

ILLINOIS STATE BOARD OF EDUCATION
Before
PETER R. MEYERS
Hearing Officer

In the Matter of the Charges Brought
Against:

ANTONIO ROSS,

Respondent,

By

**THE CHIEF EXECUTIVE
OFFICER OF THE BOARD OF
EDUCATION OF THE CITY OF
CHICAGO,**

Petitioner.

Principal Dismissal Proceeding

FINDINGS OF FACT AND RECOMMENDATIONS

Appearances on behalf of the Respondent

Chiquita Hall-Jackson—Attorney
Antonio Ross—Principal/Respondent
Veronica Jackson—School Counselor
Steven H. Smith—Accountant
Rhonda Pettis—Inspector General and Certified Fraud Investigator
Office of Inspector General

Appearances on behalf of the Petitioner

Lindsey Goldberg—Deputy General Counsel
Laurel Baker—Senior Assistant General Counsel
Felicia Sanders—Chief Schools Officer
Myron Hester—Network Chief of High Schools for Network 17
Libby Massey—Managing Deputy General Counsel
Matthew Frost—Chicago Park District Office of Inspector General
Joseph Ptasinski—Assistant Inspector General

This matter came to be heard before Hearing Officer Peter R. Meyers on June 14, 2024; June 24, 2024; and July 23, 2024 via the Zoom videoconference format. Chiquita Hall-Jackson presented on behalf of the Respondent and Lindsey Goldberg and Laurel Baker presented on behalf of the Petitioner.

Introduction

The Chief Executive Officer (hereinafter “the Petitioner”) of the Board of Education of the City of Chicago (hereinafter “the Board”) initiated this administrative proceeding pursuant to the Illinois School Code for the purpose of dismissing Principal Antonio Ross (hereinafter “the Respondent”) on charges that Respondent allegedly had engaged in public benefits fraud by deliberately obtaining a Paycheck Protection Program (PPP) loan and PPP loan forgiveness through fraudulent means. The Petitioner approved dismissal charges against the Respondent on April 28, 2023.

In accordance with the provisions of the Illinois School Code, this matter came to be heard before Neutral Hearing Officer Peter R. Meyers on June 14, June 24, and July 23, 2024, via remote videoconference. The parties submitted written, post-hearing briefs, which were received by e-mail on September 17, 2024.

Statement of the Issues

The Petitioner proposes the following as the issues to be resolved here:

1. Whether Petitioner proved by a preponderance of the evidence that Respondent engaged in the misconduct outlined in the Dismissal Charges and that such misconduct constitutes sufficient cause to discharge Respondent?
2. Whether Respondent’s misconduct was immoral and was therefore irreparable *per se*?
3. Whether Respondent’s misconduct caused damage to the students, faculty, or school, and could not have been corrected with a further warning, and was therefore irreparable under the *Gilliland* standard?

The Respondent proposes the following as the issue to be resolve here:

Whether the Board has sufficient grounds under the Illinois School Code to dismiss Principal Antonio Ross?

Relevant Contract Provisions

UNIFORM PRINCIPAL PERFORMANCE CONTRACT

II. DUTIES OF PRINCIPAL

The Principal shall be the chief executive/operating officer of the attendance center and the Principal's duties shall include, but not be limited to the following:

- a) The Principal shall supervise the education operation of the Attendance Center and shall assume administrative responsibility and instructional leadership, in accordance with the Rules, Policies, and written Procedures promulgated pursuant to Rule or Policy of the Board of Education, for the planning, operation and evaluation of the educational program of the Attendance Center;

...

- e) The Principal shall develop an expenditure plan, pursuant to the Illinois School Code, with respect to funds allocated and distributed to the Attendance Center by the Board of Education. The expenditure plan which reflects the priorities and activities of the Plan shall be developed in consultation with the Local School Council, the Professional Personnel Leadership Committee of the Attendance Center and all other school personnel. The principal shall submit said expenditure plan annually to the Local School Council for approval.

...

- g) After an expenditure plan has been approved by the Local School Council (of if the school has been placed on probation, pursuant to 105 ILCS 5/34-8.3, after an expenditure plan has been approved by the Board of Education), the Principal shall be responsible for the implementation of the approved expenditure plan;

...

- m) the Principal shall perform faithfully his/her duties and obligations as a member of the Local School Council of the Attendance Center;
- n) the Principal shall endeavor to maintain a positive education and learning climate at the Attendance Center;

...

Failure to perform the duties set forth in this Section, in Board of Education Rules, Policies, written Procedures or Guidelines or the duty specified by the Chief Executive Officer or designee may result in disciplinary action pursuant to Rules, Policies and written Procedures and Guidelines promulgated pursuant to Board Rule or Policy, and may constitute a material breach of this Agreement and cause for termination.

V. CONTRACT TERMINATION

This agreement may be terminated by the Board of Education upon:

...

- (b) removal of the Principal for cause pursuant to 105 ILCS 5/34-85;

...

XII. MISCELLANEOUS

(c) The Principal agrees to comply during the terms of this Agreement with all Board of Education Rules, Policies and written Procedures and Guidelines promulgated pursuant to Rule or Policy and to the extent that such Rules, Policies, Guidelines or Procedures are inconsistent with the terms and conditions of this Agreement, the Rules, Policies, Guidelines or Procedures shall control.

(d) The Rules and Policies and written Procedures and Guidelines promulgated pursuant to a Rule or Policy of the Board of Education promulgated during the term of this Agreement are hereby incorporated by this reference, and shall supersede any inconsistent terms and conditions of this Agreement.

Relevant Statutory Provisions

ILLINOIS COMPILED STATUTES
CHAPTER 105 - SCHOOLS
105 ILCS 5/ - SCHOOL CODE

Article 34 - Cities Of Over 500,000 Inhabitants - Board Of Education
(105 ILCS 5/34-85) (from Ch. 122, par. 34-85)

...

TEACHERS - EMPLOYMENT AND RETIREMENT

...

Sec. 34-85. Removal for cause; notice and hearing; suspension.

(a) No teacher employed by the board of education shall (after serving the probationary period specified in Section 34-84) be removed except for cause. Teachers (who have completed the probationary period specified in Section 34-84 of this Code) shall be removed for cause in accordance with the procedures set forth in this Section or, at the board's option, the procedures set forth in Section 24-16.5 of this Code or such other procedures established in an agreement entered into between the board and the exclusive representative of the district's teachers under Section 34-85c of this Code for teachers (who have completed the probationary period specified in Section 34-84 of this Code) assigned to schools identified in that agreement. No principal employed by the board of education shall be removed during the term of his or her performance contract except for cause, which may include but is not limited to the principal's repeated failure to implement the school improvement plan or to comply with the provisions of the Uniform Performance Contract, including additional criteria established by the Council for inclusion in the performance contract pursuant to Section 34-2.3.

Before service of notice of charges on account of causes that may be deemed to be remediable, the teacher or principal must be given reasonable warning in writing, stating specifically the causes that, if not removed, may result in charges; however, no such written warning is required if the causes have been the subject of a remediation plan pursuant to Article 24A of this Code or if the board and the exclusive representative of the district's teachers have entered into an agreement pursuant to Section 34-85c of this Code, pursuant to an alternative system of remediation. No written warning shall be required for conduct on the part of a teacher or principal that is cruel, immoral, negligent, or criminal or that in any way causes psychological or physical harm or injury to a student, as that conduct is deemed to be

irremediable. No written warning shall be required for a material breach of the uniform principal performance contract, as that conduct is deemed to be irremediable; provided that not less than 30 days before the vote of the local school council to seek the dismissal of a principal for a material breach of a uniform principal performance contract, the local school council shall specify the nature of the alleged breach in writing and provide a copy of it to the principal.

(1) To initiate dismissal proceedings against a teacher or principal, the general superintendent must first approve written charges and specifications against the teacher or principal. ... A written notice of those charges, including specifications, shall be served upon the teacher or principal within 10 business days of the approval of the charges. Any written notice sent on or after July 1, 2012 shall also inform the teacher or principal of the right to request a hearing before a mutually selected hearing officer, with the cost of the hearing officer split equally between the teacher or principal and the board, or a hearing before a qualified hearing officer chosen by the general superintendent, with the cost of the hearing officer paid by the board. ...

(2) No hearing on the charges is required unless the teacher or principal within 17 calendar days after receiving notice requests in writing of the general superintendent that a hearing be scheduled. Pending the hearing of the charges, the general superintendent or his or her designee may suspend the teacher or principal charged without pay in accordance with rules prescribed by the board, provided that if the teacher or principal charged is not dismissed based on the charges, he or she must be made whole for lost earnings, less setoffs for mitigation.

