

RIGHTS STUFF

A Publication of The City Of Bloomington Human Rights Commission



CITY OF BLOOMINGTON

BHRC Honors Annual Essay & Art Winners



Mayor John Hamilton and the winners of the 2022 BHRC Essay/Arts Contest.

The Bloomington Human Rights Commission honored the winners of its annual essay and art contest at a reception on May 17.

The awards were presented by Mayor John Hamilton. Hamilton discussed the important decisions leaders have to make, many of which boil down to this year's theme, "My Rights. Your Rights. Our Rights."

The essay winners were first place, Cameron Christie, Templeton; second place, Robert Cole, Childs; and tied for third place, Jo Fitzpatrick, University and Cora Hall, Childs.

The art winners were first place, Phoebe Mendota, Templeton; second place, Carter Bailey, Lakeview; and third place, Reese Korte, Lakeview.

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Tenant Loses Lawsuit

The BHRC often receives calls from people wanting to file a complaint against their landlords because of the condition of their apartment. Such calls do not usually raise a discriminatory issue. A federal district court recently issued a ruling about a similar matter.

Alex DeJesus rented a room in Pennsylvania for a month, for \$500. He said the apartment had no heat. At the end of the month, the landlord gave him an order to vacate the apartment. He sued in federal court, alleging violations of the Fair Housing Act (FHA) and of the Constitution, representing himself, and lost.

The court dismissed the FHA complaint because DeJesus didn't allege that the landlord had discriminated against him on the basis of his race, color, religion, sex, familial status, national origin or disability. Rather, he alleged that the landlord had rented him an illegal, unheated apartment, which may violate state law but isn't necessarily discriminatory.

The court also dismissed the constitutional claims because the landlords were private citizens, not state actors. The constitution applies only to state actors.

The court told DeJesus that he would be given an opportunity to amend his complaint to allege illegal discrimination under the FHA. The case is [DeJesus v. Lucey](#), 2022 WL 44004 (D.Ct. E.D. Pennsylvania.)



If you rent in Bloomington and have concerns about the conditions of your apartment, you should contact the City's Housing and Neighborhood Development Department at 812-349-3420 or email hand@bloomington.in.gov. They may be able to help you. If you have concerns about possible housing discrimination, please call the BHRC.

FOLLOW US ON FACEBOOK



The BHRC has a Facebook page where you can find up-to-date information and additional content.

Find us by searching on Facebook for City of Bloomington, IN - Human Rights Commission



Look for the Bloomington and Monroe County Human Rights Commissions at the Fourth of July Parade!

What Does “For Cause” Mean?

Despite the fact that the BHRC does not have jurisdiction over constitutional claims, we often get questions about such issues. A recent case from Madison, Indiana, shows how First Amendment violation claims can parallel employment termination claims.

Robert Waller was a member of several community boards and commissions in the City of Madison, including the Plan Commission, the Board of Zoning Appeals and the Police Merit Commission. The former mayor appointed him to the BZA and the Plan Commission; police officers selected him to serve on the police merit commission.

In December, 2020, the Madison Board of Public Works held a public hearing about changing the police department’s standard operating procedures. The current mayor, Bob Courtney, is on the BPW. Waller spoke at the meeting, apparently representing the merit commission. He wanted to stop the vote on the proposed revisions. He and Mayor Courtney engaged in a “lengthy and argumentative exchange on the proposal and related issues.”

Three weeks later, the mayor wrote Waller, rescinding his appointments to the BZA and the Plan Commission. He said, among other things, that Waller had engaged in a combative nature of conduct which was unbecoming a mayoral appointment, had made false allegations against the mayor and the chief of police, had displayed a condescending attitude towards



the public steering committee and had lost the mayor’s trust that he could competently and fairly carry out his duties to the boards.

Waller sued, citing his first amendment rights and state law.

Waller said that state laws provide that the appointing authority (in this case, the mayor) could remove him only for cause, and that the mayor did not have good cause for rescinding his appointment.

The court of appeals noted that “for cause” is not defined by the state law, and has not been interpreted often by the courts. It said that it was “therefore reasonable to conclude that the legislature intended local appointee removal ‘for cause’ to mirror the meaning in employment law.”

They decided that “cause” has to be “something related to an appointee’s ability to perform the post in question and not just any

reason relied upon by the appointing authority.”

The court also said that in these cases, courts should apply the Pickering First Amendment doctrine used in employment cases, balancing the employee’s (or appointee’s) First Amendment interests against the government’s interest as an employer (or appointer) in operational effectiveness and efficiency.

The Indiana court of appeals remanded the case to the trial court to apply the Pickering doctrine and its interpretation of “for cause” to Waller’s case.

The case is Waller v. City of Madison, 183 NE 3d 324, (IN Ct. of App. 2022). If you have questions about fair employment laws, please contact the BHRC. If you have questions about your right to remain on a governmental board or commission, please contact a private attorney.

Iowa Law Prohibiting Mask Mandates At Schools Violates ADA

In May, 2021, Iowa Governor Kim Reynolds signed a bill into law that prohibited schools from requiring anyone to wear a mask at school. Parents of children at high risk if they caught COVID-19 sued, and won.

The parents said that with the new law, they had to withdraw their children from school due to the health risks, or were forced to send their children to school despite the risks, since some schools had stopped offering remote learning options.

The schools argued that they should not have to make everyone at school wear masks because of some children's needs, but that was not what the parents were asking. They wanted the schools to be able to



craft mask rules based on individual students' needs.

The court noted that "face masks, like wheelchair ramps, render school buildings accessible to a part of the public – students and adults alike – that otherwise could not access them as the rest of the public does."

The court granted the parents' request for a preliminary injunction.

The case is ARC of Iowa v. Reynolds, 2022 WL 211215 (8th Cir. 2022). If you have questions about the ADA, please contact the BHRC.

Subway Agrees to Settlement

In May, the Equal Employment Opportunity Commission (EEOC) announced that a Subway restaurant in Arizona had agreed to pay \$30,000 and furnish other relief to settle a disability discrimination lawsuit.

The EEOC said that in 2019, Subway hired a young man to work in its restaurant. Before they hired him, his mother told management that her son would need accommodations because of his autism and ADHD. She told them that he would need specific instructions for tasks, redirection and someone to follow up to make sure he understood the assigned tasks.

According to the EEOC, the restaurant agreed to provide these accommodations. But, they did not. Instead, they fired him after he worked only four shifts because of his disability and/or his need for accommodations.

In addition to paying \$30,000, Subway agreed to amend its equal employment opportunity policy, conduct training on disability discrimination, provide reports to the EEOC and post an anti-discrimination notice.

If you have questions about fair employment practices, please contact the BHRC.

The next BHRC meeting will take place at 5:30 p.m. June 27, 2022, in McCloskey Room 135, in Shower's City Hall and online.

Visit our website or Facebook page for the most up-to-date meeting information.