



# LEWIS KING

Lewis, King, Krieg & Waldrop, P.C  
424 CHURCH STREET, SUITE 2500 • POST OFFICE BOX 198615 • NASHVILLE TENNESSEE 37219  
TELEPHONE 615/259-1366 • FAX 615/259-1389

## TELECOMMUNICATION TRANSMITTAL

TO: Jason Vane FAX #: 865 458 6138  
FIRM NAME: Landon County Schools DATE: \_\_\_\_\_  
FROM: Chuck Cagle  
RE: Korsten Leckhardt  
DOCUMENT DESCRIPTION: \_\_\_\_\_

MESSAGE:

TOTAL NUMBER OF PAGES, INCLUDING COVER SHEET: 16

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U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
Nashville Area Office

*Cagle*

220 Athens Way, Suite 350  
Nashville, TN 37228-1327  
Nashville Direct Dial: (615) 736-5820  
TTY (615) 736-5870  
FAX (615) 736-2107

JUN 4 - 2012

Loudon County Board of Education  
c/o Mr. Charles W. Cagle  
Lewis, King, Kreig & Waldrop, P.C.  
424 Church Street, Suite 2500  
P. O. Box 198615  
Nashville, TN 37219

RE: Nancy Kersten vs. Loudon County Board of Education  
Charge No: 494-2010-02250

Dear Mr. Cagle:

Pursuant to the provisions of the enclosed Letter of Determination, the Loudon County Board of Education is hereby invited to engage in conciliation discussions to resolve the above referenced charge. A copy of the draft Conciliation Agreement is enclosed for review and consideration.

Please let me know within fifteen (15) days from the date of this letter whether the Loudon County Board of Education agrees to the terms of the Agreement, wishes to submit a counter offer, or rejects the Agreement and conciliation attempt in its entirety. If I do not hear from you by the above named date, I will assume the Loudon County Board of Education is not interested in conciliation discussions. If conciliation efforts are unsuccessful, the above file will be forwarded to the Memphis District Office Legal Department who will then forward the case to the Department of Justice where a decision will be made on whether to proceed with litigation.

Sincerely,

Lu Ann Hawk  
Federal Investigator  
(615) 736-5859

Encs



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Nashville Area Office

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TTY (615) 736-5870  
FAX (615) 736-2107

Charge No: 494-2010-02250

Nancy Kersten  
210 Meadow Road  
Friendsville, TN 37737

Charging Party

and

Loudon County Board of Education  
100 River Road  
Loudon, TN 37774

Respondent

DETERMINATION

Under the authority vested in me by the Commission, I issue the following determination as to the merits of the subject charge filed under the Age Discrimination in Employment Act of 1967, as amended, (ADEA), and Title VII of the Civil Rights Act of 1964, as amended (Title VII). Timeliness and all requirements for coverage have been met.

Charging Party alleges that the terms and conditions of her employment were adversely affected when her contract was not renewed and that she was denied hire due to her age, (55), and due to her sex, (female).

Respondent denies Charging Party's allegations and contends that Charging Party has not been a victim of discrimination because of her age and sex. Respondent maintains that the one-year contract under which Charging Party was employed was non-renewed, that the statutes governing the employment of non-tenured teachers do not require the giving of a reason for non-renewal, and that the statutes only require the timely notice of non-renewal of the one-year contract. Further, Respondent maintains that Charging Party did not apply for, or express any written or other interest in, the many position vacancies at Eaton Elementary School once her employment had been non-renewed.

Examination of the evidence shows that Charging Party's Comprehensive Assessment Appraisal Records do not indicate any major performance issues, that there are no disciplinary actions on record, and that she received a glowing recommendation letter from the Eaton Elementary School Principal on April 20, 2010.

Examination of the evidence shows that seven individuals were placed in grades kindergarten through fourth grade to teach at Eaton Elementary School for the 2010-2011 school year, but Charging Party was not considered for any of the available positions.

Examination of the evidence shows e-mail communications from Charging Party to the Eaton Elementary School Principal and Vice Principal that confirm her continuing efforts to secure employment after the non-renewal of her contract.



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CONCILIATION AGREEMENT

In the matter of:

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Letter of Determination  
Charge No. 494-2010-02250  
Page 2

Examination of the evidence shows that on or around March 31, 2010, Charging Party was informed that her contract would not be renewed for the 2010-2011 school year. At the time Charging Party was informed of her non-renewal, she was teaching third grade at Eaton Elementary School.

