

Justice at Stoughton High School

Washington, D.C., August 1, 2018: On July 19, an arbitrator found that Stoughton High School teacher Hilary Moll was wrongly suspended without pay by Stoughton Public Schools (“Stoughton”), for her response to an anti-Semitic incident at the high school. The Louis D. Brandeis Center for Human Rights Under Law (LDB) advocated for Ms. Moll and two other Stoughton High School teachers who were disciplined by Stoughton for discussing anti-Semitism with colleagues and students after the same incident. In May, another arbitrator overturned the discipline against one of the other teachers, Jaime Regan. LDB (www.brandeiscenter.com) is a national, non-profit civil rights organization that focuses on combating anti-Semitism.

“The arbitrator’s decision goes a long way towards righting a wrong, but I remain concerned about Stoughton’s failure to stand behind Ms. Moll and the other teachers in the first place,” stated LDB Senior Civil Rights Legal Fellow Jennie Gross. “Combatting anti-Semitism through education and community action should be encouraged, not frowned upon. It has been an honor to work with these brave women. These teachers deserve an apology, and I hope they receive one. That would go far in repairing the fissures in the school community.”

The incident took place in November of 2016, when a then-Stoughton High School senior (“John Doe”) posted a swastika while the students were decorating the “Spirit Wall” as part of the school’s annual “Spirit Week” activities. When other students asked him to remove the swastika – including a Jewish student, as the other students pointed out – John Doe responded, “well just burn it like they did to the Jews.” John Doe served a six-day suspension for his actions.

As news of the incident and John Doe’s suspension spread throughout the school, John Doe’s mother complained to the superintendent of schools that Ms. Moll and the other teachers were targeting, defaming and bullying her son by discussing the anti-Semitic incident with others, causing him to suffer emotional distress. The mother also complained that Ms. Moll withdrew a letter of recommendation for acceptance at a college that she had submitted for John Doe.

Following the mother’s complaint, Ms. Moll was suspended without pay for 20 days for bullying John Doe, for violation of the employee handbook, for demonstrating conduct unbecoming of a teacher, and for answering dishonestly during the investigation.

Of particular concern, Stoughton punished Ms. Moll in part for describing the swastika incident as *hate speech* when she was asked by the college why she withdrew her letter. The superintendent of schools determined that the incident – involving not just the posting of a swastika, but also John Doe’s statement to “burn it like they did to the Jews” – was not hate speech, and explicitly based the decision to suspend Ms. Moll without pay, in part, on the fact that she used the term *hate speech* in her conversation with the college administrator. (It is uncontested that Ms. Moll had every right to withdraw the letter of recommendation.) The superintendent went so far as to send a letter to the Stoughton community stating that the incident did not involve hate speech.

The recent arbitration of this decision rejects almost all of Stoughton's bases for discipline and requires Stoughton to revoke the suspension and pay Ms. Moll for the 20 days of suspension.

The arbitrator "found that [Ms. Moll] did not commit the vast majority of infractions cited," including bullying. "I conclude that [John Doe] may have become emotionally distraught about all the attention the incident received and reluctant to attend school, but that was due to his behavior and not [Ms. Moll's] actions." The arbitrator also stated that, "it is clear from the totality of the arbitration evidence that the incident and [John Doe's] involvement was known throughout the school, apparently first by the student population and then by the teachers[.]"

The arbitrator found it appropriate to maintain a letter of discipline in Ms. Moll's file for one offense – specifically, providing some information about the anti-Semitic incident to the college administrator that contacted her about why she withdrew her letter, rather than referring the administrator to Stoughton. The arbitrator found that this was "outside of the chain of command," but did not warrant suspension. This finding rendered moot the question of whether Ms. Moll's description of the incident as "*hate speech*" was appropriate. The question, therefore, was not addressed by the arbitrator.

[Louis D. Brandeis Center President Alyza Lewin](#) stated that, "the case at Stoughton High School illustrates the need to provide educators and administrators with the tools and knowledge to combat anti-Semitism at all levels of the United States education system. The resurgence of such bigotry is evident not only on university campuses. We must tackle it wherever it rears its head."

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