

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JUDITH EDWARDS
C/O GERHARDSTEIN &
BRANCH, CO LPA
432 WALNUT STREET, SUITE 400
CINCINNATI, OH 45202

PLAINTIFF,

vs.

HAMILTON COUNTY
DEVELOPMENTAL
DISABILITIES SERVICES,
1520 MADISON ROAD
CINCINNATI, OH 45206-1707

and

CHERYL PHIPPS
1520 MADISON ROAD
CINCINNATI, OH 45206-1707

Individually and in her official
capacity as Superintendent

and

SHELLEY F. GOERING
1520 MADISON ROAD
CINCINNATI, OH 45206-1707

Individually and in her official
capacity as President of the Board of
Directors

and

GREG WEBB
1520 MADISON ROAD
CINCINNATI, OH 45206-1707

Individually and in his official

Case No.

COMPLAINT AND JURY
DEMAND

**capacity as Vice President of the
Board of Directors,** :

and :

**ROBERT L. HALL
1520 MADISON ROAD
CINCINNATI, OH 45206-1707** :

**Individually and in his official
capacity as Secretary of the Board of
Directors,** :

and :

**CINDI ANDREWS
1520 MADISON ROAD
CINCINNATI, OH 45206-1707** :

**Individually and in her official
capacity as a member of the Board of
Directors,** :

and :

**PAT LEARY
1520 MADISON ROAD
CINCINNATI, OH 45206-1707** :

**Individually and in her official
capacity as a member of the Board of
Directors,** :

and :

**MARTIN MILLER
1520 MADISON ROAD
CINCINNATI, OH 45206-1707** :

**Individually and in his official
capacity as a member of the Board of
Directors,** :

and :

JULIE HOLT :

1520 MADISON ROAD :
CINCINNATI, OH 45206-1707 :
 :
Individually and in her official :
capacity as a member of the Board of :
Directors, :
 :
DEFENDANTS :
 :

I. PRELIMINARY STATEMENT

1. This is a race discrimination action brought by a Judith Edwards, a highly experienced human resource specialist. Ms. Edwards was terminated from her position as Recruitment and Retention Director with the Hamilton County Developmental Disabilities Services (HCDDS) because she is a competent African American and she did a competent job of initiating steps to diversify the agency staff. Ms. Edwards believes deeply in the mission of assisting the developmentally disabled clients served by the defendant through a competent staff that is as diverse as the clients they serve. Ms. Edwards’s job performance was outstanding. The agency offered Ms. Edwards a \$90,000 severance package but she declined to be muzzled and discarded because she really believes in the importance of her work. Ms. Edwards seeks reinstatement to her position and an award of damages. She hopes through this lawsuit to ensure that the taxpayer dollars supporting this agency are used to serve all the agency clients on a nondiscriminatory basis.

II. JURISDICTION

2. Jurisdiction of this court is invoked pursuant to 42 U.S.C. §2000e-5(f) and 28 U.S.C. §1343 (3) and (4).

3. Ms. Edwards filed a charge, pursuant to Title VII, of employment discrimination based on race and retaliation with the U.S. Equal Employment Opportunity Commission. The

investigation is pending. The Complaint will be amended to reflect exhaustion as required by Title VII as soon as the Notice of Right to Sue is issued by the EEOC.

III. PARTIES

4. Plaintiff Judith Edwards was an employee of the Hamilton County Developmental Disabilities Services. She resides in Hamilton County, Ohio. She is African-American. During all relevant times she was an employee within the meaning of 42 U.S.C. 21 § 2000e(f) and O.R.C. § 4112.01(A)(3).

5. Defendant Hamilton County Developmental Disabilities Services (“HCDDS”) was plaintiff’s employer. It is a public employer within the meaning of 42 U.S.C. 21 § 2000e(b) and O.R.C. § 4112.01(A)(2).

6. Defendant Cheryl Phipps is the Superintendent of the HCDDS. She is sued both in her individual and official capacities.

7. Defendant Shelley F. Goering is the President of the Board of Directors of HCDDS. She is a policymaker for the agency in matters of employment and discipline. She is sued both in her individual and official capacities. She is white.

