DOCKET NO.: HHB-CV-23-6079017-S	:	SUPERIOR COURT
REBECCA HOLLERAN	:	JUDICIAL DISTRICT OF NEW BRITAIN
v.	:	
PLYMOUTH BOARD OF EDUCATION, TOWN OF PLYMOUTH, ET. AL	:	JUNE 4, 2024

MEMORANDUM OF DECISION

The plaintiff, Rebecca Holleran, appeals the decision of the defendants, the Plymouth Board of Education (BOE) and the Town of Plymouth (Plymouth), terminating Ms. Holleran's employment as an elementary school teacher for failure to report suspected child sexual abuse to the Department of Children and Families (DCF). Ms. Holleran contends that the BOE was biased against her and that the BOE wrongly concluded that Ms. Holleran was aware of sufficient information to create reasonable cause to suspect child sexual abuse such that Ms. Holleran's mandatory reporting duty under BOE policy and General Statutes § 17a-101 was triggered. Because there is no evidence that the BOE prejudged the facts of this matter and because the court concludes that there is substantial evidence in the record supporting the BOE's conclusion that Ms. Holleran was aware of sufficient facts to create a reasonable suspicion of child sexual abuse, the court affirms the BOE's decision. Accordingly, this appeal is dismissed.

FACTS

The court concludes that there is substantial evidence in the record to demonstrate the following facts.

Electronic notice sent to all counsel of record:
1) T. Balding (Pltf Atty), 2) S. Sedor (PBOE) 3) Atty Felsen (D4)
T. Gerarde (Town of Plymouth) (B. Falcone)
A. Jordanopoulos, CSO Officer – 6/4/24

Rebecca Holleran was a tenured public school teacher at Plymouth Central School (PCS). PCS is a public elementary school in Plymouth, Connecticut. Ms. Holleran has been a teacher with the Plymouth school system since 2000. During the 2020-2021 school year, Ms. Holleran was the interim principal at PCS. As a public school teacher, Ms. Holleran is a mandated reporter under General Statutes § 17a-101(b). Ms. Holleran has received trainings regarding her reporting obligations under General Statutes § 17a-101. Return of Record (ROR), at 54-55.

BOE policy 5141.4 entitled "Reporting of Child Abuse, Neglect and Sexual Assault" states, "A mandated reporter shall make an oral report, by telephone or in person, to the Commissioner of Children and Families or a law enforcement agency as soon as possible, but no later than twelve (12) hours after the reporter has reasonable cause to suspect the child has been abused or neglected. In addition, the mandated reporter shall inform the building principal or his/her designee that he/she will be making such a report." ROR, at 547-561. BOE policy 5141.4 further states that "[a] mandated reporter's suspicions may be based on factors including, but not limited to, observations, allegations, facts by a child, victim or third party. Suspicion or belief does not require certainty or probable cause."[1] Id. Ms. Holleran was aware of BOE policy 5141.4.

[1]The provisions of BOE policy 5141.4 are substantively identical to the provisions of General Statutes §§ 17a-101b(a) and 17a-101a(d). Section 17a-101b(a) states, "[a]n oral or electronic report shall be made by a mandated reporter as soon as practicable but not later than twelve hours after the mandated reporter has reasonable cause to suspect or believe that a child has been abused or neglected or placed in imminent risk of serious harm." Section 17a-101a(d) states, "[f]or purposes of this section and section 17a-101b, a mandated reporter's suspicion or belief may be based on factors including, but not limited to, observations, allegations, facts or statements by a child,

In June of 2019, Ms. Holleran was informed by Sherri Turner, the then principal of PCS, that a parent of a PCS student had complained that another teacher at PCS, James Eschert, was brushing his hand through that parent's daughter's hair. ROR, at 69. Ms. Turner told Ms. Holleran that Ms. Turner was going to discuss the parent's concern with Mr. Eschert. Id.

