when interaction with Ms. Quattrucci was difficult.

We find that Ms. Quattrucci's testimony concerning her teaching effectiveness and rapport with students differs substantially from that of her supervisors. Her perception and account of these events is not persuasive. For example, her account of school year 1993-1994 is at odds not only with the testimony of Principal Rezendes, but is completely inconsistent with her own prior written account of what went on that year at Martin.

Ms. Quattrucci testified at the hearing that school year 1993-1994 went well with no problems. She testified that she taught no differently in 1993-1994 than she had during the three years in which she had received glowing evaluations. When she received the negative evaluation in June of 1994, she contends this came as a surprise because Mr. Johnson had never expressed

¹² It is not clear if Ms. Quattrucci's failure to perform adequately was due to her inability or unwillingness to deliver adequate classroom instruction.

¹³ Mr. Johnson was not called by either of the parties to testify in support of his evaluations of Ms. Quattrucci.

to her any concerns or issues concerning her teaching performance (See Appellant's Memorandum of Law at pages 29-30; Tr.Vol.V, pp.28-32) Prior to her receipt of the evaluation, she received no indication that there were any problems or that she needed to change anything.

Yet, in her June, 1994 response to her evaluation, contained in S.C.Exhibit 8, she describes this same year as one of ongoing controversy and chaos in which her supervisors are alleged to have criticized her every move, threatened her with the prospect of a negative evaluation and forced her to relinquish control of her classroom. (See Ms. Quattrucci's statement attached to the June, 1994 evaluation, S.C.Ex.8). She attributes her loss of teaching effectiveness, student enthusiasm and disciplinary control to classroom changes she instituted at the demand of her supervisors who, she claims, were unreasonable and undermined her. This contemporaneous written account Ms. Quattrucci prepared in June of 1994 is so inconsistent with her testimony that it casts doubt on the accuracy of her testimony. We find the testimony of her supervisors to be persuasive.

Ms. Quattrucci argues that because she made an allegation that her house leader sexually harassed her during school year 1994-1995 evaluations for that and subsequent years were tainted. She contends that she made verbal reports of sexual harassment to Mr. Rezendes and Superintendent Patricia Daniel. She asserts that it was in specific response to these allegations that Dr. Daniel relieved her house leader of all supervisory authority over her and gave Mr. Rezendes this responsibility. Because of her complaint, and Mr. Rezendes' resulting increased workload, Ms. Quattrucci argues that her 1995 evaluations were biased and ultimately Mr. Rezendes retaliated by recommending her termination.

Without getting into the intricacies of the testimony surrounding the allegation of sexual harassment¹⁴ we find there is no evidence that a sexual harassment complaint was received in writing by anyone at the East Providence school department. There is no evidence any sexual harassment complaint was investigated¹⁵ or that any action was taken as a result of any such allegation. Again, Dr. Patricia Daniel did not testify and her November 29, 1994 memorandum to Mr. Rezendes does not make any reference to a complaint of sexual harassment as the basis for her action. We find the argument that such a complaint biased Mr. Rezendes, and eventually tainted Mr. Britto's evaluation to be without merit.

Evaluations by direct supervisors were supplemented by observations of others who critiqued Ms. Quattrucci's classes. Observations by two independent (in house) evaluators who observed Ms. Quattrucci's class on two pre-scheduled visits confirmed that Ms. Quattrucci's instructional planning, strategies, and delivery were inadequate. At this time (May of 1997), Ms. Quattrucci did not follow her lesson plans, had no clear instructional objectives, and the evaluators found little evidence of direct instruction. These observations reinforce the assessments made in prior evaluations by her direct supervisors. Consistent themes of inadequate planning, lack of instructional strategies and ineffective lesson implementation are noted. Although these "independent" evaluators were employees of the East Providence school system,

¹⁴ we would simply note that complaints were made by the house leader to Mr. Rezendes concerning Ms. Quattrucci at the same time she registered various complaints to Mr. Rezendes and Dr. Daniel.

¹⁵ the complaint which Mr. Rezendes testified he received and investigated was not in the nature of sexual harassment.

there has been no argument that they lacked objectivity in evaluating Ms. Quattrucci's performance.¹⁶

Thus, despite the appellant's attempts to cast doubt on the accuracy, objectivity and validity of the assessment process and those who evaluated her classroom performance, we find clear and convincing evidence of Ms. Quattrucci's persistent and serious professional inadequacies. It is true that the evaluation process was not a science and there was room for some differences of opinion as to what indicators were involved in the criteria on which a teacher would be evaluated. There was also a necessarily subjective element in what one particular evaluator might view as "needing improvement" and another might assess as "unsatisfactory". However, the evaluation process was not shown to be irrational or unfair. There was even some reference in testimony that the evaluation instrument reflected the agreement of the school committee and the East Providence teachers' union.

