



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Newark Area Office**

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FINAL DETERMINATION

Walt Tutka
817 Loptcong Street
Belvidere, NJ 07823

Charging Party

CHARGE NO: 524-2013-00679

Phillipsburg School District
445 Marshall Street
Phillipsburg, NJ 08865

Respondent

On behalf of the U.S. Equal Employment Opportunity Commission ("Commission"), I issue the following determination on the merits of the subject charge filed under Title VII of the Civil Rights Act of 1964, as amended. Respondent is an employer within the meaning of the Act. All requirements for coverage have been met.

Charging Party alleges he was hired by Respondent in or about 2012 in the position of Substitute Teacher. Charging Party states as a result of providing a Bible to a student he was suspended. Charging Party indicates that on or about October 18, 2014, he was advised by the Superintendent that he was recommending termination. On January 14, 2014, Charging Party was discharged.

Respondent denies that Charging Party has been discriminated against. Respondent contends that Charging Party was not terminated for distributing religious material. Charging Party was discharged for insubordination because he refused to meet with the Board of Education.

However, an analysis of the evidence reveals that Respondent's defense does not withstand careful scrutiny. Respondent has failed to produce key documents that could potentially support its defense despite being requested to do same. Evidence of record also confirms that the nexus behind Respondent's scheduled meeting was the distribution of religious material and planned disciplinary action following a failed attempt to terminate the Charging Party upon recommendation to the School Board. Given these circumstances and absent adequate documentation to support its defense, the Commission must conclude that more credibility should be assigned to Charging Party's contention that religion and retaliation played a factor in his termination rather than Respondent's proffered defense that legitimate, non-discriminatory reasons were used.

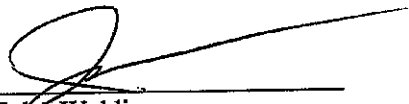
Based on the above, Respondent's asserted defense does not withstand scrutiny and the Commission has determined that there is reasonable cause to believe that Respondent has discriminated against Charging Party on the basis of religion and retaliation.

This determination is final. The statute requires that, if the Commission determines that there is reasonable cause to believe that violations have occurred, it shall endeavor to eliminate the alleged unlawful employment practices by informal methods of conference, conciliation, and persuasion. Having determined that there is reason to believe that violations have occurred, the Commission now invites Respondent to join with it in an effort toward a just resolution of this matter. Enclosed is a letter outlining the proposed terms of conciliation.

Disclosure of information obtained by the Commission during the conciliation process may only be made in accordance with the statute and the Commission's Procedural Regulations. The confidentiality provisions of Sections 706 and 709 of Title VII and Commission Regulations apply to information obtained during conciliation.

If Respondent declines to enter into conciliation discussions, or when the Commission's representative is unable to secure an acceptable conciliation agreement, the Director shall so inform the parties, advising them of the court enforcement alternatives available to aggrieved persons and the Commission.

On behalf of the Commission:



John Waldinger
Area Director

DEC 15 2014
Date