

Travel of the Case

On March 30, 2006 Ms. Amy Gravel appealed to Commissioner Peter McWalters the decision of the Department's Office of Teacher Certification¹ that she was not entitled to issuance of a Life Professional Certificate in Health and Physical Education.² The case was assigned to a hearing officer for hearing and decision, and the matter was scheduled for hearing on May 11, 2006. After hearing on May 11, 2006, the parties, both represented by counsel, agreed to a briefing schedule. The record closed upon submission of memoranda, a process which concluded on October 10, 2006.

Jurisdiction to hear this dispute is found in R.I.G.L. 16-39-1 and the protocol clearly established for the hearing process in certification disputes was followed, i.e. a complete separation of the hearing and advocacy functions so as to ensure an impartial hearing in such matters.

ISSUE

Is Amy Gravel entitled to a life certificate in Health and Physical Education because (a) she met the requirements of the transitional rule established by the Board of Regents or (b) her situation presents compelling circumstances which warrant a waiver of the rule or an exemption from the deadline of December 31, 2004?

Findings of Relevant Facts:

- Amy Gravel has served as a teacher of health/physical education and adapted physical education in the North Smithfield School Department since the 1996-1997 school year. RIDE Ex. 4.
- She held a provisional certificate at the time the Board of Regents amended teacher certification regulations to eliminate life certification in 1997. When the Board adopted a "transitional rule" which permitted already-certified individuals to continue to be eligible for life certification provided that they completed requirements by December 31, 2004, Ms. Gravel determined that she would attempt to fulfill the requirements for life certification by that deadline. Tr. pp. 11-13; RIDE Ex. 2.
- During the fall semester of 1997, Ms. Gravel was prevented from enrolling in graduate course work because of illness; during the 1999-2000 school year she had a medical condition which required surgery and from which she recuperated that year. Tr. pp. 30-33.

¹ Officially known at the time as the Office of Teacher Preparation, Certification and Professional Development; currently the Office of Educator Quality and Certification;

² The initial denial of Ms. Gravel's request for a life certificate occurred on July 20, 2005, but she and the Department had been engaged in attempts to resolve this dispute informally during the interim.

- During the 1998-1999 school year, her third year of teaching, she focused all her energies on establishing herself in her teaching career and decided not to take any graduate-level coursework that year. Tr. pp. 31-32.
- In late May of 2003 Ms. Gravel was formally accepted into a Master's Degree program in Health Education at Rhode Island College. She entered into a "Plan of Study" for her program which specified the credit, course, and other requirements for the program. Petitioner's Ex. B; Tr. pp. 13-16. The plan of study called for a "comprehensive assessment" which would consist of a three-hour blue book exam. Her understanding was that she could take the comprehensive exam upon completion of her required course work in December of 2004. Tr. pp.23-27. This understanding was based on discussions she had with her graduate faculty advisor, Dr. Kenneth Ainley, as well as Rhode Island College's written outline of the Graduate Program in Health Education. Tr. pp. 23-25; Petitioner's Ex. C.
- Ms. Gravel completed all of the coursework described in her Plan of Study (Petitioner's Ex. B) by the second week in December of 2004. Tr. pp. 26-27; RIDE Ex.3.
- At the completion of her coursework in mid-December of 2004, Ms.Gravel did not take a comprehensive blue book examination, but pursuant to a change in the program that had been implemented during the Spring of 2004, she was required to submit a portfolio/project instead. Tr. pp. 27-29. She submitted her curriculum-based project/portfolio on April 1, 2005 and received written confirmation that she had "successfully completed the comprehensive exam required for her degree"³ from the Associate Dean of Graduate Studies on May 3, 2005. Tr. p.29; Petitioner's Ex. D.
- *A Master of Education degree was conferred on Ms. Gravel on May 19, 2005. RIDE Ex. 3;

Positions of the Parties

The Petitioner

Ms. Gravel presents essentially two arguments in support of her request that she be issued a life certificate in the field of health and physical education. The first is that she substantially filled all of the requirements for the graduate degree by the end of December, 2004. She therefore met the requirements set forth in the April 10, 1997 transitional rule that the holder of a provisional certificate "complete requirements for life certification by December 31, 2004" (RIDE Ex.2). When the Department of Education denied her the life certificate because her degree was not "issued" by December 31, 2004, it imposed a requirement that was not stated by the Board of Regents on April 10, 1997. The transitional rule's language speaks only of "completing requirements" for life

³ Apparently the Dean's office was confused on exactly what form the final assessment in this program had taken. Ms. Gravel's transcript reflects no grade/credit for this portfolio/project.

certification by the established deadline. Actual issuance of the degree before the deadline is not required.

Her counsel points out that as of December 31, 2004 all of Ms. Gravel's course work had been successfully completed. All that she had remaining, according to her Plan of Study, was a three-hour comprehensive exam, to which (0) credit was attached. Shortly before Ms. Gravel completed her Plan of Study, the comprehensive exam was replaced by the requirement of a final project, again with (0) credit attached. This change did not alter the fact that all of the substantive requirements for the Master's Degree were completed prior to December 31, 2004. Neither the 0 credit comprehensive exam nor the newly-imposed project were of any real consequence or importance, as reflected in the credit value attached to them. Counsel argues that this final requirement was a "mere formality". Thus, Ms. Gravel had substantially fulfilled all degree requirements by the December 31, 2004 deadline – she "constructively" if not actually, had her Master's Degree on that date.

