

2019 IL App (1st) 181057-U  
No. 1-18-1057  
Order filed September 30, 2019

Third Division

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

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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|--|---|--------------------------------|
| SYLVIA HOLLOWAY,                         | ) | Petition for Review of a Final |
|  | ) | Administrative Decision of the |
| Petitioner-Appellant,                    | ) | Board of Education of the City |
|  | ) | of Chicago                     |
| v.                                       | ) |                                |
|  | ) |                                |
| BOARD OF EDUCATION OF THE CITY OF        | ) | Board Resolution No. 18-0425-  |
| CHICAGO AND ILLINOIS BOARD OF EDUCATION, | ) | RS4                            |
| JANICE JACKSON CEO,                      | ) |                                |
|  | ) |                                |
| Respondents-Appellees.                   | ) |                                |

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JUSTICE COBBS delivered the judgment of the court.  
Presiding Justice Ellis and Justice Howse concurred in the judgment.

**ORDER**

¶ 1 *Held:* We affirm where the Board of Education of the City of Chicago’s determination that it had cause to dismiss a teacher was not clearly erroneous.

¶ 2 Petitioner Sylvia Holloway appeals directly to this court from a final administrative decision of the Board of Education of the City of Chicago (the Board), which resulted in the termination of her employment as a tenured teacher at Libby Elementary School (Libby), a

Chicago Public School. On appeal, she contends that the Board's decision was clearly erroneous because it was unreasonable and arbitrary. For the reasons that follow, we affirm the Board's decision.

¶ 3 The record shows that on August 3, 2016, Forrest Claypool, the Chief Executive Officer of the Chicago Board of Education, approved charges for Holloway's dismissal. On August 3, 2017, Holloway requested a hearing, denying all charges. On September 22, 2017, Hearing Officer Daniel Nielsen held an administrative hearing regarding Holloway's employment status. The Board presented testimony from Kurt Jones, Libby's Principal, and Rebeka Barrera, the assistant principal. Holloway also testified, as well as several teachers that worked with Holloway at Libby. The following facts were adduced at the hearing and from documentation in the common law record.

¶ 4 At the hearing, Jones testified that he had been a principal at Libby for nine years and worked with Holloway during his time there. Holloway was a tenured teacher at Libby for 16 years. She spent most of her career teaching reading, writing, and literacy to first and second grades. Jones explained that when he took over the principal responsibilities at Libby, the school was ranked in the bottom two schools in the District. As such, Libby was under the guidance of Network 11, whose representatives were at the school frequently to ensure Libby was keeping up with the Network and Board mandates. Jones in turn had to report to Network. Jones testified his assistant principal during six years of his tenure at Libby was Barrera. Both he and Barrera were "coaches" for the teachers. Jones coached math and science while Barrera coached literacy and social studies. Since Holloway primarily taught literacy, Barrera was her coach.

¶ 5 Jones was responsible for running the day to day operations at Libby, which included maintaining the budget and evaluating the staff. He explained that he addressed any deficiencies of the teaching staff in a four-step process. The first step involved a written letter, a meeting, and a development plan with the staff member and a member from the Chicago Teacher's Union (CTU). Step two was similar to step one but at "a higher level." At step three, the Board was notified and a plan was implemented. Step four was termination. As part of the employment procedures at Libby, an employee handbook was issued to each teacher outlining the employee's duties and responsibilities for the year. Jones also sent out a weekly staff bulletin and a monthly calendar to all teachers outlining what the faculty needed to accomplish. Instead of formally disciplining the teachers, Jones sent "friendly reminders" via email, reminding the teachers to follow the procedures enumerated in the employee handbook.

¶ 6 Jones testified that the Board requires all teachers to use a grading method called Gradebook. As part of the procedure, teachers are required to grade two assignments or tests in every subject they teach and post the scores on the Gradebook program. Jones was required to report to the Network that the Gradebook for the teachers under his supervision met the Board's mandate. In order to do this, Jones needed the teachers to submit their reports to him on Fridays. He also needed two grades per week per subject that each of the teachers at Libby taught. Jones reviewed each report for every student and returned them to the teachers so the reports could go out on Wednesday. Jones testified the Gradebook system had been in place since 2006. He sent out a reminder to the teachers that the reports for Gradebook were not to be done during "instructional time." Jones also did occasional "pop ins" to each classroom to check on the teachers.

