

IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

THE BOARD OF EDUCATION FOR)	Appeal from the Circuit Court
ROCKFORD PUBLIC SCHOOLS,)	of Winnebago County.
DISTRICT NO. 205, WINNEBAGO-BOONE)	
COUNTIES, ILLINOIS,)	
)	
Plaintiff-Appellee,)	
)	
v.)	Nos. 18-MR-997
)	20-MR-483
THE ILLINOIS STATE BOARD OF)	
EDUCATION, VERNA RENTSCH, and)	
MICHAEL S. JORDAN, in His Capacity as)	
Illinois State Board of Education Hearing)	
Officer,)	
)	
Defendants)	Honorable
)	Lisa R. Fabiano and
)	Donna R. Honzel,
(Verna Rentsch, Defendant-Appellant).)	Judges, Presiding.

JUSTICE JORGENSEN delivered the judgment of the court, with opinion.
Justices Zenoff¹ and Brennan concurred in the judgment and opinion.

OPINION

¹Justice Zenoff participated in this appeal, but has since been assigned to the Fourth District Appellate Court. Our supreme court has held that the departure of a judge prior to the filing date will not affect the validity of a decision so long as the remaining two judges concur. *Proctor v. Upjohn Co.*, 175 Ill. 2d 394, 396 (1997).

¶ 1 After the termination of her employment as a tenured teacher with plaintiff, the Board of Education for Rockford Public Schools, District No. 205, Winnebago-Boone Counties, Illinois (District), defendant Verna Rentsch sought a hearing before defendant the Illinois State Board of Education (ISBE). The hearing officer, Brian Clauss, granted Rentsch’s motion for a ruling that the District’s claims, based on the undisputed facts, did not constitute legally sufficient grounds for dismissal. The District petitioned the circuit court for administrative review (No. 18-MR-997). The court reversed in part, affirmed in part, and remanded the case for an evidentiary hearing.

¶ 2 On remand, a second hearing officer, defendant Michael S. Jordan, ordered Rentsch reinstated. The District again sought administrative review of the decision (No. 20-MR-483). The circuit court determined that the officer’s factual findings were against the manifest weight of the evidence and remanded the case for a new hearing. The court did not explicitly reach the issue of whether Rentsch’s termination was proper. Rentsch moved to reconsider, asking the court to remove the “remand” language from its order and to add “Final and Appealable” language so that she could take an immediate appeal and avoid the cost of a new hearing. The court granted Rentsch’s motion. Rentsch appeals. We affirm the circuit court’s judgment.

¶ 3 I. BACKGROUND

¶ 4 On October 10, 2017, the Board dismissed Rentsch, who taught at Eisenhower Middle School (Eisenhower) in Rockford, for failing to remediate the deficiencies in her performance during a 90-day remediation period. In a bill of particulars, the District determined that Rentsch failed to (1) appropriately manage classroom procedures, (2) appropriately manage student behaviors, and (3) engage students in learning. The administration had concluded that Rentsch failed to complete the remediation period with an evaluation of “satisfactory” or better and, therefore, dismissal was required.

¶ 5 By way of background, in an April 22, 2016, summative evaluation, Rentsch was rated as “needs improvement,”² based on findings that she (1) was deficient in engaging students in learning, (2) needed assistance in improving the planning for and preparation of her students, (3) needed assistance in improving upon classroom procedures and student discipline, and (4) needed assistance in ensuring she met her responsibilities regarding special education students, *e.g.*, completing paperwork in a timely manner and ensuring that she was prepared for special education meetings. Afterwards, Rentsch requested validation of the rating, which was subsequently validated by Amanda Shuga, a peer teacher through the District’s Peer Assistance and Review (PAR) program.

¶ 6 In the PAR program, Rentsch was provided support. At the conclusion of the PAR program, a December 21, 2016, summative evaluation report rated her performance as “needs improvement.” She was again found to be deficient in managing classroom procedures, managing student behaviors, and engaging students in learning.

¶ 7 Rentsch was placed in remediation, and a consulting teacher, Carol Wehmeyer, was appointed to assist her. After a remediation plan was implemented, Rentsch was observed and evaluated on three occasions/cycles: April 6, 2017; May 18, 2017; and September 28, 2017. The evaluator, Elliott Kallstrom, determined that Rentsch failed to satisfactorily complete the remediation plan (*i.e.*, she was rated as “needs improvement”). Specifically, she failed to (1) improve the teaching and learning environment due to (a) her failure to manage classroom

²Under section 5/24A-5(e) of the School Code (105 ILCS 5/24-A5(e) (West 2018)), teacher performance is rated as “excellent,” “proficient,” “needs improvement,” or “unsatisfactory.”

procedures and (b) her failure to manage student behavior, and (2) engage students in learning. Thus, she was dismissed.

¶ 8 The District noted prior incidents of deficient performance in its bill of particulars, including (1) unsatisfactory performance rating as a nontenured teacher (March 27, 2003); (2) written reprimand for failing to complete assigned professional duties and responsibilities (September 22, 2010); (3) written reprimand for altering a schedule without prior authorization (October 27, 2010); (4) unsatisfactory performance ratings (December 15, 2010, and March 8, 2011) based on failure to improve teaching and learning environment and to engage students in learning; after remediation, receiving a rating of “satisfactory”; (5) written reprimand for misappropriating District equipment—taking an iPad without permission and losing it—and for violating District’s ethics policy—using District time and resources to obtain personal benefit; (6) verbal reprimand for making statements to parents that could be viewed as coercing them into making decisions against their wills with regard to bilingual education (December 19, 2014); (7) verbal reprimand for insubordination and for failing to complete an annual review for a student (December 13, 2016); and (8) verbal reprimand for making unprofessional statements to her students and for failing to create a positive atmosphere in her classroom and workplace (September 12, 2017).

¶ 9 A. Prehearing Motion

¶ 10 On April 24, 2018, Rentsch filed a prehearing motion to dismiss, seeking a ruling that the District’s claims, based on the undisputed facts, did not constitute legally sufficient grounds for dismissal. As relevant here, Rentsch argued that the School Code (105 ILCS 5/1-1 *et seq.* (West 2018)) permits districts to place tenured teachers in remediation only if they are rated “unsatisfactory” and, thus, her placement in remediation based on a “needs improvement” rating

was unlawful and her dismissal was invalid. The District responded that the School Code does not prohibit a school district from placing a “needs improvement”-rated teacher in remediation and that its evaluation plan was developed in cooperation with the Rockford Education Association (REA), the teachers’ union. The District also argued that its plan complied with the School Code, but it acknowledged that the statute does not address what occurs when a teacher who receives a “needs improvement” rating subsequently does not achieve a “satisfactory” or “proficient” rating. Given the lack of guidance, the District and the REA had agreed that any teacher in that situation would begin remediation.

¶ 11 B. First Hearing Officer’s Decision

¶ 12 On August 6, 2018, the first hearing officer, Claus, determined that the District improperly placed Rentsch into remediation following a “needs improvement” rating. A teacher may be placed in remediation, he found, only after an “unsatisfactory” rating. Rentsch’s dismissal was improper because she was placed in remediation. The hearing officer granted Rentsch’s motion.

¶ 13 C. First Circuit Court Decision

¶ 14 The District sought administrative review of the hearing officer’s decision. On June 27, 2019, the circuit court (Judge Lisa R. Fabiano) reversed in part and affirmed in part and remanded the case for an evidentiary hearing. The court found that the School Code does not address what happens to a teacher who fails to successfully complete a professional development plan (although it does address what happens to a teacher who fails to successfully complete a remediation plan). It disagreed with the hearing officer’s determination that the District’s and the REA’s agreement that a teacher rated less than “proficient” be placed in remediation violated the School Code. The court determined that this “would lead to an absurd result,” where “a teacher [would] get[] caught in an endless cycle of being rated as needs improvement, placed in a professional development

plan, receiv[e] another needs improvement rating, and be[] placed in another professional development plan, on an[d] on, never improving.” A teacher placed in remediation must obtain a “proficient” or better rating or face dismissal. Even if that teacher improves enough to obtain a “needs improvement” rating, he or she still faces dismissal. However, a teacher who starts with a “needs improvement” rating but never improves is not put in remediation and, thus, never faces dismissal. This result, the court found, was unreasonable and unjust. Accordingly, because the School Code was silent about the consequences of receiving a *second* “needs improvement” rating, such as occurred here, after completion of a professional development plan, the agreement between the District and the REA, did not violate the statute. Therefore, the hearing officer’s ruling that Rentsch’s dismissal was improper because she was placed in remediation was erroneous.

¶ 15

D. Hearing

¶ 16 The administrative hearing commenced on December 19, 2019. In opening, the District noted that, on April 22, 2016, Rentsch received a “needs improvement” rating. Pursuant to the District’s evaluation plan, she was required to undergo a plan for improvement, and she opted in to the PAR program. The “needs improvement” rating was validated by Shuga, the PAR program commenced, and a plan was developed with Shuga and Kallstrom, who was the primary evaluator and an assistant principal at Eisenhower. The plan ran from 2016 to January 2017. At the end of the period, a summative evaluation rated Rentsch as “needs improvement.” (Rentsch challenged this, and a PAR panel reviewed the evaluation and agreed that she was properly rated and needed to undergo remediation.) As a result, Rentsch was placed in remediation. Remediation occurred during the winter and spring of 2017 and through September 2017. Rentsch again received a “needs improvement” rating. Under the statute, according to the District, dismissal was required.

¶ 17 Rentsch, in opening, maintained that the process was flawed and that Kallstrom did not follow the evaluation standards set forth in the “Danielson” framework (see Charlotte Danielson, *Enhancing Professional Practice: A Framework for Teaching* (2d ed. 2007)). Also, she argued, the other teachers did not have modeling capacity for her, and Rentsch was placed in a special education class but was not a certified special education teacher.

¶ 18 *1. District’s Case*

¶ 19 a. Matthew Vosberg

¶ 20 Matthew Vosberg, deputy superintendent for the District, testified that he has worked in education for 26 years, 7 as a teacher and 19 as an administrator. He described the statutory framework concerning teacher evaluations. Districts use the Danielson framework to evaluate teachers, and the District adopted this model and has trained and certified principals and assistant principals on the model consistent with State requirements. Tenured teachers must be evaluated every other year, though districts can evaluate them more often if they choose.

¶ 21 The District’s evaluation plan was developed by agreement with the REA. Vosberg was familiar with the 2016-17 edition of the District’s evaluation plan. He explained that the plan required a tenured teacher to receive at least two observations, one formal and one informal. A formal observation is prearranged and requires a preconference, where the administrator and the teacher meet in advance of the observation and discuss particulars and anticipated lessons. Also, the teacher may share lesson goals, and there is a postconference. An informal observation is unannounced and is conducted by administrators, who “jump into a classroom and make an observation.” To be part of a summative rating, an informal observation must include a postconference with the teacher within 10 days of the observation and a review of the collected

evidence. Evidence under the Danielson framework includes student engagement, *i.e.*, the number of students actively participating/intellectually engaged in a lesson.

¶ 22 A professional practice rating is based on the observations and is 75% of the teacher's overall rating. Student growth is 25%. A matrix, which is jointly developed with the REA, sets forth four different statutorily prescribed rating categories: "unsatisfactory," "needs improvement," "proficient," and "excellent." A summative performance rating is determined by referencing the professional practice rating against the student growth rating.

