

BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM

IN THE MATTER OF THE RECOMMENDED DISMISSAL OF PROFESSOR
MALVINA BAICA, A TENURED FACULTY MEMBER AT UW-WHITEWATER

DECISION AND ORDER

NAMES AND ADDRESSES OF THE PARTIES

Professor Malvina Baica, represented by Timothy E. Hawks, Hawks Quindel, S.C., P.O. Box 442, Milwaukee, WI 53201-0442.

Chancellor Beverly Kopper, University of Wisconsin-Whitewater, represented by Deputy General Counsel Jennifer Lattis, Office of General Counsel, University of Wisconsin System, 1220 Linden Drive, Madison, WI 53706-1525.

STATEMENT OF THE CASE

This matter is before the Board of Regents of the University of Wisconsin System (Board of Regents or the Board) upon the recommendations of former Chancellor Richard Telfer and current Chancellor Beverly Kopper that Professor Malvina Baica, a tenured faculty member in the Mathematics Department at UW-Whitewater, be dismissed from her position.

Any person having a tenured appointment may be dismissed only for just cause and only after due notice and hearing. See Regent Policy Document 20-23; See Wis. Adm. Code UWS 4.01. The decision of the Board of Regents with respect to such matters is final, subject only to judicial review under Wis. Stat. ch. 227.

Whenever the chancellor of an institution within the University of Wisconsin System receives a complaint against a faculty member which the chancellor deems substantial and which, if true, might lead to dismissal of the faculty member, the chancellor shall within a reasonable time initiate an investigation. See Wis. Adm. Code UWS 4.02(1).

The first complaint against Professor Baica was filed on May 10, 2013, by Dean Mary Pinkerton and Department of Mathematics Chair Julie Letellier, and alleged failure to meet the university expectations for effective teaching, a pattern of unprofessional behavior toward students, and a pattern of unprofessional behavior toward colleagues. Following an investigation of the issues in the complaint, on August 28, 2014, Chancellor Telfer filed charges seeking Professor Baica's dismissal. In accordance with the provisions of Chapter UWS 4, Wisconsin Administrative Code, and the implementing policies of UW-Whitewater, a full evidentiary hearing on the charges was held in February 2015 before the Faculty Standing Hearing Committee ("FSHC"). The FSHC issued its decision in the matter on April 7, 2015, noting concerns about Professor Baica's teaching, but recommending that just cause for dismissal had not been demonstrated. Based upon his review of the record, Chancellor Telfer concluded that there was just cause for Professor Baica's dismissal and that he would recommend dismissal to the Board.

As required by Wis. Adm. Code, UWS 4.07(1), Chancellor Telfer offered Professor Baica the opportunity to discuss the matter, and a meeting for this purpose was held on May 4, 2015. In addition, because his recommendation differed substantially from that of the FSHC, Chancellor Telfer met with the FSHC on May 14, 2015, and provided it with an opportunity for a written response to his recommendation. By letter of May 27, 2015, the FSHC responded in writing.

The second complaint against Professor Baica was filed on June 13, 2014, by Dean David

Travis. The complaint alleged failure to complete an alternative assignment that comprised fifty percent of Professor Baica's job assignment for the 2013-14 academic year, following Chancellor Telfer's decision to remove her from classroom teaching beginning in fall 2013. Following an investigation of the complaint that was completed on November 5, 2014, Chancellor Telfer filed charges on January 21, 2015, seeking Professor Baica's dismissal. In accordance with the provisions of Chapter UWS 4, Wisconsin Administrative Code, and the implementing policies of UW-Whitewater, a full evidentiary hearing on the charges was held in May and early June of 2015 before the FSHC. The FSHC issued its decision in the matter on June 11, 2015. The FSHC found that Professor Baica had failed to complete the alternative assignment but did not find that the Chancellor had met his burden for just cause dismissal. The FSHC initially recommended that Professor Baica's salary be reduced in an amount corresponding to the salary allocated for the alternative assignment and subsequently amended its recommendation to a suspension without pay. Based upon his review of the record, Chancellor Telfer concluded that there was just cause for Professor Baica's dismissal and that he would recommend dismissal to the Board.

