

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

ANDREW MCCARTHY, )  
 )  
 Plaintiff, )  
 )  
 v. ) Case No. \_\_\_\_\_  
 )  
 COLUMBIA PUBLIC SCHOOLS, ) **JURY TRIAL DEMANDED**  
 )  
 Defendant. )

**COMPLAINT**

Plaintiff Andrew McCarthy (“Plaintiff”) states the following for his  
Complaint against Defendant Columbia Public Schools (“CPS”):

**PARTIES, JURISDICTION, AND VENUE**

1. Plaintiff and his wife, Rachel Henderson McCarthy (“Henderson”), are adult citizens of Missouri.
2. CPS is a public-school district existing under the laws of the State of Missouri and operating in Boone County, Missouri.
3. CPS is an “employer” as that term is defined in Title VII of the Civil Rights Act of 1964 (“Title VII”) 42 U.S.C. § 2000e(b) (2022).
4. At all times relevant to this Petition, CPS employed Plaintiff and Henderson as assistant principal at Hickman High School and Battle High School, respectively.

5. In 2017, Plaintiff and Henderson brought separate lawsuits against CPS under the Missouri Human Rights Act (“MHRA”), § 213.010 et seq. RSMo, alleging discrimination based on sex, race, and disability, as well as retaliation for reported discrimination.

6. All the conduct Plaintiff and Henderson complained of in their 2017 lawsuits is also prohibited by Title VII.

7. Plaintiff and Henderson resolved their 2017 lawsuits with CPS in March 2019.

8. On or about May 6, 2022, Plaintiff dual-filed a new charge of retaliation with the Missouri Commission on Human Rights (“MCHR”) and the Equal Employment Opportunity Commission (“EEOC”), alleging that CPS failed to promote him in retaliation for the discrimination lawsuits he and Henderson filed against the District in 2017.

9. Plaintiff’s new charge was filed within 180 days of the retaliatory acts alleged below.

10. Plaintiff filed this Complaint within 90 days of receiving his Notice of Right to Sue from EEOC.

11. The Court has subject-matter jurisdiction in this case under 28 U.S.C. §§ 1331 because Plaintiff asserts claims arising under Title VII of the Civil Rights Act of 1964 (“Title VII), 42 U.S.C.A. § 2000e-2(a)(1).

12. Venue is proper in the Western District of Missouri under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred in Boone County, Missouri.

13. Venue is proper in the Central Division under Local Rule 3.2(b)(3) because both CPS and Plaintiff may be found in Boone County and the conduct giving rise to Plaintiff's claims occurred in Boone County, Missouri.

### **GENERAL ALLEGATIONS**

14. CPS hired Plaintiff in 2005 to be a teacher at Hickman High School ("Hickman") in Columbia, Missouri.

15. In 2010, Plaintiff was promoted to assistant principal at Hickman.

16. When CPS opened Battle High School in fall 2013, Plaintiff was selected to be one of the new school's assistant principals.

17. The following school year, Henderson joined Plaintiff as an assistant principal at Battle.

18. Plaintiff and Henderson began dating in 2014 and eventually married in June 2017.

19. Starting in fall 2016, Henderson reported sexual harassment and discrimination based on sex by former Assistant Superintendent Kevin Brown to CPS administrators on at least three occasions.

20. Following Henderson's report of discrimination, Dr. Brown declined to interview McCarthy for the open principal position at Hickman High School, selecting a less qualified candidate instead.

21. Dr. Brown also transferred McCarthy from Battle to Hickman, citing a non-existent district policy against married couples working together as pretext for the move and falsely claimed the decision had been made by someone else.

22. On information and belief, Dr. Brown passed McCarthy over for promotion and separated him from Henderson in retaliation for Henderson's complaints of sexual harassment.

23. In June 2017, both Plaintiff and Henderson filed grievances with CPS's Human Resources Department under the district's anti-discrimination and staff-conduct policies.

24. In July 2017, CPS substantiated Henderson's grievance under both the staff conduct and anti-discrimination policies.

25. CPS also substantiated Plaintiff's grievance under the staff conduct policy.

26. In August 2017, Plaintiff and Henderson both filed lawsuits against CPS and Dr. Brown for sexual harassment, discrimination, and retaliation.

27. Dr. Brown resigned from CPS in October 2018.

28. Plaintiff and Henderson both resolved their lawsuits with CPS in March 2019.

29. Since Plaintiff and Henderson filed their original lawsuits, CPS has appointed new principals at all three of its high schools.

