

BEFORE THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Cynthia Zurchin, Ed.D.	)	
	)	
Charging Party.	)	
	)	EEOC Charge No. <u>533-2016-00731</u>
vs.	)	
	)	
Ambridge Area School District,	)	
	)	
	)	
Respondent.	)	

CHARGE OF EMPLOYMENT DISCRIMINATION

1. Charging Party Cynthia Zurchin, Ed.D., is an employee of the Ambridge Area School District. ("Ambridge SD")

2. Ambridge SD is located at 901 Duss Avenue, Ambridge, Beaver County, Pennsylvania 15003.

3. Dr. Zurchin holds the title of Superintendent of the district's schools.

4. She was hired in 2013 and began a constructive medical leave due to discrimination and retaliation, as set forth in more detail below, on October 13, 2015.

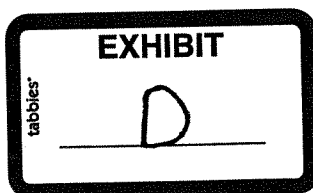
5. Dr. Zurchin filed a complaint with the EEOC on December 22, 2015, and this Charge provides more detail to support that complaint.

*District Personnel*

6. Megan Mealie was, at times relevant to this action, Assistant to the Superintendent, a position appointed by vote of the school board.

7. Minnie Baker was and is currently the district's Business Manager, a position appointed by the school board.

8. Mary Catherine Knafelc is the former Vice-President at time of hire of Dr. Zurchin and then board President and served in those roles at times material hereto.



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9. Jeremy Angus is the former vice president of the school board and served in that role at all times material hereto.

10. Scott Angus is the school board treasurer and served as a board member at all times material hereto.

11. John Baker is a former school board member and served in that role at all times material hereto.

12. Rob Keber is a school board member and served in that role at times material hereto.

13. Mary Jo Kehoe is a former president of the board and served as a school board member at all times material hereto.

14. Roger Kowal is a school board member and served in that role at all times material hereto.

15. Kim Locher is a school board member and served in that role at times material hereto.

16. Brian Padgett was a school board member at all times material hereto until November 2013.

17. Kelly Smith is a school board member and served in that role at times material hereto.

18. Since Zurchin's constructive discharge in October, Knafelc, Jeremy Angus and Baker are no longer board members.

19. Zurchin brings these claims against the Ambridge Area School District and, for purposes of the PHRA, various individual members of the Ambridge School District.

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Discrimination Based on Sex

20. The above paragraphs are incorporated as though each paragraph were set forth fully herein.

21. Zurchin was hired as Superintendent of Ambridge SD on March 20, 2013.

22. Though her contract did not officially take effect until July 1, 2013, Zurchin worked and was compensated accordingly beginning in March 2013.

23. At the time of her hiring, several board members opposed her selection and preferred to hire a male candidate who was a high school principal from the area.

24. Specifically, Padgett and Kowal made a motion to prevent Zurchin's hiring in favor of the less-qualified male candidate.

25. The male candidate, unlike Zurchin, did not have prior experience as an administrator of a school district and lacked equivalent credentials. Dr. Zurchin, is a Doctor of Education, Ed.D, and had previous experience as an Assistant Superintendent.

26. Ultimately, Zurchin was successfully hired despite this sex-based charge led by board members including but not necessarily limited to Kowal, Padgett and Belich.

27. Hiring and indicating preference to hire a less-qualified candidate on the basis of sex violates Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-1, *et seq.* and the Pennsylvania Human Relations Act, 43 P.S. § 95, *et seq.*

Retaliation

28. The above paragraphs are incorporated as though each paragraph were set forth fully herein.

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29. As a consequence of not hiring the male candidate they preferred, Padgett and Kowal began a targeted retaliatory campaign to foster a hostile working environment for Zurchin such that she would feel compelled to leave.

30. Throughout the course of Zurchin's employment with Ambridge SD, these individuals recruited and encouraged other board members and administrators to further this discriminatory objective.

31. In addition to Padgett and Kowal, this group includes, but is not limited to, Smith, Keber, Belich (when a member of the board), Locher and Mealie.

32. The pattern of retaliation and creation of a hostile work environment was consistent and pervasive from the outset of her employment. What is more specifically detailed are distinct examples of that treatment but is not intended to present every incident that occurred.

*Physical Violence*

33. On June 12, 2013, at the first official board meeting attended as Superintendent Zurchin was threatened with physical violence by Padgett during an executive session of the school board meeting.

34. During the incident, Padgett leaned toward Zurchin and within inches of her face, pointed at her and screamed, "You mother fucker, you better watch yourself. I will go after you. You better watch yourself, you mother fucker."

35. He also expressed, "I will get you."

36. Zurchin replied that it was not okay for Padgett to speak to her like this, and she feared for her personal safety due to his proximity, size and language.

