

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ASHLEY JACKSON,

Plaintiff,

COMPLAINT

vs.

NEW YORK CITY DEPARTMENT OF  
EDUCATION, ANDA MCGOWAN and  
AUDREY MANGAN, sued in their  
Individual capacity as aiders  
and abettors,

Defendant.

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By and through her counsel, Michael Sussman, Esq., plaintiff Ashley Jackson complains of defendants as follows:

1. Plaintiff Ashley Jackson is a female of legal age who resides in Dutchess County, within this judicial district.
2. Defendant New York City Department of Education is a municipal corporation which does business within this judicial district and operates Phoenix Academy where plaintiff was employed.
3. At all relevant times, defendant Anda McGowan was, and she remains, Principal of Phoenix Academy and was directly responsible for illegally retaliating against plaintiff. She is sued in her individual capacity.

4. At all relevant times, Audrey Mangan was the Assistant Principal of Phoenix Academy and was directly responsible for illegally retaliating against plaintiff. She is sued in her individual capacity.

5. Plaintiff timely filed a charge with the EEOC alleging that she was retaliated against after lodging an internal complaint of sexual harassment.

[Exhibit 1].

6. Within the last ninety days, plaintiff received a right to sue letter from the EEOC and now timely initiates this action. [Exhibit 2].

7. This Honorable Court has jurisdiction over this matter pursuant to 28 U.S.C. secs. 1331, 1343 (3) & (4) and 42 U.S.C. secs. 1983, 1988 and 2000e-5, et seq. This Honorable Court has pendent party jurisdiction over defendant pursuant to 28 U.S.C. sec. 1367 as the events which predicate plaintiff's claim against her arises from the same nucleus of operative facts as do her federal claims.

8 Plaintiff was employed by defendant New York City Department of Education and assigned as a math teacher to Phoenix Academy in January 2009.

9. Plaintiff was in a tenure track position and eligible to receive tenure upon successfully completing three years of teaching.

10. Plaintiff was an outstanding teacher - her observations consistently reflected her supervisors' collective satisfaction with her performance and her GED students attained a 100% pass rate.

11. On January 1, 2011, Tyrone Rooney, a Phoenix House employee, sexually assaulted plaintiff at her home.

12. Thereafter, Rooney continued to sexually harass the plaintiff at the workplace.

13. In July 2011, after overcoming her fears about doing so, plaintiff advised defendant Mangan of Rooney's sexual assault and subsequent harassing conduct.

14. In response, defendant Mangan told plaintiff that she would have to tolerate seeing Rooney because he was one of the few Phoenix House employees who could work at the Academy.

15. Defendant Mangan also advised plaintiff that she needed to report the sexual harassment to the Office of Equal Opportunity within the Department of Education.

16. In the fall 2011, plaintiff requested that she be excused from escorting her students to an assembly at Phoenix House so she could avoid contact with Rooney.

17. Defendant McGowan denied plaintiff's request.

18. In November 2011, plaintiff received several write-ups approved by McGowan.

19. In one, she was falsely accused of giving her sunglasses to a student in her class and allowing him to wear them.
20. In fact, the student admitted that he had taken the sunglasses from plaintiff's desk without her knowledge.
21. Plaintiff was further written up for failing to remove a student who did not belong in her class.
22. In fact, the referenced student had entered plaintiff's class and fallen asleep.
23. When plaintiff asked him to leave, he would not do so.
24. A dean then entered plaintiff's class and asked the student to leave, but he disregarded this direction as well and the Dean allowed him to remain there.
25. At the time of this incident, the student had been informed that he would be dismissed from the program within two weeks.
26. It was common knowledge that students so informed often disregarded all rules and authority.
27. To plaintiff's knowledge, other teachers were not disciplined in similar situations.
28. Plaintiff was also disciplined for failing to complete administrative work, but she had met her responsibilities in this area and the other teacher who was assigned to collaborate with plaintiff and did not was not written up.
29. By giving her these write ups, plaintiff's supervisors retaliated against her.

30. In October-November 2011, defendants McGowan and Mangan recommended that she not be granted tenure and fabricated pretextual reasons for their action.

31. On November 18, 2011, relying on the recommendations of the individual defendants, Superintendent Timothy Lisante offered plaintiff a one-year extension of her probation.

32. Two other teachers whose students' pass rates were lower than plaintiffs, but who had not filed any complaint of discrimination or harassment, both received tenure when plaintiff did not.

33. Lisante's offer of the one-year extension was conditioned upon plaintiff signing an agreement which waived any right to initiate any form of legal action arising from the sexual harassment to which she had been subjected and about which she had complained to Mangan.

34. Plaintiff refused to sign any such agreement waiving her rights.

35. Defendant Department then terminated plaintiff's employment by denying her tenure.

36. Plaintiff suffered economic and non-economic losses on account of this wrongful termination, including, but not limited to, humiliation, anxiety, loss of professional standing and financial insecurity.

37. No legitimate non-retaliatory reason motivated the treatment defendants accorded plaintiff as outlined above.

### **CAUSES OF ACTION**

38. Plaintiff incorporates paras. 1-37 as if fully re-written herein.

39. By retaliating against plaintiff for complaining about sexual harassment, defendant Board violated Title VII of the Civil Rights Act of 1964.

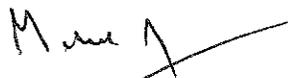
40. By retaliating against plaintiff for complaint about sexual harassment, defendants Mangan and McGowan violated sec. 296 of the Executive Law of the State of New York.

### **PRAYER FOR RELIEF**

Plaintiff prays that this Honorable Court:

- a) accept jurisdiction over this matter;
- b) empanel a jury to hear and decide all issues within its jurisdiction;
- c) award to plaintiff make whole relief, including compensatory damages against the defendants for economic and non-economic injuries with pre- and post-judgment interest;
- d) award to plaintiff punitive damages against defendant for the outrageous retaliatory conduct in which she engaged;
- e) award to plaintiff the reasonable attorneys' fees and costs incurred in the prosecution of this matter and
- f) enter any other order which the interests of justice and equity require.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael H. Sussman", with a long horizontal stroke extending to the right.

MICHAEL H. SUSSMAN

COUNSEL FOR PLAINTIFF

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