8. Greg Webb is the Vice President of the Board of Directors of HCDDS. He is a policymaker for the agency in matters of employment and discipline. He is sued both in his individual and official capacities. He is African-American.

9. Robert L. Hall is the Secretary of the Board of Directors of HCDDS. He is a policymaker for the agency in matters of employment and discipline. He is sued both in his individual and official capacities. He is white.

10. Cindi Andrews is a member of the Board of Directors of HCDDS. She is a policymaker for the agency in matters of employment and discipline. She is sued both in her individual and official capacities. She is white.

11. Pat Leary is a member of the Board of Directors of HCDDS. She is a policymaker for the agency in matters of employment and discipline. She is sued both in her individual and official capacities. She is white.

12. Martin Miller is a member of the Board of Directors of HCDDS. He is a policymaker for the agency in matters of employment and discipline. He is sued both in his individual and official capacities. He is white.

13. Julie Holt is a member of the Board of Directors of HCDDS. She is a policymaker for the agency in matters of employment and discipline. She is sued both in her individual and official capacities. She is white.

IV. FACTUAL ALLEGATIONS

A. Hamilton County Developmental Disabilities Services

14. Defendant HCDDS provides services and support to nearly 8,000 mentally retarded and developmentally disabled infants, children, adults and their families in Hamilton County.

15. At all times relevant to this case Defendants have over 550 staff and supervisors. The deft budget is approximately \$100 million. Seventy-one percent of the funding is generated from a local tax levy.

16. Approximately 25% of MR/DD clients are African American.

17. Approximately 25% of the Defendants' staff who provide direct services to the clients are African American.

18. African Americans are extremely underrepresented at the mid-management level. As of April 2010, Defendants do not have any African Americans in upper management positions.

B. Ms. Edwards' Initial Hiring and Job Duties

19. Plaintiff Judith Edwards has 18 years of experience in human resources, recruiting, retention and equal opportunity training. For ten years she owned her own consulting firm serving large corporations and government agencies.

20. Ms. Edwards has served as a corporate trainer for management teams and has been an investigator for the Ohio Civil Rights Commission.

21. In December of 2008, Defendant HCDDS hired Ms. Edwards as Recruiting and Retention Director. Her duties were to recruit candidates for open jobs, develop policies and procedures to retain employees and contribute to their career development.

22. The position was created in 2008 because Defendant HCDDS lacked diversity and cultural competency in its hiring and retention efforts.

23. Ms. Edwards was supervised by Sean Garver, Director of Human Resources. Mr. Garver is white. Before she was hired, Mr. Garver had Ms. Edwards develop a plan for implementing new procedures to recruit talent to the agency. He approved the new recruiting procedures.

24. Mr. Garver closely supervised Ms. Edwards. They met every Wednesday to discuss her work and he spoke with her every day. He approved every initiative she made.

25. When Ms. Edwards was hired, she was warned by coworkers to be careful because in the culture of the agency, some of the white managers were not comfortable with African-American candidates for management positions.

26. Ms. Edwards made sure that the candidates she recruited were competent and reflected the community served by the agency.

27. As part of her work on employee retention Ms. Edwards learned that some of the African American employees at the agency believed they were being discriminated against because they were applying for promotions but not getting them. They feared retaliation by Defendant Phipps.

28. Ms. Edwards also learned that some African American employees thought they were being discriminated against because they were being kept off of committees and away from opportunities that could advance their careers.

29. The Board's Policy and Procedure Handbook requires reports of discrimination or retaliation to be reported.

a. "It is the responsibility of each supervisor and manager to provide the necessary supports to ensure that all employees are in a workplace free from harassment and discrimination. All supervisors or managers who are advised of a possible infraction of this policy must immediately report the incidents to their department directors or to the personnel director so the incident should be investigated."

30. When Ms. Edwards heard credible claims of discrimination from employees she discussed them with Mr. Garver and the appropriate supervisors.

31. For example, when some of the employees reported that they felt they were not treated equally with Caucasians Ms. Edwards discussed it with their supervisor, Sylvia Jackson.

