

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT INDEPENDENCE**

Heather Kenney, Jodi Mallette, Brooke  
Morehead, Stacy Orf, Beth Ratty

Plaintiffs,

v.

Lee's Summit R-7 School District,

Defendant.

Case No.:

Div.:

**PETITION**

COMES NOW Heather Kenney, Jodi Mallette, Brooke Morehead, Stacy Orf, Beth Ratty,  
and for their Petition, state as follows:

**PARTIES**

1. Defendant the Lee's Summit R-7 School District (hereafter the "District" or "Defendant") is a public-school district organized under Missouri law and located in Jackson County, Missouri.

2. Plaintiff Heather Kenney is a resident of Jackson County, Missouri and is employed by the District or Defendant as an elementary school principal.

3. Plaintiff Jodi Mallette is a resident of Jackson County, Missouri and is employed by the District as an elementary school principal.

4. Plaintiff Beth Ratty is a resident of Jackson County, Missouri and is employed by the District as an elementary school principal.

5. Plaintiff Brooke Morehead is a resident of Jackson County, Missouri and is employed by the District as an assistant elementary school principal.

6. Plaintiff Stacy Orf is a resident of Jackson County, Missouri and is employed by the District as an assistant elementary school principal.

**JURISDICTION, VENUE AND PROCEDURAL BACKGROUND**

7. This Court has jurisdiction pursuant to § 213.111 R.S.Mo.

8. Venue is proper in this Court pursuant to § 213.111.1 R.S.Mo., and § 478.461, in that the unlawful discriminatory practices are alleged to have occurred in the eastern portion of Jackson County, Missouri and Defendant is located in the eastern portion of Jackson County, Missouri.

9. On August 12, 2019, Heather Kenney filed a Charge of Discrimination with the Missouri Commission on Human Rights against Defendant. Thereafter, Heather Kenney filed an amended and Second Amended Charge of Discrimination. Attached hereto as Exhibit A and incorporated herein by reference is Heather Kenney's Amended Charge of Discrimination.

10. On March 24, 2020, Heather Kenney received a Right to Sue Notice from the Missouri Commission on Human Rights. Attached hereto as Exhibit B and incorporated herein by reference is Heather Kenney's Notice of Right to Sue.

11. This action has been commenced within 90 days of the date of the Notice of Right to Sue.

12. On August 12, 2019, Jodi Mallette filed a Charge of Discrimination with the Missouri Commission on Human Rights against Defendant. Thereafter, Jodi Mallette filed an amended and Second Amended Charge of Discrimination. Attached hereto as Exhibit C and incorporated herein by reference is Jodi Mallette's Amended Charge of Discrimination.

13. On March 24, 2020, Jodi Mallette received a Right to Sue Notice from the Missouri Commission on Human Rights. Attached hereto as Exhibit D and incorporated herein by reference is Jodi Mallette's Notice of Right to Sue.

14. This action has been commenced within 90 days of the date of the Notice of Right to Sue.

15. On August 12, 2019, Beth Ratty filed a Charge of Discrimination with the Missouri Commission on Human Rights against Defendant. Thereafter, Beth Ratty filed an amended and Second Amended Charge of Discrimination. Attached hereto as Exhibit E and incorporated herein by reference is Beth Ratty's Amended Charge of Discrimination.

16. On March 24, 2020, Beth Ratty received a Right to Sue Notice from the Missouri Commission on Human Rights. Attached hereto as Exhibit F and incorporated herein by reference is Beth Ratty's Notice of Right to Sue.

17. This action has been commenced within 90 days of the date of the Notice of Right to Sue.

18. On August 12, 2019, Brooke Morehead filed a Charge of Discrimination with the Missouri Commission on Human Rights against Defendant. Thereafter, Brooke Morehead filed an amended and Second Amended Charge of Discrimination. Attached hereto as Exhibit G and incorporated herein by reference is Brooke Morehead's Amended Charge of Discrimination.

19. On March 24, 2020, Brooke Morehead received a Right to Sue Notice from the Missouri Commission on Human Rights. Attached hereto as Exhibit H and incorporated herein by reference is Brooke Morehead's Notice of Right to Sue.