Chancellor Telfer retired on June 30, 2015, and Chancellor Kopper commenced her duties on July 1, 2015. As required by Wis. Adm. Code, UWS 4.07(1), Chancellor Kopper offered Professor Baica the opportunity to discuss the second complaint, and a meeting for this purpose was held on July 21, 2015. Chancellor Kopper agreed with former Chancellor Telfer's dismissal recommendation on the second Baica complaint. Because her recommendation differed substantially from that of the FSHC, Chancellor Kopper consulted with the FSHC and provided it with an opportunity for a written response. The FSHC provided a follow-up letter dated September 2, 2015.

Chancellor Telfer (on June 16, 2015) and Chancellor Kopper (on October 1, 2015) forwarded their respective recommendations for Professor Baica's dismissal through President Cross to the Board of Regents for formal action. Regent President Regina Millner referred the matter to the Personnel Matters Review Committee (PMRC) to conduct the hearing provided for under Wis. Adm. Code, UWS 4.08, and to provide its recommendation to the full Board as to whether Professor Baica should be dismissed. As noted previously, under Wis. Adm. Code, § UWS 4.01 and Regent Policy Document 20-23, a tenured faculty member may be dismissed only for just cause and only by the Board of Regents. The PMRC reviewed the record, received briefs from Professor Baica and Chancellor Kopper, and heard oral argument on the matter on July 28, 2016. The PMRC unanimously determined that there is just cause for Professor Baica's termination.

As required by Wis. Adm. code, UWS 4.08(2), on August 17, 2016 the PMRC consulted with both Faculty Standing Hearing Committees that held evidentiary hearings on this case and issued decisions.

On August 18, 2016, at a closed session of the Board, the chair of the PMRC reported the Committee's findings and recommended decision to the Board. The Board then voted to adopt the recommended findings and decision of the PMRC and to dismiss Professor Baica. The parties were present in the closed session for the Board's vote.

Based upon the record, the written submissions of counsel for Professor Baica and counsel for UW-Whitewater, oral arguments, and the recommendation of the PMRC, the Board makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. UW-Whitewater is a comprehensive university within the UW System located in Whitewater, Wisconsin. Faculty at UW-Whitewater perform three main job duties - teaching, research and service. Teaching is the most important of these duties.
2. In 1984, Professor Baica began her career as a lecturer in the UW-Whitewater Department of Mathematics. She was promoted to assistant professor in 1985, to associate professor in 1989, and to full professor in 1991, earning tenure in 1988.
3. Prior to the two complaints at issue, Professor Baica had not been the subject of any disciplinary proceeding by the University.
4. In the 2012 spring semester, the University administration received complaints from seven students and a parent with various concerns about Professor Baica, including that students were unable to learn in Professor Baica's classes, that Professor Baica was belittling students in front of the class, and that class was "chaotic." The concerns raised were discussed with Professor Baica by Professor Julie Letellier, the Chair of the Department of Mathematics (Chair Letellier). Dr. Mary Pinkerton, Dean of the College of Letters and Sciences (Dean Pinkerton), also was aware of these concerns, and of similar concerns about Professor Baica's teaching stemming from student complaints received in previous semesters.
5. In the fall of 2012, Professor Baica was assigned to teach three freshman-level courses and Math 375, a junior-level course. Math 375 is a required course for Education majors and must be successfully completed in the fall semester to permit Education majors to student teach in the spring semester. Students majoring in Math rarely take the course.
6. Early in the semester, students in Math 375 complained to Chair Letellier and Dean Pinkerton about the effectiveness of Professor Baica's teaching, including concerns that

Professor Baica continually faced the blackboard while explaining math problems, making it difficult for students to hear her and to follow her explanations; that Professor Baica worked the same problems over and over; that she made mistakes; and that they were unsure what was going on in the class. The students also were concerned that Professor Baica had not provided a proper syllabus that included her grading policy, the learning outcomes in the class, and correct office hour information. The students' basic concern was that they were not learning in the class.

