

**In the Circuit Court of Cook County, Illinois
County Department, Chancery Division**

TIMOTHY KING,

Plaintiff,

v.

CHICAGO PUBLIC SCHOOL DISTRICT 299,
et al.,

Defendants.

Case No. 2022CH08628

Judge Eve Reilly

Calendar 7

MEMORANDUM OPINION AND ORDER

This matter comes before the Court on Plaintiff's, Timothy King, ("King") motion to compel an administrative record pursuant to Illinois Supreme Court Rule 219(a). On August 30, 2022, King brought a complaint against Defendants the Board of Education of the City of Chicago ("Board"),¹ Camie C. Pratt in her capacity as Chief Title IX Officer of Chicago Public Schools, William Fletcher in his capacity as Inspector General for the Chicago Board of Education, and the Office of the Inspector General for the Chicago Board of Education, seeking administrative review of King's termination. King moves this Court for an order to produce the entire administrative record of proceedings under review, arguing that all the Case Activity Reports ("CARs") and attachments used in conducting the investigation against him must be

¹ Defendants Board of Education of the City of Chicago, Camie C. Pratt, and William Fletcher noted, in their response brief, that the Board was improperly named as "Chicago Public School District 299" and "The Chicago Board of Education."

produced in order to move the case forward. For the reasons stated below, the Court grants Plaintiff King's Motion to Compel Administrative Record.

BACKGROUND

On June 30, 2022, the CPS Office of Inspector General ("OIG") submitted a Summary Report of Investigation ("Summary Report") to Camie C. Pratt, Chief Title IX Officer regarding an investigation into alleged sexual abuse by King. Defs.' Resp., at 1. On July 7, 2022, Pratt issued a letter directing Urban Prep to terminate King. *Id.* at 2. On July 11, 2022, Pratt reviewed correspondence submitted by King which raised objections to the termination and OIG's findings. *Id.* On July 18, 2022, Pratt reviewed King's appeal to the termination. *Id.* On July 26, 2022, Pratt issued a letter upholding her decision and making a final administrative determination as to King's termination. *Id.* Pratt asserts she did not review any Case Activity Reports or attachments relating to the Summary Report when issuing her July 7, 2022, or July 26, 2022, letters. *Id.*, Ex. A at 1.

On August 30, 2022, King, filed suit pursuant to the Administrative Review Law, 735 ILCS 5/3 *et seq.*, seeking review of Defendants' decision to terminate, substantiate an allegation of sexual misconduct against him, make him ineligible for rehire and prohibit him from entering any CPS property. Compl. at 2; Pl.'s Mot., at 1. This action was brought against the Board, Pratt, Fletcher, and the Office of the Inspector General for the Chicago Board of Education. Compl.

From December 2022 through January 2023, King and the Board exchanged emails to enter into a protective order whereby the Board would be amenable to producing unredacted materials and attachments. Pl.'s Mot., Ex. 1. On January 24, 2023, the agreed protective order was entered. Pl.'s Mot., at 3. On January 27, 2023, this Court ordered Defendants to "provide [King] with the attachments/exhibits to the Unredacted CPS OIG Report within 14 days." *Id.* On February 17, 2023, Defendants provided some of the CARs. Pl.'s Mot., Ex. 3 at 3. On February

24, 2023, Defendants provided some of the attachments. *Id.* at 1. On March 6, 2023, King requested fifty-eight CARs and nineteen attachments which were not included in the provided materials and were discovered missing using OIG's numbering system. Pl.'s Mot., Ex. 4 at 3.

The Board's counsel responded:

If there are additional Attachments or CARs referenced in the Summary Report of Investigation that have not been produced, please identify them by number and I will produce them. However, I am not in agreement with producing Attachments/CARs that are not specifically cited/referenced in the Summary Report as they did not serve as a basis for the OIG's findings.

Id. at 1. On March 8, 2023, King provided a list of CARs/attachments that were specifically mentioned in the Summary Report but were not provided by Defendants which included references to interviews with former Urban Prep staff members and students. Pl.'s Mot., Ex. 5 at 6-8. During a meet-and-confer on March 16, 2023, the Board agreed to produce the identified CARs pertaining to interviews cited in the Summary Report, and attachments including King's credit card statements. *Id.* at 1. The Board maintained "that [it] should not be required to produce any documents not specifically cited in the Investigation Summary." *Id.* at 4. On April 1, 2023, King requested that the Board reconsider its position of not providing the remaining CARs and attachments. Pl.'s Mot., Ex. 6 at 5-7. On April 12, 2023, the Board stated that "none of the attachments or CARs should be included" on the basis that OIG's investigation findings do not constitute an "agency decision." *Id.* at 2. The Board further asserted that Pratt did not review the CARs or attachments in reaching her administrative decision. *Id.*

