

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

JONATHAN SEAMANS

v.

RHODE ISLAND SCHOOL FOR THE DEAF

Decision on Jurisdiction

Held: Provided he qualifies for a school business administrator certificate, Appellant is involved in a dispute under the School Administrators' Rights Act which is subject to the jurisdiction of the Commissioner of Education.

Date: July 21, 2008

Introduction

The appeal in this matter alleges that Jonathan Seamans was wrongfully terminated by the Rhode Island School for the Deaf without regard to his procedural or substantive due process rights. In responding to the appeal, the School for the Deaf claims that the Commissioner of Education is without authority to hear this matter. The parties thereafter agreed to conduct an initial hearing in this case limited to the issues raised with regard to the Commissioner's jurisdiction over this appeal.¹

Background

On August 11, 2005, Respondent Rhode Island School for the Deaf posted a vacancy notice for the position of "Assistant Director, Administration and Finance." [Appellant's Exhibit 4]. Attached to the posting was a "non-classified job description" for the "Assistant Director, Administration and Operations." [Ibid.]. Examples of the work performed by this full-time position include administrative responsibility "for the daily operational functions of the school including, but not limited to, budgetary accounting and financial reporting, cash management and audits." [Ibid.]. As for "Supervision Exercised," the job description states as follows:

Facilitates, directs, coordinates, schedules and assesses/evaluates the work of the business office staff, reception and switchboard staff, maintenance and janitorial staff, transportation staff, hearing center staff, audio test technicians, audiologists. Responsible for oversight of all contractors and vendors related to the operation of the building and related programs. [Ibid.].

The job description's "required education and experience" section lists "Minimum BA Business Administration, MBA Preferred . . . five years proven experience in administration and management in a similar position." [Ibid.]. The requirements for the position did not include any Rhode Island educator's certification.

On November 8, 2005, the Board of Trustees for the School for the Deaf voted unanimously to hire Appellant as "Assistant Director of Finance and Operations." [Appellant's Exhibit 5].² Appellant, who has a bachelor of science degree with a major in

¹ A hearing with regard to the jurisdictional issues was held on May 7, 2008.

² The minutes of the Board of Trustees' meeting also refer to Appellant as "Finance Director." [Appellant's Exhibit 5].

economics and a master of public administration degree, reported directly to the director of the school.³ He testified that he assigned work to the employees under his supervision, including the business staff, and made sure that the work was completed. Appellant further testified that he was in charge of the building when the director was not present; that he served on the school's finance, building and policy committees; that he alone prepared the annual budget for the school; that he was a member of the management collective-bargaining team; and that he developed building safety procedures for staff and students. Appellant also testified that he did not have any curriculum or direct instructional duties.

The Faculty and Staff Handbook for the school lists the position of assistant director of operations and finance in the "Administration" section. [Appellant's Exhibit 7]. Personnel documentation was submitted for Appellant showing that he is a state employee assigned to "RI School for the Deaf" and his position does not fall within any collective-bargaining unit [Respondent's Exhibit 2]. Appellant's pay grade for his "exempt" position is derived from the Board of Regents' executive pay plan. [Respondent's Exhibit 3]. The Board of Regents' Personnel Policy Manual states that nonclassified, nonfaculty employees of the Board of Regents are employed "at will." [Respondent's Exhibit 1].

Appellant does not hold any Rhode Island educator certification. During his testimony, he reviewed his college transcripts and noted his business, accounting, finance, management, marketing and law credits. He also recounted his years of experience in financial management.⁴

Positions of the Parties

Appellant contends that the Commissioner has jurisdiction in this matter under Rhode Island General Law 16-12.1-1 *et seq.* ("School Administrators' Rights Act") because "[u]ntil the time of his termination, Mr. Seamans was an Administrator at RISD; he was qualified to be an administrator, he was treated as and held out to be an

³ The assistant director of academics reported directly as well, except that this position was vacant during Appellant's entire tenure at the School for the Deaf.

