

No. 1-11-1134

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

ANNA FARKAS,)
)
Plaintiff-Appellant,) Appeal from
) the Circuit Court
v.) of Cook County
)
BOARD OF EDUCATION OF THE CITY OF CHICAGO;) No. 09 CH 51480
MICHAEL W. SCOTT, President; NORMAN BOBINS,)
TARIQ BUTT, PEGGY DAVIS, ROXANNE WARD,) Honorable
CLARE MUNANA, ALBERTO A. CARRERO, JR.,) Peter Flynn,
Board Members; RON HUBERMAN, Chief Executive) Judge Presiding.
Officer; PETER MEYERS, Hearing Officer; and ILLINOIS)
STATE BOARD OF EDUCATION,)
)
Defendants-Appellees.)

JUSTICE CONNORS delivered the judgment of the court.
Presiding Justice Quinn and Justice Harris concurred in the judgment.

ORDER

Held: Board's finding that plaintiff, a tenured teacher, failed to complete a remediation plan, was not against the manifest weight of the evidence where she did not improve in deficient areas after 20 weeks; Board's determination that cause existed for plaintiff's dismissal was not unreasonable, arbitrary, or

capricious.

¶ 1 Plaintiff Anna Farkas was discharged from her employment as a tenured school teacher after receiving an unsatisfactory rating following a 20-week remediation period. Plaintiff sought review of this action, and defendant hearing officer Peter Meyers (hearing officer) recommended that she be reinstated. Defendants Board of Education of the City of Chicago, Michael Scott, Norman Bobins, Tariq Butt, Peggy Davis, Roxanne Ward, Clare Munana, Alberto Carrero, and Ron Huberman (collectively, Board) reviewed this recommendation but disagreed with the hearing officer and upheld plaintiff's termination. The trial court reviewed the Board's decision but requested a supplemental opinion from the Board regarding its basis for finding that the evidence supported termination. The Board supplied a supplemental opinion, and the trial court agreed with the Board, finding that it did indeed have cause for the discharge. Plaintiff now appeals, contending that the Board's decision to discharge her was against the manifest weight of the evidence. She asks us to reverse the Board's decision and reinstate her with full back pay and other benefits to which she would have been entitled. For the following reasons, we affirm.

¶ 2 I. BACKGROUND

¶ 3 The following has been gleaned from the record on review, which consists in part of testimony before a hearing officer, and various documents and exhibits.

¶ 4 Nichole Jackson, the principal at Wells Community Academy High School (Wells) during the time of this action, testified first at the hearing. Jackson testified that she had been an administrator for Chicago Public Schools (CPS) for four years, and the principal at Wells for two

No. 1-11-1134

of those years. Before that, she had been an English coach for 15 different high schools, and prior to that she had been both an elementary school and a high school teacher for 8 years.

Jackson testified that the Fresh Start Agreement was an agreement between CPS and the Chicago Teachers Union (Union). It was put in a place as a method for allowing a school to remain open without being restructured by CPS. Wells is a Fresh Start school, which means it entered into an agreement whereby the teachers at Wells would follow Fresh Start's bylaws.

¶ 5 Jackson testified that plaintiff had been teaching at Wells for two years before this action took place. Jackson testified that she informally observed every teacher at Wells over the course of the 2006-2007 school year. She began conducting formal observations of the teachers at Wells at the beginning of the 2007-2008 school year. She conducted her first formal observation of plaintiff on October 23, 2007. According to the observation form for tenured teachers that Jackson completed, plaintiff was not meeting expectations in 12 out of 24 areas. Jackson testified that plaintiff was not meeting expectations in terms of her teaching procedures and that there were some classroom management issues observed. Plaintiff did not adequately deliver instruction to the students, and did not adequately instruct students, or adhere to a lesson plan that was created for that particular day of observation. Jackson met with plaintiff after the observation and made suggestions, to which plaintiff seemed receptive.

