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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0757**

A. Darlene Gibson,
Appellant,

vs.

Special School District #1,
Respondent.

**Filed March 9, 2020
Affirmed
Larkin, Judge**

Hennepin County District Court
File No. 27-CV-17-16103

Vytas M. Rimas, Rimas Law Firm, PLLC, Minnetonka, Minnesota (for appellant)

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Considered and decided by Worke, Presiding Judge; Larkin, Judge; and Florey,
Judge.

UNPUBLISHED OPINION

LARKIN, Judge

Appellant-teacher challenges the district court's summary-judgment dismissal of
her claims against respondent-school-district, which were based on allegations of race

discrimination in violation of the Minnesota Human Rights Act (MHRA), whistleblower retaliation in violation of the Minnesota Whistleblower Act (MWA), and common-law defamation. We affirm.

FACTS

In 1994, respondent Special School District #1 (the district) hired appellant A. Darlene Gibson, Ed.D. (Dr. Gibson), who is African American, as a special-education teacher. In 2002, she began working at the district's Broadway School (Broadway) for pregnant and parenting students as a special-education resource teacher.

In 2012, current and former Broadway students brought a class-action lawsuit against Broadway alleging that some teachers had improperly awarded credits in subject areas for which they were not licensed. As a result of a subsequent settlement, the district terminated the principal's employment and assigned all of the school's teachers to different schools, except for Dr. Gibson and one other teacher. In 2013, the district hired a new principal for Broadway.

In August 2014, Dr. Gibson met with the district's equity and diversity director, and voiced concerns that had been raised by special-education students, complaints regarding another teacher's conduct, and complaints regarding the principal's conduct.

Between February and March 2015, teachers reported that Dr. Gibson had given students math and physical-education credits even though she was not licensed in those subject areas. On March 16, the district placed Dr. Gibson on administrative leave with pay, pending an investigation of those reports. On April 14, the district's superintendent recommended to the district's board of education that Dr. Gibson be discharged based on

the investigation's findings. On April 15, the board of education recommended Dr. Gibson's discharge. The reasons for discharge were "[i]nefficiency in teaching, insubordination, or conduct unbecoming a teacher." On April 20, Dr. Gibson requested an arbitration hearing to challenge the proposed discharge.

Staff at Broadway told Dr. Gibson's students that she had been fired for awarding unearned credits. Specifically, the school's physical-education teacher told students that Dr. Gibson was fired for inappropriately giving credits to students for subjects outside of her licensed subject areas. On May 8, an employee of the district emailed Equifax in response to an inquiry regarding Dr. Gibson's unemployment-benefits claim. The district employee wrote that "Gibson was discharged for misconduct. An investigation concluded that [Dr. Gibson] awarded unearned grades to students to all the students to graduate." The employee also stated that Dr. Gibson's job title was "Special Education Assistant."

On September 23 and 24, Dr. Gibson filed a complaint with the U.S. Equal Employment Opportunity Commission (EEOC) and a charge with the Minnesota Department of Human Rights (MDHR) alleging race discrimination. Dr. Gibson alleged that the district had falsely accused her of awarding credits outside of her licensed subject areas and that similarly situated white employees had not been disciplined for similar conduct.

Dr. Gibson's arbitration hearing regarding her employment was scheduled for June 29 and 30, 2016. Before the start of the second day of the hearing, Dr. Gibson resigned from her employment with the district.

On March 7, 2017, MDHR issued a no-probable-cause determination regarding Dr. Gibson's charge of discrimination. Dr. Gibson appealed, and MDHR affirmed its no-probable-cause determination on September 5, 2017. On October 19, 2017, Dr. Gibson filed a complaint in district court against the district, alleging race discrimination under the MHRA and requesting punitive damages for slander and defamation of character. On October 20, Dr. Gibson's process server served her summons and complaint on a security guard at Broadway. On November 9, the district submitted its answer to Dr. Gibson's complaint and raised the defense of insufficient service of process. On November 16, Dr. Gibson's process server served her summons and complaint on Don Samuels, a member of the district's board of education. On November 22 and December 28, Dr. Gibson amended her complaint. Dr. Gibson's final amended complaint asserted claims of breach of contract, discrimination under the MHRA, whistleblower retaliation under the MWA, and defamation.

