

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

.....

Daniela Valeriani-Hazard

v.

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

.....

DECISION

Held: The Petitioner has not shown that teacher certification regulations promulgated by the Board of Regents are invalid or that they have been improperly applied in her case. The Department's interpretation of its regulations is entitled to substantial deference, absent a showing that such interpretation is clearly erroneous. Thus, a requirement that a candidate for a life certificate have 810 days of teaching experience at the secondary level is sustained.

DATE: October 23, 2006

Travel of the Case

On March 22, 2005 the Petitioner requested a hearing to review the Department of Education's determination that she was not eligible for life certification as a Secondary Teacher of Italian and Spanish.¹ The undersigned was designated to hear and decide this appeal by Commissioner Peter McWalters. On May 9, 2005 a hearing was held, testimony was received and documentary evidence placed on the record by both parties. The record was supplemented by a memorandum from Joseph Gaudiosi to the hearing officer dated May 19, 2005, which was agreed to constitute an updated assessment of the Petitioner's total number of days of teaching experience. Upon receipt of this memorandum the record closed.

ISSUE

Is Ms. Valeriani-Hazard entitled to the Life Professional Certificate as a Secondary Teacher of Spanish and Italian?

Findings of Fact

- Daniela Valeriani-Hazard is employed at Cranston High School West where she has taught Italian and Spanish in every school year since 1998 – 1999. Gaudiosi memo of May 19, 2005; RIDE Ex. 1.
- Except for school year 2001-2002 during which time she worked briefly on a full-time basis and then took a leave of absence due to family illness, since 1998 Ms. Valeriani-Hazard has been employed part-time, in a .6 teaching position. Gaudiosi memo of May 19, 2005; Tr. pp. 13-14, 33-34.
- When she applied for a Life Professional Certificate, the Department of Education credited only her teaching experience at the secondary level; the number of days of teaching experience calculated by the Department is 617 days. Gaudiosi memo of May 19, 2005.
- Under the Department's calculation, Ms. Valeriani-Hazard receives partial credit for the .6 days she has worked since 1998 so that she is credited with 617 full days of teaching experience, 193 days short of the 810 days required for eligibility for the life professional certificate. The Department has construed the six years' experience requirement to equate to 810 full days, or 135 days per year, because 135 days qualifies for a year of credit under the teachers' retirement law. Tr. pp.11-13; memo of May 19, 2005.
- For the secondary teaching certificate, the Department credits only teaching experience at the secondary level, and three of the six years that are required must be in a Rhode Island school.² Tr. pp. 10-11, 15-16.

¹ Applicants for the life certificates, which have been phased out by the Board of Regents, must establish that they met the requirements for this certificate as of December 31, 2004.

² The regulations do not indicate whether credit is confined to public school teaching experience.

- The Petitioner's request for credit for several years of in-state college-level teaching experience was rejected, as was her request for credit for time she spent in assessment of English-language learners in public schools for the Department of Education. Tr. pp. 12, 14-16. RIDE Ex.4 and 5.
- Ms. Valeriani-Hazard holds a Master of Arts Degree in Teaching/Spanish which she received from Rhode Island College in May of 1989. RIDE Ex. 1. She has met all academic requirements for life certification in her field. Tr. p. 10; RIDE Ex.1 and 4.
- At Cranston West High School, Ms. Valeriani-Hazard is a highly-respected teacher, is recognized as a self-motivated scholar, and frequently shares the results of her research with her colleagues and other members of the school community. Petitioner Ex.A and B.

Positions of the Parties

Ms. Valeriani-Hazard

The Petitioner views the application of the regulations to her as unduly rigid and argues that the rules should be applied on more of an individual basis. In her case, she submits, her credentials meet or even exceed the requirements for life certification. She does not lack teaching experience, since she taught for approximately nine (9) years as an instructor at the college level. The fact that the regulations do not recognize this experience in determining whether she is qualified for a life certificate is illogical and unfair. Further, her part-time position in Cranston provides her with substantial teaching experience on a daily basis. Her years at Cranston West are being undervalued by the Department's insistence that the six years of teaching experience required by the regulations must be full-time experience. Given the length of her experience at Cranston West, together with the years of higher-level teaching as an Instructor at Rhode Island College, she should be found to have met the teaching experience requirements of the regulations. Also, no credit at all has been given to the time she spent working with the Department to assess the level and progress of English language learners in the public schools.

Ms. Valeriani-Hazard notes that her part-time status, as well as the medical leave she took in the 2001-2002 school year were required by the need to care for her mother, who was ill. She is, therefore, in part being penalized for a personal situation which required her to take an approved leave of absence. This fact, when considered with all of the other facts of her case, warrants more flexibility in the application of the Regents' certification regulations to her.

