

ORDER DISMISSING CERTAIN CLAIMS AND DISCHARGING ORDER TO SHOW CAUSE

IN THE MATTER OF THE APPEAL OF:

NYKEYIA CHAMBLISS, Appellant,

vs.

DEPARTMENT OF HUMAN SERVICES, FAMILY CRISIS CENTER,
and the City and County of Denver, a municipal corporation, Agency.

Appellant was ordered to show cause why this appeal should not be dismissed for lack of jurisdiction. Appellant filed her response on November 15, 2013, within the extended deadline. The Agency did not respond.

Appellant appeals the Agency's decision not to pass her employment probation for the position of Special Education Teaching Assistant. Appellant appeals on the bases of discrimination because of race, sex, and age. She also claims harassment, retaliation, and whistleblower protection. The order to show cause ordered Appellant to address the nature of the protected status alleged to be the basis of her discrimination and harassment claims, to identify the protected activity that is the basis for the retaliation claim, and the official misconduct she reported as part of her whistleblower claim.

Regarding her claim of discrimination, the Appellant was ordered to state: (a) her protected status; (b) an adverse agency action; and (c) some connection between the protected status and the adverse action resulting in a negative effect on pay, benefits or status.

In her response, the Appellant stated she is black and female, but did not state her age. However, being black and female are both protected classes, and thus the first element is met.

With respect to an adverse action, Appellant claims she suffered a reduction in pay and status when she was returned from probation. Taking all inferences in the light most favorable to the Appellant, the action could be interpreted as an adverse action. The second element is likewise met.

The third element requires "some connection between the protected status and the adverse action. Here, the Appellant alleged that she was not given an evaluation form or PEPR for her probationary position, while a white coworker was. For this reason, she alleges, she was unable to meet that position's requirements, while her white coworker was. This claim, if true satisfies the third element.

The rules specify that probationary employees may not appeal probation decisions except on the grounds of alleged discrimination or violation of the Whistleblower ordinance. CSR § 5-61. Accordingly, because Appellant has shown cause for her discrimination claim, jurisdiction is proper on that issue.

In her response to the Show Cause Order, the Appellant withdrew her whistleblower claim. She failed to present facts which, if true, would establish a harassment or retaliation claim. Accordingly, those claims are dismissed, and the Order to Show Cause is discharged.

Done November 18, 2014.



Bruce A. Plotkin
Career Service Hearing Officer

I certify that, on November 18, 2013, I delivered a correct copy of this Order to the following, in the manner indicated:

Ms. NyKeyia Chambliss, nnc1207@gmail.com
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