

CITY OF NEW YORK
COMMISSION ON HUMAN RIGHTS

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In the Matter of the Complaint of:

Verified Complaint

ZAMAN MASHRAH,
individually and on behalf of minor child I.A.

Complainant,

-against-

NEW YORK CITY DEPARTMENT OF EDUCATION

RICHARD A. CARRANZA,
as Chancellor of the New York City Department of Education;

██████████, in her individual and official capacity;

Respondents.

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Complainant Zaman Mashrah brings this Complaint individually and on behalf of her minor child I.A., by and through her attorney, the Council on American-Islamic Relations, New York (“CAIR-NY”), located at 46-01 20th Ave., Queens, NY 11105, against Respondents the New York City Department of Education; Richard A. Carranza, as Chancellor of the New York City Department of Education; and ██████████, in her individual and official capacity, (collectively “Respondents”) pursuant to Title 47 of the Rules of the City of New York New York City Human Rights Law (“NYCHRL”), respectfully sets forth and alleges the following:

PARTIES IN THE COMPLAINT

1. Complainant Zaman Mashrah (“Ms. Mashrah”) is the mother and legal guardian of her minor son I.A. Ms. Mashrah is a Muslim American woman.

2. I.A. is a nine-year-old fifth-grade student within the New York City Department of Education public school system. At the time of the incident described below, I.A. was an nine-year

old fourth-grade student at Public School 264 Bay Ridge Elementary School for the Arts. I.A. identifies as Muslim.

3. Respondent The New York City of Department of Education (hereinafter “DOE”)¹ is the largest system of public schools in the United States, serving about 1.1 million students in nearly 1,800 schools.

4. Respondent Richard A. Carranza is the Chancellor of the DOE and is charged with the administration of New York City’s public schools, including the provision of academic standards, student placement, school funding, and responding to student or administrative misconduct, with its main office at 52 Chambers Street, New York, New York 10007. Respondent Carranza is named in his official capacity only.

5. Respondent [REDACTED], at all relevant times, was an employee of the New York City Department of Education. Upon information and belief, during the incident described below, Respondent [REDACTED] was a lunch aide at P.S. 264. Upon information and belief, Respondent [REDACTED] continues to be employed by the DOE. Respondent [REDACTED] is named in both her individual and official capacity.

6. This discriminatory conduct alleged below occurred in New York City.

7. This Complaint is being filed within one year of the unlawful discriminatory practices alleged herein, pursuant to New York City Admin. Code § 8-109(c).

¹ Respondent New York City Department of Education is a provider of public accommodations as defined by the NYCHRL. See § 8-102 Definitions (“[T]he term ‘place or provider of public accommodation’ includes providers, whether licensed or unlicensed, or goods, services, facilities, accommodations, advantages or privileges of any kind are extended, offered, sold or otherwise made available.”); see also *Staten Island Alliance v. Mentally Ill v. Mercado*, 273 A.D.2d 36, 36-37 (1st Dep’t 2000) (identifying the respondent MTA as a provider of public accommodation in holding that the Commission has statutory authority to adjudicate petitioner’s complaint of disability discrimination).

BACKGROUND FACTS

8. During the 2018-2019 school year, I.A. was a fourth-grade student at Public School 264 Bay Ridge Elementary School for the Arts (P.S. 264).

9. I.A. was a superb student and loved by his student peers at P.S. 264.

10. I.A.'s mother, Ms. Mashrah, was a heavily active volunteer in the Parent Teachers Association at P.S. 264. She invested her time to ensure I.A. had the best school environment possible.

11. P.S. 264 has been and continues to be subject to accusations of unfairness and prejudicial treatment of certain groups, including Muslims.

12. For instance, during the 2018-2019 school year, Ms. Mashrah was initially elected to be the PTA's treasurer. Ms. Mashrah was removed from her position when, upon information and belief, the principal of P.S. 264, Principal Marisa Bolognino ("Principal Bolognino") filed a grievance contesting Ms. Mashrah's election to the PTA.