ILLINOIS ADMINISTRATIVE CODE
TITLE 23 - EDUCATION AND CULTURAL RESOURCES
PART 22 - CODE OF ETHICS FOR ILLINOIS EDUCATORS

Section 22.20 - Code of Ethics

...

b) Responsibility to Self

Illinois educators are committed to establishing high professional standards for their practice and striving to meet these standards through their performance. Illinois educators:

...

(4) Demonstrate a high level of professional judgment.

UNITED STATES CODE
TITLE 18 – CRIMES AND CRIMINAL PROCEDURE; AND APPENDIX

PART I – CRIMES

CHAPTER 47 – FRAUD AND FALSE STATEMENTS

§1001. Statements or entries generally

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully-

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

...

CHAPTER 63 – MAIL FRAUD AND OTHER FRAUD OFFENSES

...

§1343. Fraud by wire, radio, or television

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of

executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

Charges and Specifications

THE CHIEF EXECUTIVE OFFICER

Hereby approves the following charges against Antonio Ross, a contract principal assigned to Hyde Park Career Academy High School.

DISMISSAL CHARGES

I charge Antonio Ross with:

1. A material breach of his principal contract.
2. Violating the Chicago Public Schools Principal and Assistant Principal Employment Guidelines, Categories of Misconduct: (a) Integrity/Ethics; (b) Law/Policy/Rule Violation; (c) Providing False/Incomplete Information During an Investigation; and (d) Conduct Unbecoming.
3. ~~Violating Board of Education of the City of Chicago Rule 4-4(f), which states that all employees must comply with the Chicago Public Schools Code of Ethics.~~
4. Violating 18 U.S.C. 1001, which criminalizes knowing false statements to a government entity, 18 U.S.C. 1343, the federal wire fraud statute, and 18 U.S.C. 1344, the federal bank fraud statute.
5. Violating Illinois State Board of Education Rule 23 Ill. Admin. Code § 22.20, which requires educators to demonstrate a high level of professional judgment.
6. Conduct unbecoming a Chicago Public Schools employee.

SPECIFICATIONS

1. For all relevant time periods, you were the contract principal assigned to Hyde Park Career Academy High School.
2. On or about April 1, 2021, you applied for a forgivable U.S. Small Business Administration loan through the Paycheck Protection Program (“PPP”), a federal pandemic-relief program established to help small businesses keep workers employed during the pandemic.
3. On or about April 1, 2021, you submitted SBA Form 2843-C, PPP Borrower Application Form for Schedule C Filers Using Gross Income (“Loan Application”).
4. In your Loan Application, you claimed to be operating a sole proprietorship remodeling/construction business, which you claimed had gross income of \$102,000.00 in 2020, against \$90,600.00 in expenses.
5. On or about April 3, 2021, your loan Application was approved in the amount of \$20,832.00 (“Loan”) based on the information contained in your Loan Application.
6. On or about October 18, 2021, you submitted a PPP Loan Forgiveness Application Form 3508S (“Loan Forgiveness Application”).
7. In your Loan Forgiveness Application, you stated that your business had spent \$14,499.20 of the Loan on payroll costs.
8. On or about October 25, 2021, your Loan was forgiven based on the information contained in your Loan Forgiveness Application.
9. On July 14, 2022, you were interviewed by the OIG. During your interview, you made the following statements:
 - a. You stated that you had engaged in secondary employment as a “middle man” for home repair and remodeling projects for a number of years.
 - b. You stated that you believed the statements in your Loan Application were truthful.
 - c. You admitted that you had not included the IRS Schedule C

when filing your federal income taxes for 2020, as required for submission of the Loan Application.

- d. You admitted that you had never reported any self-employment income on your tax returns.
10. In response to the OIG's request for information confirming your alleged secondary employment, you provided no evidence that you had been personally involved in any home repair or remodeling projects in 2020.
11. You submitted annual Statements of Business and Financial Interests ("SBFI") as required per your employment with Chicago Public Schools from 2017 through 2022. Your annual SBFIs stated that you did not have outside income through self-employment or any other type of employment.
- ~~12. You did not submit any secondary employment forms for consideration by CPS' Ethics Advisor or otherwise consult with the Ethics Advisor regarding your alleged secondary employment.~~
13. Your conduct was unbecoming of a Chicago Public Schools employee.

Based on the above specifications, dismissal is warranted due to your irremediable conduct. Your dismissal may result in your permanent ineligibility for future employment with the Board.

Fact Summary

The record in this matter reveals that Respondent Antonio Ross began his employment within the Chicago Public Schools in August 2002, and he became the principal of Hyde Park Career Academy High School on July 1, 2013. While serving as Hyde Park's principal, the Respondent has worked under a series of Uniform Principal Performance Contracts, including one that was in effect for the period from July 1, 2017 through June 30, 2021, with the next and current such contract having an effective term from July 1, 2021 through June 30, 2025.

The record also shows that Respondent became involved in secondary employment, or a side hustle, as a so-called middleman in the construction business. In this role, Respondent located laborers who could perform odd jobs and introduced them to local contractors. Respondent rarely performed any such labor himself, but rather connected laborers with contractors. Respondent also did store runs, invested in certain construction projects, and rented equipment and vehicles needed for certain projects. When the COVID pandemic started in 2020, these activities were interrupted.

As the pandemic went on, some of the laborers asked for loans from Respondent. Respondent heard that he could obtain a PPP loan that would allow him to pay these laborers via payroll, so he consulted with two loan experts about the PPP loan program and was assured that he and his side business would qualify. Respondent thereafter did apply for a PPP loan as a sole proprietor. The record confirms that there were no records relating to Respondent's sole proprietorship or business with the Illinois Secretary of State, and Respondent was not a licensed and bonded contractor.

The record shows that in 2021, CPS' Office of Inspector General ("OIG") began to investigate various cases of alleged fraud involving charter schools, vendors, and then CPS employees relating to the pandemic-era relief program known as the Paycheck Protection Program ("PPP"), which was established to provide forgivable loans to help small businesses keep workers employed during the pandemic. Because of reports of possible widespread fraud involving this program, and pointing to the reputational harm to CPS that would result from pandemic relief fraud by CPS employees, OIG initiated an investigation into CPS employees that began with an analysis of data from the Small

Business Administration and CPS' internal personnel data to identify CPS employees who appeared to have received PPP loans.

The evidence indicates that this initial analysis resulted in a list of about 700 CPS employees who may have received PPP loans. Because OIG did not have the resources necessary to investigate so many employees, OIG narrowed this list by eliminating part-time and hourly employees, as well as seasonal employees. The OIG therefore focused on full-time, full-year employees working in positions of higher managerial authority and financial involvement. OIG further narrowed the list to include only those employees making \$100,000.00 or more per year, which left about 100 people on the list.

The record demonstrates that OIG proceeded to seek information from the Ethics Department to determine which of these 100 employees had an approved secondary employment form on file. OIG also reviewed each of these employees' Statement of Business and Financial Interests (SBFI) documents, which required annual disclosures of any sources of income outside of employees' CPS salaries. OIG further searched online for any businesses related to employees' PPP Loan applications.

After reviewing this information, OIG further reduced the list of employees, and it then began to conduct individual investigations of the twenty-five or so employees remaining on the list. By the start of the Respondent's dismissal hearing, OIG substantiated eighteen cases of PPP loan fraud, with one of these involving the Respondent.

During its investigation into the Respondent, OIG contacted Jennifer Chan, CPS' ethics advisor, on May 6, 2022, seeking Respondent's secondary employment forms.

Chan responded that she was unable to locate any such forms for the Respondent. OIG did obtain Respondent's SBFBI forms for the years 2017 through 2022. On each of these forms, the Respondent indicated that he had not received any compensation, other than his CPS salary, through self-employment and/or employment with any entity other than CPS. OIG also was unsuccessful in finding any information on the internet about the Respondent's alleged construction business.

OIG subsequently subpoenaed documents from Capital Plus Financial, LLC, identified as the lender for Respondent's PPP loan. From the documents obtained in response to this subpoena, OIG learned that on April 21, 2021, Respondent applied for a PPP loan for a construction business that he claimed to own under the name "Antonio Ross." These documents show that Respondent claimed he was using tax year 2020 to determine his gross income to support the loan application, and Respondent included an IRS Schedule C form indicating that his construction business made \$102,000.00 with expenses totaling \$90,600.00 that year. These documents further confirm that Respondent was approved for the maximum loan amount of \$20,832.00.

The record demonstrates that on October 18, 2021, Respondent applied for forgiveness of this PPP loan, indicating that he spent \$14,499.20 of the loan on payroll. Respondent's PPP loan was forgiven in its entirety in the amount of \$20,939.05, including interest.

On July 14, 2022, OIG interviewed the Respondent, with the Respondent being given advance notice of his rights and opting to participate in the interview on a voluntary basis. During this interview, Respondent initially stated that he did not have a

secondary business. When asked about his PPP loan application, Respondent changed his answer and stated that he did have a construction business in which he acted as the middleman, arranging handyman jobs, home improvement work, and residential jobs. Respondent stated that this business did not have any online or physical presence, and did not advertise, but instead relied on word-of-mouth referrals. During this interview, Respondent explained that general contractors paid him, and he then hired cheap, undocumented day-laborers.

