

No. 1-15-2797

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

LORA DROBETSKY,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	No. 2014 L 5179
)	
THE CHICAGO SCHOOL OF PROFESSIONAL)	
PSYCHOLOGY,)	Honorable
)	Margaret A. Brennan,
Defendant-Appellee.)	Judge Presiding.

PRESIDING JUSTICE ROCHFORD delivered the judgment of the court.
Justices Hoffman and Delort concurred in the judgment.

ORDER

Held: We affirmed the trial court's judgment after a bench trial in favor of defendant school on plaintiff's breach of contract action, finding plaintiff failed to show that defendant acted arbitrarily, capriciously, or in bad faith in dismissing her as a student.

¶ 1 Plaintiff, Lora Drobetsky, filed a two-count breach of contract action against defendant, the Chicago School of Professional Psychology. A bench trial was held on plaintiff's complaint, and the trial court ruled in favor of defendant on both counts. Plaintiff appeals. We affirm.

¶ 2 I. Plaintiff's Complaint

¶ 3 In her complaint, plaintiff alleged that in August 2010, she enrolled in defendant's Master of Arts program in clinical psychology, counseling specialization (the counseling program).

No. 1-15-2797

During the spring semester in 2012, plaintiff enrolled in a class taught by one of defendant's faculty members, Dr. Hector Y. Adames. Dr. Adames assigned plaintiff to write a five-page "reflection paper" on the movie *The Curious Case of Benjamin Button*. After plaintiff turned in the paper, Dr. Adames accused her of plagiarizing portions of the paper from two other sources.

¶ 4 As a result of the plagiarism accusation, plaintiff was required to appear before defendant's student affairs committee, academic integrity subcommittee (SAC), on July 10, 2012. After plaintiff appeared before the SAC and was questioned about the plagiarism charge, defendant dismissed her from the counseling program.

¶ 5 Plaintiff alleged she had a contractual relationship with defendant as set forth in defendant's school catalogs, and that such catalogs specified the procedures for disciplinary reviews conducted by the SAC. In pertinent part, the catalogs required the SAC chair to issue a letter to the student accused of misconduct, with the date of the hearing and a list of the committee members. If the student believed a member of the committee was unable to be impartial, she could request that the committee chair disqualify that member from the hearing and/or the subsequent deliberation. During the hearing, the student was to be allowed to "question all individuals and examine other information presented."

¶ 6 Count I of plaintiff's complaint alleged defendant breached its express contract with her as set forth in the school catalogs, and acted arbitrarily, capriciously, and in bad faith, by failing to notify her in advance of the names of the committee members who would be in attendance at the hearing, failing to give her the opportunity to "vet" the committee members to determine whether they were impartial, and failing to allow her to question Dr. Adames about the plagiarism charge. Count II alleged that a contract implied-in-fact existed between plaintiff and defendant to provide for plaintiff's education under the terms and policies outlined in the school

catalogs, and that defendant breached the implied contract in the same ways as outlined in count I.

¶ 7 II. Evidence at Trial

¶ 8 A. Background Information Regarding the Parties

¶ 9 At trial, the evidence showed that plaintiff was born in Tajikistan and came to America in 1990 at the age of 23. At the time of trial, she was 48 years old. On or about August 30, 2010, plaintiff commenced work for her M.A. degree in defendant's counseling program. Defendant is an independent, nonprofit, private graduate school that focuses on psychology and related behavioral and health sciences.

¶ 10 At the time of her enrollment and attendance, defendant operated pursuant to the policies, procedures, rules and regulations set forth in the *2009-2010 Academic Catalog, M.A. Clinical Psychology Counseling Specialization* (specialization catalog); *Student Handbook 2009-2010* (student handbook); and *2011-2012 Academic Catalog and Student Handbook with Revised Addendum* (academic catalog) (collectively referred to as the school catalogs). Plaintiff testified she was familiar with and relied on the school catalogs during her attendance there, and she considered the school catalogs to be her "contract with the school."