¶ 23 The Danielson framework is an evidence-based tool used to evaluate teachers. All District evaluators, pursuant to an agreement with the REA, are required to employ the Danielson framework. Vosberg explained that there are four domains in the Danielson model: domain 1 is planning and preparation; domain 2 is environment, which is classroom management; domain 3 is overall instruction, including student engagement; and domain 4 is planning and responsibilities. Each domain has components/subcategories, and evaluators are trained to focus on components that are more descriptive and collect evidence, such as quotes from the students, aligned to those components. There are 24 subcategories. Each domain is not rated equally.

¶ 24 When a tenured teacher receives a "needs improvement" rating, pursuant to the District's evaluation plan, he or she can either continue to work with an administrator and participate in a "needs improvement" plan or opt to participate in the PAR program, where he or she will obtain support from an REA member to help with deficiencies. PAR was developed to engage the union around the evaluation process, build trust in the ratings, and support the District's best teachers. The PAR consulting teachers are the District's best teachers. The intent of the plan of improvement is to focus on the areas needing improvement.

¶ 25 Addressing PAR, Vosberg testified that it is an evidence-based evaluation. He explained that evaluations should not be based on subjective opinions. The governing body of PAR is the PAR panel, which is comprised of four REA members and four administrators. Two peer consulting teachers (PCTs) work in PAR. Before a struggling teacher starts the PAR process, a PCT will perform a validation of the “needs improvement” rating. Within five days of the signing of the agreement to participate in the PAR program, the PCT conducts two unannounced observations (informal observations) and collects evidence to ensure that the rating that was given was valid. Once this occurs, a plan for improvement is created and the PCT works with the teacher in developing and implementing the plan and coaches the teacher for up to 90 days. The primary evaluator, who is either the building’s principal or assistant principal, is also involved in building the plan for improvement.

¶ 26 If, after going through the PAR process, a teacher receives a “needs improvement” rating and a “does not meet standards” rating from the PCT, then the teacher can either choose to have a reconsideration hearing with the PAR panel or proceed to a remediation plan. A reconsideration hearing consists of a meeting, set up by the PAR coordinator, Ashleigh Van Thiel, with the PAR panel, the evaluator, and the teacher. There is equal representation on the panel, and each person may present evidence.

¶ 27 If a teacher with a “needs improvement” rating goes through PAR and thereafter does not receive either a “proficient” or “excellent” rating, then the teacher must go through a statutory 90-day remediation process. This process was negotiated with the District and the REA. During remediation, an administrator works with a struggling teacher. The REA helps select a consulting teacher to work with the teacher on the deficiencies identified in the evaluation to try to improve the teacher’s performance to a “proficient” rating. During remediation, three evaluations are

conducted during each of three cycles during the 90-day period and then a rating is given. Thus, at the end of remediation, a teacher would have been observed up to nine times and evaluated three times. If, at the end of the remediation process, a teacher fails to attain a rating equal to or better than “proficient,” then, per the statute, the teacher is terminated.³ The school district does not have discretion under the statute.

¶ 28 At the end of the PAR process, Rentsch requested reconsideration by the PAR panel. Vosberg was on the panel during the review, as were representatives from the REA. After receiving evidence, the eight-person panel meets in private to review the case and vote. Six out of eight (a supermajority) would have to vote to either validate the rating or not validate it.

¶ 29 Vosberg explained that Kallstrom was an assistant principal at Eisenhower at the time and served as Rentsch’s primary evaluator during the PAR process and a subsequent remediation process. Shuga was Rentsch’s PCT during the PAR process, and she appeared at the reconsideration meeting and presented evidence with respect to her observations of Rentsch. Rentsch also appeared at the meeting and disputed the rating. She did not present any new evidence that was not part of the evaluation process. Shuga had stated that Rentsch did not make progress on her goals, and Vosberg asked Rentsch if she had any evidence that showed she had made progress. He recalled Rentsch asking, “What goals?” She did not know, according to Vosberg, what goals were referenced. Kallstrom sat next to Rentsch and helped her look through the documentation to find the goals. Vosberg was surprised because the plan for improvement is built around goals for improvement. The PAR panel unanimously decided at the reconsideration

³The District’s 2016-17 evaluation plan, which was negotiated with the REA and sets forth the procedures for teacher evaluations, contains this provision.

meeting to uphold the rating. Consistent with the PAR handbook and the District’s evaluation plan, Rentsch was placed into remediation. During the remediation process, the consulting/cooperating teacher who worked with Rentsch was Carol Wehmeyer.

¶ 30 Vosberg was not involved in Rentsch’s remediation process but learned that she did not get a “proficient” or better rating. Per the statute, teachers are terminated if they do not make a “proficient” or better rating. The Board voted in October 2017 to dismiss Rentsch.

¶ 31 On cross-examination, Vosberg testified that Rentsch worked with special education students and bilingual students. At the time of her dismissal, she had worked at the District for 19 years. Vosberg did not participate in any evaluation of Rentsch or observe her. Kallstrom was the primary evaluator for the summative evaluation. Kallstrom was trained in the Danielson framework.

¶ 32 Rentsch had three goals established by Shuga, and there was a discussion at the PAR meeting about how she had remediated two domains requiring improvement under the goals. Domain 3c—student engagement—had not been remediated.

¶ 33 b. Amanda Shuga

¶ 34 Shuga, a PCT at the time of Rentsch’s case, has worked in the education field for 13 years, including teaching for 8 years. She is a qualified evaluator. Danielson, Shuga testified, is the evaluation instrument adopted by the State and the District, and Shuga is certified in it.

¶ 35 As a PCT, Shuga works alongside teachers who have been identified as needing improvement and have opted into the PAR program. She works to support teachers, including by “pushing” into classrooms, doing professional development, facilitating reflective conversations, and bringing in resources. She works collaboratively with teachers to address areas that are on their “needs improvement” plans.

¶ 36 Addressing the validation process, Shuga testified that she does not receive background information before commencing the process. The validation observations noted that Rentsch was on the phone when Shuga arrived. She got off the phone and interacted with students. During her first two informal observations, Shuga noted uneven-natured exchanges between Rentsch and the students during interactions and procedural instructions. The students were not working with Rentsch and not fully participating in the activity, and some were off task. Rentsch sought to engage the students in conversation, but not always with an effective progression of learning. There were also limited amounts of assessment in the classroom. Shuga recommended that Rentsch enter the PAR program because the evidence validated the prior “needs improvement” rating.

¶ 37 The plan-for-improvement meeting identified the areas within the four domains needing improvement: 1e (planning, correct coherent instruction), 2c (classroom procedures), 2d (managing student behavior), and 3c (planning as a way to enhance student engagement). When Kallstrom shared with Rentsch the areas of practice she needed to focus on to improve her overall practice, he was “met with resistance.” However, Rentsch signed the plan.

¶ 38 In the prior year, Rentsch had informed Shuga that she was teaching a special education bilingual class. After the summer of 2016, Shuga inquired if Rentsch was still doing so, and Rentsch responded that the two groups (presumably, monolingual and bilingual) were put into one class.

¶ 39 Shuga testified that, during her tenure as a PCT with Rentsch, she never saw any lesson plans. Shuga stated that there is a policy requiring teachers to utilize lesson plans, and lesson planning is a best practice and promotes connection from day to day and yields student learning. It also makes it possible to progress through the content and to assess it. Lesson plans are also

required as part of the collective bargaining agreement between teachers and the District. Shuga did not believe that Rentsch prepared lesson plans, because Shuga never saw them, “though solicited multiple times.” Shuga testified that she asked Rentsch on more than one occasion (at least half a dozen) to see her lesson plans and she never showed her any or provided any explanation. One time, Rentsch stated, “I’ll get them to you.”

¶ 40 Shuga arranged for Rentsch to observe four classes with similar content and similar grades in other buildings. However, Rentsch’s reaction was that she could not apply to her students what she observed.

¶ 41 Shuga had about 15 coaching sessions with Rentsch. Rentsch’s PAR plan for improvement was to run through January 9, 2017. However, by mid-October 2016, Shuga had not yet observed Rentsch teach a lesson either in a small group or to the whole group. This was unusual. Shuga “had yet to see a lesson take place in lieu of multiple testing formats, different languages, different assessments. There was no instruction plan for the times that I was there.”

¶ 42 The December 21, 2016, District summative evaluation report, which was used at the end of the PAR process by Kallstrom, rated Rentsch as “needs improvement.”

¶ 43 On cross-examination, Shuga testified that she is not special education certified, nor is she bilingual. However, Shuga’s observations were not conducted in a bilingual setting. Shuga did not have access to Rentsch’s students’ individualized education programs (IEPs), nor did she know the level of special education needs for the students she was observing during the initial validation observation. Shuga discussed with Rentsch the students’ needs as related to their IEPs. Shuga did not review the IEPs, but she took Rentsch at her word as to what the students’ needs were. Shuga was advised that Rentsch was teaching special education students.

¶ 44 At no time during the PAR panel reconsideration meeting did Rentsch object to Shuga's presentation of the narrative or evidence regarding Shuga's work with Rentsch during the PAR process.

¶ 45 Shuga testified that she conducted formal observations on November 29, 2016, and December 14, 2016. She conducted one informal observation on November 1, 2016. Shuga did not observe Rentsch while Rentsch was serving as a substitute teacher. (There is a possibility that a teacher who is substituting for another class and given one hour's notice would not have adequate time to prepare for those students on that day.) PCTs issue only "meets standards" or "does not meet standards" ratings. ("Does not meet standards" is anything below proficiency, and "meets standards" is proficient or excellent.) Shuga concluded that Rentsch did not meet standards. Shuga was not involved in Rentsch's remediation process.

¶ 46 Within one year of acting as a PCT, Shuga accepted an administrative position in which she did not directly supervise teachers. She did not know whether her accepting that position within that timeframe was "specifically prohibited by PAR regulations agreed to by the [D]istrict and the REA." She denied that she was removed from her administrative post after the REA found out about her administrative promotion. Rather, she voluntarily changed her position, and the REA posed no objection and, in fact, agreed to it. While Shuga was Rentsch's PCT, she was not aware that she was going to be offered the administrative position that she ultimately took after she left her role as a PCT. She testified that it was not even in the realm of possibility for her at that time, and she was not even aware that the position existed. She did not view her role as a PCT as a stepping-stone toward an administrative position.

¶ 47 During the fall of 2016, Rentsch taught instructional courses, *i.e.*, those designed for students with special needs (some, but not necessarily all, with IEPs or “504s”⁴), and they were smaller groups of students than the contracted maximum for a middle school class. The classrooms Shuga observed Rentsch teaching in during that semester were *not* bilingual; they were for instructional science and English language arts. Shuga added, “No indicated bilingual notes are present.”

¶ 48 c. Elliott Kallstrom

¶ 49 Kallstrom spent 13 years in the District, working 7 years as a special education teacher and 6 years as a special administrator, including at Eisenhower. He is a certified evaluator in the Danielson framework.

¶ 50 As assistant principal in charge of special education at Eisenhower, he had the responsibility to evaluate Rentsch during the 2015-16 school year. At the time, the Danielson framework was used to evaluate special education teachers. On April 22, 2016, Kallstrom performed the summative assessment of Rentsch for that year. It incorporated the two formal observations and the one informal evaluation, as well as student growth information. During an observation, Kallstrom recorded quotes from students or Rentsch, tracked time for transitions, tracked how much students engaged, and recorded the technique Rentsch used to teach the students. He also noted if there was respect and rapport between the students and Rentsch. Rentsch was rated as “needs improvement.” A conference was held afterwards, and Kallstrom and Rentsch were present.

