FOURTH DIVISION
August 18, 2016

Nos. 1-16-1706, 1-16-1707 & 1-16-1708 Cons.

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

BOARD OF EDUCATION OF THE CITY OF CHICAGO, Plaintiff-Appellant, v. ILLINOIS STATE CHARTER SCHOOL COMMISSION, BETTY SHABAZ INTERNATIONAL CHARTER SCHOOL, BRONZEVILLE LIGHTHOUSE CHARTER SCHOOL, and AMANDLA CHARTER SCHOOL, Defendants-Appellees.	)	Nos. 1-16-1706 1-16-1707 1-16-1708 Cons.

PRESIDING JUSTICE McBRIDE delivered the judgment of the court.
Justices Ellis and Cobbs concurred in the judgment.

O R D E R

¶ 1 *Held*: Where plaintiff failed to establish any of the three requirements necessary to stay a decision of an administrative agency, the circuit court did not abuse its discretion in denying its motion to stay the Illinois State Charter School Commission's decision reversing the revocation of three charter school charters.

¶ 2 Plaintiff, the Board of Education of the City of Chicago (Board), filed actions in the circuit court seeking administrative review of the final decisions of the Illinois State Charter

School Commission (Commission), which reversed the Board's revocation of the charters for Betty Shabazz International Charter School – Barbara A. Sizemore Academy (Sizemore) and Amandla Charter School (Amandla), and the non-renewal of the charter for Bronzeville Lighthouse Charter School (Lighthouse) (collectively, Schools). The Board moved to stay the Commission's decisions pending administrative review as to the three Schools, and the circuit court denied those motions. This consolidated interlocutory appeal follows.

¶ 3 The record shows that the Schools are charter schools, which previously operated pursuant to charters granted by the Board. The Schools were operating under charter agreements that included "accountability plan[s]" which stated that the Board's School Quality Rating Policy (SQRP) "shall be used to determine if a school is meeting or making reasonable progress" and that "determination shall be used in decisions concerning the revocation or renewal of a school's charter or contract." The charter agreements also allowed the Board to modify the accountability plans, but required the Board to provide the Schools with written notice of the change no later than June 30 prior to each school year.

¶ 4 During the 2014-2015 school year, the accountability plans provided that the Schools would be evaluated to ensure "alignment" with the SQRP adopted by the Board on August 28, 2013. This SQRP stated that a school with a rating of Tier 1, 2, or 3 would receive "good standing status" unless that school had been on probation or remediation status for at least two consecutive years.

¶ 5 On August 27, 2014, and November 19, 2014, the Board adopted new SQRPs, which provided a new rating system based on "levels." Under the new SQRPs, a school would remain in "good standing status" if it achieved a rating of Level 1+, 1, or 2+. The Board did not provide

the Schools with the required written notice of the change prior to June 30 as required by the charter agreements.

¶ 6 On December 3, 2014, the Board notified Sizemore and Amandla that they had received SQRP ratings of Level 3, that they were to be placed on the "Academic Warning List," and that their charters were subject to revocation in the future. Sizemore and Amandla were informed that to be removed from the Academic Warning List and to "exit the Revocation Process" they must not receive a Level 3 designation based on the 2014-2015 school year. Sizemore and Amandla were further informed that "[i]f your school has met the exit criteria, no further action is needed." Sizemore and Amandla submitted remediation plans, which included, among other things, a number of academic performance goals. On February 9, 2015, a representative of the Board contacted Sizemore and Amandla by email to acknowledge the receipt of the remediation plans. The email indicated that the plans were "complete" and reminded them that plans included end goals of "not being rated a level 3."

¶ 7 On October 19, 2015, Lighthouse submitted an application for charter renewal to the Board in accordance with the charter agreement.

¶ 8 On October 26, 2015, the Board announced via a press release that it would be proposing a new Charter School Quality Policy (CSQP), which would provide criteria for charter school revocation and non-renewal decisions. The press release further indicated that "in conjunction with this [CSQP] policy, the District will recommend immediately placing 10 charter schools on an Academic Warning List, which could result in the closure of the schools if performance does not significantly improve. Four of these schools are receiving additional scrutiny and could be recommended for revocation or non-renewal."

