SECOND DIVISION
August 25, 2015

No. 1-14-2377

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

SONIA PEREZ, Petitioner, v. BOARD OF EDUCATION OF THE CITY OF CHICAGO, DAVID VITALE, President; Members, JESSE RUIZ, HENRY BIENEN, MAHALIA HINES, CARLOS AZCOITIA, DEBORAH QUAZZO and ANDREA ZOPP; BARBARA BYRD-BENNETT, Chief Executive Officer; BRIAN CLAUSS, Hearing Officer, and ILLINOIS STATE BOARD OF EDUCATION, Respondents.	)	Petition for Review from a Final Administrative Decision of the Chicago Board of Education. No. 14-0625-RS7

JUSTICE PIERCE delivered the judgment of the court.
Presiding Justice Simon and Justice Liu concurred in the judgment.

O R D E R

¶ 1 *Held*: The decision of the Board of Education of the City of Chicago to discharge petitioner is affirmed where the Board's factual findings were supported by the evidence and its finding that sufficient cause existed for her dismissal was not against the manifest weight of the evidence.

¶ 2 Petitioner Sonia Perez seeks review of a final administrative decision of the Board of Education of the City of Chicago (Board) terminating her employment as a tenured teacher at Joseph E. Gary Elementary School (Gary). On appeal, Perez argues that she was terminated in retaliation for having won a prior grievance, and the Board did not meet its burden of establishing that her dismissal was warranted where her remediation plan was an attempt to gather evidence against her and she was not provided the support necessary to successfully complete the remediation. We affirm the Board's decision.

¶ 3 Petitioner began working for Chicago Public Schools (CPS) in 1993 and the Board discharged her in June 2014. During her tenure, petitioner held several different positions. In 1998, she was assigned to Gary as a special education teacher. In 2001, petitioner became a counselor/case manager. For the 2008-2009 school year, petitioner was re-assigned from the counselor/case manager position to a special education classroom.

¶ 4 In August 2008, the Chicago Teachers Union (CTU) grieved the re-assignment of four counselors, including petitioner, to classroom positions and maintained that such transfer violated the CTU's collective bargaining agreement. The grievance advanced to arbitration, and the arbitrator sustained the grievance, directing the Board to return the grievants, including petitioner, to their respective positions. In doing so, the arbitrator rejected the Board's argument for transferring petitioner from a counselor position to a teaching position because of performance concerns. The arbitrator held that if the principal is of the opinion that petitioner was not adequately performing, the Board may remove her through the E-3 process, but not assign her from a counselor position into the classroom. The Board returned petitioner to her counselor/case manager position at the beginning of the 2011-2012 school year.

¶ 5 On February 1, 2012, petitioner received a remediation, *i.e.*, E-3 notice, signed by Gary's principal, Alberto Juarez, indicating that petitioner's performance was unsatisfactory due to her weakness in planning tasks efficiently or effectively making her deficient in her responsibilities, weakness in her case management knowledge, insubordination, lack of effective communication skills, including being hostile and evasive. The notice also required her to participate in a remediation plan.

¶ 6 On November 21, 2012, after the completion of the remediation period, Juarez indicated that petitioner's performance remained unsatisfactory and he would request her dismissal. On March 22, 2013, the chief executive officer of CPS, Barbara Byrd-Bennett, approved dismissal charges against petitioner relating to her unsatisfactory performance. The dismissal charges stated that petitioner failed to satisfactorily complete the remediation plan. A dismissal hearing was held on August 1 and December 4, 2013.