20. This action has been commenced within 90 days of the date of the Notice of Right to Sue.

21. On August 12, 2019, Stacy Orf filed a Charge of Discrimination with the Missouri Commission on Human Rights against Defendant. Thereafter, Stacy Orf filed an amended and Second Amended Charge of Discrimination. Attached hereto as Exhibit I and incorporated herein by reference is Stacy Orf's Amended Charge of Discrimination.

22. On March 24, 2020, Stacy Orf received a Right to Sue Notice from the Missouri Commission on Human Rights. Attached hereto as Exhibit J and incorporated herein by reference is Stacy Orf's Notice of Right to Sue.

23. This action has been commenced within 90 days of the date of the Notice of Right to Sue.

### **FACTS COMMON TO ALL COUNTS**

24. Plaintiffs incorporate by reference the allegations of paragraphs 1 through 23 and reassert said allegations as if fully set forth herein.

25. District employees are paid based on a salary schedule. The District has various salary schedules for different classifications of employees. However, the overall structure of the schedule is nearly identical. Employees are initially placed on a step at date of hire and in some years the District grants salary increases through step movement. In some years there are salary freezes and, in some years, there are compensation adjustments to the base salary but not step increases.

26. The District has not adopted guidelines regarding step placement for administrators nor does the District follow any procedure to ensure that initial step placement is not discriminatory. For instance, male administrators are regularly provided placement considering all prior experience and not administrative experience or lead administrator experience. Moreover, the placement of male administrators does not consider levels of

education. Thus, newly hired, male administrators without a doctorate receive placement above female administrators with doctorates.

27. For new employees, all prior years of service are considered in determining initial step placement. Thus, a new employee with 5 years' experience may be placed at step 5, whereas a veteran district employee with more or the same experience may only be on step 2 or 3.

28. In the past four years, at the elementary principal level, men have been hired to the District and have received step placement based on prior experience, whereas, one female employee was promoted to principal and was not, similarly credited with prior work experience in the determination of step placement.

29. This policy of granting credit for all prior years of service teaching for new hires adversely impacts older employees and female employees resulting in significant pay disparity.

30. In April of 2019, Heather Kenney observed that male administrators at the elementary school level were paid more than similarly situated female elementary school administrators.

31. Heather Kenney's observation was considered a grievance and investigated in accordance with District Policy AC which provides, "... the district will conduct a prompt, impartial, adequate, reliable and thorough investigation to determine whether unlawful conduct occurred..."

32. Despite this policy, Heather Kenney's grievance was investigated by the District's law firm, as opposed to an outside investigator.

33. In addition to Heather Kenney, Jodi Mallette, Beth Ratty, Stacy Orf and Brooke Morehead filed grievances related to discriminatory pay disparity.

34. Upon information and belief, the District has a pattern and practice of failing to comply with Policy AC in connection with the investigation of potentially unlawful conduct. Specifically, the District regularly uses its own counsel to conduct the investigations and then confirms the allegations, yet concludes that such conduct is not unlawful. Thus, Policy AC which is intended to eradicate illegal behavior is used to justify such behavior.

35. In fact, other employees had, prior to April 2019, observed significant pay disparities and reported these concerns to the human resources department.

36. In some situations, when an older, veteran generally female employee transfers from one position within the District to another, she is relegated to Step 1 and thus not given credit for prior experience, while new, generally male hires to the same position are given credit for years of experience at another school district or outside field.

37. Despite prior notice of significant pay disparity, no action was taken by the District.

38. On May 28, 2019, Plaintiffs received a report regarding the District's investigation of allegations related to discriminatory pay disparity. A copy of the District's report is attached hereto as Exhibit K.

39. The District's Counsel "substantiated" the allegation that male elementary principals are paid a higher salary than female elementary principals with similar or more experience.

40. The District's policy of paying male employees more than similarly situated female employees is not unique or limited to elementary principals. In fact, upon information and belief, younger male employees are often afforded substantially greater pay because of providing credit for years of service prior to placing the employee on a salary schedule. Thus,

employees new to the district are given credit for experience that employees within the district are not provided. This policy has resulted in significant pay disparity between younger, male employees hired into the district and their existing female counterparts.

