

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16CV309-GCM

DANNIE MONTGOMERY,)
)
 Plaintiff,)
)
 vs.)
)
 THE ANSON COUNTY BOARD OF)
 EDUCATION,)
)
 Defendant.)
 _____)

ORDER

This matter is before the Court upon the Defendant’s Motion to Dismiss the Amended Complaint in Part or, in the Alternative, to Strike. This motion is fully briefed and ripe for disposition.

Plaintiff, an African American woman over 40, is a teacher employed by the Defendant. She originally filed her Complaint alleging retaliation in violation of her First Amendment rights, as well as discriminatory failure to promote claims based upon race and age. The Defendant moved to dismiss the Complaint for failure to state a claim. The Court dismissed Plaintiff’s retaliation claim. The Court also found that the failure to promote claims, as plead, were vague and fell well short of the factual specificity required by *Twombly* and *Iqbal* and appeared to be no more than a “formulaic recitation of the elements” of the claims. Rather than dismiss the claims, however, the Court allowed Plaintiff an opportunity to amend her Complaint to address its deficiencies with regard to her failure to promote claims.

Plaintiff amended her Complaint on November 3, 2016. The Amended Complaint addresses the Court's previous concerns by alleging specific instances of alleged discrimination. The Defendant now seeks to dismiss or strike portions of Plaintiff's Amended Complaint, arguing that it still falls short on factual specificity. The Court finds that at this stage of the litigation Plaintiff has alleged plausible claims.

IT IS THEREFORE ORDERED that Defendant's Motion to Dismiss the Amended Complaint in Part or, in the Alternative, to Strike is hereby DENIED.

Signed: January 30, 2017

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

