STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST:	)	
FOR REVIEW BY:	)	CHARGE NO.: 2008CA3078
	)	EEOC NO.: 21BA81882
PAMELA BATES	)	HUD NO.: N/A
	)	ALS NO.: 09-0247
Complainant.	)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Greg Simoncini, Diane Viverito, and Munir Muhammad presiding, upon Complainant's Request for Review ("Request") of the Notice of Dismissal ("Notice") issued by the Department of Human Rights ("Department") of Charge No. 2008CA3078, Pamela Bates, Complainant, and Board of Education of the City of Chicago, Respondent; and the Commission having reviewed *de novo* the Department's investigation file, including the Investigation Report ("Report") and the Complainant's Request, and the Department's response to the Complainant's Request ("Response"); and the Commission being fully advised of the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Department's dismissal of the Complainant's charge is **SUSTAINED** on the following grounds:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

1. On April 30, 2008, the Complainant filed a charge of discrimination with the Department, alleging that the Respondent harassed her on March 13, 2008, issued her a one-day suspension on January 25, 2008, issued her a negative performance evaluation on March 13, 2008, and issued her a 15-day suspension on April 9, 2008 because of her race (African American), age (53), and in retaliation for having previously filed charges against the Respondent, in violation of § 2-102(A) of the Illinois Human Rights Act ("Act") and § 6-101(A) of the Act. On April 14, 2009, the Department dismissed the Complainant's charge for lack of substantial evidence. On May 18, 2009, the Complainant filed a timely request for review.

2. The uncontested facts show that the Complainant has been a Teacher with the Respondent since 1982.

3. The Respondent is statutorily obligated by the School Code to evaluate teachers at least once during a two-year period. 105 ILCS 5/24A-5. The Code further requires that a personal observation of the teacher in the classroom will be done by a district administrator. Id.

4. The Department's investigation revealed that the Respondent has a Teacher Evaluation Plan and Handbook of Evaluation Procedures ("Evaluation Procedures"), which outlines the protocol for classroom observations. Under the Evaluation Procedures, the observer completes a visitation/observation form.

5. The Department's investigation revealed that the Complainant was the subject of two classroom observations on January 17, 2008 and March 13, 2008 conducted by Joenile Albert-Reese ("Albert-Reese"), the Principal of the Complainant's school. After the January 17, 2008 observation, Albert-Reese indicated that the Complainant was unprepared for class, did not ask in-depth interactive questions, and did not engage her students. After the March 13, 2008 observation, Albert-Reese indicated on a visitation/observation form[1] that the Complainant had not exhibited any change from the January 17, 2008 observation.

6. The Department's investigation revealed that on January 25, 2007, the Complainant attempted to take three of her students on a fieldtrip without finding supervision for the remaining sixteen students. After the Complainant was provided avenues for contesting these allegations, the Respondent scheduled the Complainant for disciplinary suspension in January 2008. The Department's investigation further revealed that the Complainant was scheduled to begin her suspension on January 25, 2008, but was called back to work the subsequent day because the Complainant exercised her right under a collective bargaining agreement to mediate her disciplinary suspension. The Complainant was paid for January 25, 2008.

7. On April 9, 2008, following the Complainant's attempt to mediate her discipline pursuant to the collective bargaining agreement, the Respondent advised the Complainant that she would serve her fifteen-day suspension for her actions of January 25, 2007, from April 21, 2008 through May 9, 2008.

8. In her Request, the Complainant alleges that she was harassed by Albert-Reese because Albert-Reese wanted different or younger teachers in the Complainant's position. The Complainant also alleges that the Department did not allow her to give her opinions or documentation; however, the Complainant attaches no documentation to her Request.

9. The Commission's review of the investigation file leads it to conclude that the Department properly dismissed the Complainant's charge because the Complainant did not provide any evidence that the Respondent harassed her on March 13, 2008, issued her a one-day suspension on January 25, 2008, issued her a negative

[1] The Complainant's allegation in her charge states that Albert-Reese issued her a negative performance evaluation on March 13, 2008. The investigation showed that the form that Albert-Reese completed was not a performance evaluation, but a visitation form. This discrepancy was immaterial to the Commission's deliberations.

performance evaluation on March 13, 2008, or issued her a 15-day suspension on April 9, 2008 because of her race, age, or in retaliation for having previously filed charges against the Respondent. If no substantial evidence of discrimination exists after the Department's investigation of a charge, the charge must be dismissed. *See* 775 ILCS 5/7A-102(D)(2008).

10. First, there is simply no evidence that the Respondent's performance of the classroom observations or the Respondent's completion of visitation forms following the classroom observations were retaliatory or motivated by an age-based or race-based animus. Second, the Complainant was never suspended on January 25, 2008 because she was called back to work pending her attempts at mediation. Third, there is no evidence that the suspension that the Complainant received in April 2009 was retaliatory or motivated by an age-based or race-based animus. The file shows that the suspension was issued in April 2009 as discipline for the Complainant's January 2007 actions, after affording the Complainant her rights to contest the disciplinary measure.

11. Accordingly, it is the Commission's decision that the Complainant has not presented any evidence to show that the Department's dismissal of her charge was not in accordance with the Act. The Complainant's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of the Complainant's charge is hereby **SUSTAINED.**

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and the Respondent, Board of Education of the City of Chicago, as appellees, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS)
)
HUMAN RIGHTS COMMISSION)

Entered this 2nd day of September 2009.

Commissioner Greg Simoncini

Commissioner Diane Viverito

Commissioner Munir Muhammad