On July 3, 2018, the district and Dr. Gibson moved for summary judgment. On July 9, EEOC mailed a dismissal and notice of rights to Dr. Gibson indicating that it had decided not to pursue her discrimination charge. The district court granted summary judgment for the district on all counts and entered judgment of dismissal. The district court reasoned that Dr. Gibson's breach-of-contract and MHRA claims were untimely and that her whistleblower and defamation claims failed on the merits. Dr. Gibson requested leave to bring a motion for reconsideration and moved to vacate the dismissal. The district court denied Dr. Gibson's reconsideration request and motion to vacate. Dr. Gibson appealed.

In September 2019, Dr. Gibson moved this court to supplement the record with documents from a closed file in an unrelated federal lawsuit against the district and a February 27, 2019 email from the district court's law clerk regarding a deadline for filing of a response to Dr. Gibson's motion to vacate. This court denied Dr. Gibson's motion to supplement the record.

DECISION

“A motion for summary judgment shall be granted when the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue of material fact and that either party is entitled to a judgment as a matter of law.” *Fabio v. Bellomo*, 504 N.W.2d 758, 761 (Minn. 1993). A genuine issue of material fact exists if a rational trier of fact, considering the record as a whole, could find for the nonmoving party. *Frieler v. Carlson Mktg. Grp., Inc.*, 751 N.W.2d 558, 564 (Minn. 2008). No genuine issue of material fact exists “when the nonmoving party presents evidence which merely creates a metaphysical doubt as to a factual issue and which is not sufficiently probative with respect to an essential element of the nonmoving party's case to permit reasonable persons to draw different conclusions.” *DLH, Inc. v. Russ*, 566 N.W.2d 60, 71 (Minn. 1997). This court reviews a district court's grant of summary judgment de novo. *Dukowitz v. Hannon Sec. Servs.*, 841 N.W.2d 147, 150 (Minn. 2014). “We view the evidence in the light most favorable to the party against whom summary judgment was granted to determine whether there are any genuine issues of material fact and whether the district court correctly applied the law.” *Id.*

I.

Dr. Gibson contends that the district court erred by dismissing her discrimination claim as untimely. The construction and application of a statute of limitations are questions of law that this court reviews de novo. *MacRae v. Grp. Health Plan, Inc.*, 753 N.W.2d 711, 716 (Minn. 2008).

A claim of unfair discrimination under the MHRA must be (1) brought as a civil action, (2) filed in a charge with a local commission, or (3) filed in a charge with the commissioner “within one year after the occurrence of the practice.” Minn. Stat. § 363A.28, subd. 3(a) (2018). There is no dispute that Dr. Gibson filed her charge of discrimination with MDHR within one year of the alleged discrimination.

Once a charge has been filed, the claimant must bring a civil action “within 45 days after receipt of notice that the commissioner has reaffirmed a determination of no probable cause if the charging party requested a reconsideration of the no probable cause determination.” Minn. Stat. § 363A.33, subd. 1(2) (2018). “[R]eceipt of notice is presumed to be five days from the date of service by mail of the written notice” that the commissioner has reaffirmed a no-probable-cause determination. *Id.*, subd. 1 (2018).

MDHR issued its no-probable-cause determination regarding Dr. Gibson’s charge on March 7, 2017. Dr. Gibson appealed, and MDHR affirmed its no-probable-cause determination on September 5, 2017. MDHR’s September 5, 2017 order affirming its no-probable-cause determination stated that Dr. Gibson’s charge of discrimination was dismissed and that Dr. Gibson “may bring a private civil action against [the district] in state district court within 45 days, pursuant to Minnesota Statutes, § 363A.33, subd. 1(2).”

There is no dispute that the September 5, 2017 order was sent to Dr. Gibson on the day the decision was rendered, so Gibson’s receipt of notice is presumed to be on September 10, 2017. Thus, Dr. Gibson needed to commence her MHRA action by October 25, 2017.

Timeliness of Service

“A civil action is commenced against each defendant: (a) when the summons is served upon that defendant[.]” Minn. R. Civ. P. 3.01. When suing a school district in Minnesota, the summons must be served by delivering a copy “[t]o any member of the board or other governing body of [the] defendant school district.” Minn. R. Civ. P. 4.03(e)(4). Whether service of process was effective is reviewed de novo. *In re Skyline Materials, Ltd.*, 835 N.W.2d 472, 474 (Minn. 2013).

Although the deadline for commencement of Dr. Gibson’s MHRA action was October 25, 2017, Dr. Gibson’s process server did not serve a member of the district’s board of education until November 16. Dr. Gibson nonetheless argues that her claim should not have been dismissed as untimely “because it was served on the District’s security guard and delivered to the District’s General Counsel on October 20, 2019.”