¶ 7 Jones testified that because Holloway failed to enter the requisite scores into Gradebook in a timely manner, he sent her “friendly reminders” to post the scores. Barrera also sent Holloway reminders to enter her scores into Gradebook.

¶ 8 On January 25, 2012, the Board issued a written warning resolution to Holloway. The resolution warned Holloway to correct the following deficiencies: on or about May 24, 2011, she submitted incomplete student progress reports, despite numerous notices from the administration at Libby regarding the proper submission of the reports; she failed to support students’ final grades with a required minimum of ten grades per course per grading period; despite the directives from the principal, she improperly worked on progress reports during instructional time; her conduct violated section 1-8 of the Employee Discipline and Due Process Policy (discipline policy) that prohibits negligently failing to carry out a rule, order or directive related to the performance of one’s duty; her conduct violated section 2-1 of the discipline policy that prohibits repeated or flagrant acts of Group 1 misconduct; her conduct violated section 2-7 of the discipline policy that prohibits insubordination such as the failure to carry out a rule, order, or directive related to the performance of one’s duty. The warning noted she was issued a 3-day suspension without pay regarding the misconduct described, which she did not appeal.

¶ 9 The resolution also set forth six directives for improvement. Pursuant to the directives Holloway was to: (1) submit adequate, accurate, and timely progress reports with all students receiving grades in all subjects; (2) provide data, including at least ten homework, quiz or test grades, to support her assessments when awarding grades; (3) use instructional time for instruction of students, and not non-instructional duties; (4) follow the directives of the administration at Libby; (5) adhere to all school rules, Board rules, policies and procedures; and

(6) conduct herself as a role model for the students. Per the warning resolution, Holloway would be subject to dismissal if she failed to comply with the directives for improvement. At the hearing, Holloway identified her signature on the warning resolution but testified she did not remember receiving it.

¶ 10 Jones testified that the Network recommended the use of objective and agenda boards that were installed in each classroom. In order to help students, each teacher was required to post their educational agenda and objective on the boards prior to each class. The posted agenda also helped to assist academic coaches by allowing them to immediately see what the teacher was working on with the class when the coaches arrived in the classroom. Jones explained that teachers could write their agenda and objective for each class before school started each day or they could write the agenda and objective during the time between each class. However, the teachers were not to write the agenda during class instruction time. During a “pop in” with members of the Network, Jones observed Holloway updating her agenda board during class instruction time.

¶ 11 Jones called a Step 1 meeting with Holloway and her CTU representative in February 2015. Areas of concern for the meeting included Holloway’s submission of written plans as directed, placement of weekly lesson plans on the door of the classroom, and insubordination regarding these expectations. Following the meeting, on February 24, 2015, the Libby school administration issued Holloway a Performance Improvement Process plan (PIP) after she failed to submit a lesson plan in a timely manner and to follow the directives relating to posting lesson plans on the doors of the classroom. The PIP required that, in accordance with administrative directives, lesson plans be posted on the door and be timely submitted to coach and administrator

by 8:00 a.m. Mondays. The PIP also noted that, “at this time we agree that it’s not direct insubordination, with evidence we have. Administration refers back to the mere fact, that in the future, failure to follow directives falls [into] insubordination.”

¶ 12 In September 2015, Jones called a Step 2 meeting with Holloway and a CTU representative. The pre-meeting notice advised Holloway that the meeting concerned: following administrative directives, leaving her classroom unlocked with laptops on students’ desks, and insubordinate behavior regarding the above expectations. The notice pointed out that Holloway had left her classroom unlocked while unsecured laptops and headphones were on student desks.

¶ 13 Following the meeting, on October 16, 2015, the Libby administration issued another PIP to Holloway. The PIP was labeled “First Warning” and required the following changes: secure the room, resources, teacher and student personal items by assuring that the room is locked when leaving the room; follow the latest schedules provided to her regarding teaching responsibilities; and cease insubordinate behavior by adhering to district, network and school policies at all times.