In August of 2019, Ms. Holleran attended a meeting with Ms. Turner and Mr. Eschert. ROR, at 69. Ms. Holleran attended the August 2019 meeting as Mr. Eschert's union representative. Id. At the August 2019 meeting, Ms. Turner told Mr. Eschert and Ms. Holleran that Ms. Turner had received complaints that Mr. Eschert was favoring girls in his class and was having girls sit on his lap in class.[2] ROR, at 69, 250. Ms. Holleran was aware that female students sitting on the lap of a male teacher was not appropriate and would require a referral to DCF under § 17a-101. ROR, at 230.

In April of 2021, a parent of a PCS student (parent 1) telephoned Ms. Holleran and told Ms. Holleran that parent 1's daughter (student 1) had told parent 1 that Mr. Eschert made girls in his class sit on his lap in return for candy and that Mr. Eschert was rubbing girls' backs. ROR (Sealed), at 127.[3] Parent 1 asked Ms. Holleran to find out "what was going on." Id. Parent 1 also told Ms. Holleran that student 1 was

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victim, as described in subdivision (2) of subsection (a) of this section, or third party. Such suspicion or belief does not require certainty or probable cause.

[2] The court observes that "[t]here is no prohibition against the admission of hearsay evidence in teacher termination proceedings." *Rogers* v. *Bd. of Educ. of City of New Haven*, 252 Conn. 753, 766, 749 A.2d 1173 (2000) (hereinafter *Rogers*).

[3] The court sealed certain portions of the record because they refer to minor children. See Docket Entry No. 114.01.

concerned that because Mr. Eschert was moving from the fourth grade to the second grade, parent 1's daughter "was afraid ... that [Mr. Eschert] was going to do it to second graders." ROR (Sealed) at 127. After speaking with parent 1, Ms. Holleran informed Ms. Turner of the allegation with respect to Mr. Eschert and offered to speak with student 1 to get more information. ROR (Sealed), at 236.

In or about April of 2021, Ms. Holleran spoke to student 1.[4] Student 1 told Ms. Holleran that student 1 had overheard other PCS students talking about Mr. Eschert letting girls sit on his lap. ROR (Sealed), at 236. Student 1 did not personally know any names of students that had sat on Mr. Eschert's lap. Id. Student 1 gave Ms. Holleran the names of other PCS students that Ms. Holleran should speak to about Mr. Eschert's behavior. In response to student 1's information, Ms. Holleran spoke to a PCS student (student 2) who told Ms. Holleran that Mr. Eschert had "pulled me to the side," touched student 2 on her back and made her feel uncomfortable. ROR (Sealed), at 75, 238, 630. Ms. Holleran spoke to another PCS student (student 3) who told Ms. Holleran that Mr. Eschert was nicer to girls and that student 3 had heard rumors about girls sitting on Mr. Eschert's lap, but that student 3 had not seen it personally. Id. Ms. Holleran spoke to another PCS student (student 4) who said the student was not sure, but that the student thinks he remembers Mr. Eschert having another PCS student sit on Mr. Eschert's lap. ROR, 632. Finally, Ms. Holleran spoke to another PCS student (student 5) and that student's parent (parent 2): Parent 2 said she had heard the rumors regarding Mr. Eschert, though not from

[4] Ms. Holleran's notes regarding the conversations Ms. Holleran had with each of the students Ms. Holleran spoke to are reflected on a series of hand written post-it notes. See ROR (Sealed), at 625-89.

student 5. Student 5 told Ms. Holleran that Ms. Eschert "had his favorites." Ms. Holleran believed that student 5 "waffled" (saying yes, no, maybe) as to whether student 5 ever saw anyone sit on Mr. Eschert's lap. ROR (sealed), at 241.

After Ms. Holleran finished speaking to the students and parents as set forth above, Ms. Holleran concluded that the students were simply repeating "rumors" and that Ms. Holleran had no reasonable suspicion requiring that she contact DCF. See ROR (Sealed), at 243-45.[5] Ms. Holleran took no further action and did not contact DCF.

