

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF  
EDUCATION

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**Linda L. Moitoza**

v.

**Rhode Island Department of  
Elementary & Secondary Education**

.....

**DECISION**

Held: The Petitioner failed to establish a legal basis for a waiver of or exemption from valid Board of Regents' Regulations governing the issuance of a middle school endorsement to her existing elementary teaching certificate.

DATE: December 9, 2003

## **Travel of the Case**

Sometime in early June of 2003<sup>1</sup> the Rhode Island Department of Education received a letter addressed to the Certification Appeal Board from Linda L. Moitoza. Ms. Moitoza had been notified that she could no longer teach at Thompson Middle School in Newport, even though she was completing her third year as a sixth grade teacher at the school, because she lacked the appropriate teaching certificate. As the holder of an elementary teaching certificate, Ms. Moitoza was found to lack the middle school endorsement to this certificate to enable her to teach mathematics in grade six of a middle school. The undersigned was designated to hear and decide this appeal. Jurisdiction to hear the matter is found in R.I.G.L. 16-39-1. A full hearing was held on July 14, 2003 at which time Ms. Moitoza appeared pro se and the Department of Education appeared through counsel. The record closed upon receipt of the transcript, i.e., July 28, 2003

## **ISSUE**

Is Linda Moitoza entitled to issuance of the Middle School Endorsement<sup>2</sup> in Mathematics and if not, should she nonetheless be permitted to teach sixth grade at Thompson Middle School in Newport, Rhode Island?

## **Findings of Relevant Facts**

- Linda L. Moitoza currently holds a professional certificate as an elementary teacher and her certificate is valid until August of 2008. Tr.p.10; Petitioner's Ex.1.
- She has not yet completed an approved program designed for the preparation of middle-level educators, nor has she completed twenty-one (21) semester hours in mathematics. Both of these are included in the requirements for issuance of the middle-school endorsement. Tr.pp.31-36; Rhode Island Department of Education Ex.A and B.
- Ms. Moitoza has completed a total of one hundred and seventeen (117) graduate level credits since she started her teaching career in 1990. She has ten years of experience as a fifth grade teacher in Newport. She has also undertaken numerous professional development activities and served in positions of leadership at both the district and state level, particularly in curriculum development in mathematics in the elementary and middle school grades. Petitioner's Ex. 1 and 2;
- Ms. Moitoza has been assigned to teach sixth grade mathematics at Thompson Middle School since September of 2000. Tr.p.62.<sup>3</sup> During this time, she has served as a lead math teacher at the school and has been training other teachers to work with a new math program. Tr. p.13. When her lack of a middle school endorsement came

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<sup>1</sup> Ms. Moitoza's letter of appeal is undated; it was assigned for hearing on July 7, 2003.

<sup>2</sup> To her Elementary Teaching Certificate

<sup>3</sup> The Department of Education characterizes this assignment as a mistake. Tr. p.62.

to light in the Spring of 2003<sup>4</sup>, she “bid into” a fourth grade position at the elementary level. Tr. p.14.

### **Positions of the Parties**

#### Linda L. Moitoza

Mrs. Moitoza asserts that she has been a successful teacher of mathematics in the sixth grade at Thompson Middle School for three years. She has been hard at work during this time to improve the teaching of mathematics at the middle school level and at this point she is “heavily invested” in seeing her work come to fruition at Thompson Middle School. Despite the fact that she does not meet the precise requirements for a middle school endorsement at this time, her credentials and background are nonetheless sufficient preparation for the sixth grade position she has held for the past three years. In fact, she points out, her course work in middle school education exceeds that of some of her former colleagues at the middle school, who do not have to meet current regulations for the middle school endorsement because they were “grandfathered in” when the regulations were amended.

Mrs. Moitoza notes that she has a substantial number of graduate credits earned over the course of her teaching career, and if three courses the department has categorized as education courses were properly reclassified as mathematics courses, she would have the required twenty-one (21) credits in this academic content area. She points out that she also completed two courses in 1999 which, prior to the regulatory revisions which were made in 1999, would have satisfied the requirement that she complete six (6) semester hours of approved study in adolescent psychology and teaching methods/curriculum in the middle school. Given the extent of her credentials, and the fact that she has already successfully performed as a middle school math teacher, Mrs. Moitoza argues that she should be permitted to resume her position as a sixth grade math teacher at Thompson Middle School. She feels that grade six at Thompson has more of the characteristics of an elementary grade than do grades seven and eight. Thus her elementary certificate, which authorizes instruction at grade six if placed in an elementary school, is perfectly appropriate.

#### Department of Education

Counsel for the Department acknowledges that Mrs. Moitoza’s dedication and commitment to teaching, and to teaching mathematics in particular, is clear. However, the department of education must apply certification regulations consistently and must observe the provisions of state law which require that a person hold the appropriate certificate in order to teach in Rhode Island public schools (R.I.G.L. 16-11-1). In

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<sup>4</sup> We assume that at that time the petitioner was advised that because her certification was not valid to teach math in a middle school, she would have to transfer to a position for which she did hold the appropriate certificate and her employer was advised that it could no longer employ her in the middle school.

applying the existing regulations governing the issuance of the middle school endorsement to Mrs. Moitoza, counsel points out that she has only twelve of the required twenty-one credits in the academic content area in which she seeks the endorsement – mathematics. The three graduate-level courses which Mrs. Moitoza would have accepted as mathematics courses are actually pedagogical in nature, related more to mathematics instruction, rather than to such topics as algebra or geometry. Furthermore, Mrs. Moitoza has undertaken no coursework in one of the required areas of mathematics study; i.e., calculus.