32. One African American employee told Ms. Edwards that she believed she was being discriminated against because she was married to a Caucasian man. The employee wanted to participate in a committee of administrators who were discussing outreach strategies to the African American community in support of the MR/DD levy.

33. Ms. Edwards advocated for non-supervisory employees to be on the committee. She also discussed the employee's concerns with her supervisor, Alva Means.

34. The Policy and Procedure Handbook promises that "all complaints will be promptly and thoroughly investigated and appropriate action taken based upon the outcome."

35. Mr. Garver, as head of human resources, admitted that Ms. Edwards reported race discrimination to him. He did not investigate the allegations. Nor were the race discrimination complaints made to supervisors Johnson and Means investigated.

C. Excellent Performance Review

36. Ms. Edwards had her first performance review in May of 2009. In the eight core areas of performance, she received three “exceeds” and five “meets expectations.” She did not receive any “needs improvement” or “does not meet” the agency’s standards.

37. Mr. Garver praised Ms. Edwards for achieving the following goals: implementing new hiring procedures, cultivating recruiting relationships with local colleges, reorganization of the applicant filing system, establishment of programs to assist employees, placement of 30 student interns and coordination of committees and working groups.

38. Defendant’s performance evaluations include feedback from people that work with the management employee. The comments from anonymous reviewers described Ms. Edwards as an outstanding leader who understands the agency’s work. They conclude she was respectful, innovative, a good listener and an excellent communicator.

39. On June 11, 2009, Ms. Phipps signed Ms. Edwards’ performance evaluation. She approved a 3% merit raise for Ms. Edwards.

D. Ms. Edwards Stripped of Key Duties

40. Before Ms. Edwards was hired, Defendant HCDDS asked for a monthly report from Superintendent Phipps about the agency’s hiring practices because the Board of Directors was concerned about diversity.

41. For the first half of 2009, under Ms. Edwards’ recruiting and screening processes, out of approximately twenty total supervisory hires, seven were African Americans. Pursuant to the

normal procedures within the agency, these hires were decided by the managers of the department where the new employees would work.

42. One influential white manager was angry when the pool of candidates Ms. Edwards had recruited for an open job were mostly African American. She told Defendant Phipps and Mr. Garver that Ms. Edwards needed to be stopped.

43. After the white manager rejected the candidates, Mr. Garver told Ms. Edwards that Ms. Edwards did not understand the agency's culture.

44. Mr. Garver told Ms. Edwards to stop using the new applicant procedures and just do whatever the managers wanted.

45. Under Defendant Phipps, the defendants' culture was racially charged and hostile to African Americans. The Superintendent traditionally has created a leadership team within the agency to help set priorities for the agency. Defendant Phipps removed outspoken African Americans from her leadership team and stripped them of their core duties. There are no African Americans on her leadership team.

46. Before Ms. Edwards was hired, three African American employees who were responsible for diversity training and outreach were fired or pressured to resign by Defendant Phipps.

47. Defendant Phipps became critical of Ms. Edwards' hiring procedures. After the managers on the leadership team became upset, Defendant Phipps told her leadership team, including Mr. Garver that, Ms. Edwards should not be permitted to do anything but review resumes.

48. Ms. Edwards told Mr. Garver that based on feedback from managers, directors and employees, she was concerned that she would be set up to fail or retaliated against by the white managers who objected to the new hiring procedures.

49. Mr. Garver did not address her concerns.

E. Racial Discrimination by MR/DD Employees

50. When Mr. Garver appointed Ms. Edwards to chair committees and participate in working groups, white management employees became hostile and uncooperative.

51. One white manager rejected every intern that Ms. Edwards tried to place with her department.

52. Mr. Garver appointed Ms. Edwards to lead a group to support the direct services staff. A white manager in that group refused to relinquish her leadership role and undermined Edwards' efforts.

53. Another white employee served as a secretary to Defendant Phipps. She spread a false statement about Ms. Edwards in the agency in order to harm Ms. Edwards' reputation.