Examination of the evidence shows that a male (age 28) was hired to fill a third grade teaching position at Eaton Elementary School on August 2, 2010, and that Charging Party was not considered for this open position.

Based on the above analysis, I have determined that the evidence obtained during the investigation establishes that there is reasonable cause to conclude that the Charging Party's terms and conditions of employment were adversely affected in that her contract was not renewed, and that she was denied hire because of her age, in violation of the ADEA, and due to her sex, in violation of Title VII.

The ADEA and Section 706(b) of Title VII require that if the Commission determines that there is reasonable cause to believe that the charge is true, it shall endeavor to eliminate the alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Having determined that there is reasonable cause to believe that the charge is true, the Commission now invites the parties to join with it in a collective effort toward a just resolution of this matter. A representative of this office will be in contact with each party in the near future to begin the conciliation process. Disclosure of information by the Commission during the conciliation process will be made in accordance with Section 706(b) and Section 1601.26 of the Commission's Procedural Regulations. Where the Respondent declines to enter into settlement discussion, or when the Commission's representative for any other reason is unable to secure a settlement acceptable to the office Director, the Director shall so inform the parties in writing and advise them of the court enforcement alternative available to the Charging Party and the Commission.

You are reminded that Federal law prohibits retaliation against persons who have exercised their right to inquire or complain about matters they believe violate the law. Discrimination against persons who have cooperated in Commission investigations is also prohibited. This protection applies regardless of the Commission's determination on the merits of the charge.

On Behalf of the Commission:

JUN 4 - 2012

Date

  
Sarah L. Smith  
Nashville Area Office Director

SECTION I  
GENERAL PROVISIONS

1. Agreement Not to Sue: EEOC agrees not to use the above EEOC referenced charge as the jurisdictional basis for filing a lawsuit against Respondent. However, nothing in the Agreement shall preclude EEOC and/or any aggrieved individual from bringing suit to enforce this Agreement in the event that Respondent fails to perform the promises and representation contained herein. Neither does it preclude the Charging Party nor the Commission from filing charges in the future for alleged violations falling outside the matters covered by the above EEOC case.
2. Commission May Review Compliance with Agreement: Respondent agrees that the Commission may review compliance with this Agreement. As part of such review, the Commission may, provided that it is reasonably necessary to review compliance of this Agreement, require written reports concerning compliance and inspect the premises, examine witnesses, and examine and copy any non-privileged non-work product document.
3. All Employment Practices to be conducted in a Non-Discriminatory Manner: All hiring, promotion practices, and other terms and conditions of employment shall be and continue to be maintained and conducted in a manner which does not discriminate on the basis of race, color, sex, religion, national origin, age, or disability. The Respondent agrees to comply with the ADEA and Title VII.
4. Retaliation Prohibited: The parties agree that there shall be no discrimination or retaliation of any kind against any person because of opposition to any practice declared unlawful under any of the laws enforced by the EEOC, or because of the filing of a charge; giving of testimony or assistance; or participation in any investigations, proceedings, or hearing under any of the statutes enforced by the EEOC.
5. Reporting Requirements: The Respondent agrees to retain the records and to provide the written reports under the section in this Agreement entitled "Reporting." Reports will be furnished to the office of the Commission which has signified final approval of the Agreement.
6. The Parties agree that this Agreement may be used only as evidence in a subsequent proceeding in which any of the parties allege a breach of this Agreement.
7. This Agreement shall remain in full force and effect for one year subsequent to the date of the last signature on this Agreement.

SECTION II  
CHARGING PARTY RELIEF

A. Charging Party's Relief:

Within ten (10) days from the date of the last signature on this Agreement, the Respondent agrees to pay Charging Party monetary relief as follows:

Gross back pay from June 1, 2010 through May 31, 2012, calculated at the annual base salary of \$46,152.00 minus interim earnings with interest. Payroll withholding taxes as mandated by law will be deducted by the employer:

\$ 77,585.00

Front Pay/two years  
(\$46,152.00 annual base salary minus projected earnings) 76,304.00

Attorney Fees

3,000.00

Total Monetary Relief

\$ 156,889.00

B. Employment Policies and Practices:

Respondent agrees to provide training regarding the ADEA and Title VII to all supervisory employees of the Loudon County, Tennessee, Board of Education. The training shall be conducted within three (3) months from the date this Agreement is signed by the Commission and will be conducted by an outside agency approved by the Commission. Respondent will maintain documentation, including a copy of the training materials presented and signed attendance lists, to show it conducted the required training.

