

No. USAP1

NO. 18-2109

IN THE
SUPREME COURT OF THE UNITED STATES

Frances Hines — PETITIONER
(Your Name)

VS.

Boston Public Schools — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

☒ Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

☐ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

☐ Petitioner's affidavit or declaration in support of this motion is attached hereto.

☐ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☐ The appointment was made under the following provision of law: _____, or

☐ a copy of the order of appointment is appended.

Frances Hines
(Signature)

A

Court

**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Frances Hines, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse Deceased	You	Spouse Deceased
Employment <u>See Below</u>	\$ <u>Retired</u>	\$ <u>N/A</u>	\$ _____	\$ <u>N/A</u>
Self-employment	\$ <u>N/A</u>	\$ _____	\$ _____	\$ _____
Income from real property (such as rental income)	\$ <u>N/A</u>	\$ _____	\$ _____	\$ _____
Interest and dividends	\$ <u>N/A</u>	\$ _____	\$ _____	\$ _____
Gifts	\$ <u>N/A</u>	\$ _____	\$ _____	\$ _____
Alimony	\$ <u>N/A</u>	\$ _____	\$ _____	\$ _____
Child Support	\$ <u>N/A</u>	\$ _____	\$ _____	\$ _____
Retirement (such as social security, pensions, annuities, insurance) <u>Bank of America</u>	\$ <u>598.00</u> <u>1625.46</u> <u>296.00</u>	\$ _____	\$ _____	\$ _____
Disability (such as social security, insurance payments)	\$ <u>N/A</u>	\$ _____	\$ _____	\$ _____
Unemployment payments	\$ <u>N/A</u>	\$ _____	\$ _____	\$ _____
Public-assistance (such as welfare)	\$ <u>N/A</u>	\$ _____	\$ _____	\$ _____
Other (specify): _____	\$ <u>N/A</u>	\$ _____	\$ _____	\$ _____
Total monthly income:	\$ _____	\$ <u>N/A</u>	\$ _____	\$ _____

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Retirement Employment	Gross monthly pay
Boston Retirement system	One City Hall Square Room 816 Boston, MA 02201-2038	3/1/2019 until present	\$ 1625.46
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Retirement Employment	Gross monthly pay
Spouse Deceased	N/A	N/A	\$ N/A
N/A			\$
			\$

4. How much cash do you and your spouse have? \$ _____
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
Checking 1	\$ 207.00	\$ Spouse Deceased
Checking 2	\$ 90.00	\$ N/A
Saving	\$ 9800.00	\$ N/A

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

☒ Home
Value \$305,000

☒ Other real estate
Value N/A

☒ Motor Vehicle #1
Year, make & model 2020 Chevy Trax
Value Leased vehicle

☒ Motor Vehicle #2
Year, make & model N/A
Value N/A

☒ Other assets
Description N/A
Value

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money

Amount owed to you

Amount owed to your spouse

N/A

\$ N/A

\$ }

\$ }

\$ N/A

\$ }

\$ }

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

Name

Relationship

Age

N/A

}

N/A

}

N/A

}

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

You

Your spouse

Rent or home-mortgage payment
(include lot rented for mobile home)

\$ 979.64

\$ N/A

Are real estate taxes included? ☒ Yes ☐ No

Is property insurance included? ☒ Yes ☐ No

Utilities (electricity, heating fuel, water, sewer, and telephone)

heating Fuel - \$ 156.00 Monthly \$ 24.12 Monthly \$ }

Home maintenance (repairs and upkeep)

Yearly - \$ 1800.00

\$ }

Food

Month \$ 220.00

\$ }

Clothing

Yearly - \$ 200.00

\$ }

Laundry and dry-cleaning

\$ _____

\$ _____

Medical and dental expenses

Copymt Medical \$ 376.00
Jan-Aug. Dental \$ 378.00

\$ }

	You	Your spouse
Transportation (not including motor vehicle payments) <i>Boch-Cherry - Oil & Filter</i>	<i>\$ 70.00 2x yr.</i> <i>\$ 40.00 month</i>	<i>\$ N/A Deceased</i>
Recreation, entertainment, newspapers, magazines, etc.	<i>\$ 69.41 - ADT - MONTH</i> <i>\$ 48.01 - DirectV - MONTH</i> <i>\$ 69.01 Home phone MONTH</i> <i>\$ Cell phone 47.20 MONTH</i>	
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's <i>Globe Life, Ins 2x year</i> Life	<i>Mortgage \$ 979.64</i> <i>Life \$ 43.79 mo.</i> <i>Tufts Health, T14-1 \$ 93.99 mo.</i>	
Health	<i>\$ 53.83</i>	
Motor Vehicle	<i>\$ 118.00 Mo.</i>	
Other: <i>Medicare / Social Security</i>	<i>\$ 147.80 Mo.</i>	
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ _____	\$ <i>N/A</i>
Installment payments		
Motor Vehicle	<i>\$ 235.00 Mo.</i>	<i>\$ N/A</i>
Credit card(s)	<i>\$ 0</i>	
Department store(s)	<i>\$ 0</i>	
Other: <i>Property Taxes \$ 470.00 year</i>	<i>\$ 79.00 mo.</i>	
Alimony, maintenance, and support paid to others	<i>\$ N/A</i>	
Regular expenses for operation of business, profession, or farm (attach detailed statement)	<i>\$ N/A</i>	
Other (specify): _____	<i>\$ N/A</i>	
Total monthly expenses:	\$ _____	\$ _____

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☒ No If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? ☒ Yes ☐ No

If yes, how much? _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☒ Yes ☐ No

If yes, how much? \$ 7,200.00

If yes, state the person's name, address, and telephone number:

EDWARD L. WARREN JR. Consultant/Advocate
714 Blue Hill Ave.
Boston, MA 02124

12. Provide any other information that will help explain why you cannot pay the costs of this case.

I am a widower, Retired from City of Boston Retirement Board, Boston Public Schools as of March 1, 2019. I am on a fixed monthly income. I am low income. I cannot get a PRO-BONO Attorney as to date, None will take the case. Also, I am disable (Walking impairment) due to Toyota Motor Sales USA Inc. Sudden Unintended Acceleration (SUA) Market Problem in 2005, Toyota Camry

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 28, 2022

Frances Hines
(Signature)

No. USAP 1

NO. 18-2109

IN THE

SUPREME COURT OF THE UNITED STATES

Frances Hines

Frances Hines — PETITIONER
(Your Name)

vs.

Boston Public Schools — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Supreme Court Santa Ana, California 9th Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Frances Hines
(Your Name)

23 West Minster Avenue
(Address)

Roxbury, MA 02119
(City, State, Zip Code)

617-840-7341
(Phone Number)

LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Frances Hines - Pro-se
Plaintiff
v.
Boston Public Schools
Defendant

RELATED CASES

MOTION FOR APPEAL

I would like to file an appeal on **Case No. 1: 15-CV-118997DJC (Appendix A)**. I want to file an out-of-time motion special situation, Pursuant Rule 4, Rule 14. On the grounds that my complaint was dismissed after information was forwarded to me in 2020. I was informed that I could file an out-of-time petition. I am asking this honorable court to grant my out-of-time petition, due to fact that knowledge came available to me in 2022, after the case was dismissed in 2020. I was informed I could file an out of-time petition. The U.S.D.C dismissed my case reference above in 2018. The case was dismissed in error and points of facts were overlooked and biased. This is in violation of M.G.L. 151B Section 4, Paragraph 4 and with Title VII and ADA. I appealed the case with the US Court of Appeal in 2020. In 2020, the country was in a Pandemic COVID-19. The country was locked down, businesses, courts etc. were closed. A person in my situation with ADHD would not have known to file. an out-of-time petition.

STATEMENT OF CASE (Summary)

- I, Frances Hines, the Complaint believe that I was discriminated against by Boston Public Schools (BPS), on the basis of Disability, Hostile work environment and Retaliation. This is in violation of M.G.L.C. 151B. Section 4, paragraph 16: M.G.L.c. 151B. Section 4. Paragraph 4. and ADA. **(See Appendix H)**
- I began my employment on February 27, 1995 as a paraprofessional for Boston Public Schools and remain in this position.
- On September 6, 2006. I filled a complaint with MCAD against Respondent for discrimination based on my race. I received an LOPC finding on July 12, 2008.
- On October 15, 2008 I filled a complaint with MCAD against Respondent on the basis of retaliation. At some point during the summer of 2010. I received another LOPC finding.
- In February 2011, Norman Townsend became principal at David A. Ellis Elementary school where I was employed.
- From April 2011 to June 2011, I was given an accommodation based on my walking impairment and being assigned to a regular education class of 23 students, on which I was not required to escort students, up and down the stairs.
- In September 2011, I was reassigned to a special educational class. During this time the administration did not adhere to the accommodation put in place previously, by the Boston Public School Office of Equity. As a result, I had to walk up and down stairs in order to monitor the student. **(See Appendix I, per Larry Faison, Senior Equity Specialist)**
- On November 9, 2011. I was assigned two special educational classes by Lab Cluster Coordinator. Betty Skeete. I was assigned to supervise these classes at lunch and recess despite the norm being that teachers are only assigned one special education class, with 9 students, due to the difficulty of the student's behavior.
- In December 2011. One of the other teachers. Dominique Monroe, told me that if I complained about the situation, "teachers can do things to make you leave."