¶ 6 Jackson testified that during her first formal observation, plaintiff had three to five students in class because it was a higher-performing classroom. Jackson stated that plaintiff was given fewer students because of concerns with plaintiff's ability to deliver instruction. Jackson testified that a classroom of only three students should afford a teacher the opportunity to engage

No. 1-11-1134

in one-on-one instruction with every student and meet each child's individual needs, but that was not happening with plaintiff's class.

¶ 7 On November 12, 2007, Jackson again formally observed plaintiff. According to the tenured teacher observation form, as well as Jackson's hearing testimony, plaintiff still had issues with teaching procedures in terms of her planning and delivery of instruction. Although a lesson plan may have been generated, it was not being adhered to, or effectively implemented.

¶ 8 Jackson testified that plaintiff sometimes followed lesson plans, but not always. In the observations that Jackson attended, the students were not engaged, which Jackson attributed to plaintiff's tendency to be "teacher directed," meaning she tended to lecture more than she allowed the students to actively engage in lessons.

¶ 9 After the two formal observations, Jackson concluded that plaintiff was not meeting expectations and was unsatisfactory as a classroom teacher. Plaintiff was issued a notice of unsatisfactory teaching performance, per the Fresh Start agreement protocol. Plaintiff then elected to participate in a modified remediation process, whereby she would be assigned a mentor teacher. In the remediation process that she chose, the principal was to be the final evaluator of the teacher, not the mentor.

¶ 10 Brenda Humphrey was the mentor assigned to plaintiff by CPS and the Union, and a remediation plan was drafted that was tailored specifically for plaintiff. According to the remediation plan, plaintiff had three main deficiencies. Deficiency No. 1 was teaching procedure, which meant that plaintiff was not meeting expectations in planning skills, assessment and evaluation skills, assignment-making skills, developing good work study habits, resourceful

No. 1-11-1134

use of instructional materials, and using motivating and questioning techniques. Deficiency No. 2 was classroom management, which meant that plaintiff did not effectively facilitate or control the classroom, and did not have effective classroom routines. Deficiency No. 3 was that plaintiff failed to demonstrate appropriate personal characteristics and professional responsibility in that she failed to adhere to accepted policies and procedures of CPS and failed to accept responsibility both inside and outside of the classroom.

¶ 11 The remediation plan enumerated how plaintiff was to go about remedying each deficiency, and it called for a completion time of 20 weeks. Plaintiff was afforded the opportunity to, and did in fact, provide input into the remediation plan.

¶ 12 Jackson testified that she completed a midpoint evaluation for plaintiff on March 6, 2008. According to the evaluation, as well as Jackson's testimony, plaintiff's teaching procedures were still not up to par and the students were still not receiving adequate instruction. Plaintiff did not plan for her class appropriately, and she did not engage students in questioning that would increase their knowledge. The material presented was low-level basic comprehension. Plaintiff did not incorporate modeling into her lesson plan. Modeling is a technique which allows students to demonstrate how to do something and also affords them the opportunity to demonstrate that they understand the concepts.

¶ 13 Jackson testified that she clearly remembered the students in plaintiff's classroom working on balancing equations while plaintiff was at the board doing the work. One of the students had her head down and was asleep. Another student was writing information down, but the answers on his page were inaccurate. Jackson approached the student after class and

explained to him what he had done incorrectly and how it should be done correctly so that he could complete the homework independently. Jackson testified that she and plaintiff had a post-observation conference in which she provided plaintiff with constructive criticism and suggestions for improvement, and that plaintiff was receptive to her suggestions.

¶ 14 Jackson testified that she once had a student from plaintiff's science class come to her and say that she was not learning anything in class and that plaintiff was not teaching. Jackson received a complaint from another science teacher, George Hill, who complained that plaintiff's classroom was noisy, and that there were students coming in and out of the classroom. Security officer Tony Makado also complained about plaintiff's classroom. The science department chair complained that plaintiff was not following the lesson plans that the teachers at Wells had worked on collaboratively to create, which could yield inaccurate data on student performance.