Not only does she fall short in coursework in the academic content area of mathematics, but also she has not provided evidence of her completion of an approved college program of studies designed for the preparation of middle-level educators, another requirement for the middle level endorsement. While it is true that the two courses she completed by the Spring of 1999 would have satisfied that component of the requirement at that time, since she did not complete all requirements for the issuance of the certificate prior to October of 1999, she is subject to the revised regulations. In any event, even if there were some theory which would justify application of the regulations in effect prior to October 1, 1999, they include an academic component of eighteen (18) semester hours in mathematics which Ms. Moitoza has still not completed.

The Department takes the position that there is no basis on which to exempt Ms. Moitoza from meeting current regulations governing the issuance of the middle school endorsement. Because the law requires the Board of Regents to adopt uniform standards of qualification for teachers and to issue certificates which are valid for the grades specified on the certificate, there is no discretion for the department of education to certify a teacher based on his or her successful performance of teaching duties at a certain grade level. The credentials of Ms. Moitoza simply do not match those the Board of Regents has put in place for certification, and the Department has no discretion to permit her employment without the requisite certificate.

### **DECISION**

Even though the record shows that the Petitioner performed in an exemplary fashion as a sixth grade teacher in Thompson Middle School, she was employed in this capacity in violation of our teacher certification law. Although she, and her district, attribute her service in the sixth grade of the middle school to a mistake rather than a willful violation of the law, and she can point to her success in this position, the department of education cannot now authorize her retention<sup>5</sup> of a position in the middle school without the necessary middle school endorsement to her elementary teaching certificate. A review of the total record in this case indicates that staff of the department's certification office have objectively evaluated her credentials for the middle school certificate and, despite the Petitioner's contention that she is entitled to have the

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<sup>5</sup> we do not know if the petitioner would be entitled to return to her sixth grade position if she were successful in her appeal to the Commissioner. She presently teaches a fourth grade class.

certificate issued to her, we find that she is not presently eligible for the middle school endorsement.

The Petitioner argues that three courses of which she provided documentation are in fact mathematics courses despite codes which would classify them as education courses. Thus, she takes the position that she actually has satisfied the current requirement that she have twenty-one (21) semester hours in mathematics for this content area endorsement to her certificate. Her position on this is unsubstantiated in the record. The transcript analysis which resulted in the conclusion that these courses are pedagogical in nature has not been shown to be in error or arbitrary in any way. The certification staff sought out additional information on the disputed courses which only confirmed their initial conclusions. Given that she lacks the twenty-one semester hours in mathematics coursework, the Petitioner clearly fails to satisfy the requirements for the middle school endorsement.

In addition, she has not provided evidence that she has completed an approved college program of studies designed for the preparation of middle-level educators. While it is true that at the time she took two courses which are typically part of such a program (in 1999) this was all that was required, the regulations have since been revised to require the completion of an approved program, including a supervised field experience in the middle school. The Petitioner's point that some of her colleagues at Thompson lack the formal preparation, or the more extensive academic work, for middle school teaching that is being required of her is well taken. This situation occurs because of the exemptions in the existing regulations for the middle school endorsement. The policy basis underlying such "grandfathering" provisions is presumed to be preservation of the status quo for those holding a middle school endorsement or employed in middle school positions at the time the regulations were revised, effective October 1, 1999. Recognition (and exemption) was also given to those educators who had already met the substantial requirements for life certification in elementary and secondary education prior to 1997 and were at that time entitled to teach in grades one through six, and seven through twelve, respectively, regardless of the placement of these grades at a middle school level. There has been no showing that the implementation of these policy decisions has been arbitrary in any way. The Petitioner herself does not fall into one of the designated exemption categories, and thus the current regulations are applicable to her.

Finally, while there is some evidence that the sixth grade at Thompson Middle School has some characteristics of the educational environment of an elementary grade, this evidence is not sufficient to support the conclusion that the designation of grade six as a middle-level grade is an incorrect designation of this grade for purposes of the application of our teacher certification regulations.<sup>6</sup>

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<sup>6</sup> See the discussion of the possibility that a school's designation may not accurately define the school, or a particular grade within the school, as elementary, middle, or secondary in *Brouillette v. R.I. Department of Elementary and Secondary Education and East Providence School Committee*, decision of the Commissioner dated August 18, 1992.

Based on the foregoing, we find that the certification regulations have been appropriately applied to the Petitioner to determine her ineligibility to teach at Thompson Middle School. No basis has been established for her exemption from these rules, nor have they been shown to be invalid. The Petitioner's appeal is denied.

Mrs. Moitoza raised the issue of the wisdom of requiring at least one college course in calculus for those seeking the middle school endorsement to an elementary certificate (in the content area of mathematics). The endorsement would authorize the holder to teach up to eighth grade in the middle school. It was her position, implicitly, that this specific academic preparation was not necessary to be an excellent middle school mathematics teacher, and that requiring calculus discouraged some elementary teachers interested in teaching math at the middle school from seeking the endorsement. If this continues to be her position, we would urge her to raise this issue initially before the Certification Policy Advisory Board, and, if necessary the Board of Regents.

For the Commissioner,

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Kathleen S. Murray, Hearing Officer

APPROVED:

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Peter McWalters, Commissioner

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December 9, 2003

Date