As a second argument on Ms. Gravel's behalf, counsel submits that if the finding is that she did not have her Master's Degree by December 31, 2004⁴ a compelling situation is presented which warrants an exemption from the December 31, 2004 deadline. In this case, Ms. Gravel's failure to obtain her Master's Degree by the deadline is clearly attributable to her medical history, with various hospitalizations and surgeries that required deferral of course work initially planned for an earlier time. Her case is distinguishable from prior cases in which a waiver of the provisions of the transitional rule was requested, in that Ms. Gravel had substantially fulfilled all of the requirements by the applicable deadline, December 31, 2004. Hers is more of a situation in which the waiver is requested of a "mere formality", i.e. the post-deadline conferral of her graduate degree. The legitimacy of the reasons for the requested waiver, as well as its effect in dispensing with none of the substantive requirements imposed by the Board of Regents, support granting Ms. Gravel's request for life certification.

Rhode Island Department of Elementary and Secondary Education

The Department views this matter as a clear case of application of the Board of Regents' transitional rule which indicates that individuals eligible for life certification in the area(s) of their current certification (may obtain the life certificate) "provided they complete requirements for life certification by December 31, 2004". The facts in this case do not support a finding that Ms. Gravel obtained her Master's Degree, or even that she finished her program requirements by the December 31, 2004 deadline. Her testimony that all parties to her Plan of Study for her Master's program were in agreement that her program, including the "comprehensive assessment" at its conclusion, would be finished by December 31, 2004 "strains credulity".

Counsel for the Department notes that consistent with a decision to limit availability of life certification after the Board's decision to phase it out would be a

⁴ Or, implicitly, if she did not complete the requirements for her Master's Degree by that date

decision denying a request for “exemption” to the deadline established in the transitional rule. The Board’s intent in 1997 was to extinguish the issuance of life certificates after a fixed date, with a deadline selected so that those eligible for life certification at that time would have a reasonable time to complete their degree and/or experience requirements. Furthermore, as set forth in the case of Lyons v. R.I. Department of Education⁵, the Commissioner and the Department are not authorized to grant individual waivers to regulations of the Board of Regents - even in cases in which illness plays a role. Thus the Commissioner does not have authority to exempt Ms. Gravel from the requirement set forth in Regents’ regulations so that she would qualify for life certification even though she did not have her Master’s Degree, or complete her degree program, by the December 31, 2004 deadline.

DECISION

We recognize that the Petitioner’s case is unusual in that when she was accepted into the Master’s degree program, she anticipated that she would be able to fulfill the requirements for life certification and then the requirements of her program were inexplicably changed. Her inability to complete her degree in time because of a change in program requirements, among other reasons (some of which were also beyond her control) was unfortunate in that it obviously interfered with her professional goals. However, the two theories on which the Petitioner relies in requesting that the Department issue her a life certificate in Health and Physical Education are without merit.

Her first theory is that she had in fact completed all requirements for her Master’s Degree by the December 31, 2004 deadline. Based on this record, she had not completed all requirements for her Master’s Degree by the date of December 31, 2004. Although she argues that all that remained to be done, i.e. the comprehensive assessment/comprehensive exam or project/portfolio was a “mere formality” the evidence in this case does not prove that. As of December 31, 2004 Ms. Gravel had one *substantive* requirement left in her Master’s Degree program – a final assessment or project which she did not submit until April 1, 2005. Although it was not accorded any credit, Ms. Gravel’s successful final project/portfolio was a significant enough part of the program that a letter from the Associate Dean was sent to Ms. Gravel on May 3, 2005 congratulating her on “this accomplishment” (and on her progress toward the completion of the M.Ed. degree in Health Education). If it were, in fact, just “a formality” and all that stood between Ms. Gravel and her degree on December 31, 2004 was a convocation ceremony, our assessment would be that she had demonstrated her entitlement to a life certificate.

Ms. Gravel’s second theory is that compelling circumstances in her case warrant an exemption from the December 31, 2004 deadline for meeting requirements for life certification. This is a request that the Commissioner is without authority to grant. See Lyons v. Rhode Island Department of Elementary and Secondary Education, decision of

⁵ Decision of the Commissioner dated April 15, 2003.

the Commissioner dated April 15, 2003 at pages 3 - 4. Even when compelling circumstances may be present, a waiver at this level is not authorized. Regulations of the Board of Regents are binding on the Department, especially when it acts in an adjudicative context. It would have been within the prerogative of the Board of Regents to establish exemptions from the deadline on the basis of medical conditions or other compelling reasons. The Regents transitional rule contains no such exceptions.

For the foregoing reasons, the decision of the Certification Office is affirmed and the Petitioner's request for issuance of a life certificate in Health and Physical Education is denied.

For the Commissioner,

Kathleen S. Murray, Hearing Officer

APPROVED:

Peter McWalters, Commissioner

January 19, 2007
Date