When questioned about the IRS Schedule C form during this interview, Respondent ultimately stated that his accountant, Steven Smith, had completed this form using the numbers that Respondent had provided. Respondent further stated that he never has filed a Schedule C on behalf of his construction middleman business, but stated that he had two years to do so.

During the interview, OIG asked Respondent to provide any documentation to prove that he had a business similar to the one that he described in the PPP loan application, including tax returns, bookkeeping records, and contracts. At the end of the interview, Respondent stated that he believed the statements that he made on his PPP loan application were truthful.

The record confirms that after this interview with OIG, Respondent submitted two secondary employment forms to his Network Chief, Myron Hester, doing so for the first time. Respondent ultimately was approved secondary employment for a business call “Connecting the Dots Leadership Initiative,” which was described as an education consulting business, and for another business called “Antonio Ross,” which was

described as a home repairs/construction referrals business.

On July 18, 2022, an attorney representing Respondent contacted OIG. During this communication, OIG requested documentation in support of Respondent's self-employment, as well as contact information for respondent's accountant, Steve Smith. Through his attorney, Respondent subsequently notified OIG that he had been unable to recover any paperwork relating to his business. OIG responded by stating that Respondent had until July 28, 2022, to provide the requested documentation.

On July 28, Respondent e-mailed a series of documents, including store receipts, scope-of-work documents, and Respondent's personal bank account records. The evidence confirms that the credit and debit card numbers in the banking records do not match any credit or debit card numbers on any of the receipts. None of the scope-of-work documentation carried Respondent's name or were dated during 2020, so these documents did not provide support for income or losses during the 2020 tax year. These documents all had been signed by another individual, not Respondent, and one of these documents had an address and telephone number associated with a business owned by this other individual. Respondent then provided additional documents, including a bill to the individual who had signed the scope-of-work documents, and a customer invoice to that other individual's business. All of this second batch of documents were from after the 2020 tax year, and Respondent's name did not appear on any of them.

The record establishes that OIG interviewed Smith on August 20, 2022. During the interview, Smith stated that he had prepared Respondent's taxes for nine years, and that he prepares only personal income tax returns for Respondent. Smith indicated that

the documentation that Respondent provided him showed that Respondent owned an investment property and indicated that Respondent was involved in a business that assisted children. Smith also confirmed that he did not assist Respondent with the preparation of any PPP loan application. Smith did recall that Respondent contacted him on one occasion to ask how to complete an IRS Schedule C form. Smith did not provide any numbers to Respondent in connection with a Schedule C form and did not assist Respondent in preparing one prior to this August 2022 interview with OIG. Smith also stated that he had no knowledge of any construction, renovation, or handyman business involving Respondent, and he suggested he would be surprised if Respondent had any income receipts totaling \$100,000.00 or more. Smith additionally stated that if Respondent netted such an amount in profit from anything, Respondent should have disclosed that to him.

The record shows that after Smith's August 2022 interview with OIG, Respondent reached out to Smith about his construction business, and Smith then, for the first time, put together a Schedule C and an amended 2020 tax return relating to this business. All of the information on these documents came from Respondent. Smith testified that Respondent did not provide supporting documentation for the \$102,000.00 in gross income reported on the Schedule C, and Smith stated that he relied on Respondent's honesty when including these numbers on the Schedule C.

After completing its investigation, OIG prepared a summary report on this investigation, which included its findings. Specifically, OIG found that in April 2021, Respondent fraudulently obtained a \$20,832.00 PPP loan through the submission of an

application that falsely stated that he had \$102,000.00 in gross income from self-employment during 2020. OIG further found that by submitting a fraudulent PPP loan application, Respondent likely violated several federal statutes that address such matters as knowingly making false statements to a government entity, wire fraud, and bank fraud.

The record establishes that OIG forwarded its finalized investigative reports and evidentiary attachments to the Law Department beginning in March 2023, with the last of these documents being transmitted in late April 2023. CPS' former Deputy General Counsel of the Labor and Employee Discipline Unit, Libby Massey, reviewed these materials and then assigned this matter to Assistant Deputy General Counsel Paul Ciastko to present before the Discipline Committee. This matter then was presented to the Discipline Committee so it could determine the appropriate level of discipline.

The record shows that the Discipline Committee is composed of chiefs, executive directors, and others from various departments, and it meets weekly to review scheduled disciplinary matters. The Committee hears presentations on these cases and then it assesses each case against prior similar cases for consistency, reviews other relevant factors, and then makes a recommendation to the final decision-makers. In cases involving principals, the final decision-maker is the Chief Education Officer (CEdO) with the support of the CEO.

The record demonstrates that after reviewing the evidence, comparable prior cases, and other factors in Respondent's case, the Discipline Committee recommended that Respondent be discharged. CEdO Bogdana Chkoumbova, with the CEO, then made the final decision to proceed with Respondent's dismissal.

The record additionally establishes that Respondent was issued discipline on one occasion prior to the events at issue here. In May 2020, Respondent was issued a written reprimand for failing to address a school counselor's prohibited practice of filling out FAFSA forms without the knowledge of Hyde Park students and their parents, which was characterized as fraud. Respondent also was instructed on how to determine whether conduct amounted to fraud, and to immediately notify the Network Chief or OIG if he ever was unsure whether a practice did or did not amount to fraud.

During the first day of hearing, Petitioner dismissed Charge Number 3 and Specification Number 12 from the Charges and Specifications that had been brought against Respondent.

The Petitioner's Position

The Petitioner initially contends that the evidence supports the charges against Respondent and establishes cause for his dismissal. Petitioner asserts that under the Illinois School Code, a contract principal may be dismissed for cause where there have been substantial shortcomings that render continued employment detrimental to discipline and effective service. Petitioner acknowledges that under the Illinois School Code, the Board must establish that Respondent's conduct either was irremediable *per se* – which relates to conduct that is cruel, immoral, negligent, or criminal, or that in any way causes psychological or physical harm to a student – or was irremediable under the two-prong test established in *Gilliland v. Board of Education*, 67 Ill. 2d 143, 153 (1977).

Petitioner emphasizes that in *Gilliland*, the Illinois Supreme Court held that the test for determining whether conduct cited as cause for dismissal is irremediable is

whether the conduct has caused damage to the students, faculty, or school, and whether the conduct resulting in that damage could not have been corrected had the teacher been warned.

Respondent notes that Illinois courts also have held that in cases where the alleged misconduct is immoral or has no legitimate basis in school policy, the appropriate second prong of this irremediability analysis is whether the effects of the conduct could have been corrected with a warning to the teacher. Respondent urges that this approach is necessary because the second prong of the *Gilliland* test otherwise would be impossible to prove in that it always may be argued that the teacher could refrain from improper conduct if told to do so. Petitioner argues that under either standard, the Board must establish cause for dismissal by a preponderance of the evidence. Respondent bears the burden of proof as to any affirmative defenses, which also must be established by a preponderance of the evidence.

Petitioner maintains that Respondent's conduct breached the Uniform Principal Performance Contract, as well as Principal and Assistant Principal Guidelines. Petitioner argues that Respondent committed violations under four categories of misconduct set forth in the Guidelines: Integrity/Ethics; Law/Policy/Rule Violation; Providing False/Incomplete Information During an Investigation; and Conduct Unbecoming.

Petitioner emphasizes that Respondent committed PPP loan fraud in violation of 18 U.S.C. 1001, 18 U.S.C. 1343, and 18 U.S.C. 1344. Petitioner asserts that this violation constitutes misconduct under the "Law/Policy/Rule Violation" category under the Guidelines. Petitioner urges that there is no debate that Respondent knowingly and

willfully obtained a PPP loan in April 2021, and PPP loan forgiveness in October 2021. Respondent knowingly used false, fictitious or fraudulent information on his PPP loan application and loan forgiveness application. This false information included a claim that his construction business had been in existence since 2017, yet prior to the OIG investigation, Respondent never notified the IRS or his accountant of this alleged business, never reported any secondary or self-employment income from this alleged business to CPS, and never submitted any secondary employment forms. Respondent did not file any such document with CPS or the IRS until after he was interviewed by OIG. Petitioner suggests that Respondent's amended tax documents and late submission of secondary employment forms for his alleged construction business were a poor attempt to legitimize that alleged business after OIG caught his fraud.

As for any claim that Respondent considered his business to be just a side hustle, Petitioner emphasizes Smith's statement during his OIG interview that even if Respondent had made only \$11,000.00 from that business, he still would have had to report this income to the IRS. Petitioner notes that Respondent's PPP loan application indicates that he had a gross income of \$102,000.00 with expenses of \$90,600.00 during 2020, and his PPP loan forgiveness application indicates he had spent \$14,499.20 of the loan on payroll costs. Respondent also asserted that he spent \$6,000.00 on advertising this business. Petitioner emphasizes that Respondent never had provided any documentation or proof of any of these monetary assertions. Petitioner suggests that this is because these claims about income and expenses are fictitious.