- On January 6, 2012. I met with Mr. Townsend and a previous principal, Leslie Gant, and requested not to be assigned to Ms. Monroe's class. I informed them that I was uncomfortable working with her as a result of her severe verbal abuse towards me in the past.
- On January 9, 2012. I was verbally assigned to Ms. Monroe's class and was officially assigned to the class on January 16, 2012. Shortly after I was assigned Ms. Monroe continued to verbally abuse me and Falsey accused me. She said that "I did not have good management skills."
- On February 2, 2012. I was assaulted by a student from Ms. Monroe's class during recess in the school cafeteria. I had to seek medical attention as a result. I had to take medical leave from this February 2nd till February 13, 2012.
- On February 13, 2012. I met with Mr. Townsend, my building representative, Mr. Rehka and Ms. Monroe to discuss the verbal abuse and my request to transfer to another class. On February 14, 2012. Mr. Townsend told me that he would think about it.
- On February 15, 2012, I told Mr. Townsend that he was required to show me a copy of two negative documents regarding accusations about my work performance that had come to my attention previously. Mr. Townsend refused and replied that "he knows the Governor". I felt very intimidated and threatened by this comment. I then reply, "I know the one over him and the Governor", and he looks puzzle.
- For these above reasons, I believe that I have been discriminated against based on my disability and retaliated against for my previous filing with MCAD and with the Department of Education. **(See Appendix B)**

REASON FOR GRANTING THE WRIT

My reason for submitting this grant request is to be heard and handle appropriately. I feel that I am being legally bombarded and thrust around by the court. I believe that their decision regarding my case as a former employee of (BPS) has been mishandled and also that Boston Public Schools, The Boston Teacher's Union, is trying to escape their role and their responsibilities regarding this issue/situation. I have been through a terrible ordeal. The court have overlooked my medical situation, as well as my medical documents **(See Appendix C)**. They have agreed with the school report that I was not disable. This situation has changed my life completely, things that I could do, I can no longer do, due to damage and weak knees, legs and arms. I have random anxiety attacks, I feel emotional challenge, my motor skills are subpar at best. I felt pressure to retire, based on the mental and emotional stress, the constant retaliation, the assault by a student (no consequences), and a teacher (no immediate consequences), on which, I still was force to work with, therefore I was out on medical leave, because of the stress and the verbal abuse by staff.

My Medical Condition is as follows:

- Severe knee injury that has left her with weak left leg and a stiff knee, Dated, May 12, 2010, Dr. Joseph Ingelfinger, MD **(See Appendix C)**
- Weak right leg and stiff knee, which prohibited me from walking up flights of stairs at a time, Dated, September 18, 2013, Dr. Joseph Ingelfinger, MD **(See Appendix C)**
- Increase anxiety, due to being assaulted on the job, Dated, October 25, 2013, Dr. Joseph Ingelfinger, MD **(See Appendix C)**
- Difficulties stemming from Cognitive difficulties, dated January 29, 2014, Dr. Joseph Ingelfinger, MD **(See Appendix C)**
- Arms and Shoulder pain, biceps injuries and impingement syndrome of the right arms. Dr. Salant, stated that I will have to have follow up visit at Boston Medical Center, further therapy, based on the incident/assault at Tynan school. Dr. Tayla Salant, MD **(See Appendix C)**
- Medical Evaluation letters Listing various prescriptions, Amloipine, Atorvastatin, Metformin and Naproxen, Beth Isreal Deaconness Medical Center/Bowdoin Street Health Center, Various, Dr. Joseph Ingelfinger, MD **(See Appendix C)**

Proof of Disabilities

- I have enclosed a copy of the Superintendent's Circular, this shows a descriptive view of Employees with Disabilities, Right and Responsibilities. My disabilities range falls under the Learning Disabilities, which is directly intertwine with my anxiety. **(See Appendix D)**.
- Case 1:15-cv-11897-DJC, Document 46-2, filed on August 21, 2018, in United States District Court, shows a breakdown description of medical recommendations, events that followed, medical request per my doctors and overview summary of every incident (which they overlooked and dismissed my case in error). **(See Appendix E)**
- Massachusetts Bay Transportation Authority application for certification paratransit eligibility letter and placard **(See Appendix F)**
- United States District Court, District of Massachusetts, No:1:15-cv-11897-DJC, Frances Hines v. City of Boston Public Schools, shows and state that I am a handicapped person, protected by the Rehabilitation Acts of 1973, by reason of a record of both physical impairment, weak leg and a stiff knee with decreased range of motion, as well as mental impairment, having been diagnosed with learning disability. **(See Appendix G)**

CONCLUSION

I believe that I have been unjustly dealt with and that my rights have been violated. I have put years into working for the Boston Public Schools system and to no avail, was deal with in an unjustifiable manner. I believe that with this approval of the request petition, I will be able to present my case in full details and length to the court and all parties involved. I'm disable, I have anxiety attacks at random, weak and stiff leg, knees, mental impairment and a learning

disability (**See Appendix G**), all which has been heighten due to an injuries cause by a student, who was provoke by a BPS teachers, (initial SM and DM), by taking their recess away for a month and leaving them with me alone. I enjoyed being a Paraprofessional and working with the students, but felt downhearted, abuse and taken advantage of by the BPS system and staff. I've been overlook by colleagues, taken for granted by those in authority, and thrust around by organization (Boston Teacher's Union) and the court that should work for the people, they serve. I've since retired due to these conditions, Breach of Contract, Hostile work Environment and Retaliation Note: The United State District Court, did not cover breach of contract, which falls within the 6 years period. I file in 2015, the case was dismisses in 2020. (**See Appendix H**).

I'm asking for the court to grant my request and allow me the opportunity to represent and present my case, I would like to be granted an appeal on **Case No. 1: 15-CV-118997DJC (Appendix A)**., based on an out-of-time petition special situation, Pursuant Rule 4, Rule 14

Base on their mishandling of this case and the facts attached to this case, my initial fiduciary damage request was \$208,000. I'm presently seeking to be awarded triple damages, from the original amount requested of \$208,000, which total to \$624,000.

Frances Hines

Signature (Frances Hines)

December 28, 2022

Date

CERTIFICATE OF SERVICE

I Frances Hines, hereby certify that on the December 28th, 2022, the foregoing documents were served by email or USPS First class mail upon the Office of Legal Advisor.

Office of Legal Advisor
2300 Washington Street
Boston, Ma 02119
December 28, 2022

Frances Hines

Frances Hines

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Frances Hines

Date: December 28, 2022

United States Court of Appeals For the First Circuit

No. 18-2109

FRANCES HINES,

Plaintiff - Appellant,

v.

BOSTON PUBLIC SCHOOLS,

Defendant - Appellee.

Appendix
A

Before

Torruella, Lynch and Kayatta,
Circuit Judges.

JUDGMENT

Entered: February 28, 2020

Plaintiff-appellant Frances Hines appeals from the district court's grant of summary judgment in favor of defendant-appellee Boston Public Schools Department, asserting that the district court erred in finding she was not disabled on account of her diabetes. Hines did not raise this theory of disability in the district court, and she cannot raise it for the first time on appeal. See generally Saunders v. Town of Hull, 874 F.3d 324, 331 (1st Cir. 2017) ("It is hornbook law that theories not raised squarely in the district court cannot be surfaced for the first time on appeal.") (internal quotations omitted). Diabetes was mention in the district court. See Doc 44-7 From District Court dated 7/31/2018

Upon de novo review of the record, and careful consideration of Hines' arguments on appeal, we affirm. See Suzuki v. Abiomed, Inc., 943 F.3d 555, 561 (1st Cir. 2019) (standard of review and general principles).

By the Court:

Maria R. Hamilton, Clerk

**United States Court of Appeals
For the First Circuit**

No. 18-2109

FRANCES HINES

Plaintiff - Appellant

v.

BOSTON PUBLIC SCHOOLS

Defendant - Appellee

MANDATE

Entered: April 16, 2020

In accordance with the judgment of February 28, 2020, and pursuant to Federal Rule of Appellate Procedure 41(a), this constitutes the formal mandate of this Court.

