for health reasons, authorized by Section 1154(e) of the School Code, that was given to her until such time as she was ready to resume a full schedule. As an authorized leave, Mrs. Allen did not lose her professional employe status with the right to reemployment upon recovery.

As a professional employe, Mrs. Allen's contract with the School District could be terminated by the School Board only by compliance with the procedures and reasons required by the School Code.

Section 1127 requires a hearing before the board where all testimony offered shall be recorded by a public stenographer; written notice of the charges against the employe furnished by the school board to be sent to the employe in advance of the hearing, such notice to be signed by the president and attested by the secretary of the board. The School Board argues that substantial compliance with this section was met by the attendance of the Appellant at the May 8, 1972 Board meeting. We do not agree.

According to the record, none of the requirements of Section 1127 were met at any time by the School Board. Therefore, we find that the termination of Mrs. Allen's professional services by the School Board on June 12, 1972 was null and void and Mrs. Allen is entitled to reinstatement, see **Jacobs v. School District of Wilkes-Barre Tp.** 50 A. 2d 354, 355 Pa. 449 (1947).

The School Board had a right to require an additional, reasonable medical examination for Mrs. Allen before reinstating her to a full-time position, and it had a right to terminate or refuse further employment if she failed to take such an examination. But the School District had no right to terminate her services without complying with the mandated provisions of the School Code for the termination of a professional employe's services.

It remains to be determined the amount of back wages Mrs. Allen is entitled to receive. In September of 1971 when she was ready to return to full-time employment, she could have requested a hearing before the School Board upon its refusal to provide such employment, on the basis that she had been improperly demoted or dismissed. Instead, she requested, and the School Board approved, substitute teaching, which request and approval were apparently motivated by Dr. Markson's recommendations. Mrs. Allen could not be expected to remain a substitute teacher indefinitely, nor was it her intention to do so. She had the right to demand full-time status when she felt she had recovered. The record fails to show that she ever did more than request a clarification of her status. We must assume that she acquiesced in her substitute teaching role up until she was dismissed.

Therefore, we find that the Appellant, Mrs. Allen, is entitled to the wages she would have received as a full-time employe, beginning from the time the School Board acted improperly in terminating her professional services, that is, as of June 12, 1972.

In view of the foregoing, we make the following

ORDER

AND NOW, to wit, this 2nd day of April, 1973, the Appeal of Virginia Allen from the decision of dismissal by the Board of School Directors of the Northeastern Beaver County School District is hereby sustained and the Board of School Directors is directed to reinstate Virginia Allen forthwith without loss of pay as of June 12, 1972.

* * * *

Appeal of Roslyn Grossman, a Professional Employe, from a decision of the Board of School Directors of the Allentown City School District, Lehigh County, Pennsylvania

In the Office of the Secretary of Education, Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania

No. 214

OPINION

John C. Pittenger
Secretary of Education

Roslyn Grossman, appellant herein, has appealed from the decision of the Board of School Directors of the Allentown School District, terminating her contract and dismissing her as a temporary professional employe.

FINDINGS OF FACT

1. Roslyn Grossman was employed as a fifth grade elementary teacher by the Allentown School District, effective September 1, 1968.
2. On November 19, 1968 the appellant was issued a temporary professional employe's contract.
3. When hired, the appellant only possessed a Provisional Certificate to teach Comprehensive Social Studies, issued September, 1968, valid for three years.
4. In February, 1969, appellant was issued an Elementary Temporary Standard Certificate, valid for one year; which was renewed in August 1969 and in August 1970.
5. Appellant was issued a professional employe's contract on July 24, 1970.
6. Appellant received an Instructional I Certificate for Elementary teaching in October 1971.
7. By letter dated June 14, 1972, the appellant was notified by the Superintendent of Schools, Dr. Charles F. Wilson, that her services were being terminated as of June 30, 1972 because of a final rating of unsatisfactory for the 1971-72 school year. Enclosed with the letter was an "Appraisal of Teaching Efficiency" form with Mrs. Grossman's status marked as a temporary professional employe.
8. By letter dated June 27, 1972, Mrs. Grossman was informed by Dr. Wilson that the School Board had taken formal action to terminate her employment at its regular meeting held on June 26, 1972.
9. By letter dated June 30, 1972, Mrs. Grossman, through her attorney, requested a hearing before the School Board.
10. By letter dated July 14, 1972, the secretary of the Board informed Mrs. Grossman's attorney that she was a temporary professional employe and was not entitled to a hearing, but that one would be held on July 27, 1972.
11. Hearings before the Allentown School Board were held on July 27 and August 1, 1972.
12. On August 2, 1972, the secretary to the Board informed Mrs. Grossman that the resolution of the Board that her services be terminated was sustained.
13. On August 30, 1972 an appeal was received in the Office of the Secretary of Education. A hearing on the appeal was scheduled, but at the request of counsel it was continued. It was subsequently stipulated by counsel that the case would be submitted to the Secretary in briefs.