¶ 9 On October 27, 2015, the Board released the SQRP levels for all its schools, and Sizemore and Amandla each received a Level 2 rating for the 2015-2016 school year. Bronzeville received a Level 3.

¶ 10 On October 28, 2015, the Board approved the CSQP proposal, which indicated that a charter school or campus will be placed on the Academic Warning List if it has (1) a SQRP rating of Level 3; or (2) a two-year SQRP point value average of 2.5 or lower; or (3) a SQRP rating of Level 2 in three consecutive years. Lighthouse was placed on the Academic Warning List.

¶ 11 On October 29, 2015, the Board contacted Sizemore and Amandla and requested evidence of their implementations of the remediation plans by 9 a.m. the following day. Sizemore and Amandla complied, and submitted such evidence to the Board.

¶ 12 On November 4, 2015, the Board notified Sizemore and Amandla that they had failed to implement the remediation plans, and that the Board would recommend that their charters be revoked. On the same day, Lighthouse was notified that the Board had evaluated its renewal application "against the parameters set by the Charter Quality Policy" and determined that Lighthouse "failed to meet or make reasonable progress toward achievement of the new content standards." They were further informed that the Board's Chief Executive Officer would be recommending that the Board "decide not to renew [Lighthouse's] charter and charter agreement effective July 1, 2016.

¶ 13 On November 18, 2015, Board officials gave a public presentation during which it recommended that the charters for Sizemore and Amandla be revoked "consistent with the Charter School Quality Policy," and that the charter for Lighthouse not be renewed. The Board

approved the revocation of the charters for Sizemore and Amandla and the non-renewal for Lighthouse, and sent notice to the Schools of the decision on November 25, 2016.

¶ 14 The Schools filed appeals to the Commission seeking reversal of the Board's revocation and nonrenewal decisions. The Commission staff reviewed the Board's analysis, the parties submitted briefs on the issues, and the Commission retained a team of experts to analyze the record. The Commission staff and evaluators conducted site visits of the Schools, and joint interviews of the parties regarding the Schools' academic performance and management as well as the revocation process and policies. On February 16, 17, and 22, 2016, the parties participated in public meetings to gather comments on the appeals for Lighthouse, Amandla, and Sizemore respectively. At each meeting, over fifty speakers expressed support for keeping the respective school open.

¶ 15 After 4 p.m., on February 29, 2016, the day before the Commission was to decide the appeals, the Board notified the Commission that it had made arrangements with other Chicago Public Schools, and that it would guarantee seats to those students whose assigned school was not better performing, in other better performing schools. The Board also indicated that it would provide transportation assistance to students who needed it for at least one year.

¶ 16 On March 1, 2016, the Commission held a public meeting during which it announced that the School's appeals should be granted and the Board's decisions to revoke and not renew the charters should be reversed. The Commission concluded that the Schools had complied with the Charter Law and the parties' charter agreement, but that the Board "did not." The Commission observed that the Board did not provide notice that it intended to apply the CSQP to the Schools until November 4, 2015, and therefore, the Board could not rely on the "higher standards for performance CPS established in the October 2015 CSQP" to make Lighthouse "eligible for

automatic non-renewal" and Amandla and Sizemore "eligible for revocation in the 2015-2016 school year." The Commission noted, however, that the record showed that the Board had, in fact, relied on the new standards to justify its non-renewal and revocation decisions.

¶ 17 The Commission further observed that Amandla and Sizemore had "met the standards for pupil performance that CPS established as part of the Remediation Plan." Specifically, those schools were told that the "single criterion [they] would need to satisfy to 'exit' the Academic Warning List and revocation proceedings was that 'the school must not be rated a Level 3 on the SQRP," and both schools achieved a Level 2 rating. Further, the remediation plans that the Board had approved for Amandla and Sizemore allowed the schools to "implement and demonstrate improved performance over the course of [school years] 2015 and 2016." Therefore, the Commission found the Board's argument that the schools had not fully implemented their remediation plans to be "at minimum, premature."