Further evidence that these monetary claims are fictitious can be found in the

unrelated and miscellaneous documents that Respondent did submit in response to OIG's request for documentation supporting the claims in his PPP loan applications. Petitioner emphasizes that instead of providing documentation that OIG requested – including those showing any items that he purchased for a construction job, invoices or bills in Respondent's name, or any payroll records for any laborers that he hired – Respondent submitted irrelevant documents in hopes that OIG would not look closely at them and would not notice that they did not support the figures set forth on Respondent's PPP applications and draft Schedule C form.

Citing Respondent's testimony about his "loose" bookkeeping practices relating to his alleged business, Petitioner suggests that it is virtually impossible that, without any consistent bookkeeping, Respondent could have calculated gross income and expenditures for that alleged business as set forth in his PPP loan application and forgiveness application. Moreover, Respondent acknowledged that as to advertising for this alleged business, there were no online or physical advertisements, but instead only word-of-mouth referrals. On this record, Petitioner submits that it is highly improbable that Respondent spent anything remotely close to the \$6,000.00 for advertising that he claimed on his loan application.

Petitioner then asserts that it is a bit convenient that Respondent chose to claim that he made \$102,000.00 in gross income during 2020 because this amount would allow him to receive the maximum loan amount, as explained on the PPP application. Moreover, after submitting fictitious or fraudulent information of his loan forgiveness application, the entire PPP loan – amounting to \$20,939.05, including interest – was, in

fact, forgiven.

Petitioner maintains that it has shown by a preponderance of the evidence that Respondent obtained a PPP loan, then later received loan forgiveness for the entirety of that loan plus interest, by providing fictitious information on his applications.

Respondent therefore engaged in PPP loan fraud, in violation of 18 U.S.C. 1001, 18 U.S.C. 1343, and 18 U.S.C. 1344.

Petitioner then contends that during his interview with OIG, Respondent also provided false or incomplete information, violating the provisions of the Principal and Assistant Principal Guidelines that specifically addresses this type of misconduct. Petitioner points to Respondent's inconsistent statements during this interview, particularly his initial denial of having a secondary business, an answer he changed after OIG investigators mentioned his PPP loan application. During his OIG interview, Respondent also lied when he claimed that Smith had filled out the Schedule C form that was submitted along with his PPP loan application. Moreover, Respondent tried to equivocate about this lie during his testimony at the hearing by falsely claiming that the OIG investigators had asked who had helped him to draft the Schedule C form. Petitioner points out that Smith believably contradicted Respondent's claim.

Petitioner notes that Respondent engaged in further misrepresentation during his OIG interview when he stated that he believed the information on his PPP loan application was truthful. On this point, Petitioner re-emphasizes Respondent's failure to provide any supporting documentation for his claims about income and expenses, as well as Respondent's admissions about his inconsistent and lax bookkeeping. Without any

documentation showing what was earned and what was spent, there is no way that Respondent could have calculated his income and expenses relating to his alleged business. Petitioner urges that Respondent could not have definitively believed that the figures on his loan application were truthful without being able to reference any supporting documentation.

On this record, Petitioner argues that it has proven by a preponderance of the evidence that Respondent provided false and/or misleading information during his OIG interview.

Petitioner points to the established test for determining whether there is nexus between off-duty misconduct by a teacher or principal and that teacher's or principal's fitness for duty. In determining whether such a nexus exists, the decision-maker may weigh several factors, including the likelihood of an adverse effect from the misconduct on students and staff, the degree of such an adverse effect, the probability that the misconduct will recur, and the presence or absence of any mitigating factors.

Petitioner emphasizes that allegations of CPS employees engaging in PPP loan fraud became a frenzy in the media, and OIG found that Respondent had fraudulently obtained such a loan after a thorough investigation. OIG also found that Respondent's fraudulent activity likely constituted violations of three federal statutes, as cited above. Petitioner acknowledges that there is no evidence that Respondent was misappropriating any of the public funds associated with Hyde Park. Petitioner insists that there is a clear nexus between Respondent's conduct and his fitness to lead at Hyde Park because of his irremediable conduct. Petitioner suggests that knowledge of the Hyde Park principal's

involvement in a fraud relating to public funds would have a harmful effect on the school system, and it would greatly impede Respondent's ability to adequately fulfill his role as principal, which includes the responsibility for managing multi-million-dollar public funds.

Petitioner then contends that Respondent's conduct is irreparable *per se* because it was immoral. Petitioner notes that this aspect of Respondent's misconduct violated the portion of the Principal and Assistant Principal Guidelines that addresses integrity and ethics, and Illinois courts have found that knowing misrepresentations are immoral and grounds to dismiss a tenured teacher or principal without a prior warning. Respondent presented fictitious information on his PPP loan application, allowing him to obtain a \$20,832.00 loan. Moreover, Respondent has presented no proof that he spent more than \$14,000.00 of that loan on payroll, as he claims on his PPP loan forgiveness application. Petitioner suggests that it is likely that Respondent used the loan money for his own personal gain.

Petitioner argues that although Respondent appeared to cooperate with OIG by voluntarily participating in his July 2022 interview, Respondent provided a lot of false or incomplete information during that interview. Moreover, instead of providing relevant documentation to OIG, Respondent clandestinely provided a series of documents that were completely unrelated to his income and expenses during 2020.

Petitioner maintains that Respondent presented no evidence to support any monetary gains or expenses for his alleged construction business or how he used the loan money. While Respondent was the principal of Hyde Park, as a public official,

Respondent fraudulently obtained public funds, which is immoral. Respondent's conduct was immoral and irremediable *per se*.

Petitioner goes on to assert that if Respondent's misconduct was not intentional, it was negligent and therefore irremediable *per se*. As for any claim from the Respondent that the inaccurate information on his PPP loan application was due to his "loose" bookkeeping, Petitioner points out that this is, in itself, negligent behavior for a business owner, let alone a principal of CPS school and given the nexus to his employment. Respondent provided no evidence to support any of the monetary figures listed on his PPP loan application. Petitioner maintains that a reasonably prudent business owner, and principal, would not submit a loan application to the federal government with monetary figures that he could not support with documentation. Petitioner therefore insists that even if Respondent did not intend to defraud the government, he was negligent, and this misconduct was irremediable *per se*.

Petitioner contends that Respondent must be dismissed pursuant to the Illinois School Code because his public-benefits fraud constitutes irremediable conduct according to the two-pronged test set forth by the Illinois Supreme Court in the *Gilliland* decision. With respect to the first prong of that test, Petitioner asserts that Respondent's conduct was the type to cause harm to the Hyde Park Career Academy High School community, posing a large threat to the trust that the community has in Respondent's ability to manage public funds with transparency and integrity. Petitioner submits that this misconduct constitutes "conduct unbecoming" under the Principals and Assistant Principals Guidelines.

Petitioner urges that it is crucial for a principal to possess the attributes of trustworthiness, transparency, and integrity, so that students and staff are willing to follow the principal's lead, can believe in the principal's pronouncements about financial matters, and are able to depend on the principal's moral compass to do the right thing whether or not anyone is watching.

Petitioner suggests that there is no relevance to any claim that Respondent's principal evaluations indicate that his performance reflected no issues relating to his fiscal responsibilities. Petitioner emphasizes that the main concern is the potential harm to the community upon learning of Respondent's fraudulent PPP loan and loan forgiveness. If, or more likely when, the community becomes aware of Respondent's misconduct, this will break the trust regarding his responsibility to allocate and oversee public funds if he should return to Hyde Park.

Petitioner further stresses that Respondent previously was disciplined for mishandling a situation involving a school counselor's practices on filling out FAFSA forms for Hyde Park students. Petitioner also suggests that there is major concern about a potential ripple effect within the Hyde Park community, resulting in a loss of trust and confidence in Respondent as the school's principal.

Petitioner further submits that there is no basis beyond speculation for any testimony in the record about any negative effects within the school community as a result of Respondent's removal. This testimony should not be given much, if any, weight. Petitioner also argues that because all substantiated cases of PPP loan fraud throughout CPS have resulted in dismissal or a do-not-hire designation, it is very likely that the

community would be negatively impacted by any outcome that differs from that past practice. Petitioner reiterates that Respondent's misconduct constitutes a major risk of harm to the Hyde Park community and beyond.