TESTIMONY

Hearings were held before the Allentown Board of School Directors on July 27 and August 1, 1972. Testimony submitted by the parties in interest at those hearings was substantially as follows:

Dr. Charles F. Wilson, Superintendent of Schools since July 1970, testified that Mrs. Grossman only possessed a Comprehensive Social Studies teaching certificate when she was employed by the Allentown School District in the Fall of 1968 to teach the fifth grade at Cleveland School. She obtained an Elementary Temporary Standard Certificate in February 1969, and taught on it until October 1971 when she received her Instructional I certificate for elementary teaching.

On June 25, 1970, the Allentown Board of School Directors issued to Mrs. Grossman a professional employe's contract. Dr. Wilson testified that this action was an error on the Board's part, and that Mrs. Grossman was still a temporary professional employe. He based his contention on his understanding of an opinion issued by an attorney with the Commonwealth's Attorney

General's Office, dated February 11, 1970, concerning the earning of tenure (or professional employe status) while teaching on an interim certificate, and of School Administrators' Memorandum No. 417, dated August 16, 1971, concerning contractual relations with various classes of public school employes. According to these documents, Dr. Wilson testified, Mrs. Grossman could not become a temporary professional employe until she held at least provisional certification, which did not occur until October 1971 when she was issued an Instructional I certificate for elementary education; prior to that time she only possessed "substandard certification". Since the School Code requires one to serve two years as a temporary professional employe before being entitled to professional employe status, Dr. Wilson reasoned that Mrs. Grossman would have to serve until October 1973 before she could have professional employe status.

Neither Mrs. Grossman nor the other twelve employes of the district who were in a similar position were informed that they were temporary professional employes, instead of professional employes, according to Dr. Wilson's understanding of the School Laws in August, 1971. Mrs. Grossman first learned of the change in her status when she received the letter from Dr. Wilson notifying her that she was dismissed; enclosed with the letter was a rating sheet entitled "Appraisal of Teaching Efficiency" on which a check mark for employe status of professional employe was crossed out and the status of "temporary professional employe" was marked, instead.

Mrs. Grossman was rated satisfactory for her first three years of service with the district, according to Dr. Wilson. At the end of her fourth year, on May 30, 1972, she was informed that she would be transferred to another school beginning the next term. On June 1, 1972, Mr. and Mrs. Grossman met with Dr. Wilson and Otis Rothenberger, Assistant Superintendent in charge of Elementary Education, at which time Mrs. Grossman was assured that her transfer was not for disciplinary reasons. Dr. Wilson did not inform Mrs. Grossman at the meeting that, in his opinion, she was a temporary professional employe. Nothing was said to Mrs. Grossman at the meeting to indicate that anyone considered her teaching performance to be unsatisfactory.

After the June 1st meeting Dr. Wilson received an unsatisfactory rating of Mrs. Grossman from Mary Turczyn, Mrs. Grossman's principal. As a result of that rating, Dr. Wilson informed Mrs. Grossman in a letter dated June 14, 1972 that her services were terminated as of June 30, 1972. Included with the letter was an unsatisfactory rating dated June 15, 1972, signed by Dr. Wilson, and an "Appraisal of Teaching Efficiency" form, with the status of professional employe crossed out and temporary professional marked instead. The "Appraisal of Teaching Efficiency" was signed by Mary Turczyn on June 12, 1972, by Otis J. Rothenberger on June 13, 1972, and by Dr. Wilson on June 14, 1972. Also included with the letter of dismissal was an anecdotal report written by Mary Turczyn, dated June 14, 1972.

Mr. Otis Rothenberger, Assistant Superintendent in charge of Elementary Education, testified that Miss Turczyn requested permission on November 9, 1971 to teach Mrs. Grossman's class so Mrs. Grossman would be free to observe another teacher's methods of maintaining discipline – an area in which Miss Turczyn considered Mrs. Grossman to be weak. On December 16, 1971, Mr. Rothenberger met with Mrs. Grossman at her request. At that meeting Mrs. Grossman attributed her difficulties in discipline to a lack of understanding on the principal's part. Mr. Rothenberger subsequently observed her classroom for ten minutes. He testified that he saw the students behaving in an undisciplined manner, but was unable to describe in what way the students were undisciplined. He also noted that he would walk by her room and observe disruptive conditions, but he was unable to explain how conditions in that room differed from those in other classrooms.

