

IN PETITION OF
DAWN E. RUTTER

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION

Opinion No. 02-23

OPINION

Petitioner, Dawn E. Rutter, challenges MSDE staff's interpretation of § 6-306 of the Education Article, Annotated Code of Maryland, which codifies a portion of the Quality Teacher Incentive Act of 1999. Specifically, Petitioner requests that the State Board interpret subsection (b)(3) concerning teacher eligibility for \$1000 signing bonuses so that it applies to her, direct the local board to issue her a signing bonus, and give similar direction to the other 23 school systems regarding individuals in similar circumstances.

FACTUAL BACKGROUND

Petitioner began her employment with Baltimore County Public Schools ("BCPS") on December 15, 1999, under a contract signed on November 5, 1999. At the time of hire, Petitioner was a graduate from an accredited institution of higher education in the top 10% of her class and held a Provisional Certificate in music for grades N-12, valid July 1, 1999 through July 1, 2000.

Petitioner worked as a regular classroom teacher at Colgate Elementary School for the remainder of the 1999-2000 school year and continued in that position during the 2000-2001 school year. Meanwhile, during the 1999-2000 school year, Petitioner completed the requirements for a Standard Professional Certificate (SPC) and was issued an SPC I, effective July 1, 2000.

During her second year of employment on September 28, 2000, Petitioner signed a standard MSDE form Signing Bonus Agreement, which states as follows:

I, Dawn E. Rutter, graduated from an accredited institution of higher education in the top 10% of my class. I am also employed by a public local school system as a classroom teacher. I fully understand that receipt of a \$1000 signing bonus requires a commitment to serve as a classroom teacher for a minimum of 3 consecutive years. I further acknowledge that leaving employment before the end of the 3-year commitment obligates me to reimburse the State of Maryland in the amount of \$1000.

Petitioner was not paid the signing bonus. BCPS advised her that she was not eligible to receive the signing bonus because she did not hold a professional certificate at the time of her initial employment. BCPS denied the bonus based on guidance from MSDE advising that individuals had to be eligible to hold or hold a professional certificate at the time of hire. *See* letters of 7/5/01 and 8/10/01 from Penhallegon, BCPS Personnel Officer.

Petitioner's union representative wrote to Dr. Lawrence Leak, Assistant State Superintendent of Certification and Accreditation, stating his belief that MSDE's interpretation of the bonus eligibility was inaccurate and requesting corrective advice. Dr. Leak responded by letter of November 6, 2001, indicating that MSDE provided policy guidance and implementation procedures to local school systems regarding § 6-306 which directed the school systems to award a signing bonus to classroom teachers who were new to the profession of teaching, and who held or were eligible to hold a Standard Professional Certificate or a Resident Teacher Certificate. Dr. Leak further indicated that Petitioner was not entitled to the bonus because she was initially employed with BCPS on a provisional certificate during the 1999-2000 school year.

In response to another letter from Petitioner's union representative, Dr. Leak explained:

The Department's policy for the implementation of the Quality Teacher Incentive Act of 1999 was developed to be consistent with the legislative intent of the Maryland General Assembly whose focus was on recruiting and retaining qualified teachers.

For the purpose of implementing the signing bonus provision of the Quality Teacher Incentive Act of 1999, the Department determined that eligible individuals include newly hired classroom teachers, graduating in the top 10% of their class, who hold or are eligible to hold a Standard Professional Certificate or a Resident Teacher Certificate. The Department believes that under the Quality Teacher Incentive Act the Maryland General Assembly did not intend to extend the signing bonuses to individuals who hold only a provisional certificate.

ANALYSIS

The Quality Teacher Incentive Act of 1999¹ is codified in part in § 6-306(b) of the Education Article and provides in relevant part:

¹Other initiatives in the Quality Teacher Incentive Act of 1999 include: expanding teacher mentoring programs; extending the teacher probationary period from two years to three years under certain circumstances; offering salary stipends to teachers who achieve national board certification or who teach at or mentor in an at-risk school; and providing a \$1,500 income tax credit to offset teachers' tuition costs for the graduate course work needed to maintain professional certification.

(2) A classroom teacher who holds a standard professional certificate or an advanced professional certificate who is employed by a county board and who holds a certificate issued by the National Board of Professional Teaching Standards shall receive a stipend from the State in an amount equal to the county grant for national certification, up to a maximum of \$2,000 per qualified teacher.

(3) (i) An individual who graduates from an accredited institution of higher education in the top 10% of his or her class, becomes employed by a county board, and remains employed as a classroom teacher in the public school system for a minimum of 3 consecutive years shall receive a salary signing bonus of \$1,000.

(ii) If the individual leaves employment with the public school system before the end of the 3-year commitment, the individual shall reimburse the State in the amount of \$1,000.

(4) A classroom teacher who holds an advanced professional certificate and teaches in a public school identified by the State Board as a reconstitution school, a reconstitution-eligible school, or a challenge school shall receive a stipend from the State in the amount of \$2,000 for each year that the teacher performs satisfactorily in the classroom.

Petitioner maintains that MSDE's interpretation of subsection (b)(3) requiring an individual to hold or be eligible to hold a Standard Professional Certificate or a Resident Teacher Certificate at the time of hire adds an eligibility condition not present in the statute itself. Petitioner argues that the plain language of subsection (b)(3) does not require that an individual hold a professional certificate in order to be eligible for the signing bonus, unlike subsections (b)(2) and (b)(4) which clearly require professional certification as a condition of eligibility.

We find that Petitioner's argument is persuasive. Subsection (b)(3) is the only provision in § 6-306(b) that uses the term "individual". As the Court of Appeals has indicated on numerous occasions:

Our task in this case is one of statutory construction. The cardinal rule of statutory construction is to ascertain and carry out the intention of the Legislature. . . . Our search for legislative intent begins, and usually ends, with the words of the statute at issue. . . . When the statutory language is clear, we need not look beyond the statutory language to determine the Legislature's intent. (Citations omitted).

Marriott Employees Federal Credit Union v. MVA, 346 Md. 437, 444-45 (1997). We find that the language chosen by the legislature in subsection (b)(3) does not infer or imply that the “individual” must hold professional certification.

CONCLUSION

For these reasons, we reverse the decision to deny Appellant a signing bonus and direct the local board to issue the bonus as promptly as possible.

Reginald L. Dunn
Vice President

JoAnn T. Bell

Philip S. Benzil

Walter S. Levin, Esquire

Karabelle Pizzigati

John L. Wisthoff

DISSENT

The purpose of the Quality Teacher Incentive Act of 1999 was to recruit and hire teachers of high caliber to work in the public schools of Maryland. As stated in the Preamble to the Act, the Maryland General Assembly designed the Act “to create incentives to attract and to retain high quality teachers in the State’s public schools.”² The standards for holding a provisional certificate are not as rigorous as those required for a Standard Professional Certificate or a Resident Teacher Certificate. *See* COMAR 13A.12.01.05. Thus, we do not believe that extending signing bonuses to individuals who hold only a provisional certificate at the time of hire achieves the purpose of the Act, nor do we believe that was what the General Assembly intended in enacting the legislation. We would therefore uphold the denial of the signing bonus

²The dire need for the incentives in the Act stemmed from the need to keep pace with enrollment growth and teacher retirements. *See* House Committee on Ways and Means Floor Report, 1999 Session.

in this matter.

Marilyn D. Maultsby
President

Dunbar Brooks

Clarence A. Hawkins

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Walter Sondheim, Jr.

May 22, 2002