By the Court:

Maria R. Hamilton, Clerk

cc:

Karen G. Castaneda

Frances Hines

United States Court of Appeals For the First Circuit

No. 18-2109

FRANCES HINES,

Plaintiff - Appellant,

v.

BOSTON PUBLIC SCHOOLS,

Defendant - Appellee.

Before

Torruella, Lynch and Kayatta,
Circuit Judges.

ORDER OF COURT

Entered: April 9, 2020

Plaintiff-appellant Frances Hines' Petition for Rehearing is denied.

By the Court:

Maria R. Hamilton, Clerk

cc:

Frances Hines

Karen G. Castaneda

The Commonwealth of Massachusetts
Commission Against Discrimination
One Ashburton Place, Boston, MA 02108
Phone: (617) 994-6000 Fax: (617) 994-6024

MCAD DOCKET NUMBER: 12BEM00406
FILING DATE: 02/23/12

EEOC/HUD CHARGE NUMBER: 16C-2012-00956
VIOLATION DATE: 02/13/12

Name of Aggrieved Person or Organization:

Frances Hines
23 Westminster Avenue
Roxbury, MA 02119
Primary Phone: (617) 427-9988 ext. _____

Named is the employer, labor organization, employment agency, or state/local government agency who discriminated against me:

Boston Public Schools
Human Resources Department
26 Court Street
Boston, MA 02108
Primary Phone: (617) 635-9000 ext. _____

No. of Employees: 25+ Work Location: Roxbury, MA

Cause of Discrimination based on:

Disability (motor/limb/walking)

The particulars are:

I, Frances Hines, the Complainant believe that I was discriminated against by Boston Public Schools, on the basis of Disability. This is in violation of M.G.L. c. 151B, Section 4, Paragraph 16; M.G.L. c. 151B, Section 4, Paragraph 4, and ADA.

I, Frances Hines, believe I was discriminated against based on my disability and retaliated against for the following reasons:

1. I began my employment on February 27, 1995 as a paraprofessional for Boston Public Schools and remain in this position.
2. On September 6, 2006, I filed a complaint with MCAD against Respondent for discrimination based on my race. I received an LOPC finding on July 12, 2008.
3. On October 15, 2008, I filed a complaint with MCAD against Respondent on the basis of retaliation. At some point during the Summer of 2010, I received another LOPC finding.
4. In February 2011, Norman Townsend became principal at David A. Ellis Elementary school where I am employed.
5. From April 2011 to June 2011, I was given an accommodation based on my walking disability by being assigned to a regular education class of 23 students.
6. In September 2011, I was reassigned to a special education class. During this time the administration did not adhere to the accommodation put in place previously. As a result I had to walk up and down stairs in order to monitor the student.
7. On November 9, 2011, I was assigned two special education classes by Lab Cluster Coordinator, Betsy Skeete. I was assigned to supervise these classes at lunch and recess despite the norm being that teachers are only assigned one special education class due to the difficulty of the students' behavior.
8. In December 2011, one of the other teachers, Dominique Monroe, told me that if I complained about the situation, "teachers can do things to make you leave."
9. On January 6, 2012, I met with Mr. Townsend and a previous principal, Leslie Gant, and requested not to be assigned to Ms. Monroe's class. I informed them that I was uncomfortable working with her as a result of her severe verbal abuse towards me in the past.
10. On January 9, 2012, I was verbally assigned to Ms. Monroe's class and was officially assigned to the class on January 16, 2012. Shortly after I was assigned, Ms. Monroe continued to verbally abuse me and falsely accuse me. She said that I "did not have good management skills."

MCAD Docket Number 12BEM00406, Complaint

Appendix B

11. On February 2, 2012, I was assaulted by a student from Ms. Monroe's class during recess in the school cafeteria. I had to seek medical attention as a result. I had to take medical leave from this day until February 13, 2012.

12. On February 13, 2012, I met with Mr. Townsend, my building representative, Mr. Rehka, and Ms. Monroe to discuss the verbal abuse and my request to transfer to another class. On February 14, 2012, Mr. Townsend told me that he would think about it.

13. On February 15, 2012, I told Mr. Townsend that he was required to show me a copy of two negative documents regarding accusations about my work performance that had come to my attention previously. Mr. Townsend refused and replied that "he knows the governor." I felt very intimidated and threatened by this comment.

14. For these above reasons, I believe that I have been discriminated against based on my disability and retaliated against for my previous filing with MCAD and with the Department of Education.

I hereby verify, under the pains and penalties of perjury, that I have read this complaint and the allegations contained herein are true to the best of my knowledge.

James Hines
(Signature of Complainant)

Appendix C

May 12, 2010

RE: Frances Hines BID#: 074-21-95

I have cared for Ms Hines for more than 15 years. In 2005 Ms Hines suffered a severe knee injury that has left her with a weak left leg and a stiff knee with decreased range of motion. She has a difficult time going up and down stairs. I suggest her job accommodate her disability.

Also Ms Hines was diagnosed with attention deficit disorder and learning disability several years ago at the Massachusetts General Hospital. I do not know the extent that this problem impacts on her at her current job

Sincerely,

Joseph A. Ingelfinger, MD
Signed electronically: 05/12/10 at 4:14 pm

[SOURCE: OMR]

Appendix e

September 18, 2013

To Whom This May Concern:

RE: Frances Hines BID#: 074-21-95 DOB: 01/22/1951

Dear Sir/Madam:

I have cared for Ms Hines for more than 15 years. In 2005 Ms Hines suffered a severe knee injury that has left her with a weak left leg and a stiff knee with decreased range of motion. She has a difficult time going up and down stairs. I suggest her job accommodate her disability.

Sincerely,

Joseph Ingelfinger, MD

Signed electronically: 09/18/13 at 12:28 pm

cc: [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[SOURCE: OMR]

[redacted]

October 8, 2013

RE: Frances Hines BID#: 074-21-95 DOB: 01/22/1951

Dear Sir/Madam:

Ms. Hines was evaluated today at Bowdoin Street Health Center for arm and shoulder pain. Her exam is consistent with R biceps injury and impingement syndrome of the right shoulder. She is being followed by Dr. Burrell at Boston Medical Center for this and will be undergoing further therapy under his supervision.

She is also reporting anxiety and poor sleep today related to a reported incident at her school.

Sincerely,

Talya Salant, MD

-Addendum- 10/08/13

The incident at school is the assault she experienced on 9/16/13.

TALYA SALANT, MD

Signed electronically: 10/08/13 at 11:01 am

October 24, 2013

RE: Frances Hines BID#: 074-21-95 DOB: 01/22/1951

Bécause of Ms Hines increased anxiety following the assault she experienced at her school job I have referred her to a councilor for the next 4 weeks at which time the councilor's opinion about the length and severity of her will determine the length and nature of her disability

Sincerely,

Joseph A. Ingelfinger, MD
Signed electronically: 10/25/13 at 5:14 pm

January 29, 2014

RE: Frances Hines .BID#: 074-21-95 DOB: 01/22/1951

I have written several letters on behalf of Ms Hines. Physically she is limited by her knee as you know. Her shoulder seems to have healed'

Her main difficulties stem from her cognitive difficulties which I have communicated to you before. For her to function well she needs to work with consistent teachers, and a small number of students without special problems.

In such an environment she should function well. She can return to work February 14th.

Sincerely,

Joseph A. Ingelfinger, MD
Signed electronically: 01/29/14 at 10:21 am

Beth Israel Deaconess Medical Center/Bowdoin Street Health Center
General Medicine/Primary Care

230 Bowdoin Street, Dorchester, MA 02122

Date: 10/24/13 Progress note Page 1
Signed by JOSEPH A INGELFINGER, MD on 10/30/13 at 2:48 pm

BIRTHDATE: 01/22/1951 AGE 62

HINES, FRANCES

UNIT # 0742195

Vital Signs: BP: 118/76. Heart Rate: 88. Weight: 181. BMI: 31.1.
Temperature: 98.1. O2 Saturation%: 100.