On February 27, 2023, this Court ordered Defendants to answer or otherwise response to the Complaint by March 27, 2023. *See* Pl.'s Mot., at 6. On April 17, 2023, King's counsel corresponded with Defendant's counsel about this deadline. Pl.'s Mot., Ex. 6 at 1. According to King, Defendants failed to produce the entire record on this date. As such, on April 26, 2023, King filed this Motion to Compel Administrative Record pursuant to Illinois Supreme Court

Rule 219(a). King requests this Court to compel the Board to produce the entire administrative record of proceedings. Pl.'s Mot., at 1. King contends that the entire record includes all the CARs and attachments used in preparation of the Summary Report and other evidence gathered as part of OIG's investigation. *Id.* at 2. King further asserts that the Board's counsel has not provided forty-eight CARs (out of eighty-nine total), and twenty of the fifty attachments used by the OIG in conducting its investigation and preparing the Summary Report. *Id.*

LEGAL STANDARD

Plaintiff filed their Motion to Compel pursuant to Illinois Supreme Court Rule 219(a). Rule 219(a) governs the refusal to answer or comply with a request for production providing "if a party fails to . . . comply with a request for production of documents . . . the party serving the request may on like notice move for an order compelling an answer or compliance with the request."

ANALYSIS

I. Administrative Decision

First, we consider whether the Summary Report issued by OIG was an administrative decision. An administrative decision, defined by Illinois Administrative Review law means "any decision, order or determination of any administrative agency rendered in a particular case, which affects the legal rights, duties, or privileges of parties and which terminates the proceedings before the administrative agency." 735 ILCS 5/3-101.

Here, the Summary Report prepared by the OIG recommended termination of King's employment and a "Do Not Hire" designation on King's file. Pl.'s Compl., at 22. These recommendations were given to Pratt, who ultimately issued the administrative decision which affirmed the recommendation to terminate King from his position at Urban Prep. Defs.' Resp. Ex. A at 1. However, the determination by OIG that King should be terminated from his position,

did not “terminate [] the proceedings before the administrative agency.” CPS, the administrative agency, reviewed the Summary Report as a basis for its decision, and Pratt made two subsequent decisions on July 7, 2022, and July 26, 2022.

Because the Summary Report does not constitute an administrative decision under 735 ILCS 5/3-101, the OIG’s investigation is not subject to Illinois Administrative Review Law, and the investigation and evidence relied upon by the OIG in reaching its recommendation would not be available to this Court because the OIG did not make a final administrative decision.

II. Scope of the Record

This Court considers whether all the attachments and CARs compiled in OIG’s investigation constitute the entire record that must be filed with this Court in response to King’s Motion. Illinois Administrative Review Law requires an administrative agency to “file an answer which shall consist of the original or certified copy of the entire record of proceedings under review.” 735 ILCS 5/3-108(b). Further, “no new or additional evidence in support of or in opposition to any finding, order, determination or decision of the administrative agency shall be heard by the court.” 735 ILCS 5/3-110.

In administrative review cases, all evidence considered by the administrative agency must be made part of the record. *Cook County Federal Sav. & Loan Assoc. v. Griffin*, 73 Ill. App. 3d 210, 218. (1st Dist. 1979). In *Griffin*, the savings and loans association filed a complaint challenging the commissioner’s decision approving the sale and relocation of one bank. *Id.* at 213. The trial court affirmed the commissioner’s decision, and on review, the savings and loan association contended that the commissioner failed to supply all the evidence he considered when reviewing the bank’s application. *Id.* The appellate court reversed because the trial court’s decision was based on an insufficient record. *Id.* at 219. The appellate court reasoned that all evidence relied on by the commissioner in reaching his decision had to be made part of the

record for review, even if “such evidence was improperly not introduced at the administrative hearing.” *Id.* at 218. The court further added that this was necessary, “not only to allow an after-the-fact challenge to the evidence improperly withheld, but also to preserve the substance of judicial review.” *Id.*

In *Starkey*, the appellate court considered whether there was sufficient evidence to support the agency’s decision in affirming the Illinois Civil Service Commission’s decision to discharge the plaintiff from employment with the state. *Starkey v. Civil Service Com.*, 105 Ill. App. 3d 904, 905 (1982), *rev’d on other grounds*. The court observed that the Administrative Review Act specifies that the “entire record” includes all the evidence that was presented to the administrative agency. *Id.* at 909. “[I]n examining the record, a reviewing court will and must look at all the evidence in opposition to the challenged finding as well as the evidence which tends to support it.” *Id.* (citing *Viera v. Illinois Racing Board*, 65 Ill. App. 3d 94, 100, (1978.))