On July 1, 2021, Brian Falcone became the Superintendent of the Plymouth school system. On September 16, 2021, Angela Suffridge, the then principal of PCS, telephoned Mr. Falcone and informed Mr. Falcone that Ms. Suffridge had determined that she needed to make a referral to DCF under § 17a-101. Ms. Suffridge told Mr. Falcone that a PCS student had stated she was upset because she was being made fun of and that it reminded that student of the time when she was in Mr. Eschert's class and Mr. Eschert had touched her shoulder and her thigh, put his hand through her hair, and had her sit on his lap. ROR (Sealed) at 57. DCF accepted Ms. Suffridge's referral regarding Mr. Eschert the same day. Id. On or about September 29, 2021, the Plymouth Police Department began investigating Mr. Eschert. Id.

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[5] The court observes that Detective Damien Bilotto testified before the BOE and, after speaking to students 1-5, stated, "what the students claimed was that they tried to discuss it, but Ms. Holleran shut them down and made them feel as if they were crazy and they were inaccurate, and that Mr. Eschert would never do these types of things." ROR (Sealed), at 119. Detective Bilotto also testified that, "I found the victims to be credible, the children. . . . All the victims I spoke to." ROR (Sealed), at 116. The BOE is entitled to credit Detective Bilotto's testimony.

On November 5, 2021, Mr. Falcone placed Ms. Holleran on administrative leave for failing to make a report to DCF regarding Mr. Eschert. ROR, at 63. On January 20, 2023, Mr. Falcone informed Ms. Holleran that termination of her employment contract was under consideration. ROR, at 275-76. Because the parties did not timely select a neutral hearing officer pursuant to General Statutes § 1-151(d), Ms. Holleran's termination was heard by the BOE. On March 3, 20, 27, 28, 30, and 31, 2023, the BOE held a termination hearing pursuant to General Statutes § 1-151. ROR, at 4. Ms. Holleran was represented by counsel at the termination hearing and had the opportunity to present evidence and cross examine witnesses. Id. At the end of the termination hearing, the BOE voted 7-2 to terminate Ms. Holleran's employment contract. ROR, at 1-3. On Aprily 17, 2023, the BOE issued a written decision. See ROR, at 4-18. The BOE terminated Ms. Holleran's employment for insubordination in that the BOE found that Ms. Holleran failed to follow BOE policy 5141.4 requiring reporting of suspected child sexual abuse and for other due and sufficient cause. See General Statutes § 1-151(d).

The court takes judicial notice that on or about January 18, 2022, an arrest warrant was issued charging Mr. Eschert with five counts of risk of injury to a minor and two counts of sexual assault in the fourth degree. See *Holleran* v. *Bd. of Education*, Superior Court, judicial district of New Britain, HHB-CV-23-6080523-S, Docket Entry No. 108.00, Ex. A, at 2. On November 9, 2023, Mr. Eschert pled guilty to one felony count of risk of injury to a child. See *State* v. *Eschert*, Superior Court, judicial district of New Britain, Docket No. CR-22-0335507-T.

LEGAL STANDARD

"When considering termination of a tenured teacher's employment contract, a school board acts, like an administrative agency, in a quasi-judicial capacity. . . . Judicial review of the school board's administrative decision follows established principles of administrative law. The court's ultimate duty is only to decide whether, in light of the evidence, the board has acted unreasonably, arbitrarily, illegally, or in abuse of its discretion. . . . Conclusions of law reached by the board must stand if the court determines that they resulted from a correct application of the law to the facts found and could reasonably and logically flow from such facts. . . ."[6] (Citations omitted; internal quotation marks omitted.) *Rogers*, supra, 252 Conn. 760-61.

