

A Teacher Without the Necessary State Certificate is Not Entitled to Due Process Protection

In a matter successfully handled by this firm, the Third Circuit Court of Appeals recently held that a teacher who failed to meet state certification requirements had no property interest in his continued employment. Therefore, the Court held that a school district could terminate such an employee without providing the due process protections which ordinarily are afforded to properly certified professional employees.

In this instance, the teacher had obtained a temporary teaching certificate that was valid for three years. The teacher was required to secure a permanent instructional certificate prior to the expiration of his temporary certificate. The teacher, however, failed to obtain the necessary instructional certificate within the three year window. The teacher's school attempted to obtain an emergency certificate from the Pennsylvania Department of Education immediately prior to the beginning of the next school year but those efforts failed. Because the teacher did not have a valid teaching certificate and classes were set to begin in a few days, the school told the teacher he could either resign or be terminated. The teacher elected to resign. The teacher subsequently sued the school district on the theory that his Fourteenth Amendment and State Due Process rights were violated because he was not provided a hearing before he was asked to resign.

The teacher's argument was rejected by the Court. The Court held that because the teacher did not hold a certificate at the time he resigned, he did not qualify as a "professional employee" and therefore, was not entitled to any of the procedural safeguards contained in the law.

Accordingly, if a teacher fails to maintain or achieve proper certification, he or she is not entitled to the benefit of a due process hearing under Pennsylvania law.

Clients who have questions regarding issues discussed in this article, or any education law matter, should feel free to call us at 215-345-9111.