⁴ These courses and working experience mirrored the coursework and experience requirements for the Rhode Island school business administrator certificate.

administrator and he performed the duties and functions of an administrator.” [Appellant’s memo, p. 10]. Appellant argues that

because he possesses every quality of an administrator, because he was held out as an administrator and because he performed all of the duties and functions of an administrator, he clearly falls within that category of individuals the statute is meant to protect; his lack of a formal certificate should not exclude him from the statute’s protections. [Appellant’s memo, p. 13].

Appellant also contends that Mr. Seamans qualifies for a Rhode Island school business administrator certificate and that Rhode Island School for the Deaf is subject to §16-12.1-2 because §16-26-3.1(c)(2) mandates that the school be operated as a local education agency and generally grants the Board of Trustees the powers and duties of a school committee, and because the Board’s enumerated powers in the statute are similar to those set forth for a school committee in §16-2-9(a).

Respondent contends that the Commissioner does not have jurisdiction here because, due to Mr. Seamans’ status as an at-will state employee, Mr. Seamans’ termination does not fall within any law relating to schools or education. Appellant was not employed by a school district under §16-12.1-2. The “local education agency” provision in the statute refers to the school’s governance structure, and §16-26-3.1(h) states in part that “[e]mployees at the Rhode Island School for the Deaf shall continue to be state employees . . .” Appellant’s employment is governed by state policy rules, which indicate that he is an at-will employee. Furthermore, Appellant cannot be subject to §16-12.1-1 *et seq.* because he does not hold a Rhode Island certificate nor did he perform the functions of a school business administrator on a full-time basis. In addition to finance-type activities, Appellant’s position also encompassed duties typically performed by a director of facilities, for which there is no Rhode Island certificate. Appellant therefore is not a “full time, certified professional” under the statute. Finally, Respondent argues that the Commissioner has held that being “certifiable” is not the same as actually being certified, and that §16-12.1-1 should not apply to school business administrators because of the non-educational nature of the position’s training or job duties.

Discussion

The Commissioner of Education has jurisdiction over disputes arising under any law relating to schools or education.⁵ R.I.G.L. 16-12.1-1 *et seq.* provides school administrators with notice and hearing rights when employment relationships are being severed. According to the legislative purpose of the statute, the granting of these rights is “necessary to the orderly and effective functioning of public education . . .” R.I.G.L. 16-12.1-2 defines “administrator.” It states in relevant part:

The term “administrator” as used in this chapter applies only to full time, certified professionals having the authority in the interest of a local or regional school district or school within a district to direct, supervise, advise, or manage; . . .

It is clear from the factual background of this case that Appellant had authority to “direct, supervise, advise, or manage” employees at the School for the Deaf. The next question is whether Appellant exercised that authority “in the interest of a local or regional school district or school within a district . . .” We find that he did.

The School for the Deaf is a state-operated public school. It is authorized by statute to operate as a local education agency. While the Board of Regents and the Commissioner of Education have specific statutory responsibilities with regard to the school,⁶ the Board of Trustees for the School of the Deaf otherwise has “the powers and duties of a school committee.”⁷ One of those specific powers is “to approve assistant directors from nominations made by the director.”⁸ The evidence shows that Appellant was in fact hired by Respondent’s Board of Trustees.⁹ We therefore are dealing with the governing body of a public school which has the general powers and duties of a school committee and the specific authority to appoint assistant administrators. We find this scenario to be tantamount to the governance arrangement of a “school within a district” in

⁵ R.I.G.L. 16-39-1 and 2.

⁶ From an operations standpoint, the Board of Regents and the Commissioner have authority in the areas of strategic direction, budget, and the hiring of the school’s director (§16-26-3.1).

⁷ R.I.G.L. 16-26-3.1(c)(2).

⁸ R.I.G.L. 16-26-3.1(e)(3).