30. Plaintiff applied for all three open principal positions but was passed over each time in favor of less qualified candidates.

31. Jacob Sirna was appointed Principal of Rock Bridge High School on March 11, 2019, despite Plaintiff's greater experience and credentials.

32. Although Plaintiff had signed the paperwork resolving his prior lawsuit with CPS in *February* 2019, the District did not sign the paperwork until *March* 13—two days after Sirna was appointed.

33. Adam Taylor was appointed as principal of Battle High School in June 2020 despite Plaintiff's greater experience and credentials.

34. On March 9, 2022, the hiring committee for the Hickman Principal position selected Plaintiff and Mary Grupe as the two finalists to be interviewed by CPS's new Superintendent Brian Yearwood.

35. Plaintiff had a doctorate in Education Administration.

36. Grupe had a master's degree.

37. Plaintiff had been an assistant principal with CPS for 12 years.

38. Grupe had been an assistant principal for just three years, and the District had appointed Plaintiff to serve as her mentor during her first two years.

39. Plaintiff had the support of Hickman's faculty, parents, and community leaders.

40. Grupe's only connection to Hickman was as a 2001 graduate.

41. Despite the disparity in their qualifications, Dr. Yearwood selected Grupe over Plaintiff on or about March 18, 2022.

42. When Assistant Superintendent for Secondary Education Dr. Helen Porter told him he had been passed over again, Plaintiff asked her, "What do I need to do more of or say differently?"

43. Porter said she could not provide any guidance or suggest anything Plaintiff could do differently or more of to improve his chances for promotion in the future.

44. On information and belief, Plaintiff was not selected as Principal of Hickman High School in 2022 because he and his wife had previously sued CPS for discrimination and retaliation.

45. Around the same time that he passed Plaintiff over for promotion, Dr. Yearwood told the members of his cabinet that "too many employees who have sued the District still work here."

**COUNT I—UNLAWFUL RETALIATION FOR PLAINTIFF’S PRIOR  
DISCRIMINATION LAWSUIT AGAINST CPS  
IN VIOLATION OF 42 U.S.C. § 2000e-3(a)**

46. Plaintiff restates and incorporates by reference all prior allegations in this petition.

47. Plaintiff filed a charge of discrimination and a subsequent lawsuit against CPS in 2017, alleging discrimination based on his race, his association with disabled children and children of color, retaliation for reporting discrimination, and his association with his wife who had also complained of sexual harassment and gender discrimination.

48. After filing his charge and lawsuit against CPS for discrimination and retaliation, Plaintiff applied for three open high school principal positions within the District, for which he was highly qualified.

49. CPS chose less qualified applicants over Plaintiff for all three open positions.

50. Specifically, in March 2022, CPS selected Mary Grupe—a candidate with less education and one fourth of Plaintiff’s administrative experience—to serve as Principal of Hickman High School.

51. Although CPS had previously assigned Plaintiff to serve as Grupe’s mentor during her first two years in administration, the District elevated her to a position of authority over Plaintiff.

52. Being passed over for promotion in favor of less qualified candidates might well dissuade a reasonable worker in the same or similar circumstances as Plaintiff from filing a charge of discrimination or a lawsuit opposing discrimination and retaliation.

53. CPS Superintendent Dr. Yearwood would not have passed over Plaintiff in favor of the far less qualified Grupe but for the fact that Plaintiff has previously sued the district for discrimination and retaliation.

54. Indeed, Dr. Yearwood explicitly told his cabinet members that too many current CPS employees had brought lawsuits against the District in the past.

55. As a direct and proximate result of CPS's repeated retaliation for filing his prior lawsuit, Plaintiff suffered damages including the lost wages and benefits he would have earned as principal, emotional distress, humiliation, and loss of enjoyment of life.

56. Defendant acted with malice or reckless disregard for Plaintiff's rights—as evidenced by Dr. Yearwood's statement to his cabinet—entitling Plaintiff to an award of punitive damages under 42 U.S.C. § 1981a(a)(1) in an amount that will punish CPS and deter it and others from similar conduct in the future.

57. Plaintiff is entitled to his costs and reasonable attorneys' fees under 42 U.S.C. § 2000e-5(k).



58. Plaintiff demands trial by jury on this claim.

**COUNT II—UNLAWFUL RETALIATION FOR HENDERSON’S  
PRIOR DISCRIMINATION LAWSUIT AGAINST CPS  
IN VIOLATION OF 42 U.S.C. § 2000e-3(a)**

59. Plaintiff restates and incorporates by reference all prior allegations in this petition.

60. Henderson filed a charge of discrimination and a subsequent lawsuit against CPS in 2017, alleging sexual harassment; discrimination based on race and sex; her association with disabled children and children of color; and retaliation for reporting discrimination.