¶ 14 Jones testified that, on February 1, 2016, Holloway failed to have her agenda and objective board properly completed before class, contrary to Libby’s directives. Later that month, on February 16, Holloway took her 4th grade class to an assembly against the Libby administration’s directives outlining which classes were eligible to attend the assembly. Jones explained that the assembly was taking place during instructional time, and that grades 4 through 8, including Holloway’s class, still followed their academic schedule. Holloway also failed to meet the administration’s guidelines for submitting pre-test “Compass” results during the third quarter of the 2015-16 school year and failed to present post-test data for the third quarter of the Compass program.

¶ 15 On March 7, 2016, Jones issued Holloway a Step 3 pre-meeting notice concerning following administrative directives, failure to perform duties, and insubordinate behavior regarding these expectations. The notice alleged Holloway: (1) failed to complete her agenda and objective boards on February 1, 2016, when Jones and members from Network entered her classroom and found the subject she was teaching did not match her agenda board; (2) brought her class to an unauthorized assembly performance on February 16, 2016; (3) failed to complete the Quarter 3 Pre-test mandated by the Network and school, despite receiving an email on February 10, 2016, from Barrera informing her that she had missed the deadline; (4) failed to complete her students' Personal Learning Plans (PLPs) prior to the end of the day on February 18, 2016, as required; and (5) failed to report to a Grade Level meeting with Quarter 3 post test data despite the deadline for producing the data having been extended. On May 9, 2016, Holloway submitted a written response to the allegations contained in the notice.

¶ 16 On May 12, 2016, Jones issued Holloway a PIP form labeled "Termination Notice." Under "Follow up," the form directed Holloway to: do agenda boards as laid out in the "PD" and in staff handbooks for each instructional period; assure she was following the assembly schedules provided to her; assure she had read district, Network and school information to adhere to deadlines and completion of mandated activities; seek assistance from support staff and administration prior to, rather than after, missing a deadline, failing to carry out directives and not being prepared; and cease insubordinate behavior by adhering to district, Network and school policies.

¶ 17 Jones testified that, at this point in the disciplinary process, he had the option of requesting termination and letting "the Board take it from there." He stated that, from September

to May, “almost a complete school year,” Holloway’s behavior did not change and “it was just a struggle. Everything [Barrera or Jones] said or did, there was a better way to do it, and it was Ms. Holloway’s way.” Jones explained that Holloway’s behavior “began to start impacting the instructional minutes, the teaching, the learning.” Jones testified that it got so bad because “of things not being followed” that one day Holloway left the building without notifying Jones or Barrera. When Jones confronted her about the absence, she informed him that she had told her fellow teachers she was leaving and she assumed they had told him and Barrera. Jones believed that Holloway’s behavior was “getting unsafe for children.”

¶ 18 Jones acknowledged that the warning resolution was issued to Holloway during the 2011-2012 school year and that, for approximately two years after that, there were no real disciplinary issues in relation to Holloway. However, during the 2015-2016 school year, “it went to worse than what it was in 2011 and 2012, and it was getting worse for the children because it was constantly impacting their day, [and] their instructional minutes[.]” Jones also testified that Holloway resisted the coaches that were brought in to partner with her to improve reading instruction. He explained that, in the last two years of being Holloway’s principal, he did not feel that there was a “turning point” in her performance and that he and Barrera “did everything to try to make that turning point happen with friendly reminders, coaches in place, [and] people there to assist.” He therefore requested that Holloway be terminated for failing to complete the agenda boards; failing to follow assembly schedules; failing to read and adhere to deadlines established by the district, Network, and school; failing to seek assistance from staff before missing deadlines; and insubordination.

¶ 19 Barrera testified that during the 2015-2016 school year she had concerns about Holloway's performance, including her missing deadlines and her issues with submitting lesson plans and documents that the Network or the District mandated. Barrera stated that Holloway regularly failed to meet the deadlines of the Gradebook system, and explained the negative impact this had on the students and parents. Barrera had multiple conversations with Holloway regarding her missing deadlines and her "deficiencies."

