2012 IL App (1st) 113254-U

FIRST DIVISION
September 24, 2012

No. 1-11-3254

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

BILL D. JACKSON, Plaintiff-Appellant, v. ILLINOIS SECRETARY OF STATE JESSE WHITE, Defendant-Appellee, and THOMAS WEKONY, DECARLO TURNER, and STEVE FISHER, Defendants.	)	Appeal from the Circuit Court of Cook County. No. 09 CH 35793 Honorable Kathleen M. Pantle, Judge Presiding.

O R D E R

JUSTICE ROCHFORD delivered the judgment of the court.
Justices Karnezis and Cunningham concurred in the judgment.

Held: The Secretary of State's cancellations of both the commercial driver training school license for plaintiff's driving school and plaintiff's personal commercial driver training instructor license are reversed; at the time of the cancellations, plaintiff was not in violation of an administrative code provision precluding him from being "currently" employed as a high school driver education teacher.

¶ 1 Plaintiff-appellant, Bill D. Jackson, seeks administrative review of the decision of defendant-

appellant, Illinois Secretary of State Jesse White (the Secretary), cancelling both the commercial driver training school license of his driving school and his personal commercial driver training instructor license. The Secretary cancelled the licenses after he concluded that plaintiff was in violation of an administrative code provision precluding him from being employed as a high school driver education teacher. Because the evidence presented below established that plaintiff was not "currently" employed as a high school driver education teacher at the time the licenses were canceled, the Secretary's decision is reversed.

¶ 2 I. BACKGROUND

¶ 3 On July 8, 2009, the Secretary issued two notices of cancellation. In the first notice, the Secretary notified plaintiff that his personal commercial driver training instructor's license (personal license) was cancelled[1] due to the fact that plaintiff "is currently an administrator and/or teacher of a State-approved high school driver education program in violation of Title 92, Ill. Administrative Code Chapter II Section [1060.120(a)(17)]." In the second notice, the Secretary notified plaintiff that the commercial driver training school license of plaintiff's driving school (school license), Olympic Advanced Driving School (Olympic), was cancelled because "the owner of Olympic Advanced Driving School is currently an administrator and/or teacher of a State-approved high school driver education program in violation of Title 92, Illinois Administrative Code, Chapter II, Section [1060.20(l)]." The following day, plaintiff wrote a letter to the Secretary indicating that he had been informed that his school was being closed due to a violation of "Title 92. Illinois

[1]The notice was titled a "NOTICE OF CANCELLATION." Nevertheless, the body of the notice actually states that plaintiff's personal license was "denied." This appears to be a typographical error, however, as all the parties involved in this matter have understood plaintiff's personal license to have been *cancelled* pursuant to this notice.

Administrative Code Chapter II Section [1060.120(a)(17)]," stating that he would like to contest that decision, and requesting a "hearing at your earliest convenience."

¶ 4 Pursuant to plaintiff's request, an administrative hearing was held on August 10 and 19, 2009. At the beginning of the hearing, the Secretary noted that plaintiff's written request for a hearing had only included the notice of cancellation regarding plaintiff's personal license, and as such the hearing had only been officially scheduled to address plaintiff's challenge to that specific cancellation. At the request of plaintiff's counsel, and without objection of the Secretary, the hearing officer–Mr. Steve Fister[2]–agreed to hear plaintiff's challenges to the cancellation of both his personal license and the school license. The hearing officer therefore consolidated the two matters.

¶ 5 The administrative hearing included the testimony of a number of the Secretary's employees, including: DeCarlo Turner, Thomas Wekony, Terry Montalbano, and Christopher Godellas. Plaintiff also testified, and various documents were entered into evidence.

¶ 6 Ms. Turner testified that she was employed as field representative for the commercial driver training services section of the Secretary's office. In that role. Ms. Turner had been responsible for auditing Olympic since 2006, and had provided plaintiff with copies of the current and revised administrative code provisions relevant to driver education in 2006, 2007, and 2009.