7. Dean Pinkerton met with Professor Baica on September 17, 2012, to discuss the students' complaints.
8. During this meeting, at Dean Pinkerton's request, Professor Baica agreed to have Professor Tamas Szabo, a faculty member in the Math Department, mentor her on teaching the Math 375 course. Professor Szabo is a highly respected and effective teacher who had won university awards for his teaching and is an experienced instructor of Education majors.
9. Dean Pinkerton requested that Professor Baica permit Professor Szabo to observe her teaching the Math 375 course. Professor Baica refused and no classroom observation took place. Professor Baica opposed having Professor Szabo observe her teaching because he was junior to her, and she did not believe he was qualified to observe her.
10. Professor Szabo provided suggestions to Professor Baica regarding updating her syllabus, which she accepted. Professor Szabo also stated to Professor Baica that she was moving over material too fast and needed to slow down the pace of her presentation. Professor Baica acted on Professor Szabo's advice to the extent that she agreed to re-teach the material previously covered in the class.

11. Professor Szabo recommended that Professor Baica collect and grade homework, which he believed was a key tool for a math instructor to use to determine what students were understanding and not understanding in the class. Professor Baica had her class vote on Professor Szabo's suggestion that she collect and grade homework. The class voted "no," and Professor Baica did not follow Professor Szabo's advice regarding homework.
12. Professor Szabo observed that Professor Baica was teaching the Education majors in Math 375 as if they were Math majors. He recommended that Professor Baica change her textbook, which Professor Szabo believed was too difficult and was inappropriate for students in this type of course. Professor Baica declined to change the textbook.
13. Professor Baica did not believe there were problems with her teaching, and she continued to tell Professor Szabo that the class was going fine, while students in the class were complaining to him about her teaching.
14. In early October 2012, Dean Pinkerton met with five students from Math 375. The students stated that the class had not improved, that Professor Baica was questioning their loyalty to her and bringing them into her dispute with Dean Pinkerton and Chair Letellier over the class, and that the tension in the class was bad and worsening.
15. On October 2, 2012, five Math 375 students filed a written complaint against Professor Baica, listing their concerns as including: "A lack of communication; Demeaning and intimidating gestures and remarks by the professor to students; Inconsistent teaching techniques; Professor's apparent unpreparedness and unprofessionalism; Professor complains to students about how others are interfering in her class for a large portion of time each class." The five students requested that a new teacher be assigned to teach the

class. At this point, there were ten students in Math 375. The original enrollment was fourteen with four students having dropped the class earlier in the semester.

16. Dean Pinkerton was very concerned with the situation, and wanted to salvage the course for the students. Dean Pinkerton did not believe Professor Baica was willing to change her manner of teaching the class, and she therefore removed Professor Baica from the class and assigned a new instructor to Math 375. Dean Pinkerton had never previously removed a faculty member from teaching a course.

17. Professor Baica continued to teach the three freshman-level courses, including a Math 143 course. Two Math 143 students complained to Chair Letellier about Professor Baica's performance in those classes. One student stated:

It's awkward. We're here to learn, not to listen to her rant. I've never had a teacher as unprofessional as this. . . . Students are very subdued and don't take notes. She tarnished her image by saying she got kicked out of a class. It's very tense and no one cares, because they don't see her as a teacher. A majority are very confused.

Another student stated:

The students are giving up. There's no learning. Lots of kids just sit on their phone and text the whole time. She goes off on random rants — weird stories that have nothing to do with class. . . .

18. Dean Pinkerton and Chair Letellier determined that it would be appropriate for the Chair to observe one of Professor Baica's Math 143 classes to perform a peer review given the student concerns raised in those classes and in Math 375. Professor Baica objected to Chair Letellier observing her class and complained to Dean Pinkerton. The Dean supported the peer review.

19. On December 5, 2012, Chair Letellier visited one of Professor Baica's Math 143 classes to perform a peer review. Chair Letellier gave Professor Baica a negative review based

on her observation of the class, noting concerns about Professor Baica's teaching effectiveness and failure to follow the required curriculum in the course. Among other things, Chair Letellier noted that Professor Baica failed to engage students in the class, and students were not paying attention to Professor Baica.