¶ 7 At the hearing, Alberto Juarez testified that when he started as principal of Gary in 2007-2008, petitioner was a counselor/case manager. Juarez assessed her performance that year as satisfactory due to areas of concern he had witnessed, including time-management issues, supervisory issues, lack of communication, failure to submit paperwork on time, and testing irregularities that occurred that year during the Illinois standardized assessment test (ISAT) and scheduling.[1] Additionally, Gary was not in compliance with the state that year regarding Individualized Education Programs (IEPs). Based on the observations of Juarez and assistant principal Angelica Guerrero, petitioner was removed from her position as counselor/case

[1] Petitioner's satisfactory rating put her in the bottom 7% of her peers. See 105 ILCS 5/24A-5 (P.A. 96-861, eff. Jan. 15, 2010).

manager and transferred to the 3rd grade special education program as a classroom teacher in 2008. Juarez had disciplinary problems with petitioner beginning in the 2008-2009 school year, when she was a classroom teacher. Juarez issued petitioner "cautionary notices" based on her failure to submit required weekly lesson plans, her unprofessional behavior at work, and inadequate instructional delivery. Petitioner received satisfactory evaluations for each school year she was a classroom teacher, *i.e.*, 2008-2011.

¶ 8 When Johanna Jacobson replaced petitioner as the counselor/case manager for the 2008-2009 school year, Gary was in compliance with the state regarding IEPs. During the 2009-2010 and 2010-2011 school years, Gary received funding to separate the counselor and case manager roles to create two separate positions. Jacobson remained as the counselor and Maria Ovalle was employed as the case manager. During those years, Gary was again in compliance with the state regarding IEPs.

¶ 9 At the end of the 2010-2011 school year, petitioner was returned to the counselor/case manager position due to a collective bargaining agreement between the Board and the teacher's union. When petitioner returned to her role as counselor/case manager during the 2011-2012 school year, Juarez supported her and relieved her of some of the workload. Juarez issued petitioner a "roles and responsibilities document," informing her what the counselor/case manager duties entailed. Juarez also provided a document listing all of the students who received specialized services, the programs they were in, the service model they would receive, and the teacher who would be providing these services. In addition, Juarez had an e-mail identifying concerns he had that petitioner had not informed teachers or parents as to when IEPs were going

to be held. Juarez testified to e-mails he received, which were admitted at the hearing, from teachers detailing communication problems they were having with petitioner.

¶ 10 Juarez evaluated petitioner as unsatisfactory for the 2011-2012 school year. Prior to the evaluation, Juarez observed her twice. In October of 2011, Juarez observed petitioner and found that she was unprepared for her lesson on an upcoming high school fair. Juarez also observed petitioner during an IEP meeting she ran in December of 2011, which he indicated was overall lacking in quality where she continued to refuse to perform her responsibilities and lacked communication skills. Following Juarez's completion of these two observations, he concluded that petitioner exhibited patterns of not following through on recommendations and suggestions that were discussed with her. After finding that petitioner failed to make any progress, he issued an E-3 notice to her to provide her with remediation and support so that she could do an excellent or superior job. Juarez also sent a letter to petitioner on February 1, 2012, informing her that her rating was unsatisfactory. Juarez met with petitioner on February 1, and she did not agree with Juarez's assessment.

¶ 11 Juarez secured a consulting teacher, Loretta Fields, to assist with petitioner's remediation. Juarez, Fields, and petitioner attended a meeting to discuss petitioner's remediation plan on February 1, 2012. Petitioner failed to participate in the meeting and stayed silent. The 90-day remediation plan was implemented the following day, and Juarez observed her during the remediation period, which ended in November 2012.[2] In particular, in February, March, April, May, and November of 2012, Juarez observed petitioner and essentially found her unprepared

[2] Alicia Reynaud, manager of teacher quality, testified that the 90-day remediation period in this case ended in November 2012 because the days during summer break did not count toward the

and lacking good communication with teachers and parents. Petitioner was not receptive to Juarez's suggestions for improvement, and Juarez did not witness any meaningful improvement in petitioner's job performance following these observations. Juarez, Fields, and petitioner participated in 30-day and 60-day remediation meetings where petitioner was rated "unsatisfactory." The major areas petitioner needed improvement in included communication, development of IEPs, and following directives. At the end of the 90-day period, Juarez and Fields met and determined that the remediation plan was unsuccessful where she was not receptive to suggestions, managed time poorly, and lacked organization. It was Juarez's opinion that petitioner should not be a counselor/case manager.

