

STATE OF RHODE ISLAND

COMMISSIONER OF EDUCATION

AND

PROVIDENCE PLANTATIONS

Victoria Bierenday

Vs.

Rhode Island Department of Education

DECISION

HELD: In this matter the Rhode Island Office of Educator Quality and Certification requests the Commissioner of Education to deny renewal of the respondent teacher's early childhood education certificate and to suspend her elementary life teaching certificate. The requested denial and the requested suspension are affirmed and granted..

DATE: February 4, 2013

In this matter the Rhode Island Office of Educator Quality and Certification requests the Commissioner of Education to deny renewal of the respondent teacher's early childhood education certificate and to suspend her elementary life teaching certificate. The grounds for these requests were stated in a letter of notice sent to the respondent on September 7, 2012. In pertinent part this letter reads as follows:

In response to questions on the certification application about felony or misdemeanor convictions and *nolo contendere* pleas, you [the respondent] provided a record from Kent County District Court, Third Division, regarding case 3-12-01959. In that case you were convicted on May 7, 2012 of driving under the influence, first offense. The sentence was a fine, loss of license for 12 months, substance abuse counseling, and probation for 6 months.

According to information obtained by this office [Rhode Island Office of Educator Quality and Certification], on August 17, 2010, you entered a plea of *nolo contendere* to reckless driving in case 31-10-05221 in Kent County District Court, Third Division. The sentence was loss of license for three months and probation. In addition, on May 25, 2012, you were convicted of driving with an invalid license in case 61-12-06264 in Providence County District Court, Sixth Division. Specifically, you were driving a motor vehicle on April 23, 2012 at which time your driver's license had been suspended for refusing to submit to a chemical test on March 27, 2012. The sentence was one year at the A.C.I., with 345 days suspended and 20 days home confinement, and probation for 345 days.

The denial of your renewal request and the recommendation to suspend your life elementary certificate are based on the following items of cause, each of which constitutes cause to deny a request for certification or to annul a certificate under Rhode Island General Law 16-11-4:

- 1) Your failure to disclose in your June 1, 2012 application your *nolo contendere* plea in case 3-10-05221 in Kent County District Court, Third Division, and your conviction in case 6-12-06264 in Providence County District Court, Sixth Division
- 2) Your conduct that was the subject of cases 3-19-05221, 3-12-01959 and 6-12-06264, and
- 3) Your conviction in case 6-12-06264

The items of cause described above demonstrate that you are not in compliance with the requirement of Rhode Island General Law 16-12-3 that teachers cultivate principles of morality and virtue in the minds of students, and the requirement in the Board of Regents' certification regulations that educators "promote the development of character and civic responsibility in their students." [Part 3.3, section 1(ix)].

In order to remove the suspension of your elementary certificate and re-apply for renewal of your early childhood certificate, you will need to complete the terms of the sentences cited above and present a substance abuse assessment and treatment plan for approval by this office. You will need to demonstrate to this office that you have taken appropriate measures to prevent the recurrence of the conduct involved in your cases.

Conclusions of Law

1. At R.I.G.L.16-11-4 the General Laws of Rhode Island provide as follows:

R.I.G.L. § 16-11-4 Annulment of certificates. – The commissioner of elementary and secondary education shall promulgate rules and regulations under which a certificate may be annulled for cause. The holder shall be entitled to notice and a hearing before the commissioner of elementary and secondary education prior to the annulment of the certificate. \The holder shall have an opportunity to appeal the decision of the commissioner to the board of regents for elementary and secondary education, if desired. (Emphasis added)

2. A “for cause” standard for dismissal or for license revocation is constitutional. See Arnett v. Kennedy, 416 U.S. 134 (1974) and Wishart v. McDonald, 500 F.2d 1110, 1116 (1st Cir. 1974)
3. Rhode Island law requires teachers to cultivate the principles of morality and virtue in the minds of their students:

R.I.G.L.16-12-3. Duty to cultivate principles of morality. - Every teacher shall aim to implant and cultivate in the minds of all children committed to his care the principles of morality and virtue.

4. Teachers are expected to serve as exemplars for students. Pawtucket School Committee v. Board of Regents, 513 A.2d 13 (R.I.1986); Dupree v. School Committee of Boston, 446 N.E.2d 1099 (Mass-App. 1983)
5. The Commissioner of Education, on May 1, 1985, adopted regulations implementing R.I.G.L. 16-11-4.

Findings of Fact

1. We find that the respondent teacher failed to disclose in her June 1, 2012 application her *nolo contendere* plea in case 3-10-05221 in Kent County District Court, Third Division, and her conviction in case 6-12-06264 in Providence County District Court, Sixth Division.
2. We find that the respondent teacher committed the conduct that was the subject of cases 3-19-05221, 3-12-01959 and 6-12-06264, and
3. We find that the respondent teacher was convicted in case 6-12-06264.

Discussion

Based upon the above stated conclusions of law and findings of fact we conclude that the Rhode Island Office of Educator Quality and Certification is justified in requesting the Commissioner of Education to deny renewal of the respondent teacher’s early childhood education certificate and to suspend her elementary life teaching certificate.

Conclusion

The requested denial and the requested suspension are therefore affirmed and granted. In order to remove the suspension of the respondent teacher’s elementary certificate and in order to re-apply for renewal of her early childhood certificate, the respondent teacher will need to complete the terms of the sentences cited above and present a substance abuse assessment and treatment plan for approval by Rhode Island Office of Educator Quality and Certification. The respondent will need to demonstrate to Office of Educator Quality and Certification that she has taken appropriate measures to prevent the recurrence of the conduct involved in the cases in which she was involved.

For the Commissioner

Forrest A. Avila,
Hearing Officer

Deborah A. Gist, Commissioner

February 4, 2013
DATE