61. After Henderson filed her charge and lawsuit against CPS for discrimination and retaliation, Plaintiff applied for three open high school principal positions within the District for which he was highly qualified.

62. CPS chose less qualified applicants over Plaintiff for all three open positions.

63. Specifically, in March 2022, CPS selected Mary Grupe—a candidate with less education and only a fourth of Plaintiff’s administrative experience—to serve as Principal of Hickman High School.

64. Although CPS had previously assigned Plaintiff to serve as Grupe’s mentor during her first two years in administration, the District elevated her to a position of authority over Plaintiff.

65. Having one's spouse passed over for promotion in favor of less qualified candidates might well dissuade a reasonable worker in the same or similar circumstances as Henderson from filing a charge of discrimination or a lawsuit opposing discrimination and retaliation.

66. CPS Superintendent Dr. Yearwood would not have passed over Plaintiff in favor of the far less qualified Grupe but for Henderson's prior charge of discrimination and lawsuit against CPS for discrimination and retaliation.

67. Indeed, Dr. Yearwood explicitly told his cabinet members that too many current CPS employees had brought lawsuits against the District in the past.

68. As a direct and proximate result of CPS's repeated retaliation for Henderson's prior lawsuit, Plaintiff suffered damages including lost wages and benefits, emotional distress, humiliation, and loss of enjoyment of life.

69. Defendant acted with malice or reckless disregard for Plaintiff's rights—as evidenced by Dr. Yearwood's statement to his cabinet—entitling Plaintiff to an award of punitive damages under 42 U.S.C. § 1981a(a)(1) in an amount that will punish CPS and deter it and others from similar conduct in the future.

70. Plaintiff is entitled to his costs and reasonable attorneys' fees under 42 U.S.C. § 2000e-5(k).

71. Plaintiff demands trial by jury.

WHEREFORE, Plaintiff requests that the Court grant judgment in his favor against Defendant, awarding compensatory and punitive damages, costs, reasonable attorneys' fees, post-judgment interest, and such other relief as the Court deems just and proper.

Respectfully Submitted,

**TGH Litigation LLC**

/s/ J. Andrew Hirth  
J. Andrew Hirth, #57807  
28 N. 8<sup>th</sup> St., Suite 317  
Columbia, MO 65201  
573-256-2850  
[andy@tghlitigation.com](mailto:andy@tghlitigation.com)

*Counsel for Plaintiff*

JS 44 (Rev 09/10)

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI****CIVIL COVER SHEET**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Western District of Missouri.

**The completed cover sheet must be saved as a pdf document and filed as an attachment to the Complaint or Notice of Removal.**

**Plaintiff(s):****First Listed Plaintiff:**

Andrew McCarthy ;

**County of Residence:** Boone County**Defendant(s):****First Listed Defendant:**

Columbia Public Schools ;

**County of Residence:** Boone County**County Where Claim For Relief Arose:** Boone County**Plaintiff's Attorney(s):**

J. Andrew Hirth (Andrew McCarthy)

TGH Litigation LLC

28 N 8th St, Suite 317

Columbia, Missouri 65201

**Phone:** 5732562850**Fax:** 5732132201**Email:** andy@tghlitigation.com**Defendant's Attorney(s):****Basis of Jurisdiction:** 3. Federal Question (U.S. not a party)**Citizenship of Principal Parties (Diversity Cases Only)****Plaintiff:** N/A**Defendant:** N/A**Origin:** 1. Original Proceeding**Nature of Suit:** 442 Employment**Cause of Action:** Retaliation for opposing unlawful discrimination in violation of 42 U.S.C. § 2000e-3(a).**Requested in Complaint****Class Action:** Not filed as a Class Action**Monetary Demand (in Thousands):****Jury Demand:** Yes**Related Cases:** Is NOT a refiling of a previously dismissed action

---

**Signature:** J. Andrew Hirth

Case 2:23-cv-04120-WJE Document 1-1 Filed 06/12/23 Page 1 of 2

**Date:** 6/12/2023

If any of this information is incorrect, please close this window and go back to the Civil Cover Sheet Input form to make the correction and generate the updated JS44. Once corrected, print this form, sign and date it, and submit it with your new civil action.