Active Medication list as of 10/24/13:

Medications - Prescription

AMLODIPINE - amlodipine 5 mg tablet. 1 tablet(s) by mouth once a day - (Prescribed by Other Provider: ED physician)
ATORVASTATIN - atorvastatin 20 mg tablet. 1 Tablet(s) by mouth once a day for cholesterol
HYDROCHLOROTHIAZIDE - hydrochlorothiazide 25 mg tablet. 1 tablet(s) by mouth once a day for blood pressure
METFORMIN - metformin ER 750 mg tablet, extended release 24 hr. 1 tablet extended release 24 hr(s) by mouth twice a day for diabetes (also called GLUCOPHAGE)
NAPROXEN - naproxen 375 mg tablet. 1 Tablet by mouth twice a day with food as needed for pain

Medications - OTC

SENNOSIDES-DOCUSATE SODIUM - sennosides-docusate sodium 8.6 mg-50 mg tablet. 1 OR 2 Tablet(s) by mouth at bedtime as needed for constipation

Frances Hines is followed for hypertension, hyperlipidemia and diabetes, but her most bothersome problem is recurrent difficulties with her job. She has been fairly recently moved to a different school, which she did request a change in position, however, the new school is very far away in terms of the time it takes for her to get there. She has to climb a lot of steps in the subway, which is difficult for her knee and she has been put in a classroom supervising slightly cognitively impaired students and fairly recently she has been hit by one of them and also has strained her biceps muscles from lifting. She is very anxious to change her location of her job again and she is complaining of anxiety. She thinks her blood pressure is higher than it usually is. I saw her a week ago and suggested that she take a week or two off and see how she recovers. Today, she still has the same complaints and is looking for a longer period of out of work. Also, her A1c was a little bit high at 8. I have increased her metformin and added atorvastatin for her cholesterol. I have agreed that she will get a referral to mental health. She is choosing a church-based counselor. I have instructed her that she needs to be sure that the counselor can write her a disability letter and that her job will accept it. I will see her back in a month.

Joseph A. Ingelfinger MD

eScripton document:1-13343571

Appendix C

Beth Israel Deaconess Medical Center/Bowdoin Street Health Center
General Medicine/Primary Care
230 Bowdoin Street, Dorchester, MA 02122

Date: 10/17/13 Progress note Page 1
Signed by JOSEPH A INGELFINGER, MD on 10/23/13 at 9:28 am
BIRTHDATE: 01/22/1951 AGE 62
HINES, FRANCES UNIT # 0742195

Vital Signs: BP: 100/60. Heart Rate: 95. Weight: 182.4. BMI:
31.3. Temperature: 97.3. O2 Saturation%: 100.

Active Medication list as of 10/17/13:

Medications - Prescription

AMLODIPINE - amlodipine 5 mg tablet. 1 tablet(s) by mouth once a day - (Prescribed by Other Provider: ED physician)
HYDROCHLOROTHIAZIDE - hydrochlorothiazide 25 mg tablet. 1 tablet(s) by mouth once a day for blood pressure
METFORMIN - metformin ER 750 mg tablet, extended release 24 hr. 1 Tablet(s) by mouth once a day for diabetes (also called GLUCOPHAGE)
NAPROXEN - naproxen 375 mg tablet. 1 Tablet by mouth twice a day with food as needed for pain
SIMVASTATIN - simvastatin 20 mg tablet. 1 Tablet(s) by mouth qhs daily for cholesterol

Medications - OTC

SENNOSIDES-DOCUSATE SODIUM - sennosides-docusate sodium 8.6 mg-50 mg tablet. 1 OR 2 Tablet(s) by mouth at bedtime as needed for constipation

SUBJECTIVE: Ms. Frances Hines comes today having difficulties at the new school to which she has been assigned. She has recently been with pain in her right arm for about 10 days, she thinks from lifting heavier children and was hit by a student about a month ago and is again experiencing increasing anxiety about going to work. She also complains that she now has to take an hour or two to get to work because they moved here to this new school, she has to climb a lot of stairs. Her knee is hurting. She does feel a lot of her reassignment has to do with some kind of retribution. At the moment, she can lift her arm above her head. She can dress.

PHYSICAL EXAMINATION:

VITAL SIGNS: As shown with a blood pressure 100/60.

LUNGS: Clear.

HEART: Has no murmur or gallop.

MUSCULOSKELETAL: She does have some tenderness over the deltoid and the biceps on the right.

ASSESSMENT AND PLAN: As for her diabetes, she is not checking her sugar at home and I will order an A1c and measure LDL. I will fill out the paper suggesting she can return to work in about a week and not to lift more than 10 pounds. I am going to have to think about what to do about her renewed anxiety and my role in resolving her difficulties with her job. Return in one week.

Joseph A. Ingelfinger MD

Beth Israel Deaconess Medical Center/Bowdoin Street Health Center
General Medicine/Primary Care
230 Bowdoin Street, Dorchester, MA 02122

Date: 11/20/13 Progress note Page 1
Signed by JOSEPH A INGELFINGER, MD on 11/26/13 at 10:48 am

BIRTHDATE: 01/22/1951 AGE 62

HINES, FRANCES

UNIT # 0742195

Vital Signs: BP: 120/80. Heart Rate: 81. Weight: 181. BMI: 31.1.
Temperature: 97.7. O2 Saturation%: 100.

Active Medication list as of 11/20/13:

Medications - Prescription

AMLODIPINE - amlodipine 5 mg tablet. 1 tablet(s) by mouth once a day - (Prescribed by Other Provider: ED physician)

ATORVASTATIN - atorvastatin 20 mg tablet. 1 Tablet(s) by mouth once a day for cholesterol

HYDROCHLOROTHIAZIDE - hydrochlorothiazide 25 mg tablet. 1 tablet(s) by mouth once a day for blood pressure

METFORMIN - metformin ER 750 mg tablet, extended release 24 hr. 1 tablet extended release 24 hr(s) by mouth twice a day for diabetes (also called GLUCOPHAGE)

Medications - OTC

SENNOSIDES-DOCUSATE SODIUM - sennosides-docusate sodium 8.6 mg-50 mg tablet. 1 OR 2 Tablet(s) by mouth at bedtime as needed for constipation

SUBJECTIVE: Ms. Frances Hines is followed for diabetes, hypertension, borderline elevation of hyperlipidemia and chronic problems with stress at her job. She comes today again for paperwork about her return to work, which she finds unappealing and is quite stressed about it at this time because of an assault several weeks ago. She also does not like her job because it is far from her house, has to take the bus and has to climb a lot of stairs, which is hard on her knee. She has started mental health counseling again with Ms. Brow, but only had 1 meeting. I had suggested that she find a counselor who could write a letter for disability for psychological reasons, but the first counselor she approached was not capable of doing that.

PHYSICAL EXAMINATION:

GENERAL: Looking her usual self.

VITAL SIGNS: Blood pressure 120/80.

LABORATORY DATA: Most recent A1c was 8 in October and LDL 118.

PLAN: I have encouraged her to take her atorvastatin. I have increased her metformin a month ago. I am going to see her back in about 4 weeks to reassess and I hope to be able to write some kind of letter for her job and reassess her lipids and diabetes control at that time.

Joseph A. Ingelfinger MD

eScripton document:1-13388942

Beth Israel Deaconess Medical Center/Bowdoin Street Health Center
Social Work

230 Bowdoin Street, Dorchester, MA 02122

Date: 11/15/13 Progress note Page 2

Signed by AMY BROW, LICSW on 11/19/13 at 2:45 pm

BIRTHDATE: 01/22/1951 AGE 62

HINES, FRANCES

UNIT # 0742195

CLINICAL ASSESSMENT:

Patient is a 62-year-old African American woman who comes in for supportive counseling in the context of work stressors. Patient endorses post trauma symptoms following an assault by a student two months ago. She also expresses feeling overwhelmed by her new assignment. Patient reports inability to sleep and high level of anxiety. May benefit from a medication evaluation with her PCP.

DIAGNOSIS (note any changes): PTSD

PLAN:

Provide supportive counseling focused on learning behavioral strategies to manage anxiety
Referral to PCP for medication assessment for poor sleep and anxiety

Beth Israel Deaconess Medical Center/Bowdoin Street Health Center
General Medicine/Primary Care
230 Bowdoin Street, Dorchester, MA 02122

Date: 10/24/13 Progress note Page 1
Signed by JOSEPH A INGELFINGER, MD on 10/30/13 at 2:48 pm

BIRTHDATE: 01/22/1951 AGE 62
HINES, FRANCES UNIT # 0742195

Vital Signs: BP: 118/76. Heart Rate: 88. Weight: 181. BMI: 31.1.
Temperature: 98.1. O2 Saturation%: 100.

