

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)		
FOR REVIEW BY:)	CHARGE NO.:	2013CR3505
)	EEOC.:	440-2007-04920
TAISHA GOFF,)	ALS NO.:	14-0601
Petitioner.)		

ORDER

This matter coming before the Commission by a panel of three commissioners, Chair Rose Mary Bombela-Tobias and Commissioners Patricia Bakalis Yadgir and Duke Alden presiding upon Taisha Goff’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”) of Charge No. 2013CR3505 and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code. Ch. XI. Subpt. D. § 5300.400 and the Commission being fully advised upon the premises:

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent’s dismissal of the Petitioner’s charge for **LACK OF SUBSTANTIAL EVIDENCE** is **SUSTAINED**.

DISCUSSION

On May 8, 2013, the Petitioner, Taisha Goff, filed a charge of discrimination with the Respondent, alleging that her employer, Crete Monee High School District #201, subjected her to unequal terms and conditions of employment and disciplined her because of her race and sex and retaliated against her in violation of Section 2-102(A) and 6-101(A) of the Illinois Human Rights Act. On September 22, 2014, the Respondent dismissed the charge for lack of substantial evidence. The Petitioner filed a timely Request for Review on December 26, 2014.

The Commission concludes that the Respondent properly dismissed the Petitioner’s charge for lack of substantial evidence. If no substantial evidence exists after the Respondent’s investigation of a charge, the charge must be dismissed. 775 ILCS 5/7A-102(D)(3). Section 7A-102(D)(2) states substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion and which consists of more than a mere scintilla but may be somewhat less than a preponderance.

The evidence was insufficient to establish a *prima facie* case of discrimination based on unequal terms and conditions of employment and discipline base on race (black) and sex (female). To establish a *prima facie* case of discrimination, the Petitioner must show: (1) that he is a member of a protected class; (2) that he was performing his work satisfactorily (3) that he was subject to an adverse action and (4) that the employer treated a similarly situated employee outside the Petitioner’s protected class more

favorably under similar circumstances. See Marinelli v. Human Rights Commission, 262 Ill.App.3d 247, 634 N.E.2d 463 (2nd Dist. 1994). Additionally, to satisfy adverse action Petitioner must establish alterations in duties or working conditions that caused a materially significant disadvantage. See In the Matter of Diane Allen, IHRC, Charge No. 1995CF0836 (October 20, 1999), 1999 WL 33252953 (Ill.Hum.Rts.Com). Once Petitioner has established a prima facie case of discrimination, then the burden shifts to Respondent to rebut the presumption of discrimination and articulate a non-discriminatory reason for its' employment action. McDonald Douglas Corp. v. Green, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed2d 668 (1973).

Petitioner alleges she was subjected to unequal terms and conditions of employment and disciplined due to her race (black) and sex (female) on April 25, 2013. (counts A, B, D, and E). Petitioner alleges and the Employer confirmed an investigatory meeting with Petitioner to address accusations of student safety, unprofessional communication with parents, inappropriate communication with students, violation of policy and procedure pertaining to bringing children to work and lack of appropriate financial procedures regarding fees and fines.¹ Employer and Petitioner agree Parents made negative statements regarding Petitioner. On April 25, 2013, the employer issued a Letter of Expectations² of professional behavior to be placed into Petitioner's personnel file. The employer indicated this letter is not a form of discipline but simply a reiteration of policies and procedures. The employer found Petitioner's emails to parents to be inappropriate and unprofessional and requested the inclusion of the athletic director or immediate supervisor on correspondence with parents. The employee handbook prohibits Petitioner from bringing her son to practice. The investigation did not reveal and Petitioner did not provide a comparative. The terms and conditions or expectations for Petitioner are the same as those for every teacher and coach. The employer did not have a similarly situated employee outside the Petitioner's protected class who was treated differently. The Petitioner did not establish a nexus between the employer's action and her sex (female) or race (black). Petitioner did not articulate an alteration in duties or working conditions that caused a materially significant disadvantage.

A Letter of Expectation to the Petitioner's file does not constitute an adverse action. An undeserved poor performance evaluation is not an adverse employment action. Smart v. Ball State Univ., 89 F.3d 437, 441 (7th Cir. 1996). An unfair reprimand or undeserved negative performance evaluation without a tangible job consequence does not amount to an adverse employment action. See Watson v. Potter, 351 Fed. Appx 103, 105(7th Cir. 2009). The Petitioner failed to establish a *prima facie* case of unequal terms and conditions of employment and disciplined due to her race (black) and sex (female) and the Respondent's dismissal of the charge for lack of evidence is proper.

¹ April 19, 2013 memo from employer to Petitioner.

² The letter required Petitioner to obtain an American Association of Cheerleading Coaches and Administrators safety certification, not bring her son to practices, exercise more discretion in communicating with parents and students, and learn proper procedures regarding fundraising funds by meeting with the Employer's financial advisor.

The evidence was insufficient to establish a *prima facie* case of retaliation (Counts C and F). A *prima facie* case of retaliation is demonstrated when the Petitioner shows 1. Petitioner engaged in protected activity, 2. Respondent committed an adverse action against her and 3. A causal connection exists between the protected activity and the adverse action. Hofflet v. Department of Human Rights, 367 Ill.App.3d 628, 634, 867 N.E.2d 14, 310 Ill.Dec.701 (2006). Further, a causal connection will be inferred if the period of time between the protected activity and the adverse action is sufficiently short. See Mitchell and Local Union, 146 20 Ill. HRC Rep. 101, 110-111 (1985) (six months was too remote to establish connectedness).

Petitioner alleged employer retaliated against her for opposing unlawful discrimination. Petitioner filed an EEOC complaint in 2007. Employer issued a Letter of Expectation on April 25, 2013. A Letter of Expectation to the Petitioner's file does not constitute an adverse action. Approximately six years elapsed between the Letter of Expectation in her file in 2013 and the filing an EEOC complaint in 2007 which is too remote to establish a connection between the protected activity and the adverse action. The Petitioner failed to establish a *prima facie* case and the Respondent's dismissal for lack of evidence is proper.

THEREFORE, IT IS HEREBY ORDERED THAT:

- 1.The dismissal of the Petitioner's charges is hereby SUSTAINED.
- 2.This is a final order. A final order may be appealed to the Illinois Appellate Court by filing a Petition for Review naming the Illinois Human Rights Commission, the Illinois Department of Human Rights and Crete Monee High School District #201, as named party respondents, with the Clerk of the Illinois Appellate Court within 35 days after the date of service of this Final Order.

STATE OF ILLINOIS)
)
HUMAN RIGHTS COMMISSION)

Entered this 14 day of Dec. 2018.

Chair Rose Marv Bombela-Tobias

Commissioner Patricia Bakalis Yadgir

Commissioner Duke Alden