



STATE OF NEW JERSEY

In the Matter of C.G.,
Board of Public Utilities

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2018-923

Discrimination Appeal

ISSUED: APRIL 6, 2018 (JET)

C.G., an Administrative Assistant 2 with the Board of Public Utilities, appeals the determination of the President, Board of Public Utilities, which found sufficient evidence that she had violated the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

On April 6, 2017, P.T., a Senior Engineer, Utilities, filed a complaint with the Office of Affirmative Action (OAA), alleging that the appellant stated, “[P.T.] is a child molester, if he goes near anyone’s child I will complain.” The OAA conducted an investigation, including interviewing witnesses and reviewing the relevant documentation, and determined that the appellant violated the State Policy. Specifically, while the OAA was unable to substantiate that the appellant made the statement that C.G. complained about, the appellant admitted that she stated to P.T., “You’re too old to be taking pictures with this young girl.” She also admitted to stating, “Why does he [P.T.] look at people’s personal photos . . . that’s what pedophiles do, and he is too old to be taking pictures with young girls.” A witness also confirmed that the appellant called C.G. a “dirty old man.” As such, the OAA determined that the appellant had violated the State Policy.

On appeal, the appellant maintains that she did not violate the State Policy. Specifically, she explains that, on March 23, 2017, she was involved in a conversation with J.C., M.V., B.B., and P.T., and at some point during the conversation P.T. showed a picture of himself with someone else’s wife and children. The appellant adds that, although she and the aforementioned individuals informed P.T. that his picture was of no interest to them, he proceeded to show them a

picture of his daughter and her roommate. In addition, the appellant contends that none of the witnesses substantiated that she stated “[P.T.] is a child molester, if he goes near anyone’s child I will complain.” As such, the appellant argues that, since the witnesses did not corroborate the specific statement that P.T. attributed to her in his complaint, the OAA’s investigation should have been closed at that time. Further, the appellant denies that she called P.T. a “dirty old man” as there were no female witnesses present at the time of the incident who could have corroborated that statement. As such, the appellant states that she has been subjected to a violation of her due process rights as it is apparent that an abuse of the provisions of the State Policy has occurred. However, the appellant acknowledges that she stated to P.T., “You’re too old to be taking pictures with this young girl.” In this regard, the appellant explains that the statement reflected her personal response to P.T.’s picture of himself hugging a young woman who he represented was his daughter’s roommate. The appellant maintains that it was not a derogatory statement and P.T. solicited the comment from her. She adds that the statement constitutes a “low bar” for aged-based harassment in the workplace. The appellant also acknowledges that she stated, “Why does he look at people’s personal photos . . . he is too old to be taking pictures.” However, she denies that she stated, “that’s what pedophiles do.” She adds that none of the witnesses would have corroborated that she made such a statement. Moreover, the appellant asserts that the word “pedophilia” does not constitute a violation of a protected category under the State Policy. Rather, she explains that pedophilia constitutes a felony crime, and as such, it is preposterous that she would have made such a statement. Finally, the appellant contends that P.T.’s complaint is a result of his resentment toward her.¹

In response, the OAA maintains that the appellant violated the State Policy. Specifically, the OAA asserts that the appellant did not state during the interview that the incident occurred on March 23, 2017. Rather, the witnesses confirmed that the incident occurred on March 24, 2017. Further, the OAA adds that the witnesses corroborated that the appellant called P.T. a “pedophile” and referred to him as a “dirty old man.” The OAA explains that the appellant’s comments were an inappropriate inference to P.T.’s sexual preferences and age, which is unacceptable under the zero tolerance standards of the State Policy. The OAA adds that the appellant admitted that she stated to P.T., “You’re too old to be taking pictures with this young girl.” Moreover, the OAA asserts that the appellant’s intent at the time of the incident was irrelevant as she used derogatory references to P.T. in violation of protected categories found in the State Policy. Finally, the OAA maintains that the appellant signed a statement confirming that she stated, “Why does he look at people’s personal photos, that’s what pedophiles do, and he is too old to be taking pictures with young girls.”