Active Medication list as of 10/24/13:

Medications - Prescription

AMLODIPINE - amlodipine 5 mg tablet. 1 tablet(s) by mouth once a day - (Prescribed by Other Provider: ED physician)
ATORVASTATIN - atorvastatin 20 mg tablet. 1 Tablet(s) by mouth once a day for cholesterol
HYDROCHLOROTHIAZIDE - hydrochlorothiazide 25 mg tablet. 1 tablet(s) by mouth once a day for blood pressure
METFORMIN - metformin ER 750 mg tablet, extended release 24 hr. 1 tablet extended release 24 hr(s) by mouth twice a day for diabetes (also called GLUCOPHAGE)
NAPROXEN - naproxen 375 mg tablet. 1 Tablet by mouth twice a day with food as needed for pain

Medications - OTC

SENNOSIDES-DOCUSATE SODIUM - sennosides-docusate sodium 8.6 mg-50 mg tablet. 1 OR 2 Tablet(s) by mouth at bedtime as needed for constipation

Frances Hines is followed for hypertension, hyperlipidemia and diabetes, but her most bothersome problem is recurrent difficulties with her job. She has been fairly recently moved to a different school, which she did request a change in position, however, the new school is very far away in terms of the time it takes for her to get there. She has to climb a lot of steps in the subway, which is difficult for her knee and she has been put in a classroom supervising slightly cognitively impaired students and fairly recently she has been hit by one of them and also has strained her biceps muscles from lifting. She is very anxious to change her location of her job again and she is complaining of anxiety. She thinks her blood pressure is higher than it usually is. I saw her a week ago and suggested that she take a week or two off and see how she recovers. Today, she still has the same complaints and is looking for a longer period of out of work. Also, her Alc was a little bit high at 8. I have increased her metformin and added atorvastatin for her cholesterol. I have agreed that she will get a referral to mental health. She is choosing a church-based counselor. I have instructed her that she needs to be sure that the counselor can write her a disability letter and that her job will accept it. I will see her back in a month.

Joseph A. Ingelfinger MD

eScripton document:1-13343571

Beth Israel Deaconess Medical Center/Bowdoin Street Health Center
General Medicine/Primary Care
230 Bowdoin Street, Dorchester, MA 02122

Date: 10/17/13 Progress note Page 1
Signed by JOSEPH A INGELFINGER, MD on 10/23/13 at 9:28 am
BIRTHDATE: 01/22/1951 AGE 62
HINES, FRANCES UNIT # 0742195

Vital Signs: BP: 100/60. Heart Rate: 95. Weight: 182.4. BMI:
31.3. Temperature: 97.3. O2 Saturation%: 100.

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SIMVASTATIN - simvastatin 20 mg tablet. 1 Tablet(s) by mouth qhs daily for cholesterol

Medications - OTC

SENNOSIDES-DOCUSATE SODIUM - sennosides-docusate sodium 8.6 mg-50 mg tablet. 1 OR 2 Tablet(s) by mouth at bedtime as needed for constipation

SUBJECTIVE: Ms. Frances Hines comes today having difficulties at the new school to which she has been assigned. She has recently been with pain in her right arm for about 10 days, she thinks from lifting heavier children and was hit by a student about a month ago and is again experiencing increasing anxiety about going to work. She also complains that she now has to take an hour or two to get to work because they moved here to this new school, she has to climb a lot of stairs. Her knee is hurting. She does feel a lot of her reassignment has to do with some kind of retribution. At the moment, she can lift her arm above her head. She can dress.

PHYSICAL EXAMINATION:

VITAL SIGNS: As shown with a blood pressure 100/60.

LUNGS: Clear.

HEART: Has no murmur or gallop.

MUSCULOSKELETAL: She does have some tenderness over the deltoid and the biceps on the right.

ASSESSMENT AND PLAN: As for her diabetes, she is not checking her sugar at home and I will order an A1c and measure LDL. I will fill out the paper suggesting she can return to work in about a week and not to lift more than 10 pounds. I am going to have to think about what to do about her renewed anxiety and my role in resolving her difficulties with her job. Return in one week.

Joseph A. Ingelfinger MD

Beth Israel Deaconess Medical Center/Bowdoin Street Health Center
General Medicine/Primary Care

230 Bowdoin Street, Dorchester, MA 02122

Date: 11/20/13 Progress note Page 1

Signed by JOSEPH A INGELFINGER, MD on 11/26/13 at 10:48 am

BIRTHDATE: 01/22/1951 AGE 62

HINES, FRANCES

UNIT # 0742195

Vital Signs: BP: 120/80. Heart Rate: 81. Weight: 181. BMI: 31.1.
Temperature: 97.7. O2 Saturation%: 100.

Active Medication list as of 11/20/13:

Medications - Prescription

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Medications - OTC

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SUBJECTIVE: Ms. Frances Hines is followed for diabetes, hypertension, borderline elevation of hyperlipidemia and chronic problems with stress at her job. She comes today again for paperwork about her return to work, which she finds unappealing and is quite stressed about it at this time because of an assault several weeks ago. She also does not like her job because it is far from her house, has to take the bus and has to climb a lot of stairs, which is hard on her knee. She has started mental health counseling again with Ms. Brow, but only had 1 meeting. I had suggested that she find a counselor who could write a letter for disability for psychological reasons, but the first counselor she approached was not capable of doing that.

PHYSICAL EXAMINATION:

GENERAL: Looking her usual self.

VITAL SIGNS: Blood pressure 120/80.

LABORATORY DATA: Most recent Alc was 8 in October and LDL 118.

PLAN: I have encouraged her to take her atorvastatin. I have increased her metformin a month ago. I am going to see her back in about 4 weeks to reassess and I hope to be able to write some kind of letter for her job and reassess her lipids and diabetes control at that time.

Joseph A. Ingelfinger MD

eScription document:1-13388942

Beth Israel Deaconess Medical Center/Bowdoin Street Health Center
Social Work

230 Bowdoin Street, Dorchester, MA 02122

Date: 11/15/13 Progress note Page 2

Signed by AMY BROW, LICSW on 11/19/13 at 2:45 pm

BIRTHDATE: 01/22/1951 AGE 62

HINES, FRANCES

UNIT # : 0742195

CLINICAL ASSESSMENT:

Patient is a 62-year-old African American woman who comes in for supportive counseling in the context of work stressors. Patient endorses post trauma symptoms following an assault by a student two months ago. She also expresses feeling overwhelmed by her new assignment. Patient reports inability to sleep and high level of anxiety. May benefit from a medication evaluation with her PCP.

DIAGNOSIS (note any changes): PTSD

PLAN:

Provide supportive counseling focused on learning behavioral strategies to manage anxiety
Referral to PCP for medication assessment for poor sleep and anxiety

January 29, 2014

RE: Frances Hines .BID#: 074-21-95 DOB: 01/22/1951

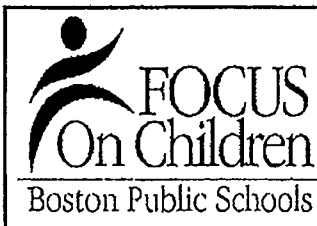
I have written several letters on behalf of Ms Hines. Physically she is limited by her knee as you know. Her shoulder seems to have healed'

Her main difficulties stem from her cognitive difficulties which I have communicated to you before. For her to function well she needs to work with consistent teachers, and a small number of students without special problems.

In such an environment she should function well. She can return to work February 14th.

Sincerely,

Joseph A. Ingelfinger, MD
Signed electronically: 01/29/14 at 10:21 am



Superintendent's Circular

School Year 2011-2012

Appendix D

EMPLOYEES WITH DISABILITIES – RIGHTS AND RESPONSIBILITIES

The Boston Public Schools is committed to the policy of nondiscrimination against qualified persons with disabilities, in accordance with Section 504 of the Rehabilitation Act of 1973, as amended, and its regulations, and with the Americans with Disabilities Act (ADA). This policy of nondiscrimination against qualified handicapped persons applies not only to education programs but also to the employment practices of the school system. The purpose of this circular is to acquaint you with some of the specifics of this policy of equal employment opportunity for qualified individuals with disabilities. A person with a disability is any person who (1) has a physical or mental impairment which substantially limits one or more major life activities, (2) has a record of such impairment, or (3) is regarded as having such impairment. Many of the terms in this definition require legal interpretations. Persons requiring greater detail may obtain a copy of the Regulations from the Office of Equity. Although not all-inclusive, examples of the range and variety of disabilities included are provided below:

Non-ambulatory Disabilities – Physical impairments, regardless of cause, that require an individual to use a wheelchair. In this category are individuals who are paraplegic, quadriplegic, hemiplegic, or who have had a limb or limbs amputated, etc.

Semi-ambulatory Disabilities – Physical impairments that cause a person to walk with difficulty, perhaps with the assistance of crutches, walkers or braces.

Coordination Disabilities – Impairments of muscle control to the limbs, resulting in faulty coordination.

Sight Disabilities – Impairments affecting vision totally or partially.

Hearing Disabilities – Impairments affecting hearing totally or partially.

Speech Impairments – Impairments affecting totally or partially the ability to communicate orally.

Learning Disabilities – Impairments that impede the normal learning processes.

