

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

EMILY YEN,)
)
Plaintiff,)
)
v.)
)
)
VIRGINIA EDUCATION ASSOCIATION, INC.)
)
SERVE: David E. Nagle, Esq.)
Registered Agent)
116 South Third Street)
Richmond, VA 23219)
)
)
Defendant.)
)

Civil Case No. CL23005644-00

COMPLAINT

NOW COMES the plaintiff, Dr. Emily Yen ("Plaintiff" or "Dr. Yen"), by and through her undersigned counsel, Broderick C. Dunn, Esq., Maria E. Stickrath, Esq., and the law firm of Cook Craig & Francuzenko, PLLC, and for her Complaint against the defendant, Virginia Education Association Inc. ("Defendant" or "VEA"), states as follows:

1. This case is a civil action involving the Virginia Whistleblower Protection Law, Va. Code § 40.1-27.3 (the "VWPL").

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to Va. Code § 8.01-328.1 because, among other reasons, Defendant resides and transacts business in the Commonwealth.

3. Venue is proper in this Court pursuant to Va. Code § 8.01-262 because, among other reasons, Defendant has appointed an agent to receive process in the City of Richmond.

PARTIES

4. Plaintiff is an adult resident of the City of Charlottesville.

5. Defendant is a nonstock corporation with its principal office address located at 8001 Franklin Farms Drive, Suite 200, Richmond, VA 23229.¹ Founded in 1863, VEA is a “union dedicated to advancing quality instruction and curriculum, adequate funding, and excellent working conditions for Virginia public employees.”

FACTUAL BACKGROUND

6. Dr. Yen is an Asian American woman who holds a Doctor of Philosophy in Sociology from the University of California, Los Angeles.

7. On August 1, 2022, VEA hired Dr. Yen as an ARPA Research Coordinator.² Dr. Yen was a probationary employee until August 1, 2023.

8. Dr. Yen has been an exemplary employee of VEA and has consistently exceeded VEA’s legitimate business expectations as evidenced by positive feedback from her superiors and peers. Dr. Yen was also recently nominated by the Association of Research and Bargaining Professionals to be the Vice President of Research and she currently serves as Chair of the Labor Studies Division of the Society for the Study of Social Problems.

9. When Dr. Yen was initially offered the position of ARPA Research Coordinator, VEA offered her a Step 1 salary of \$68,000 per year.

¹ Upon information and belief, VEA has moved addresses; however, as of the date of this Complaint, VEA’s principal office address is still listed as 116 S. 3rd Street in the City of Richmond with the Virginia State Corporation Commission.

² Dr. Yen’s position was later changed to ARPA Coordinator/Researcher.

10. Dr. Yen was surprised by this low placement, considering she came to VEA with eleven (11) years of academic research and organizing experience, had served as President of UAW 2865 union, and has a PhD in Sociology.

11. Dr. Yen then contacted Kevin Shaver ("Mr. Shaver"), VEA's Director of Human Financial Resources, regarding the low salary offer. Mr. Shaver told Dr. Yen that, because the position was funded by a grant from the National Education Association ("NEA") and, as a condition of the grant, her position had a salary cap of \$100,000 for the employee's salary and benefits.

12. Mr. Shaver told Dr. Yen that VEA could potentially place her at a higher step; however, this would depend on whether she elected health care coverage for a single person or for a family. Mr. Shaver then asked Dr. Yen whether she had any children, which Dr. Yen found to be inappropriate.

13. After this conversation, Mr. Shaver sent Dr. Yen a revised offer placing her at a Step 2 salary.

14. The next day, Dr. Yen called Mr. Shaver to discuss the new offer. Mr. Shaver told Dr. Yen that her salary could not exceed \$100,000 and that the previous ARPA Research Coordinator, Chad Stewart ("Mr. Stewart"), a white male, was also placed at Step 2 when he started with VEA.

15. Dr. Yen accepted the Step 2 salary.

16. Dr. Yen soon came to learn, however, that Mr. Shaver's representations regarding Mr. Stewart's salary were false.

17. Dr. Yen learned that VEA had actually offered to place Mr. Stewart at Step 7 and, after negotiations, offered Mr. Stewart a salary at Step 8.

18. Further, Mr. Stewart came to VEA with less experience than Dr. Yen. Mr. Stewart had no bargaining experience and did not have a PhD. Instead, Mr. Stewart worked for a think tank for 6 years and also spent 5 years as a teacher. Mr. Stewart only had a Master's Degree and a graduate certificate.

19. Upon learning this information, Dr. Yen reached out to the President of the Virginia Professional Staff Association for a written rationale regarding her placement at Step 2.

20. Dr. Yen received this rationale on May 12, 2023 and learned that VEA had only credited Dr. Yen with 9 years of relevant experience and her education, whereas VEA credited Mr. Stewart with 10 years of relevant experience

21. Dr. Yen then obtained a copy of the grant from NEA for her position. Upon reviewing the grant, Dr. Yen found out that VEA was permitted to spend more than \$100,000 on her position and had intended to do so.