Here, Pratt’s affidavit states that she did not review the CARs and attachments when she made her final administrative decision to terminate King. Defs.’ Resp., Ex. A at 1. However, in both of Pratt’s letters dated July 7, 2022, and July 26, 2022, Pratt referred to OIG’s investigation when explaining her reasoning of the administrative decisions. *Id.*; Pl.’s Reply, Ex. 1 at 1; Pl.’s Mot., Ex. 7 at 2 (“I have reviewed . . . the Inspector General Report, and, where appropriate, asked for a clarity from investigators . . .”). In the July 26, 2022, letter issuing Pratt’s final administrative decision, Pratt stated that she asked for clarity from investigators about their investigation with respect to the claims asserted by King. Pl.’s Mot., Ex. 7 at 2. Further, Pratt’s decision concludes that OIG’s findings were not clearly erroneous, and were “reasonable conclusions based upon the evidence gathered.” *Id.* Pratt also refers to the OIG’s “comprehensive investigation” substantiating the allegations of sexual abuse in the July 7, 2022,

letter. Pl.'s Reply, Ex. 1 at 1. Pratt states that in her July 7, 2022, letter, she adopted the findings of the OIG. Defs.' Resp., Ex. A at 1.

Although Pratt may not have reviewed any of the CARs and attachments referenced in the Summary Report, Pratt's communications, and final decision show she analyzed the reasonableness and comprehensiveness of the OIG's investigation. Because Pratt was presented with OIG's comprehensive investigation, her determination to terminate King necessarily resulted from information contained in and gathered from the CARs and attachments. In total, the remaining forty-eight CARs and twenty attachments were evidence gathered in OIG's inquiry to the allegations against King, which was used by Pratt to in evaluating if OIG's conclusion was reasonable. Furthermore, Illinois law has previously recognized that the court *will and must* look at all evidence supporting and opposing the challenged finding, and that all evidence presented to the administrative agency will be included in the record. 735 ILCS 5/3-110; *Starkey*, 105 Ill. App. 3d at 909. Despite Pratt maintaining that she did not review the CARs or attachments when making her determination, she was presented with a comprehensive investigation of the findings and the July 7, 2022, and July 26, 2022, letters indicate that her final administrative decision was based upon the "evidence gathered."

This Court also looks to negotiations between the parties as to discovery, submitted by Plaintiff in this Motion. Pl.'s Mot., Ex. 6. at 2. Defendants' counsel concedes that the administrative record is at least partially comprised of OIG's documents including the Summary Report and cited attachments and CARs. *Id.*

The results of OIG's comprehensive investigation into the allegations against King were fundamental to his termination, designation on his personnel file, and his exclusion from CPS property, which gives rise to the underlying administrative review claim of King's termination. The partial production of investigation materials is not sufficient for this Court to evaluate the

asserted comprehensiveness of OIG's investigation which substantiated the Summary Report resulting in King's termination.

Even though the Summary Report was not an administrative decision, specific documents and determinations in the Summary Report were considered by Pratt when making the final administrative decision. The Summary Report contains numerous and specific factual findings, which are based off specific CARs and attachments, many of which have already been produced. Pl.'s Mot., Ex. 5. at 7-8. The administrative record, including Pratt's letters issuing administrative decisions, and her affidavit, demonstrate that Pratt relied on OIG's findings in making her decision, and adopted OIG's investigative findings in the final administrative decision. Since OIG's determinations were based on the CARs and attachments, they were considered by CPS and Pratt when making the final administrative decision and must be made available to this Court when reviewing the entirety of the administrative record.

CONCLUSION

Accordingly, the Court **GRANTS** Plaintiff's Motion to Compel Administrative Record.

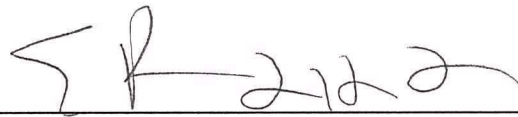
Wherefore, it is ordered:

- (1) Plaintiff's Motion to Compel Administrative Record is granted pursuant to Illinois Supreme Court Rule 219(a).
- (2) Defendant is granted 28 days to produce.

(3) This matter is set for status on January 5, 2024, at 9:30 AM.

December 6, 2023

Dated

A handwritten signature in black ink, appearing to read 'Eve Reilly', written over a horizontal line.

Judge Eve Reilly

Judge Eve M. Reilly

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