20. In the spring 2013 semester, Professor Baica taught her assigned courses. A student in a Math 143 class complained to Chair Letellier about Professor Baica's teaching, noting

She's difficult to understand and very, very fast and difficult to keep up. . . . There are lots of communication issues She makes mistakes — a lot Everyone just gets more confused. . . . Everyone loses interest. A lot of people will be on their phones, fall asleep, and close their books and notebooks.

He also stated that Professor Baica complained to students that her department was mistreating her.

21. A graduating Math major also raised concerns about Professor Baica's teaching in the student's exit interview, stating that the class she took with Professor Baica was her poorest experience in any math class she took during her time at UW-Whitewater and that she did not learn much in the class.

22. Two students met with Associate Dean David Travis (Associate Dean Travis) to express concerns about Professor Baica similar to the concerns previously raised by other students.

23. From the fall 2009 semester through the spring 2013 semester, Chair Letellier received approximately thirty complaints from Professor Baica's students. These complaints varied in nature from student concerns that Professor Baica was not present during posted office hours, to concerns that Professor Baica did not appear for scheduled meetings, to disputes over grades, to student perceptions that Professor Baica's teaching was not good, to student perceptions that Professor Baica made demeaning comments toward and

belittled certain students, to student perceptions that Professor Baica was not responsive and would not help them, to student perceptions that Professor Baica spent considerable class time talking about her disputes with the Math Department and Chair Letellier and criticizing her faculty colleagues' abilities, or otherwise going off topic.

24. Students were concerned that Professor Baica had poorly treated fellow students, humiliating them in front of the class and otherwise demonstrating a lack of professionalism in individual communications with students.
25. Students reported that Professor Baica told students that Chair Letellier had physically pushed her out of the Chair's office and closed her office door on Professor Baica and that Professor Baica had been saved from falling and injuring herself on this occasion because her cane had been caught in the Chair's office door. Students also reported that Professor Baica made disparaging comments about Chair Letellier's professional competence as a mathematician and that Professor Baica stated Professor Baica was the foremost mathematician in the Mathematics Department.
26. None of the student complaints about Professor Baica was formally investigated or referred to the University formal complaint process. Dean Pinkerton noted that students often were "fearful" and reluctant to be identified as having complained against their instructor, especially if the course was on-going. Some of the student complaints also were addressed to the students' satisfaction by Chair Letellier and therefore not further pursued by students.
27. Several of the complaints were made by students whom Professor Baica believed had been cheating on exams in her classes and whom she had confronted in front of the class about her concerns. Professor Baica did not invoke the student academic misconduct process against any of these students.

28. Professor Baica stated that she believed that other complaining students were doing poorly in her class and retaliated against her by filing complaints. She also stated she had made jokes on occasion which the students had misunderstood and mischaracterized. Professor Baica stated that she did not believe that the student complaints against her were valid.
29. Student evaluations of faculty are a valid measure of performance. Low student evaluation scores are a serious concern, especially if they continuously are low.
30. Professor Baica's student evaluation scores of her teaching from spring 2010 to fall 2012 were very low in comparison with her Mathematics Department peers. The evaluations are scored on a scale of 1 to 10, with 10 being the highest score. Professor Baica's average score was 5.12. Of the twenty-five course sections that Professor Baica taught during that time period, only two sections were rated at or above the 7.5 of 10 level that the Math Department requires for promotion to full professor. Only three sections were above the 7.0 of 10 level that the Math Department requires to receive a merit pay increase. Six of the twenty-five course sections were rated below 4 on the Department's scale of 1 to 10, including two courses that earned ratings in the 2 range.
31. The student evaluation form also provided an opportunity for students to provide written comments about the course instructor. Student comments about Professor Baica's performance paralleled the student complaints received by Chair Letellier and Associate Dean Travis about Professor Baica, including concerns about the effectiveness of her teaching, about her belittling students in front of the class, and about her discussing her conflicts with the department chair and the administration with the class.
32. Professor Baica questioned the validity of the Math department's student evaluation survey process and stated that student evaluation scores were a "fraud."