At the June 1st meeting with Mrs. Grossman he was under the impression that she was a professional employe. He could offer no explanation why Mrs. Grossman was in possession of an "Appraisal of Teaching Efficiency" form signed by him on June 12, 1972 with Mrs. Grossman's status marked professional employe and other form with her status marked temporary professional employe, signed by him on June 13, 1972.

Mary Turczyn testified that she had eighteen years experience as a principal, and was Mrs. Grossman's principal at Cleveland School. She admitted that she was being transferred from Cleveland to another school and that teachers, in addition to Mrs. Grossman, had complained

about her. Miss Turczyn rated Mrs. Grossman's first three years with the district satisfactory, even though Miss Turczyn felt Mrs. Grossman had problems with discipline. Miss Turczyn had attempted to help Mrs. Grossman overcome the disciplinary problems by freeing her from her teaching duties on one occasion so she could observe another class. Miss Turczyn also recommended at the conclusion of the 1970-71 school term that Mrs. Grossman request a transfer to another school where she could have a better opportunity to work for a successful classroom situation. Mrs. Grossman was warned at that time that failure to improve in the area of discipline could result in an unsatisfactory rating for the next term.

Miss Turczyn testified that classroom discipline was a problem with Mrs. Grossman during her last year. However, Miss Turczyn did not make any formal observations or evaluations of Mrs. Grossman's teaching performance during that year, her observations being limited to passing by Mrs. Grossman's classroom or stopping in to deliver a message. After rating Mrs. Grossman unsatisfactory, Miss Turczyn handed her the "Appraisal of Teaching Efficiency" form, dated June 12, 1972, with her status marked professional employe. Miss Turczyn did not supply Mrs. Grossman at that time with the anecdotal report concerning the reasons for the unsatisfactory rating.

Mr. Jules Grossman, the appellant's husband, stated that he attended the June 1st meeting because he was concerned that it be made clear that his wife's transfer was not for disciplinary reasons. He was also concerned about reprisal against his wife because of her criticisms of Miss Turczyn.

Mrs. Roslyn Grossman testified that Miss Turczyn spent no more than five minutes at most at any one time in her classroom during the past year. She had no complaints about her ability to lead or discipline her students until the 1971-72 school term. On June 14, 1972, Mrs. Grossman received one "Appraisal of Teaching Efficiency" form signed by MissTurczyn on June 12, 1972. She received the second on June 18, 1972 with the letter from Superintendent Wilson, which was the first time she learned she was a temporary professional employe.

DISCUSSION

The first issue in this appeal is whether or not Mrs. Grossman is a professional employe. The Secretary of Education does not have jurisdiction to hear appeals of temporary professional employes' only professional employes may take an appeal to the Secretary of Education, Section 1131 of the Public School Code of 1949. If Mrs. Grossman is a temporary professional employe, as the Allentown School Board of Directors contends, her appeal must be dismissed.

We find that Mrs. Grossman is a professional employe and that this Office has jurisdiction to hear and decide this appeal.

Assuming, for the moment, that Mrs. Grossman was not properly certified until she received her Instructional I certificate for elementary education in October 1971, she would still be a professional employe because the School Code's requirements for professional employe status were met. For a teacher to be a professional employe, he or she must be certified as a teacher, Section 1101(a), and must complete satisfactorily two years of service with a school district, Section 1108 and 1121. It is obvious that Mrs. Grossman did complete satisfactorily two years of service because she was issued a professional employe's contract in the Summer of 1970. She had been with the district for two years by that time. If the School Board had thought her service was unsatisfactory, it would not have issued the contract.

In October, 1971, Mrs. Grossman received her Instructional I certification as an elementary teacher, and would have become a professional employe as of that date. By earning the Instructional I certificate, she would have *perfected* the professional employe status she held in the school district so that status would have statewide effect; Section 1108 of the School Code provides that once a person has earned professional employe status, that person does not have to serve again as a temporary professional employe in any other school district. It does not make sense to require one who, after serving two years on a temporary professional employe's contract, received a professional employe's contract to serve an additional two year period as a temporary professional employe solely because that person subsequently received proper certification.

However, we find that Mrs. Grossman was properly certified prior to October, 1971, in

Elias v. Board of School Directors of Windber Area, 218 A. 2d 738, 421 Pa. 260 (1966), the State Supreme Court upheld the Secretary of Education's decision that two school nurses were entitled to the professional employ status provided by the Public School Code of 1949, even though they only possessed State Standard Limited Certificates. Such certificates are included among those known as substandard certificates. Generally speaking, substandard certificates are certificates of limited duration, issued to those persons whose educational qualifications in the area in which they intend to work are less than the qualifications of a graduate in the same area from a State Teacher's College or its equivalent. Holders of substandard certificates are expected to obtain the educational credits they lack; as they do so, the certificates are renewed, and, when the necessary credits have been earned, a higher level certificate is issued.

