



STATE OF NEW JERSEY

In the Matter of I.L., Department of
Corrections

CSC Docket No. 2024-1512

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

Discrimination Appeal

ISSUED: March 20, 2024 (SLK)

I.L., a Supervisor of Educational Programs 1 with the Edna Mahan Correctional Facility, Department of Corrections, appeals the determination of a Commissioner, which was unable to substantiate that she was subjected to a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

By way of background, I.L., an African-American female, alleged that she was subjected to discrimination/harassment by R.Z., a Caucasian male Teacher 2, 12 months, and L.F., a Caucasian female Teacher 3, 12 months.¹ I.L. alleged that R.Z. made disparaging remarks about women, tried to intimidate her, and she believes that he would not behave in such a disrespectful manner if she was not a woman. Specifically, I.L. alleged that R.Z. refers to woman as “bitches,” and he makes racially inappropriate jokes, remarks, and/or comments. Further, I.L. claimed that R.Z. stated that she ate too much fast food from Popeyes. Concerning L.F., I.L. alleged that L.F. said that she had been sick in January because she was on drugs.² I.L. indicated that she believed that the comments were made because of her race and sex. The determination indicated that the Equal Employment Division (EED) was unable to substantiate a violation of the State Policy because the investigation did

¹ Personnel records indicate that L.F. retired on December 31, 2023.

² The allegation that someone is telling others that you are sick because you use drugs, whether that person uses drugs or not, is an allegation of disability discrimination under the State Policy.

not reveal any evidence, witness or otherwise, to corroborate I.L.'s claims that she was treated adversely based on her membership in a protected class.³

On appeal, I.L. asserts that she does not believe the EEO took her allegations seriously because the determination letter indicated that her allegations "touch the State Policy," which she contends should have been sufficient for it to act. While she acknowledges that she has not been called a racial slur to her face, she asserts that she is the only person being treated in this matter. I.L. notes that before she arrived, there was only one other African-American in the unit and that person did not hold a position of authority. Therefore, she believes this demonstrates bias, racism, and sexism. I.L. claims that R.Z. and L.F. were attempting to humiliate her; attempting to bully and intimidate her by constantly invoking the union, name dropping people R.Z. felt were important, having an obsession with guns, bow and arrows and hunting; being uncooperative; using constant negative talk; being frequently discourteous; using malicious, derogatory and disparaging remarks regarding her having relationships with inmates, civilians, and custody and spreading lies concerning those relationships; gossiping about staff and constantly complaining about her to anyone who will listen; undermining support for her within the department and the facility as a whole; gossiping with inmates to assassinate her character and another teacher who was recently hired and is African-American; excessively tracking or monitoring her on R.Z.'s teacher roll book; constantly criticizing her and gossiping about her throughout the facility which damages her credibility and ability to build working relationships with other departments and creates unwarranted hostility from others outside of the department; shouting at her and using a disrespectful tone while engaging with her; using profanity; and not following directives or the chain of command.

Additionally, I.L. contends that R.Z. and L.F. have irrational beliefs and paint themselves as being victims and singled out when they are actually treated equally and there is a constant externalization of blame. She reiterates her belief that R.Z. seems to have an unnatural obsession with guns and hunting animals. While she acknowledges that there is nothing wrong with guns and hunting, she asserts that R.Z.'s constant talking about these things in the workplace is unprofessional and makes the working environment uncomfortable. I.L. contends that these characteristics are dangerous and a gateway to even larger, more volatile situations. She argues this behavior has created a hostile work environment and the behavior has continued since she filed her State Policy complaint. She opines that R.Z. potentially poses a safety risk to herself and others and his behavior exposes the organization to liability. I.L. requests that R.Z. be disciplined and reassigned to another facility.

³ The determination letter also indicated that I.L. made several allegations, including allegations of potential undue familiarity, that were referred to the Special Investigation Division (SID).