33. Chancellor Telfer had previously served as a faculty member for many years and as UWWhitewater's provost and in those roles, as well as in his role as chancellor, had reviewed thousands of student evaluation scores of faculty. Professor Baica's student evaluation scores were very low, among the worst Chancellor Telfer had ever seen.
34. Dean Travis had previously served as an associate dean and as department chair and faculty member and had reviewed many faculty student evaluation scores in those roles, as well as in his role as dean. Professor Baica's student evaluation scores were the worst Dean Travis had ever seen relating to a faculty member.
35. Professor Szabo testified that Professor Baica's student evaluations were "terrible" over the period in question.
36. The Mathematics Department previously had terminated the contract of an insfructional academic staff member with low student evaluation scores similar to Professor Baica's.
37. Chancellor Telfer testified that Professor Baica was an ineffective teacher and should not be teaching math at UW-Whitewater. During Chancellor Telfer's meetings with Professor Baica to discuss his concerns about her teaching, Professor Baica never acknowledged or recognized that there were any problems with her teaching and never indicated any commiment to improve her teaching performance.
38. Dean Pinkerton taught for thirty-one years in the University's English Deparüment, had been department chair; associate dean; interim dean; and, finally, dean for seven years. Professor Baica was an ineffective teacher and should not be teaching math at UW-Whitewater in Dean Pinkerton's opinion. Professor Baica demonstated no interest to Dean Pinkerton in reflecting on the concerns raised by Professor Baica's students and peers about her teaching or in making changes to improve her teaching.

39. Chair Letellier has been teaching in the Mathematics Department for approximately twenty-five years and was department chair for about five years. Chair Letellier testified that Professor Baica should no longer teach math at the University because she is an ineffective teacher who refuses to acknowledge there are problems with her teaching and to make appropriate changes.
40. Professor Szabo testified that Professor Baica had difficulty communicating course material to students, an inability to see mistakes she was making, and an inability to admit there were problems with her teaching. He stated that Professor Baica cannot teach at the level the University expects.
41. In Dean Travis's opinion, Professor Baica was an ineffective teacher, who does not want to listen to constructive criticism or to change her teaching methods to address her weaknesses, and therefore should not be teaching math at UW-Whitewater.
42. Based on his experience in 1991 when Professor Baica mentored him on teaching the Math 375 course, Professor Mohammad Ahmadi, a member of the Math Department, was comfortable having Professor Baica teach his own children the subject matter covered in the Math 375 class.
43. Additionally, in the opinion of three of Professor Baica's former students who took classes with her in 2012 and 2013, Professor Baica was an effective teacher.
44. Professor Baica does not believe that she is an ineffective teacher. She testified that she does face the board at times and look at her notes, but believes that it necessary to do so at times to teach. Professor Baica believes she comes to class prepared, that she is not difficult to hear or understand, and that she does not make errors in class regularly.
45. During the 2012-13 academic year, Professor Baica was elected through Math Department processes to serve on two faculty search committees.

46. In November 2012, Dean Pinkerton asked Professor Baica to step down from one of the two committees to provide an opportunity for other faculty to participate. Professor Baica declined to step down, and Dean Pinkerton stated that Professor Baica told the Dean that it was important for her to serve on the search committees because the Math Department had too many Asians and Sri Lankans on its faculty.
47. Associate Dean Travis stated that Professor Baica told him that other Math Department faculty, some of whom were Asian or Sri Lankan, were trying to hire more Asians and Sri Lankans to fill these positions, and that she felt that there already were enough Asians and Sri Lankans in the Department, and that she wanted them to consider Americans.
48. Professor Baica stated that her concern related to the exclusion of American candidates from these searches and prior searches, and that her remarks were aimed at ensuring that discrimination against Americans did not occur.
49. In March of 2013, Professor Baica participated in an interview of a faculty candidate of Hmong ancestry, Dr. Thao. As part of Dr. Thao's interview, he presented and worked through some math problems.
50. After the presentation, Professor Baica told Dr. Thao he had made a math error in the presentation, and subsequently spoke to Dr. Nguyen, the search committee chair, and another member of the Math Department, in front of Dr. Thao, about her concerns about Dr. Thao's presentation.
51. Dr. Nguyen and the other member of the Math Department believed Professor Baica was incorrect and no error in fact had been made. Dr. Nguyen reported in an email that Dr. Thao was "visibly shaken and upset" by Professor Baica's remarks. At that point, in light of Professor's Baica's previous comments about Asians and Sri Lankans, Dean Pinkerton removed Professor Baica from both faculty search committees.

