

Jeannette Rodriguez, Complainant	: Office of Public Hearings : c/o Connecticut Commission on : Human Rights and Opportunities : :
v.	: OPH/WBR No. 2007-065 : :
Connecticut Board of Education and Services for the Blind, et al. Respondents	: February 6, 2008

Ruling re: the respondents' motion to dismiss

On December 17, 2007, the complainant filed a complaint with the chief human rights referee alleging that the respondents violated General Statutes § 4-61dd by retaliating against her for her disclosure of information protected under § 4-61dd. On December 28, 2007, the respondents filed a motion to dismiss. The complainant filed her objection to the motion on January 31, 2008.

The respondents first claimed that the complaint was not timely filed. Section 4-61dd (b) (3) (A) provides in relevant part: "Not later than thirty days after learning of the specific incident giving rise to a claim that a personnel action has been threatened or has occurred in violation of subdivision (1) of this subsection, a state or quasi-public agency employee, an employee of a large state contractor or the employee's attorney may file a complaint concerning such personnel action with the Chief Human Rights Referee . . . ." In her objection, the complainant alleged that the respondents had delayed processing her family medical leave application for the period from July 18, 2007 until August 21, 2007, and that the respondents had subjected her to an

investigation that commenced on or about June 20, 2007 and concluded on or about September 13, 2007. The complainant filed her complaint more than thirty days after all of these dates.

While the complaint was not filed within thirty days of any identified dates, in her objection the complainant also alleged that “the delay [in filing her whistleblower retaliation complaint] was due to respondents’ own delays and manner of making the complainant believe that a resolution would be forthcoming if the complainant dropped all grievances and or CHRO charges. The Respondent argues that the complainant did not disclose information to a person of authority or manager prior to charges being filed. The complainant argues that the respondent used their power and authority to intimidate, harass and discriminate against the complainant making it very difficult to file such charges.” Objection, pp. 2 – 3. In limited circumstances, an employer’s behavior in delaying the filing of a complaint will toll a statute of limitations. *Williams v. Commission on Human Rights & Opportunities*, 67 Conn. App. 316, 329 (2001). Therefore, on or before February 20, 2008, the complainant shall file and serve a supplement to her objection detailing the specific actions the respondents took to delay her from filing her retaliation complaint with the chief human rights referee. On or before March 6, 2008, the respondents shall file their reply to the supplemental objection.

The respondents next argued that the complainant’s communication was not a disclosure of information within § 4-61dd but rather an unprotected discussion with a clerical co-employee. Section 4-61dd (b) (1) provides in relevant part: “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 (A) an employee of the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of this section; (B) an employee of the state agency or quasi-public agency where such state officer or employee is employed . . . ." (Emphasis added.) The statute does not limit an employee's protection only to disclosures initially made directly by the employee to supervisory or management personnel. Whether information disclosed to a co-employee is subsequently transmitted to the personnel who made the allegedly retaliatory decision is an evidentiary matter for the hearing.

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Hon. Jon P. FitzGerald  
Presiding Human Rights Referee

c:  
Ms. Jeannette Rodriguez  
Joseph A. Jordano, Esq./Maria A. Santos, Esq.