¶ 15 Jackson testified that she conducted a final classroom observation at the end of the 20-week remediation period. She concluded that even though plaintiff improved in terms of her paperwork by generating lesson plans and creating lesson plans, her delivery of instructions and her interactions with students had not improved. Plaintiff failed to show that she had an interest in teaching or that she was able to engage students in learning. According to Jackson's final observation form, there were only four places in which plaintiff failed to meet expectations. However, Jackson stated that plaintiff was not using instructional materials adequately, and was not using good questioning techniques that would allow the students to actually engage in higher-order thinking. Although plaintiff had improved in the creation of documents, the delivery of those documents was not effective. Jackson concluded that plaintiff did not successfully

No. 1-11-1134

remediate during the remediation period, and issued a notice of unsatisfactory performance.

Jackson testified that based on her years of teaching experience, plaintiff should not be teaching, and that she would not want a child of hers in plaintiff's classroom.

¶ 16 Jackson explained on cross-examination that there was a rubric provided by Fresh Start that explains what it takes to meet expectations. Jackson based her observation forms on whether plaintiff was meeting those expectations.

¶ 17 Marc Wigler, a Fresh Start program manager, testified at the hearing that mentors are selected by an agreement between both the Board and the Union. Brenda Humphrey was one such qualified mentor. The mentors go through over a hundred hours of training throughout the year.

¶ 18 Humphrey testified that she had been a Fresh Start mentor for three years, and that prior to that she was a teacher for over 33 years. She taught every grade level from kindergarten to eighth grade. As a Fresh Start mentor, she gave support to teachers. She looked at teachers' pattern of behavior in the classroom, and how they responded to students. She also looked at whether or not they were applying instructional practices that met the needs of students in their classes.

¶ 19 Humphrey testified that she was present during the discussion of plaintiff's remediation plan, and that plaintiff provided input to the plan via a reflection sheet. Humphrey met with plaintiff over the course of 20 weeks from December 6, 2007, to May 13, 2008. She observed plaintiff anywhere from twice a week to twice a day, depending on Humphrey's schedule.

Humphrey testified that plaintiff did not use a great deal of rigor in her instructional delivery,

which did not sustain the students' attention, and which caused behavioral problems in plaintiff's classrooms. Humphrey further testified that plaintiff's classroom management skills were lacking in that there was no consistency in terms of getting the students to adhere to rules and consequences. The students continuously used obscene language in the classroom. Humphrey stated that the students showed no respect for plaintiff as the instructional leader in the classroom.

¶ 20 Humphrey testified that plaintiff did not follow CPS policies and procedures on several occasions. Humphrey stated that she made suggestions for improvement in the overall deficiencies that she observed, and that over time plaintiff was "somewhat" receptive to the suggestions.

¶ 21 Humphrey filled out observation logs and held post-observation conferences with plaintiff throughout the remediation period. On December 10, 2007, plaintiff was not prepared for the lesson, and the materials were not readily available for the students. Safety goggles were not used, and there were no classroom rules posted anywhere. There was disruptive behavior, the students were swearing throughout the class period, plaintiff did not circulate through the room, and some students were tossing around materials that were to be used in the experiment. Plaintiff was not able to stop the disruptive behavior. In the post-observation conference, Humphrey advised plaintiff to prepare the materials before class started, and to post rules and consequences in her classroom. Humphrey also instructed plaintiff to circulate throughout the room and monitor the behavior of the students throughout class. Plaintiff appeared receptive to the suggestions.

¶ 22 On December 14, 2007, Humphrey observed that plaintiff allowed students to refrain from participation in the class activity. After the class, Humphrey gave plaintiff a handout on how to scan the room from time to time to make sure students were on task.

¶ 23 On December 18, 2007, plaintiff's students were working on a science fair display during class instead of work that pertained to the class. Plaintiff spent more time with certain groups of students than others, and students were yelling for her attention. Humphrey suggested that plaintiff should put a bell-ringer activity up on the board before class, which would allow students to do an activity right at the start of class, thereby reducing behavioral issues.

¶ 24 On March 4, 2008, plaintiff's students were in the computer lab working on a research project. There was no bell-ringer activity, and the students were browsing websites that they had not been directed to access. The students were disrespectful, swearing, and opening windows to yell outside. Plaintiff was circulating through the room at this time but was unable to get some students back on track. During the post-observation conference, Humphrey told plaintiff she should give the students points to motivate them to stay on task for the assignment.