Department of Education

When the Board of Regents decided that it would no longer issue life certificates and changed its regulations to reflect this decision, the effective date of the changes gave ample notice to those affected. As of December 31, 2004 those holding provisional

certificates would no longer be able to qualify for issuance of the life certificate. Implementation of this deadline enabled those already holding certificates to complete coursework begun in reliance on the terms of the certificate they held. Although the December 31, 2004 deadline limited the accumulation of credit for qualifying teaching experience and in Ms. Valeriani-Hazard's case, operates to extinguish her opportunity to obtain life certification as a secondary teacher, she cannot, nor does she attempt to, argue that the application of the current regulations to her is arbitrary or unfair.

The arguments she makes are that her experience as a part-time teacher should receive full credit in calculating the number of days, or years, of her secondary teaching experience and/or that her years of teaching at the college level should provide the requisite experience to the extent she might be lacking. Certainly, she argues, the fact that she has substantial teaching experience at the secondary level *and* almost nine (9) years of teaching at the college level should equate to the required six (6) years of secondary teaching experience. To this the Department responds that historically it has made a liberal interpretation of the requirement for six years of secondary teaching experience by using one hundred and thirty-five days as the standard for a "year" of teaching. The eight hundred and ten (810) total days required is thus less than the one thousand and eighty (1,080) days which would be the standard if a strict construction of a "year" of teaching experience were made (based on a 180-day school year). To reduce this amount further by fully crediting part-time days of teaching would further dilute the amount of actual teaching time required for the life certificate. The department's position is that any further reduction in the amount of teaching experience would be impermissible given the language used in the certification regulations.

From a qualitative standpoint the regulations make a distinction between teaching at the secondary level and other teaching experience, even that which might require a master's degree or involves teaching more advanced students, as one would expect to be the case in college-level courses. The rationale behind this distinction is recognition that at the secondary level, teachers use a specialized approach and teaching strategies are geared to the ages of the students. The curriculum is specific, and the learning styles of secondary-age students are different from those of college students. Therefore, the specific nature of the experience required, i.e. teaching at the secondary level, is based on a rational distinction between the different levels of teaching experience. The petitioner's postsecondary experience is not creditable, even to fill in the deficit which remains once her secondary teaching experience is counted.

Given that the Department's regulations are reasonable on their face, and have been applied to Mrs. Valeriani-Hazard in a fair and reasonable manner, her appeal should be denied, the Department argues.

DECISION

Ms. Valeriani-Hazard has made a persuasive case that her qualifications on December 31, 2004 were tantamount to those set forth by the technical requirements of the regulations governing life certification; however, in a legal context there is no flexibility to grant a certificate unless the specific requirements of the regulation are in fact met. The fairness in enforcing regulatory provisions is found, in part, in the consistency with which the agency charged with this function applies the regulations in every case.³ Absent a situation in which application of the regulation provides an irrational result, or a case in which one of the factual premises on which denial of the certificate is based is incorrect⁴, there is no room for flexibility or exceptions. See D'Acchioli v. Department of Education, decision of the Commissioner dated March 9, 1977. It is undisputed that Ms. Valeriani-Hazard is a teacher of Italian and Spanish with nine years of college-level experience and substantial experience at the high school level. Although she may be viewed by many as having experience which far exceeds that of a teacher who has taught for six years at the secondary level, she does not present the experience which qualifies her for a life certificate as of December 31, 2004.

The Department fixes eight hundred and ten (810) days of full-time teaching, or its equivalent, as the standard for “six years” of teaching experience. It should be noted that according to the Department’s quite liberal interpretation, a candidate for life certification could have met the requirement for “six years of teaching experience” by teaching only four and one-half years. However, the decision that one hundred and thirty-five (135) days of teaching constitutes a “year” of teaching experience is one which, upon review, is entitled to substantial deference.⁵ Similarly, the distinction that the Board of Regents draws between teaching experience at the secondary level and that of other types of teaching experience is presumptively valid, and given the testimony on this record, is a legitimate exercise of its rulemaking authority in this area. We thus cannot give effect to the Petitioner’s argument that her considerable experience⁶ should have qualified her for issuance of a Life Professional Certificate as a Secondary Teacher when she requested it in 2004.

Even if she were credited with a full year of experience during the year in which she argues her family situation required her to take a leave of absence⁷, she would still fall short of the additional one hundred and ninety-three (193) days she needs to meet the experience requirement. Thus, her argument that she is being penalized for taking an authorized leave of absence under the provisions of this statute lacks merit.

For the reasons stated, Ms. Valeriani-Hazard’s appeal is denied.

³ There is no evidence that the Department has applied its certification regulations with respect to life certificates or others inconsistently.

⁴ See Brouillette v. R.I. Department of Elementary and Secondary Education and East Providence School Committee, decision of the Commissioner dated August 18, 1992.

⁵ See Citizens Sav. Bank v. Bell, 605 F.Supp. 1033 (D.R.I. 1985); Cohen v. Brown University, 101 F3d 155 (C.A. R.I. 1996).

⁶ Including the time she spent doing language assessments for the Department of Education.

⁷ Which she identified as being taken under the Family Medical Leave Act, R.I.G.L. 28-48-1 et seq.

For the Commissioner,

Kathleen S. Murray
Hearing Officer

APPROVED:

Peter McWalters, Commissioner

October 23, 2006
Date