Mental or Psychological Disorders – Impairments affecting normal mental processes or emotional stability.

Section 504 defines a "Qualified Disabled Person" for employment purposes as a person who meets legitimate skill experience, education, or other requirements of an employment position, and who can perform the "essential functions" of the position with or without reasonable accommodation. If the individual is qualified by a disability, the employer must consider whether the individual could perform these functions with a reasonable accommodation.

The ADA does not generally apply to individuals with minor, non-chronic conditions of short duration, such as a sprain, infection or broken limb.

Section 504 Regulations require that public school systems make all decisions concerning employment in a manner which ensures that discrimination on the basis of disability does not occur in any aspect of the employment relationship including:

appendix D

Silvia
Resnick

**SECTION 504 COMPLIANCE:
VOLUNTARY SELF-IDENTIFICATION OF EMPLOYEES WITH DISABILITIES**

Superintendent's Circular #EQT-1 Employees with Disabilities – Rights and Responsibilities, details the commitment of the Boston Public Schools to a policy of non-discrimination against qualified disabled persons. As part of that resolve, all employees of the Boston Public Schools are requested to respond to a "Voluntary Self-Identification of Disabled Employees form."

Providing this information is VOLUNTARY – even if you have a disability that is apparent to others, you are under no obligation to participate in this self-identification, and failure to do so will not result in any adverse action.

Be assured that any information you choose to provide will be held in strictest confidence, and will be known only to the BPS's Office of Equity. This information will NOT become part of your regular personnel file.

Please complete the form and return it promptly to the Office of Equity, 26 Court Street, Boston, MA 02108, 635-9650, fax 635-7940.

Examples of the range of disabilities covered by Section 504 and the Americans with Disabilities Act are:

1. non-ambulatory disabilities (i.e., those that require a person to use a wheelchair);
2. semi-ambulatory disabilities (i.e., those that cause a person to walk with difficulty or with the assistance of crutches, braces, etc.);
3. coordination disabilities;
4. sight, hearing or speech impairments;
5. learning disabilities;
6. mental or psychological disorders;
7. other conditions including heart disease, diabetes, epilepsy, cancer, acquired immune deficiency syndrome, alcoholism and drug addiction;
8. a history of any of the above disabilities.

HINES, FRANCES 074-21-95 F 00 JAN 22, 1951

Date: 01/11/11
Signed by BONNIE WONG, PhD on 02/03/11 at 2:53 PM
CLINICAL NEUROPSYCHOLOGY REPORT
BOSTON PUBLIC SCHOOLS
OFFICE OF EQUITY
2011 FEB 25 P 4 26

043004
RECEIVED

FEB 25 2011

HUMAN RESOURCES

PATIENT NAME: Frances Hines
DATE OF EVALUATION: 11 January 2011
DATE OF BIRTH: 22 January 1951
AGE: 59
HANDEDNESS: Ambidextrous, with no other left/ambidextrous family members
EDUCATION: High School + coursework
REFERRAL SOURCE: Amy Brown, LICSW
HOURS: 8 hours (78115)
BIDMC #: 074 2195

REASON FOR REFERRAL: Neuropsychological evaluation to clarify cognitive strengths and weaknesses and help identify compensatory strategies for the work environment.

SOURCE OF INFORMATION: Interview with patient; review of records.

RELEVANT HISTORY: Per medical records, Ms. Hines has demonstrated mild memory lapses and has had increased difficulty managing her responsibilities as a teacher's assistant in multiple classrooms. She has never received negative comments from teachers, but she has received two written evaluations from supervisors noting difficulties in classroom management. Ms. Hines felt these assessments were inaccurate and refuted the allegations. One evaluation, however, indicated that she had "met expectations" of the job, despite the qualitative assessment. Ms. Hines developed significant stress since her job has been threatened; she believes the school administration is forcing her out of her position. Although initially assigned a class with nine students (part of the original terms of her job), she is now asked to manage a class with 45 students and work with different a different teacher each week. Her request to return to the original configuration of a small class size with one teacher has been refused. Ms. Hines has filed claims with the Massachusetts Commission Against Discrimination based on race discrimination; while these claims were dismissed in 2005, she has renewed her claims of discrimination based on retaliation for past claims. She also filed in 2010 a claim with the EEOC based on age and disability discrimination and harassment. Ms. Hines reported no difficulties managing her medications, finances, or with driving (although she has not driven since 2005, after an accident totaled her car). Neither friends nor family has observed a significant decline in her functioning.

Medical history includes elevated cholesterol, hypertension, type 2 diabetes (diet controlled), and diagnosis of a learning difficulties and limited cognitive capacity in several domains (evaluated at MGH in 1999). She acknowledged being anxious (lifelong), and having developed symptoms of depressed mood in the context of her struggles at work. Sleep has been disrupted due to stress and anxiety. She tries to maintain a consistent

<https://holmes.caregroup.org/scripts/mgwms32.dll?MGWLPN=MYCROFT&WEST=131...> 2/6/2011

2012

To: [redacted]
From: [redacted]
Subject: [redacted]

Dear [redacted],

As a follow up to a telephone conversation regarding your accommodation, the email to your principal with a letter I notified your accommodation with the Office of Equity. The letter was forwarded to the Equity office on January 17, 2012. It is too late to be implemented for your dated January 11, 2012, that letter was responded to in putting your accommodation in place. You have been placed back into a small classroom with a teacher that you had before and you are not required to escort students up and down the stairs due to your walking disability.

The time you spent regarding a peer mentor to cope with difficult classroom situation and a need for support is one that you must follow up with your union representative, because it is a management/labor issue that must be addressed under the guidelines of the UFA contract.

If you have any further questions or if I can be of any assistance in the future please do not hesitate to contact me at 617-835-8103 or by email at liaisonboston.k12.ma.us.

Sincerely,

Larry W. Faison
Senior Equity Specialist

WINTER 2012

Falson, Larry

From: Falson, Larry
Sent: Thursday, January 12, 2017 12:32 PM
To: Townsend, Norman E
Cc: Frances Hines
Subject: SSA Accommodation

Hello: Edmund J. Townsend,

As a follow to our conversation today January 11, 2017, regarding Ms. Hines' accommodation with the Office of Equity, I have outlined below her accommodation based on the doctor's recommendation:

Two accommodation plan for Ms. Hines provides that she not be required to escort students up and down the stairs due to her physical condition.

The supervision of Lab Cluster students at lunch and recess does not conflict with her accommodation and is a part of her job responsibilities.

If you have any questions, please do not hesitate to contact me at 617-635-6335 or by email at lfalson@secon.k12.ma.us.

Regards,

Larry W. Falson
Senior Equity Specialist

Approved: [Signature]

RE: Frances Hines BID#: 074-21-95 DOB: 01/22/1951

To The Office of Equity,

In 2005 Ms Hines suffered a severe knee injury that has left her with a weak right leg and a stiff knee with decreased range of motion. She has a difficult time going up and down stairs. According to previous accommodation, I recommend that she not be required to escort students up and down the stairs. Additionally, she would benefit from having a job near her home.

Additionally, based on neuropsychiatric testing, she would benefit from the following:

- returning to small class size environment and working within the consistency/routine of a single teacher.
- written instructions and expectations to make the responsibilities of her job clear.
- continue with professional development workshops.
- a peer mentor to help her learn ways to cope with difficult class situations and for support.

I suggest her job continue to accommodate her disabilities and that these accommodations be re-instated immediately.

Accommodations requested are the same as those requested previously in 2010 and 2011 which you should have on file.

Sincerely,

Katherine M. Killian, MD
Signed electronically: 11/03/15 at 4:12 pm

SOURCE: OMR]

Appellee's Appendix

time to do so. Hines' need for additional time climbing stairs also does not make Hines disabled under the ADA. See Ramos-Echevarria v. Pichis, Inc., 659 F.3d 182, 189 (1st Cir. 2011) (affirming finding that plaintiff with epilepsy was not "disabled" under the ADA). To the extent Hines points to BPS's history of accommodations for Hines' physical limitations, that such accommodations may have been given, even when not legally required, does not satisfy her burden of showing that she is "disabled" for the purposes of her claim under the ADA.

The Court further concludes that Hines' cognitive limitations do not make her disabled within the meaning of the ADA because she has made no showing in this record about how those alleged disabilities affected any major life activities or her job at BPS. See Castro-Medina v. P&G Commer. Co., 565 F. Supp. 2d 343, 364 (explaining that "[a]n ADA claimant must specify which major life activity has been limited and only those grounds specifically raised [would] be considered by [the] court").