⁴A “504” plan is an education plan for children with disabilities under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794).

¶ 51 Rentsch's PAR plan occurred between May 23, 2016, and January 9, 2017. Five observations occur during the PAR period: "two *** by the administrator, two *** by the [PAR] person, and the last one by both the administrator and the [PAR] person." Rentsch's PAR evaluation, dated December 21, 2016, listed her grade levels as sixth through eighth. The subjects taught were English language arts, science, and math, and co-taught (*i.e.*, the general education students are taught in the same classroom as the special education students). During that semester, Rentsch taught special education classes: she had her own classes and co-taught others. Kallstrom could not recall if Rentsch taught solely bilingual classes that semester. He recalled that, during his observations, some classes were bilingual. Kallstrom did not speak Spanish at the time. Observations occurred on November 1 (Shuga), 8 (Kallstrom), 22 (Kallstrom), 29 (Shuga), and December 14 (Kallstrom and Shuga), 2016. The type of class listed was instructional English language arts. Kallstrom explained that instructional classes, as opposed to co-taught classes, consist of only students with IEPs. They capped out at 13 students, unlike a typical English language arts class, which has 30 students. Kallstrom testified that he could not recall if Rentsch taught classes in English or Spanish, but he guessed that there was "a lot" of English spoken, because he did not speak Spanish and wrote a lot of notes and quoted Rentsch in English. The summative performance rating was another "needs improvement" rating. An area noted for further development was domain 3c (student engagement). Rentsch had shown improvement in domains 2c and 2d.

¶ 52 After Kallstrom and Shuga presented their evidence to the PAR panel, Rentsch had the opportunity to respond. During that meeting, she was "very unprepared. She didn't bring anything. Like she didn't bring information or evidence. [Kallstrom] thought that was very odd." Vosberg asked Rentsch questions, and "she didn't know the answer to them. And he was just kind of like

how do you not know the—like it was very strange.” The PAR panel voted behind closed doors to uphold the “needs improvement” rating.

¶ 53 During the second semester of the 2016-17 school year, Rentsch was placed in remediation. Kallstrom participated in developing the remediation plan, which was reviewed by the REA and others. The deficiencies were in domains 2c, 2d, and 3c. Wehmeyer was assigned as an outside mentor (she did not teach at Eisenhower). Under the remediation plan, Kallstrom evaluated Rentsch three times and observed her multiple times. A separate summative evaluation report was generated for each of three cycles.

¶ 54 Kallstrom did not recall Rentsch acting as a substitute teacher during any of his observations, and she never brought it up to him. The remediation period occurred during the second semester of the 2016-17 school year and the first semester of the 2017-18 school year. At the end of the first cycle, on April 6, 2017, Rentsch received a “needs improvement” rating. Kallstrom’s observations were that Rentsch needed to work on establishing expectations for the students regarding the collection and distribution of materials so that it became an established routine (relevant to domain 2c). He also noted that she needed to establish a system in which most students were intellectually engaged in the lesson.

¶ 55 Kallstrom met with Rentsch during the remediation period, and her attitude toward the process was “[c]ombative.” She questioned or disagreed with the evidence he collected. Also, Rentsch was not receptive to the resources available to her. “[A]ny advice given to her was not taken.” The primary person giving her advice was Wehmeyer. The REA representatives who were present with Rentsch during meetings were not combative.

¶ 56 During a February 23, 2017, formal observation, Kallstrom had rated Rentsch as “needs improvement” in domains 2 and 3. He rated Rentsch “unsatisfactory” as to domains 2 and 3 during a formal observation on March 8, 2017.

¶ 57 The summative evaluation for the second cycle, dated May 18, 2017, reflects that Kallstrom rated Rentsch as “needs improvement.” His rating on the summative evaluation for the third cycle, dated September 28, 2017, was “needs improvement.” Rentsch refused to sign the form.

¶ 58 Kallstrom believed that Rentsch was treated fairly. The evidence was not biased. Evidence such as the number of students engaged, how long transitions take, and the number of redirects can be counted.

¶ 59 On cross-examination, when asked if Rentsch spoke Spanish to her special education students, Kallstrom testified that it was possible that she did so, “but if you look at my observations, you’ll see plenty of English in there.” At the time, Kallstrom was not fluent in Spanish and could neither read nor write the language. Kallstrom has a special education background and stated that special education students, who have IEPs, can require vastly different environments for learning.

¶ 60 Kallstrom testified that he evaluated other teachers who taught the same students whom Rentsch taught. The other teachers’ procedures were better, the students were intellectually engaged, and there were no disciplinary issues. The evidence he gathered for Rentsch was different. Rentsch provided a rebuttal to Kallstrom’s evaluations.

¶ 61 The District stipulated that, with respect to the final summative evaluation conducted at the end of Rentsch’s remediation plan—the September 2017 evaluation—the only domains/components considered were 2c, 2d, and 3c.

¶ 62 d. Matthew Vosberg

¶ 63 Vosberg was recalled and testified as to a printout of Rentsch’s licensure and relevant approvals. Rentsch’s license is specified as PEL, which means professional education licensure, and it was issued June 2, 1998, and was to expire on June 30, 2023. Her approval is listed as “Bilingual Learning Behavior Specialist I.” Vosberg testified that someone with this approval can teach a special education classroom and that this is consistent with ISBE regulations.

¶ 64 e. Evaluations

¶ 65 After a May 3, 2016, informal observation, Shuga noted that she entered the classroom and students were moving about the room. Rentsch was on the phone and then got off and instructed the students to be seated and look at their books. Shuga commented that the quality of interaction between Rentsch and the students was uneven, with occasional disrespect or insensitivity (with Rentsch instructing the students not to “waste her time” or to “stop wasting her time”). Rentsch attempted to make connections with individual students, but student reactions (such as “ignoring teacher” and “continued behaviors”) showed that her attempts were not entirely successful. Students showed limited commitments to complete their work on their own, as evidenced by the number of reminders that Rentsch issued. Her primary concern appeared to be to complete the task at hand, as all learning was referred to as tasks rather than objectives. The students who were not working with Rentsch were only partially engaged, as observed by the low number of students working throughout the class period. There was “much loss” of instructional time due to transitions. “[M]any students wander the classroom indicating confusion regarding the center they are to be in or the materials needed to complete their reading task.” Rentsch’s response to student behavior was “ineffective and students continue[d] to talk, take pictures with Ipads, or walk around despite warnings.” Rentsch did not convey to the students what they would be learning or ask them to explain their thinking. “Students indicate through body language, slouching, looking around,

and talking, that they don't understand the learning task/activity. Students indicate through their questions that they are confused about the learning task.”

¶ 66 After another May 3, 2016, informal observation, Shuga again noted that the quality of interactions between Rentsch and the students was uneven, with occasional disrespect or insensitivity. Rentsch was stern with some students and not with others regarding the same behaviors. She did not seek to make connections with individual students, and the only interactions that were observed were Rentsch telling the students what the students should be doing and the disciplinary repercussions and encouraging the students to remain focused on the task before them. Students exhibited a limited commitment to completing the work on their own, as documented by students observed looking around, walking around, talking within their centers, or talking to the teacher across the room. Rentsch did not use the correct science vocabulary for the unit observed. Students who were not working with Rentsch were only partially engaged, as noted through student lack of focus on the assignment, continuous teacher redirection, and the tally of “minutes owed to” Rentsch. A paraprofessional present in the room required frequent supervision. At no point did Rentsch convey to the students what they would be learning. Students indicated through their questioning that they did not understand what they were to be doing in their centers. Few students were intellectually engaged in the lesson. Learning tasks were only recall or had a single correct response method. Rentsch did not tell the students what high-quality work looked like and made limited effort to determine whether the students understood the learning task.

¶ 67 An informal observation by Shuga on November 1, 2016, reflects that a paraprofessional was present in the classroom. Shuga commented that Rentsch should continue working with the routines that she had implemented to encourage students to ensure that transitions and other

routines were accomplished smoothly. She also suggested that Rentsch strive to develop a behavioral culture where the students self-monitor and correct their own misbehaviors.

¶ 68 A November 8, 2016, informal observation (during the PAR process) by Kallstrom stated that a paraprofessional was present in the classroom. He also noted that it took 5½ minutes for five students to be in their correct center and working. Once in their centers, Rentsch called to a group of students and only two out of four students responded to the prompt to join her. Kallstrom commented that Rentsch needed to have quicker transitions and that instructional time was lost when students worked on transitioning. She could also use, he noted, assistance with student behavior, where one student was playing with a ball and another with a tube. A November 15, 2016, observation by Kallstrom of an eighth grade instructional English class reflected that a paraprofessional was present in the class. Kallstrom rated Rentsch as “needs improvement” in domain 3c, stating that, when working with a reading group, Rentsch needed to ensure that the other students are actively engaged and not merely sitting and staring. He also noted that it took three minutes for three students in the reading group to go to Rentsch after she called them to her.

¶ 69 Notes from a December 14, 2016, observation by Shuga reflected that a paraprofessional was present in the classroom. Rentsch was rated as “needs improvement” in domain 3c. The notes stated that students outside the small group discussion read about Halloween and other holidays or played “BrainPop” games about the South Pole. Students were passively engaged in materials because they were not aligned with the lesson objectives. Shuga suggested that students could read about the election or another research topic instead of reading about Halloween or holidays around the world, or they could participate in computer activity on the unit topic rather than on the South Pole.

¶ 70 A December 21, 2016, summative evaluation report (at the end of the PAR process) reflected that further development was needed in domain 3c. “The learning tasks and activities are partially aligned with the instructional outcomes but require only minimal thinking by the students and little opportunity for them to explain their thinking [] allowing most students to be passive or merely compliant.” Also, the report stated that the tasks or outcomes “require only one type of response when a variety would promote more student engagement.”

¶ 71 On December 21, 2016, at the end of the PAR process, Shuga noted that Rentsch had not met standards in domain 3c. In a January 23, 2017, rebuttal, Rentsch complained that Kallstrom was not well trained in the Danielson framework, because, at one point, he had erroneously informed her that he was not concerned about domain 3c. Rentsch also took issue with the use of the Danielson framework as an evaluation tool, claiming that it was meant to be a supervisory tool. She also stated that, because she had shown proficiency in domains 2c and 2d and only 3c remained as needing improvement, “improvement had been made.” As to 3c, she claimed that there were “philosophical differences” regarding whether the content was aligned with the curriculum. She complained about instructional material being above her students’ third-grade-or-below reading level. Rentsch stated that she believed that she was proficient in all areas of Danielson, which was too subjective of an observation tool and not appropriate for a special education classroom. She also complained that the evaluators did not spend sufficient time in her classroom.

¶ 72 A September 1, 2017, observation form completed by Kallstrom (based on his August 24, 2017, observation) stated regarding domain 2c that several students were not focused on Rentsch and that, while social studies was being taught, another student commented about math. He rated her as “needs improvement.” As to domain 3c, Kallstrom recorded that students stopped working when Rentsch moved away from their table. When Kallstrom asked four students what they were

learning, only two correctly responded. The other two were confused (“one said bell ringer and one said they were having trouble with their worksheet”). Kallstrom rated Rentsch as “needs improvement.”