¶ 12 Angelica Guerrero, assistant principal at Gary, testified similarly to Alberto Juarez. She also testified that she observed an IEP in the spring of 2008 where petitioner overruled the recommendations of the members evaluating a particular student, including that student's parents, and decided not to "retain" that student. Guerrero felt the IEP meeting should have been handled differently, and that petitioner was not prepared for the meeting. In addition, preparation for ISAT testing was petitioner's responsibility, and she was deficient in her responsibilities, causing Guerrero and Juarez to complete petitioner's job for her. After being transferred to the position of special education teacher, Guerrero observed petitioner in another IEP meeting where she acted unprofessionally, telling a parent that her child no longer needed special education services because reading and writing were not important to become a beautician. Teachers

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required 90-day observation period, nor did the days during the teacher strike at the beginning of the 2012-2013 school year.

approached Guerrero and told her that petitioner was not collaborating with them regarding lesson plans during her time as a special education teacher.

¶ 13 Guerrero further testified that after petitioner was returned to her position as a counselor/case manager, she had assistance to help her accomplish her tasks. Nevertheless, Gary failed to be in compliance while petitioner was the counselor/case manager. Guerrero and Juarez met with petitioner on a weekly basis to offer suggestions as to how things should be completed to ensure compliance. Based on her observations of petitioner, Guerrero told Juarez that she was very concerned regarding petitioner's performance and supported his decision to enter into the E-3 process. Guerrero informally observed petitioner during the E-3 period and found her performance at the end of that period to be unsatisfactory. After petitioner was removed from her position following the E-3 process, it was staffed by two people, one as a counselor and one as a case manager.

¶ 14 Loretta Fields, the consulting teacher for petitioner during the remediation period, testified that when she observed petitioner conducting an IEP meeting, she would not go over the procedural safeguards with the parents. With regard to petitioner's clerical duties, she was deficient where new teachers were not in-serviced and thus not properly directed on their responsibilities. A major issue Fields worked on with petitioner was compliance with the IEPs. Although petitioner would tell Fields that she had her IEP meetings scheduled, when petitioner provided Fields her schedule, it would not have the due dates for the IEPs listed, and the IEPs remained out of compliance. Time management and lack of responsiveness to suggestions continued to be problems for petitioner throughout the 90-day remediation period. Petitioner appeared overwhelmed with scheduling and being in compliance.

¶ 15 CPS employee Tracy Hamm, who was a specialized service administrator for the Pilsen Little Village Network, testified that she oversaw the special education needs at Gary. In particular, Hamm noted that petitioner was struggling with time management and organization of her responsibilities as the case manager for Gary. Although Gary was out of compliance regarding IEPs while petitioner was the counselor/case manager, it was compliant by the end of the 2012-2013 school year. There were 26 schools in Hamm's network, and 24 of them combined counselor and case manager positions together.

¶ 16 Petitioner testified that she was the counselor/case manager at Gary during the 2006-2007 and 2007-2008 school years. During the 2006-2007 school year another counselor worked with petitioner, but during the 2007-2008 school year, she was the lone counselor/case manager and received assistance from a records clerk. After petitioner was transferred from the counselor/case manager position, Johanna Jacobson was staffed in the role of counselor for the 2008-2009 school year, and she had a full-time assistant, Ms. Gasper. During the 2009-2010 school year, Jacobson continued as counselor, Ms. Ovalle was hired as a case manager, and Gasper was their assistant. Following a grievance petitioner filed, she was reinstated as the only counselor/case manager in August of 2011. Petitioner indicated that if she had more administrative support when she returned to the counselor/case manager position, as other counselor/case managers had in prior and subsequent years, she could have successfully completed the remediation plan.

¶ 17 In the counselor/case manager position, petitioner was responsible for IEP coordination, testing, and other duties. Petitioner disagreed with Juarez that she was deficient in the areas listed in the remediation plan that was imposed on her, which included the high school fair, schedules, phone calls, conference notification, record keeping, and testing. Regarding the high school fair

and testing, petitioner maintained those areas were not fair criteria to consider for remediation because they would not recur during the remediation period. Furthermore, the observations conducted by Juarez of petitioner did not reflect the actual events as they occurred, but instead emphasized prior isolated incidents. She pointed out that the school was having trouble complying with IEPs because the psychologist who was needed to conduct several of them was not at Gary with enough frequency to perform her duties, and Juarez's criticisms regarding her not responding to e-mails was unfounded where she was not capable of responding immediately when she was at IEP meetings. Moreover, petitioner maintained that she could not accomplish some of her duties because she was never provided proper access to the computer system.