Although Hines is not "disabled" within the meaning of the ADA or Chapter 151B, Hines could still be eligible for protection if BPS "regarded" Hines as having an impairment and subjected her to an action prohibited by those statutes. The ADA, as amended in 2008, specifies that an individual may be "regarded as having [] an impairment" "whether or not the impairment limits or is perceived to limit a major life activity." 42 U.S.C. § 12102(3)(A) (internal quotation mark omitted).

BPS argues that, despite arranging for certain accommodations to Hines, it did not "regard" her as being disabled. D. 44-1 at 6-7. In support of its arguments, BPS points to a letter from September 2010, in which Faison from the BPS Office of Equity wrote to Hines explaining that her weak leg and stiff knee "[did] not meet the requirements of a qualified individual with a disability." D. 44-7 at 36. Faison also explained that if Hines wished to have her learning disability

Placard Front

Frances H

Placard Back

PL4360389

Expires:

06-02-27

**Disabled Persons
Parking Identification Placard**



Important: Remove before driving vehicle

PL4360389

NON-TRANSFERABLE

06-02-27

WARNING

**Wrongful use by any
other person carries
60 day loss of license,
placard revocation, \$500
fine for 1st offense. \$50
fine for covering placard
number/date.**

HP Security Sleeve

10353

**For use in private passenger
vehicle only
Mass.gov/RMV**

Massachusetts

Appendix A

7. On May 12, 2010 my doctor recommended that BPS give me an accommodation for walking disability after my accident in 2005.
8. Despite the request, I was still assigned to a special education class that required me to go up and down stairs.
9. In November, 2011, BPS teacher, Dominique Monroe, would verbally berate me.
10. In January 2012, I filed a complaint with the Massachusetts Department of Elementary and Secondary Education.
11. In February 2012, I was assaulted by a student in my classroom, while working with Ms. Monroe.
12. I was singled out for abusive treatment because of my disability at Tynan School (2003, 2013) and at the Ellis School (2004-2012).
13. On April 22, 2013, I was forced out of the Ellis School after I raised issues of harassment by teachers and assaults by students.
14. George Martin was the Assistant Principal at the Ellis School.
15. I was assigned to the Tynan School involuntarily. When I arrived at the Tynan School in September 2013, I informed the principal, Leslie Gant, of my 504 accommodations. I gave her a copy of it and emailed her a copy.
16. Despite telling the principal of my need for accommodations, she had me going up and down stairs.
17. When Dr. Ingelfinger referred to me being reassigned, he meant to the Tynan School.
18. Other non-disabled employees, such as Ms. Dominique Monroe, had poor management skills when it came to dealing with students in the Lab cluster.
19. The children in the Lab classes had social and emotional disabilities.

Appendix
E

Placard Front

Frances H

Placard Back

Appendix F

Important: Remove before driving vehicle

PL4360389

NON-TRANSFERABLE

06-02-27

PL4360389

Expires:

06-02-27

**Disabled Persons
Parking Identification Placard**



WARNING

Wrongful use by any
other person carries
60 day loss of license,
placard revocation, \$500
fine for 1st offense. \$50
fine for covering placard
number/date.

Appendix F

HP Security Sleeve

10353

For use in private passenger
vehicle only
Mass.gov/RMV

Massachusetts

Appendix F

Exhibit 1

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

No. 1:15-cv-11897-DJC

FRANCES HINES

v.

AMENDED COMPLAINT

CITY OF BOSTON
BOSTON PUBLIC SCHOOLS

PARTIES

1. Frances Hines, the plaintiff, a black female citizen of the United States, is a member of the protected class and a resident of Suffolk County, living at 23 Westminster Avenue, Roxbury, Massachusetts. Plaintiff is a handicapped person, protected by the Rehabilitation Act of 1973, by reason of a record of both physical impairment, weak left leg and a stiff knee with decreased range of motion, as well as mental impairment, having been diagnosed with Learning Disability and Attention Deficit Disorder. By reason of these disabilities, it has been difficult and burdensome for the plaintiff to discharge her duties as a paraprofessional within the Boston Public Schools.
2. The defendant City of Boston, is a corporate entity duly organized and doing business under the laws of the Commonwealth of Massachusetts with its headquarters at City Hall Square, Boston, Suffolk County, Commonwealth of Massachusetts. The defendant, a local government entity which directs, supervises and maintains the Boston Public Schools ('BPS'), is responsible for the enforcement of state and federal laws

Appendix
G

Appendix G

including Title VI and the provisions relative to fair employment practices, as explicated by both Massachusetts and federal law. The City of Boston receives federal funds and as a quid pro quo, for receipt of same, has agreed to observe federal law relative to fair employment practices, including but not limited to those set forth in S.501 of the Rehabilitation Act of 1973, (29 USC S.791) and its Regulations. The Boston Public Schools is an employer under Title I of the Americans With Disabilities Act and is a recipient of federal funds.

3. Plaintiff is entitled to commence this private action under SS 501 and 505 of the Rehabilitation Act (29 U.S.C.A. S791, 29 U.S.C.A. S.794a). This court has jurisdiction pursuant to 28 U.S.C.A. SS 1331, 1343.

FACTS

4. Plaintiff, first began working for the BPS, under a contract at will, on or about 27th.February, 1995. Plaintiff was transferred to the Ellis School in September, 2004. Plaintiff, a member of the protected class, was qualified for the employment and satisfied the duties of her duties.
5. At the time of the initial employment, the City of Boston had written policies on Fair Employment Practices, Diversity and Affirmative Action which were supposed to have been provided to employees in connection with their initial employment. In entering into her contract of employment with and remaining in the employ of the BPS, plaintiff relied upon the provisions of the said policies, especially those relative to fair employment practices. Plaintiff was a member of the Union (‘hereinafter “the union”)which represented the Bargaining Unit at the BPS. The contract provided, inter alia, that the City of Boston would observe fair employment practices, in all phases of the employment and that the City would bargain in good faith over grievances.

6. In or about 2005, plaintiff suffered a severe injury to her knee, which left plaintiff with a weak left leg and a stiff knee with decreased range of motion.
7. In 6th.September, 2006 and again on 15th.October, 2008, plaintiff filed Charges of discrimination, on account of race and retaliation, respectively, at the MCAD, against the employer.
8. Beginning on or about 9th.November, 2011, plaintiff suffered from invidious and retaliatory interference with the terms and conditions of her contract of employment, by virtue of the actions of two teachers, Mrs. Mortenson and Ms.Dominique Monroe who subjected plaintiff to a campaign of discriminatory and retaliatory harassment, which includes but is not limited to the following: assigning plaintiff to supervise two special education classes during lunch and recess; taking away outdoor recess for plaintiff's students, which forced plaintiff to supervise indoor recess in the cafeteria. Ms.Monroe would verbally berate the plaintiff in the presence of students, including, denigrating her management skills and told plaintiff, in sum and substance, that if plaintiff were to complain, that teachers could do things to make plaintiff leave.
9. The actions of Mrs. Mortenson and Ms.Monroe, were inconsistent with the normal practice of the BPS, caused plaintiff to suffer increased pain and anxiety and were designed to make plaintiff's conditions at work so uncomfortable so as to force her to involuntarily separate from employment.
10. Plaintiff's physician had made a suggestion (in a writing under date of 12th.May, 2010) of an accommodation at the place of employment. The same writing also indicated that the plaintiff had been diagnosed with Attention Deficit Disorder and Learning Disability.

11. The defendant was made aware of plaintiff's injuries, ADD and Learning Disability and of the request for reasonable accommodation.
12. Despite its knowledge of the plaintiff's injuries, the defendant, in September, 2011, assigned plaintiff to a special education class, where her duties included traversing stairs.
13. On or about 30th.January, 2012, plaintiff filed a Complaint with the Massachusetts Department of Elementary & Secondary Education, in which complaint, plaintiff alleged harassment by Ms.Monroe and another teacher.
14. Defendant knew that students in special education classes were unruly including, having the tendency to engage in assaultive conduct toward other students and teachers and that the plaintiff, because of her disability, would be a likely target of assaultive conduct.
15. As a result of the omission of the defendant to provide a reasonable accommodation to plaintiff, an unruly student on or about 2nd.February, 2012, did assault and beat the plaintiff.
16. Plaintiff, consequent upon this incident, suffered injuries and was forced to take medical leave.
17. Upon her return to the workplace, the Ellis School, on or about 13th.February, 2012, together with the building representative, Mr.Rehka and Ms.Monroe, plaintiff met with the Principal, Mr.Townsend and raised the issues of verbal abuse from teachers, including the said Ms.Monroe and [REDACTED] and requested a transfer to another class.
18. Mr.Townsend, even though he was aware of plaintiff's disabilities and the need for a reasonable accommodation, declined to transfer plaintiff to a different class, with the result that plaintiff was forced to perform her duties in a workplace made hostile with assaultive conduct of

students, the threat of further assaultive conduct, disability discrimination and retaliation at the hands of Ms. Monroe, who continued to harass plaintiff.

