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Custodian forced to quit over sex report

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NORTH ANDOVER — A former Franklin School custodian is suing Superintendent Harry K. Harutunian for \$1 million, saying the superintendent pressured him into resigning after police reported him for having sex with another man.

Hevanilson A. Magalhaes said Harutunian confronted him late last summer and demanded he resign days after police stopped him and another man in Harold Parker State Forest.

Police did not arrest Magalhaes, but the former custodian said Harutunian accused him of committing "a crime of moral turpitude" and told him he was unfit to continue working as a school custodian.

Magalhaes also charges that the superintendent threatened to expose his "alleged homosexuality" and "make your life miserable" if he refused to resign.

Magalhaes is suing the superintendent for wrong-

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SCHOOL: Janitor alleges wrongful termination

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ful termination, defamation and intentional infliction of emotional distress. The suit filed in Lawrence Superior Court contends the custodian was fired "for the sole reason of an unconfirmed suspicion of homosexuality or for engaging in acts that could be interpreted as homosexual."

Magalhaes does not say in his suit whether he is gay or engaged in gay sex.

Magalhaes' lawyer, John C. McBride, said he and his client would not comment on the case while it is pending.

Harutunian's lawyer, Leonard H. Kesten, returning a phone message left for the superintendent, denied that Magalhaes' resignation was coerced.

"Dr. Harutunian was aware of a number of factors which encouraged him to accept Mr. Magalhaes' resignation," Kesten said, refusing to say what those factors were.

In his response to the complaint, Harutunian acknowledged he was aware of the sex incident and spoke with Magalhaes about it.

Andover police Lt. James D. Hashem said Officers Joseph Magliozzi and John Mika saw Magalhaes, 43, and another adult male engaged in a sexual act at 12:40 p.m. on Aug. 20 last year while the officers were on patrol in the state forest.

The men were not charged, but when Magalhaes said he was a North Andover school janitor, the officers called North Andover police.

North Andover police did not return a call to inquire if they contacted the school district.

Hashem said Magalhaes did not have a criminal record.

Magalhaes said in his complaint that he was not on duty at the time he was stopped. Harutunian indicated in his response that the janitor was on duty.

Magalhaes, who worked as a custodian for the school district for two years, said he reported to work on 7 a.m. on Aug. 23.

Within minutes, he said, he was met by John Mullen, president of the custodians union, who told him Harutunian was demanding a meeting. The men took separate cars to Harutunian's office, where one of Harutunian's assistants told Mullen the superintendent wanted to talk with him in another office.

When Mullen returned a short time later, he told Magalhaes, "Things don't look too good," and that Harutunian had a copy of the police report and "wants you out," according to the suit.

Harutunian entered the room and told Magalhaes he wanted him to resign, adding, "If you resign, everything stays in this room," according to the suit.

Magalhaes told Harutunian he did not think he should resign and he wanted to call another union representative.

After meeting with the second, unnamed union representative at another location, Magalhaes submitted his letter of resignation.

School Committee Chairman Daniel J. Murphy said the School Committee is aware of the case, but he declined to discuss it.

Under state law, communities are legally liable for their supervisors, meaning the town or its insurer might have to pay damages if Magalhaes wins the case.

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