¶ 18 Anna Mae Jones-Henderson, a retired teacher at Gary, testified on petitioner's behalf, noting that she believed petitioner was treated unfairly by Juarez. Henderson admitted that she had disciplinary issues with Juarez at least four times while they worked together.

¶ 19 Alberto Juarez was recalled and testified that he contacted special services during the time petitioner was acting as counselor/case manager in 2012 and requested an additional bilingual psychologist. Gary was provided another psychologist who helped on a couple of cases. Special services told Juarez over the phone that such help was temporary because the school was so far behind, and that these issues could have been prevented by scheduling cases ahead of time.

¶ 20 Following the hearing, the parties submitted post-hearing briefs. In her brief, petitioner argued, *inter alia*, that the Board retaliated against her for filing a grievance that was sustained in arbitration, the Board failed to prove her performance was unsatisfactory, and the Board developed and implemented a remediation plan in a way that made it impossible for anyone to successfully complete it.

¶ 21 In May 2014, the hearing officer issued a decision recommending that petitioner be dismissed from her position. The officer found that petitioner failed to show that the unsatisfactory ratings and the remediation plan were in retaliation for the transfer grievance, particularly where the testimony indicated that performance was the reason she was initially moved from the counselor/case manager position to the classroom. The hearing officer further found that petitioner's performance was unsatisfactory where the consulting teacher corroborated the principal and assistant principal's testimony that petitioner was not effectively performing her job duties as a counselor/case manager. Although petitioner was provided a clear remediation plan and the assistance of a consulting teacher, she did not remediate and Gary was not in compliance while petitioner was counselor/case manager. Finally, the hearing officer concluded that the development and implementation of the remediation plan did not make it impossible for petitioner to succeed. Instead, the hearing officer noted that petitioner was disorganized, and the evidence supported the principal's findings that she had not remediated the IEP-related deficiencies.

¶ 22 Thereafter, the teacher's union filed a memorandum in opposition to the hearing officer's recommended decision, repeating the arguments found in petitioner's post-hearing brief. The Board responded, maintaining that it had met its burden of proof.

¶ 23 On June 25, 2014, the Board issued a decision accepting the hearing officer's findings of fact and legal conclusions and dismissing petitioner. Petitioner then filed a petition for our direct review of the Board's decision.

¶ 24 Our review of the Board's decision is governed by the Administrative Review Law (735 ILCS 5/3-101 *et seq*. (West 2012)); 105 ILCS 5/34-85(a)(8) (West 2012). The standard of review

depends on whether the issue presented is a question of fact, question of law, or mixed question of fact and law. *James v. Board of Education of City of Chicago*, 2015 IL App (1st) 141481, ¶ 12. The Board's factual findings are entitled to deference and will be reversed only where they are against the manifest weight of the evidence, which means the opposite conclusion must be clearly evident. *Id*. By contrast, we use a *de novo* standard of review when considering an agency's conclusion on a question of law. *Id*. Finally, we review a mixed question of law and fact under the clearly erroneous standard. *Id*.

¶ 25 In reviewing an administrative agency's decision to discharge an employee, we employ a two-step analysis. *Crowley v. Board of Education of City of Chicago*, 2014 IL App (1st) 130727, ¶ 29. We first determine whether the findings of fact are contrary to the manifest weight of the evidence, and then consider whether the factual findings provide a sufficient basis for the agency's conclusion that cause for discharge exists. *Id*.

¶ 26 On appeal, petitioner first contends the hearing officer erred in failing to fully examine whether she was terminated in retaliation for having won a grievance based on her improper transfer to the classroom.