Turning to the second prong of the *Gilliland* test, addressing remediability, Petitioner notes that the prior discipline issued to Respondent, although for misconduct that is not expressly the same as what is at issue here, nevertheless is related because it involves fraud involving public funds. That earlier discipline included instructions on how to ensure or determine whether a practice could or does amount to fraud. Respondent specifically was instructed to immediately notify his network chief or OIG if he ever was unsure whether or not a practice could or does amount to fraud. Petitioner points out that as was true in the earlier incident involving the FAFSA process, Respondent engaged in the same pattern during the instant matter, failing to pay attention to details, policies, and procedures to ensure that he was appropriately obtaining public funds. Petitioner insists that because Respondent obtained a personal PPP loan outside of his principal duties, it is extremely unlikely that a prior warning would have been beneficial.

Petitioner argues that Respondent's actions after learning of the OIG investigation, trying to cover up his fraudulent behavior, further demonstrate that his conduct is irreparable. Petitioner submits that Respondent has not taken full accountability for his actions. Petitioner notes that although Respondent indicated on the loan application that his construction business began in 2017, Respondent never filed a Schedule C with the IRS relating to this alleged business prior to his July 2022 OIG interview. Moreover,

Respondent did not submit any secondary employment forms to the Ethics Department until after that OIG interview. In addition, on annual SBFI forms from 2017 through 2022, Respondent repeatedly stated that he had not compensation other than his CPS salary.

Petitioner emphasizes that during his testimony, Respondent attempted to blame CPS for this, rather than accepting responsibility for providing this false information. Respondent also seemed to be dismissive of these inaccurate answers by suggesting that he must have misread this question on the SBFI form every single year for six years in a row. Petitioner further contends that despite these excuses, there is no excuse for Respondent being unaware that any income to Respondent from a sole proprietorship would need to be reported to the IRS.

Petitioner maintains that the second prong of the *Gilliland* test has been satisfied in that it is clear that any prior warning would not have been beneficial for Respondent.

Petitioner emphasizes that as Hyde Park's principal, Respondent was responsible for the school's fiscal management. Respondent had access to multi-million-dollar budgets, and the hundreds of thousands of dollars in the school's internal bank accounts. Moreover, Respondent, with oversight from the Local School Council, was responsible for ensuring that these funds were appropriately allocated. Any argument that Respondent, as principal, had no responsibilities regarding the school's financial resources should be ignored.

Petitioner ultimately contends that the Hearing Officer should make appropriate findings of fact that support a recommendation of dismissal of the Respondent for the

reasons set forth above.

The Respondent's Position

Respondent initially contends that under the Illinois School Code, no principal may be removed from employment except for cause, and two types of misconduct – remediable and irreparable – may constitute such cause. Respondent asserts that a teacher is entitled to a written warning before being dismissed for conduct that is remediable, but no written warning is required if the conduct is irreparable.

Respondent argues that irreparable conduct may be established either by showing that it is *per se* irreparable or by showing that it meets the two-prong *Gilliland* test.

Respondent notes that proven misconduct is irreparable *per se* when it is cruel, immoral, negligent, criminal, or causes psychological or physical harm to a student. The two-prong *Gilliland* test requires a showing that damage has been done to students, faculty, or the school, and that the conduct that resulted in the damage could not have been corrected had the teacher been warned. Respondent notes that Illinois courts have held that where alleged misconduct is immoral or has no legitimate basis in school policy, the second prong of the *Gilliland* test does not apply.

Respondent emphasizes that the Board initially brought six charges and thirteen specifications against him, then it dismissed Charge Number 3 and Specification Number 12 during the first day of hearing in this matter. Respondent has admitted to the first eight Specifications, so will address only the five remaining Specifications that are at issue.

Addressing Specification 9c, Respondent maintains that there is no cause for

dismissal under this Specification. Respondent points out that he was informed that he could submit a draft Schedule C with his loan application if he had not filed his actual tax returns and Schedule C form at the time, and he did submit a draft Schedule C with that application. Respondent submits that a draft Schedule C was acceptable in that his loan subsequently was approved with that draft form attached to his application.

Turning to Specification 9d, Respondent denies admitting that he never had reported any self-employment income on his tax returns. Respondent contends that the records contradict this Specification, with the OIG report indicating that Respondent's accountant admitting that he had attached Schedule C forms with Respondent's personal tax returns based on Respondent's businesses. Respondent maintains that while he, as a non-accountant, was unsure if he ever filed a Schedule C form with his personal tax returns, his accountant was able to verify that Respondent previously had reported his self-employment income on his tax returns. Respondent suggests that this issue therefore is moot. Respondent notes that he subsequently amended his 2020 tax return and filed a Schedule C with that amended return. Respondent urges that this Specification also does not constitute cause for dismissal and should be dismissed as moot.

With regard to Specification 10, Respondent also denies this allegation, pointing out that the Board's own evidence indicates that Respondent did timely submit various documents, bank statements, and receipts by e-mail pursuant to OIG's request. Respondent points out that these documents included his personal bank statements that highlighted purchases at Home Depot, as well as contact information for his accountant, a carpenter for whom he provided work, and a contractor with whom he does business.

Respondent emphasizes that Petitioner's counsel acknowledged during the hearing that there are some documents showing Respondent was engaged in the middleman role during 2020.

Respondent urges that the evidence does not support this Specification 10, so it should be dismissed. Respondent also raises an affirmative defense here, based on the conduct of Petitioner itself or its agents, emphasizing that Petitioner failed to provide Respondent with a list of items to submit, and that it did not make contact with any of the witnesses identified by Respondent. Respondent also argues that the Board rushed to judgment, did not properly understand the role of a middleman, and did little or nothing to understand the role prior to moving for Respondent's dismissal. Respondent reiterates that this Specification should be dismissed.

As for Specification 11, Respondent admits that his annual SBFI's for 2017 through 2022 did not report any outside income. Respondent maintains that this was because he did not see his outside work as presenting any conflict of interest as stated on the form. Respondent notes that only one question on the SBFI is at issue here, and it asks whether the employee received any compensation other than his or her CPS salary, and to provide further information if the employee did receive such outside compensation. Respondent confirms that he answered "No" to this question in each of the referenced years. Respondent acknowledges that this was not the correct response because he did maintain secondary employment, and he emphasizes that he admitted this error during the OIG interview and during his hearing testimony. Respondent points out that he received no training with respect to these forms. Moreover, Respondent again

raises the affirmative defense based on the conduct of the Petitioner and/or its agents, alleging that this conduct contributed to this issue by failing to provide training or a clear policy on these forms.

Regarding Specification 13, Respondent denies that his conduct was unbecoming of a CPS employee. Respondent suggests that whether conduct is unbecoming depends on any analysis of whether the conduct violated Board rules and polices.

Addressing the dismissal charges, Respondent similarly focuses on each charge individually. With respect to Charge 1, Respondent denies any breach of his principal contract, asserting that Petitioner failed to identify which clause of that contract he allegedly breached. Respondent contends that there is no allegation in this matter that would be deemed a breach of the contract. Respondent notes that the contract focuses on curriculum, the LSC, and the students, and he argues that he has not harmed any of these in connection with this alleged PPP loan fraud and/or by failing to answer “yes” to a question on the SBFI forms. Respondent additionally points out that even if there were a breach of the contract, it was not material. Respondent insists that there is no injured party to the contract, there have been no criminal charges, and there has been no harm to the reputation of the school or the Board.

Respondent suggests that Petitioner has attempted to present evidence only of perceived harm in the form of a lack of trust from the LSC, the community, and others. Respondent also submits that Petitioner has caused greater harm to the students, LSC, and community by removing Respondent from his position during the school year, and greater harm to the Board and CPS schools by removing other experienced, skilled, and

committed principals and assistant principals from schools while leaving more than 500 lower-level employees who allegedly took out fraudulent PPP loans to continue their employment within CPS.

Respondent additionally contends that the record shows that principals rarely access cash or make deposits on behalf of schools, with these duties mainly being handled by clerks, business managers, or business clerks. Respondent suggests that there is no truth to Petitioner's theory that he had access to more than \$5 million in discretionary funds, noting that any changes to the budget would need the LSC's approval.

Respondent argues that there was no harm and no material breach of his contract, so this Charge should be dismissed.

Respondent goes on to deny the allegations set forth in Charge 2, asserting that he acted with integrity at all times. Respondent notes that two of his former Chiefs, both witnesses for the Petitioner, testified that they never had known him to not act with integrity. Respondent asserts that his personnel file supports this testimony. Respondent also suggests that he acted with integrity when he submitted a draft Schedule C with his loan application in that he did indicate that he had filed a Schedule C with the IRS when he had not done so. Respondent urges that this Charge should be dismissed.

Respondent also raises an affirmative defense to this Charge, asserting that Petitioner contributed to his failure to properly complete the forms because it had no standard, policy, or procedure in place to address this issue. Moreover, Petitioner had not trained Respondent on the issues being raised here.