¶ 7 Ms. Turner also testified with respect to how she became aware that plaintiff was–in addition to operating Olympic and offering private driver's instruction–teaching driver education in a public high school. On June 23, 2009, Ms. Turner was conducting an on-site audit of Olympic when she observed a vehicle in the school's parking lot adorned with an Illinois State Board of Education

---

[2] In the caption of plaintiff's administrative review action, Mr. Fister is misidentified as "Steve Fisher."

(ISBE) driver education sign. She also noted that this was not the vehicle which Olympic's records indicated it was using for driver education. When Ms. Turner returned to Olympic on June 29, 2009, the ISBE sign was still on the car. Plaintiff informed Ms. Jackson that the vehicle was a new vehicle he had recently purchased due to repairs required on his previous vehicle, and that he had in fact been using the new vehicle for driver instruction. Ms. Turner told plaintiff that he needed to have an Olympic sign on the new vehicle.

¶ 8 After discussing the issue with her supervisor Mr. Wekony, Ms. Turner further investigated plaintiff's use of an ISBE sign on the vehicle he used for driver instruction. Ms. Turner first contacted Bremen High School, Hillcrest High School, and Bloom Trail High School in July of 2009. As a result of conversations with representatives of these schools and her review of plaintiff's file in the Secretary's office, Ms. Turner learned that plaintiff worked as a paraprofessional at Bloom Trail High School and had taught driver education there as recently as 2005. Ms. Turner was also led to understand that plaintiff also taught driver education at Bremen High School for a four-week period ending on July 2, 2009. Finally, Ms. Turner indicated that ISBE records listed plaintiff as being "active" at Bloom Trail High School.

¶ 9 On July 7, 2009, Ms. Turner had a telephone conversation with plaintiff. Mr. Wekony and Mr. Godellas listened in on the conversation. As Ms. Turner recalled, and as reflected in an email she drafted summarizing the conversation, plaintiff admitted at that time that he worked at Bloom Trail High School, although not as a driver education instructor. He also admitted to having worked at Bremen High School as a driver education instructor for a four-week period ending in June of 2009. Ms. Tuner's email also indicated that plaintiff subsequently called back and admitted that he taught driver education at Hillcrest High School.

¶ 10 Mr. Wekony testified that he was manager of the Secretary's commercial driver training section. In late 2007, Mr. Wekony's office sent out a letter to all owners of private driving schools that included revised administrative rules applicable to such businesses. Among the amendments included in those revised rules was a prohibition on private driving instruction school owners or teachers from also being employed in high school driver education programs.

¶ 11 Mr. Wekony also testified regarding his office's investigation into plaintiff's employment as a high school driver education instructor. After plaintiff's initial conversation with Ms. Turner on July 7, 2009, in which plaintiff admitted that he worked at Bremen High School as a driver education instructor, plaintiff called back and spoke with Mr. Wekony. It was Mr. Wekony's recollection that in that second conversation plaintiff admitted to also being employed as a driver education instructor at Hillcrest High School. Mr. Wekony also stated that in late July of 2009, he accessed an ISBE database and discovered that plaintiff was listed as being "active" as a driving instructor at Bremen High School, Hillcrest High School, and Bloom Trail High School. Mr. Wekony did acknowledge that being listed as active on the database did not indicate that plaintiff was actually "currently" employed as an instructor at any of those schools at that time.

¶ 12 Mr. Montalbano testified that he was an administrator for the Secretary, and in that role supervised the commercial driver training section. He further testified that he had a telephone conversation with plaintiff on or about July 13, 2009. In that conversation, plaintiff acknowledged that he had been a high school driver education instructor during the summer nearly every year since he first applied for the licenses from the Secretary. Plaintiff also stated that nobody from the Secretary's office ever told him that this was not permitted, and if he knew that doing so would cause him to lose his licenses he would have given up teaching in public high schools.

¶ 13 Mr. Godellas testified that he was a field representative for the Secretary. In that role, Mr. Godellas had played a "substantial" role in promulgating new administrative rules for the Secretary. More specifically, he played a role in the adoption of the administrative rules plaintiff was alleged to have violated. Mr. Godellas explained that while driver education instructors in public high schools have access to the Secretary's written driver education exam and are permitted to enter "completion codes" for students, private driver education instructors do not have such privileges. The administrative rules prohibiting owners of private driver education instruction schools and private driving education instructors from also teaching driver education in public schools was designed to address this conflict. This rule went into effect in November of 2007.