¹ The appellant contends that P.T. resents her because the appointing authority reassigned several of his duties to the appellant.

CONCLUSION

N.J.A.C. 4A:7-3.1(a) provides that under the State Policy, discrimination or harassment based upon the following protected categories are prohibited and will not be tolerated: race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability. Additionally, *N.J.A.C.* 4A:7-3.1(b) states that it is a violation of this policy to use derogatory or demeaning references regarding a person's race, gender, age, religion, disability, affectional or sexual orientation, ethnic background or any other protected category set forth in(a) above. A violation of this policy can occur even if there was no intent on the part of an individual to harass or demean another.

The Civil Service Commission (Commission) has conducted a review of the record in this matter and finds that the appellant has not established her contentions. The record shows that the OAA conducted an adequate investigation. It interviewed the relevant witnesses in this matter and appropriately analyzed the available documents in investigating P.T.'s complaint. Specifically, the witnesses confirmed and the appellant admitted that she used language pertaining to P.T.'s age in the workplace in violation of the State Policy, which she does not refute on appeal. Initially, the appellant clearly admits in this matter that she stated "You're too old to be taking pictures with this young girl" and "Why does he look at people's personal photos . . . he is too old to be taking pictures." The fact that the appellant admitted that she referenced P.T.'s age in the workplace under the circumstances presented is sufficient to substantiate a violation of the State Policy. Although the appellant contends that her statements were "low bar comments" and do not constitute a violation of the State Policy, the Commission disagrees. P.T. clearly perceived her comments as discriminatory pertaining to his age. Although the appellant denies that she called P.T. a "dirty old man" and a "pedophile," the appellant does not present any evidence to show that she did not use the offensive language. The OAA's investigation revealed that the witnesses confirmed the appellant referenced P.T. as a "dirty old man." Although the appellant argues that no female witness was present at the time of the incident who could have overheard her comments, such information is not persuasive. The appellant did not provide any substantive evidence to show that no one heard her make the comments "dirty old man." Moreover, the appellant does not refute the OAA's contention that she signed a statement admitting that she referenced P.T.'s age, called him a "dirty old man" and made reference comparing his actions to that of a pedophile. Since she admits in this matter that she made such statements, it is clear that the appellant violated the State Policy

Additionally, the appellant does not present any substantive evidence to show that she did not refer to P.T. as a “pedophile.” The *Merriam-Webster Dictionary* defines “pedophile” and “pedophilia” as “one who is affected with pedophilia; sexual perversion in which children are the preferred sexual object; specifically, a psychiatric disorder in which an adult has sexual fantasies about or engages in sexual acts with a prepubescent child.” See <http://www.merriam-webster.com/dictionary/pedophile>. Although she argues that it is unlikely that she would have engaged in such behavior due to her position and job responsibilities, such arguments are of no moment. As noted above, the appellant’s intent at the time of the incident is irrelevant, as her comment was clearly a derogatory or demeaning reference under the State Policy. Such inappropriate comments in the workplace cannot be condoned under the zero tolerance provisions of the State Policy.

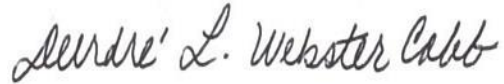
With respect the appellant’s argument that the OAA should have closed the investigation when it did not substantiate the specific statement that P.T. alleged against her in his complaint, the Commission finds that the OAA properly investigated P.T.’s claims pursuant to the State Policy. Although the OAA did not substantiate P.T.’s specific claims that the appellant stated “[P.T.] is a child molester, if he goes near anyone’s child I will complain,” the OAA was still required to complete an investigation pursuant to the provisions of the State Policy. As such, it was at the OAA’s discretion to interview the witnesses in furtherance of the complaint. Since the witnesses confirmed that the appellant called P.T. a “dirty old man” and a “pedophile,” the Commission is satisfied that such inappropriate comments are substantially similar to the statements P.T. attributed to the appellant in his complaint. Accordingly, for the reasons set forth above, the Commission finds that there is sufficient evidence to show that the appellant violated the State Policy.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 4th DAY OF APRIL, 2018



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