It is undisputed that Dr. Gibson’s process server served her summons and complaint on a security guard at Broadway on October 20, 2017. Dr. Gibson asserts that the district’s general counsel picked up the summons and complaint from the security guard on the same day, that it was the district’s practice to have its general counsel accept service for the board, and that because “the District’s General Counsel was the agent for the District’s Members of the Board and Board, . . . that service on the General Counsel should have been imputed to the Member[s] of the Board.”

Dr. Gibson’s assertion that the district’s general counsel picked up the summons and complaint from the security guard on October 20, 2017 is based on a declaration from her process server that was attached to Dr. Gibson’s motion to vacate. “The district court record cannot be supplemented by new evidence after the court grants summary judgment.” *Sullivan v. Spot Weld, Inc.*, 560 N.W.2d 712, 715-16 (Minn. App. 1997) (granting motion to strike affidavit submitted with party’s reconsideration request and references to that evidence because affidavit was not part of summary-judgment record), *review denied* (Minn. Apr. 24, 1997). Because the declaration is not part of the summary-judgment record, we do not consider it when reviewing the district court’s grant of summary judgment.¹

In sum, Dr. Gibson did not commence her MHRA action until she served the school board member on November 16, 2017, which was after the October 25, 2017 statutory deadline under Minn. Stat. § 363A.33, subd. 1(2).

Waiver of Insufficient Service

Dr. Gibson argues that “the District waived any defects in service of process by seeking and litigating the merits of the claims.” But when “a party simultaneously invokes the court’s jurisdiction on the merits and asks the court to rule on a jurisdictional defense,

¹ Even if the process server had personally served the district’s general counsel, service on a party’s attorney is ineffective unless the party has appointed the party’s attorney as the party’s agent for service of process. *Allstate Ins. Co. v. Allen*, 590 N.W.2d 820, 822-23 (Minn. App. 1999). Dr. Gibson’s assertion that it was the district’s practice to have its general counsel accept service for the board is largely based on a certificate of service in an unrelated federal case, which this court declined to judicially notice in denying Dr. Gibson’s motion to supplement the record.

waiver will not result unless other circumstances clearly demonstrate the party's acquiescence to the court's jurisdiction." *Shamrock Dev., Inc. v. Smith*, 754 N.W.2d 377, 381 (Minn. 2008) (quotation omitted).

Here, the district raised the issue of insufficient service of process in its answer along with arguments that Dr. Gibson's claims failed on the merits. After Dr. Gibson properly served the school board member on November 16, the district continued to argue that attempted service before that date was insufficient. Because the district simultaneously invoked the district court's jurisdiction on the merits and asked it to rule on a jurisdictional defense, the district did not waive its argument that service was defective. *See id.*

Tolling Based on Dr. Gibson's Reliance on Information Provided by Court Staff

Dr. Gibson argues that the service deadline was tolled by her reliance on information provided by court staff. Dr. Gibson relies on *Anderson v. Unisys Corp.*, 47 F.3d 302, 306-07 (8th Cir. 1995), for the proposition that "when an administrative agency misleads a complainant, particularly one who is without the benefit of counsel, equitable tolling may be justified." She asserts that she was "informed by the Hennepin County Court Administrator's office that a Minnesota lawsuit begins when it is filed rather than when it is served." But that assertion is based solely on a declaration from Dr. Gibson, which was attached to the motion to vacate. As explained above, this court cannot consider evidence submitted after the district court granted summary judgment. *See Sullivan*, 560 N.W.2d at 716. Thus, we do not consider Dr. Gibson's tolling argument.

Tolling Based on Pending EEOC Proceedings

Dr. Gibson argues that the “timely filing of an administrative charge effectively tolls the limitations period during the time the parties engage in a dispute resolution” under Minn. Stat. § 363A.28, subd. 3 (2018). She further argues that because she and the district “were engaged in a dispute resolution process with the EEOC from September 24, 2015 through July 7, 2018,” those pending EEOC proceedings warrant tolling of the 45-day period for her to bring her lawsuit.

The running of the one-year limitation period is suspended during the time a potential charging party and respondent are voluntarily engaged in a dispute resolution process involving a claim of unlawful discrimination under this chapter, including arbitration, conciliation, mediation or grievance procedures pursuant to a collective bargaining agreement or statutory, charter, ordinance provisions for a civil service or other employment system or a school board sexual harassment or sexual violence policy.