¶ 11 The academic catalog provided that students must abide by defendant's policies and that the failure to do so may result in disciplinary action including dismissal. The academic catalog also contained a statement of academic integrity, providing:

"The Chicago School expects its students to function within an environment of trust relative to other students, faculty, staff, and administration. Moreover, the school expects all students to conduct themselves ethically, with personal honesty, and with professionalism. Academic dishonesty violates one of the most basic ethical principles in

an academic community and will result in sanctions imposed under the school's disciplinary system. All suspected incidents must be immediately referred to the department chair or designee who will then refer the matter to the Student Affairs Committee for investigation, intervention, and/or imposition of sanctions. Possible interventions and sanctions may include, but are not limited to, implementing an Academic Development Plan, placing a student on academic warning/probation or dismissing a student."

¶ 12 The academic catalog stated that "academic dishonesty" included plagiarism, which it defined as:

"Plagiarism is intentionally or unintentionally representing words, ideas, or data from any source as one's own original work. The use or reproduction of another's work without appropriate attribution in the form of complete, accurate, and properly formatted citations constitutes plagiarism. Examples of plagiarism, include but are not limited to, copying the work of another verbatim without using quotation marks, revising the work of another by making only minor word changes without explanation, attribution, and citation, paraphrasing the work of another without the appropriate citation. Students are expected to produce original work in all papers, coursework, dissertation, and other academic projects *** and to follow appropriate rules governing attribution that apply to the work product.

Carelessness, or failure to properly follow appropriate rules governing source attribution (for example, those contained in the *Publication Manual* of the American Psychological Association), can be construed to be plagiarism when multiple mistakes in

formatting citations are made in the same paper. Further, a single example of failing to use quotation marks appropriately may be considered plagiarism."

¶ 13 The academic catalog specified the following procedures for SAC disciplinary reviews: referrals to the SAC must occur in writing, and copies shall be sent to (among others) the student, committee chair, and department chair or designee; the referral must include the specifics of the allegations and any relevant documents in the possession of the referring party; additional documents forwarded to the committee chair for consideration in subsequent deliberations must be copied to the student; and, in turn, the committee chair shall issue a letter to the student with the date of the hearing and a list of the committee members.

¶ 14 The student has the right under the academic catalog to respond in writing to the allegation to the committee chair, including additional supporting documentation, up to and including the time the committee meets to deliberate the case. The failure or refusal to respond to the allegations, in writing or verbally at the time of the committee hearing, is deemed an admission of the factual matters contained in the allegation and supporting documentation.

¶ 15 The SAC hearing must be held within 20 business days of receipt of the referral. If the student accused of misconduct has reason to believe that a given member of the committee is unable to be impartial, she may request that the committee chair disqualify that member from the hearing and/or the subsequent deliberation. Only the SAC chair upon the demonstration of sufficient reason will grant requests for disqualification from the hearing and/or deliberation; the chair's decision in such matters is final.

¶ 16 Pursuant to the academic catalog, the complainant must provide the committee with information in the form of testimony, documents, additional witnesses or other forms of support for the allegations against the student or in support of his/her position. The SAC can solicit

No. 1-15-2797

information and/or request an in-person appearance from any school employee. Each party, as well as the committee itself, has the right to question all individuals and examine other information presented.

¶ 17 Since this procedure is an institutional, not judicial, process, the academic catalog provided that the presence of legal counsel is prohibited at all hearings and deliberations. The student may have one member of the school community present to provide advice and support. Following the SAC's disposition of the matter, the committee must promptly notify the student of its disposition in writing.

¶ 18 The academic catalog also provided that students may appeal decisions of the SAC regarding disciplinary matters by submitting a written request for reevaluation to the dean of academic affairs within 10 business days of being notified of the disciplinary decision. This written request must include: a specific statement of the decision that the student wishes to appeal; the action the student wishes the dean of academic affairs to take; all information that the student wishes the dean of academic affairs to take into account in his/her consideration of the appeal; and a statement of the student's views as to how this information justifies the appeal.

¶ 19 **B. Plaintiff's Conduct at Issue**

¶ 20 During the spring semester of 2012, plaintiff enrolled in a *Psychology of Aging* class taught by Dr. Adames, who has worked as an associate professor for defendant since August 2010. Plaintiff was assigned to write a reflection paper on the movie *The Curious Case of Benjamin Button*. The assignment did not require any additional research; it only required plaintiff to watch the movie and answer some questions that Dr. Adames posed about the movie. Plaintiff watched the movie and did some research on the Internet with regard to the medical condition causing the lead character in the movie to undergo "reverse aging." Plaintiff did not

cite to her research in her paper. Plaintiff testified at trial that it was possible that in writing the paper, she remembered what she had read on the Internet regarding reverse aging and inadvertently wrote about it word-for-word. Plaintiff did not run her paper through Grammarly, a program designed to detect plagiarism, before turning it in. She had run prior assignments through that program.

