

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

| | | |
|------------------------------|---|------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| v. |) | Civil Action No. _____ |
| |) | |
| BOARD OF EDUCATION, |) | |
| BERKELEY SCHOOL DISTRICT 87, |) | |
| COOK COUNTY, ILLINOIS, |) | Jury Trial Demanded |
| |) | |
| Defendant. |) | |

COMPLAINT

Plaintiff United States of America, by its undersigned attorneys, alleges:

1. This action is brought on behalf of the United States of America (“United States”) to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.* (“Title VII”).
2. The Court has jurisdiction over this action pursuant to 42 U.S.C. § 2000e-5(f) and 28 U.S.C. § 1345.
3. Defendant Board of Education, Berkeley School District 87, Cook County, Illinois (“Board of Education” or “Board”) is a governmental body established pursuant to the laws of the State of Illinois, and is located within this judicial district.
4. Defendant Board of Education is a “person” within the meaning of 42 U.S.C. § 2000e(a) and an “employer” within the meaning of 42 U.S.C. § 2000e(b).

CAUSE OF ACTION

5. Safoorah Khan ("Ms. Khan") began her employment as a non-tenured Computer Math Lab Teacher for Berkeley School District 87, Cook County, Illinois ("Berkeley School District") on or around November 5, 2007.

6. By letter dated August 19, 2008 and addressed to Dr. Joseph Palermo ("Dr. Palermo"), then Superintendent of Berkeley School District, Ms. Khan requested an unpaid leave of absence from December 1, 2008 to December 19, 2008 to perform *Hajj*, a pilgrimage required by her religion, Islam.

7. By letter dated August 26, 2008, Defendant Board of Education denied Ms. Khan's request for an unpaid leave of absence contending that the purpose of the leave was not related to her professional duties as an employee of the Berkeley School District, and was not leave for any of the specific purposes set forth in the Professional Negotiations Agreement ("PNA") between Defendant Board of Education and the teachers' union, Berkeley Education Association, IEA-NEA.

8. By letter dated September 11, 2008, Ms. Khan requested that Defendant Board of Education reconsider its decision regarding her request for unpaid leave.

9. By letter dated September 23, 2008, Dr. Palermo informed Ms. Khan that Defendant Board of Education had reconsidered Ms. Khan's request for an unpaid leave of absence, but again denied her request for the same reasons as set forth in Defendant Board of Education's August 26, 2008 letter.

10. By letter dated October 15, 2008, Ms. Khan notified Defendant Board of Education that, based on her religious beliefs, she could not justify delaying performing *Hajj*,

and asked that the Board accept her letter as formal notification that she was leaving her position effective November 30, 2008.

11. By letter dated October 28, 2008, Dr. Palermo informed Ms. Khan that Defendant Board of Education accepted her resignation.

12. Defendant Board of Education has discriminated against Ms. Khan on the basis of her religion, in violation of Sections 701(j) and 703(a) of Title VII, by, among other things:

- a. Failing or refusing to provide Ms. Khan with a reasonable accommodation of her religious observance, practice, and/or belief;
- b. Maintaining a policy under which Berkeley School District refuses to grant leave to which a non-tenured teacher would not otherwise be entitled under the district's leave policy as an accommodation for the teacher's religious observance, practice, and/or belief;
- c. Compelling Ms. Khan to choose between her job and her religious observance, practice, and/or belief and thus forcing her discharge; and
- d. Failing or refusing to take appropriate action to remedy the effects of the discriminatory treatment against Ms. Khan.

13. Ms. Khan filed a timely charge with the United States Equal Employment Opportunity Commission ("EEOC") (Charge No. 440-2009-01534) on or about November 22, 2008, alleging that Defendant Board of Education discriminated against her in employment because of her religion. Pursuant to Section 706 of Title VII, 42 U.S.C. § 2000e-5, the EEOC investigated the charge, found reasonable cause to believe that Ms. Khan's allegation of discrimination based on religion was true, attempted unsuccessfully to

achieve through conciliation a voluntary resolution of the charge, and subsequently referred the matter to the Department of Justice.

14. All conditions precedent to the institution of this lawsuit have been performed or have occurred.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff United States prays that this Court grant the following relief:

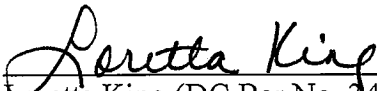
- a. Enjoin Defendant Board of Education, its officers, agents, employees, successors, and all persons in active concert or participation with them, from discriminating on the basis of religion;
- b. Order Defendant Board of Education to adopt an appropriate policy designed to address requests from employees and prospective employees for religious accommodations;
- c. Provide make-whole relief to Ms. Khan, including backpay with interest and reinstatement with accompanying benefits including retroactive seniority, to compensate her for the loss she has suffered as a result of Defendant Board of Education's discriminatory conduct alleged in this Complaint;
- d. Award damages to Ms. Khan to fully compensate her for pain and suffering caused by Defendant Berkeley School District's discriminatory conduct alleged in this Complaint, pursuant to and within the statutory limitations of Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a; and
- e. Award such additional relief as justice may require, together with the United States' costs and disbursements in this action.

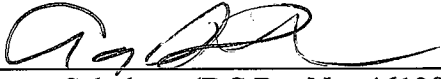
JURY DEMAND


Plaintiff United States hereby demands a trial by jury of all issue so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

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