"Judicial review of an administrative agency decision requires a court to determine whether there is substantial evidence in the administrative record to

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[6] Even though the BOE acted in an adjudicative capacity in this case, the principles of disqualification applicable to judges do not apply. See *Petrowski* v. *Norwich Free Acad.*, 199 Conn. 231, 238, 506 A.2d 139 (1986) ("The applicable due process standards for disqualification of administrative adjudicators do not rise to the heights of those prescribed for judicial disqualification. . . . The canons of judicial ethics go far toward cloistering those who become judges, the ultimate arbiters of constitutional and statutory rights, from all extraneous influences that could even remotely be deemed to affect their decisions. Such a rarefied atmosphere of impartiality cannot practically be achieved where the persons acting as administrative adjudicators, whose decisions are normally subject to judicial review, often have other employment or associations in the community they serve. It would be difficult to find competent people willing to serve, commonly without recompense, upon the numerous boards and commissions in this state if any connection with such agencies, however remotely related to the matters they are called upon to decide, were deemed to disqualify them. Neither the federal courts nor this court require a standard so difficult to implement as a prerequisite of due process of law for administrative adjudication.") (Citation omitted.) Plaintiff's counsel incorrectly and improperly cited to the Appellate Court's decision in *Petrowski* in his briefs. The Appellate Court decision in *Petrowski* was reversed by the Supreme Court. See Id. The court is not convinced by Ms. Holleran's arguments with respect to any potential conflicts of interest resulting from the fact that Mr. Falcone's counsel had previously represented the BOE.

support the agency's findings of basic fact and whether the conclusions drawn from those facts are reasonable. . . . This so-called substantial evidence rule is similar to the sufficiency of the evidence standard applied in judicial review of jury verdicts, and evidence is sufficient to sustain an agency finding if it affords a substantial basis of fact from which the fact in issue can be reasonably inferred.' . . . It imposes an important limitation on the power of the courts to overturn a decision of an administrative agency . . . and provides a more restrictive standard of review than standards embodying review of weight of the evidence or clearly erroneous action. . . . The United States Supreme Court, in defining substantial evidence in the directed verdict formulation, has said that it is something less than the weight of the evidence, and that the possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence. . . ." (Internal quotation marks omitted.) Id. at 768; see also *Valentine* v. *Stamford Bd. of Education*, 2017 WL 3332740, *3-*4 (Conn. Super. Ct., June 29, 2017).

"[O]n review of a school board decision, 'it is not the function of the trial court . . . to retry the cause. . . . ' To render a decision, [the BOE] must weigh evidence and reach conclusions. . . . The credibility of witnesses and the determination of issues of fact are matters within [the BOE's] province." *Tomlinson* v. *Bd. of Educ. of City of Bristol*, 226 Conn. 704, 713, 629 A.2d 333 (1993).

"[O]ther due and sufficient cause," has been defined by our Connecticut Supreme Court "as equivalent to good cause. . . .Good cause includes any ground which is put forward by the school committee in good faith and which is not arbitrary,

irrational, unreasonable, or irrelevant to the committee's task of building up and maintaining an efficient school system. . . . '[T]the decision to terminate must be reached after a careful examination of all pertinent factors relating to the particular situation, with due consideration of the effect the teacher's conduct will have on the school authorities as well as on the students. . . .' Thus, in deciding whether particular conduct constitutes 'due and sufficient' cause for termination, the impact of that conduct upon the operation of the school is a significant consideration." (Citations omitted.) *Rado* v. *Bd. of Educ. of Borough of Naugatuck*, 216 Conn. 541, 554, 583 A.2d 102 (1990) (hereinafter *Rado*).

LEGAL ANALYSIS

a. Bias

"The applicable due process standards for disqualification of administrative adjudicators do not rise to the heights of those prescribed for judicial disqualification. . . . The mere appearance of bias that might disqualify a judge will not disqualify an arbitrator. . . . Moreover, there is a presumption that administrative board members acting in an adjudicative capacity are not biased. . . . To overcome the presumption, the plaintiff . . . must demonstrate actual bias, rather than mere potential bias, of the board members challenged, unless the circumstances indicate a probability of such bias 'too high to be constitutionally tolerable. . . .' The plaintiff has the burden of establishing a disqualifying interest." (Citations omitted) *Clisham* v. *Bd. of Police Comm'rs of Borough of Naugatuck*, 223 Conn. 354, 361-62, 613 A.2d 254 (1992) (hereinafter *Clisham)*.