37. Padgett was ultimately subdued by other board members moving Padgett from the area.

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38. Notably, Kowal laughed during the threat and thereafter.

39. Other board members witnessed this interaction and reported on it subsequently.

40. Specifically, Kehoe stated that Padgett's behavior was "threatening, intimidating and hostile."

41. Board Member and former police officer Robert Appel characterized it as "extremely abusive" and indicated he heard Padgett say, "You'll be sorry."

42. Zurchin filed a police report the next day, and Padgett was charged with harassment (18 § 2709 §§ A1) and terroristic threats (18 § 2706 §§ A1).

43. Padgett concluded his term on the school board in November 2013 while criminal proceedings remained pending. Kowal and Belich, however, remained on the school board.

44. Padgett ultimately pled guilty to the harassment charges in July 2014, more than a year after the threat.

45. After Padgett entered his plea, Kowal informed Zurchin, "I will ruin you if it's the last thing I do; if it means ruining this school district."

46. These threats of physical violence served to not only advance the sexually discriminatory animus of Padgett and Kowal, but it lays the foundation for a hostile work environment so as to compel Zurchin to resign or be terminated.

***Concerted Activity of Various Board Members to Cause the Discharge of Dr. Zurchin***

47. Concerted activity was thereafter undertaken by various members of the Board of the School District and Administrators appointed by them, including Kowal, Belich, Padgett, and the Assistant to the Superintendent, Megan Mealie, both formally and informally for the express purpose of causing harm to the professional reputation and employment of Dr. Zurchin as part of a pattern of discriminatory animus and retaliation.

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48. On information and belief, members of the school board, including Kowal and Locher, used these complaints to advocate for adverse employment action against Dr. Zurchin even though through internal and/or formal investigations the complaints were not founded.

49. The conduct was also directed at making employment conditions intolerable so as to force the Dr. Zurchin out of her position.

50. The conduct was further directed at inciting public opposition to Dr. Zurchin and was effected through individual actions and communications and board member interviews with the media.

***Retaliation for Opposition of Race & Disability Discrimination***

51. In September 2014, Zurchin became apprised of facts that evidenced the mistreatment and unauthorized restraint of J.H., an African American student with a documented disability.

52. On September 15, 2014, School Resource Officer Nate Smith indicated he was responding to a disturbance in the hallway of the high school involving J.H., a special education and minority student.

53. Despite video demonstrating that J.H. clearly was never creating a disturbance necessitating an aggressive response, Smith grabbed the student and restrained him with his arms behind his back, forcibly walked J.H. to the main office, smacked J.H.'s face into a glass window of the office, threw J.H. to the ground in a face down restraint, handcuffed J.H. and called for police backup to transport J.H. to a detention facility.

54. Not only does this procedure violate school policy and protocol, after reviewing the video footage, it becomes clear that it was entirely uncalled for given the circumstances.

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55. Further, this behavior by Smith substantiated what Zurchin had heard characterized as a level of discord between minority and non-minorities within the district, a situation she vehemently opposed.

56. Zurchin appropriately identified the individual that was the subject of discrimination and the protected classes under which he was the subject of discriminatory treatment.

57. As a result, Zurchin reported the incident to the Pennsylvania Department of Education, Bureau of Special Education as an improper restraint consistent with her obligations required under 22 Pa. Code 14.133.

58. Further, Zurchin, through the school's solicitor, requested the local police department remove Smith from his role as School Resource Officer due to his violation of the code, noting that the prone restraint he used placed the district at significant risk of sanctions from the DOE.

59. When Zurchin requested Smith be removed from his role, Kowal attempted to circumvent the district by going to the police chief and indicating that he should not heed Zurchin's concerns.

60. Due to Kowal's persuasion, the police chief permitted a dangerous individual to remain in the district despite warnings that it could expose the school to liability.

61. Zurchin's actions resulted in further and continuing efforts by members of the board to force her resignation through an oppressive and retaliatory work environment.

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*Retaliation for Opposition of Sexual Harassment*

62. On March 20, 2015, a teacher in the school district filed a complaint with the union which was reported to Zurchin alleging that the Assistant to the Superintendent, Mealie, was engaging in sexual harassment.

63. The teacher had simultaneously filed a complaint with her local police department alleging that Miele was making unwelcome visits to her house.

64. In support of her complaint, the teacher turned over 60 pages of text messages demonstrating the harassment.

65. Zurchin, per district protocol, suspended Mealie pending an investigation.

66. In addition to revealing sexual harassment by Mealie towards the teacher, the text messages also illustrate collusion between board members and Mealie to create a hostile work environment for Zurchin, to undermine Zurchin within the school and community and to compel her termination or resignation.