41. The District's Counsel further substantiated the allegations of assistant principals that the salary schedule contains "disparities and inconsistencies with placement on the administrative salary schedule and an individual's years in education, administrative experience, tenure in the District and education level."

42. Upon information and belief, the District did not conduct any form of adverse impact study to determine whether these substantiated complaints resulted in an adverse impact upon any protected category of employee.

43. The District's counsel conceded that the Districts Policy GCBA, which addresses, among other things administrative salary placement as well as movement, requires the District adopt guidelines for placement on the salary schedule, however, the District has never adopted such guidelines.

44. In response to the pay disparity grievances, the District "substantiated" virtually every allegation made, however, the District refused to take corrective action and denied that the pay disparity had anything to do with any protected classification.

45. On June 7, 2019, the District concluded that despite the District's counsel substantiating the allegations of those making complaints about pay disparity, these differences in pay did not amount to a violation of Policy AC.

46. Again, the District's conclusion is part of a pattern and practice of the District conducting an investigation, confirming the factual allegations of the investigation and then

concluding that despite the substantiated factual allegations the complained of action does not violate Policy AC.

47. Heather Kenney, Jodi Mallette, Beth Ratty, Brooke Morehead and Stacy Orf appealed the investigation of the grievance to Dr. Dennis Carpenter.

48. Dr. Carpenter admitted there were pay disparities between men and women. Dr. Carpenter admitted that it resulted in benefitting external candidates for employment (i.e. new hires). Dr. Carpenter attributed this pay differential to the fact that the new hires were permitted to negotiate their pay and step placement, whereas current employees and employees promoted from within have no procedure to negotiate pay or step placement. Although these differentials benefitted, younger external hires and male external hires, Dr. Carpenter concluded that “[g]ender did not play *any* role in these decisions, so I uphold the determination that Policy AC was not violated.”

49. In August of 2019, Heather Kenney, Jodi Mallette, Beth Ratty, Brooke Morehead and Stacy Orf filed Charges of Discrimination with the Missouri Commission on Human Rights alleging discriminatory pay practices against the District.

50. While their Charges of Discrimination were pending, the District offered new Contracts to multiple employees, whose pay was substantially lower than similarly situated men.

51. For instance, 10 female administrators received new contracts issued mid-year granting each employee step placement resulting in pay increases and step placement increases to address the fact that similarly situated males were paid substantially more.

52. Upon information and belief, none of the 10 female administrators who received pay equalization had filed a Charge of Discrimination against the District.

53. Moreover, each new contract issued to the 10 female administrators who received pay equalization contained releases of liability issued to the District. A copy of the Amended Contracts with releases is attached hereto as Exhibit L and is incorporated herein by reference.

54. The original contracts issued to the 10 female administrators whose pay was equalized did not contain releases. Moreover, upon information and belief, District Contracts for the 2020-2021 School Year do not contain releases.

55. In addition to raising Charges of Discrimination regarding pay disparity based on gender, Heather Kenney, Jodi Mallette, Beth Ratty, Brooke Morehead and Stacy Orf alleged that the policy of providing credit for years of service to new hires was discriminatory based on age.

56. On March 12, 2020, the District Board of Education was presented compelling evidence of pay disparity. The District was presented evidence that because of granting credit for years of service to new hires while not providing similar credit to existing employees the older, veteran employees were being paid at a disparate rate.

**COUNT I: DISPARATE TREATMENT BASED ON AGE  
IN VIOLATION OF THE MISSOURI HUMAN RIGHTS ACT**

57. Plaintiffs incorporate by reference the allegations of paragraphs 1 through 56 and reassert said allegations as if fully set forth herein.

58. Defendant is an “employer” within the meaning to of the Missouri Human Rights Act, § 213.010(7) R.S.Mo.

59. Heather Kenney, Jodi Mallette, Brooke Morehead, Stacy Orf and Beth Ratty (hereinafter collectively “Plaintiffs”) are each over the age of 40 and thus within a protected classification.

60. Age was a motivating factor in the Defendants’ application of the salary schedule to Plaintiffs.

61. By its application of the salary schedule to Plaintiffs as described above, the District discriminated against Plaintiffs with respect to terms, conditions and compensation because of their age by *inter alia*, paying younger employees more, allowing younger employees preferential placement or to negotiate placement on the salary schedule, crediting younger employees with broader prior service credit than veteran employees and disregarding education of veteran employee when placing younger employees on the salary schedule.