¶ 73 Kallstrom’s notes from September 12, 2017 (based on a September 7, 2017, observation), reflected that the students were not always on task, *i.e.*, did not follow directions or were not clear on what they should be doing. For example, Kallstrom recorded that, at one point while Rentsch wrote on the board and read aloud, seven students were looking away, two students were having a side conversation, another student had not followed Rentsch’s direction to sit by the wall, and another waved his hands in the air and was not paying attention to Rentsch. When Rentsch asked the class to read out loud something she had written, she read it by herself “instead of [the] whole class saying it together like she requested.” She was rated unsatisfactory on domain 2c. As to domain 3c, Kallstrom recorded that 3 of 11 students’ hands went up to answer a question Rentsch asked. Afterward, 5 out of 11 students were writing instead of listening. At another point, she asked another question, and only 1 hand went up. While she engaged with the student who answered, 3 students were writing and 3 were looking away (instead of paying attention to Rentsch and the other student). Near the end of the period, Rentsch wrote a paragraph in Spanish on the board. While this occurred, two students laid their heads down on their notebooks, two “were squirming and smiling (not writing or paying attention),” two switched seats, two had a side conversation, one stood up, one went to the back of the room, one danced, and several others looked away and did not write. Kallstrom rated Rentsch “unsatisfactory.”

¶ 74 A September 20, 2017, informal observation by Kallstrom reflected that he believed that classroom procedures were inconsistently implemented. He also noted that instructional time was lost due to extended transitions and that student discipline was inconsistent. Kallstrom wrote that

intellectual engagement was limited and that students needed more opportunity to be intellectually, as opposed to passively, engaged. He recorded instances where students were not paying attention to Rentsch or following her instructions. He rated her as “needs improvement.”

¶ 75 A September 28, 2017, summative evaluation (third cycle of remediation period) stated that Rentsch had established improved procedures to ensure more productive engagement and smoother transitions between small group and large group activities and established and used an improved system for student behavior that students had shown to understand. Areas identified for further development included to ensure that students are productively engaged during small group and independent work; establish and implement consistent procedures that ensure smooth transitions between whole group and small group activities; establish and implement consistent routines for collecting and distributing materials and supplies that work efficiently; consistently apply classroom management techniques that result in positive and appropriate student conduct behaviors, engagement, and learning; ensure that students are intellectually engaged in the lesson; and ensure that the pacing is appropriate so students can be intellectually engaged in the lesson.

¶ 76 The District rested.

¶ 77 *2. Rentsch’s Case*

¶ 78 *a. Verna Rentsch*

¶ 79 Rentsch testified on her own behalf. Her undergraduate degree is in elementary education, and she has master’s degrees in reading, special education, and educational administration. Rentsch is currently working on her doctorate degree. She was employed as a teacher by the District for over 19 years. Currently, she is employed at North Boone High School as an English-as-a-second-language teacher. She has also worked for Rock Valley College for over 20 years.

¶ 80 Prior to her dismissal by the Board, she had never been dismissed. Rentsch testified that, as of April 22, 2019, *i.e.*, after her tenure with the District, she was qualified to teach monolingual special education students. Prior to that time, she was not certified to do so.

¶ 81 In 2016, Rentsch was a bilingual special education teacher. She taught instructional level classes (*i.e.*, classes where all the students have IEPs). The following year, she would “push into” the general education classrooms, helping the special education students.

¶ 82 After receiving a “needs improvement” rating in April 2016, Rentsch reflected on herself and she wrote a rebuttal and sought classes or articles and spoke to colleagues about it. Afterwards, she voluntarily entered the PAR program, which lasts 90 school days. Shuga worked with Rentsch. Rentsch denied failing to give Shuga her lesson plans on a consistent basis. According to Rentsch, every week she gave her lesson plans to the secretaries. Shuga had access to them. Rentsch could not recall if Shuga directly asked her for her lesson plans. Shuga did not speak Spanish, and, during the 2016-17 school year, Rentsch spoke more Spanish in class than the following year (when the school combined the monolingual and bilingual students).

¶ 83 During the PAR process, Rentsch worked with Shuga to address domain components 2c, 2d, and 3c. They “worked well together.” However, Rentsch stated that she believed she was the only bilingual special education teacher in the District and asked to go outside the District to observe other special education teachers. However, her request was denied. “So I felt like if you really want me to do well, I need someone who’s in my field and that nexus.” Shuga took Rentsch to several schools, but Rentsch stated that either they “served as a negative model for what she was trying to have me see in those domains or it just wasn’t present when we went. So she couldn’t produce anyone who could model for me appropriately what she was trying to have me do.” The District did not provide videotaped lessons or provide modeling. Rentsch testified that she was

cooperative with Shuga's requests. In one e-mail, Shuga stated that she shared Rentsch's suggestions with other teachers. According to Rentsch, "Ms. Shuga and I were very—we hit it off very well and both saw eye to eye." During the PAR process, on April 27, 2017, Shuga came in to observe Rentsch for a validation and Rentsch was substitute teaching for another teacher. Thus, she would not have had a lesson plan for those students that day.

¶ 84 Rentsch believed that she was making progress by December 2016. As to student engagement, Rentsch noted that her students had completed research papers of at least three-to-five pages in length. She believed that this was "pretty good" for them because most of her students had a pre-K-to-third grade reading level. She also gave her students a developmental spelling test, and it showed growth. For English language arts, Rentsch had the students work in small groups, and she would "home in" on one group to address individual students' needs. She would then rotate through the groups. Rentsch did not believe that Kallstrom was following the Danielson framework when he evaluated her. To her, he needed explanations in the framework, which she provided.

¶ 85 Addressing her remediation plan, Rentsch testified that she did not agree with it. After the PAR process, she was not rated proficient in 3c—student engagement. On one occasion, Kallstrom took Rentsch to a special education teacher's room to observe, but, afterwards, he told Rentsch that the teacher was not satisfactory. Thus, she was not a good model for what Rentsch should have been doing. Kallstrom never provided a model for Rentsch, nor did Shuga. Wehmeyer did briefly model for Rentsch but was not familiar with her students.

¶ 86 According to Rentsch, she was not provided with adequate reading materials for her students. Her students read and comprehended at lower levels than the level in the textbooks she

was provided. During the 2016-2017 school year, Rentsch was given too many students. Her social studies class had 17 or 18 students.

¶ 87 Addressing the April 6, 2017, summative evaluation report (*i.e.*, at the end of the first cycle of remediation), Rentsch noted that under her signature she wrote that she signed it in protest, because Kallstrom did not correct certain information in the document. For example, contrary to Kallstrom's notes, groups were not chosen at random and the goal she gave was to identify patterns in Pascal's triangle, not to fill in the triangle. Rentsch refused to sign the September 28, 2017, evaluation (*i.e.*, at the end of the second cycle of remediation). She testified that, many times during postconferences with Kallstrom, she brought student work for him to review, but he would not review it.

¶ 88 Rentsch denied that she was combative during the PAR and remediation processes. She stated that she was trying to better herself by all means.

¶ 89 Rentsch wrote a rebuttal to a December 21, 2016, summative evaluation (*i.e.*, at the end of remediation), stating that she disagreed with the evaluation, adding that her fundamental issue was with the inconsistencies throughout the evaluations. She noted that Danielson is not supposed to be used as a checklist (*i.e.*, expecting to see 22 of the components in three observations). She claimed that, at one point, Kallstrom told her that she did not need to be concerned about 3c, but he later graded her down for it. She took issue with Kallstrom's critique under 3c, stating that it should have been included under 2c. Kallstrom also critiqued Rentsch's provision of a multiplication chart to a student. Rentsch explained that the student's IEP provided that he was to have such a chart in his math class because the student had short-term memory issues. As to 2d—student behavior—Rentsch believed that Kallstrom unfairly criticized her for treating two students' disciplinary issues in different ways, where, she explained, she used different approaches

given the students' issues. Specifically, she did not verbally praise one student because she was utilizing an awards system with him.

¶ 90 Addressing Kallstrom's critique of transitions, Rentsch explained that special education students often need more transition time between subjects. They might require more than one reminder to move. Kallstrom took issue with three-minute transitions, but five minutes is considered proficient. Addressing student engagement, Rentsch testified that her students showed an increased level of proficiency during her tenure. They made more than one year of gains in reading, and their MAP scores (a measure of academic progress) improved.

¶ 91 Rentsch did not believe that she was treated fairly by the District. The evaluations were "too subjective" and "not evidence-based enough." She did not believe that she should have been dismissed because she was not rated highly enough on 1 out of 22 components of the Danielson framework.

¶ 92 On cross-examination, she testified that she is not a certified evaluator in the Danielson framework. She has never formally evaluated a teacher, but she has done so informally.

¶ 93 Rentsch did not believe that her bilingual learning behavior specialist I approval permits her to teach in monolingual special education classrooms. She informed Shuga and Kallstrom of this. Her classes were mixed. During the 2015-16 school year, all of her students were bilingual but, the following year, some were not bilingual.

¶ 94 Addressing her claim that she was substituting for another teacher while Shuga conducted one of her validation observations, Rentsch agreed that payroll records would have reflected that she was paid for substitute teaching during the timeframe. Rentsch testified that it was a combined class, so it would not be on paper.

¶ 95 She perceived that, in the District, there were no other bilingual special education teachers outside her school. As to her claim that she, at times, had too many students in her classroom, Rentsch agreed that she had a paraprofessional in her classroom in the spring of 2017.

¶ 96 Rentsch testified that she was not adequately provided supports during the PAR process but agreed that she never told the PAR panel of this. She did, however, inform Shuga, but she was not satisfied with Shuga's responses. She did not approach the PAR panel, because Shuga was helping her and they were working well together.

¶ 97 b. Kevin Ryan

¶ 98 Kevin Ryan, a computer technology and publications teacher at Eisenhower, was also a building representative for the REA, including during the 2016 and 2017 school years. Ryan observed the conferences during the end of Rentsch's remediation process. He was present during the informal conferences, the postconferences, and the evaluations. However, Ryan testified that he was not involved during the first and second cycles of Rentsch's remediation period, which occurred during the spring semester of the 2016-17 school year.

¶ 99 On several occasions during the meetings, Kallstrom expressed to Ryan frustration about understanding where in the Danielson framework to put a particular observed action. Kallstrom had trouble determining where certain actions would fit. During the meetings, Jeff Carlson, the principal, gave Kallstrom information, *i.e.*, by rephrasing terms or words. Kallstrom also appeared to be confused as to his recordkeeping, including dates.

¶ 100 The District's evaluation plan requires that a post-observation conference be held 10 days after a formal observation. In Rentsch's case, that deadline was not met, including for observations for the May 3, 2016, summative evaluation, where two of the conferences were over one month later.

¶ 101 At the beginning of the 2016-17 school year, the District’s scheduling software “crashed” and personnel utilized handwritten schedules. This resulted in classes, including some of Rentsch’s, with more than the collectively bargained for maximum number of students. It took one quarter to remedy.

¶ 102 During meetings Ryan attended for Rentsch’s reviews, Kallstrom discussed goals for Rentsch, but, according to Ryan, his goals were vague and unhelpful for a teacher trying to reach a specific mark to demonstrate competence. Rentsch asked Kallstrom for specific goals, and he never provided them.