Respondent then points out that although the Code of Ethics lays out several policies, rules, and regulations, none of these relate to the conduct alleged in this matter. Petitioner has not explained or shown how this policy was violated. Respondent suggests that the Code of Ethics' reference to fiduciary duty is one element of the Code that possibly could apply to this matter. This reference, however, addresses only the performance of public duties, while the claims in this matter relate to Respondent's actions in his personal capacity. Another element of the Ethics Code that may apply relates to the allegation that Respondent provided false information during the investigation. Respondent denies providing any false information during the investigation, and he argues that he instead provided truthful information.

Respondent points out that there has been confusion on the Petitioner's part regarding the nature of Respondent's business and his actual role in that business. Respondent asserts that some of his statements during the investigation were not properly recorded and ultimately used against him. One example of this is the claim that Respondent stated that his accountant had completed the draft Schedule C, when this claim resulted from an error by the Petitioner. Respondent also points out that he submitted documents during OIG's investigation, and he thereafter never was asked to provide any additional documentation. Respondent reiterates that no one ever provided him with a list of proposed items, detailed a timeframe that any documents should cover, or informed him that he had an on-going obligation to supplement the documents he had provided.

Respondent reiterates that the conduct of Petitioner and/or its agents contributed to

these issues by not properly investigating the claims, and by not providing clear instructions on what was needed from Respondent. Respondent asserts that this Charge should be dismissed.

Respondent further indicates that his arguments under Specification 13, above, apply to this Charge, as well.

Addressing Charge 4, Respondent asserts that Petitioner failed to provide evidence that would support a finding under any of the cited federal statutes. Among other issues, Petitioner provided no evidence that the SBA is an agency operating under any branch of the government, nor did Petitioner present any evidence that Respondent knowingly and willfully made false, fictitious, or fraudulent statements. In fact, Petitioner presented no evidence as to Respondent's mindset at the time of his loan application.

Respondent submits that Petitioner's focus was on what was submitted during its internal investigation and the events that occurred after the investigation. Nothing in the evidentiary record relates to any "knowing" commission of bank fraud or any specific intent to commit any violation of the cited statutes. Respondent reiterates that he was advised that it was acceptable to submit a draft Schedule C with his application, and he argues that he worked with the contractors and his own records at the time of the application to formulate the numbers included on that draft form. Respondent points out that nothing in the record or on the loan application states that it is prohibited or deemed fraudulent to round up to the nearest dollar amount, while Smith stated that this is a common practice among those who file their own tax returns.

Respondent additionally asserts that there is no evidence of any scheme to

defraud. The record does not show that there were any interstate wire communications to further any such scheme, and it is unclear what financial institution Petitioner alleges that Respondent defrauded. Respondent urges that this argument fails.

With respect to Charge 5, Respondent maintains that he demonstrated a high level of professional judgment when he consulted with two different agents about whether his side hustle qualified for a PPP loan. Respondent also consulted with his accountant to clarify what a Schedule C form was and what the categories meant. In addition, Respondent solicited documents and receipts from the contractors relating to the projects for which he provided crews over the years. Respondent emphasizes that he freely participated in the investigation and provided documents to support the details of his role as a middleman providing crews to contractors.

Addressing Charge 6, Respondent relies on the arguments presented in connection with Specification 13, above. Respondent contends that Petitioner has failed to meet his initial burden of proving that cause for dismissal exists.

Respondent goes on to suggest that even if Petitioner had met its burden of proving that just cause for dismissal exists, Petitioner did not show that Respondent's conduct was irreparable. Respondent points out that Petitioner cannot transform remediable conduct into irreparable conduct by repeatedly intoning the term "immoral." Respondent contends that Petitioner must prove that Respondent's conduct either fell into the narrow category serious irreparable *per se* misconduct or that it was so damaging that it constitutes irreparable misconduct under the two-part *Gilliland* test.

Respondent submits that there are no allegations of immoral or negligent behavior

here, and no true allegations of criminal conduct. Although Charge 4 does refer to criminal statutes, Petitioner has not proven the elements of any crime under those statutes. Respondent suggests that even if the Hearing Officer finds otherwise, no criminal charges have been filed against Respondent. Respondent further asserts that there is no nexus between the conduct at issue and his role as principal, particularly in light of the checks and balances of the LSC and other CPS employees relating to Respondent's access to cash and budget.

Respondent re-emphasizes that there has been no damage to faculty, students, or school, nor is there any perceived damage, as evidenced by the fact that more than 500 CPS employees applied for PPP loans, some of which may have been fraudulent, yet those employees continue to work for CPS without investigation. Respondent insists that the alleged conduct here could be remedied via a warning, particularly any claims relating to the proper completion of SBFI forms and proper record-keeping for his personal business.

Respondent argues that in this case, the Board must issue a written warning prior to any dismissal proceeding and give Respondent an opportunity to correct the highlighted conduct. The charges against Respondent must be dismissed if it is determined that Petitioner failed to meet any part of its burden.

Respondent ultimately contends that Petitioner has failed to meet the statutory requirements for dismissal of a principal. Respondent requests that the Hearing Officer direct Petitioner to reinstate him with full back pay, benefits, and any other remedies deemed appropriate.

Decision

This Hearing Officer has carefully reviewed all of the testimony and evidence in the record, the relevant and applicable statutory provisions, and the parties' arguments in support of their opposing positions. In this dispute over whether Petitioner has established that Respondent engaged in misconduct that constitutes sufficient cause for his dismissal and whether any proven misconduct was irremediable in nature, the Petitioner bears the burden of proving these assertions by a preponderance of the evidence.

The record establishes that this matter arose in the wake of significant media attention on assertions that CPS charter schools, vendors and employees may have been involved in fraudulent efforts to obtain PPP loans and then have those loans forgiven. OIG began an inquiry relating to these reports, initially attempting to determine how many CPS employees might have obtained PPP loans, whether legitimately or fraudulently. That initial inquiry revealed that hundreds of CPS employees apparently applied for PPP loans, far too many for OIG, with limited resources, to individually investigate in order to determine whether any of these loans had been obtained through fraud. OIG took steps to reduce the list of possible loans that it would investigate, ultimately deciding to investigate PPP loans that potentially involved only those CPS employees who are full-time, full-year employees making at least \$100,000.00 per year.

This Hearing Officer must emphasize that the means by which OIG determined what categories of employees to focus on and investigate, out of the hundreds of employees potentially involved in the PPP loan program, was entirely reasonable and

within the scope of OIG's discretion. Moreover, it absolutely was necessary because, again, OIG does not have the benefit of unlimited resources that would have allowed it to conduct an investigation into each and every CPS employee who obtained a PPP loan to determine whether any of those hundreds of loans might have been obtained fraudulently. Respondent correctly has pointed out that OIG's narrowing of its focus to full-time, full-year employees earning more than \$100,000.00 per year means that many lower-level or lower-paid CPS employees who might have fraudulently obtained a PPP loan are continuing their employment with CPS. Respondent also is correct in suggesting that some of these uninvestigated employees may have far more access to CPS funds in the course of their job duties than did Respondent in his capacity as a principal.

Although OIG itself is not investigating lower-level and/or lower-paid employees as of this point in time, this does not necessarily mean that full-time, full-year employees earning more than \$100,000.00 per year are the only CPS employees who will be investigated and who will face consequences if found to have committed fraud. Employees who currently fall outside of the scope of OIG's narrowed focus on the PPP loan issue may become the subjects of investigations, whether by OIG or by another investigative or governmental authority. It may be that other governmental entities are also conducting such investigations even now.

Whether or not other classifications of CPS employees who obtained PPP loans are being investigated by OIG, though, ultimately does not matter to the determinations that must be made in this case. OIG cannot ignore the possibility that some CPS employees may have fraudulently obtained PPP loans simply because it is unable to

investigate each and every employee who obtained such a loan. OIG is responsible for investigating possible wrongdoing by CPS personnel, so it must make some legitimate effort to look into potential issues with PPP loans. This Hearing Officer finds that there is no evidence suggesting that there was any discriminatory basis for OIG's narrowed investigative focus on full-time, full-year employees earning more than \$100,000.00 per year, and there is no reasonable basis for claiming that OIG's course of action in narrowing its investigative focus was arbitrary, capricious, or an abuse of discretion.

Returning to the facts giving rise to this matter, the record confirms that after OIG set the parameters establishing the group of employees who had obtained PPP loans that it would investigate, Respondent was included within that group. It appears that OIG moved forward with its review of Respondent's loan application in the same way that it proceeded generally in these investigations. The evidence in the record that documents OIG's investigative steps in the Respondent's case conclusively establishes that this investigation was conducted in a full, fair, and impartial manner. OIG worked to obtain any and all relevant evidence that would shed light on the legitimacy, or lack thereof, of Respondent's dealings with the PPP loan program.