F. Termination of Plaintiff

54. Ten weeks after Ms. Edwards' performance evaluation and raise, Defendant Phipps started termination proceedings against Ms. Edwards.

55. Defendant Phipps relied on racial stereotypes and the false statements by the white employees as her basis for terminating Ms. Edwards.

56. During the months between the evaluation and termination notice, Mr. Garver did not give Ms. Edwards any negative feedback about her performance and Ms. Edwards continued to perform all her duties, including appearing publicly for the agency in a competent manner.

57. Mr. Garver, Ms. Edwards' supervisor, claims he does not know why Ms. Edwards was fired.

58. Defendant Phipps did not monitor Ms. Edwards' job performance or supervise her in any way.

59. In September, 2009, Defendant Phipps offered Ms. Edwards a severance payment valued at approximately \$90,000. Ms. Edwards rejected the offer because she wanted to help the agency overcome its racial problems by working from within.

60. After Ms. Edwards rejected the buyout Defendant Phipps wrote her a letter containing anonymous allegations about her.

61. Defendant Phipps claimed that Ms. Edwards was guilty of “mifeasance.” She said Ms. Edwards was “pushy,” “abrasive,” “is going to break her arm patting herself on the back,” “power hungry” “fake. Useless,” and “not trustworthy.” These allegations were pretext for race discrimination.

62. Ms. Edwards appealed her termination to the Defendant Members of the Board of Directors. A hearing was held on November 20, 2009.

63. No legitimate non-discriminatory reasons for the firing were presented by Defendants at the termination hearing. In fact the Defendant Board members learned of the racial discrimination and retaliation that was motivating the Superintendent’s actions and voted to approve the termination nonetheless.

64. On December 1, 2009, Defendants held a special meeting of the Board of Directors and terminated Ms. Edwards’ employment with the agency. The Defendant Board of Directors voted 6-0 against Ms. Edwards, with one board member abstaining. Plaintiff does not know which board member abstained from voting.

65. Defendants terminated Ms. Edwards based on race discrimination and in retaliation for reporting race discrimination.

66. Defendants treated Ms. Edwards differently than similarly situated white employees.

67. In their discriminatory treatment of Ms. Edwards, Defendants have acted consistent with and pursuant to their policies, customs and usage of discriminating and retaliating against outspoken and African Americans.

68. As a direct and proximate result of the defendants' wrongful acts, plaintiff has suffered and will continue to suffer damages from lost wages, humiliation, embarrassment, mental suffering, emotional injury and serious emotional distress.

V. FIRST CAUSE OF ACTION –TITLE VII

69. Defendants have violated plaintiff's rights under Title VII, 42 U.S.C. §2000e *et seq.* This claim will be ripe as soon as the Notice of Right to Sue has been issued.

VI. SECOND CAUSE OF ACTION- § 1983/EQUAL PROTECTION

70. Defendants have violated rights to equal treatment under the law secured to the plaintiff under the equal protection clause of the 14th Amendment to the United States Constitution.

VII. THIRD CAUSE OF ACTION – 42 U.S.C. §1981

71. Defendants have discriminated against plaintiff in violation of the Civil Rights Act of 1866, 42 U.S.C. §1981.

VIII. FOURTH CAUSE OF ACTION - Ohio Civil Rights Act § 4112.99

72. Defendants have discriminated against plaintiff based on race and retaliation in violation of O.R.C § 4112.99.

IX. PRAYER FOR RELIEF

WHEREFORE, plaintiff demands that the Court:

- A. Award plaintiff compensatory damages in an amount to be shown at trial;
- B. Award plaintiff punitive damages against the individual defendants in an amount to be shown at trial;

- C. Reinstatement plaintiff to position of Recruiting and Retention Director;
- D. Enjoin Defendants from engaging in discriminatory conduct;
- E. Award plaintiff other equitable relief;
- F. Award plaintiff reasonable attorney's fees, cost and disbursements;
- G. Grant to plaintiff such additional relief as the Court deems just and proper.

Respectfully Submitted,

s/Alphonse A. Gerhardstein
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JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues triable by a jury.

s/ Alphonse A. Gerhardstein