OAH 71-0325-38658

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Rebekah Bradfield,

Complainant,

v.

ISD 624 (White Bear Lake Area Schools),

Respondent.

ORDER FINDING NO PRIMA FACIE VIOLATION AND DISMISSING COMPLAINT

On September 16, 2022, Rebekah Bradfield (Complainant) filed a Fair Campaign Practices Complaint (Complaint) with the Office of Administrative Hearings (OAH). The Complaint alleges that ISD 624 (White Bear Lake Area Schools) (Respondent or School District) violated the Fair Campaign Practices Act[1] by disseminating material that included a false claim.

The Chief Administrative Law Judge assigned this matter to the undersigned Administrative Law Judge pursuant to Minn. Stat. § 211B.33.

After reviewing the Complaint and for the reasons set forth in the attached Memorandum, the undersigned Administrative Law Judge finds that the Complaint does not establish a prima facie violation of Minn. Stat. §§ 211B.01-.37.

Based upon the record in this case, the Administrative Law Judge issues the following:

ORDER

The Complaint is **DISMISSED**.

Dated: September 21, 2022

JESSICA A. PALMER-DENIG
Administrative Law Judge

[1] Minn. Stat. §§ 211B.01-.37 (2022).

NOTICE

Under Minn. Stat. § 211B.36, subd. 5, this Order is the final decision in this matter. A party aggrieved by this decision may seek judicial review as provided in Minn. Stat. §§ 14.63-.69 (2022).

MEMORANDUM

I. Factual Background

Complainant alleges that, on or about September 15, 2022, the School District disseminated a mailing to residents within the School District that included a false claim.[2] According to the Complaint, the mailing concerns a levy renewal ballot question that district residents will be asked to vote on in the November 8th general election.[3] Complainant asserts that the mailing is entitled "10 facts every voter should know" and includes a disclaimer that states: "This publication is not circulated on behalf of any candidate or ballot question."[4] Complainant maintains that the disclaimer "is a false claim and violates 211B."[5]

II. Standard for Prima Facie Determinations

To establish a prima facie violation of the Fair Campaign Practices Act, the complainant must allege sufficient facts to show that a violation of law has occurred.[6] The complaining party must submit evidence or allege facts that, if accepted as true, would prove a violation of Minn. Stat. §§ 211A.01-.14, 211B.01-.37 (2022).[7]

For purposes of a prima facie determination, this tribunal must accept the facts that are alleged in the Complaint as if they are true, without independent substantiation, provided that those facts are not patently false or inherently incredible.[8]

In determining whether a complaint alleges sufficient facts to state a prima facie case, reasonable inferences must be drawn in the light most favorable to the complainant.[9] A complaint is dismissed at the initial review stage only if it does not allege facts that, if accepted as true, would prove a violation of law.[10] If there is enough evidence to support a prima facie determination, the Administrative Law Judge must set the case on for additional proceedings.[11]

---

[2] Complaint (Sept. 16, 2022).
[3] *Id*.
[4] *Id*.
[5] *Id*.
[6] Minn. Stat. § 211B.32, subd. 3 (2022).
[7] *Barry v. St. Anthony-New Brighton Indep. Sch. Dist. 282*, 781 N.W.2d 898, 902 (Minn. Ct. App. 2010).
[8] *Id*.
[9] *Abrahamson v. St. Louis Cnty. Sch. Dist.*, 819 N.W.2d 129, 136 (Minn. 2012).
[10] *Barry,* 781 N.W.2d at 902.
[11] *See* Minn. Stat. § 211B.33, subd. 2.

III. Analysis and Conclusion

Complainant did not submit a copy of the mailer with her Complaint. The Complaint also does not identify the specific provision of chapter 211B Complainant maintains the School District violated.

Because Complainant references chapter 211B and alleges a false claim, it is most likely that Complainant is challenging the mailer pursuant to Minn. Stat. § 211B.06. That statute governs false campaign material and provides in relevant part:

> A person is guilty of a gross misdemeanor who intentionally participates in the preparation, dissemination, or broadcast of paid political advertising or campaign material with respect to the personal or political character or acts of a candidate, or with respect to the effect of a ballot question, that is designed or tends to elect, injure, promote, or defeat a candidate for nomination or election to a public office or to promote or defeat a ballot question, that is false, and that the person knows is false or communicates to others with reckless disregard of whether it is false.

However, a claim related to false campaign speech under Minn. Stat. § 211B.06 must be dismissed because that statute has been set aside by the federal courts. In 2014, the United States Court of Appeals for the Eighth Circuit determined that there was no way to narrowly construe this statute consistent with First Amendment guarantees of free speech. Accordingly, the court declared the prohibitions on false campaign material to be unenforceable and void.[12]

This tribunal is unable to adjudicate claims alleging violations of Minn. Stat. § 211B.06. Complainant did not allege sufficient facts to demonstrate a prima facie violation of any other provision of the Fair Campaign Practices Act. Therefore, the Complaint is **DISMISSED**.

J. P. D.

[12] *See 281 Care Committee v. Arneson*, 766 F.3d 774, 789 (8th Cir. 2014), cert. denied 135 S. Ct. 1550 (2015) ("Stated most simply, § 211B.06 does not survive strict scrutiny because it tends to perpetuate the very fraud it is allegedly designed to prohibit. For this reason, among others, the restriction is neither narrowly tailored nor necessary").