¶ 25 Humphrey conducted her final observation on May 13, 2008. The assignment was not structured for the environmental science class, students were uninterested in the material, and they were inattentive. There were only four students in the class, which should have allowed for more one-on-one monitoring, but that did not happen. One student fell asleep and plaintiff had to wake him up. Students were still yelling to each other, getting out of their seats to have conversations, and opening windows. Humphrey testified that the students were abusive and "out of control."

¶ 26 Prior to that day, Humphrey had given plaintiff a vocabulary expander sheet which focused on actually defining the vocabulary word, using it in a sentence, and then using it in a story. Humphrey also provided plaintiff with a rubric, an outline for a lesson plan design, some film strips, videos, and books that she thought plaintiff could use to help supplement her instruction.

¶ 27 Humphrey was required to spend 47 hours with plaintiff over the 20-week period, and she spent just over 50 hours with plaintiff. From her first observation to her last observation, Humphrey stated that there was a point in time where plaintiff incorporated the bell ringer activities that she had suggested, but they lasted longer than the suggested five to eight minutes. Humphrey helped plaintiff design the rules and consequences and stapled them to the board for plaintiff. She brought plaintiff a display board where she could put the rules in the classroom she shared with another teacher, but Humphrey only saw that display board one time. Plaintiff never used the classroom rules and consequences in the manner that Humphrey suggested to her.

¶ 28 Humphrey testified that she was mentoring one other teacher during the 2007-2008 school year. There were a few students in that teacher's class that were also in plaintiff's class. When they were in plaintiff's class, they showed a great deal of disrespect, but they showed respect for the other teacher while in the other class.

¶ 29 Humphrey had worked with Richards Career Academy, Dunbar High School, and a number of other high schools. She testified that Wells was not abnormally chaotic.

¶ 30 Humphrey testified that in her opinion, plaintiff did not complete the remediation plan. Based on her 33 years of teaching, Humphrey did not think plaintiff should be teaching.

¶ 31 Humphrey testified that plaintiff did not improve in any of the three main deficient areas during remediation. During the 13 or 14 conferences she had with plaintiff, plaintiff never asked her a question pertaining to what Humphrey saw during observations.

¶ 32 George Konieczko, a biology teacher, testified on behalf of plaintiff. He stated that they shared a classroom – she had the room for three periods, and he had it for the other four.

Sometimes he would be in the classroom during his prep periods working in the back and setting things up for his class. Konieczko testified that he saw well-engaged students in plaintiff's class on a daily basis conducting their work, listening to lectures, or conducting laboratories.

Konieczko admitted that he was suspended by Jackson for excessive tardiness.

¶ 33 Plaintiff testified at the hearing that she has a teaching certificate from the state of Illinois to teach grades 6 through 12. She has an endorsement in biology and chemistry. She taught at Kenwood Academy from 2000 to 2005, and at Wells from 2006 to 2008. Over the course of those two years at Wells, she taught biology, environmental science, chemistry, and freshman seminar. Plaintiff testified that the climate at Wells at the beginning of the 2007-2008 school year was chaotic because only some teachers had their class schedules, and only some teachers had class rosters. Students were choosing their own classes based on what they understood to be their requirements. Plaintiff further testified that discipline was an issue and that security was unable to keep up. Referrals to the discipline office were often ignored. Plaintiff stated that there was a walk-out by a group of students before the programs were finalized, but that the scheduling issues were settled in November of 2007.

¶ 34 During the 2007-2008 school year, plaintiff taught in two rooms: Room 400 and Room

209. Room 209 was an older room while room 400 had been rehabilitated a couple years before her arrival and was in good condition.

¶ 35 When asked to describe her teaching style for the 2007-2008 school year, plaintiff stated that she gave bell-ringer exercises upon entry, and that she generally liked to use a project-based or inquiry-based teaching technique. Plaintiff did not agree with the testimony that she was too lecture oriented.