¶ 18 Regarding Lighthouse, the Commission noted that the Board had made its non-renewal decision "after a recommendation from the CEO based exclusively" on an application of the new CSQP provision which states that "a single-site charter school will be recommended for non-renewal to the Board if the school (i) is on the Academic Warning List during the final year of the charter contract and has a current two-year SQRP point value average rating of 2.5 or below[.]" The Commission determined, however, that this provision did not apply to Lighthouse, and instead, under the applicable SQRP, non-renewal required a finding that "cause for revocation exists under Paragraph 13" of the charter agreement. The Commission found "no evidence in the record that the CPS Board afforded [Lighthouse] any real notice, due process, or opportunity to remediate, as it would have been required to do before finding that revocation of [Lighthouse's] charter and school closure was appropriate."

¶ 19 The Commission also concluded that reversing the Board's decisions would be in the best interest of the students. The Commission noted that the Schools were not currently meeting academic performance standards, but that they had made improvements. The Commission noted that the Schools "enjoy[ed] extensive support throughout the local school community among students, parents and faculty as well as the broader community that [the Schools] serve[]." The Commission further observed that the Schools were located in largely minority and low-income areas, and that they "advance[d] the goal established by Illinois legislators to serve students traditionally seen as educationally at-risk."

¶ 20 While the Commission acknowledged that the Board had reportedly guaranteed students seats at alternative, better schools, notice of this guarantee occurred less than 24 hours prior to the meeting, which left the Commission with "virtually no time to evaluate the new school options or for [the Schools] to communicate the new information to parents and students and obtain feedback in advance of the Commission vote." The Commission thus refused to consider the Board's proposal, and relied instead on an analysis conducted by its staff, which found that only 30% of those enrolled at Sizemore, 12% of those enrolled at Amandla, and 22% of those enrolled at Lighthouse, were assigned to schools that were both in good standing and higher performing than their current charter school. The Commission then found that if the students were "left only with their assigned schools, the Commission must find that [the Schools are] safer, higher quality educational option[s] for [their] students overall."

¶ 21 The Board sought administrative review of the Commission's decision in the trial court, and moved to stay the Commission's decision pending that review under section 3-111(a)(1) of the Administrative Review Law. 735 ILCS 5/3-111(a)(1) (West 2014).

¶ 22 The circuit court held a hearing on the Board's motions to stay on June 10, 2016. After hearing arguments from all parties, the circuit court denied the Board's motions to stay, finding that it had not established at least two of the three elements required to grant those motions. Specifically, the circuit court found that the Board had not established that a stay would preserve the status quo without endangering the public, or that the Board had a reasonable likelihood of success on the merits. The circuit court specifically found "of extreme importance" that the Board "decided to change the academic performance standards a quarter of the way through the school year, and then decided that the schools did not meet the new standards" when such changes were required to be made prior to the school year, by June 30. On June 22, 2016, the Board filed notices of interlocutory appeal of the circuit court's ruling.

¶ 23 In this court, the Board maintains that the circuit court's denial of its motion to stay must be reversed because the circuit court "employ[ed] the incorrect legal test."

¶ 24 However, before turning to the Board's appeal, we must address an initial jurisdictional issue raised by one of the parties. Lighthouse argues that this court lacks jurisdiction to hear this matter, suggesting that the Board's notice of appeal was untimely filed because the circuit court's denial of the stay was akin to a denial of a temporary restraining order, and therefore the Board's notice of appeal was required to be filed within two days of the circuit court's order pursuant to Illinois Supreme Court Rule 307(d). Ill. S. Ct. R. 307(d) (eff. Jan. 1, 2016). We disagree. We believe the denial of the stay is not a denial of a temporary restraining order, but is an interlocutory appeal of an order refusing an injunction under Supreme Court Rule 307(a)(1). See *Marsh v. Illinois Racing Board*, 179 Ill. 2d 488, 492-96 (1997). Under Supreme Court Rule 307(a)(1) the appeal must be perfected within 30 days of the entry of the interlocutory order, and

therefore, the appeal was timely filed and this court has jurisdiction to hear it. Ill. S. Ct. R. 307(a)(1) (eff. Jan. 1, 2016).