¶ 20 Holloway testified regarding the allegations of insubordination as outlined in the May 12, 2016, PIP termination notice. Regarding the failure to complete her agenda and objective boards, Holloway testified that the administration of Libby and Network entered her classroom when she was updating her objective board for her science class. At the time, the administration did not warn her about her conduct, but she received a "friendly reminder" about not updating the boards during class time. Regarding the incident where Holloway took her students to an unauthorized assembly, she explained that she left the assembly with the students after Jones informed her that they were not supposed to be there. Holloway testified that her failure to complete the Quarter 3 pre-test mandated by the Network and school administration was the result of her disciplining a student and running out of time to complete the examination. Holloway completed the pre test at a later time.

¶ 21 Holloway testified she was late submitting the student PLPs, which are given to students who are "off track and struggling or at risk of retention or have been retained once upon a time in life," because she had so many to complete. Holloway also testified that her failure to report to her grade-level meeting with Quarter 3 post-test data was the result of not being able to print the data. She acknowledged that Jones told her to get help printing the data from Territha Lee, but

she failed to do so because she had to pick up her students. Holloway eventually was able to print the data.

¶ 22 Roshonda Booker, a teacher at Libby, testified that on days she visited Holloway in her classroom, Holloway would be filling out her agenda board in the time period before the students came into class.

¶ 23 Territha Lee testified that she is a teacher at Libby and that it was her responsibility to help teachers print out their reports. Lee was unable to print the reports because the district was having difficulties printing and they needed to update their computers. Lee testified that she informed Jones about the problem.

¶ 24 Melanie Davis testified that when Holloway came into the assembly hall, Jones told her she was not supposed to be there. Davis did not hear any voices raised and Holloway took the class to her classroom.

¶ 25 Agnes Atkins testified that she retired from Libby in 2007 and was the assistant principal. Atkins hired Holloway as a first grade teacher in 2000. Even though she was retired, Atkins went to Libby and “never stopped assisting and helping out at Libby.” Atkins observed Holloway teach and found that she was “very good at taking the records and planning instruction to match what the children needed to know[.]” Atkins also found that Holloway was able to help other teachers.

¶ 26 The record shows that on August 3, 2016, Forrest Claypool, the Chief Executive Officer of the Chicago Board of Education, approved charges for Holloway’s dismissal. The written charging document was based on Holloway having violated: (1) “Corrective Action Category ‘Performance: Failure to Perform Duties,’ which prohibits the ‘failure to perform duties (grade

books, lesson plans etc.)’ ”; (2) “Corrective Action Category ‘Performance Insubordination,’ which prohibits the ‘refusal to carry out a directive from a supervisor’ ”; (3) Illinois State Board of Education Rule 23 Ill. Admin. Code § 22.20, requiring educators to maintain a professional relationship with students at all times and demonstrate a high level of professional judgment; (4) Illinois State Board of Education Rules and Regulations Code of Ethics, 22.10-20 of Title 23, requiring Illinois educators to be responsible to (a) students, (b) self, (c) colleagues and the profession, (d) parents, families, and communities, and (e) the Illinois Board of Education; (5) Illinois State Board of Education Rules and Regulations Standards for All Illinois Teachers, 24.130 of Title 23, which outlines the Illinois Professional Teaching Standards; and (6) the six directives set forth in the 2012 Warning Resolution. The charges also alleged that Holloway’s conduct was unbecoming of a Chicago Public Schools employee.