¶ 21 Plaintiff turned in the paper. When Dr. Adames reviewed the paper, he noticed on the third page that the writing style was different than the first two pages, so he did a search on the Internet and discovered that plaintiff had copied sections of the paper from a Wikipedia article about the movie, as well as from a blog written by Richard Larson, without any quotation marks, attribution or citation. Dr. Adames gave plaintiff a grade of 0 out of 50 possible points on the paper and gave her an "F" for the course.

¶ 22 On May 3, 2012, Dr. Adames emailed plaintiff's advisor, Dr. Maria Yaponjdjian, to advise her of plaintiff's plagiarism. Plaintiff was copied on the email. Plaintiff sent Dr. Yaponjdjian an email on May 6, 2012, stating: "I am really sorry for this terrible overlook on my behalf and wish I can go back and do it the right way but I cannot."

¶ 23 Meanwhile, plaintiff ran her paper through Grammarly, and in the process she discovered that Dr. Adames had plagiarized portions of the *Psychology of Aging* syllabus from a copyrighted syllabus written by Dr. Howard Butcher at the University of Iowa.

¶ 24 The Counseling Psychology Department (Department) referred plaintiff to the SAC for a hearing on Dr. Adames' report that plaintiff plagiarized portions of her paper in violation of defendant's policies. The Department associate chair, Dr. Judy Ripsch, prepared and submitted the SAC referral, dated June 4, 2012.

¶ 25 Dr. Danel Koonce was the SAC chair at the time the hearing was scheduled. He sent plaintiff a letter and email informing her that the hearing on the plagiarism charge against her would be held on July 10, 2012. The email contained a copy of the complete referral, which included plaintiff's reflection paper on *The Curious Case of Benjamin Button* and copies of the Wikipedia article and Larson blog from which plaintiff's allegedly plagiarized material came. Dr. Koonce advised plaintiff he would be present at the hearing, along with unnamed faculty members and a student representative. Dr. Koonce advised plaintiff to prepare a written response to the plagiarism charge, and to send it to him in advance of the hearing; if she was unable to send him the written response in advance of the hearing, Dr. Koonce advised plaintiff to bring it with her and it would be copied and submitted to the SAC members. Plaintiff chose to bring her written response with her to the SAC hearing rather than provide it to Dr. Koonce in advance.

¶ 26 At the hearing, each of the SAC members introduced themselves to plaintiff. Plaintiff raised no objections to the presence of any of the SAC members. She knew three of the SAC members, Dr. Nancy Zarse, Dr. Angela Agelopoulos, and Laura Henley. Dr. Zarse had been a guest speaker in one of plaintiff's classes, and plaintiff had no reason to believe Dr. Zarse would treat her unfairly. Dr. Agelopoulos was a professor with whom plaintiff had a class, and they had a "wonderful relationship." Laura Henley was the student representative; plaintiff and Ms. Henley previously had a class together during which they engaged in an "unpleasant" conversation about feminism.

¶ 27 Plaintiff's advisor, Dr. Yaponjian, was present at the hearing. Dr. Yaponjian told plaintiff to be honest and that she would support plaintiff in any way that she could. Dr. Adames

did not attend the hearing as he was not asked to attend by either plaintiff or defendant. There is no evidence that plaintiff made an objection to Dr. Adames' failure to appear at the hearing.

¶ 28 Dr. Koonce testified at trial that it was not unusual for Dr. Adames to fail to appear at the SAC hearing, because typically "[w]hen a referral comes from the Department, the Department decides who they want to bring to the committee. And typically that's either the chair or a designee who represents an administrative position."

¶ 29 Dr. Ripsch presented the Department's case at the SAC hearing, which included copies of plaintiff's reflection paper on *The Curious Case of Benjamin Button* and copies of the sources (the Wikipedia article and Larson blog) from which plaintiff allegedly had plagiarized sections of the paper. The committee members compared plaintiff's paper and the sources side by side, with Dr. Ripsch pointing out "where the plagiarism was found." Plaintiff did not question Dr. Ripsch during the hearing.