52. In April 2013, Associate Dean Travis submitted a memorandum describing his concerns about Professor Baica's teaching, the number of complaints being received from students, and Professor Baica's relationships with colleagues in the Math Department. Associate Dean Travis stated that he had "serious concerns about Dr. Baica's ability to function any longer as a professor on this campus."
53. After Dean Pinkerton and Chair Letellier filed a complaint with Chancellor Telfer in the spring of 2013 alleging ineffective teaching among other concerns, Chancellor Telfer assigned an investigator and decided to remove Professor Baica from the classroom while the matter was investigated. Dean Pinkerton retired in the summer of 2013, and was succeeded by Dean Travis. Chancellor Telfer therefore requested that Dean Travis provide Professor Baica with an alternative assignment for the 2013-14 academic year. In August 2014, Dean Travis notified Professor Baica that her alternative assignment would be to increase her research productivity and to complete projects related to assessment.

Fifty percent of Professor Baica's duties for the year were related to the assessment project.

54. During August and September of 2013, Associate Dean Frank Goza (Associate Dean Goza), Professor Letellier and the new Math Department Chair, Fe Evangelista (Chair . Evangelista) worked to develop the assessment project. Associate Dean Goza was an expert in assessment.
55. The assessment project was completed and expectations with respect to the project were provided to Professor Baica in writing on October 22, 2013.
56. The project included three main assignments and associated due dates. The final report and a presentation to the Mathematics Department was due in May 2014. Associate Dean Goza was assigned to assist Professor Baica.
57. Professor Baica willingly accepted the assignment of the assessment project. Professor Baica is a professional mathematician, is a long-serving member of the Mathematics Department, and is expert in the four Math major emphases involved in the project. She agreed that she was fully capable of completing the assessment project.
58. The Mathematics Department needed to improve its performance in student assessment, and the University was expecting improvements from the Department in this area. The assessment project would help the Department with a progress report that the Department was required to submit to the University regarding its assessment efforts and move those efforts forward. Chair Evangelista and the chair of the Department Assessment Committee valued and supported the assessment project assigned to Professor Baica, and the Department as a whole was interested in the project.

59. Chair Evangelista and Associate Dean Goza appropriately supported Professor Baica's work on the assessment project. Associate Dean Goza shared his assessment expertise with Professor Baica, met with Professor Baica a number of times, and encouraged her to ask questions and to otherwise look to him for help and support. Chair Evangelista responded to Professor Baica's questions and requests for information and assisted her with the project.
60. It is undisputed that Professor Baica did not complete the assessment project and did not provide a final report to Dean Travis or a presentation to the Mathematics Department.
61. The first assignment of the project involved completing learning outcomes for the four areas of emphasis within the Department and writing associated questions for the math major field test. This assignment was due by mid-November 2013. Professor Baica did not submit any work for the assignment to Chair Evangelista or Dean Travis, and Chair Evangelista, with assistance from other Department members, completed the learning outcome portion of the assignment.
62. Professor Baica also was assigned to develop a rubric for a critical thinking assessment instrument to be given to remedial math classes, to score the instrument, and to complete other related tasks by mid-February 2014. Professor Baica started on this assignment, but did not complete it and did not turn in any work to Chair Evangelista or Dean Travis.
63. Professor Baica's final assignment was to review other four-year university math department assessments for math majors, collect data from the two math assessments used at UW-Whitewater, analyze and summarize, and report on the developmental math pipeline. This assignment was to be completed by mid-April 2014. Professor Baica did not complete this assignment or turn in any materials to Chair Evangelista or Dean Travis.