SECTION III  
REPORTING PROVISIONS

Within 30 days of execution of this Agreement, Respondent will provide to the Area Director of the Nashville Office written documentation describing and verifying all actions taken to implement the provisions of this Agreement.

SECTION IV  
NOTICE REQUIREMENT

Respondent agrees to sign and conspicuously post the Notice to Employees, found as Attachment "A" on all employee bulletin boards for a period of twelve (12) months from the date of the last signature on this Agreement.

SECTION V  
CONSENT FOR RELEASE OF NOTICE

The contents of the Conciliation Agreement and all discussions and/or correspondence associated with such Agreement are confidential and shall not be disclosed by either Respondent or EEOC, except that Respondent will post the Notice required by Section IV of this Conciliation Agreement. Conciliation discussions between both parties will be excluded and shall be considered and treated as confidential.

SECTION VI  
SIGNATURES

I have read the foregoing Conciliation Agreement and I accept and agree to the provisions contained therein:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Charging Party

Approved on Behalf of the Commission:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Sarah L. Smith  
Nashville Area Office Director



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
Nashville Area Office

220 Athens Way, Suite 350  
Nashville, TN 37228-1327  
Nashville Direct Dial: (615) 736-5820  
TTY (615) 736-5870  
FAX (615) 736-2107

NOTICE TO EMPLOYEES

This Notice is being posted as part of the remedy agreed to pursuant to a Conciliation Agreement between the Loudon County, Tennessee, Board of Education and the United States Equal Employment Opportunity Commission (EEOC).

The Loudon County, Tennessee, Board of Education agrees to comply with all provisions of the Age Discrimination in Employment Act of 1967, as amended (ADEA) and Title VII of the Civil Rights Act of 1964, as amended (Title VII).

The Loudon County, Tennessee, Board of Education agrees to provide training to all of its supervisors as to the requirements of the Age Discrimination in Employment Act of 1967, as amended (ADEA) and Title VII of the Civil Rights Act of 1964, as amended (Title VII).

Federal law requires that there be no discrimination against any employee or applicant for employment because of the individual's race, color, religion, sex, national origin age (40 and over), or disability with respect to hiring, promotion, firing, compensation, or other terms, conditions or privileges of employment.

The Loudon County, Tennessee, Board of Education agrees to comply with such Federal law in all aspects and will not take any retaliatory action against employees because they have filed discrimination charges, complained about discrimination, or participated in the investigation of a charge of discrimination.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Respondent

Attachment A





U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
Nashville Area Office

*Cagle*

220 Athens Way, Suite 350  
Nashville, TN 37228-1327  
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FAX (615) 736-2107

JUN 4 - 2012

Loudon County Board of Education  
c/o Mr. Charles W. Cagle  
Lewis, King, Kreig & Waldrop, P.C.  
424 Church Street, Suite 2500  
P. O. Box 198615  
Nashville, TN 37219

RE: Kashleen Eckhardt vs. Loudon County Board of Education  
Charge No: 494-2010-02443

Dear Mr. Cagle:

Pursuant to the provisions of the enclosed Letter of Determination, the Loudon County Board of Education is hereby invited to engage in conciliation discussions to resolve the above referenced charge. A copy of the draft Conciliation Agreement is enclosed for review and consideration.

Please let me know within fifteen (15) days from the date of this letter whether the Loudon County Board of Education agrees to the terms of the Agreement, wishes to submit a counter offer, or rejects the Agreement and conciliation attempt in its entirety. If I do not hear from you by the above named date, I will assume the Loudon County Board of Education is not interested in conciliation discussions. If conciliation efforts are unsuccessful, the above file will be forwarded to the Memphis District Office Legal Department who will then forward the case to the Department of Justice where a decision will be made on whether to proceed with litigation.

Sincerely,

Lu Ann Hawk  
Federal Investigator  
(615) 736-5859

Encs



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TTY (615) 736-5870  
FAX (615) 736-2107

Charge No: 494-2010-02443

Kathleen Eckhardt  
220 Meadow Road  
Friendsville, TN 37737

Charging Party

and

Loudon County Board of Education  
100 River Road  
Loudon, TN 37774

Respondent

DETERMINATION

Under the authority vested in me by the Commission, I issue the following determination as to the merits of the subject charge filed under the Age Discrimination in Employment Act of 1967, as amended, (ADEA). Timeliness and all requirements for coverage have been met.