13. Principal Bolognino alleged that Ms. Mashrah's election violated PTA bylaws because she was allegedly nominated for the position after the "sign-up window" closed. Other PTA non-Muslim members that were elected after being nominated for their respective positions after the "sign-up window" closed did not have a grievance filed against them.

14. On another occasion, P.S. 264 refused to place any decorations recognizing or celebrating Ramadan or any signage related to fasting. P.S. 264 and the DOE regularly place decorations and celebrate similar occasions for non-Muslims such as Easter and Hanukkah.

15. P.S. 264 and the DOE continued their refusal to place such signage despite calls from Councilmember Justin Brannan's office, and others, to take corrective action.

RELIGIOUS TARGETING OF I.A.

16. Each year, I.A. is excited for Ramadan and attempts to be like his parents and friends and participate in the religious practice of fasting.

17. During Ramadan, I.A.'s family always spend the evenings together whether at home, with friends, or at the masjid, Arabic for mosque. It is one of best times of the year for I.A. and his family.

18. In the Islamic calendar, Ramadan is the ninth month in the calendar. Ramadan is the holy month of fasting for Muslims. Ramadan is a period of introspection, communal prayer, and reading of the Qur'an, Islam's religious text.

19. During the month of Ramadan, Muslims fast from dawn to sunset. For Muslims, fasting meanings forgoing any food and water or any other nutritional intake during the fasting period.

20. In 2019, Ramadan occurred during the school year from May 4 to June 3.

21. I.A. was determined to fast during this Ramadan. I.A. felt that he was old enough and made the decision to try his hardest to fast each day.

22. I.A.'s parents were proud and excited that their child was so committed and devoted to fasting.

23. Each day during Ramadan, I.A. tried to fast.

24. Per P.S. 264 policy, during lunch, all students observing Ramadan fasting are escorted to the school's theater instead of being forced to remain in the lunchroom while other students eat in front of them.

25. On May 14, 2019, I.A. was fasting in accordance with his sincerely held religious beliefs.

26. During lunch time, in the hallway, Respondent [REDACTED] (hereinafter "Ms. [REDACTED]") asked students that were fasting to move to the right side of the line so they could be escorted to the theater.

27. I.A. followed Ms. [REDACTED]'s instructions and moved to the right side of the line.

28. In front of all of the other fasting students, Ms. [REDACTED] told I.A. that since he was laughing “you will sit in the cafeteria and watch all the kids eat while you are fasting!”

29. I.A. denies that he was laughing or mocking Ms. [REDACTED] in any way.

30. While the other fasting students were escorted to the theater, I.A. was escorted to and forced to sit in the cafeteria at a table by myself and watch as students ate their lunch in front of him.

31. I.A. felt humiliated and ostracized for his religious practices.

32. I.A. was scared and did everything he could to not cry in front of his classmates. Some of his non-fasting classmates were concerned for his wellbeing and tried to comfort him.

33. Ms. [REDACTED] knew that I.A. is Muslim and was fasting in accordance with his religious beliefs.

34. In an attempt to punish I.A. for allegedly laughing, Ms. [REDACTED] weaponized I.A.’s Muslim faith and religious practice to intentionally inflict cruel punishment.

35. No child should have their religious practices used against them.

36. School is meant to be a safe environment for all students no matter their faith.

37. Ms. [REDACTED] engaged in religious discrimination by targeting I.A. and administering punishment to emotionally and psychologically abuse I.A.

38. At the end of the day, Ms. Mashrah arrived to pick up I.A. When Ms. Mashrah saw her son, she immediately noticed that he was upset and depressed. His head was down, and he simply wanted to leave the school as soon as possible.

39. Ms. Mashrah was confused and knew something happened because I.A. loves school and is normally a very joyous child.

40. Ms. Mashrah asked I.A. if he was okay. I.A. began to cry and shake as he tried to recount to his mom what happened.

41. Ms. Mashrah rushed to Principal Bolognino’s office to immediately report the incident.

42. In front of Principal Bolognino, I.A. recounted the incident. As he started to recall what Ms. [REDACTED] did, he burst into tears. I.A. also showed Principal Bolognino the exact location of the incident.