¶ 103 In one case, early in the school year, an autistic child did not realize that his seat had been reassigned and he objected when Rentsch directed him to his new seat. Kallstrom criticized Rentsch in an evaluation, noting that proper classroom procedure would have resulted in the child knowing where to go and without objection. Kallstrom also criticized Rentsch for being on the phone with a nurse. Ryan explained that a student was experiencing a serious medical issue and Rentsch was having trouble contacting the nurse. This occurred for four minutes at the beginning of a class. Kallstrom’s evaluation did not explain the reason for the lack of primary instruction during that time. Eventually, Carlson agreed that the full context should be included in the notes. Kallstrom also criticized Rentsch because her students did not have their pencils sharpened or their books opened. Ryan stated that it is not uncommon for students to not be as prepared as they should be when starting a lesson. Also, Kallstrom did not specify how many students were unprepared.

¶ 104 During the evaluation process, Rentsch had student overages and no paraprofessionals in the class. This was brought up to Kallstrom, who was unsympathetic. Ryan had a conversation with Kallstrom around September 1, 2017, regarding the percentages of students not being engaged, which Ryan described as “nonsensical.” A number was eventually provided showing

that, in fact, 80% of the students were engaged. Ryan stated that this was a “pretty solid number.” When Carlson and Kallstrom stated that this was insufficient, Rentsch and Ryan asked for a specific number that would be sufficient, and they were told “More.”

¶ 105 Rentsch’s remediation process was “somewhat frustrating. Issues that she had been found proficient on through the PAR process were being added to the remediation, which was unnecessary, in [Ryan’s] opinion.” Kallstrom did not speak Spanish and, thus, there was only one class he could evaluate on a regular basis—a social studies class with an overage of students and not staffed with a paraprofessional. “[I]t was quite a handful.” However, on cross-examination, Ryan testified that, on February 23, 2017, Kallstrom observed Rentsch’s eighth grade instructional math class. On March 8, 2017, Kallstrom observed an eighth grade instructional language arts class. On April 4, 2017, he observed an instructional math class. On April 25, 2017, he observed Rentsch during an eighth grade instructional science class. On May 3, 2017, he observed an eighth grade instructional math class. On May 16, 2017, he observed an eighth grade instructional math class.

¶ 106 Ryan further testified that, at the middle school level, teachers are allowed to teach one subject that they are not fully certified in. However, it is not a best practice.

¶ 107 In Ryan’s opinion, Kallstrom was not providing fair and accurate evaluations of Rentsch’s ability. Ryan believed this because Kallstrom’s tone, his unwillingness to acknowledge anything positive that Rentsch would bring up in the evaluation, his vagueness, and the lack of documentation put Rentsch at a disadvantage. “[T]he comport of the administration was incredibly hostile.”

¶ 108 On cross-examination, Ryan testified that the REA never submitted a grievance concerning the excessive gap between the October 6, 2015, observation and the November 13, 2015,

postconference. Further, the REA did not grieve the overage issue in the classrooms during the 2016-17 school year (but did do so during the following year).

¶ 109 Reviewing a District exhibit, Ryan testified that Kallstrom's notes reflected that zero students talked to their partners and zero students went on to the second worksheet when done writing their goals; thus, the level of student engagement was zero. In other notes, Kallstrom recorded that students were not complying with instructions when Rentsch was not looking at the students. Kallstrom asked four students what they were learning. Two got it correct, and two were confused.

¶ 110 *3. District's Rebuttal*

¶ 111 a. Matthew Zediker

¶ 112 Matthew Zediker, the District's chief human resources officer, testified that he ensures that payroll records are accurately kept. If a District teacher is asked to substitute teach for another teacher during that teacher's planning period, to receive payment, the teacher must submit paperwork to the proper persons for input to the payroll department. Zediker identified a payroll report for Rentsch for April and May 2016 that showed two missed planning periods, where Rentsch worked and was paid. There were no dates when she substitute taught during one of her planning periods and was paid between April 27, and May 9, 2016. On cross-examination, Zediker conceded that it was possible that, when classes are very small, they are combined and no substitute pay is provided for a teacher who covers for another.

¶ 113 Zediker also identified an employee position report that listed bilingual resource teachers across the District. It also identified bilingual teachers in special education classrooms. The report encompassed the 2016-17 school year. The report reflects bilingual or special education teachers who worked in the District during that school year.

¶ 114

b. Matthew Vosberg

¶ 115 Vosberg was called again and testified that the PAR panel is comprised of four REA members (who are selected by the REA with approval from Vosberg) and four administrators (selected by Vosberg, with REA approval). The REA has a co-chair and Vosberg is the co-chair for the administration. Vosberg did not have any more or less authority than the REA co-chair.

¶ 116 The PAR panel reviews the evidence in the evaluations and the rating and determines if the rating would be given by a reasonable evaluator. After Shuga and Rentsch provided their statements and any evidence, the panel privately met to discuss the evidence. The vote was unanimous, 8 to 0, to affirm the rating. Vosberg denied that he directed the PAR panel as to what the outcome should be, and he stated that he did not question the panel. The panel had a discussion, and there was no dissent with respect to the outcome of Rentsch's case.

¶ 117 Vosberg testified that, during the first quarter of the 2017-18 school year, Rentsch was assigned the following numbers of students: (1) first period: 5 students; (2) third period: 11 students; (3) fifth period: 8 students; (4) sixth period: 1 student; and (5) seventh period: 9 students. These are the students who were entered into Rentsch's grade book that would have been on her roster for the first quarter. They are the students for whom she was responsible.

¶ 118

E. Second Hearing Officer's Decision

¶ 119 On May 26, 2020, the second hearing officer, Jordan, reinstated Rentsch. The officer found that the process was intended to be fact based, but was not, and the Danielson process was not implemented as intended. "The conclusions drawn here, based on credibility determinations alone, support the claims that flaws existed and that the results were invalid." The hearing officer faulted the District's witnesses for allegedly engaging in selective reporting, and he took issue with their lack of proficiency in Spanish and their alleged lack of knowledge in "dealing with special

education students.” Although the officer did not find actual bias, he indicated that “implicit or unconscious bias may have existed as supported by the testimony of Mr. Ryan—who himself seemed candid, forthcoming, and knowledgeable.” The hearing officer found that neither Rentsch nor Shuga were certified/endorsed in special education, “although most if not all the students assigned to [Rentsch] had special needs and many had language challenges since English was not their first language.” He also determined that the contents of the IEPs were not addressed. He noted Rentsch’s complaints about class size and determined that the District did not adequately rebut this evidence. “There were only general denials about class size and case load.”

¶ 120 Addressing the Danielson framework, the hearing officer found that there was no showing as to how student engagement is assessed as to special education students “taught by non-certified special education teachers who are coached by other teachers without a certification or endorsement for special education.” “Participation by special education students may be different than mainstream students and create a skewed picture of an evaluated teacher.”

¶ 121 The hearing officer found Shuga and Kallstrom unconvincing and defensive concerning whether their findings were fact based. The officer found that their subjective observations “played a great role” in their conclusions. The officer noted Shuga’s testimony that she saw other teachers with the same students and that the students were more engaged. He noted that the setting was not known and that Shuga “drift[ed] away” from a fact based approach to a subjective one. He took issue with Kallstrom’s lack of recollection as to the teachers he supervised or evaluated and his lack of recollection of the students.

¶ 122 The hearing officer found that most of Rentsch’s students were special needs children with IEPs and that some were also learning English as their second language. As to Shuga’s bias, the hearing officer noted that she was offered and accepted a “position inappropriate for one in her

position and when objection was made did relinquish that position.” She lacked objectivity, and “her language was stilted and slanted to support her unconscious bias against Rentsch.” The hearing officer found that Shuga claimed that Rentsch was combative and that Shuga failed to provide “real help” and “merely criticized without suggesting other better approaches.” In contrast, the hearing officer found that Rentsch was “well versed in the evaluative process” and aware of what tools were not provided to her. She was never provided the opportunity to observe a teacher teach bilingual special education students at the grade level to which she was assigned. “This was a critical deficiency in the process.”

¶ 123 He also took issue with the validation of the precipitating evaluation by the REA prior to the start of the PAR process. One of the two required observations took place, he found, while Rentsch was substitute teaching or in a combined class. The process was “flawed,” and the error “invalidate[d] the process that followed.”

¶ 124 Turning to the remediation program, the hearing officer noted that the observation dates varied from those planned and, thus, had a prejudicial effect because different units were being covered in classes and “different degrees of student engagement would be expected on one date rather than another.” The observations and evaluations for those dates, therefore, were not valid or reliable. Kallstrom failed or refused to consider why the students were quiet or did not appreciate the goals of the lessons. Ryan, whom the hearing officer found “reviewed the entire process but was primarily responsible for the REA during the remediation phase,” was credible and convincing and confirmed Rentsch’s observations of Kallstrom. The “evaluation is not valid, and the process is flawed.”

¶ 125 Wehmeyer did not testify, and Rentsch testified that she was not helpful. The hearing officer noted that Rentsch’s “testimony has not been rebutted.” There was no genuine

effort, he found, to help Rentsch reach proficiency. Ryan, the hearing officer noted, testified that there was no such effort where “obstacles,” *i.e.*, Shuga and Kallstrom, were imposed. Kallstrom, he found, was closed and opposed to information, did not know where the evidence fit in the process, misplaced notes, and took direction from Carlson, who was not a party to the observations. This was not fair. “Since the process was flawed, its conclusions were not valid or reliable.”

¶ 126

F. Second Circuit Court Decision

¶ 127 The District sought administrative review. On February 26, 2021, the circuit court (Judge Donna R. Honzel) determined that the hearing officer’s findings were against the manifest weight of the evidence and remanded for a new hearing. The court determined that the hearing officer erroneously questioned the process and “ignored the overwhelming evidence of record in favor of what he determined to be ‘credibility determinations,’ but which were really just a way to gloss over the evidence and avoid scrutiny to find that the entire process was flawed from the very first validation observation.” Specifically, the court found that neither Rentsch nor Ryan are certified evaluators for the Danielson framework and that they both offered only subjective testimony on the perceived bias or unfairness of the review process. The hearing officer, the court noted, nonetheless “chose to find the wholly unsupported testimony of these two witnesses to be more credible than the uncontroverted, documented evidence supporting the District’s termination of Rentsch.”

¶ 128 The court took issue with the hearing officer’s finding that Shuga referred to Rentsch as being “combative.” The court noted that the record was devoid of any such testimony by Shuga and that Shuga had offered examples of Rentsch not following through with suggestions intended to improve Rentsch’s interactions with her students. Shuga also described a trip to another school for Rentsch to observe four classes and what they observed was met, per Shuga, with negativity

from Rentsch. The circuit court also noted that the hearing officer had discredited Shuga by determining that she had never reviewed any IEPs. The court found the characterization as “misleading and taken out of context.” Shuga’s actual testimony was that she had not reviewed the IEPs prior to her first in-class observation because the first session was designed to be “blind” to preclude preconceived notions. At the hearing, Shuga testified that her notes showed that she had documented her discussion with Rentsch about specific student needs related to their IEPs and that she relied on what Rentsch related to her. The court also took issue with the hearing officer’s findings that (1) Shuga implied that the Danielson framework was entirely fact based and objective and (2) Shuga did not take into account any unconscious bias on her part. The court determined that there was no evidence supporting the officer’s finding regarding Shuga’s implied subjectivity and bias. The court found that Shuga documented and explained all her observations and findings in Danielson terms and that it was uncontroverted that the Danielson framework was designed to eliminate subjective input and personal biases.