¶ 27 The charging document specified that Holloway was previously warned about failing to submit lesson plans as directed and follow administration directives. It stated that on or about January 27, 2012, she was issued the warning resolution setting forth the directives for improvement and warning that “ ‘dismissal will be requested’ ” if she failed to comply with those directives. The charging document stated that, on October 16, 2015, Holloway was issued and received a First Warning for failing to perform duties, negligence/incompetence regarding other duties, and insubordination for failing to follow administrative directives. The charging document also specified that, despite receiving the above-referenced warnings, Holloway failed to remediate her conduct and violated her warning resolution during the 2015-2016 school year by: (1) failing to complete her agenda and objective boards as directed by school administration; (2) interrupting her students’ academic schedule by taking her students out of class and bringing

them to an assembly which was not intended for them, in violation of the school administration's directive; (3) failing to complete the Quarter 3 Pre-Test, as mandated by the Network and the school administration; (4) failing to submit her updated student PLPs by the deadline, as directed; and (5) failing to report to her Grade Level Meeting with the Quarter 3 post-test data, as directed by school administration. The charging document noted that, based on the above charges and specifications, Holloway's conduct violated the directives set forth in the 2012 warning resolution and/or was irremediable and dismissal was warranted.

¶ 28 At the conclusion of the administrative hearing, the hearing officer recommended that Holloway be reinstated. In doing so, the hearing officer noted that the dismissal charges specified five violations of the 2012 warning resolution, and the Board demonstrated by a preponderance of the evidence that Holloway had engaged in these activities. However, the hearing officer found the evidence did not support the conclusion that Holloway engaged in irremediable conduct. He concluded that the Board did not have sufficient ground to terminate Holloway and recommended that the Board reinstate her and make her whole for her losses.

¶ 29 On April 25, 2018, the Board approved the dismissal charges against Holloway and discharged her from employment. The Board adopted the hearing officer's factual findings and accepted the hearing officer's finding that "for the most part, the Board has demonstrated that these actions occurred" and that "the five incidents took place." However, the Board rejected the officer's legal conclusion that Holloway's discharge was not warranted because her misconduct was not irremediable. The Board noted that the hearing officer's findings established that Holloway engaged in the charged misconduct as alleged in the dismissal specifications by failing to comply with the directives in the 2012 warning resolution and, thus, the Board had cause to

discharge her. The Board found any inquiry into whether Holloway's conduct was remediable was inappropriate because the Board had formally warned her in the 2012 resolution to follow the directives or face dismissal, and she failed to follow those directives by engaging in the misconduct outlined in the specifications. Therefore, her dismissal was warranted even if her conduct was remediable.

¶ 30 On May 29, 2018, Holloway filed a petition with this court for administrative review of the Board's final administrative order terminating her employment as a teacher for the Chicago Public Schools. 105 ILCS 5/34-85(a)(8) (West 2016) (a public school teacher dismissed by the Board may seek direct review in this court "in accordance with the Administrative Review Law"); Ill. S. Ct. R. 335 (eff. July 1, 2017).

¶ 31 Our review of an administrative decision to discharge an employee requires a two-step approach. *Raitzik v. Board of Education of Chicago*, 356 Ill. App. 3d 813, 823 (2005). We must first determine whether the Board's findings of fact were against the manifest weight of the evidence. *Id.* Second, we must determine whether the Board's factual findings sufficiently support the Board's conclusion that cause for discharge existed. *Id.* We apply the clearly erroneous standard of review to this mixed question of fact and law, *i.e.*, whether we are left with the definite and firm conviction that a mistake has been committed when applying the established facts to the applicable legal standard for discharge. *Beggs v. Board of Education of Murphysboro Community Unit School Dist. No. 186*, 2016 IL 120236, ¶ 63.

¶ 32 Holloway does not seek review of the Board's factual findings that she violated the 2012 warning resolution. Rather, she argues the Board's determination that cause for discharge existed was clearly erroneous because it was arbitrarily and unreasonably based on the 2012 warning

resolution. The Board responds that Holloway's termination was proper since she received notice that, if she did not follow the directives of the 2012 warning resolution, she would be terminated.

¶ 33 We review whether the Board's findings of fact sufficiently support its conclusion that cause for Holloway's dismissal exists. *Raitzik*, 356 Ill. App. 3d at 831. In this case, Holloway was a tenured teacher, and a tenured teacher may be terminated for: (a) irremediable conduct; or (b) for failing to address remediable causes for termination after receiving written notice to do so. 105 ILCS 5/34-85(a) (West 2016). The parties agree that the second basis for termination is relevant here.