Among other specific investigative steps, OIG sought and obtained documentation relating to Respondent's PPP loan application and his subsequent application for forgiveness of that loan. OIG also sought and obtained CPS records that addressed any secondary employment that Respondent had reported. When these records suggested discrepancies between what Respondent had indicated in his PPP loan application about having a business separate from his CPS employment and what he had reported to CPS

about any secondary employment and/or income, OIG embarked upon a full-scale investigation of Respondent's PPP loan activity in order to determine whether those discrepancies were evidence of fraud.

In pursuing that investigation, OIG interviewed Respondent, of course, and it also sought information from Respondent about any business records and personal financial information that might shed light on the accuracy and truthfulness of his PPP loan application, as well as the identities of other individuals who might have personal knowledge of Respondent's alleged sole-proprietor business as a middleman for construction contractors. Due to the timing of Respondent's PPP loan application, OIG focused on whether Respondent actually operated the claimed construction middleman business during the 2020 tax year.

It must be emphasized that, to his credit, Respondent voluntarily agreed to participate in the interview, and he told the OIG investigators that he would supply the information that they requested and detailed during the interview. The flip side of Respondent's stated willingness to cooperate in the OIG investigation is that to the extent Respondent failed to submit evidence to OIG and/or into the record here that documents the existence of his claimed business and the accuracy of the financial details relating to that alleged business that he included in his submissions to the PPP, such evidentiary failures actually would serve to support Petitioner's claims here and would help to demonstrate that Petitioner has met its burden of proof.

The record indicates that during his interview, for example, Respondent initially stated that he did not have any secondary business at all, but he changed this answer after

being asked about his PPP loan application. Because PPP loans were available for the sole purpose of assisting small businesses during the pandemic, there can be no dispute that Respondent could not have obtained such a loan without claiming to have a small business. When confronted with the fact that OIG knew about his PPP loan application, it appears that Respondent understood that his previous denial of having a secondary business was a problem and potentially suggested that Respondent had been untruthful at some point, whether in his loan application or in denying having a secondary business.

It also must be emphasized that Respondent did not provide, and still has not provided, documents or any other form of evidence that sufficiently proves that he actually had any sort of business separate from his CPS employment or earned any secondary employment income outside of his CPS employment during 2020. This Arbitrator notes that a few days after his OIG interview, Respondent informed OIG, through an attorney, that he did not have any paperwork related to his alleged construction business. Respondent subsequently did submit some documents to OIG, including various sales receipts, scope-of-work documents, and some personal banking records. None of these documents, however, after a thorough analysis substantiated or proved that Respondent actually operated the construction business that he described in his PPP loan application. Moreover, none of these records supported Respondent's assertions about the income and expenses associated with that claimed business.

It must be emphasized that Respondent failed to provide, and still has not provided, any documents that affirmatively show that he actually operated a construction business during 2020. This failure occurred despite OIG giving Respondent several

examples of the types of documentation that would help to establish the existence of Respondent's claimed business, including invoices, payroll documents, contracts, receipts to/from general contractors, bookkeeping records, and filed tax forms. As discussed above, Respondent's continuing failure to provide any evidence that his claimed construction business actually existed serves to support OIG's determination that Respondent was untruthful in describing that claimed business in his submissions to the PPP loan program, as well as supporting the Charges and Specifications being pursued against Respondent in this proceeding.

The record also conclusively shows that apart from any OIG investigation, CPS employees, including Respondent, are required to submit regular documentation to CPS that sets forth whether they are involved in secondary businesses or employment, and that details the nature of any such secondary businesses or employment. These disclosures are critical because of the need to ensure that there are no ethical, financial, or professional conflicts created by any secondary activities. None of the forms that Respondent historically submitted to CPS that dealt with secondary employment support Respondent's assertions about operating a construction middleman business as a side hustle. Respondent, in fact, did not file any forms with CPS that identified such a business until immediately after his OIG interview, and these documents do not confirm any of the details relating to this alleged business that Respondent included in his PPP submissions.

Based on the evidence that OIG was able to gather during its investigation, but particularly in light of the absence of any evidence confirming the existence of

Respondent's alleged construction business, OIG determined that Respondent had not been truthful about that alleged business when completing his PPP loan application, and that he had been similarly untruthful in connection with his application for forgiveness of his PPP loan. The evidentiary record is, in fact, striking for what it does not contain. Despite OIG's efforts to gather evidence that would confirm the existence of and financial details surrounding Respondent's alleged business, there is nothing in the record that suggests that this alleged business ever has existed. Among other deficiencies, there is no evidence that identifies any of the contractors with whom Respondent allegedly dealt, nor any evidence that establishes the income and expenses associated with this alleged business.

Respondent's suggestion that his own sloppy bookkeeping prevented him from being able to present documents showing the revenues and expenses associated with his claimed business does not explain the complete absence of any other evidence of his claimed business' existence. Sloppy bookkeeping does not explain, for example, why Respondent did not identify any of the contractors for whom he allegedly provided work crews. Even Respondent's long-time accountant was unable to confirm the existence of any sort of construction-related business operated by Respondent. The absence of evidence showing the existence of Respondent's claimed business offers significant support for OIG's conclusion that Respondent had been untruthful about this alleged business in connection with obtaining the PPP loan. It must be noted that Respondent's accountant did have some knowledge of another secondary business that Respondent claimed to operate, one that allegedly assists students in obtaining scholarships.

Moreover, the fact that the accountant did not know about the alleged construction business means that Respondent did not include any information about this alleged business' revenue and expenses in his tax filings.

One other aspect that must be emphasized relating to Respondent's claimed secondary business involving providing assistance to students seeking scholarships is that like his alleged construction business, Respondent failed to inform CPS about its existence until after his OIG interview. While this may constitute evidence of Respondent's failure to accurately inform CPS of his secondary activities, it is important to note that this other side business is not involved in the PPP loan matter in any way. That Respondent's accountant, prior to the OIG investigation, did know about Respondent's side business assisting students in finding scholarships but had heard nothing of the alleged construction business, despite Respondent's claim on the PPP loan application that it had generated more than \$100,000.00 in gross income during 2020, strongly supports OIG's determination that Respondent's claims about this alleged construction business were not truthful.

The fact is that even if Respondent's assertions on his PPP loan application about his construction business are taken as true, it nevertheless is plain that he has been untruthful somewhere along the line. If Respondent did have such a business and it did generate the income and expenses during 2020 that he claimed in connection with his PPP loan application, Respondent should have reported this secondary business to the CPS in his annual disclosure forms on secondary employment. Yet from 2017 to 2022, Respondent claimed to CPS that he was not engaged in any secondary business or

employment, and he did not report to CPS any secondary business until immediately after his OIG interview.

In addition to his failure to report any secondary business to CPS until after his OIG interview, Respondent also apparently failed to address the tax implications of such a business. If Respondent's alleged secondary business existed, then the income and expenses associated with it should have been included in Respondent's tax filings with the IRS, yet it appears that Respondent has not reported any such income and expenses from any alleged construction-related business to the IRS. This would include failing to report to the IRS the more than \$100,000.00 in gross income that Respondent claimed his alleged construction business generated during 2020 when applying for the PPP loan.

There are other statements from Respondent's accountant that shed further light on the falsity of Respondent's submissions to the PPP program. Respondent sought information from his accountant about how to complete IRS Schedule C forms, but he did so without informing his accountant that he was seeking this information in order to prepare a draft Schedule C form to accompany his PPP loan application, as required by the program, and without disclosing to his accountant that he wanted to create such a draft form to support claims about his alleged construction-related business. In seeking information about Schedule C forms, Respondent also did not suggest to his accountant that he operated any sort of construction-related business. Moreover, as of the time that Respondent's accountant was interviewed by OIG, this accountant had not prepared any Schedule C forms for the Respondent that related to any sort of construction business.

Most telling of all is that Respondent did not present any evidence during the

hearing in this matter that proves, or even suggests, that he did, in fact, operate a construction-related side business at all, much less one that, during 2020, generated more than \$100,000.00 in gross revenue. No such evidence was presented despite the fact that Respondent was afforded, over Petitioner's objection, an additional hearing day to submit any and all available evidence in support of his arguments and defenses against the allegations here. After granting the Respondent's motion for an additional day of hearing over the objection of the Petitioner, this Hearing Officer fully expected that the Respondent would be presenting documentary evidence and witness testimony from either the workers who he retained to work on construction projects or the contractors who hired him to find employees to work on the construction projects. Instead, the only witnesses called by the Respondent for that extra day of hearing were CPS witnesses, some of whom had previously already testified. No evidence whatsoever was produced that day relating to the alleged business that the Respondent claimed that he operated that formed the basis of his PPP loan application. As previously noted, Petitioner bears the burden of proof here, but under the unique circumstances of this case, Respondent's failure to provide evidence showing the existence of his alleged business, as requested by OIG and expected by this Hearing Officer, serves to support the Charges and Specifications that Petitioner has lodged against him. Had such evidence been submitted, OIG's investigation may likely have been closed without any charges against Respondent. There was none produced to the OIG and there was none produced at the hearing of this matter.