¶ 14 Plaintiff also testified at the hearing. In his testimony, plaintiff stated that he originally submitted an application to ISBE to be registered as a high school driver education teacher around 1994. Over the years, he had worked as a high school driving instructor at both Bloom Trail High School and Hillcrest High School. The last time he worked for Bloom Trail High School as a driving instructor was in 2005. With respect to Hillcrest High School, he had applied and been accepted to work a four-week instructional period during the summer each year since 2004. Plaintiff further testified about the reason he called Mr. Wekony on July 7, 2009, after having previously spoken with Ms. Turner on that day. He realized that he may have left the impression that he worked at Bremen High School in response to her questions. Plaintiff informed Mr. Wekony that while he actually worked at Hillcrest High School, he was actually employed by the district in which that school was located, Bremen High School District 228.

¶ 15 Plaintiff opened Olympic in 2006, and at that time he originally obtained both the school license and his personal license from the Secretary. At that time, he was given a copy of the

administrative rules applicable to his school. He denied that he had ever received a copy of the 2007 amended rules he was alleged to have violated. He also testified that the Secretary was aware that he was teaching at Hillcrest High School, and that if he had known this was not permitted he would have stopped teaching at the school.

¶ 16 Finally, plaintiff and the Secretary also introduced a number of documents into the administrative record. These included printouts of the ISBE database showing plaintiff as being "approved" as a driving instructor at Bremen High School, Hillcrest High School, and Bloom Trail High School. Additionally, the record contains plaintiff's teaching contract with Bremen School District 228, showing that he had been hired to teach driver education at Hillcrest High School from June 5, 2009, to July 2, 2009. The record also includes a letter from Hillcrest High School to the Secretary, stating that plaintiff applied each year to teach driver education at the school through Bremen High School District 228. The letter also stated that plaintiff's summer employment is not a permanent position and that he needed to reapply each year for consideration.

¶ 17 On August 21, 2009, the hearing officer issued a written order containing his findings of fact, conclusions of law, and recommendations. The order found that plaintiff was the owner of Olympic as of July of that year, and as of July 8, 2009, he was also listed as an "approved active high school driver education teacher on the records of the Illinois State Board of Education." Moreover, the order also noted that administrative code provisions established by the Secretary precluded plaintiff from being "currently"employed as an administrator and/or teacher of a State-approved high school driver education program while at the same time holding a personal license or operating a driving school under a school license. The order further found that, while plaintiff was not aware it was not permitted, plaintiff worked as a high school driver education instructor at Hillcrest High School for

a four-week period ending July 2, 2009, while he was concurrently engaged in private driver education instruction at Olympic. Under such circumstances, the hearing officer found that the Secretary had the authority to issue both notices of cancellation on July 8, 2009, because plaintiff "was a teacher at a State-approved high school driver program at the same time [he] held a commercial driver training instructor's license with [the Secretary]." Specifically, the order's concluding "Recommendations" section reasoned:

> "There was no dispute that Mr. Jackson was providing high school driver education instruction at Hillcrest High School for four weeks in June and July of 2009, with said instruction ending on July 2, 2009. The Notices of Cancellation were dated and issued on July 8, 2009. Thus, Mr. Jackson was in violation of the rule described above within six days of the date the Notices of Cancellation were issued. This Hearing Officer does not find that the word 'currently' as used in Section 1060.120 a) 17) [*sic*] requires a violation to be occurring at the exact time the issuance of the notice to deny, cancel, suspend or revoke. A violation that occurs within six days prior to the date the notice to cancel is sent out is sufficient to satisfy the requirement of 'currently' as set forth in the Section. This Hearing Officer recommends that the action taken by the Secretary of State in issuing the Notices of Cancellation be affirmed."

¶ 18 On August 27, 2009, the Secretary issued a written order adopting the hearing officer's findings, conclusions, and recommendations. The Secretary's order thus affirmed its prior actions in issuing the two notices of cancellation. On September 29, 2009, plaintiff filed a timely complaint for administrative review in the circuit court. The Secretary filed an answer to plaintiff's complaint, which consisted of the record of the administrative proceedings. Both plaintiff and the Secretary

thereafter filed memoranda which, respectively, supported and opposed the request for administrative review. On October 18, 2011, the circuit court entered a final written order affirming the Secretary's actions in this matter. Plaintiff filed a timely notice of appeal from that decision.