In Ms. Quattrucci's case the evaluation process gave her specific notice of the nature of the deficiencies in her performance and direction on how she might address them. East Providence administrators also gave her ample time for her to correct these deficiencies and even went so far as to provide "fresh starts" by reassigning and transferring her on two occasions. The appellant's argument is that the School Committee needed to go further and that it "breached its duty" in failing to provide Ms. Quattrucci with the necessary direction, guidance and assistance for her to become a successful teacher. This argument lacks merit. Her supervisors did provide her with suggestions and recommendations, some in writing as part of her Target Program, and some verbally. In all but a few instances, however, Ms. Quattrucci failed to take the advice and even denied that there were any deficiencies to address. It is true that a mentoring team and program were not put in place for her, but we are unable to find that the school department had a legal obligation to do so. There is simply no support in case law or otherwise for the position that the commitment of school resources to such a purpose is required. Thus, we find that the School Committee's reliance on Ms. Quattrucci's unsatisfactory performance is justified and that the prerequisites of notice and opportunity to correct these deficiencies has been met.

The additional reasons alleged to constitute good and just cause for her dismissal have, for the most part, not been the subject of proof at this hearing. There was virtually no evidence of disrespect to students and parents. As to negative interaction with colleagues, only general references to unproductive relationships with other teachers is made. While there is evidence of difficult and strained relationships with her supervisors, there is insufficient proof that in words or in conduct this rose to the level of disrespect to them. On four occasions from November 1997 through January, 1998 Ms. Quattrucci did not submit lesson plans by the due date.¹⁷ This could be considered a continuing pattern of insubordination, in that Principal Britto's requirement with respect to submission of lesson plans was described as clear and consistent. In isolation, it probably would not be sufficient insubordination to support disciplinary action, but in the context of continued observations of lessons indicating poor planning, it is particularly troublesome.

¹⁶ Even the head teacher called on Ms. Quattrucci's behalf testified that only one of the administration's cited reasons for her termination existed, and that was unsatisfactory performance. Tr.Vol. IV p. 128.

¹⁷ It is not an adequate explanation to say that Ms. Quattrucci continued to struggle with the content of her lesson plans at this point.

While the School Committee has not specifically directed us to evidence constituting a continuing pattern of unprofessional conduct, we assume it is based on an alleged failure to respond to a parent's request for a meeting, although there are other incidents mentioned in the record which could be argued to be "unprofessional conduct". The record does not contain probative evidence that the parent's request for a meeting went unresponded to by Ms. Quattrucci. In fact, she testified that she did respond in a timely way, but that the parents requested her to meet at night and therefore, she found this to be inconvenient. The delay associated with the meeting was, she asserted, delay in getting the parents to agree to another, more convenient, time. This testimony was not rebutted by the School Committee.

The School Committee argues that overall, a persistent pattern of non-cooperation with her supervisors existed and that this constitutes additional good and just cause for her dismissal. The School Committee argues that Ms. Quattrucci failed to follow the suggestions of her supervisors, especially as they related to making and following lesson plans. Clearly, all of her supervisors, and others who observed her, found this to be Ms. Quattrucci's primary professional shortcoming. Her supervisors sought to address it through "advice" "recommendations" and "encouragement", rather than by direction or request. To the extent she did not follow appropriate lesson plans for her classes, which we find she did not throughout this entire period, there was a persistent pattern of non-cooperation. We would observe that this conduct could be labeled as insubordination if one views these suggestions of her supervisors to be mandatory in nature. This may account for Superintendent Herbowy's view that Ms. Quattrucci's unsatisfactory performance rested on a pattern of insubordination.

Finally, the School Committee was required to give Ms. Quattrucci, a tenured teacher, notice of her dismissal on or before March 1st for it to be effective in the subsequent school year. Since it did not comply with the requirements of R.I.G.L. 16-13-3, and did not notify her of her dismissal in writing until April 27, 1998, the dismissal could not be effective in the subsequent school year, 1998-1999¹⁸. Therefore, even though there was good and just cause for dismissal of Anne Marie Quattrucci, the date on which the School Committee acted to terminate her employment was beyond the March 1st deadline provided in state law. Thus, her dismissal can be effective no earlier than the beginning of school year 1999-2000. For the above reasons, her dismissal is upheld, with the modification to its effective date.

If the claim on which the parties agreed to defer hearing - that post-termination hearings provided by the East Providence School Committee failed to comply with legal requirements - is not made moot by this decision, the parties should so notify the hearing officer within thirty days.

Kathleen S. Murray, Hearing Officer

APPROVED:

Peter McWalters, Commissioner

October 28, 2002

Date

¹⁸ We have no evidence of the statements to which counsel cites in his memorandum in support of his argument this claim was waived by her attorney at the April 23, 1998 pre-termination hearing before the school committee.