¶ 27 As a threshold matter, we note that for the first time on appeal, the Board now argues that petitioner's retaliation argument is not properly before us because we review the Board's decision to discharge petitioner, not the issuance of the E-3 notice which initiated the remediation process to improve performance. The Board also faults petitioner for failing to file an unfair labor practice charge of retaliation with the Illinois Educational Labor Relations Board (IELRB). Neither of these arguments precludes our review of the retaliation issue as it was clearly a part of

the administrative proceedings now being considered, was argued by the parties, and was the subject of one of the hearing officer's findings:

> "The evidence, when considered either in part or cumulatively, does not support the conclusion that the principal, assistant principal, or the Board, retaliated against [petitioner]. She was removed from the counselor position and sent to a classroom due to performance-related concerns."

¶ 28 The Board also asserts, for the first time on appeal, that the doctrine of collateral estoppel bars petitioner from relitigating whether Juarez reassigned her to a teaching position due to her poor performance based on petitioner's unsuccessful federal discrimination lawsuit. *Perez v. Board of Education of the City of Chicago,* 2010 WL 3167295 (N.D. Ill. 2010). Collateral estoppel is an issue preclusion doctrine that applies where "the issue decided in the prior proceeding must be identical to the one in the current suit." *Hope Clinic for Women, Ltd. v. Florez,* 2013 IL 112673, ¶ 77. Petitioner's federal lawsuit challenged her 2008 transfer on the basis of race discrimination and the federal court held that "[t]here is no evidence indicating that Juarez's real motivation for reassigning [petitioner] was discriminatory" (*Perez*, 2010 WL 3167295 *6), which is not at issue in these administrative proceedings on review.

¶ 29 We review the opinion of the hearing officer for error where, as here, the Board adopted the hearing officer's determination that petitioner was not discharged in retaliation. See *Russell v. Board of Education of the City of Chicago,* 379 Ill. App. 3d 38, 47 (2007) (determining whether the Board, through its adoption of the hearing officer's decision, mistakenly applied its findings of fact to the legal criteria for irremediable actions).

¶ 30 Petitioner can establish a *prima facie* case of retaliation for protected union activity if she (1) engages in union activity, (2) the Board was aware of the activity, and (3) she was discharged because of that activity. *General Service Employees Union, Local 73, SEIU, AFL-CIO, CLC v. Illinois Educational Labor Relations Board*, 285 Ill. App. 3d 507, 516 (1996). Retaliatory intent may be inferred from circumstantial evidence such as expressed hostility to union activity, knowledge of the union activities, proximity in time between the union activities and discharge, disparate treatment of employees, inconsistencies between the proffered reason for discharge and other actions of the employer, and shifting explanations for the discharge. *North Shore Sanitary District v. Illinois State Labor Relations Board*, 262 Ill. App. 3d 279, 634 (1994). Petitioner is correct that the first two prongs of the above test are not in dispute. However, we disagree with her that she was discharged because she prevailed in her grievance following arbitration.

¶ 31 We find no error in the hearing officer's finding, as adopted by the Board, that petitioner "has not shown the unsatisfactory ratings and the remediation plan were retaliation for the [transfer] grievance." Juarez testified that the reason he transferred petitioner to the classroom in the first place was due to concerns over her performance as a counselor/case manager, such as time-management issues, supervisory issues, lack of communication, failure to submit paperwork on time, scheduling, testing irregularities, and the school's non-compliance with the state regarding IEPs. While petitioner was a classroom teacher, Juarez had disciplinary problems with her and had to issue her "cautionary notices" based on her failure to submit required weekly lesson plans, her unprofessional behavior at work, and inadequate instructional delivery. When petitioner was returned to the counselor/case manager position due to the collective bargaining agreement between the Board and the teacher's union, performance issues persisted. Juarez

specifically noted that petitioner was having difficulty communicating with teachers and parents regarding IEP meetings. Furthermore, Juarez observed that petitioner's performance was deficient during his observations of her in October and December 2011, and her unsatisfactory performance continued after Juarez issued her an E-3 notice and throughout the remediation process. Juarez maintained that petitioner was unprepared, refused to perform her responsibilities, lacked communication skills, and needed improvement in developing IEPs. Juarez's testimony regarding petitioner's performance was corroborated by assistant principal Guerrero, consulting teacher Loretta Fields, and specialized service administrator Tracy Hamm. We thus find the Board's conclusion that petitioner's termination was not retaliatory was not against the manifest weight of the evidence.