It was argued by the school board in the Elias case that a person holding a substandard certificate could not be a professional employe; see the State Supreme Court Paper Books for the Elias case, 421 Pa. State 257-282. The State Supreme Court rejected this argument and held that a person who had completed satisfactorily two years of service and who held a State Standard Limited Certificate, a substandard certificate, was *entitled* to professional employe status.

The record in the Elias case also shows that neither nurse was certified when hired and issued temporary professional employe's contracts. Each nurse did obtain certification thereafter, but neither had been certified for a two year period prior to their dismissals. Both nurses did put in more than two years of service, however.

In light of the State Supreme Court's holding in the Elias case, Mrs. Grossman is clearly a professional employe. She was issued an Elementary Temporary Standard Certificate in February 1969 and taught on it for more than two years, until October 1971. Although the Elementary Temporary Standard Certificate is considered to be a substandard certificate, it has a higher status than the State Standard Limited Certificates which was the subject of the Elias case. Elementary Temporary Standard Certificates are issued to persons holding provisional or higher certification to teach secondary school subjects, who want to teach in elementary schools. Although such persons would need to earn additional educational credits in elementary education before being issued Instructional I certificates, they do not need to earn as many credits as one with a State Standard Limited Certificate needs to earn; some of the educational credits required for the secondary level certificate count towards the credits needed for Instructional I elementary certificate.

We regret any inferences in either the opinion from the Attorney General's Office, dated February 11, 1970, or in School Administrators' Memorandum No. 417 that might have misled the Allentown School Board of Directors to believe that Mrs. Grossman was a temporary professional employe when it took action to dismiss her. However, we note that officials of the school district were in possession of both documents nearly a full year prior to the dismissal action, and during that time not once did any of those officials inform Mrs. Grossman of their belief that she was a temporary professional employe. It was not until it was decided to dismiss her that she was so informed. Right up to the time it was decided to seek her dismissal, Mrs. Grossman was treated as if she were a professional employe.

It is our impression that the question of Mrs. Grossman's status was raised only because the school district believed it was easier to dismiss a temporary professional employe than a professional employe. Our impressions on this matter are fortified by a document attached to Board Exhibit #8, entitled "Memorandum on Grossman Case," which gives a summary of a meeting of certain school officials held on July 7, 1972, where it was decided to proceed for Mrs. Grossman's dismissal on the basis of a temporary professional employe because it was felt that there was insufficient documentation to proceed with a dismissal based on a tenure case.

We find that the evaluation procedures followed by the Allentown School District in this case were completely inadequate. Mrs. Grossman was rated unsatisfactory by Miss Turczyn, the principal, under the category of "Technique" in the areas of planning and organization, classroom generalship, and manipulation of materials, and under the category of "Pupil Reaction" in the areas of enthusiasm, power to appraise, habits of thinking, habits of conduct, and attitudes. As a result of being rated unsatisfactory in these areas, Mrs. Grossman received an over-all rating of unsatisfactory.

But Miss Turczyn testified that during the 1971-72 school year she did not attend a single class taught by Mrs. Grossman for the purpose of observing and evaluating Mrs. Grossman's teaching abilities and performance. The unsatisfactory ratings, which the Allentown School Board believes justify the termination of Mrs. Grossman's employment, are based on Miss Turczyn's observations walking past or briefly visiting Mrs. Grossman's classroom. We do not see how it is possible to make a valid rating of unsatisfactory in areas such as "Manipulation of Materials" without a formal classroom observation.

Unsatisfactory ratings can be a basis for terminating a person's employment. School Officials should therefore make certain that such ratings are justified. Unsatisfactory ratings should be strongly questioned, particularly on whether the evaluator had sufficient time and basis for making an accurate evaluation.

Casual observations may indicate that a particular teacher is not performing satisfactorily. If, based on such observations, school officials have any reason to believe that a teacher's over-all performance, abilities, or effectiveness are unsatisfactory, the superintendent, or the superintendent's designee, should attend at least one of that teacher's classes for the purpose of making a thorough and accurate evaluation. Without such an evaluation, an unsatisfactory rating based on casual observations is not proper.

The only exception we can think of at present is when a casual observation detects an incident that is clearly cause for an unsatisfactory rating; for example: finding a teacher sound asleep, smoking in class, arriving to work late, or violating the school laws or the rules of the school board. Such incidents must be documented, giving the time and date and all necessary particulars, and should be brought to the teacher's attention immediately if they are to be the basis for an unsatisfactory rating.