¶ 19 II. ANALYSIS

¶ 20 On appeal, plaintiff raises a number of challenges to the proceedings below, both with respect to the underlying administrative process and the proceedings in the circuit court. These include assertions of improper procedural practices and evidentiary findings, due process violations, and a contention that the cancellations of the two licenses at issue were improper on the merits. We need not address all of plaintiff's arguments, however, as we agree with his substantive argument that he was not "currently" employed as a high school driver education instructor at the time the two licenses were cancelled by the Secretary.

¶ 21 A. Standard of Review

¶ 22 Our review of the Secretary's administrative decision to cancel the two licenses at issue here is governed by the Administrative Review Law. 735 ILCS 5/3-101, *et seq*. (West 2010); 625 ILCS 5/6-421 (West 2010). While our review extends to all questions of law and fact presented by the record (735 ILCS 5/3-110 (West 2010)),"[i]n administrative cases, our role is to review the decision of the administrative agency, not the determination of the circuit court." *Marconi v. Chicago Heights Police Pension Board*, 225 Ill. 2d 497, 531 (2006). "The applicable standard of review depends upon whether the question presented is one of fact, one of law, or a mixed question of fact and law." *American Federation of State, County and Municipal Employees, Council 31 v. Illinois State Labor Relations Bd.*, 216 Ill. 2d 569, 577 (2005). Specifically, it is well established:

"This court may apply three standards of review when reviewing an agency's

> decision. On questions of fact, we deem the agency's findings and conclusions to be *prima facie* true and correct, and we will overturn such findings only if they are against the manifest weight of the evidence. [Citation.] A determination is against the manifest weight of the evidence if the opposite conclusion is clearly evident. [Citation.] Questions of law we review *de novo*, granting no deference to the agency. [Citation.] Mixed questions of law and fact (where historical facts are established or undisputed, and the issue is whether those facts satisfy the statutory standard) are examined with a standard of review of clearly erroneous. [Citation.] An agency's decision is 'clearly erroneous' when the reviewing court is left with a firm and definite conviction that the agency has committed a mistake. [Citation.]" *City of Sandwich v. Illinois Labor Relations Board*, 406 Ill. App. 3d 1006, 1008 (2011) (citing *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill. 2d 200, 210-11 (2008)).

¶ 23 Our supreme court has "acknowledge[d] that the distinction between these three different standards of review has not always been apparent in [its] case law." *Cinkus*, 228 Ill. 2d at 211; see also Kathleen L. Coles, *Mixed Up Questions of Fact and Law: Illinois Standards of Appellate Review in Civil Cases Following the 1997 Amendment to Supreme Court Rule 341*, 28 S. Ill. U. L. J. 13 (2003). Nevertheless, it has also clearly indicated that "[m]ixed questions of fact and law are questions in which the historical facts are admitted or established, the rule of law is undisputed, and the issue is whether the facts satisfy the statutory standard, or to put it another way, whether the rule of law as applied to the established facts is or is not violated." (Internal quotation marks omitted.) *Cinkus*, 228 Ill. 2d at 211.

¶ 24 An example of the application of the clearly erroneous standard of review to a mixed

question of fact and law can be found in *AFM Messenger Service, Inc. v. Department of Employment Security*, 198 Ill. 2d 380 (2001). In that case, our supreme court reviewed an administrative decision entered by the Department of Employment Security (Department) considering whether certain delivery drivers were "independent contractors" within the meaning of section 212 of the Unemployment Insurance Act (820 ILCS 405/212 (West 2000)) such that the drivers' employer, AFM Messenger Service, Inc. (AFM), was liable for unemployment insurance contributions. *AFM*, 198 Ill. 2d at 381-82. In determining that the case presented a mixed question of fact and law to which the clearly erroneous standard of review should apply, our supreme court reasoned:

> "In the present case, the Department's decision *** presents a mixed question of law and fact. Its decision is, in part, factual because it involves considering whether the facts support the agency's finding that the AFM drivers are employees and not independent contractors under section 212. Nevertheless, the Department's decision also concerns a question of law because the three statutory requirements for independent contractor status set forth in section 212 (freedom from control and direction, performance of services outside the usual course or places of business, and establishment of an independent business) are comprised of legal terms and concepts requiring interpretation." *Id*. at 392.