64. Professor Baica was to present to the Mathematics Department in May 2014 the results of her work on the assessment project. This presentation was part of the assessment project she had been assigned. Professor Baica never contacted Chair Evangelista to schedule a time with the Department and never presented to the Department.
65. In May 2014, Dean Travis asked Professor Baica to submit a report on her increased research productivity and on the assessment project by May 21 , 2014. Professor Baica promised Dean Travis she would provide a report before she left campus for summer break. Professor Baica did not submit a report before she left campus as promised. Professor Baica never submitted a final report on the assessment project or her increased research productivity.
66. Professor Baica was capable of completing all three of the assignments in the assessment project, of presenting to the Department on the assessment project, and of completing a final report on the project. At hearing, Professor Baica admitted she did not complete the individual assignments or the project as a whole. Professor Baica did not provide the University with any meaningful work product related to the assessment project that was fifty percent of her assigned duties for the 2013-14 academic year.

ISSUE

The ultimate issued presented to the Board of Regents is whether, based on the record, there is just cause for Professor Baica's dismissal from her tenured faculty position.

CONCLUSIONS OF LAW

1. Professor Baica has been afforded the due process and procedural guarantees required by Chapter UWS 4, Wisconsin Administrative Code.
2. Just cause for the dismissal of Dr. Baica from her position as full professor in the UW-Whitewater Department of Mathematics has been established by a clear preponderance of the evidence. *Safransky v. Personnel Board*, 62 Wis. 2d 464, 215 N.W.2d 379 (1974) ("just

cause" exists when the individual's conduct reasonably can be said to have a tendency to impair the individual's job performance or the efficiency of the group with which he works).

DISCUSSION

The Chancellors have asserted three grounds supporting just cause for Professor Baica's dismissal: (1) Professor Baica is an ineffective teacher; (2) Professor Baica behaved unprofessionally toward colleagues; (3) Professor Baica failed to complete the assessment project that constituted fifty percent of her reassigned job duties for the 2013-14 academic year.

The evidence supports the Chancellors' assertion that Professor Baica is not an effective teacher. Notably, although it did not believe that Professor Baica should be disciplined for poor teaching, the FSHC shared the administration's "concern regarding Dr. Baica's teaching, both in terms of general teaching pedagogy and in drawing appropriate boundaries with students." The record reflects that there was considerable cause to be concerned with Professor Baica's teaching, including the lack of professionalism that she displayed on a recurring basis toward her students.

Students complained regularly and frequently about Professor Baica's teaching. Their complaints focused on Professor Baica's poor communication skills, disorganization, failure to engage students, mistakes in working math problems, unprofessional interactions with students in and out of the classroom, tendency to deviate from course content into unrelated topics (including her conflicts with the department chair and the University administration) and a general lack of learning in her classes. Professor Baica's student evaluation scores reflected her students' dissatisfaction with her teaching. Her scores were very low compared to her peers in the Mathematics Department and at UW-Whitewater generally. Chancellor Telfer, Dean Travis and Professor Szabo testified that in their experience Professor Baica's scores were remarkably poor. Additionally, the written comments provided by students on Professor Baica's student

evaluations raised concerns about Professor Baica's teaching that were consistent with the complaints students were raising directly with Chair Letellier and Dean Travis. Chair Letellier's classroom observation and negative peer review of Professor Baica's math class in Fall 2012 confirmed many of the concerns students raised in their complaints and student evaluation comments. Chancellor Telfer, Dean Pinkerton, Dean Travis, Chair Letellier, and Professor Szabo all testified that Professor Baica was an ineffective teacher and should not be permitted to continue to teach at UW-Whitewater.