Minn. Stat. § 363A.28, subd. 3(b).

Dr. Gibson does not cite authority for the proposition that filing a discrimination complaint with EEOC constitutes “a dispute resolution process” such that the suspension of the one-year limitation period in Minn. Stat. § 363A.28, subd. 3(b), applies.² And Dr. Gibson does not explain why the suspension of the one-year limitation period to file her MHRA charge would affect the 45-day limitation period under Minn. Stat. § 363A.33, subd. 1(2), which is the limitation period at issue here. Instead, Dr. Gibson states that “[i]t

² Even if that suspension applied, it is undisputed that Dr. Gibson’s MHRA charge was filed with MDHR within the one-year limitation period under Minn. Stat. § 363A.28, subd. 3(a).

is possible that an EEOC investigation tolled the statute of limitations on related state law claims,” citing *Modrow v. JP Foodservice, Inc.*, 656 N.W.2d 389, 397 n.3 (Minn. 2003). But *Modrow* raised the possibility that an EEOC investigation could toll the statute of limitations for common-law negligence claims—not whether a pending EEOC investigation tolls the 45-day statute of limitations for filing a statutory MHRA action—and ultimately did not decide that issue. See 656 N.W.2d at 397 n.3 (“We have not addressed the issue of whether related state law claims are tolled by pending EEOC investigations and we decline to do so here . . .”).

In sum, the deadline for Dr. Gibson to timely commence her MHRA action was October 25, 2017, and Dr. Gibson’s action commenced with service on the school board member on November 16, 2017. Because Dr. Gibson’s MHRA claim was untimely, the district court did not err by granting summary judgment for the district on that claim.

II.

Dr. Gibson contends that because her “2014 whistleblower complaint to and about [the principal]” regarding the “treatment of special education students resulted in her suspension and termination,” the district court erred by granting summary judgment for the district on her whistleblower claim.

The Minnesota Whistleblower Act provides,

An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee’s compensation, terms, conditions, location, or privileges of employment because:

(1) the employee, or a person acting on behalf of an employee, in good faith, reports a violation, suspected violation, or planned violation of *any federal or state law or*

common law or rule adopted pursuant to law to an employer or to any governmental body or law enforcement official[.]

Minn. Stat. § 181.932, subd. 1(1) (2018) (emphasis added).

Minnesota courts use the burden-shifting test established by the United States Supreme Court in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 93 S. Ct. 1817 (1973), to determine whether summary judgment is appropriate on a claim of retaliation under the whistleblower act. *Moore v. City of New Brighton*, 932 N.W.2d 317, 323 (Minn. App. 2019), *review denied* (Minn. Oct. 15, 2019); *Grundtner v. Univ. of Minn.*, 730 N.W.2d 323, 329 (Minn. App. 2007), *review denied* (Minn. July 17, 2007).

Under the *McDonnell Douglas* test, an employee must present a prima face case of the following elements: (1) statutorily-protected conduct by the employee, (2) an adverse employment action by the employer, and (3) a causal connection between the two. *Moore*, 932 N.W.2d at 323. “If the employee fails to meet any of these elements, summary judgment in the employer’s favor is appropriate.” *Id.* “But if the employee presents evidence establishing a prima facie case, the burden then shifts to the employer, whose summary-judgment motion should fail unless it provides a legitimate, nonretaliatory reason for its challenged adverse employment action.” *Id.* at 323-24. If the employer meets this challenge, “the burden shifts back to the employee, who can then avoid summary judgment only by producing evidence that would allow a reasonable trier of fact to find that the employer’s stated reason for the allegedly adverse action was more likely than not merely a pretext for retaliation.” *Id.* at 324.

Dr. Gibson argues that her employment was terminated based on her August 2014 complaint against the principal. Although Dr. Gibson resigned from employment with the district, she did so after the district recommended the termination of her employment. The relevant adverse employment action is therefore the district's recommendation that Dr. Gibson's employment be terminated, which occurred in April 2015.

Dr. Gibson testified in her deposition that on August 26, 2014, she met with the district's equity and diversity director to discuss her concerns regarding the principal. Dr. Gibson testified that she told the equity and diversity director the following: (1) special-education students felt isolated after the principal directed the students to be moved to a different part of the building, (2) special-education students complained that they did not have any special-education help after Dr. Gibson left for a second worksite each afternoon, (3) special-education students complained that they were sitting in class doing nothing, (4) special-education students complained about the way another faculty member completed individual education plan (IEP) paperwork, (5) students complained about the project-based learning style that was implemented at the school, (6) Dr. Gibson complained to the principal regarding a social-studies teacher using Dr. Gibson's name to give English credits for his social-studies packet, and (7) Dr. Gibson believed that the principal did not edit her notices to staff properly.