¶ 25 We thus turn to the merits of the Board's appeal. Under section 3-111(a)(1) of the Administrative Review Law, the Circuit Court may stay the decision of an administrative agency, "upon notice to the agency and good cause shown[.] *** 'Good cause' requires the applicant to show (i) that an immediate stay is required in order to preserve the status quo without endangering the public, (ii) that it is not contrary to public policy, and (iii) that there exists a reasonable likelihood of success on the merits[.]" 735 ILCS 5/3-111(a)(1) (West 2014). In order to establish "good cause," all of the elements recited in the statute must be met. *Metz v. Department of Professional Regulation*, 332 Ill. App. 3d 1033, 1037 (2002). Thus, the applicant's failure to establish even a single element, is fatal to his claim. *Id*.

¶ 26 Our standard of review of the circuit court's grant or denial of a stay is "highly deferential" and that decision will be reversed only upon a finding of an abuse of discretion. *Health Alliance Medical Plans, Inc. v. Department of Healthcare & Family Services*, 2011 IL App (4th) 110495, ¶ 29. An abuse of discretion occurs only where the trial court's ruling is arbitrary, fanciful, unreasonable, or where no reasonable person would take the view adopted by the trial court. *Parikh v. Division of Professional Regulation of Department of Financial & Professional Regulation*, 2012 IL App (1st) 121226, ¶ 24 (citing *Blum v. Koster*, 235 Ill. 2d 21, 36 (2009)). The party seeking the stay bears the burden of proving adequate justification for the relief sought. *Id*.

¶ 27 The Board, however, maintains that we should not review this matter using a deferential standard, because "[w]here the Circuit Court employs the wrong legal standard in making a determination, this Court reviews the legal issue *de novo*." The Board maintains that the circuit

court failed to consider the proper test for when the Commission may reverse the Board's decision, and thus, committed legal error in reaching its decision.

¶ 28 We initially note that the subject of this appeal is the circuit court's denial of the Board's motions to stay; it is not the underlying issue that is currently before the circuit court as to whether the Commission properly reversed the Board's decision. Thus, even if we were to agree with the Board that the circuit court applied the incorrect legal standard for Commission reversals, such a consideration would be relevant only to our consideration of the third element, regarding the Board's likelihood of success on the merits. Even assuming that the circuit court incorrectly ruled on the third element based on the use of an incorrect legal standard, it would not absolve the Board of its burden to establish the first and second elements, namely that the stay would preserve the status quo without endangering the public, and that it would not be contrary to public policy. We thus review the circuit court's denial of the Board's motions to stay for an abuse of discretion. *Health Alliance Medical Plans, Inc.*, 2011 IL App (4th) 110495, at ¶ 29.

¶ 29 For similar reasons, we also reject the Board's challenge to the Commission's jurisdiction, specifically regarding the Sizemore appeal. The Board contends that the Commission only has jurisdiction to reverse decisions by the Board "to deny, revoke, or not to renew a charter." 105 ILCS 5/27A-9(e). It points out that Sizemore is merely one of three campuses of the Betty Shabazz International Charter School (Shabazz), and asserts that it did not revoke the Shabazz charter, but merely acted to close one campus—Sizemore. The Board contends that the Charter School Law does not authorize the Commission to hear an appeal from the Board's decision to close a campus rather than revoke a charter. It recognizes that the Board had previously referred to the Sizemore closure as a "revocation" but contends that the Board's actions "did not and

could not, as a matter of law, grant the Commission jurisdiction to hear an appeal of the closure of the Sizemore Academy."

¶ 30 The Board's argument on this issue, again, relates to the underlying issue that is currently pending before the circuit court as to whether the Commission properly reversed the Board's decision. Since we are reviewing the denial of a motion to stay, and not the underlying issue, the Board's challenge is relevant to this appeal only as far as it is relates to the likelihood of the Board's success on the merits, and, to the extent that the Board cannot establish either the first or second elements, a stay would not be appropriate. 735 ILCS 5/3-111(a)(1) (West 2014).

¶ 31 With that said, we turn to the relevant issue before this court: whether the circuit court erred in denying the Board's motion to stay the Commission's decision. As stated above, in order to stay the decision of the administrative agency, the circuit court must first find that an immediate stay is necessary to preserve the status quo without endangering the public. 735 ILCS 5/3–111(a)(1)(i) (West 2014). The status quo is “the last actual, peaceful, non-contested status which preceded the pending controversy.” *Markert v. Ryan*, 247 Ill. App. 3d 915, 918 (1993). The Board maintained before the circuit court, and maintains in this court that the "contested act" was the Commission's order, and thus, the status quo should be defined as the time period preceding that order when the School's charters had been terminated.