¶ 32 In reaching this conclusion, we find no evidence in the record for petitioner's contention that the initiation of the E-3 process was "the inevitable result of the arbitration decision." In making her argument, she directs our attention to the 2011 arbitration decision which stated:

> "Because this case is determined solely on the basis of a violation of the past practice, I am unable to address the contentions concerning performance (or lack thereof) and I express no opinion on the performance of *** [petitioner] as [a] counselor[]. The only question here is whether *** [petitioner] could be programmed from their counselor positions into classroom teaching duties. Past practice between the parties dictates that cannot be done.
>
> If the principals are of the opinion that counselors are not adequately performing, then Article of 39 of the Agreement (Teacher Efficiency Ratings) provides the Board with the avenue of relief it seeks to correct and, if that is not successful, the

> Board has the ability to remove a counselor ("the E-3 process"). What the principals cannot do with counselors who they believe are underperforming as counselors is assign them from their counselor positions into the classroom."

¶ 33 Petitioner asserts that the hearing officer believed that the above quote showed that the Board "really believed [petitioner's] performance to be unsatisfactory at the time of the transfer despite having rated her satisfactory." Nothing in the record shows that the hearing officer, or the Board, believed petitioner's assertion to be true. In fact, as petitioner states in her brief, "the arbitration decision explicitly declined to make a finding about the reasons the principals transferred the counselors." To the extent petitioner relies on the hearing officer's statements that the "principal and assistant principal had no choice but to follow the E-3 process," where "[t]he grievance arbitration award stated that the principal and assistant principal could not remove petitioner for performance-related reasons," we note that the hearing officer made these statements to show that petitioner could not be transferred for performance related reasons, and thus the E-3 process was the only avenue to remediation. Moreover, the evidence supports the hearing officer's finding, which was adopted by the Board, that the principal and assistant principal's admissions that they were not pleased with the decision to return petitioner to the counselor/case manager position, absent more, does not establish a retaliatory animus towards petitioner. Petitioner's previous "superior ratings" during her time at CPS, and her testimony that she did not have the proper access to the computer system to complete her job duties, does not change this result.

¶ 34 Petitioner next contends that the Board did not meet its burden of establishing that her dismissal was warranted. In other words, petitioner is essentially contending that the Board failed to demonstrate sufficient cause for her dismissal.

¶ 35 A tenured teacher can be removed from her position only for cause. 105 ILCS 5/34-85(a) (West 2012). "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," and as "something which the law and sound public opinion recognize as a good reason for the teacher to no longer occupy his position." (Internal quotation marks omitted.) *James*, 2015 IL App (1st) 141481, ¶ 16. The existence of sufficient cause is a question of fact, and we thus use the manifest weight of the evidence standard. *Id*. We will overturn a Board's finding of cause for discharge only where "it is arbitrary and unreasonable or unrelated to the requirements of service." *Crowley*, 2014 IL App (1st) 130727, ¶ 29.

¶ 36 Petitioner advances two main arguments as to why the Board did not meet its burden of establishing that her dismissal was warranted. First, she claims that her remediation was less an attempt to rehabilitate than it was a continuing attempt to gather evidence against her so that the Board could proceed with termination. In support, petitioner alleges that during Juarez's observations of her, he faulted her for many things that happened outside of the period of observation, or which he had not observed personally and therefore lacked the proper context. For instance, petitioner points to her first remediation observation conducted by Juarez, which was of an IEP meeting. According to petitioner, he did not document what he observed from that meeting, but instead wrote critical comments on the observation form about her coordination of a past ISAT meeting. Similarly, petitioner argues that the E-3 notice included criticism of her

handling of the school fair, which, by the time of the issuance of the notice, had already taken place and would not recur during the remediation period. These concerns, however, were addressed by the hearing officer who stated:

> "Obviously, if the Science [*sic*] Fair and standardized testing did not occur during the remediation period, then [petitioner] could not be found deficient for failing to remediate what did not occur. However, [petitioner's] contention misses the point. As the principal and consulting teacher testified, [petitioner] was not organized. School IEP compliance suffered when [petitioner] was the counselor case manager. Regardless of [petitioner's] arguments regarding the Science [*sic*] Fair, the principal found that she had not remediated the IEP-related deficiencies. The evidence supports the principal's conclusion."