43. Ms. Mashrah demanded an immediate investigation. Principal Bolognino agreed to swiftly investigate the incident.

44. Ms. Mashrah took her child home and attempted to comfort him.

45. Later that night, Ms. Mashrah wrote an email to Principal Bolognino re-iterating what happened to I.A. was extremely harmful to his wellbeing, her desire for an immediate investigation, her shock that a staff member would bully and discrimination against I.A. in this way, that I.A. no longer felt comfortable attending school knowing that he has to see Ms. [REDACTED], and that Ms. [REDACTED] be suspended pending the investigation.

46. Ms. Mashrah was in tears while writing her email.

47. I.A. no longer felt safe at school because of Ms. [REDACTED]'s actions and her continued presence at the school.

48. The next morning, May 15, Ms. Mashrah and I.A. met with Principal Bolognino and the Assistant Principal. At this meeting, Ms. Mashrah broke down in tears as she imagined what happened to her son and how I.A. was emotionally and psychologically suffering.

49. At this meeting, I.A. provided a written statement of what happened and provided a list of witnesses that were present at the incident.

50. Principal Bolognino promised Ms. Mashrah that Ms. [REDACTED] will not have any contact with or be left to oversee I.A. while the investigation was open.

51. Worried for her child's safety, Ms. Mashrah provided I.A. with a cell phone. I.A. would regularly go into the bathroom to text or call his mom whenever Ms. [REDACTED] would approach him in the cafeteria after this incident.

52. The faith-based bullying and discriminatory incident caused I.A. to become sad, depressed, and upset.

53. After this incident, I.A. no longer wanted to fast and no longer wanted to openly express or show his Muslim faith at school.

54. Because of the incident, I.A. was afraid to practice his faith at school.

55. After significant confusion and the insistence of Ms. Mashrah, a discrimination complaint was filed with the Office of Equal Opportunity and Diversity Management (“OEO”) within the Department of Education. The complaint was filed with the OEO on or around May 22, 2019, according to an email from Principal Bolognino.

56. When Ms. Mashrah did not receive any information or call from the OEO, she began to contact the OEO office to request updates. On June 18, 2019, Ms. Mashrah was told that the OEO had not started reviewing the case.

57. Thereafter, an OEO investigator contacted Ms. Mashrah and informed her that the investigation would likely start soon but the witness interviews may have to wait until the next school year since summer break was fast approaching.

58. Ms. Mashrah continued to contact the investigator and implored him to immediately interview the students before summer break. She repeatedly informed the investigator about the negative effects of prolonging the investigation including short term memory of the student witnesses and the emotional and psychological pain for her child.

59. On June 24, 2019, Ms. Mashrah learned from other parents that I.A.’s classmates had been interviewed about the May 14, 2019 incident.

60. The next day, the OEO investigator emailed Ms. Mashrah informing her that he could no longer provide any information about the complaint filed on her son’s behalf.

61. Since June 25, 2019, Ms. Mashrah has requested an update on the investigation but has not received any.

62. According to the DOE's anti-discrimination policy and procedures, the Chancellor or his designee is required to issue a written determination as to whether there has been a violation of regulations within 90 working days.

63. On September 9, 2019, undersigned counsel notified the OEO that it was in violation of the DOE's own regulations. Undersigned counsel further requested that the OEO abide by the New York City DOE's stated policy and procedures and immediately issue a written decision.

64. The DOE did not respond to the September 9, 2019 correspondence.

65. As of this filing, the DOE has failed to issue a written determination in accordance with its own regulations despite the passing of more than 176 days since the OEO complaint was filed.

66. Because of Ms. [REDACTED]'s targeting of I.A. and DOE's failure to take any corrective steps to provide a safe learning environment for I.A., Ms. Mashrah was forced to transfer I.A. to a different school for his own safety.

67. I.A. is depressed and sad that he had to transfer schools because he no longer gets to see his friends at school. I.A. considered P.S. 264 as his second home and had attended P.S. 264 since kindergarten. I.A. regularly asks his parents about his friends.