22. On May 31, 2023, Dr. Yen engaged in protected activity when she reported to her supervisor, W. Shane Riddle ("Mr. Riddle") that she was being discriminated against on the basis of her gender in violation of Title VII of the Civil Rights Act ("Title VII"), the Virginia Human Rights Act ("VHRA"), and the Lilly Ledbetter Fair Pay Act.

23. Specifically, Dr. Yen told Mr. Riddle that she was being paid less than a similarly situated, non-female colleague despite having more experience.

24. Dr. Yen repeated these allegations during a Stage 1 grievance hearing on Dr. Yen's claims.

25. On September 11, 2023, the grievance was resolved in Dr. Yen's favor. Dr. Yen was awarded backpay and a salary adjustment moving forward.

26. Just weeks after Dr. Yen's successful grievance, on November 27, 2023, VEA terminated Dr. Yen's employment, effective February 8, 2024, in retaliation for engaging in the grievance process and for reporting VEA's violations of Title VII, the VHRA, and the Lilly Ledbetter Fair Pay Act. The Notice of Dr. Yen's termination is attached hereto as **Exhibit A**.

27. As a result of VEA's actions, Dr. Yen has been, and continues to be, damaged.

COUNT I

(Virginia Whistleblower Protection Law, Va. Code § 40.1-27.3)

28. Plaintiff restates and realleges the allegations contained in paragraphs 1-27 of the Complaint as if fully set forth herein.

29. Plaintiff engaged in protected activity when she, in good faith, reported violations of Title VII, the VHRA, and the Lilly Ledbetter Fair Pay Act to her supervisors.

30. Defendant responded to Plaintiff's good faith reports by notifying Dr. Yen on November 27, 2023 that her employment would be terminated effective February 8, 2024.

31. As a result of Defendant's actions, Plaintiff has been damaged.

PRAYER FOR RELIEF

32. WHEREFORE, the plaintiff, Emily Yen, respectfully requests that the Court enter judgment in her favor against the defendant, Virginia Education Association, Inc. and grant the following relief:

- a. Judgment against Defendant for violation of the Virginia Whistleblower Protection Law in the amount of \$500,000;
- b. An injunction to restrain Defendant from terminating Plaintiff's employment on February 8, 2024;

- c. To the extent an injunction is not awarded, reinstatement of Plaintiff to the same position she held before the retaliatory action;
- d. Plaintiff's reasonable attorneys' fees and costs provided by Virginia Code § 40.1-27.3(C);
- e. Such other and further relief as the Court may deem appropriate.

Jury Demand

Plaintiff hereby requests a trial by jury on all issues so triable.

DR. EMILY YEN

By counsel: _____

A handwritten signature in dark ink, appearing to read "B.C. Dunn", written over a horizontal line.

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Counsel for Plaintiff Dr. Emily Yen



Dear Emily,

I am writing to inform you of VEA's decision to eliminate the position of ARPA Coordinator effective February 8, 2024.

As you know, in late 2021, VEA received a grant in the amount of \$100,000 from the National Education Association to fund VEA to hire an individual to "serve as the coordinator for implementation of the American Rescue Plan" within Virginia. That grant was renewed for a second year.

VEA has decided to eliminate this position. As an initial matter, by the end of calendar year 2023, VEA will have fully spent the entirety of the \$100,000 grant awarded to NEA for the second year. While there is no prohibition in the grant on VEA spending more than the grant amount, given ongoing losses of VEA membership dues that have resulted in an operating budget deficit, VEA has determined that it does not want to continue this position through funding drawn from VEA's general funds. Nor has VEA sought renewal of the grant for any additional period of time. In this regard, the terms of the agreement between VEA and NEA provided that this grant is "for a maximum of two years." VEA's internal and external job posting for this position confirmed the temporary nature of the position, stating that the position was "funded for a one-year period," with "[f]unding for a second year [as a] possib[ility]."

Given these financial realities and given the decreasing amount of research work surrounding the "optimiz[ation] and leveraging [of] the allocation and spending" of funds from the American Rescue Plan, VEA has decided to eliminate this position effective February 8, 2024, and, as a result, you will be laid off from your employment with VEA effective that date as well.¹ Pursuant to Article 27 of the VEA-VPSA CBA, VEA will provide you with \$2,000 on the first payday after the effective date of your layoff and will continue to provide you with health, dental, and vision insurance through the end of March 2024 with VEA paying the customary portion of the premiums for such coverage. Beginning April 2024, you will be permitted to elect to continue coverage in accordance with COBRA. We will send such paperwork in a separate letter.

Thank you for your service to VEA.

Sincerely,

A handwritten signature in black ink that reads "Brenda Pike".

Dr. Brenda Pike

Executive Director

Cc: [VPSA President]

¹ Pursuant to Article 27.6, VEA will offer an incentive of \$7,000 to bargaining unit members with ten or more years of service with VEA with the right to elect such incentive in order of seniority. We are not however aware of any position occupied by an employee with ten or more years of service for which you would be qualified. As a result, the offer of this incentive will not change the decision either to eliminate the ARPA Coordinator/Research position or your resulting layoff.