Charging Party alleges that the terms and conditions of her employment were adversely affected when her contract was not renewed, that she was discharged, and that she was denied tenure due to her age, 57. Further, Charging Party alleges that Respondent discriminated in the hiring and retention of teachers as a class on the basis of age.

Respondent denies Charging Party's allegations and contends that Charging Party has not been a victim of discrimination because of her age. Respondent maintains that Charging Party was not discharged, but rather the one-year contract under which she was employed was non-renewed, that the statutes governing the employment of non-tenured Teachers do not require the giving of a reason for non-renewal, and that the statutes only require the timely notice of non-renewal of the one-year contract. Respondent contends that Charging Party had a negative attitude and was difficult with the parents and her colleagues.

Examination of the evidence shows that Charging Party is certified to teach kindergarten through sixth grade. Evidence shows that she was hired in August 2007, that she worked three years as a Fourth Grade Teacher at Eaton Elementary School, that she was a probationary Teacher on a year-to-year contract, that three years of continued employment as a Teacher is required in order to be awarded tenure status, and that acquisition of tenure is based upon a Director of School's recommendation to the Board, with the Board making an affirmative grant of tenure.

Examination of the evidence shows that Charging Party was not recommended for renewal of her contract for the 2010-2011 school year and that she was not recommend to be awarded tenure status.

Letter of Determination  
Charge No. 494-2010-02443  
Page 2

Examination of the evidence shows that Charging Party's Comprehensive Assessment Appraisal Records do not indicate any major performance issues, that there are no disciplinary actions on record, and that she received glowing recommendation letters from her colleagues, including a letter dated April 20, 2010 from the Eaton Elementary School Principal. Statistical analysis of the evidence shows that the average age of Teachers awarded tenure at Eaton Elementary from 2007 through 2010 is age 29.

Based on the above analysis, I have determined that the evidence obtained during the investigation established that there is reasonable cause to conclude that the Charging Party's terms and conditions of employment were adversely affected in that her contract was not renewed and in effect she was discharged, and that she was denied tenure because of her age in violation of the ADEA.

Based on the above analysis, I have determined that there is insufficient evidence to support Charging Party's class allegations that Respondent discriminates in the hiring and retention of teachers on the basis of their age.

The ADEA requires that if the Commission determines that there is reasonable cause to believe that the charge is true, it shall endeavor to eliminate the alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Having determined that there is reasonable cause to believe that the charge is true, the Commission now invites the parties to join with it in a collective effort toward a just resolution of this matter. A representative of this office will be in contact with each party in the near future to begin the conciliation process. Disclosure of information by the Commission during the conciliation process will be made in accordance with Section 706(b) and Section 1601.26 of the Commission's Procedural Regulations. Where the Respondent declines to enter into settlement discussion, or when the Commission's representative for any other reason is unable to secure a settlement acceptable to the office Director, the Director shall so inform the parties in writing and advise them of the court enforcement alternative available to the Charging Party and the Commission.

You are reminded that Federal law prohibits retaliation against persons who have exercised their right to inquire or complain about matters they believe violate the law. Discrimination against persons who have cooperated in Commission investigations is also prohibited. This protection applies regardless of the Commission's determination on the merits of the charge.

On Behalf of the Commission:

JUN 4 - 2012

\_\_\_\_\_  
Date



\_\_\_\_\_  
Sarah L. Smith  
Nashville Area Office Director



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
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TTY (615) 736-5870  
FAX (615) 736-2107

CONCILIATION AGREEMENT

In the matter of:

U.S. Equal Employment Opportunity Commission

And

Kathleen Eckhardt  
220 Meadow Road  
Friendsville, TN 37737

Charging Party

v.

EEOC Charge No. 494-2010-02443

Loudon County Board of Education  
100 River Road  
Loudon, TN 37774

Respondent

\*\*\*\*\*

An investigation having been made under the Age Discrimination in Employment Act of 1967, as amended (ADEA), and reasonable cause having been found, the parties do resolve and conciliate this matter as follows:

SECTION I  
GENERAL PROVISIONS

1. Agreement Not to Sue: EEOC agrees not to use the above EEOC referenced charge as the jurisdictional basis for filing a lawsuit against Respondent. However, nothing in the Agreement shall preclude EEOC and/or any aggrieved individual from bringing suit to enforce this Agreement in the event that Respondent fails to perform the promises and representation contained herein. Neither does it preclude the Charging Party nor the Commission from filing charges in the future for alleged violations falling outside the matters covered by the above EEOC case.
2. Commission May Review Compliance with Agreement: Respondent agrees that the Commission may review compliance with this Agreement. As part of such review, the Commission may, provided that it is reasonably necessary to review compliance of this Agreement, require written reports concerning compliance and inspect the premises, examine witnesses, and examine and copy any non-privileged non-work product document.
3. All Employment Practices to be conducted in a Non-Discriminatory Manner: All hiring, promotion practices, and other terms and conditions of employment shall be and continue to be maintained and conducted in a manner which does not discriminate on the basis of race, color, sex, religion, national origin, age, or disability. The Respondent agrees to comply with the ADEA.
4. Retaliation Prohibited: The parties agree that there shall be no discrimination or retaliation of any kind against any person because of opposition to any practice declared unlawful under any of the laws enforced by the EEOC, or because of the filing of a charge; giving of testimony or assistance; or participation in any investigations, proceedings, or hearing under any of the statutes enforced by the EEOC.
5. Reporting Requirements: The Respondent agrees to retain the records and to provide the written reports under the section in this Agreement entitled "Reporting." Reports will be furnished to the office of the Commission which has signified final approval of the Agreement.
6. The Parties agree that this Agreement may be used only as evidence in a subsequent proceeding in which any of the parties allege a breach of this Agreement.
7. This Agreement shall remain in full force and effect for one year subsequent to the date of the last signature on this Agreement.

SECTION II  
CHARGING PARTY RELIEF

A. Charging Party's Relief:

Within ten (10) days from the date of the last signature on this Agreement, the Respondent agrees to pay Charging Party monetary relief as follows:

Gross back pay from June 1, 2010 through May 31, 2012, calculated at the annual base salary of \$40,188.00 minus interim earnings with interest. Payroll withholding taxes as mandated by law will be deducted by the employer:

\$ 46,417.00

Front Pay/two years  
(\$40,188.00 annual base salary minus projected earnings) 31,032.00

Attorney Fees 3,000.00

Total Monetary relief \$ 80,449.00

B. Employment Policies and Practices:

Respondent agrees to provide training regarding the ADEA to all supervisory employees of the Loudon County, Tennessee, Board of Education. The training shall be conducted within three (3) months from the date this Agreement is signed by the Commission and will be conducted by an outside agency approved by the Commission. Respondent will maintain documentation, including a copy of the training materials presented and signed attendance lists, to show it conducted the required training.

SECTION III  
REPORTING PROVISIONS

Within 30 days of execution of this Agreement, Respondent will provide to the Area Director of the Nashville Office written documentation describing and verifying all actions taken to implement the provisions of this Agreement.

SECTION IV  
NOTICE REQUIREMENT

Respondent agrees to sign and conspicuously post the Notice to Employees, found as Attachment "A" on all employee bulletin boards for a period of twelve (12) months from the date of the last signature on this Agreement.

SECTION V  
CONSENT FOR RELEASE OF NOTICE

The contents of the Conciliation Agreement and all discussions and/or correspondence associated with such Agreement are confidential and shall not be disclosed by either Respondent or EEOC, except that Respondent will post the Notice required by Section IV of this Conciliation Agreement. Conciliation discussions between both parties will be excluded and shall be considered and treated as confidential.

SECTION VI  
SIGNATURES

I have read the foregoing Conciliation Agreement and I accept and agree to the provisions contained therein:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Charging Party

Approved on Behalf of the Commission:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Sarah L. Smith  
Nashville Area Office Director



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
Nashville Area Office

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NOTICE TO EMPLOYEES

This Notice is being posted as part of the remedy agreed to pursuant to a Conciliation Agreement between the Loudon County, Tennessee, Board of Education and the United States Equal Employment Opportunity Commission (EEOC).

The Loudon County, Tennessee, Board of Education (R) agrees to comply with all provisions of the Age Discrimination in Employment Act of 1967, as amended (ADEA).

The Loudon County, Tennessee, Board of Education agrees to provide training to all of its supervisors and hourly employees as to the requirements of the Age Discrimination in Employment Act of 1967, as amended (ADEA).

Federal law requires that there be no discrimination against any employee or applicant for employment because of the individual's race, color, religion, sex, national origin age (40 and over), or disability with respect to hiring, promotion, firing, compensation, or other terms, conditions or privileges of employment.

The Loudon County, Tennessee, Board of Education agrees to comply with such Federal law in all aspects and will not take any retaliatory action against employees because they have filed discrimination charges, complained about discrimination, or participated in the investigation of a charge of discrimination.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Respondent

Attachment A