⁹ Nor is there any evidence that the Board of Regents was involved in Appellant’s termination.

§16-12.1-2, and Appellant to be the equivalent of an administrator in a public school that is part of a school district.¹⁰

We next proceed to the “full-time, certified professionals” portion of the statutory definition. It is undisputed that Respondent did not require and Appellant does not hold a Rhode Island educator’s certificate. Those facts are not dispositive of our inquiry, however. Nor would our inquiry be over if Appellant had independently obtained a Rhode Island certificate. Reading the statute in context with the definitions of “teacher” in the Teachers’ Tenure Act and the Teachers’ Retirement Act, we find that the relevant question to be asked under the statute is whether Appellant’s position required a certificate.

In defining “teacher” for purposes of the Teachers’ Tenure Act, §16-13-1 states that the term “means every person for whose position a certificate issued by the department of elementary and secondary education is required by law.” The Teachers’ Retirement Act states that “‘Teacher’ means a person required to hold a certificate of qualification issued by or under the authority of the board of regents for elementary and secondary education”¹¹ In both cases, the definition of “teacher” hinges on the legal compulsion to hold a certificate. Neither the employer nor the individual has the latitude to alter the certification requirement for any given position.

The school business administrator certificate issued by the Department of Education came into existence in 2002. Based on the job description under review and other evidence concerning the financial duties of the position, we find that the assistant director position that Appellant assumed in 2005 required such a certificate. Respondent’s failure to include the certification requirement in the job specifications does not obviate this legal requirement.¹² Appellant was the chief financial/business officer at the School for the Deaf and the nature of his position mandated possession of the certificate that corresponds to those duties and responsibilities. Appellant’s current lack of certification therefore does not preclude him from meeting the definition of “administrator” under §16-12.1-2.

Respondent accurately points out that Appellant’s full-time position at the School for the Deaf included non-financial duties which do not fall within the boundaries of any

¹⁰ In applying §16-12.1-2 to the public school that employed Appellant, we remain mindful of the statute’s objective of ensuring the “orderly and effective functioning of public education”

¹¹ R.I.G.L. 16-16-1(a)(12).

¹² Nor would Appellant’s acquisition of a certificate unrelated to his administrator’s position satisfy the legal connection that is necessary for coverage under §16-12.1-2.

certificate issued by the Department of Education. According to Respondent, in light of these duties, Appellant never qualified as a “full time, certified” professional under the statute. We find the statutory language to be unclear as it pertains to Appellant’s situation. It is clear, however, that the School Administrators’ Rights Act is a remedial statute and, as such, should be interpreted liberally in order to accomplish its purpose. Because we find that Appellant was Respondent’s business administrator and that he drew upon his background in finance to perform other operational tasks at the school, we find that he meets the “full time, certified” portion of the statutory definition.¹³

Appellant has made a *prima facie* showing of his qualification for a Rhode Island school business administrator certificate. Subject to his filing an application with the Department of Education’s Office of Educator Quality and Certification and being issued a certificate, we find, based on the discussion above, that Appellant meets the definition of “administrator” in §16-12.1-2 and is covered by the School Administrators’ Rights Act.

Conclusion

Provided that Appellant qualifies for a Rhode Island school business administrator certificate, this matter concerns a dispute arising under R.I.G.L. 16-12.1-1 *et seq.* and is subject to the jurisdiction of the Commissioner of Education.

Paul E. Pontarelli
Hearing Officer

Approved:

Peter McWalters
Commissioner of Education

Date: July 21, 2008

¹³ We are unable to discern any legislative intent that the School Administrators’ Rights Act was not meant to apply to certificates such as that of the school business administrator. As for the Commissioner’s past refusal to accept an individual’s “certifiable” status, this occurred in a proceeding brought by the Department of Education against a school committee to enforce the certification requirement of R.I.G.L. 16-11-1, which is distinguishable from the instant case of alleged wrongful termination between a public school and a former employee.