¶ 25 The present matter presents a similar situation, in that we must consider both whether the facts presented below support a finding that plaintiff was "currently" employed as an administrator and/or teacher of a State-approved high school driver education program, as well as a legal interpretation of just what "currently" means in the context of the administrative provisions at issue. As such, we will apply a clearly erroneous standard to our review of the Secretary's decision in this matter.

¶ 26 B. Legal Framework

¶ 27 Article IV of the Illinois Driver Licensing Law (Act) contains the statutory provisions applicable to the licensing of private commercial driver training schools and instructors. 625 ILCS 5/6-401 *et seq*. (West 2008). Section 6-401 of the Act generally provides that no "person, firm, association, partnership or corporation shall operate a driver training school or engage in the business of giving instruction for hire or for a fee in (1) the driving of motor vehicles; or (2) the preparation of an applicant for examination given by the Secretary of State for a drivers license or permit, unless a license therefor has been issued by the Secretary." 625 ILCS 5/6-401 (West 2008). In turn, section 6-412 of the Act provides:

> "[The] Secretary of State shall issue a license certificate to each applicant to conduct a driver training school or to each driver training instructor when the Secretary of State is satisfied that such person has met the qualifications required under this Act." 625 ILCS 5/6-412 (West 2008).

¶ 28 Furthermore, the Act also authorizes the Secretary "to prescribe by rule standards for the eligibility, conduct and operation of driver training schools, and instructors and to adopt other reasonable rules and regulations necessary to carry out the provisions of this Act." 625 ILCS 5/6-419 (West 2008). Finally, the Act provides:

> "The Secretary may deny, cancel, suspend or revoke, or refuse to renew any driver training school license or any driver training instructor license:
>
> (1) When the Secretary is satisfied that the licensee fails to meet the requirements to receive or hold a license under this Code;
>
> * * *

(4) Whenever the licensee fails to comply with any provision of this Code or any rule of the Secretary made pursuant thereto[.]" 625 ILCS 5/6-420(1), (4) (West 2008).

¶ 29 Pursuant to the authority granted by the Act, the Secretary has adopted a series of administrative rules relevant to the licensing and conduct of driver training schools and driver training instructors, codified in Title 92 of the Illinois Administrative Code (Code). See 92 Ill. Adm. Code 1060. Of particular relevance to this appeal are the specific provisions contained in two sections of Title 92 of the Code. See 92 Ill. Adm. Code 1060.20(l), amended at 31 Ill. Reg. 16008 (eff. Nov. 16, 2007); 92 Ill. Adm. Code 1060.120(a)(17), amended at 31 Ill. Reg. 16008 (eff. Nov. 16, 2007).

¶ 30 The first section contains provisions regarding school licenses, and specifically provides that owners of driver training schools "shall not be currently employed as an administrator and/or teacher of a State-approved high school driver education program." 92 Ill. Adm. Code 1060.20(l), amended at 31 Ill. Reg. 16008 (eff. Nov. 16, 2007). The second section contains provisions regarding personal licenses, and states that the Secretary "shall not issue, or shall deny, cancel, suspend or revoke, a driver training instructor's license *** [t]o any person who is currently an administrator and/or teacher of a State-approved high school driver education program." 92 Ill. Adm. Code 1060.120(a)(17), amended at 31 Ill. Reg. 16008 (eff. Nov. 16, 2007).

¶ 31 C. Discussion

¶ 32 We initially note that the Secretary adopted the hearing officer's findings and recommendations, which as discussed above affirmed the July 8, 2009, cancellations of the two licenses at issue here on the basis that plaintiff was "providing high school driver education

instruction at Hillcrest High School for four weeks in June and July of 2009, with said instruction ending on July 2, 2009." While the evidence presented below included evidence that plaintiff was still on an ISBE list of approved high school driver education instructors at the end of July of 2009, it also established that this listing did not indicate that plaintiff was actually employed as a high school driving education instructor at that time.