¶ 32 The circuit court, however, found that "the status quo is that the schools are open and that the schools have their charters because that was before the dispute arose." It characterized the Board's position as "an odd definition, because that's certainly not a peaceful act to tell the charter schools that they must close and that their charters have been revoked." The circuit court concluded that the last actual, peaceful, non-contested status was when "the charters were open before the dispute started and before the Board decided that it was going to attempt to revoke the

charters of the charter schools." The circuit court further found that, even if it were to accept the Board's "odd definition," the element also requires that the status quo be preserved *without endangering the public*. The circuit court concluded that granting a stay would endanger the public because:

> "the parents of the students won't know what to do. They will scramble to find other schools. *** A significant number of parents *** [are] not going to wait out the Court's decision that may not even come until after the start of the new academic year. And then the schools, even if I rule in their favor, they're starting class late, they may not meet the percentage of students they need in order to continue to function, so I'm essentially granting the Board a win if I grant the stay.
>
> And it will endanger the public because *** what will happen is I will have interfered with the parents' choices of where to send their students[.]"

¶ 33 Our review of the record shows that the court's finding as to the status quo was not an abuse of discretion. First, we agree with the circuit court that the Board's proposed status quo definition is peculiar. The Board's proposal does not seek to return the parties to a time prior to the controversy or before the challenged actions occurred. Instead, it seeks to return the parties to a time in the middle of the administrative process, after it had revoked the Schools' charters, but before the Commission reversed those decisions.

¶ 34 We note that the term "status quo" has also been interpreted to mean "the condition necessary to prevent a dissipation or destruction of the property in question." See *Kalbfleisch ex*

rel. Kalbfleisch v. Columbia Community Unit School No. 4, 396 Ill. App. 3d 1105, 1118 (2009). This definition is also helpful to our analysis here. As the circuit court pointed out, a decision to stay the Commission's order would likely have irreparable consequences for the Schools, and would be "essentially granting the Board a win." Because the Schools are required to enroll a certain number of students in order to operate, a granting of a stay would likely cause a large number of parents to find other schools for their children, thereby preventing the Schools from meeting their minimum enrollment. The purpose of a stay is not to effectively grant one party "a win" on the underlying issue, but to maintain the status quo so that a resolution on the merits may be accomplished. See *Stacke v. Bates*, 138 Ill. 2d 295, 302 (1990) (The function of a stay order is to "preserve the fruits of a meritorious appeal where they might otherwise be lost.")

¶ 35 We thus conclude that the circuit court did not abuse its discretion in concluding that a stay would not preserve the status quo in these circumstances. Although, as we noted above, the Board's failure to establish one element is fatal to its claim, the circuit court went on to review the remaining elements, and we will as well.

¶ 36 Next, section 3–111(a)(1)(ii) of the Review Law requires that the circuit court find that a stay is not contrary to public policy. 735 ILCS 5/3–111(a)(1)(ii) (West 2014). "Questions of public policy * * * are ultimately left for resolution by the courts." *American Federation of State, County & Municipal Employees v. Department of Central Management Services*, 173 Ill. 2d 299, 318 (1996). To ascertain the existence of a public policy, we look to our constitution, statutes, and relevant judicial opinions. See *Id.* at 308.

¶ 37 Section 5/27A-2 of the Charter Schools Act explicitly provides the following purposes, as relevant to the case at bar:

> "(1) To improve pupil learning by creating schools with high, rigorous standards for pupil performance.
>
> (2) To increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for at-risk pupils[.]
>
> * * *
>
> (6) To provide parents and pupils with expanded choices within the public school system.
>
> (7) To encourage parental and community involvement with public schools." 105 ILCS 5/27A-2 (West 2014).

¶ 38 The trial court's decision reflects that it balanced these alternative public policies, and we cannot say that the trial court abused its discretion in doing so. The Commission specifically noted that while the Schools were not currently meeting academic standards, they were making improvements. Additionally, if the stay were granted, the court was troubled that it would be interfering with the parents' and pupils' educational choices, many of whom had overwhelmingly voiced support for the Schools at community meetings. On this record, we find no abuse of discretion by the circuit on this element.