"In order to prove bias as a ground for disqualification, the plaintiff must show more than an adjudicator's 'announced previous position about law or policy. . . .' He must make a showing that the adjudicator has prejudged adjudicative facts that are in dispute. . . . A tribunal is not impartial if it is biased with respect to the factual issues to be decided at the hearing. . . . The test for disqualification has been succinctly stated as being whether 'a disinterested observer may conclude that the board has in some measure adjudged the facts as well as the law of a particular case in advance of hearing it.'" (Citations omitted.) *Clisham*, supra 223 Conn. at 361-62.

In this case, Ms. Holleran raises several inchoate arguments asserting that the BOE was biased against Ms. Holleran because of either procedural or factual decisions made by the BOE. Because Ms. Holleran presents no evidence that the BOE prejudged the facts or law of this case, the court concludes that Ms. Holleran has failed to meet her burden to show bias on the part of the BOE.

b. *Substantial evidence*

The court concludes that there is substantial evidence in the record supporting the BOE's decision to terminate Ms. Holleran. The record demonstrates that Ms. Holleran spoke to five students and two parents who all told Ms. Holleran that they had heard rumors that Mr. Eschert was engaging in behavior (allowing female students to sit on his lap) that Ms. Holleran knew was inappropriate. One student (student 2) told Ms. Holleran that Mr. Eschert's actions had made her personally feel uncomfortable. Ms. Holleran was also aware of two other previous allegations against Mr. Eschert from 2019 regarding the very same allegedly improper behavior. The court concludes that these facts alone provide substantial evidence in the record

from which the BOE could have (and did) reasonably and logically drawn the conclusion that Ms. Holleran was aware of sufficient facts to create reasonable cause to suspect child sexual abuse such that Ms. Holleran's mandatory reporting obligations were triggered.[7] Both BOE policy 5141.4 and § 17a-101a(d) state that reasonable cause can be based on the allegations of children. Both the nature of the parents' and the students' statements, as well as their sheer volume, provide a sufficient basis for the BOE to draw the conclusions that it did. Neither BOE policy 5141.4, nor § 17a-101a(d), require that a child identify a specific victim of alleged abuse or state their allegations with any defined degree of specificity.[8] Therefore, the BOE is not required to engraft such requirements onto its policies.

Moreover, the BOE is entitled to credit the testimony of Detective Bilotto to the effect that the statements by the students were credible and that Ms. Holleran was not sufficiently impartial and supportive in assessing the credibility to the students' statements.[9] These facts further support the court's finding that the BOE reached reasonable and logical conclusions from the facts in the record.

The court finds that failure to make a mandated referral to DCF of suspected child sexual abuse is plainly a violation of BOE policy 5141.4 and is, therefore, a sufficient basis for the BOE's finding of insubordination. See *Tucker* v. *Norfolk Bd.*

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[7] It should be plain that a referral to DCF for further inquiry does not mean that sexual abuse has actually occurred, only that there is reasonable cause to suspect such abuse has occurred such that additional investigation by DCF may be warranted.

[8] See Testimony of Ms. Holleran, ROR, at 244 ("I had no victim. I had no circumstance. I had no situation where anything occurred.")

[9] See Footnote 5, infra.

of Education, 177 Conn. 572, 575, 418 A.2d 933 (1979). The court also holds that failure to make a mandated referral to DCF of suspected sexual abuse of a child is plainly sufficient to meet the requirement of other due and sufficient cause to terminate Ms. Holleran's employment. See *Rado, supra,* 216 Conn. 554-55 (1990).

CONCLUSION

For all the foregoing reasons, this appeal is dismissed.

Budzik, J.