¶ 33 Indeed, while on appeal the Secretary cites to the plaintiff's continued presence on the ISBE list of approved instructors, he does not assert that plaintiff was *actually* employed in such a position at the time the notices of cancellation were issued on July 8, 2009. Instead, the Secretary asserts that the notices of cancellation were properly issued because the evidence established that plaintiff was in violation of sections 1060.20(l) and 1060.120(a)(17) of the Code "on or near the date of cancellation." We agree with the hearing officer and the Secretary that, in light of the evidence produced below, the notices of cancellation issued on July 8, 2009, can *only* be supported–if at all–by the undisputed evidence that plaintiff was "providing high school driver education instruction at Hillcrest High School for four weeks in June and July of 2009, with said instruction ending on July 2, 2009."[3]

¶ 34 Thus, we agree with the hearing officer's factual findings and the way in which the hearing officer and the Secretary have framed the issue on appeal. However, we must disagree with the hearing officer's ultimate conclusion–adopted by the Secretary–that the cancellations of the two

[3] The record also contains evidence that the Secretary had been under the impression that plaintiff may have also been teaching at Bremen High School at the time the notices were issued. However, the record also reveals that this impression resulted from a simple misunderstanding about the fact that plaintiff was actually hired by Bremen High School District 228 to work at Hillcrest High School. On appeal, the Secretary does not contend otherwise or rely in any way upon an assertion that plaintiff was also employed at Bremen High School.

licenses at issue were appropriate because the relevant Code provisions do not require "a violation to be occurring at the exact time the issuance of the notice to deny, cancel, suspend or revoke" or that a "violation that occurs within six days prior to the date the notice to cancel is sent out is sufficient to satisfy the requirement of 'currently' " as set forth in those Code provisions.

¶ 35 Again, the Code provisions at issue here precluded plaintiff–as the owner of Olympic and as a licensed private driver training instructor–from also being "*currently*" an "administrator and/or teacher of a State-approved high school driver education program." (Emphasis added.) 92 Ill. Adm. Code 1060.20(l), amended at 31 Ill. Reg. 16008 (eff. Nov. 16, 2007); 92 Ill. Adm. Code 1060.120(a)(17), amended at 31 Ill. Reg. 16008 (eff. Nov. 16, 2007). As this court has recently stated:

> "Administrative rules and regulations have the force of law and are construed under the same standards governing the construction of statutes. [Citation.] The court's primary objective in interpreting an agency regulation is to ascertain and give effect to the intent of the regulatory agency. [Citation.] The most reliable indicator of an agency's intent is the language of the regulation itself. [Citation.] 'Where the language of the regulation is clear and unambiguous, we must apply it as written, without resort to extrinsic aids of statutory construction.' [Citations.]" *CBS Outdoor, Inc. v. Department of Transportation*, 2012 IL App (1st) 111387, ¶ 27.

¶ 36 The word "current" is defined as "presently elapsing" or "occurring in or existing at the present time." *Current Definition*, MERRIAM-WEBSTER.COM, http://www.merriam-webster.com /dictionary/current (last visited August 31, 2012). In *Kozak v. Retirement Board of Firemen's Annuity and Benefit Fund of Chicago*, 95 Ill. 2d 211 (1983), our supreme court chose to "accept and

apply" similar definitions of the word "current" to a statutory provision involving retirement benefits in . *Id*. at 215-16. In *Bi-State Disposal, Inc. v. Illinois E.P.A.*, 203 Ill. App. 3d 1023 (1990), the court cited to *Kozak* to assist it in defining and interpreting the word "currently" in yet another statutory provision involving the permitting of landfills. *Id*. at 1027-28. In each case, the courts found the statutory language to be clear and unambiguous in light of the dictionary definitions of "current" and "currently," and therefore applied those clear definitions to the facts of each respective case. *Id*.; *Kozak*, 95 Ill. 2d at 215-16.