¶ 30 Plaintiff's reflection paper and sources are contained in the record on appeal. Review thereof shows that a portion of one sentence in the reflection paper was copied word for word from the Wikipedia article, and portions of two other sentences were copied word for word from the Larson blog, without quotation marks, citation or attribution. This meets the academic catalog's definition of plagiarism.

¶ 31 Copies of plaintiff's written response to the plagiarism charge were provided to all the panel members. In her written response, plaintiff contended that Dr. Adames' plagiarism charge was without merit, and was made in retaliation for a negative teacher evaluation she had submitted about him and because he was biased against white women. Plaintiff further stated:

"I recognize that the School's definition provides that unintentional acts may also constitute plagiarism. While I disagree with that concept because I believe that the

essence of plagiarism is intentionally misrepresenting someone else's work as your own, I understand that I must accept the School's definition. The Student Handbook seems to classify unintentional acts as plagiarism if there are multiple examples in the same body of work ***. Prof. Adames claims to have found two separate instances of plagiarism. I admit that I could have simply recalled these quotes and included them without attribution by mistake. It was a reflection paper about the movie, after all. However, I do not think this is the multiple incidents that are contemplated by the School's rule. Rather, I believe that this is Prof. Adames' further attempt to retaliate/discriminate against me by over scrutinizing this rule."

¶ 32 Elsewhere in her written response, plaintiff discussed Dr. Adames' alleged plagiarism of Dr. Butcher's syllabus. Finally, plaintiff contended that the punishment of dismissal from the program would be "grossly excessive" given that she has been a good student and has no prior history of student disciplinary issues or academic integrity issues. Plaintiff argued that a more appropriate punishment would be some form of remediation and/or an academic warning.

¶ 33 There was conflicting testimony at trial regarding whether plaintiff was allowed to read her entire written response out loud at the SAC hearing. Dr. Zarse testified plaintiff read her entire response. However, Dr. Koonce testified she was only allowed to read a portion of it because much of her response (*e.g.*, her allegations that Dr. Adames was prejudiced against white women and had plagiarized portions of his syllabus) had no relevance to whether she had committed plagiarism. The trial court found that plaintiff was not allowed to read her entire written response.

¶ 34 Dr. Koonce testified at trial that during the hearing, plaintiff interrupted questions from the SAC members and refused to address the plagiarism allegation against her. Plaintiff

provided the SAC with no information showing that her use of the online sources had been a mistake. Dr. Koonce further testified that the SAC members felt they had sufficient evidence that plaintiff had plagiarized at least two passages in her paper from online sources.

¶ 35 The SAC voted unanimously in favor of dismissal. At the time of her dismissal, plaintiff was maintaining a 3.54 grade point average (excluding the *Psychology of Aging* class, whose three hours plaintiff would have to make up with another elective class). Plaintiff had 11 days left in two remaining elective classes, in which she was "on the path to get A's."

¶ 36 Dr. Koonce testified at trial that during his tenure as chairman of the SAC, five or six other students who had been found to have committed plagiarism were allowed to participate in an academic development plan instead of being dismissed. Dr. Koonce explained that the reason why plaintiff was dismissed after having been found to have committed plagiarism, instead of being allowed to participate in the academic development plan like the other five or six students, is because of her conduct at the hearing, in which she was argumentative, interrupted questions posed to her by the committee members, and "did not address her behavior or conduct as it related to the allegation of plagiarism."

¶ 37 Dr. Koonce informed plaintiff of the dismissal in an email dated July 17, 2012, stating:

"You were referred to the Student Affairs Committee-Academic Integrity subcommittee (SAC-AI) by Dr. Judy Ripsch of the M.A. Clinical Psychology Program on June 4, 2012. Your hearing with SAC-AI was held on Tuesday, July 10, 2012, because of an allegation of plagiarism. As a result of that meeting, the SAC/AI subcommittee has determined that you will be dismissed from the M.A. Clinical Psychology Program and The Chicago School as of the spring 2012 semester."

No. 1-15-2797

The email further notified plaintiff of her appeal rights, stating that "[s]tudents may appeal decisions of the Student Affairs Committee regarding disciplinary matters. A student who wishes to appeal a disciplinary action must submit a written request for reevaluation to the dean of academic affairs within ten (10) business days of being notified of the disciplinary decision."