The record therefore contains substantial, non-hearsay evidence of Professor Baica's ineffective teaching in the form of testimony by University administrators, Chair Letellier and Professor Szabo, Professor Baica's student evaluation scores, and Chair Letellier's negative peer review, as well as hearsay evidence contained in the students' complaints. Furthermore, the hearsay evidence in those student complaints is consistent with and corroborated by the nonhearsay evidence in the record. See, *Gehin v. Wisconsin Group Ins. Bd.*, 278 Wis.2d 111, 136, 692 N.W.2d 572 (2005) (An agency is prohibited from "relying solely on uncorroborated hearsay in reaching its decision.").

With respect to the assertion that Professor Baica behaved unprofessionally toward colleagues, the FSHC noted there was "some evidence of troubling behavior on the part of Dr. Baica" with respect to her colleagues, but did not believe that a pattern of such behavior was substantiated by the evidence. There is some evidence in the record to support the assertion, namely Professor Baica's statements and actions relating to her service on Department search committees in 2012-13 and her comments to students and others about Chair Letellier and other Mathematics Department colleagues. However, in the Board's judgment, this evidence is insufficient to support just cause termination of Professor Baica.

The evidence supports the Chancellors' assertion that Professor Baica failed to complete the assessment project that comprised fifty percent of her job responsibilities for the 2013-14 academic year. The assessment project was a reasonable project that would have benefited the

Department of Mathematics. Professor Baica was capable of completing the assessment project and was provided sufficient time, resources and support. Professor Baica did not complete any of the three assignments that made up the project, she did not present on the project to the Department, and she did not provide a final project report to Dean Travis. Professor Baica chose not to perform the assessment project and did not provide the University with any meaningful work product on an assignment that comprised half of her professional duties for the 2013-14 academic year. In summary, the Board agrees with the FSHC's conclusion that Professor Baica "did derelict the completion of the assessment tasks that were assigned to her by Dean Travis in lieu of classroom teaching" for the 2013-14 academic year and that "there has been a misuse of the taxpayers' money."

The Board further concludes that discipline less than dismissal is not appropriate here. As noted previously, the FSHC acknowledged concerns about Professor Baica's teaching but did not recommend dismissal, and rather recommended that she be "required to work with a peer mentor" and undergo a review after two years. Given Professor Baica's refusal to adopt many of Professor Szabo's suggestions while he acted as her mentor, her belief that she is an effective teacher, and her consistent refusal to acknowledge there is any validity to the concerns about her teaching effectiveness expressed by peers, administration and many of her students, the Board is convinced that Professor Baica is not willing to change how she teaches and that additional mentoring would be ineffective. The FSHC also recommended a suspension without pay as the remedy for Professor Baica's failure to complete the assessment project. In light of the gravity of Professor Baica's conduct, namely failing to complete any meaningful work on a project that amounted to half of her job duties over an academic year, the Board concludes that dismissal, and not a suspension without pay, is the appropriate discipline.

Professor Baica's inability to effectively teach at a comprehensive university whose primary mission is instruction of students, and where the primary function of faculty is teaching, reasonably can be said to have a tendency to impair her job performance and the efficiency of

the group with which she works. Professor Baica's ineffective teaching therefore supports her termination for cause. *Safransky v. Personnel Board*, 62 Wis. 2d 464, 215 N.W.2d 379 (1974). Professor Baica's failure to complete the assessment project that comprised fifty percent of her job duties for the 2013-14 academic year reasonably can be said to have a tendency to impair her job performance and the efficiency of the group with which she works. Professor Baica's failure to complete the assessment project therefore supports her termination for cause. *Id.*

ORDER

For the foregoing reasons, the Board of Regents orders that Professor Malvina Baica be dismissed from her position as a full professor in the UW-Whitewater Department of Mathematics, effective August 19, 2016, the date of this decision and order. This decision may be judicially reviewed by filing a petition for review in the appropriate circuit court, as specified in s. 227.53(1)(a)(3), Wis. Stats., within 30 days of the mailing of this order, and must name as a party respondent the Board of Regents of the University of Wisconsin System

Dated at Madison, Wisconsin, this Ly day of August, 2016.



Jane S. Radue

Executive Director and Corporate Secretary
Office of the Board of Regents