19. The retaliatory refusal of Mr. Townsend to promptly and thoroughly investigate plaintiff's complaints and to provide the accommodation, contributed to the fact that students blamed the plaintiff for curtailment of their privileges which led to a further assault upon the plaintiff by an unruly student.
20. On or about 24th.November, 2015, the defendant, in writing, notified plaintiff that it would modify her work assignment, following upon an interactive exercise, relative to plaintiff's request for accommodation.
21. The accommodation offered, included but was not limited to the employer's promise of continuing conversation relative to strategies to help reduce plaintiff's stress and anxiety levels.
22. Notwithstanding its assertion that it would provide reasonable accommodation, defendant has omitted to do so, with the result that the plaintiff has been forced to continue to work in an environment, rendered hostile by retaliatory measures from teachers and by the fear of further assaults from unruly students. The continued harassment of the plaintiff and continuation of the hostile environment, constitute a withdrawal of the purported reasonable accommodation.
23. The defendant, after plaintiff complained of acts of harassment, and in retaliation for such complaints, transferred the plaintiff to the Tynan School.
24. The stressful conditions under which plaintiff has been forced to work, have interfered with the terms and conditions of her employment, caused an increase in the levels of stress and anxiety which she has experienced and has undermined her ability to perform her duties.

25. But for the need for financial remuneration on which to subsist, plaintiff would have separated, involuntarily from employment.
26. The conditions of employment have become so intolerable, stressful and nerve racking, that any reasonable person, in plaintiff's class, would have separated from employment.
27. The invidious interference with the terms and conditions of the plaintiff's employment, constituted a repudiation by defendant City of Boston, of the provisions of the Collective Bargaining Agreement.
28. The defendant, by refusing to investigate plaintiff's complaints and take appropriate remedial action, caused and perpetuated, a hostile work environment with regard to plaintiff and subjected plaintiff to retaliation.
29. Plaintiff is a qualified individual with a disability as that term is defined in the ADA.
30. The defendant and its supervisory officials, by virtue of their adamant refusal to conduct a comprehensive investigation of plaintiff's complaints, as required by the City of Boston's and the Commonwealth's Affirmative Action/Diversity Policies and by Titles VI and VII of the Civil Rights Act and the accompanying Regulations, and to take meaningful steps to halt the harassment and discrimination, have indicated approval of the wrongful acts of the teachers and principal, engaged in retaliation and interference with the terms and conditions of plaintiff's employment.
31. The violations above alleged and the continuing retaliatory interference with the terms and conditions of plaintiff's employment, are consistent with policies and practices implemented and effectuated by the office of Human Resources and other employees of the defendant. In implementing

the policies and practices, above described, the Director of the office of Human Resources and others employed by the defendant, acted as employees or agents of the defendant within the scope or course of their employment or agency.

32. The wrongful acts of the defendants, occurred primarily in Suffolk County, were and are continuing and upon information and belief, supervisory officials have agreed to falsify the facts concerning plaintiff's employment, prepare and submit false affidavits and writings in connection with the adjudication of any administrative Charge(s) filed at MCAD and the litigation of the instant Complaint and to do whatever is deemed necessary to deny plaintiff effective redress of her grievances at any administrative proceeding and in a court of law.
33. Plaintiff has exhausted her administrative remedies, by filing a Charge at the MCAD. All conditions precedent to the institution of this action have been satisfied and have occurred.
34. As a direct and proximate result of the foregoing, plaintiff has been caused to suffer pain in mind and body, has been forced to expend monies for medical care and attendance, has been prevented from transacting her business and has been otherwise damaged.

CAUSES OF ACTION-CITY OF BOSTON

35. Plaintiff repeats and realleges all of the averments of paragraphs 1 through 34 with the same force and effect as if fully set forth herein.

COUNT ONE:

36. By reason of the foregoing, defendant City of Boston subjected plaintiff to disability discrimination. G.L.c.151B(4); 42 USC S. 12112(a) and 29 U.S.C. s.794(A).

COUNT TWO:

37. By reason of the foregoing, by failing to provide plaintiff with a reasonable accommodation that would have enabled plaintiff to perform her duties without invidious interference with the terms and conditions of her employment and subjecting plaintiff to a hostile work environment, defendant City of Boston violated 42 U.S.C. S. 12112 (b)(5)(A) and 29 U.S.C. S. 794(a); G.L. c.151B(4).

COUNT THREE

38. By reason of the foregoing, defendant City of Boston subjected plaintiff to interference with her right to due process, protected by the Fourteenth Amendment to the constitution of the United States and by 42 U.S.C. S.1983.

COUNT FOUR

39. By reason of the foregoing, defendant City of Boston created and perpetuated a hostile work environment and interfered with the terms and conditions of plaintiff's employment. G.L.c.151B(4); 42 USC, S.12112 (a) and 29 U.S.C. S.794 (a).

COUNT FIVE

40. By reason of the foregoing, defendant City of Boston, in bad faith and on account of her disability and plaintiff's exercise of protected rights,

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COUNT FIVE

40. By reason of the foregoing, defendant City of Boston, in bad faith and on account of her disability and plaintiff's exercise of protected rights,

including rights under the Collective Bargaining Agreement ('CBA'),
breached and repudiated the terms of the said CBA.

WHEREFORE, plaintiff prays that this court:

1. Award compensatory damages, including back and front pay.
2. Award punitive damages.
3. Declare that the defendant has engaged in discriminatory and retaliatory conduct and order that it cease and desist from such misconduct.
4. Award costs and expenses, including reasonable attorney's fees.
5. Grant such other and further relief as may be equitable and just.

JURY TRIAL DEMAND

Plaintiff, Pro Se

Frances Hines
Frances Hines
23 Westminister Avenue
Roxbury, Ma. 02119
(617)-427-9988

Appendix C

BREACH OF CONTRACT

Article IIA3(b) the Principal and Director of Personnel must investigate all allegations of assault against a paraprofessional. The Director of Personnel never met with Plaintiff to investigate or to help her.

Article IVB1 failed to implement contract's policy of non-discrimination. Both BPS and Union failed to implement affirmative action.

Appendix H

HOSTILE WORK ENVIRONMENT

1. She is a member of a protected class
2. She was subjected to unwelcome harassment
3. The harassment was based on her membership in the protected class.
4. The harassment was so severe or pervasive that it altered the condition of her employment and created an abusive work environment.
5. The objectionable conduct was objectively and subjectively offensive such that a reasonable person would find it hostile or abusive and the victim in fact did perceive it to be so.
6. That some basis for employer liability has been established.

RETALIATION

1. She engaged in protected conduct- She requested a reasonable accommodation for her disability.
2. She was subjected to an adverse action by BPS
3. There was a causal connection between the protected conduct and the adverse action.

Falson, Larry

From: Falson, Larry
Sent: Thursday, January 12, 2012 12:32 PM
To: Townsend, Norman E.
Cc: Francis Hines
Subject: ADA Accommodation

Wallo Principal Townsend N,

As a follow to our conversation today January 11, 2012, regarding Ms. Hines' accommodation with the Office of Equity, I have outlined below her accommodation based on her doctor's recommendation:

The accommodation plan for Ms. Hines provides that she not be required to escort students up and down the stairs due to her medical condition.

The supervision of Lab Cluster students at lunch and recess does not conflict with her accommodation and is a part of her job responsibilities.

If you have any questions, please do not hesitate to contact me at 617-635-8316 or by email at lfalson@boston.k12.ma.us.

Regards,

Larry W. Falson
Senior Equity Specialist

Appendix
I

Approved by Principal

1
To: [redacted]
From: [redacted]
Subject: [redacted]

Re: [redacted]

As a result of your request regarding your accommodation, the email to your principal dated [redacted] regarding your accommodation with the Office of Equity. The email dated [redacted] that you forwarded to the Equity office on January 17, 2012 is the one I am referring to. I dated January 11, 2011, that letter was responded to in writing. You are the letter in place. You have been placed back into a small classroom with a single teacher that you had before and you are not required to escort students up and down the stairs due to your walking disability.

The issue you raised regarding a peer mentor to cope with difficult classroom situation and a need for support is one that you must follow-up with your union representative, because it is a management/labor issue that must be addressed under the guidelines of the BTA contract.

If you have any further questions or if I can be of any assistance in the future please do not hesitate to contact me at 617-675 8305 or by email at lfalson@boston.k12.ma.us.

Respectfully,

Lucy W. Falson
Senior Equity Specialist