“The hearing officer’s comment therefore reveals a fundamental misunderstanding of the tool and its process. That then translates, apparently, into a determination by the hearing officer that Shuga’s emphasis on the tool is somehow evidence of an unconscious bias, rendering her testimony and work as an evaluator unworthy of consideration. The hearing officer has substituted his own judgment for that of the educators at the District, the members of the REA and the Illinois legislature in adopting and mandating the Danielson Framework as an objective tool for teacher evaluation and improvement.”

¶ 129 The circuit court also found that other findings were unsupported by the record. It determined that, because Rentsch was not a certified evaluator, she offered merely her opinion in rebuttal to every negative comment in Kallstrom’s evaluations; she offered no objective rebuttal

to either Shuga's or Kallstrom's evaluations. She also offered an unsupported allegation that Vosberg had cajoled the PAR panel to unanimously confirm the "needs improvement" evaluation. The court also took issue with the hearing officer's findings concerning Kallstrom's and Shuga's lack of Spanish fluency and the limitations this presented in their assessments of Rentsch. The court noted that the hearing officer repeatedly found that the evaluation was not valid and that the process was flawed but he ignored the evaluations that quoted both students and Rentsch in English. The officer also ignored Kallstrom's and Shuga's testimony and Rentsch's assertion that bilingual special education classes had essentially turned into monolingual (English) classes. The court determined that the record showed that no classes that were observed as part of any evaluation were conducted solely or even primarily in Spanish. The court also found that the hearing officer ignored Vosberg's, Shuga's, and Kallstrom's testimony that the Danielson framework and teacher evaluations are instructional practices that would apply to any classroom, regardless of the subject being taught.

¶ 130 Addressing Rentsch's qualifications to teach bilingual special education students, the court found that the hearing officer erred in finding that Rentsch did not have the proper certification. It also took issue with his findings concerning Shuga. The court found that Shuga's lack of a bilingual education endorsement was not relevant, as she was a certified evaluator, employed the Danielson framework, and observed nothing but classes involving students being taught primarily in English.

¶ 131 The court also addressed the hearing officer's findings concerning whether Rentsch was evaluated while substitute teaching. The court noted that payroll records reflected that Rentsch was not paid for substitute teaching and that Rentsch's response when shown the payroll records was that she recalled being a substitute. The court noted that Rentsch had not claimed that she had not been properly paid at the time. Also, other evidence showed that her planning period was in

the afternoon from 2:55 p.m. to 3:45 p.m., the May 2, 2016, observations were during instructional science from 9:52 a.m. to 10:31 a.m., and the May 3, 2016, observations were during that same subject but at a different time, from 12:31 p.m. to 1:04 p.m. As to Rentsch's assertion that she taught a combined class, the court found that the record showed no support for her claim and that, at the time, she had not offered any criticism to the REA or the PAR panel of the observation or process. Also, Shuga testified that she never observed Rentsch while she substitute taught. The court noted that special education classes had a maximum of 13 students and that Shuga's observations reflected 11 students and, on the date of the alleged combined class, 9 students. Kallstrom had also documented up to 12 students during his observations. "All of this evidence, pay records, class size and the lack of any complaint at the time, lead only to the conclusion that the manifest weight of the evidence demonstrates that Rentsch was never observed while acting as a substitute teacher." The court also noted that Shuga's notes for the observation days reflected that Rentsch and her students all showed familiarity with each other and the class work in progress. The hearing officer, the court found, "did not concern himself with the available evidence, choosing to simply make decisions based on the testimony of Rentsch as to what she believed had occurred in disregard of the exhibits and documents which were admitted into evidence."

¶ 132 The circuit court also chastised the hearing officer's statement that his conclusions were all based on credibility determinations alone; the court determined that this "appear[ed] to be no more than an attempt to avoid scrutiny by this court."

¶ 133 It also addressed Rentsch's claim "without support of evidence" that her class sizes were often too large and Ryan's testimony that many classes were over the size agreed to by the District and the REA. The court noted that Ryan did not provide evidence of the number of students in Rentsch's classes. As to Ryan, the court noted that he was not involved as a union representative

for Rentsch in 2015 or 2016, when Kallstrom observed her, and he never saw her remediation plan. Ryan became involved with Rentsch’s case during the third and final remediation phase, in August 2017. Class size records after Ryan became involved showed, the court found, between 8 and 12 students per class. The court also took issue with Ryan’s criticisms of Kallstrom, whom he had *not* observed. It noted that Ryan improperly focused on the subject of the evaluation, rather than the nature and propriety of Rentsch’s interactions themselves. Ryan, the court noted, was not a certified evaluator, had never evaluated a peer, and was not involved in most of the process. The hearing officer was “internally inconsistent,” finding that Ryan was fully involved but also finding that he was present only for the end of the remediation period. Finally, the court noted that the hearing officer questioned the Danielson framework’s application to special education classrooms. “This statement clearly establishes that the hearing officer substituted his judgment for that of the professionals who negotiated the manner in which the unique PAR process would be utilized in Rockford. It was not within the authority of the hearing officer—as he himself acknowledged—to find that using the process in the circumstances involved in this case was questionable.” The court reversed and remanded for rehearing.

¶ 134 On March 15, 2021, Rentsch filed an unopposed motion to reconsider, noting that she preferred that the court’s order be made final and appealable, as she expected the cost of another hearing to be large. She also asked that the case be consolidated with case No. 18-MR-997 and that the court amend its order to remove the “remand” language.

¶ 135 On March 22, 2021, the circuit court granted Rentsch’s motion, striking the “remand” language, noting that its order was final and appealable, and consolidating the cases. Rentsch appeals.

¶ 136

II. ANALYSIS

¶ 137

A. Jurisdiction

¶ 138 Initially, we consider our jurisdiction over this case. Under the Administrative Review Law (735 ILCS 5/3-101 to 3-113 (West 2020)), the scope of a court’s review extends to all questions of law and fact before that court. *Id.* § 3-110; *Board of Education of the City of Chicago v. Illinois Educational Labor Relations Board*, 2015 IL 118043, ¶ 14. Since both the circuit court and the appellate court review the decision of the administrative agency, both courts are reviewing courts. See 735 ILCS 5/3-111(a)(5) (West 2020) (the circuit court has the power “to affirm or reverse the [agency’s] decision, in whole or in part”); *id.* § 3-112 (“[a] final decision, order, or judgment of the Circuit Court, entered in an action to review a decision of an administrative agency, is reviewable by appeal as in other civil cases”). Where a hearing has been held by the agency, the Administrative Review Law also permits a circuit court to remand the matter to the administrative agency with “questions requiring further hearing or proceedings” (*id.* § 3-111(a)(6)) or “for the purpose of taking additional evidence” (*id.* § 3-111(a)(7)). A circuit court may also “give such other instructions” as it considers “proper.” *Id.* § 3-111(a)(6).

¶ 139 Here, on February 26, 2021, the circuit court (after the second proceeding before it) determined that the second hearing officer’s findings were not supported by the record and, thus, were against the manifest weight of the evidence. The court remanded the case to the ISBE “for rehearing.” Rentsch filed an unopposed motion to reconsider, arguing that, given the \$10,000 cost of the first hearing, she expected the cost of the second hearing “to be large” and preferred that the court’s order be final and appealable. She asked the circuit court to amend its order by removing the remand direction, to add that the order was final and appealable, and to consolidate the action with case No. 18-MR-997. On March 22, 2021, the circuit court amended its order. It removed the remand direction, entered a finding that the order was “a Final and Appealable Order,” and

consolidated the case with case No. 18-MR-997 for purposes of appeal, “as the Circuit Court has maintained jurisdiction over this matter.”

¶ 140 Rentsch appealed to this court, stating in her notice of appeal and in her briefs that the circuit court’s March 22, 2021, order was final and appealable and asserting that this court had jurisdiction pursuant to Illinois Supreme Court Rules 301 and 303. Ill. S. Ct. R. 301 (eff. Feb. 1, 1994) (appeals from cases in which a final order has disposed of the entire controversy); Ill. S. Ct. R. 303 (eff. July 1, 2017) (setting forth the requirements that must be met for the preparation and filing of appeals from final judgments in civil cases). She also contends that there are no issues left for an administrative hearing to decide and that, based on the circuit court’s findings, a hearing officer would have nothing to do but implement the court’s findings and “rubber stamp the termination.” Thus, she contends, it makes no sense for the case to be remanded.

¶ 141 The District argues that this court lacks jurisdiction to hear this appeal, because there is no final judgment within Rule 301’s meaning, as Rentsch contends. The District maintains that, if Rentsch wanted to appeal the February 26, 2021, order that set aside the hearing officer’s findings and remanded for a hearing *de novo*, she was required to petition for interlocutory review under Illinois Supreme Court Rule 306(a)(6) (eff. Oct. 1, 2020) (noting that a party may petition for leave to appeal to the appellate court “from an order of the circuit court which remands the proceeding for a hearing *de novo* before an administrative agency”). The circuit court, the District argues, nullified the hearing officer’s decision on the basis that his factual findings were against the manifest weight of the evidence. The court, the District contends, never reached or decided the merits of the parties’ dispute, *i.e.*, whether Rentsch was properly discharged. That dispute remains unresolved by the agency. Thus, there is no final judgment on the propriety of Rentsch’s

termination for this court to review. The District asserts that jurisdiction remains vested in the circuit court until the administrative proceeding is concluded with a decision on the merits.

¶ 142 Further, the District argues that the circuit court could not make its order final and appealable by stripping out the language that remanded the case for a hearing *de novo* and adding “Final and Appealable” language. Those modifications, it contends, could not alter the interlocutory character of the court’s order. The merits of the parties’ dispute remain unresolved, it maintains, and no distinct branch of controversy between them was resolved by the February 26, 2021, order. The District contends that there can be no final judgment for this court to review until the propriety of Rentsch’s dismissal is adjudicated, and that has yet to occur.

¶ 143 We have jurisdiction over this appeal. The jurisdiction of the appellate court is limited to review of final judgments, unless an exception is provided by statute or Illinois Supreme Court rule. *In re Marriage of Verdung*, 126 Ill. 2d 542, 553 (1989). Rule 301 provides that every final judgment of a circuit court in a civil case is appealable as of right. Rule 303 governs the timing of an appeal from a final judgment of the circuit court. Subsection (a)(1) of that rule provides that a notice of appeal must be filed within 30 days after the entry of the final judgment appealed from or, if a timely postjudgment motion directed against the judgment is filed, within 30 days after the entry of the order disposing of the last pending postjudgment motion. Ill. S. Ct. R. 303(a)(1) (eff. July 1, 2017). A “final judgment” is one that fixes absolutely the rights of the parties. *Flores v. Dugan*, 91 Ill. 2d 108, 112 (1982). Also, a judgment is final if it determines the litigation on the merits so that, if affirmed, the only thing remaining is to proceed with the execution of the judgment. *People ex rel. Scott v. Silverstein*, 87 Ill. 2d 167, 171 (1981).