¶ 39 Finally, in order to obtain a stay, the applicant bears the burden to show "at least a fair question as to the likelihood of success on the merits." *Markert*, 247 Ill. App. 3d at 917. The factual findings of an administrative agency are held as prima facie true and correct (735 ILCS 5/3–110 (West 2014)) and will not be disturbed on review unless they are against the manifest weight of the evidence. *Abrahamson v. Illinois Department of Professional Regulation*, 153 Ill. 2d 76, 88 (1992). In appeals from administrative review, it is not our prerogative to reevaluate

witness credibility or resolve conflicting evidence. *Morgan v. Department of Financial & Professional Regulation*, 374 Ill. App. 3d 275, 288 (2007). The reviewing court does not reweigh the evidence or substitute its judgment for that of an administrative agency (*City of Belvidere v. Illinois State Labor Relations Board*, 181 Ill. 2d 191, 204 (1998)), and "[i]If the record contains evidence supporting the administrative agency's decision, the decision should be affirmed" (*Cathedral Rock of Granite City, Inc. v. Illinois Health Facilities Planning Board*, 308 Ill. App. 3d 529, 542 (1999); see also *Abrahamson*, 153 Ill. 2d at 88).

¶ 40 The Charter Schools Law provides that a charter may be revoked or not renewed if the chartering entity:

> "clearly demonstrates that the charter school did any of the following, or otherwise failed to comply with the requirements of this law:
>
> (1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter.
>
> (2) Failed to meet or make reasonable progress toward achievement of the content standards or pupil performance standards identified in the charter.
>
> (3) Failed to meet generally accepted standards of fiscal management.
>
> (4) Violated any provision of law from which the charter school was not exempted." 105 ILCS 5/27A-9 (West 2014).

¶ 41 In the case of revocation, the chartering entity

> "shall notify the charter school in writing of the reason why the charter is subject to revocation. The charter school shall submit a written plan to the local school board or the Commission, whichever is applicable, to rectify the problem. The plan shall include a timeline for implementation, which shall not exceed 2 years or the date of the charter's expiration, whichever is earlier. If the local school board or the Commission, as the chartering entity, finds that the charter school has failed to implement the plan of remediation and adhere to the timeline, then the chartering entity shall revoke the charter." *Id*.

¶ 42 The Board's decision to "deny, revoke or not to renew a charter shall be provided to the Commission and the State Board," and the Commission "may reverse a local board's decision if the Commission finds that the charter school or charter school proposal (i) is in compliance with this Article, and (ii) is in the best interests of the students it is designed to serve." *Id*.

¶ 43 The Board argues that the circuit court did not utilize the above two-pronged test when analyzing whether it is likely to succeed on its claim that the Commission improperly reversed its decision. It contends that the Schools "as a matter of law" cannot be "in compliance with this Article" where they failed to meet academic performance standards. The Board further maintains that "as a matter of law" it cannot be in the best interests of the School's students to "attend a school that has failed in its educational mission."

¶ 44 Although the Board attempts to characterize these issues as "matter[s] of law," we note that the record shows that the Commission heard evidence on these matters, and made a variety of factual findings. As stated above, this court will not reweigh the evidence or substitute its

judgment for that of the administrative agency (*Belvidere*, 181 Ill. 2d at 204), and "[i]If the record contains evidence supporting the administrative agency's decision, the decision should be affirmed" (*Cathedral*, 308 Ill. App. 3d at 542; see also *Abrahamson*, 153 Ill. 2d at 88).

¶ 45 The Board first argues that the Schools cannot satisfy the first prong, "because an academically deficient school cannot comply with the statute's requirement that the Commission reject 'weak or inadequate' schools." The Board points out that Charter School Law requires all authorizers to approve charter schools that "meet identified educational needs," and "declin[e] to approve weak or inadequate charter applications." It therefore argues that the Schools cannot comply with these statutory requirements, in light of their "academic deficiencies."