The email provided that the written request for reevaluation "must include:" a specific statement of the decision that the student wishes to appeal; the action the student wishes the dean of academic affairs to take; all information the student wishes the dean of academic affairs to take into account in his consideration of the appeal; and a statement of the student's views as to how this information justifies the appeal.

¶ 38 Dr. Koonce also sent plaintiff a certified letter dated July 17, 2012, with this same information notifying plaintiff of her dismissal and informing her of her right to an internal appeal to the dean of academic affairs. The only material difference between the certified letter and the email is that the certified letter does not specifically note that the SAC hearing had been held "because of an allegation of plagiarism."

¶ 39 Plaintiff received the email and certified letter but did not appeal her dismissal to the dean of academic affairs. Instead, she filed her breach of contract action in the circuit court, alleging that defendant breached its express and implied contract with her, and acted arbitrarily, capriciously, maliciously, and in bad faith, by dismissing her without first abiding by its contractual responsibilities to: notify her in advance of the SAC hearing of the names of the SAC members who would be in attendance at the hearing; allow her to vet the SAC members to determine whether they would be impartial; and allow her to question Dr. Adames about his plagiarism charge against her.

¶ 40 Plaintiff testified at trial regarding her damages from the alleged breach of contract. Specifically, plaintiff testified she paid defendant about \$53,000 in tuition and other fees. Had she not been dismissed and instead received her diploma, plaintiff stated she would have started working for a group of psychiatrists, the L&Y Group, as a counselor and been paid about \$23 or \$24 per hour. Plaintiff planned to eventually receive a Licensed Clinical Professional Counselor (LCPC) license, which would allow her to practice on her own, without any supervision. To obtain such a license, plaintiff would have to perform 2,000 hours of supervised work.

¶ 41 Dr. Leonid Shvartsman, a psychiatrist with the L&Y Group, testified plaintiff currently worked there part-time as a receptionist and that he had intended to hire her, upon her graduation and after she obtained her license, to work in the office as a psychologist at a salary of about \$95,000 per year. When informed by counsel that plaintiff's degree and license would only have allowed her to practice as a counselor and not as a psychologist, Dr. Shvartsman testified he would not have paid her \$95,000 per year. Dr. Shvartsman did not testify what he would have paid plaintiff to work in his office as a counselor.

¶ 42 III. The Trial Court's Judgment

¶ 43 The trial court found that plaintiff had a contract with defendant as set forth in the school catalogs, and that defendant breached the contract, and acted in an arbitrary and capricious manner, in the following ways: failing to notify plaintiff in advance of the SAC hearing of the names of the SAC members so that she could properly vet them; failing to have Dr. Adames present at the hearing; failing to consider Dr. Adames' plagiarism of the syllabus for the *Psychology of Aging* class; and failing to inform plaintiff of the basis for her dismissal.

¶ 44 The trial court ultimately ruled in favor of defendant, though, because plaintiff never appealed her dismissal to the dean of academic affairs, as allowed under the academic catalog.

No. 1-15-2797

The trial court further stated it was ruling in favor of defendant because plaintiff "failed to prove damages."

¶ 45 Plaintiff appeals.

¶ 46 IV. ANALYSIS

¶ 47 Plaintiff contends the trial court erred in ruling in favor of defendant on her breach of contract action. We will not overturn the trial court's factual finding in a bench trial unless it was against the manifest weight of the evidence. *JJR, LLC v. Turner*, 2016 IL App (1st) 143051,

¶ 51. A finding is against the manifest weight of the evidence only when the opposite conclusion is clearly apparent or when the findings are unreasonable, arbitrary, or not based on the evidence. *Id.*

¶ 48 A private college or university and its students have a contractual relationship, and the terms of the contract generally are set forth in the school's catalogs and bulletins. *Raethz v. Aurora University*, 346 Ill. App. 3d 728, 732 (2004). However, students' contractual claims against private colleges or universities are treated differently than typical breach of contract claims. *Id.* Courts are reluctant to interfere with the academic affairs and regulation of student conduct in a private college or university setting. *Id.* "Private educational institutions such as defendant have an interest in promoting the academic well being of their students [citation], and in ensuring that the students to whom they award degrees, especially those who will become health care providers, will safely serve the public [citations]. To this end, we believe that private colleges and universities must be accorded a generous measure of independence and autonomy with respect to the establishment, maintenance and enforcement of academic standards." *Bilut v. Northwestern University*, 269 Ill. App. 3d 125, 134 (1994). A student may have a remedy for breach of contract against a private college or university when an adverse academic decision has

been made concerning the student but only if that decision was made arbitrarily, capriciously, or in bad faith. *Raethz*, 346 Ill. App. 3d at 732.