¶ 36 Plaintiff did not agree with the testimony that her students disrespected her. She testified that her students participated in class, asked questions, were polite, spoke properly, addressed her properly, were engaged in the activities they were doing, and approached plaintiff outside the classroom. Plaintiff testified that the chaotic activity in the school resulted in some students being disrespectful to everybody, not just her. Plaintiff testified that she posted rules and consequences in her classrooms during the 2007-2008 school year.

¶ 37 Plaintiff testified that she had a friendly relationship with Humphrey, her mentor, and that often Humphrey would ask about the behavioral issue of the students. Humphrey never showed her any daily logs. The first time plaintiff saw the daily logs was when her lawyer showed them to her.

¶ 38 Plaintiff stated that she was receptive to suggestions Humphrey gave to her. She did not agree with Humphrey's observation that she did not use a great deal of vigor in her instructional delivery. She was always actively involved with the students, and was very familiar with the subject matter of chemistry.

¶ 39 Plaintiff claimed that she was teaching a class of higher-performing students, not because

No. 1-11-1134

of her teaching issues, but because she was the only teacher qualified to teach them since she had an M.D. and an extensive background in science.

¶ 40 Plaintiff testified that she followed all the rules of the school, referred discipline as appropriate, appeared at her assigned class times, taught classes, and did not leave students unattended.

¶ 41 Plaintiff disagreed with Humphrey's observation that she was not prepared for class. She claimed she was always prepared for class and brought her materials with her on a mobile cart. The students did not use safety glasses one day because there were no glass or chemicals being used.

¶ 42 Plaintiff remembered the December 18, 2007 class that Humphrey observed. It was a junior-level chemistry class. Students were working on their science fair projects because they either did not have a place to work on them at home or did not have supplies or could not afford supplies. Plaintiff claimed that the student who yelled that he was waiting ten minutes for her to help him was a performer and an actor and would often do that. He exaggerated how long he held his hand up.

¶ 43 Plaintiff stated that Humphrey suggested a technique of raising her hand and saying the phrase "when the hand goes up, the mouth goes shut," but that when she tried it she got a lot of waving from the students. She stated that when students went to inappropriate websites she would ask them to get off of those and reapply themselves to the work they were supposed to be doing.

¶ 44 During class on May 13, 2008, a student fell asleep because he worked late hours and

always came into class very tired. Plaintiff disagreed with the presentation of the rules and consequences that she and Humphrey designed together. She thought it was too "babyish" for high school students. Someone covered it with graffiti. No one took the board itself seriously, but the students did take the rules and consequences seriously.

¶ 45 After completing the remediation period, plaintiff believed she improved in many areas such as presentation, classroom management, presenting the rules, presenting student work, and putting up bell-ringer activities.

¶ 46 Susan Nusbaum testified at the hearing that she was a colleague of plaintiff's at Wells and that from what she saw, plaintiff's classroom management skills were adequate and professional. Nausbaum considered plaintiff to be a good teacher. After plaintiff was told that her job was in jeopardy a group of girls came to Nausbaum with a petition because they were upset that plaintiff was going to be removed. Nausbaum did not know if they brought the petition to her because they were asking random teachers, or if it was because they knew that she was friendly with plaintiff.

¶ 47 Nausbaum testified that the beginning of the 2007-2008 school year was the worst she had ever seen in the 18 years she worked there. The students blamed it on the computer system and staged a walk out in the beginning of the school year.

¶ 48 Principal Nichole Jackson testified again as a rebuttal witness for the Board. She explained that CPS experienced a computer system crash that affected 23 high schools, Wells being one of them. In response to Nausbaum's testimony about a walk out, Jackson stated that about 100 Latino students staged a walk-out at the request of Alderman Emmanuel Flores and a

couple of the teachers at Wells, including Nausbaum. Nausbaum had received disciplinary action for making racial comments to a group of students which had been investigated by the Board.

