

STATE OF CONNECTICUT
OFFICE OF PUBLIC HEARINGS

Janet Cipriani,
Complainant

No. OPH/WBR-2006-019

v.

Edmund G. Senesac, Ed. D.
and Town of Sprague Board of Education,
Respondents

June 1, 2006

RULING ON MOTION TO DISMISS

The complainant filed this complaint pursuant to General Statutes § 4-61dd (b) (3) (A) on March 17, 2006, alleging that the respondents retaliated against her because she engaged in protected "whistleblowing" activities. The respondents filed a timely answer and motion to dismiss on April 5, 2006. On May 5, 2006 the complainant filed a response to the respondents' motion to dismiss and on May 13, 2006 the respondents filed a timely reply.

A motion to dismiss is an appropriate means to challenge a tribunal's jurisdiction to hear an action. *Jolly, Inc. v. Zoning Board of Appeals*, 237 Conn. 184 (1996); *Upson v. State*, 190 Conn. 622, 624 (1983). The motion admits all facts well-pleaded and invokes any record that accompanies the motion, including supporting affidavits that contain undisputed facts. *Malasky v. Metal Products Corp.*, 44 Conn. App. 446, 451-52, cert. denied, 241 Conn. 906 (1997). In evaluating the motion, the complainant's allegations and evidence must be accepted as true and interpreted in a light most

favorable to the complainant; every reasonable inference is to be drawn in her favor.

New England Savings Bank v. Bedford Realty Corp., 246 Conn. 594, 608 (1998).

The main purpose of General Statutes § 4-61dd is to protect employees of the state, quasi-public agencies, or large state contractors who have disclosed information about corruption, unethical practices, violation of laws, mismanagement, gross waste of funds, abuse of authority, or danger to the public safety occurring in any state department or agency, any quasi-public agency, or any large state contract. A person disclosing such information is known in lay terms as a "whistleblower." A whistleblower should feel free to report such information without fear of retaliation. Thus, according to § 4-61dd (b) (1),

No state officer or employee, as defined in section 4-141, no quasi-public agency officer or employee, no officer or employee of a large state contractor and no appointing authority shall take or threaten to take any personnel action against any state or quasi-public agency employee or any employee of a large state contractor in retaliation for such employee's or contractor's disclosure of information to an employee of (i) the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of this section; (ii) the state agency or quasi-public agency where such state officer or employee is employed; (iii) a state agency pursuant to a mandated reporter statute; or (iv) in the case of a large state contractor, to an employee of the contracting state agency concerning information involving the large state contract.

The respondents argue, and the complainant concedes, that the respondents are not quasi-public agencies, which is the only qualifying status the complainant has claimed and therefore the only one this decision may entertain. Quasi-public agencies are specifically set forth in General Statutes § 1-120 and the respondents are not amongst them.

I conclude that this tribunal has no jurisdiction over the subject complaint and, accordingly, it must be, and hereby is, DISMISSED.

Date

J. Allen Kerr, Jr.
Human Rights Referee

cc.

Janet Cipriani
Edmund G. Senesac
Nicole Dorman, Esq.
Lisa Banatoski Mehta