¶ 49 Plaintiff bears the "heavy" burden of establishing arbitrary, capricious, or bad-faith conduct, and to meet the burden she must show that her dismissal was " 'without any discernible rational basis.' " *Id.* (quoting *Holert v. University of Chicago*, 751 F. Supp. 1294, 1301 (N.D. Ill. 1990)). A dismissal is without a discernible rational basis when " 'it is such a substantial departure from accepted academic norms as to demonstrate that the person or committee responsible did not actually exercise professional judgment.' " *Raethz*, 346 Ill. App. 3d at 732 (quoting *Regents of the University of Michigan v. Ewing*, 474 U.S. 214, 225 (1985)). When, in dismissing a student, the private college or university substantially complied with its own standards and procedures for student discipline, no breach of contract action will lie if the dismissal had a rational basis. See *Holert*, 751 F. Supp. at 1301.

¶ 50 Plaintiff's appeal here turns on whether she met her heavy burden at trial of showing that her dismissal was made arbitrarily, capriciously, or in bad faith, *i.e.*, without any discernible rational basis. The trial court here made two pertinent findings: (1) that defendant acted arbitrarily and capriciously in the way it notified plaintiff of the disciplinary hearing, as well as how it conducted the hearing, and in delivering the disposition; and (2) that, notwithstanding defendant's arbitrary and capricious behavior, plaintiff's failure to appeal her dismissal to the dean of academic affairs supported judgment in defendant's favor. We consider each of those findings in turn.

¶ 51 A. The Court's Finding that Defendant Acted Arbitrarily and Capriciously

¶ 52 We begin by examining the facts leading to plaintiff's appearance before the SAC, and whether defendant complied with the relevant procedures, as set forth in the academic catalog,

for notifying plaintiff of the disciplinary hearing, conducting the hearing, and delivering the disposition.

¶ 53 The academic catalog, which, along with other school catalogs constituted plaintiff's contract with defendant, prohibited plaintiff from committing academic dishonesty, which included plagiarism. Plagiarism was defined as "intentionally or *unintentionally* representing words, ideas, or data from any source as one's own original work." (Emphasis added.)

¶ 54 The evidence at trial showed that Dr. Adames assigned plaintiff to write a reflection paper about a movie, *The Curious Case of Benjamin Button*, which did not require any research but merely required plaintiff to watch the movie and answer certain written questions related to the movie. Plaintiff watched the movie, performed some research on the Internet regarding the subject of the movie, and she admitted that in subsequently writing the paper, she may have mistakenly quoted from her research and included them without attribution. This met the academic catalog's definition of plagiarism.

¶ 55 Dr. Adames read plaintiff's paper, and he noticed the writing style on the third page was different than on the first two pages. Dr. Adames performed a search on the Internet and discovered plaintiff had committed plagiarism, as defined in the academic catalog, by copying three sentences of the paper from two outside courses, Wikipedia and the Larson blog, without using quotation marks and without any attribution or citation. Dr. Adames emailed plaintiff's advisor, Dr. Yaponjian, advising her of plaintiff's plagiarism. Plaintiff was copied on the email.

¶ 56 The academic catalog required Dr. Adames to report plaintiff's suspected plagiarism to the department chair or designee, Dr. Ripsch, who was then to refer the matter to the SAC for investigation and imposition of sanctions, which could include dismissal. The referral was required to be in writing, containing the specific allegations against plaintiff and any relevant

No. 1-15-2797

documents, and a copy was to be sent to plaintiff. All these procedural requirements were met, as Dr. Adames reported plaintiff's suspected plagiarism to Dr. Ripsch, who prepared the written referral containing the plagiarism allegation against plaintiff; the referral included copies of plaintiff's reflection paper on *The Curious Case of Benjamin Button* and the outside sources (the Wikipedia article and Larson blog) from which she allegedly plagiarized. The referral and accompanying documents were sent to plaintiff.