62. By its discriminatory application of the salary schedule, Plaintiffs suffered an adverse employment action because of their age in that they have been treated differently with respect to the terms, conditions and wages of their employment.

63. Because of Defendant's actions described here, Plaintiffs have lost wages and continue to lose other financial incidents and benefits of employment.

WHEREFORE Plaintiffs pray that this Court grant the following relief:

- a. Declare that Defendant violated the Missouri Human Rights Act by its application of the Salary Schedule to Plaintiffs;
- b. Declare that Defendant applied its Salary Schedule to Plaintiffs unfairly, because of their age;
- c. Enter an order enjoining the District's discriminatory application of the salary schedule because of age and further order the District to implement guidelines as required by Policy GCBA ensuring consistent and non-discriminatory application of the Salary Schedule;
- d. For the 2017-19 school years and each subsequent school year up to the time of trial, award Plaintiffs an amount commensurate with their years of experience and education and that of their comparable younger peers;

- e. Award Plaintiffs additional pension benefits under the Public School Retirement System commensurate with the amounts that they would have earned had their pay been commensurate with their years of experience and that of their comparable younger peers;
- f. Award Plaintiffs damages actual damages;
- g. Award Plaintiffs their attorneys' fees and costs and prejudgment interest;
- h. Award Plaintiffs such other and further relief as may be just and proper under the circumstances.

**COUNT II: DISPARATE TREATMENT BASED ON SEX  
IN VIOLATION OF THE MISSOURI HUMAN RIGHTS ACT**

64. Plaintiffs incorporate by reference the allegations of paragraphs 1 through 63 and reassert said allegations as if fully set forth herein.

65. Defendant is an "employer" within the meaning to of the Missouri Human Rights Act, § 213.010(7) R.S.Mo.

66. Sex was a motivating factor in the Defendants' application of the salary schedule to Plaintiffs.

67. By its application of the salary schedule to Plaintiffs as described above, the District discriminated against Plaintiffs with respect to terms, conditions and compensation because of their sex by *inter alia*, paying male employees more, allowing male employees preferential placement or to negotiate placement on the salary schedule, crediting male employees with broader prior service credit than female employees and disregarding education of female employees when placing male employees on the salary schedule.

68. By its discriminatory application of the salary schedule, Plaintiffs each suffered an adverse employment action because of their sex.

69. Because of Defendant's actions described here, Plaintiff have lost and continue to lose wages and other financial incidents and benefits of employment.

70. Because of Defendant's conduct, Plaintiffs have suffered actual damages.

WHEREFORE Plaintiffs pray that this Court grant the following relief:

- a. Declare that Defendant violated the Missouri Human Rights Act by its application of the Salary Schedule to Plaintiffs;
- b. Declare that Defendant applied its Salary Schedule to Plaintiffs unfairly, because of their gender/sex;
- c. Enter an order enjoining the District's discriminatory application of the salary schedule because of gender/sex and further order the District to implement guidelines as required by Policy GCBA ensuring consistent and non-discriminatory application of the Salary Schedule;
- d. For the 2017-19 school years and each subsequent school year up to the time of trial, award Plaintiffs an amount commensurate with their years of experience and that of their comparable male peers;
- e. Award Plaintiffs additional pension benefits under the Public School Retirement System commensurate with the amounts that they would have earned had their pay been commensurate with their years of experience and that of their comparable male peers;
- f. Award Plaintiffs damages actual damages;
- g. Award Plaintiffs their attorneys' fees and costs and prejudgment interest;

- h. Award Plaintiffs such other and further relief as may be just and proper under the circumstances.

**COUNT III: DISPARATE IMPACT BASED ON AGE**  
**IN VIOLATION OF THE MISSOURI HUMAN RIGHTS ACT**

71. Plaintiffs incorporate by reference the allegations of paragraphs 1 through 70 and reassert said allegations as if fully set forth herein.

72. In addition to or in the alternative, the District's application of the Salary Schedule is a facially neutral employment practice that has a disparate impact on staff over the age of 40.

