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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Equal Employment Opportunity Commission,)	Case No.
)	
Plaintiff,)	COMPLAINT AND JURY TRIAL DEMAND
)	
vs.)	
)	
Murphy School District No. 21,)	
)	
Defendant.)	

NATURE OF THE ACTIONS

This is an action under the Age Discrimination in Employment Act (“ADEA”) to correct unlawful employment practices on the basis of age, and to provide appropriate relief to a group of employees denied benefits based on their age under a facially age-discriminatory early retirement incentive plan (“aggrieved individuals”). Plaintiff, the United States Equal Employment Opportunity Commission (the “Commission”), brings this claim against Defendant Murphy School District No. 21 (“Defendant”) alleging that since at least 2008, Defendant maintained a facially age-discriminatory early

1 retirement incentive plan that provided a larger cash benefit to younger early retirees
2 and cuts off any early incentive benefit to those age 61, 63, 65 and above, depending on
3 years of service.

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5 **JURISDICTION AND VENUE**

6 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331,
7 1337, 1343 and 1345. This action is brought pursuant to Section 7(b) of the Age
8 Discrimination in Employment Act, as amended, 29 U.S. C. § 626(b) (the “Act”)’
9 which incorporates by reference Sections 16(c) and 17 of the Fair Labor Standards Act
10 of 1938 (the “FLSA”), as amended, 29 U.S.C. §§ 216(c) and 217.

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12 2. The employment practices alleged to be unlawful were committed within
13 the jurisdiction of the United States District Court for the District of Arizona.
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15 **PARTIES**

16 3. Plaintiff, the Equal Employment Opportunity Commission (the
17 “Commission”), is the agency of the United States of America charged with the
18 administration, interpretation, and enforcement of the ADEA, and is expressly
19 authorized to bring this action by Section 7(b) of the ADEA, 29 U.S.C. § 626(b), as
20 amended.
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23 4. At all relevant times, Defendant, Murphy School District No. 21,
24 (“Defendant”) has continuously been operating and doing business in the State of
25 Arizona and the County of Maricopa, and has continuously had at least twenty (20)
26 employees.
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28 5. At all relevant times, Defendant Murphy School District has continuously

1 been an employer, within the meaning of Section 11(b) of the ADEA, 29 U.S.C. §
2 630(b).

3 6. At all relevant times, Defendant Murphy School District has continuously
4 been a political subdivision of the State of Arizona.

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6 7. Prior to the institution of this lawsuit, the Commission's representatives
7 attempted to eliminate the unlawful employment practices alleged below and to effect a
8 voluntary compliance with the ADEA through informal methods of conciliation,
9 conferences and persuasion within the meaning of Section 7(b) of the ADEA, 29 U.S.C.
10 § 626(b).
11

12 **STATEMENT OF CLAIM**

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14 8. Since at least 2008, Defendant has engaged in unlawful employment
15 practices in violation of Section 4(2)(b) of the ADEA, 29 U.S.C. §623(a)(2) by utilizing
16 a policy titled "Retirement of Professional Staff Members." This policy provides for
17 retiring employees to be compensated at rates which decrease based on the retiring
18 employee's age as follows:
19

20 (a) Employees retiring with five through nine years of service:

<u>Age</u>	<u>Percentage</u>
64	salary plus 3%
63	salary plus 6%
62	salary plus 9%
61	salary plus 12%
60	salary plus 15%
Less than 60	salary plus 15%

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28 (b) Employees retiring with ten through twenty-four
years of service:

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<u>Age</u>	<u>Percentage</u>
62	salary plus 2%
61	salary plus 3%
60	salary plus 6%
59	salary plus 11%
58	salary plus 16%
57	salary plus 21%
Less than 57	salary plus 21%

(c) Employees retiring with twenty-five or more years of service:

<u>Age</u>	<u>Percentage</u>
60	salary plus 3%
59	salary plus 5%
58	salary plus 10%
57	salary plus 15%
56	salary plus 20%
55	salary plus 25%
Less than 55	salary plus 25%

9. Defendant’s Retirement of Professional Staff Members plan for retiring employees (as described in Paragraph 6 above) was implemented for the purpose of creating an incentive for employees to retire at a younger age.

10. Defendant’s Retirement of Professional Staff Members plan for retiring employees (as described in Paragraph 6 above) is an Early Retirement Incentive Plan (“ERIP”).

11. On its face, Defendant’s ERIP (as described in Paragraph 6 above) discriminates based on age by providing for older employees to be compensated at lower rates than are paid to younger employees.

1 plan which pays reduced benefits based on age.

2 C. Grant judgment requiring Defendant to pay all employees who retired
3 between 2008 and the present, and were age 61, 63, 65 or over when they retired, the
4 difference between the amount each was paid as compensation, and the amount each
5 would have been paid plus prejudgment interest and an equal sum as liquidated
6 damages.
7

8 D. Order Defendant to institute and carry out policies, practices, and
9 programs which provide equal opportunity early retirement incentive benefits for
10 qualified individuals, and which eradicate the effects of its past and present unlawful
11 employment practices.
12

13 E. Order Defendant Murphy School District to make whole all individuals
14 adversely affected by the unlawful practices above, by providing affirmative relief
15 necessary to eradicate the effects of its unlawful practices, including but not limited to
16 the amount to which a class of employees denied benefits based on their age under the
17 policy would be entitled but for the unlawful discrimination.
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19 F. Order Defendant Murphy School District to provide to each of members
20 of the class of employees denied benefits based on their age under the policy a sum
21 equal to the amount of their backpay as liquidated damages.
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23 G. Grant such further relief as this Court deems necessary and proper in the
24 public interest.
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26 H. Award the Commission its costs of this action.
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JURY TRIAL DEMAND

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2 The Commission requests a jury trial on all questions of fact raised by its
3 Complaint.

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5 DATED: April 7, 2014.

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7 RESPECTFULLY SUBMITTED,

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9 P. DAVID LOPEZ
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10
11 GWENDOLYN YOUNG REAMS
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12
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