¶ 144 Initially, the circuit court ordered a remand for a new hearing. “A circuit court’s remand to an administrative agency is a nonfinal order if the agency must do more than enter a judgment or

decree in accordance with the court's directions. If the court remands the cause for a new hearing, the rights of the parties have not yet been fully and finally adjudicated." *Lippert v. Property Tax Appeal Board*, 273 Ill. App. 3d 150, 153 (1995). Further,

"Once a circuit court obtains jurisdiction of an action in administrative review, it retains jurisdiction of the action 'until final disposition thereof.' (Ill. Rev. Stat. 1991, ch. 110, par. 3-104.) When a circuit court reverses and remands an agency decision for further proceedings and findings, it retains jurisdiction of the cause after remand." *Id.*

¶ 145 If the circuit court remands for a *de novo* hearing on a particular topic or question, a party may petition for leave to appeal that interlocutory order to the appellate court. Ill. S. Ct. R. 306(a)(6) (eff. Oct. 1, 2020). Rule 306 specifically provides that a party may petition for leave to appeal to the appellate court "from an order of the circuit court which remands the proceeding for a hearing *de novo* before an administrative agency." *Id.* When the circuit court's decision becomes final, a party may appeal the circuit court's order to an appellate court as it would in any other civil case. 735 ILCS 5/3-112 (West 2020). Here, the circuit court's initial order determined that the hearing officer's findings were against the manifest weight of the evidence and remanded the cause to the ISBE "for rehearing." Thus, it was not final, and Rentsch did not petition under Rule 306(a)(6) for interlocutory review.

¶ 146 The circuit court's order on reconsideration substantively changed the nature of the court's initial order and, therefore, was final and appealable. "[T]he finality of an order is not necessarily determined by its form ***." *Wilkey v. Illinois Racing Board*, 96 Ill. 2d 245, 249 (1983). The key question is whether the judgment fully and finally disposed of the rights of the parties to the case so that no material controverted issues remained to be decided. *Id.* (citing *Cory Corp. v. Fitzgerald*, 403 Ill. 409, 414-15 (1949)). Here, the substance of the circuit court's order was that the agency's

factual findings were erroneous. The court, by implication, vacated the officer's reinstatement of Rentsch. Therefore, no issue remained pending.

¶ 147 B. General Principles

¶ 148 Turning to the merits, we begin with several general principles.

“The School Code provides that a final order of the [agency] is subject to judicial review pursuant to the Administrative Review Law (735 ILCS 5/3-101 *et seq.* (West 2016)) ***. On administrative review, our role is to review the decision of the [agency] and not the determination of the *** court. *Board of Education of the City of Chicago v. Illinois Educational Labor Relations Board*, 2015 IL 118043, ¶ 14. Under the Administrative Review Law, the proper standard of review depends upon whether the question presented is one of fact, one of law, or a mixed question of fact and law. *Beggs v. Board of Education of Murphysboro Community Unit School District No. 186*, 2016 IL 120236, ¶ 50 (citing *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill. 2d 200, 210 (2008)). An administrative agency's findings of fact are considered *prima facie* true and may only be reversed if they are against the manifest weight of the evidence. *Id.* Questions of law are reviewed *de novo*. *Id.* Mixed questions of law and fact, where we analyze the legal effect of a given set of facts, are reviewed under the clearly erroneous standard. *Id.*”
Board of Education of the City of Chicago v. Moore, 2021 IL 125785, ¶ 17.

¶ 149 B. Whether Remediation Violated School Code (No. 18-MR-997)

¶ 150 Rentsch first argues that the circuit court erred when it reversed the first hearing officer's determination that she could be placed into remediation only following an “unsatisfactory” rating. She contends that the court erred in finding that (1) the School Code is silent as to the consequences of a *second* “needs improvement” rating and (2) the District's and the REA's agreement that a

teacher with such a rating may be placed in remediation did not violate the statute. For the following reasons, we reject Rentsch's claim.

¶ 151 The goal of statutory construction is to ascertain and give effect to the legislature's intent. *Nafziger v. Board of Education of Staunton Community Unit School District No. 6 of Macoupin & Madison Counties*, 2019 IL App (4th) 180770, ¶ 32. "The simplest and surest means of effectuating this goal is to read the statutory language itself and give the words their plain and ordinary meaning." *MD Electrical Contractors, Inc. v. Abrams*, 228 Ill. 2d 281, 287 (2008). We do not "read a portion of the statute in isolation." *Id.* We read a statute "in its entirety, keeping in mind the subject it addresses and the legislature's apparent objective in enacting it." *Id.* The interpretation of a statute is a question of law, which we review *de novo*. *Moore*, 2021 IL 125785, ¶ 17.

"In 2010, the Governor signed into law Public Act 96-861, titled the 'Performance Evaluation Reform Act of 2010' (commonly known as PERA), implementing a new teacher evaluation system in Illinois. See Pub. Act 96-861 (eff. Jan. 15, 2010) (amending 105 ILCS 5/24A-5). Under PERA, administrators formally and informally observe teachers and award a summative performance evaluation rating based on four ratings, a change from three ratings. 105 ILCS 5/24A-5 (West 2010). The four ratings include, 'excellent,' 'proficient,' 'needs improvement,' and 'unsatisfactory.' *Id.* § 24A-5(e)." *Nafziger*, 2019 IL App (4th) 180770, ¶ 10.

¶ 152 Additionally, PERA added a requirement that teachers who receive a "needs improvement" rating on their annual evaluation be provided a professional development plan. See 105 ILCS 5/24A-5(h) (West 2018) (the teacher's professional development plan shall require, "within 30 days after the completion of an evaluation rating a teacher in contractual continued service as

‘needs improvement’, development by the evaluator, in consultation with the teacher, and taking into account the teacher’s on-going professional responsibilities including his or her regular teaching assignments, of a professional development plan directed to the areas that need improvement and any supports that the district will provide to address the areas identified as needing improvement”).

¶ 153 Here, Rentsch received a “needs improvement” rating in a summative evaluation on April 22, 2016. That rating was validated, and she commenced participation in the PAR program, at the conclusion of which she received a second “needs improvement” rating. Thereafter, she was placed in remediation. The first hearing officer determined (and Rentsch argues on appeal) that Rentsch was erroneously placed into remediation, because the statute and the case law provide that a teacher can be placed in remediation only following an “unsatisfactory” rating. See *id.* § 24A-5(i) (providing that, within 30 school days after a rating of “unsatisfactory,” a remediation plan shall be developed and commenced). The circuit court disagreed, finding that, in light of the statute’s silence as to what happens after a teacher receives a second “needs improvement” rating, the District and the REA’s agreement that the teacher be placed in remediation did not violate the School Code.

¶ 154 Rentsch relies on *Buchna v. Illinois State Board of Education*, 342 Ill. App. 3d 934 (2003), which, unlike this case, involved a pre-PERA version of the statute. In *Buchna*, the reviewing court held that a school district was required to rate a teacher according to a three-tiered statutory classification system (*i.e.*, “excellent,” “satisfactory,” and “unsatisfactory”), not on its own two-tiered system (*i.e.*, “Does not Meet District Expectations” and “Meets or Exceeds District Expectations”) that it had negotiated with its teachers’ union. *Id.* at 937-38 (statute required strict compliance). The remediation and dismissal provisions in section 24A-5 of the School Code, the

court noted, applied only to teachers who had received an “unsatisfactory” rating, and, as the teacher had not received that rating, she was not subject to remediation and her dismissal was improper. *Id.* at 938. The fact that the agreement was bargained for did not, without a waiver, authorize the parties to contravene the statute. *Id.* at 939. Accordingly, the court reversed the hearing officer’s affirmance of the teacher’s termination. *Id.*

¶ 155 As noted, the system in place when *Buchna* was decided was a three-tiered system. PERA amended the School Code and expanded the rating system to four tiers, which the District uses. Rentsch acknowledges PERA but notes that the “unsatisfactory” rating remains in the statute and again points to *Buchna*’s holding that teachers cannot be forced to undergo remediation or dismissal when they are not given an “unsatisfactory” rating. Rentsch was not given an “unsatisfactory” rating, yet, she notes, she went into remediation and was dismissed anyway.

¶ 156 The District responds that the School Code does *not* address what occurs when a teacher receives a “needs improvement” rating on an annual evaluation, enters a district’s statutorily mandated improvement plan, and then receives *another* “needs improvement” rating. The School Code requires/addresses only the following: (1) a teacher must be reinstated to a regular evaluation plan after a rating of “satisfactory” or better in the school year following a “needs improvement” or “unsatisfactory” rating; (2) a teacher who receives an “unsatisfactory” rating must be placed in remediation; and (3) a teacher who fails to achieve a rating of “satisfactory” or better after remediation must be dismissed. 105 ILCS 5/24A-12(i), (l), (m) (West 2018).

¶ 157 As the District notes, with PERA, the legislature created a new rating, “needs improvement,” and a mandatory improvement plan for teachers who receive that rating. *Nafziger*, 2019 IL App (4th) 180770, ¶ 10. A teacher must achieve a “satisfactory” or better rating to be reinstated to the regular biannual evaluation process. 105 ILCS 5/24A-12(l) (West 2018). The

legislature did not prescribe any process or procedure for a teacher who *still* “needs improvement” after an improvement plan.

¶ 158 The circuit court noted that the District and the REA agreed that any teacher rated less than “proficient” after an improvement plan, such as Rentsch, would begin a 90-day remediation process. The court disagreed with the hearing officer’s determination that the agreement violated the School Code and *Buchna* because it placed in remediation a teacher who had not received an “unsatisfactory” rating. The court noted that the officer’s interpretation produced an absurd result under which a teacher could be in an “endless cycle of being rated as needs improvement, placed in a professional development plan, receiving another needs improvement rating, and being placed in another professional development plan, on an[d] on, never improving.” Thus, because the School Code, post-PERA, is silent as to the consequences of receiving a second “needs improvement” rating—after the completion of a professional development plan—the District’s and the REA’s agreement that a teacher with such a rating be placed in remediation did not violate the statute.

¶ 159 The District also points to ISBE guidance (Ill. State Bd. of Educ., Guidance Document #15-8: Guidance on Needs Improvement Rating in Teacher Evaluation Systems in Illinois (Oct. 2015) <https://www.isbe.net/documents/15-8-PEAC-needs-improvement-guidance.pdf> [<https://perma.cc/78A7-9Hnk>]) that expressly recognizes that PERA offers joint committees of administrators and teachers flexibility in how teachers are reassessed and does not specify what needs to happen at the conclusion of a professional development plan or what next steps should be taken for teachers who receive repeated “needs improvement” ratings. Joint committees have considerable latitude in determining all remaining aspects of the professional development plan, including what occurs at the conclusion of the plan (such as the follow-up steps when teachers do

not show improvement over time). The District also points to Illinois Education Association (an Illinois teachers' union) guidance (Ill. Educ. Ass'n, Teacher Performance Evaluation Plan Guidance 6 (Aug. 3, 2017)) that states that a teacher who receives a "needs improvement" rating at the end of an improvement plan (*i.e.*, a second 30-day period) "will be placed on a Remediation Plan."

¶ 160 We agree with the circuit court and the District that the School Code does not address the consequences to a teacher after a second "needs improvement" rating. In light of this silence, the District and the REA were free to fashion a procedure. The circuit court correctly noted that the hearing officer's (and Rentsch's) position results in an absurd scenario whereby a school district is precluded from dismissing a poor teacher who receives repeated "needs improvement" ratings. This cannot be consistent with the principles in the School Code. See 105 ILCS 5/24A-1 (purpose of article 24A "is to improve the educational services of the elementary and secondary public schools of Illinois by requiring that all certified school district employees be evaluated on a periodic basis and that the evaluations result in remedial action being taken when deemed necessary"). *Buchna* did not address the precise issue before us and involved an earlier version of the statute that did not contain the "needs improvement" rating category.