Mrs. Grossman was rated unsatisfactory in areas concerning her over-all abilities and performance as a teacher, and not for any specific unsatisfactory incidents. We find that a formal classroom evaluation was needed before an unsatisfactory rating could be given in the areas and for the reasons Mrs. Grossman was rated unsatisfactory.

Accordingly, we find that the unsatisfactory rating Mrs. Grossman received is not supported by sufficient evidence; the observations of her abilities were too casual for the principal to make a valid evaluation and the anecdotal records explaining the ratings are too general and vague. We note, also, that the principal's anecdotal records were prepared after it was decided that Mrs. Grossman was a temporary professional employe, and, in our opinion, after it was decided to seek Mrs. Grossman's dismissal.

Anecdotal records should be an incident of the evaluation, not an incident of the dismissal action. In this case, the anecdotal records have the appearance of self-serving declarations.

Even though the evidence is not adequate to justify Mrs. Grossman's dismissal, she must be reinstated for another reason. During her first four years with the Allentown School District, Mrs. Grossman only received one unsatisfactory rating, the one made on June 12, 1972 by Miss Turczyn. Based on that information alone, Mrs. Grossman could not be dismissed for incompetency, since two preliminary unsatisfactory ratings are necessary, **Appeal of Sullivan County Joint School Board,** 189 A. 2d 249, 410 Pa. 222 (1963). The first rating informs the employe of the areas which need improvement; the second rating is a determination that improvement has not occurred. Mrs. Grossman, after four years with the school district, was not given any opportunity to improve or correct her deficiencies; if, indeed, she has any. She was rated unsatisfactory only once, and then was dismissed.

We also note that the School Board failed to follow the dismissal procedures required by Section 1127 of the School Code. The Board failed to provide her with a detailed written statement of the charges upon which her proposed dismissal was based, signed by the president of the Board and attested by the secretary. The record shows that Mrs. Grossman's services were first terminated by the Superintendent on June 14, 1972. The School Board then terminated her services on June 26, 1972 without first offering her a hearing. The hearings that were finally held by the Board were held after the dismissal had become effective. These actions violate the procedures of Section 1127, and for that reason the dismissal must be reversed, **Jacobs v. School District of Wilkes-Barre Township,** 50 A. 2d 354, 355 Pa. 449 (1947).

Accordingly, we make the following

ORDER

AND NOW, this 26th day of February, 1974, it is ordered and decreed that the Appeal of Roslyn L. Grossman from the decision of dismissal by the Board of School Directors of the Allentown School District be and hereby is sustained, and the Board of School Directors is directed to reinstate the said Rosylyn L. Grossman to her position as a professional employe without loss of salary.

* * * *

Appeal of George R. Reese, a Professional Employe, from a decision of the Board of School Directors of the Ellwood City Area School District, Lawrence County, Pennsylvania

In the Office of the Secretary of Education, Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania

No. 215

OPINION

John C. Pittenger
Secretary of Education

George R. Reese, Appellant herein, has appealed from a decision of the Board of School Directors of the Ellwood City Area School District terminating his contract and dismissing him as a professional employe.

FINDINGS OF FACT

1. Prior to August 1971, George R. Reese had been a professional employe for the Ellwood City School District employed as a high school teacher.
2. On August 18, 1971, Mr. Reese accepted a position as Assistant High School Principal.
3. At the time he accepted the position of Assistant High School Principal, and up to his dismissal, Mr. Reese was a member of the National Education Association, the Pennsylvania State Education Association, and the Ellwood Area Education Association, organizations permitted to represent public employes by the "Public Employe Relations Act", Act No. 195 of July 23, 1970.
4. On July 13, 1972, charges of incompetence and negligence were preferred against Mr. Reese by the School Board.
5. Notice of the charges was sent on August 10, 1972 and received by Mr. Reese on August 12, 1972.
6. A hearing on the charges was held on August 24, 1972.
7. On September 1, 1972, the Appellant was notified of the decision by the Board of School Directors of his dismissal on the grounds of incompetency and negligence.
8. On September 11, 1972, the Appellant filed an appeal from said decision with the Secretary of Education.
9. On Tuesday, October 3, 1972, a hearing was held on the appeal.

TESTIMONY

At the hearing before the School Board only one witness was called, whose testimony on behalf of the School Board was substantially as follows:

Mr. John DeCaro, Superintendent of Schools, Ellwood City Area School District, testified that Mr. Reese was employed by the district as an Assistant Principal. Acting upon an interpretation