¶ 49 Subsequent to the hearing, the hearing officer found that plaintiff should be reinstated at Wells. He found that Jackson's two formal classroom observations of plaintiff were inadequate to conclude that she was an "unsatisfactory" teacher because of the chaos at Wells during the beginning of the 2007-2008 school year. The hearing officer also found that Humphrey was an ineffective Fresh Start mentor due to her lack of experience teaching high school.

¶ 50 The Board rejected the hearing officer's suggestion to reinstate plaintiff. The Board first found that there was sufficient evidence that Jackson followed the requirements for initiating the Fresh Start remediation process. Second, the Board found that Humphrey fulfilled her duties as a Fresh Start mentor for plaintiff in accordance with the requirements of the Fresh Start Agreement. And third, the Board found that plaintiff's teaching deficiencies outweighed any slight improvement Jackson saw in her teaching performance. The Board rejected the hearing officer's recommendation to reinstate plaintiff and terminated her from teaching duties.

¶ 51 Plaintiff then filed a complaint for administrative review, appealing the decision of the Board to the trial court. Reviewing the facts of the case and the applicable standard of review, the court found that (1) there were no procedural errors that occurred before, during, or after plaintiff's remediation process, but (2) the Board did not adequately explain why it concluded that plaintiff was an unsatisfactory teacher. The court directed the Board to reexamine its determination that plaintiff failed to successfully remediate her performance, and that if it

concluded that she did fail to remediate, to set forth its explanation in detail.

¶ 52 The Board then issued a supplemental opinion and order finding that plaintiff failed to successfully remediate her performance and explaining in detail its reasoning. The trial court, having reviewed the supplemental opinion, found that the Board's finding that plaintiff failed to remedy her poor performance was not against the manifest weight of the evidence. Plaintiff's complaint for administrative review was dismissed, and plaintiff now appeals.

¶ 53 **II. ANALYSIS**

¶ 54 On appeal, plaintiff contends that the Board's decision to terminate her services was against the manifest weight of the evidence. The Board maintains that its decision was not against the manifest weight of the evidence as there was ample evidence to support its finding.

¶ 55 Pursuant to the Administrative Review Law (735 ILCS 5/3-101 *et seq.* (West 1998)), our review of an administrative decision to discharge an employee requires a two-step approach. See *Walsh v. Board of Fire & Police Commissioners*, 96 Ill. 2d 101, 105 (1983). First, we must determine whether the Board's findings of fact and decision were against the manifest weight of the evidence. See *Walsh*, 96 Ill. 2d at 105. Second, we must determine whether those findings sufficiently support the Board's conclusion that cause for discharge existed. See *id.* Prior to employing the two-step analysis, we make clear that we, as a reviewing court, may not interfere with a board's discretionary authority but, rather, may only review the decision reached by the board to determine solely whether it is against the manifest weight of the evidence. *Raitzik v. Board of Education of the City of Chicago*, 356 Ill. App. 3d 813, 823 (2005) (citing *O'Boyle v. Personnel Board*, 119 Ill. App. 3d 648, 653 (1983)).

¶ 56

A. Manifest Weight of the Evidence

¶ 57 "In determining whether the Board's findings of fact are against the manifest weight of the evidence, we examine only the final decision of the Board - the agency charged with the administration and enforcement of the School Code which governs dismissal - not the decision of the trial court, nor that of the hearing officer, which is merely a recommendation to the Board." *Raitzik*, 356 Ill. App. 3d at 823; see also *Hearne v. Chicago School Reform Board of Trustees*, 322 Ill. App. 3d 467, 475 (2001) (Board is vested "with the final administrative decision on teacher *** removal"). "The Board's findings are considered to be *prima facie* true and correct, and we may not reweigh the evidence or make any determinations of fact." *Id.* (citing *Abrahamson v. Department of Professional Regulation*, 153 Ill. 2d 76, 88 (1992)). We may not substitute our judgment for that of the Board, and reversal of the Board's decision is not justified simply because the opposite conclusion is reasonable or because we might have ruled differently. *Id.* at 823-34 (citing *Abrahamson*, 153 Ill. 2d at 88).