68. Upon information and belief, Ms. [REDACTED] continues to be employed by DOE at P.S. 264.

69. Upon information and belief, Ms. [REDACTED] has faced no discipline for bullying, targeting, harassing, and discriminating against I.A.

70. The DOE's failure to adequately investigate and discipline Ms. [REDACTED] for her harassment, faith-based bullying, and discriminatory behavior sends a message that discrimination and bullying by DOE employees on the basis of creed/religion is permissible at the DOE.

71. The DOE has failed to abide by its anti-discrimination policy and procedures.

72. The DOE's actions show a deliberate indifference to I.A.'s wellbeing and to providing him with a school environment free of administrative bullying, harassment, and discrimination.

73. Respondents have denied Complainant the full and equal enjoyment, on equal terms and conditions, of the accommodations, advantages, services, facilities, or privileges of a provider of public accommodation.

74. Respondent DOE has discriminated against Complainant based on Ms. [REDACTED]'s actions, failure to properly investigate the incident, and the deliberate indifference to I.A.'s wellbeing.

75. Respondent [REDACTED] further engaged in harassment of I.A. on the basis of creed.

76. As a result of the Respondents' violations of N.Y.C. Admin. Code § 8-101 *et seq.*, Complainant has suffered damages including, but not limited to, humiliation, embarrassment, depression, and severe emotional distress.

77. Complainant seeks to hold Respondents accountable for Ms. [REDACTED]'s misconduct and failure to provide I.A. with a safe learning school environment that is free from faith-based discrimination and bullying.

78. Complainant further seek appropriate sensitivity and cultural trainings to deter future reprehensible conduct.

79. Complainant further seek payment of compensatory damages and any other relief entitled to them under the NYCHRL.

80. Ms. Mashrah's ultimately goal is to ensure that similar incidents do not occur in the future and that the Department of Education is responsive to the needs of Muslim and other

marginalized families so that all students have a safe learning environment that is free of discrimination and bullying, especially from DOE employees.

81. No family should have their child traumatized to only have the Department of Education prolong a simple investigation for 176 days.

82. Complainant further seek an award for attorney fees, costs, and expenses pursuant to N.Y.C. Admin. Code § 8-120.

STATEMENT OF NO PRIOR FILINGS

83. Complainant have not previously filed any other civil or administrative action alleging an unlawful discriminatory practice with respect to the allegations of discrimination which are the subject of the complaint.

Dated: November 13, 2019

Respectfully submitted,

COUNCIL ON AMERICAN-ISLAMIC RELATIONS, NEW YORK
(CAIR-NY)

/s/ Ahmed Mohamed

Ahmed Mohamed, Esq.
Litigation Director
46-01 20th Avenue
Queens, NY 11105
T: (646) 665-7599

Attorney for Complainants

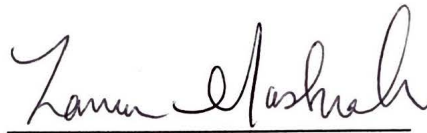
To: Office of the Docketing Clerk of the Law Enforcement Bureau
22 Reade Street
New York, NY 10007
mzaman1@cchr.nyc.gov
Via mail and e-mail

COMPLAINANT VERIFICATION

STATE OF NEW YORK)
): ss
COUNTY OF KINGS)

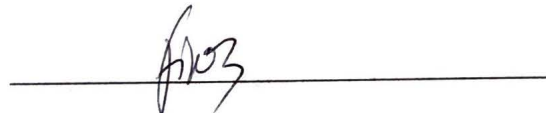
The undersigned Complainant, being duly sworn, deposes, and says that the deponent has read the Complaint, and the contents of the petition are true to the deponent’s own knowledge, except as to those matters which are alleged upon information and belief, and as to such matters the deponent believes them to be true.

Date: November 12, 2019
Brooklyn, New York



Zaman Mashrah, individually and on behalf of her minor child I.A.

Sworn to before me this 12th day of November 2019.



Notary Public

ABDUL J BHUIYA
Notary Public - State of New York
No. 01BH6369398
Qualified in Kings County
My Commission Expires Jan. 08, 2022