¶ 161 In summary, the circuit court did not err in reversing the first hearing officer's determination that Rentsch could not be placed in remediation after her second "needs improvement" rating.

¶ 162 C. Second Hearing Officer's Decision (No. 20-MR-483)

¶ 163 Next, Rentsch argues that the second hearing officer's decision to reinstate her was supported by the evidence and the circuit court's reversal of that decision was erroneous. For the

following reasons, we agree with the circuit court that the hearing officer's decision was against the manifest weight of the evidence.

¶ 164 Rentsch quotes at length from the hearing officer's decision and restates many of his points. She contends that there was at least some evidence for each of the points in the hearing officer's findings and, thus, the findings cannot be against the manifest weight of the evidence. We disagree.

¶ 165 Vosberg, the deputy superintendent who has worked in education for 26 years, testified that the District adopted the Danielson framework to evaluate teachers and that the District's evaluation plan was developed by agreement with the teachers' union, the REA. The Danielson framework is evidence-based. Rentsch's licensure, as reflected in District records, was professional education licensure, and her approval was listed as bilingual learning behavior specialist I. Vosberg testified that someone with such approval can teach a special education classroom, and this was consistent with ISBE regulations. Rentsch believed, without offering any evidence, that she did not have the proper approval. Her classes were mixed. During the 2016-17 school year, some of her students were not bilingual.

¶ 166 The PAR program's PCTs are the District's best teachers. Shuga was Rentsch's PCT during the PAR process, and she is certified in the Danielson framework. She is not special education certified, nor is she bilingual. However, she testified that the observations she recorded were not in a bilingual setting. Rather, they were during instructional science and English language arts classes. Shuga did not have access to Rentsch's students' IEPs, nor was she aware of the level of special education needs for the students. However, she discussed with Rentsch the students' needs as related to them and took Rentsch's word as to what the students' needs were. The PAR governing body consists of four REA members and four administrators. The PAR panel unanimously decided at the reconsideration meeting to uphold the "needs improvement" rating.

¶ 167 Shuga testified that she was never provided with any of Rentsch's lesson plans, and she requested them at least half a dozen times. Rentsch disputed this, testifying that she gave her plans to the secretaries every week, Shuga had access to them, and she could not recall if Shuga directly asked her for her lesson plans. None are contained in the record, and Shuga testified that she never observed Rentsch teach a lesson, which was unusual, and Rentsch had no instructional plan.

¶ 168 Rentsch claimed that she was the only bilingual special education teacher in the District. However, Zediker, the District's chief human resources officer, testified that an employee position report reflected bilingual resource teachers across the District and identified bilingual teachers in special education classrooms. Rentsch also testified that she was not provided adequate supports during the PAR process, but she conceded that she never informed the PAR panel of this (although she did inform Shuga and was not satisfied with her responses).

¶ 169 Rentsch identified specific issues she had with Kallstrom's critiques of her teaching. She explained, for example, why she provided one student with a multiplication chart (because the student's IEP required it). She also noted that she did not verbally praise one student because she was utilizing a rewards system with him. Rentsch also complained of Kallstrom's critique of transition times in her classroom, stating that special education students need more transition time between subjects. However, Kallstrom had taught special education, and Rentsch does not address the key issues Kallstrom identified concerning transition times and lack of student engagement.

¶ 170 Shuga testified that she did not observe Rentsch while Rentsch was a substitute teacher. Rentsch disputed this. Also, Rentsch testified that whether a class was a combined class would not be reflected on District records. However, she does not assert that all or most of the evaluators' observations occurred during combined classes.

¶ 171 As to her change in position in the District, Shuga testified that, within one year of acting as a consulting teacher, she accepted an administrative position in which she did not directly supervise teachers. While she was Rentsch's consulting teacher, Shuga was not aware that she was going to be offered the position or that it even existed. She denied that she was removed from the post after the REA discovered that she was promoted. Rather, Shuga explained, she voluntarily changed position and the REA agreed to it.

¶ 172 The remediation process spans 90 days and consists of three evaluations for each of three cycles. Thus, at the end of remediation, a teacher will have been observed up to nine times and evaluated three times. Wehmeyer was Rentsch's consulting teacher during remediation. Kallstrom was Rentsch's primary evaluator during the PAR and remediation processes. He was trained in the Danielson framework, worked seven years as a special education teacher, and was the assistant principal in charge of special education at Eisenhower during Rentsch's case. At that time, the Danielson framework was used to evaluate special education teachers. Rentsch, who is not certified in the Danielson framework, testified that she did not believe that Kallstrom was following it when he evaluated her and she claimed that he needed explanations in the framework, which she provided.

¶ 173 Rentsch complained that the District never provided good models for her to observe. However, she acknowledged that Wehmeyer briefly modeled for her, but added that Wehmeyer was not familiar with Rentsch's students. Rentsch also complained of having too many students, claiming that, during the 2016-17 school year, she had 17 or 18 students in her social studies class. She conceded that, in the spring of 2017, she had a paraprofessional in her classroom. Vosberg testified about the first quarter of the 2017-18 school year, noting that Rentsch's grade book reflected that she had between one and nine students in each period.

¶ 174 Kallstrom testified that he evaluated other teachers who taught the same students that Rentsch taught and that the other teachers' procedures were better, the students were intellectually engaged, and there were no disciplinary issues. The evidence gathered for Rentsch was different. Kallstrom testified that he met with Rentsch during the remediation process, and her attitude toward the process was "[c]ombative." She questioned or disagreed with the evidence he had collected and was not receptive to resources presented to her.

¶ 175 Kallstrom did not recall Rentsch acting as a substitute teacher during any of his observations and she never brought it up to him. During his observations, some classes, but not all, were bilingual. He testified that "a lot" of English was spoken, because his notes reflected this.

¶ 176 Zediker testified that, during April and May 2016, records did not reflect that Rentsch was paid for substitute teaching. However, he conceded that very small classes possibly could have been combined and no substitute pay would have been paid out to the teacher who covered for another teacher.

¶ 177 Vosberg testified about the PAR panel, stating that he, as co-chair, did not have any more authority than the REA co-chair. He denied that he directed the PAR panel on how to vote and testified that there was no dissent as to the outcome in Rentsch's case.

¶ 178 Ryan, the computer technology and publications teacher at Eisenhower and the building representative for the REA, observed some conferences during the third, *i.e.*, final, cycle of Rentsch's remediation process. Like Rentsch, he criticized Kallstrom's familiarity with the Danielson framework, although Ryan himself was not certified in it. He testified that Kallstrom was confused, required assistance from principal Carlson, had trouble determining where certain actions fit in the framework, and did not provide specific goals for Rentsch.

¶ 179 Ryan also complained that two postconferences were over one month late, although he conceded that the REA did not grieve the issue. Ryan testified that Kallstrom evaluated only one class on a regular basis—social studies. However, on cross-examination, he identified records that showed that Kallstrom observed Rentsch’s math, English language arts, and science classes. He also conceded that Kallstrom’s notes from one observation reflected zero student engagement in Rentsch’s class.

¶ 180 We conclude that the second hearing officer’s findings were against the manifest weight of the evidence. Essentially, we agree with the circuit court that the hearing officer ignored or misstated the evidence and improperly rejected the process. The hearing officer reinstated Rentsch, finding that the Danielson framework was not properly implemented. As he found the process “flawed,” he also determined that “its conclusions were not valid or reliable.” The hearing officer, without record evidence, questioned the use of the Danielson framework in a special education setting, but Kallstrom, who was certified in the Danielson framework and had a special education background, testified that the framework was used in the District at the time in such classrooms. Furthermore, the procedures employed were agreed to by the District and the REA. The hearing officer also took issue with District evaluators “without certification or endorsement for special education, assessing student engagement in a special education setting.” But, again, the officer ignored that Kallstrom had worked seven years as a special education teacher. The hearing officer also determined that Rentsch was not endorsed in special education. However, deputy superintendent Vosberg testified that Rentsch’s bilingual learning behavior specialist I approval qualified her to teach a special education classroom and that this was consistent with ISBE regulations. As noted, Rentsch disputed this, offering merely her own opinion. The hearing officer also determined that the contents of the IEPs were not addressed, but Shuga testified that she

discussed with Rentsch the students' needs as related to their IEPs and trusted that Rentsch provided accurate information. The hearing officer also noted Rentsch's complaints about class size, finding that the District provided only general denials. However, he failed to note that the record reflected that a paraprofessional was frequently present in her classroom and he did not note Vosberg's testimony that, during the 2017-18 school year, Rentsch had between 1 and 11 students each period in her classroom. Rentsch specifically testified about the 2016-17 school year, claiming that her social studies class had 17 or 18 students, but Ryan conceded that the REA did not grieve the overage issue in the classrooms during the 2016-17 school year (but did do so during the following year).

¶ 181 As to Shuga, the hearing officer erroneously found that she stated that Rentsch was combative. There is no support for this finding in the record, as the circuit court noted. (Actually, Kallstrom characterized Rentsch as such.) The hearing officer determined that Shuga had an unconscious bias against Rentsch, finding her language "stilted and slanted," and characterized the District's witnesses as selectively reporting their observations. However, the observation forms from both the PAR and remediation periods clearly reflect poorly run classes, where the students were not actively engaged or clear on what they were supposed to be doing or even where they needed to be. Transitions in Rentsch's classes were also a recurring problem, resulting in the repeated loss of instructional time. Rentsch does not address these issues. The PAR panel, which was comprised of equal representation by the administration and the REA, unanimously upheld the "needs improvement" rating, and Rentsch again was rated as "needs improvement" at the end of remediation. Echoing the hearing officer's findings, Rentsch, who is not certified in the Danielson framework, questions the process and the evaluators' qualifications but, again, does not address the key observations recorded by Shuga and Kallstrom. Further, Rentsch erroneously

questions, as did the hearing officer, Shuga's and Kallstrom's observations and conclusions on the basis that they did not speak Spanish. The record actually reflects that language was not a barrier to the evaluators' assessments. Indeed, they frequently quoted the students speaking English in Rentsch's classes. Furthermore, Spanish fluency is not required to recognize many aspects of the students' disengagement or confusion. Finally, Rentsch does not suggest that her students' comprehension of English was so limited that it exhibited in a manner that led to the negative assessment of her teaching.

¶ 182 The hearing officer found Ryan credible, but this was based on his erroneous determination that he "reviewed the entire process" and "primarily" represented the REA "during the remediation phase." This is not true. Ryan was not involved in the "entire process," nor was he even involved during Rentsch's entire remediation process. Rather, he became involved during the third, *i.e.*, final, phase of the remediation process, and he never observed Kallstrom. Placing emphasis on his testimony when he was involved in so little of the process was unreasonable.

¶ 183 In summary, we agree with the circuit court's determination that the second hearing officer's findings were against the manifest weight of the evidence. Because Rentsch waived any right to a remand, we conclude that her waiver precludes any further proceedings below concerning her termination.

¶ 184

III. CONCLUSION

¶ 185 For the reasons stated, the judgment of the circuit court of Winnebago County is affirmed.

¶ 186 Affirmed.

No. 2-21-0187

Cite as: *Board of Education for Rockford Public Schools, District No. 205 v. Illinois State Board of Education, 2022 IL App (2d) 210187*

Decision Under Review: Appeal from the Circuit Court of Winnebago County, Nos. 20-MR-483, 18-MR-997; the Hon. Donna R. Honzel, Judge, presiding.

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