¶ 58 In order for us to find that the Board's decision is against the manifest weight of the evidence, we must conclude that " 'all reasonable and unbiased persons, acting within the limits prescribed by the law and drawing all inferences in support of the finding, would agree that the finding is erroneous' and that the opposite conclusion is clearly evident." *O'Boyle*, 119 Ill. App. 3d at 653 (internal citations omitted) (quoting *Daniels v. Police Board*, 37 Ill. App. 3d 1018, 1023 (1976)). "This is an exacting standard and, if there is anything in the record that supports the Board's conclusion, it is not against the manifest weight of the evidence and must be sustained." *Raitzik*, 356 Ill. App. 3d at 824 (citing *Finnerty v. Personnel Board of the City of*

Chicago, 303 Ill. App. 3d 1, 12 (1999)). Our review of the record indicates that the Board had before it sufficient evidence to support its findings in the case at bar.

¶ 59 Plaintiff contends that the Board failed to prove by a preponderance of the evidence that she did not satisfactorily complete the remediation plan. In support of this argument, plaintiff states that she was marked as not meeting expectations in 12 areas, out of 24, in her first formal observation by Jackson, but that she was only marked as not meeting expectations in 3 out of 24 areas on her final observation, and thus she unequivocally improved during her remediation period. Plaintiff insists that the Board combed over the record to find instances in which the plaintiff appeared to be unsatisfactory, but ignored as irrelevant the fact that there were scheduling issues in the Fall of the 2007-2008 school year. Plaintiff also contends that the Board's finding that the students were out of control is at odds with the portion of the Board's opinion stating that plaintiff was sitting with four of her students discussing football prior to one class period. In other words, she contends that the fact that she was sitting with her students discussing football shows that she had control of the classroom and had been able to make a connection with her students. Based on our standard of review and the record in this case, we disagree with the plaintiff's contentions, as there is more than ample evidence supporting the Board's determination that plaintiff failed to complete the remediation plan. See, *e.g.*, *Rietzik*, 356 Ill. App. 3d at 829-30.

¶ 60 Plaintiff is correct, and we do not discount, that she made some improvements during the remediation period. We recognize, as Humphrey and Jackson both acknowledged, that plaintiff implemented some of their suggestions. These suggestions included creating better lesson plans,

posting rules in the classroom, and using bell-ringer activities.

¶ 61 However, our court has held that even alleged improvements by a teacher during a remediation period does not compel the finding that the teacher's dismissal is inappropriate. *Rietzik*, 356 Ill. App. 3d at 830 (citing *Davis v. Board of Education of the City of Chicago*, 276 Ill. App. 3d 693, 696 (1995)). It is clear from the record in this case that while plaintiff may have made some improvements, she did not successfully complete the remediation plan. The plan outlined three main deficiencies (teaching procedures, classroom management, and demonstration of appropriate personal characteristics and professional responsibility). During her midpoint evaluation of plaintiff, Jackson found that plaintiff had not appropriately planned for class, did not engage the students in questioning, did not engage in modeling, and that one student fell asleep during the class period. Plaintiff was not found to be meeting the expectations listed on the observation form. Although Jackson found at the end of the remediation period that plaintiff was not meeting expectations in only four areas (skill in developing good work study habits, resourceful use of instructional materials, skill in questioning techniques, and effective classroom routine), as opposed to the twelve areas she started out with, those four areas are crucial to being an effective teacher.

¶ 62 Jackson testified that after 20 weeks of remediation, plaintiff had not improved in any of the three main deficient areas listed in plaintiff's remediation plan. Her delivery of instructions to students and her interaction with the students were still sub par. Plaintiff did not show an interest in teaching and did not have the ability to engage students in learning. Plaintiff did not demonstrate that she was an effective teacher. Humphrey, plaintiff's mentor, also testified that

No. 1-11-1134

over the 20 week remediation period, plaintiff did not improve at all in any of the three deficiencies listed in the remediation plan. Jackson testified that plaintiff was not using instructional materials adequately and not using effective questioning skills that would have allowed the students to engage in higher-order thinking.