¶ 57 The academic catalog required the SAC chair, Dr. Koonce, to issue a letter to plaintiff informing her of the date of the hearing and the list of the committee members. Dr. Koonce partially met these procedural requirements, as he sent plaintiff a letter and email informing her of the date of the hearing and a copy of the complete referral. Dr. Koonce informed plaintiff he would be present at the hearing along with other faculty members and a student representative; however, Dr. Koonce did not identify those faculty members and the student representative by name prior to the hearing. Subsequently, at the hearing, the faculty members and student representative introduced themselves to plaintiff, and she raised no objections to any of them being present during the hearing or deliberations.

¶ 58 The academic catalog further provided that plaintiff had the right to respond in writing to the allegation to the SAC chair, Dr. Koonce. Dr. Koonce met this procedural requirement by informing plaintiff of her right to make a written response to the plagiarism allegation. Dr. Koonce asked plaintiff to either submit her written response to him in advance of the hearing, or to bring it to the hearing, where copies would be made for the SAC members. Plaintiff chose to bring her written response to the hearing.

¶ 59 The academic catalog provided that plaintiff had the right to have one member of the school community present at the hearing to provide advice and support. This procedural

requirement was met where plaintiff's advisor, Dr. Yaponjian, was present at the hearing and she told plaintiff she would support plaintiff in any way she could.

¶ 60 The academic catalog provided that at the SAC hearing, Dr. Adames' allegation of plagiarism must be supported by testimony, documents, witnesses, or other forms of support. This procedural requirement was met where Dr. Adames' plagiarism allegation was supported by the relevant documents admitted at the hearing, specifically, by plaintiff's reflection paper on *The Curious Case of Benjamin Button* and the publications she plagiarized from, namely, the Wikipedia article and the blog by Richard Larson. The committee members compared the documents side by side, with Dr. Ripsch pointing out "where the plagiarism was found." Dr. Koonce testified the SAC members believed they had sufficient evidence that plaintiff plagiarized at least two passages in the reflection paper from outside sources. As we discussed earlier in this order, we have also reviewed the documents side by side and determined that the plagiarism allegation against plaintiff has been proved.

¶ 61 The SAC voted unanimously in favor of plaintiff's dismissal. The academic catalog required that plaintiff be notified in writing of the disposition. Dr. Koonce satisfied this procedural requirement by notifying plaintiff by email and by certified mail that the SAC voted to dismiss her following the hearing on the plagiarism charge.

¶ 62 Plaintiff notes that she was not notified of the reasons underlying the dismissal. However, nothing in the academic catalog required that plaintiff be notified of the reasons behind the disposition; only notice of the disposition itself was required.

¶ 63 The academic catalog provided that students "may" appeal decisions of the SAC regarding disciplinary matters to the dean of academic affairs, and it set forth the procedure for filing such an appeal (discussed earlier in this order). Following the SAC decision to dismiss

plaintiff, Dr. Koonce informed plaintiff in writing of her right to take the appeal to the dean of academic affairs, and also informed her of the procedure for filing such an appeal.

¶ 64 On all these facts, we conclude that defendant substantially complied with the academic catalog's policies and procedures regarding its disciplinary review of the plagiarism allegation against plaintiff, and we also conclude that defendant had cause under the academic catalog to dismiss plaintiff for committing plagiarism. Thus, plaintiff failed to meet her heavy burden of establishing that defendant acted arbitrarily, capriciously, or in bad faith by dismissing her without any discernible rational basis and without exercising any professional judgment.

¶ 65 The trial court's finding to the contrary was based in part on defendant's failure to inform plaintiff ahead of the hearing as to the identity of the SAC members who would be in attendance at the hearing, thereby hampering her ability to "vet" the members and seek the recusal of any persons who could not be impartial. However, as discussed, the SAC members identified themselves at the beginning of the hearing, and plaintiff made no objections to any of them, nor did she seek a continuance to "vet" them. On appeal, plaintiff argues only that the student representative should have recused herself because they previously had a class together, during which they engaged in an "unpleasant" discussion on an issue unrelated to the hearing, specifically, their respective views on feminism. However, no evidence was elicited at trial that the student representative showed any animosity or prejudice toward plaintiff at the SAC hearing or during the deliberations. Further, the SAC vote in favor of plaintiff's dismissal was unanimous, and thus the outcome would have been the same even without the student representative's vote.