73. By the application of its Salary Scheduled as aforesaid, the Salary Schedule has a discriminatory impact on staff over the age of 40.

74. As a consequence, Plaintiffs have lost and continue to lose wages and other incidents and benefits of employment because of their age.

75. As a further consequence, Plaintiffs have sustained actual damages.

WHEREFORE Plaintiffs pray that this Court grant the following relief:

- a. Declare that Defendant violated the Missouri Human Rights Act by its application of the Salary Schedule to Plaintiffs;
- b. Declare that Defendant applied its Salary Schedule to Plaintiffs unfairly, because of their age;
- c. Enter an order enjoining the District's discriminatory application of the salary schedule because of age and further order the District to implement guidelines as required by Policy GCBA ensuring consistent and non-discriminatory application of the Salary Schedule;

- d. For the 2017-19 school years and each subsequent school year up to the time of trial, award Plaintiffs an amount commensurate with their years of experience and education and that of their comparable male peers;
- e. Award Plaintiffs additional pension benefits under the Public School Retirement System commensurate with the amounts that they would have earned had their pay been commensurate with their years of experience and that of their comparable male peers;
- f. Award Plaintiffs damages actual damages;
- g. Award Plaintiffs their attorneys' fees and costs and prejudgment interest;
- h. Award Plaintiffs such other and further relief as may be just and proper under the circumstances.

**COUNT IV: DISPARATE IMPACT BASED ON SEX**  
**IN VIOLATION OF THE MISSOURI HUMAN RIGHTS ACT**

76. Plaintiffs incorporate by reference the allegations of paragraphs 1 through 75 and reassert said allegations as if fully set forth herein.

77. In addition to or in the alternative, the District's application of the Salary Schedule is a facially neutral employment practice that has a disparate impact on female staff.

78. By the application of its Salary Scheduled as aforesaid, the Salary Schedule has a discriminatory impact on female staff.

79. As a consequence, Plaintiffs have lost and continue to lose wages and other incidents and benefits of employment because of their sex.

80. As a further consequence, Plaintiffs have sustained actual damages.

WHEREFORE Plaintiffs pray that this Court grant the following relief:

- a. Declare that Defendant violated the Missouri Human Rights Act by its application of the Salary Schedule to Plaintiffs;
- b. Declare that Defendant applied its Salary Schedule to Plaintiffs unfairly, because of their sex/gender;
- c. Enter an order enjoining the District's discriminatory application of the salary schedule because of age and further order the District to implement guidelines as required by Policy GCBA ensuring consistent and non-discriminatory application of the Salary Schedule;
- d. For the 2017-19 school years and each subsequent school year up to the time of trial, award Plaintiffs an amount commensurate with their years of experience and that of their comparable male peers;
- e. Award Plaintiffs additional pension benefits under the Public School Retirement System commensurate with the amounts that they would have earned had their pay been commensurate with their years of experience and that of their comparable male peers;
- f. Award Plaintiffs damages actual damages;
- g. Award Plaintiffs their attorneys' fees and costs and prejudgment interest;
- h. Award Plaintiffs such other and further relief as may be just and proper under the circumstances.

### **COUNT V. - RETALIATION**

81. Plaintiff incorporate by reference paragraphs 1-80 of this Petition as though fully set forth herein.

82. Plaintiffs each filed a Charge of Discrimination alleging discriminatory pay practices by the District.

83. Filing a Charge of Discrimination is protected activity subject to RSMo 213.070.

84. After filing a Charge of Discrimination, the District retaliated against Plaintiffs by equalizing pay for 10 female employees who did not file Charges of Discrimination.

85. Plaintiffs have sustained damages because of the District's discriminatory and retaliatory conduct.

86. Because of Defendant's actions described here, Plaintiff have lost wages and continue to lose other financial incidents and benefits of employment.

87. Plaintiff seek all damages available pursuant to the Missouri Human Rights Act.

WHEREFORE Plaintiffs pray that this Court grant the following relief:

- a. Award Plaintiffs lost wages, lost benefits and actual damages and;
- b. Award Plaintiffs their attorneys' fees and costs and prejudgment interest;
- c. Award Plaintiffs such other and further relief as may be just and proper under the circumstances.

**KAPKE & WILLERTH L.L.C.**

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