¶ 63 Furthermore, in Humphrey's final observation and evaluation of plaintiff's freshman environmental science class, Jackson noted that plaintiff had old student work on display, the assignment given for a particular class period was not structured well enough for the class, the lesson did not stimulate the interest of students, and some students were not attentive. In the junior chemistry class, where there were only four students, plaintiff was sitting down with students talking about football. The questions she asked students during class were not higher-order thinking questions as they only required one answer. The lesson was never assessed and feedback was not given to the students. Humphrey noted that there needed to be more explanation about the homework assignment and that plaintiff should have used the overhead projector, which was available for use. In the environmental science class, Humphrey observed that plaintiff did not respond to all of the disruptive behavior in the computer lab, that students were swearing across the room, that students were disrespecting plaintiff and being verbally abusive towards her, and that students were opening windows and yelling out of them. One student combed another student's hair during the entire class period, and students were leaving their seats to socialize with other students.

¶ 64 After a 20-week remediation period, which included a written detailed plan, several written observations by both Jackson and Humphrey, and several conferences with plaintiff, there

were still major issues with plaintiff's effectiveness as a high school teacher. We cannot say that the opposite conclusion, namely, that plaintiff successfully completed the remediation plan, is "clearly evident" from the record here. *O'Boyle*, 119 Ill. App. 3d at 653. Accordingly, we find that the Board's decision to dismiss plaintiff was not against the manifest weight of the evidence. See *Raitzik*, 356 Ill. App. 3d at 824 ("[I]f there is anything in the record that support's the Board's conclusion, it is not against the manifest weight of the evidence and must be sustained.")

¶ 65

B. Cause

¶ 66 The second step in reviewing the propriety of the Board's decision to dismiss plaintiff is to determine whether its findings of fact sufficiently support its conclusion that cause for the dismissal exists. *Walsh*, 96 Ill. 2d at 105.

¶ 67 In the context of teacher dismissal, "cause" has been defined as that which law and public policy deem as some substantial shortcoming which renders a teacher's continued employment detrimental to discipline and effectiveness. *Davis*, 276 Ill. App. 3d at 697. There must exist a logical connection between plaintiff's fitness to perform as a teacher and the misconduct in question which led to her dismissal. *Davis*, 276 Ill. App. 3d at 697. The failure to complete a remediation plan under section 24A-5 of the School Code (105 ILCS 5/24A-5(j), 34-85 (West 2000)), with a satisfactory or better rating constitutes cause for dismissal. *Davis*, 266 Ill. App. 3d at 697. The existence of sufficient cause is a question for the Board to determine. *Department of Mental Health & Developmental Disabilities v. Civil Service Comm'n*, 85 Ill. 2d 547, 551 (1981); *Raitzik*, 356 Ill. App. 3d at 831. Accordingly, the Board's finding of cause is given substantial deference, and we may not substitute our judgment for that of the Board in this regard. *Walsh*, 96

Ill. 2d at 105-06. The Board's finding of cause can only be overturned if it is arbitrary and unreasonable, or unrelated to the requirements of service. *Raitzik*, 356 Ill. App. 3d at 831; *Allman v. Police Board*, 140 Ill. App. 3d 1038, 1041 (1986).

¶ 68 As we discussed above, the evidence in this case demonstrates that plaintiff failed to complete the remediation plan implemented for her. After the 20-week period, she failed to improve in her three main deficient areas of teaching procedures, classroom management, and appropriate personal characteristics and professional responsibility. Her observation evaluations during and at the end of the remediation period were similar to those at the beginning. Despite some improvements in certain areas, the record supports the Board's conclusion that plaintiff's performance was unacceptable. There is no question here that plaintiff's chronic deficiencies were directly correlated to her ability to do her job as a teacher.

¶ 69 Accordingly, we find that the Board's determination that cause existed for the plaintiff's dismissal was not unreasonable, arbitrary, or capricious. See *Davis*, 276 Ill. App. 3d at 697-98.

¶ 70 III. CONCLUSION

¶ 71 For the foregoing reasons, we affirm the judgment of the trial court confirming the Board's decision to dismiss plaintiff from her teaching position for cause.

¶ 72 Affirmed.