¶ 66 The trial court also found defendant to have acted in an arbitrary and capricious manner by failing to ensure Dr. Adames' appearance at the hearing and because the SAC members failed

No. 1-15-2797

to consider plaintiff's allegation that Dr. Adames plagiarized portions of his *Psychology of Aging* syllabus from a copyrighted syllabus written by Dr. Butcher at the University of Iowa. However, there was no specific requirement in the academic catalog that the complainant, Dr. Adames, appear, and plaintiff never requested his appearance, nor did she object at the hearing when she discovered that Dr. Adames was not present. Dr. Koonce testified that Dr. Adames' failure to appear was not unusual or a violation of procedure, as typically a representative of the student's academic department appears at the SAC hearing to present the Department's case, not the faculty member who brought the misconduct to the Department's attention.

¶ 67 As to plaintiff's allegation that Dr. Adames plagiarized portions of his *Psychology of Aging* syllabus from a copyrighted syllabus written by Dr. Butcher, we note that the SAC procedures set forth in the academic catalog pertained to the disciplinary review of *student* misconduct, not faculty misconduct. By name, the SAC is the *Student* Affairs Committee. The SAC had no authority to address the alleged misconduct committed by Dr. Adames with respect to his alleged plagiarism of portions of his syllabus, as his alleged misconduct was not the subject of the hearing and had no bearing on the disciplinary proceeding brought against plaintiff.

¶ 68 Finally, the trial court found that defendant acted in an arbitrary and capricious manner by failing to inform plaintiff that she was dismissed due to her comportment at the SAC hearing. As discussed, the evidence at the hearing supported the SAC finding that plaintiff had committed plagiarism as defined under the academic catalog and, thus, was subject to discipline including dismissal. Dr. Koonce testified that contrary to other students who had committed plagiarism but had been allowed to participate in an academic development plan in lieu of dismissal, plaintiff was argumentative during the SAC hearing, interrupted questions posed to her by

committee members, and refused to address her behavior or conduct as it related to the allegation of plagiarism. Accordingly, the SAC voted to dismiss plaintiff. The academic catalog provided only that plaintiff was to be informed in writing of the "disposition" of the SAC hearing, not all the reasons underlying the disposition. Dr. Koonce testified at trial that the "disposition" was the dismissal vote, and he complied with the procedures set forth in the academic catalog by sending plaintiff an email and a certified letter informing her of the dismissal and of her right to appeal to the dean of academic affairs.

¶ 69 In conclusion, we find that the trial court's finding that plaintiff met her heavy burden of proving that defendant acted arbitrarily, capriciously, or in bad-faith by dismissing her without any discernible rational basis was against the manifest weight of the evidence.

¶ 70 B. The Trial Court's Finding that Plaintiff's Failure to Appeal Her Dismissal to the Dean of Academic Affairs Supports Judgment in Defendant's Favor

¶ 71 The trial court found that plaintiff's failure to appeal her dismissal to the dean of academic affairs, as provided for under the academic catalog, necessitated judgment in favor of defendant on plaintiff's breach of contract action, notwithstanding its earlier findings that defendant had acted arbitrarily and capriciously when conducting the hearing and in dismissing her.

¶ 72 On appeal to this court, the parties struggle to explain the basis of the trial court's decision. Plaintiff contends the court was making a finding that she failed to exhaust her administrative remedies; plaintiff argues the court was mistaken in so finding, as the exhaustion of administrative remedies doctrine does not apply to private colleges or universities in Illinois. Defendant counters that the trial court was finding that plaintiff was afforded the procedural safeguard of appealing the SAC decision and, as such, that her dismissal was not arbitrary and capricious.

¶ 73 We need not address the meaning behind the trial court's finding regarding plaintiff's failure to avail herself of the contractual right to appeal her dismissal to the dean of academic affairs. We may affirm the trial court's judgment after a bench trial on any basis in the record, regardless of whether the trial court relied on that basis or whether the trial court's reasoning was correct. *Northwestern Memorial Hospital v. Sharif*, 2014 IL App (1st) 133008, ¶ 25. We affirm the trial court's judgment in favor of defendant on plaintiff's breach of contract action, not on the grounds stated by the court (which were based solely on plaintiff's failure to appeal her dismissal to the dean of academic affairs and on the lack of proof of damages) but rather on plaintiff's failure to meet her heavy burden of proving that defendant acted in an arbitrary, capricious, or bad-faith manner by dismissing her without any discernible rational basis.

¶ 74 For the foregoing reasons, we affirm the circuit court.

¶ 75 Affirmed.