67. The messages indicated concerted efforts undertaken by the Board appointed Assistant to the Superintendent, Megan Mealie, and various members of the School Board to malign Zurchin through the local public media, to foment a disruptive public response to Zurchin and force her ouster.

68. Specifically, the messages reference communications with School Board members and, *inter alia*, indicate:

- a. "No worries [about] the grievances. I will alert my [people] what is going on and [Zurchin's] gonna lose and look stupid in the end. She has enough negative press tell Shane to be brutally honest [and] she will LOL stupid again. Also give the board copies [of] everything that way she [can't] lie



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[about] everything [because] they can read it for themselves. Trust me on that. That will drive her crazy.”

- b. “I just texted [Roger Kowal] about your hearings. All good.”
- c. “[Zurchin’s] just being a cunt. So she will just look worse in the end. Her days [are] numbered. And if she fucks [with] [you] I will fuck [with] her. I sent this to my 3 board members. ‘[Zurchin] denied the SS music teacher (Braunlich) 2 grievances so now they go to board level where she is making shit up [about] her as retribution because [Zurchin] and Tom thought she filed a grievance against Tom when it was the union. All [because Zurchin] is trying to protect Tom [because] he didn’t do his schedule and [Zurchin] lied for him. I can clue [you] in when it gets closer. Just make sure Tom is at this board level [meeting] or [Zurchin] will talk for him. Plus I’m friends [with] her – Jessica Braunlich and [Zurchin] is going after her intentionally [because] she hates me. That’s the bottom line. 100% harassment.’ I already told them [about] this before but [Zurchin] will try to sneak something in so I gotta keep them updated [so they are] aware.”
- d. “[Wouldn’t] it be great if I [could] end my emails to her you fucking cunt. . . I’m such a bitch but [I don’t care]. Fuck her and him.”
- e. “I wanna beat her ass like [you] can’t believe. Just like in [high school]. I [would have] set her ass straight quick back then. I hate being nice. I’d rather fist fight.”
- f. “I wanna punch both Tom and [Zurchin] in the twat. LOL.”

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- g. "I sent this to [Board Members] Kim, Kelly and Rob this am. 'Please make sure Roger and [at least] Angus is on board [with] Jess grievance...' Yes I have balls. They're my peeps and will be on it. Trust me."
- h. "[You] will be fine. [Please] don't worry. They are on to her. They will support [you] I promise. I'm sorry [you] don't need this. I want to beat her ass for [you] and me and everyone else she has fucked with."
- i. "Texted Kelly, Kim and Rob [your] email and they [are] like [Zurchin] is trying to cover this up too. [She's] gotta go. I wish I [could] be a fly on the wall in there. That cunt."
- j. "Trust me I have them [referencing school board members] trained . . . they know exactly how she thinks. I guarantee they have some shit up [their] sleeves to come at her with. [You might] get to see a show."
- k. "Also don't forget to have Jeff bring up how [you] were demeaned, threatened and treated by [Zurchin] and what she said. Feed the fire. Expose her."
- l. "Hey we all help each other. I'm sure he will help me out when he can. I have a feeling that if I get [Zurchin's] job it will be full of IOU's to [people]. Fortunately I am in good graces with 95% of [people] and the other 5% can fuck off [because] they can't beat me."
- m. "Those 3 [referencing school board members] will take care of [you] trust me. They [are] on it. They hate her as much as us and get great pleasure out of busting her. LOL [you] will see."
- n. "[You] think [Zurchin] would get the hint and leave."

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- o. "Relax when [Zurchin] loses this she will lay off. Then if not she's gonna have harassment slapped on her and be scared."
- p. "Plus [Zurchin's] on her way out. She will never beat us."
- q. "[You] know I just wanna punch [Zurchin]. It's not over [with] her. I don't forget this stuff. Trust me."
- r. "I don't think the board has ever not followed [the superintendent's recommendation]. They always have. My [people] totally supported [you] so if [you] see them make sure [you] thank them. If it wasn't for them she [would have] got her way again and [you would have] got fucked."
- s. "I'm done. It's time. I can't handle this anymore. I'm filing a complaint on her [with the Department of Education]. I've had it. I'm a [fucking] train wreck after today, can't sleep, anxious out the ass, high blood pressure not to mention my concussion is back in full force. She won't get away with this any longer."

69. As can be gleaned from the messages, Mealie worked in concert and with malice along with School Board members, including Kowal, Lochner, Smith and Keber to undermine Zurchin in her professional capacity, violated obligations of confidentiality as to personnel and circumvented procedures to achieve that objective.

*Denial of Benefits of Employment and Pay Increase*

70. On July 1, 2015, Dr. Zurchin was denied a 2% pay increase.

71. All other active administrators in the district were not only given a 2% pay increase, but they were all given one-time bonuses ranging from \$1,000 to \$2,000.