¶ 46 As an initial matter, we note that the passages the Board cites confer obligations upon the authorizer, and not upon the Schools. It is therefore tenuous, at best, to argue that such provisions are relevant to a determination as to whether the Schools themselves are "in compliance with this Article." Moreover, the plain language of these provisions appears to refer to initial charter applications, not decisions regarding revocation or renewals. Nevertheless, even if the provisions were applicable, we find nothing here to prove that the authorizer failed either of those requirements. Although the Board attempts to equate the Schools' failures to meet certain academic performance standards with a finding that the Schools are "weak and inadequate" and that they do not "meet identified educational needs," the Charter School Law is clear that it is concerned with more than just test scores and academic performance, and we find nothing in the Charter School Law that requires the revocation of a charter when a school fails to meet certain academic performance standards. We also note that the Board has conveniently omitted the end of one of its cited provisions, which provides that authorizers should approve applications "that meet identified educational needs *and promote a diversity of educational choices*." Although the

record shows that the schools were not currently meeting certain academic performance standards, the Commission found that the Schools were improving, and that they were meeting various other goals of the Charter Schools Law, including providing education opportunities for at risk students, providing educational choices for students and parents, and encouraging parental and community involvement. In light of these findings, we cannot say "as a matter of law" that the Schools are "weak and inadequate" or that they do not "meet identified educational needs."

¶ 47 In finding that the Schools had complied with the Charter Schools Law, the Commission also found that the Board "did not." The Commission noted that the Charter Schools Law and the Schools' respective charter agreements "delineate conditions, requirements, policies and procedures that an authorizer must follow when it makes a revocation decision and that a charter school must respect in order to mount a proper defense." The Commission found that the Board's application of "new academic performance standards from the October 2015 CSQP to justify the revocation of [Amandla and Sizemore's] charter[s] contradicted" the Charter School Law and charter agreements. Regarding Lighthouse, the Commission found that the "application of the new standards and an automatic non-renewal provision from the CSQP to justify its non-renewal vote" also contradicted the Charter School Law and its charter agreement.

¶ 48 The Board, however, objects to the Commission's findings regarding the fairness of the Board's procedures, and the circuit court's reliance on those findings. It asserts that the Commission may not review the fairness of its procedures, because the statute permits the Commission to conduct a de novo review of the merit of a charter school's application, and independently evaluate whether the school satisfies both prongs of the tests to determine whether it should receive a state charter. The Board contends that there is no statutory language "to support the assertion that the Commission could rely on what it deemed failings by the Board as

a substitute for making the required assessment of [the Schools] under the two prongs of section 27A-9(2)."

¶ 49 We disagree with the Board's characterization. From our review of the record, we do not believe that the Commission or the circuit court "substitute[d]" a review of the two statutory prongs in favor of an evaluation focused on the Board's fairness. To the contrary, the Commission found that the Schools had complied with the Charter Schools Law and their charter agreements. However, in evaluating whether the Schools were in compliance, the procedures and policies utilized by the Board in choosing to revoke or not renew the charters became relevant. We find no abuse of discretion by the circuit court in assessing the Board's procedures as part of that determination.

¶ 50 Finally, the Commission found that reversing the Board's decisions would be in the best interests of the students. In analyzing this element, the Commission considered the School's current performance, the legislative priorities identified in the Charter School's Law, and the alternative educational options available to the students. The Commission concluded that the Schools did not currently meet standards for academic performance; however, they had made some improvements in that area. The Commission also observed that the Schools enjoyed high levels of community support, and that they served educationally at-risk student populations. Finally, the Commission observed that if the students instead were forced to attend their assigned school, only between 12 and 30% of the students would attend schools that were both in good standing and higher performing than their current charter school. The Commission thus found that the Schools provided a "safer, higher quality educational option for [its] students overall," and that it was in the best interest of the students that the Board's decisions be reversed. In light

of this record, we cannot say that the circuit court abused its discretion in ruling that the Board failed to raise a fair question on the issue to obtain a stay pending review.

¶ 51 In sum, we conclude that the circuit court did not abuse its discretion in denying the Board's motion for a stay of the Commission's decision where the Board failed to meet any of the three requirements necessary to obtain such a stay. Accordingly, we affirm the judgment of the circuit court of Cook County.

¶ 52 Affirmed.