Dr. Gibson argues that her statements to the equity and diversity director constituted a report that triggered the protections of the MWA, but she does not identify the specific law or rule that was allegedly violated.

A whistleblower claim need not identify the specific law or rule that the employee suspects has been violated, so long as there is a federal or state law or rule adopted pursuant to law that is implicated by the employee's complaint, the employee reported the violation or suspected violation in good faith, and the employee alleges facts that, if proven, would constitute a violation of law or rule adopted pursuant to law.

Abraham v. County of Hennepin, 639 N.W.2d 342, 354-55 (Minn. 2002).

However, a plaintiff must identify the relevant legal violation to avoid summary judgment and show facts that, if true, would prove a violation. *See Gee v. Minn. State Colls. & Univs.*, 700 N.W.2d 548, 555-56 (Minn. App. 2005) (affirming summary-judgment dismissal of whistleblower claim in part because plaintiff failed to satisfy her “burden to demonstrate that the suspected misconduct implicated a violation of law”). “[A] mere report of behavior that is problematic or even reprehensible, but not a violation of the law, is not protected conduct under the Whistleblower Act.” *Kratzer v. Welsh Cos.*, 771 N.W.2d 14, 22 (Minn. 2009).

Dr. Gibson does not explain how any of the concerns she reported to the equity and diversity director in August 2014 implicated a violation of law. Although she characterizes her report as a “charge of harassment and discrimination against [the principal],” she does not cite a specific “violation, suspected violation, or planned violation of any federal or state law or common law or rule adopted pursuant to law” that she believed the principal committed.³ *See* Minn. Stat. § 181.932, subd. 1(1). Thus, Dr. Gibson has failed to establish

³ At oral argument, Dr. Gibson claimed that her August 2014 complaint raised violations of federal special-education laws, but she did not identify any particular statute or statutes.

a prima facie case that she engaged in statutorily-protected conduct under the MWA, and it was appropriate for the district court to grant summary judgment in favor of the district.

Moreover, as the district court reasoned, Dr. Gibson did not establish a prima facie case of a causal connection between the recommendation that her employment be terminated and her statements to the equity and diversity director. The district superintendent and the board of education ultimately decided to discharge Dr. Gibson, and Dr. Gibson does not point to any evidence in the record that her August 2014 statements to the equity and diversity director were the basis for their decision. In addition, the February and March 2015 reports that Dr. Gibson improperly gave credits outside her licensure were significant intervening events that undermined any causal inference between the August 2014 complaint and the district's April 2015 recommendation that Dr. Gibson be discharged. See *Freeman v. Ace Telephone Ass'n*, 467 F.3d 695, 698 (8th Cir. 2006) (“[T]he presence of intervening events undermines any causal inference that a reasonable person might otherwise have drawn from temporal proximity.”).

Dr. Gibson argues that “[t]he district[’s] admitted destruction of evidence of [her] complaint against the principal and associated communications warrants a negative inference against the district for challenging causation.” Dr. Gibson raised this issue in district court, but the district court did not decide it. “A reviewing court must generally consider only those issues that the record shows were presented and considered by the [district] court in deciding the matter before it.” *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (quotation omitted). Because the district court did not consider and decide

the issue of spoliation in determining whether to grant summary judgment, we do not address that issue for the first time on appeal.

In sum, the district court did not err by granting summary judgment for the district on Dr. Gibson's whistleblower claim.

III.

Dr. Gibson contends that the district court "erred in dismissing [her] defamation claim, because the statements made to the teachers and students and Equifax [regarding the termination of her employment] were false."