Moreover, I.L. states that since she filed her State Policy complaint, R.Z. has retaliated against her. She presents that there was an incident where R.Z. left his classroom unattended for almost two hours. I.L. indicates that during that time, there was a student that was part of R.Z.'s carpentry class who was transported to his room to receive instruction but R.Z. was not there to deliver it. Thereafter, I.L. questioned R.Z. concerning where he was during instructional time, which in anticipation that he would be reprimanded, she contends that he made false allegations against her. Specifically, I.L. alleges that R.Z. alleged that she engaged in undue familiar relationships with inmates. I.L. states that R.Z.'s lies are to defame her, bully her out of her position, and circumvent discipline for violating policy as one cannot leave students unattended as this is a safety concern. She notes that she was interviewed by the SID regarding her claims in February 2024.

In reply, the appointing authority presents that it interviewed more witnesses than I.L. presented and reviewed relevant documentation. However, the investigation was unable to substantiate her claims. It notes that I.L. indicated that many of the alleged derogatory statements were made "behind her back" and she only had "second- or third-party knowledge." Additionally, the appointing authority states that I.L.'s claims regarding undue familiarity, workplace violence and theft of property do not implicate the State Policy, are beyond the purview of the EED, and were referred to the SID. It highlights that even though I.L.'s allegations were not substantiated, there was action to ensure a continued workplace free from discrimination and harassment. It reiterates that after the investigation, it was unable to substantiate her allegations. Additionally, the appointing authority provides that I.L.'s new allegations on appeal should be considered independent of the subject appeal and underlying file.

CONCLUSION

N.J.A.C. 4A:7-3.1(a) provides, in pertinent part, the State is committed to providing every State employee and prospective State employee with a work environment free from prohibited discrimination or harassment. Under this policy, forms of employment discrimination or harassment based upon race, sex/gender, and disability will not be tolerated.

N.J.A.C. 4A:7-3.2(n)1 provides that the burden of proof shall be on the appellant.

Initially, it is noted that the determination letter states, "While the allegations at issue do touch the *Policy*, the EED investigation did not reveal any evidence, witnesses or otherwise, to corroborate your claims that you were treated adversely based on your membership in a protected category. For the foregoing reason, EED did not substantiate a violation of the *Policy* by [R.Z.] nor [L.F]." For clarity, if there was substantiation that R.Z. and/or L.F. made the alleged derogatory comments

about women, including being called a “bitch”, which is a derogatory name for a woman, “eating too much Popeyes,” which is a derogatory comment about African-Americans based on stereotypes, and using drugs which caused an illness, which is a derogatory comment about I.L.’s illness, these statements alone would be a violation of the State Policy as this harassment is considered adverse to her employment, and it is not necessary that the EED receive corroboration of other types of adverse action, such as a demotion or not receiving a promotion. Nonetheless, a review of the appointing authority’s response to the appeal indicates that the EED investigated the matter, and it was unable to substantiate that the alleged comments were made. It is noted that I.L. has not presented any witness statements or witnesses who were not interviewed and/or any other documentation or other evidence that can confirm that any of the alleged statements were made. Mere speculation, without evidence, is insufficient to support a violation of the State Policy. *See In the Matter of T.J.* (CSC, decided December 7, 2016).

Concerning I.L.’s allegations of general harassment and other behavior that she disagreed with in the workplace, disagreements between co-workers cannot sustain a violation of the State Policy. *See In the Matter of Aundrea Mason* (MSB, decided June 8, 2005) and *In the Matter of Bobbie Hodges* (MSB, decided February 26, 2003). Moreover, the mere fact that she was the only African-American person of authority in the unit and/or female, is insufficient, without other corroborating evidence, to demonstrate that such alleged behavior was based on her membership in a protected class in violation of the State Policy.

Finally, on appeal, I.L. presents a new allegation. She alleges that R.Z. retaliated against her after she questioned him for leaving his classroom unattended. Specifically, I.L. alleges that R.Z. alleged that she was engaged in undue familiarity with inmates to defame her, bully her out of her position, and circumvent discipline. As this allegation was not presented at the time of the complaint, this allegation is not part of the present matter. Further, based on the nature of the allegations, it was appropriate for the EED to refer this allegation as well as any allegations of workplace violence and theft of property to the SID for investigation.

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 20TH DAY OF MARCH, 2024

Allison Chris Myers

Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Nicholas F. Angiulo
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: I.L.
Chiqueena A. Lee, Esq.
Division of EEO/AA
Records Center