These findings were adopted by the Board, and were not against the manifest weight of the evidence.

¶ 37 In addition, petitioner asserts that the areas listed as weaknesses on the E-3 notice and/or suggestions indicated on the remediation plan were noted as strengths on her February 2012 observation form. Petitioner thus contends that the February 2012 observation form was proof of her improvement during the remediation period. Even if petitioner is correct, as she states in her brief, "the March observation was much more negative ***," which would indicate that petitioner was not improving her performance.

¶ 38 Moreover, petitioner's contention that Fields, the consulting teacher, disagreed with Juarez's assessment that petitioner was not knowledgeable about her substantive area is rebutted by the record. Petitioner is correct that Fields stated, "[w]hen you talk to [petitioner], she knows

the position of counselor and case manager. I think that's not a problem of knowing. I think she knows[.]" However, petitioner omits Fields' further statement that "[i]t just seemed like [petitioner] was overwhelmed with *** scheduling and being in compliance."

¶ 39 The testimony of Jones-Henderson, which petitioner relies on in her brief to support her contention that she was a good communicator with teachers and staff, does not show that the Board's decision to discharge petitioner was against the manifest weight of the evidence where her testimony was contradicted by Juarez, Guerrero, Fields, and Hamm, and she had previously been disciplined by Juarez. In further arguing that she was not insubordinate and that she was blamed for problems outside of her control, petitioner points to isolated statements made by Juarez and Fields that she agreed to implement certain suggestions and that she was on top of her own responsibilities. However, these isolated statements do nothing to overturn the Board's conclusion that petitioner was dismissed for cause.

¶ 40 Petitioner next argues the Board did not provide her the support necessary to successfully complete the remediation, setting her up for failure. The remediation process is designed to provide the teacher with a fair opportunity to cure her deficiencies and avoid termination. See *Board of Education of Valley View Community Unit School District 365-U v. Illinois State Board of Education*, 2013 IL App (3d) 120373, ¶¶ 54-58; 105 ILCS 5/24A-5(2)(i) (West 2012). We agree with the Board who stated in its brief on appeal that the record does not bear out petitioner's complaint that she failed due to inadequate support.

¶ 41 Petitioner maintains that Gary was out of compliance with the required IEP meetings because the school needed more psychologist support to complete the large numbers of IEPs the school had. For support, petitioner cites to a letter written by Juarez to a compliance analyst

stating more psychologist support was needed and that "[w]e have done everything from our end to be in compliance but unfortunately, there is nothing I can do with regards to the additional number of days Dr. Tamayo will be here. Do you have any suggestions?" However, petitioner omits Juarez's testimony that Gary was temporarily provided another psychologist who helped on a couple of cases. More importantly, Juarez also testified that special services told him over the phone that such help was temporary because the school was so far behind, and that these issues could have been prevented by scheduling cases ahead of time.

¶ 42 Petitioner finally complains that she did not receive the same level of support staff as other counselor/case managers who had her position. Juarez admitted that during certain years, the school received additional funding for splitting the counselor/case manager position into two positions. However, this, by itself, does not show the Board did not provide her the necessary support to complete her remediation where Jacobson, a previous counselor/case manager, kept the school in compliance with IEPs by herself for the 2008-2009 school year. Moreover, Hamm testified that out of the 26 schools in Hamm's network, 24 of them combined the counselor and case manager positions together. Petitioner suggests that three teachers had to take over the case manager portion of her job after she left, but, as she admits in her brief, all three teachers had other full-time responsibilities. The fact that Gary had one of the largest numbers of special education students in the network does not support her contention that she was set up to fail where she was the only counselor/case manager.

¶ 43 For the foregoing reasons, we affirm the Board's dismissal of petitioner from her employment.

¶ 44 Affirmed.