"Under the common law, a plaintiff pursuing a defamation claim must prove that the defendant made: (a) a false and defamatory statement about the plaintiff; (b) in an unprivileged publication to a third party; (c) that harmed the plaintiff's reputation in the community." *Maethner v. Someplace Safe, Inc.*, 929 N.W.2d 868, 873 (Minn. 2019) (quotation omitted). "If the defamation affects the plaintiff in [her] business, trade, profession, office or calling, it is defamation per se and thus actionable without any proof of actual damages." *Bahr v. Boise Cascade Corp.*, 766 N.W.2d 910, 920 (Minn. 2009) (quotation omitted). "The words . . . must be peculiarly harmful to the person in [her] business. . . . It must depend on the occupation and the particular statement. In other words, the remarks must relate to the person in [her] professional capacity and not merely as an individual without regard to [her] profession." *Anderson v. Kammeier*, 262 N.W.2d 366, 372 (Minn. 1977). "Courts allow presumed damages because statements that are defamatory per se are virtually certain to cause serious injury to reputation, and . . . this

kind of injury is extremely difficult to prove.” *Maethner*, 929 N.W.2d at 875 (quotation omitted).

Truth is a complete defense to defamation. *Stuempges v. Parke, Davis & Co.*, 297 N.W.2d 252, 255 (Minn. 1980). “[A] plaintiff cannot succeed in meeting the burden of proving falsity by showing only that the statement is not literally true in every detail. If the statement is true in substance, inaccuracies of expression or detail are immaterial.” *Jadwin v. Minneapolis Star & Tribune Co.*, 390 N.W.2d 437, 441 (Minn. App. 1986).

On appeal, Dr. Gibson argues that there were two separate instances of defamation: (1) “[t]he principal and [a] teacher falsely told the teachers and students that [she] was fired” and (2) the “district falsely wrote to Equifax that [she] was fired and was not a teacher.” We address each allegation in turn.

One of Dr. Gibson’s former students stated in a declaration that “[e]verybody [at Broadway] was saying [Dr. Gibson] got fired because she gave [the student] math credit and gave a whole bunch of other credits” and that the student “heard [Broadway’s physical-education teacher] say to other students that [Dr. Gibson] gave credits to students when she was not supposed to.” Another one of Dr. Gibson’s former students stated in a declaration that Broadway’s physical-education teacher told her “around a week after Dr. Gibson left” that Dr. Gibson “was fired for giving out credits in content areas that were not hers.”

Dr. Gibson argues that these statements occurred “[u]pon return” from spring break on April 6, 2015, and that they “were false, because [she] was still on administrative leave with pay until April 14, 2015, when she was ‘recommended’ for termination.” But neither student’s declaration states that the alleged comments regarding Dr. Gibson were made on

April 6, 2015. Indeed, neither declaration identifies the date on which the alleged defamatory statements were made. Thus, Dr. Gibson has failed to establish a genuine issue of material fact regarding the falsity of the statements to students at Broadway. The district court therefore did not err in granting summary judgment for the district regarding the first defamation allegation.

The second alleged instance of defamation is based on a May 8 email from a district employee to Equifax in response to an inquiry regarding Dr. Gibson's unemployment claim. The district employee told Equifax, "Gibson was discharged for misconduct. An investigation concluded that [Dr. Gibson] awarded unearned grades to students to all the students to graduate." The employee also stated that Dr. Gibson's job title was "Special Education Assistant."

Dr. Gibson argues that she "was not discharged for '*employee misconduct*,'" that "there was [not a] sufficient investigation concluding that [she] awarded unearned grades '*to all the students to graduate*,'" and that the district misidentified her job title as "Special Education Assistant" because she was a special-education teacher.

Although it is true that Dr. Gibson had been employed with the district as a special-education teacher rather than as a special-education assistant, she does not explain how this misstatement of her title to Equifax affected her "business, trade, profession, office or calling" or otherwise is the kind of particularly harmful statement that constitutes defamation per se. See *Bahr*, 766 N.W.2d at 920 (quotation omitted); *Anderson*, 262 N.W.2d at 372. Nor does she allege any other resulting harm to her reputation.

The other statements to Equifax are true in substance. The district investigated allegations that Dr. Gibson had awarded credits outside of her licensed subject areas, determined that Dr. Gibson had done so, and recommended her discharge. Any “inaccuracies of expression or detail” in the district’s statement to Equifax are “immaterial.” *See Jadwin*, 390 N.W.2d at 441. The district court therefore did not err in granting summary judgment for the district regarding the second defamation allegation.⁴

In conclusion, because the summary-judgment record establishes that the district is entitled to judgment on all of Dr. Gibson’s claims as a matter of law, we affirm.

Affirmed.

⁴ Because our review is de novo and the record otherwise supports the district court’s dismissal of Dr. Gibson’s defamation claim, we do not address Dr. Gibson’s argument that the district court erred in dismissing the defamation claim based on qualified privilege.