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72. Historically, the Superintendent would receive a raise consistent with the other administrators.

73. In July 2015, Locher indicated the board would not give raises to any individual who had not yet had an evaluation.

74. Knafelc informed Locher that they had not evaluated Dr. Zurchin, a function that is the responsibility of the school board, was to be completed on or before June 30 of each year and is expressly required by the terms of her contract.

75. Pursuant to both school district policy and the express terms of the employment contract with Zurchin the board was required to schedule and perform the annual evaluation prior to the end of the school year.

76. By refusing to perform the evaluation and adhere to its policies and duties, the school board took this opportunity to deny Dr. Zurchin an increase which she was otherwise due.

77. Previously members of the Board actively interfered with the ability of Dr. Zurchin to attend educational conferences, attempted to require her to take personal days although conference attendance is specifically permitted under the terms of her contract and further attempted to prevent Dr. Zurchin from identifying her affiliation as Superintendent of Ambridge SD.

78. There was a purposeful and malicious intent to disregard written policies and procedures so as to interfere with the terms and conditions of Dr. Zurchin's employment.

79. Upon information and belief and comparatively, the prior male Superintendent was never the subject of an evaluation and received pay increases and benefits of employment.

80. The board members acted in concert and with a retaliatory intent to impact Dr. Zurchin's pay.

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*Constructive Discharge*

81. On October 12, 2015, Keber told the custodial staff that if they came to the special board meeting on Monday at 7:15 and looked up on the bridge, they would see Dr. Zurchin at the top with her head in a noose hanging from the bridge.

82. That statement followed increasingly intensifying public actions by members of the board directed at fomenting public antipathy toward Dr. Zurchin, causing the firing of Dr. Zurchin, and scheduling meetings to occur in the absence of the Board President directed at that purpose.

83. The conduct of the board members actively and intentionally interfered with the ability of Dr. Zurchin to effectively perform the functions of Superintendent and put her in fear for her personal safety.

84. Dr. Zurchin was approved for medical leave the following day, October 13, 2015.

*Retaliation*

85. Dr. Zurchin's conduct is protected under Title VII's anti-retaliation provision which seeks to protect individuals who oppose employment practices prohibited by Title VII. 42 U.S.C. § 2000e-1, *et seq.*

86. Dr. Zurchin opposed the discrimination of special education and minority students and was met with retaliatory action after complying with appropriate reporting procedures.

87. She also participated in and complied with appropriate reporting procedures with respect to an allegation of sexual harassment by a district employee and was again met with adversity in the terms and conditions of her employment (i.e., pay).

88. "Title VII's anti-retaliation provision does not merely prohibit an employer from discriminating against an individual 'with respect to his [or her] compensation, terms, conditions,

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or privileges of employment,' but instead sweeps broadly enough to prohibit other 'materially adverse' actions taken in retaliation for activity protected under the statute.'" *Johnson v. McGraw-Hill Cos.*, 451 F.Supp.2d 681, 710 (W.D. Pa. 2006).

89. In fact, it is enough that the retaliatory conduct would deter an objectively reasonable employee from seeking legal recourse. *Id.*

90. Dr. Zurchin, as the school district's leader, had an obligation to oppose all forms of discrimination and provide a safe work environment.

91. The conduct facilitated by the board members and other administrative personnel evidences an attempt to undermine that objective and instead promote discriminatory behavior and retaliatory consequences for attempting to stop it.

92. The conduct of the board members rose to such a level as to create a hostile work environment (see, above comment about her hanging by a noose) such that no reasonable employee could be expected to remain in Dr. Zurchin's position.

Conclusion

93. For the foregoing reasons, Respondent(s) have engaged in conduction in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-1, *et seq.* and the Pennsylvania Human Relations Act, 43 P.S. § 95, *et seq.* by engaging in sex discrimination and retaliation.

94. As a result of Respondent(s) conduct, Dr. Zurchin has been subjected to a pervasive and hostile work environment directed at compelling her resignation or termination, depriving her of professional opportunities, causing her emotional distress, mental anguish, inconvenience, humiliation and loss of enjoyment of life.

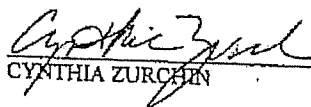
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95. In addition, Dr. Zurchin has and continues to incur economic harm as a consequence of Respondent(s) conduct.

96. As a result, Dr. Zurchin seeks the full panoply of damages available under these laws.

I have read and had an opportunity to correct this Charge of Discrimination consisting of 15 pages and swear that these facts are true and correct to the best of my knowledge and belief.

  
CYNTHIA ZURCHIN

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_ 2016.