This Hearing Officer therefore finds that the Petitioner has satisfied its burden of

proof with respect to the allegations that Respondent engaged in conduct that violated its rules, regulations, policies, and procedures in connection with his conduct in applying for a PPP loan and then obtaining forgiveness of that PPP loan. The record confirms that Respondent fraudulently obtained that loan and its subsequent forgiveness by knowingly and intentionally providing false information in his submissions to the PPP program. This false information suggested that Respondent operated a business when no competent and credible evidence indicates that this alleged business ever existed. This false information also included unsupported claims about the alleged business' gross income and operating expenses during 2020 when, again, there is no evidence – credible or otherwise – that the alleged business existed at all. Finally, this false information prompted the PPP program to forgive Respondent's PPP loan, again despite the fact that there is no competent and credible evidence that the alleged business ever existed or that Respondent used a significant portion on the loan funds on payroll, as he claimed. Instead, the record shows that Respondent gamed the system to walk away with more than \$20,000.00 in funds to which he was not entitled.

The record therefore proves that, as alleged, Respondent engaged in serious misconduct by intentionally falsifying his application for a PPP loan when there is nothing in the record that shows he should have qualified for such a loan. The record thus proves that, as alleged, Respondent fraudulently obtained a PPP loan in the amount of \$20,832.00, and then fraudulently obtained forgiveness of that loan. This Hearing Officer finds that the Petitioner has met its burden of proving that Respondent engaged in all of the misconduct set forth in the Specifications, and it has met its burden of proving

that Respondent therefore committed the violations detailed in the Charges. This Hearing Officer also finds that such craven, unethical, and fraudulent misconduct absolutely is serious enough to constitute sufficient cause for dismissal of the Respondent in this case under the Illinois School Code.

What must be determined now is whether this plainly serious misconduct is or is not irremediable. For purposes of this proceeding, Petitioner must show that Respondent's misconduct is irremediable in nature in order to proceed with his dismissal. If the misconduct at issue is deemed to be remediable, then under the applicable portion of the Illinois School Code, Respondent cannot be dismissed without first receiving a warning that allows him an opportunity to correct his conduct.

There are two separate routes for establishing that misconduct is irremediable in nature. The first is to demonstrate that misconduct is irremediable *per se* – which applies to conduct that is cruel, immoral, negligent, or criminal, or that in any way causes psychological or physical harm to a student. The second is to show that the misconduct at issue is irremediable under the two-prong test established in *Gilliland v. Board of Education*, 67 Ill. 2d 143, 153 (1977).

The record, in fact, leaves no doubt that Respondent's misconduct was irremediable *per se* because the evidence demonstrates that it was immoral and criminal. Respondent willfully and intentionally submitted false information in support of his application for a PPP loan and in support of his subsequent application for forgiveness of that loan. This conduct absolutely amounts to fraud, which accurately is deemed immoral and criminal in this case because the target of the fraud was a government program

intended to provide vital assistance to small businesses during the pandemic. By fraudulently seeking and obtaining a PPP loan based on false information, Respondent essentially stole from the taxpayers, stole from the government, and wrongfully obtained funds for himself that were presumably unavailable, as a result, to assist real small business owners who needed and legitimately qualified for PPP loans. For a principal, who must stand as an ethical and behavioral role model for students, to engage in such fraudulent and unethical behavior is particularly troubling. The conduct at issue here shows that Respondent failed to meet the moral and ethical standards expected of a school principal, and confirming that, as alleged in the Charges and Specifications, he engaged in fraudulent and immoral conduct that was unbecoming a CPS employee.

Respondent's blatantly fraudulent conduct also appears to have violated the federal criminal statutes cited in the Charges and Specifications. Petitioner is not obligated, in this proceeding, to prove beyond a reasonable doubt that Respondent's misconduct was criminal, the standard that governs in an actual criminal proceeding, and the extensive evidence in the record establishing the precise nature and extent of Respondent's misconduct is sufficient to demonstrate that this misconduct was criminal in nature. The type of fraudulent behavior demonstrated by the evidence in this matter certainly does violate several federal statutes, as Petitioner has argued.

The competent and credible evidence in the record therefore sufficiently establishes that Respondent's proven misconduct was immoral and criminal in nature. Accordingly, it must be found that this misconduct was irremediable *per se*, and Respondent may be dismissed for that misconduct without a prior warning and an

opportunity to correct his behavior.

The evidentiary record also confirms that Respondent's misconduct must be deemed irreparable under the two-prong *Gilliland* test. Although Petitioner need not prove that Respondent's misconduct was both irreparable *per se* and irreparable under *Gilliland*, the record confirms that Petitioner has met both of these standards on the issue of irreparability.

With respect to the *Gilliland* test, misconduct is deemed to be irreparable if it is shown to cause damage to the students, faculty, or school, and if it is shown that the misconduct at issue could not have been corrected had the teacher been warned. *Gilliland v. Board of Education*, 67 Ill. 2d 143, 153 (1977). Illinois courts have held that where alleged misconduct is immoral or has no legitimate basis in school policy, the above-referenced second prong of the *Gilliland* test does not apply. Instead, Illinois courts have held that in cases where the alleged misconduct is immoral or has no legitimate basis in school policy, the appropriate second prong of this irreparability analysis is whether the effects of the conduct could have been corrected with a warning to the teacher.

The evidentiary record does support a finding that Respondent's conduct has caused damage to the students, faculty, and school community at Hyde Park. Although the charges against Respondent and the evidence of his misconduct may not yet be widely known either within the Hyde Park community or the greater Chicago area, the fact is that Respondent's behavior has harmed that community. When a school leader stoops to committing immoral, fraudulent, and criminal actions, the school's community

as a whole immediately suffers because its leader cannot and should not be trusted. That harm is magnified as the leader's misconduct becomes more widely known.

Even before Respondent's missteps in this case become widely known, his misconduct has and will raise doubts – fair or not – about the honesty and integrity of the school's entire staff, first among those portions of CPS' management structure and staff that already is aware of this matter, and then among everyone else who learns of Respondent's serious misconduct. Students, faculty, staff, and the community as a whole must be able to rely upon the honesty and integrity of a school principal, but the Hyde Park school community no longer can place any such reliance on the Respondent's honesty and integrity, thereby raising grave questions about Respondent's actions, pronouncements, and behavior throughout his tenure as principal.

Petitioner has satisfied the first prong of the *Gilliland* test. As for the second prong, this centers on the version that is applicable to misconduct that is immoral or has no legitimate basis in school policy, both of which are true of Respondent's misconduct. The applicable second prong is whether the effects of the misconduct could have been corrected with a warning. The evidentiary record indicates that a warning could not have corrected the effects of the misconduct in question. The record shows that even before he submitted his fraudulent application for a PPP loan, Respondent appears to have previously engaged in other immoral and harmful misconduct. The record reveals that the Respondent had been disciplined earlier in his tenure for not properly documenting the use of public funds and he was at that time instructed to notify his network chief or the OIG if he was not sure if the practice could amount to fraud. In that case that

involved FAFSA, claimant engaged in similar wrongdoing and did not pay attention to details, policies, and procedures regarding the use of public funds. Hence, the Respondent had been previously warned by the CPS about respecting and abiding by policies and procedures and, in this case, he continued to ignore those instructions.

The evidentiary record therefore confirms that Petitioner successfully has shown that Respondent's proven misconduct was irremediable under the *Gilliland* standard.

In light of all of these considerations, this Hearing Officer finds that Petitioner has satisfied its burden of proving, by a preponderance of the evidence, that Respondent engaged in the misconduct and committed the violations described in the Dismissal Charges and Specifications, that this proven misconduct constitutes sufficient cause under the Illinois School Code to discharge Respondent from his employment with CPS, that Respondent's misconduct was irremediable *per se*, that Respondent's conduct was irremediable under the *Gilliland* standard, and that there are sufficient grounds under the Illinois School Code to dismiss Respondent from his employment with CPS.

Recommendations

1. The Petitioner has proven by a preponderance of the evidence that the Respondent engaged in the misconduct outlined in the Dismissal Charges and that such misconduct constitutes cause to discharge Respondent;
2. Respondent's misconduct was immoral and was therefore irremediable *per se*;
3. Respondent's misconduct caused damage to the students, faculties, and school and could not have been corrected with a further warning and was therefore

- irremediable under the *Gilliland* standard;
4. The Board had sufficient grounds under the Illinois School Code to dismiss Principal Antonio Ross; and
 5. The Board is responsible for the payment of this Hearing Officer's fees and expenses in this case.

A handwritten signature in black ink, appearing to read 'P. Meyers', with a large, sweeping flourish extending to the right.

PETER R. MEYERS
Hearing Officer

**Dated this 28th day of October
2024 at Chicago, Illinois**