¶ 37 Finally, we consider the case of *Scott v. Edgar*, 152 Ill. App. 3d 221 (1987). In that case, the court addressed the Secretary's administrative decision to deny the request for a restrictive driving permit made by an applicant with previous arrests for driving under the influence of alcohol. *Id*. at 222. This decision was premised upon a section of Title 92 of the Code–the same administrative title at issue in this case–which only allowed such permits to be issued to applicants that were "currently employed." *Id*. at 223. The court affirmed the Secretary's decision, concluding that the plaintiff did not qualify for a restricted driving permit because "[a]lthough plaintiff argues that she was 'laid off' and that she could assume her employment if she were issued a restricted driving permit, it is apparent from her own testimony at the administrative hearing that she is not currently working, and that she has no commitment for employment." *Id*. at 223-24.

¶ 38 In each instance cited above, a statute or administrative regulation containing the word "current" or "currently" was found to be a clear and unambiguous indication that–whatever the provision might otherwise refer to or require–the subject matter of the provision must be "occurring in or existing at the present time." Indeed, as our supreme court recognized in *Kozak*, 95 Ill. 2d at 216, any other interpretation "would strip the word 'current' of any contribution to the meaning of

the statute, thus violating the rule of statutory construction which requires a statute to be applied in a way that no word, clause or sentence is rendered superfluous or meaningless."

¶ 39 Here it is undisputed that plaintiff stopped working as a driver education teacher at Hillcrest High School, on July 2, 2009. The two notices of cancellation, each of which asserted that plaintiff was then in violation of the Code by being "currently" an administrator and/or teacher of a State-approved high school driver education program, were not issued until July 8, 2009. In light of the dictionary definitions and authority cited above, the plaintiff was plainly *not* "currently" employed as teacher for a State-approved high school driver education program at the time the notices of cancellation were issued. Indeed, the clear and unambiguous language of the Code provisions at issue here establish that the Secretary's decision to affirm the cancellations of the school license and plaintiff's personal license on July 8, 2009, were clearly erroneous.

¶ 40 The Secretary essentially argues that by cancelling the licenses on July 9, 2009, for activity that admittedly ceased six days before, he acted "soon enough." The Secretary asserts that the purposes of the Code provisions will only be served by allowing him to cancel licenses for violations that occur "on or near the date of cancellation," and that any other interpretation would allow a licensee to "avoid cancellation simply by quitting his high school teaching position, or perhaps taking a short leave of absence, as soon as he becomes aware the Secretary is investigating such a violation." Such an interpretation, according to the Secretary, would improperly lead to absurd results. See *Roselle Police Pension Board v. Village of Roselle*, 232 Ill. 2d 546, 558-59 (2009) ("courts are obliged to construe statutes to avoid absurd, unreasonable, or unjust results").

¶ 41 Whatever merit these arguments might have with respect to any *ambiguous* language contained in a regulation or statute, they are not relevant here. As we have already discussed, we

find the language of sections 1060.20(l) and 1060.120(a)(17) of the Code to be clear and unambiguous. Again, where the language of the regulation is clear and unambiguous, this court is not at liberty to depart from the language's plain meaning, and we must apply that language as written and without resort to extrinsic aids of statutory construction. *CBS Outdoor, Inc.*, 2012 IL App (1st) 111387, ¶ 27. Furthermore, we have also recognized:

> "Administrative agencies are generally bound to follow their own rules as written, without making *ad hoc* exceptions or departures in making decisions. [Citation.] When an administrative agency has adopted rules and regulations under its statutory authority for carrying out its duties, the agency is bound by those rules and regulations and cannot arbitrarily disregard them in issuing a decision. [Citation.] An agency's decision that is contrary to duly promulgated regulations must be reversed. [Citation.]" *Id*. at ¶ 28.

¶ 42 Here, the Secretary's decision affirming the cancellations of the two licenses were clearly erroneous. Thus, because the Secretary was without the authority to cancel the school license and plaintiff's personal license, we reverse that decision and remand with directions that those licenses be reinstated.

¶ 43 III. CONCLUSION

¶ 44 For the foregoing reasons, we reverse the Secretary's decision and remand for the reinstatement of the school license and plaintiff's personal license.

¶ 45 Reversed and remanded with directions.