¶ 34 Cause is defined as "that which the 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." *James v. Board of Education of City of Chicago*, 2015 IL App (1st) 141481, ¶ 16. A Board's determination of cause to discharge is not *prima facie* true and correct; it is instead subject to reversal where it is arbitrary, unreasonable, or unrelated to the requirements of service. *Beggs*, 2016 IL 120236, ¶ 63.

¶ 35 In this court, Holloway concedes she committed the conduct outlined in the 2016 charges, but argues that the Board's determination that cause for discharge existed was arbitrary and unreasonable. In support of this argument, she cites to section 34-85(a) of the School Code, which requires that a warning notice "stat[e] specifically the causes that, if not removed, may result in charges." 105 ILCS 5/34-85(a) (West 2016). She contends the language in the 2012 warning resolution that she "follow the directives" of the Libby administration and "adhere to all School rules, Board Rules, policies and procedures" was not specific enough to meet the

requirements of section 34-85(a). She maintains that requiring her to comply with every conceivable rule or directive did not set forth particular conduct that she could choose to cease, *i.e.*, cause she could remediate. She also contends that the specific performance issues raised in the 2012 warning resolution were not part of the 2016 dismissal charges.

¶ 36 After reviewing the record, we find that the Board’s decision that cause for discharge existed was not arbitrary or unreasonable. As mentioned, the record shows that Holloway was given a warning resolution in 2012. 105 ILCS 5/34-85 (West 2016); *Crowley*, 2014 IL App (1st) 130727, ¶ 31 (tenured teachers must be given a written warning before dismissal proceedings are instituted). The resolution set forth six directives for her improvement. In this court, Holloway focuses on two of those directives, which require her to follow the directives of the administration at Libby and adhere to all school rules, Board rules, policies and procedures. She argues that they were not specific enough to meet the requirements of section 34-85(a).

¶ 37 However, the resolution also set forth other, specific, directives for her improvement, including: submit adequate, accurate, and timely progress reports with all students receiving grades in all subjects; provide data, including at least ten homework, quiz or test grades, to support her assessments when awarding grades; and use instructional time for instruction of students, and not for non-instructional duties. Holloway does not claim that these other directives were not specific enough to state causes that, “if not removed, may result in charges” under section 34-85(a). In fact, in her brief, she concedes that her violations of “four different directives” in 2016 is undisputed, “but argues the Board cannot justify termination by saying these violated an unreasonable generic directive to follow all rules.”

¶ 38 It is uncontested that during the 2015-2016 school year, Holloway engaged in the following incidents of misconduct, all of which violate the 2012 directives that she does not challenge here as being “generic.” Specifically, on February 1, 2016, she failed to have her agenda and objective boards completed as mandated by Libby administration’s directives. This violated not only the general directive to follow the rules of the administration at Libby and adhere to all school rules, but also the specific directive to use instructional time for instruction of students and not for non-instructional duties. Holloway failed to meet the Libby administration’s deadline for submitting pre-test results for a Compass program during the third quarter of the 2015-2016 school year and also failed to present post-test data for the third quarter of the Compass program, both of which violate the specific directive to provide data, including at least ten homework, quiz or test grades, to support her assessments when awarding grades. Lastly, she did not meet the Libby administration’s deadline to submit PLPs for her off-track students, which violated the specific directive to submit adequate, accurate, and timely progress reports with all students receiving grades in all subjects. Thus, even if, as Holloway claims, two of the directives were too general to set forth a cause that she could remediate, the other directives did set forth specific instructions for improvement, *i.e.*, causes Holloway could remediate. When she did not comply with three of these directives, she did, in fact, fail to address remediable causes.

¶ 39 The August 3, 2016, charging document expressly referenced the directives set forth in the 2012 warning resolution and specified that Holloway violated the resolution during the 2015-2016 school year by the above mentioned instances of misconduct. Given this record, we are not left with the definite and firm conviction that the Board erred in applying the uncontested facts to

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the applicable legal standard for discharge. Stated differently, the Board's conclusion that cause for Holloway's discharge existed was not clearly erroneous.

¶ 40 For the reasons stated, we affirm the Board's decision to terminate Holloway.

¶ 41 Affirmed.