

recipient of federal funds subject to § 504 of the Rehabilitation Act; and a government entity authorized under the laws of Oregon.

4. Defendant, SUSAN WINTHROP (hereinafter "**Winthrop**") is employed as a supervisor in the special education department of **PPS**, and was the immediate supervisor of Dr. Settlegoode.

5. Defendant, ROBERT CREBO (hereinafter "**Crebo**"), was employed as Director of Special Education of **PPS**, and supervised **Winthrop**.

6. Defendant, LARRY WHITSON (hereinafter "**WHITSON**") is employed as supervisor of a deaf and hard of hearing program, and employed by **PPS**.

Claims for Relief

COUNT ONE - § 504 of Rehabilitation Act Violation

7. Plaintiff realleges paragraphs 2 through 6.

8. Dr. Settlegoode was employed beginning the 1998-1999 school year ("first year") by **PPS**, as an Adapted Physical Education ("APE") teacher. Dr. Settlegoode continued to be employed by **PPS** during the 1999-2000 school year ("second year") in the same position.

9. In Dr. Settlegoode's first year and second year as an APE teacher, her assignment included several students with disabilities located at several schools in **PPS**, as well as students with disabilities at a campus of Portland Community College ("PCC").

10. Her students with disabilities were the beneficiaries of federal funding subject to section 504 of the Rehabilitation Act, and Dr. Settlegoode was within the zone of interest of the Act's

requirements for the benefit of her disabled students.

11. **PPS** intentionally did not provide Dr. Settlegoode and her students adequate scheduling, equipment, facilities, or other support, to properly teach, consult, coach, or supervise the instruction of disabled students or locations assigned to her. **PPS** intentionally assigned to Dr. Settlegoode students located at several different school locations in a manner such that she could not reasonably provide appropriate instruction to disabled students in a non-discriminatory manner. Although assigned to a campus of PCC, Winthrop advised Dr. Settlegoode not to provide any services to disabled students at PCC.

12. Dr. Settlegoode reported incidents and situations in which her disabled students were subjected to discrimination; not provided free and appropriate education including after-school activities that was equal or equivalent to services provided to non-disabled students; inadequate facilities or services; hazardous facilities; improper employee conduct, including falsified reports or lack of required reports; mismanagement of funds; and other violations of laws ("deficiencies"). She made reports of these deficiencies at various times to her supervisors including **Winthrop** and **Credbo**, and **PPS** through its superintendent, Dr. Ben Canada.

13. In response to Dr. Settlegoode's reports, Defendant **PPS**, intentionally retaliated against her.

14. As a part of Defendant **PPS**'s retaliation against Dr. Settlegoode, she was coerced to violate the Act and when she protested or refused to do so, her contract was not renewed for the

2000-2001 school year and she was discharged at the close of her second school year.

15. As a consequence of Defendant **PPS's** discriminatory and retaliatory acts described above, Dr. Settlegoode is entitled to injunctive and other equitable relief, including reinstatement to a teaching position; and if reinstated, Settlegoode should not be compelled to violate section 504 of the Act, nor should Defendant **PPS** be permitted to discharge or otherwise retaliate against Settlegoode if she refuses to violate the Act or in good faith reports violations of the Act.

16. Based upon Defendant **PPS's** intentional acts, by and through Winthrop and Crebo, Dr. Settlegoode is entitled to compensatory damages for her mental anguish and damage to her reputation in the amount of \$300,000.00.

17. Dr. Settlegoode has retained the services of one or more attorneys in this action, and if she prevails is entitled to her reasonable attorney fees pursuant to 29 USC 794a(b).

COUNT TWO - Color of State Law Violation, 42 USC § 1983.

18. Plaintiff realleges paragraphs 7 through 16.

19. The actions of Defendants **PPS, Winthrop, Crebo, and Whitson** were done under color of state law.

20. Dr. Settlegoode periodically participated in IEP's (Individual Education Program) meetings orally or in writing, in which she made recommendations or disclosed students' needs or program deficiencies to other participants, including parents of

disabled students.

21. Defendant **Whitson** participated in one or more IEP's in which Dr. Settlegoode participated, and Defendant **Whitson**:

(A) improperly rewrote or falsified portions of one or more IEP's plans contributed to by Dr. Settlegoode; and

(B) falsely reported to **PPS** that she was promoting an "adversarial" relationship.

22. Defendants **Winthrop, Crebo, and PPS** ratified the conduct of Defendant Whitson by retaliating against Dr. Settlegoode.

23. Dr. Settlegoode's statements and reports about the status of disabled students' programs and program deficiencies were protected under federal laws regarding disabled students' education, and Dr. Settlegoode's right to free speech under the First Amendment to the U.S. Constitution.

24. **PPS** has a history of failing to provide a free and appropriate education to all disabled students in a non-discriminatory manner for several years prior to Dr. Settlegoode's employment; and has a custom, pattern, or practice of attempting to coerce, discourage or preventing employees from disclosing information thereof.

25. Defendants **Winthrop, Crebo, Whitson, and PPS** attempted to restrain Dr. Settlegoode's speech.

26. As a proximate result of defendants' discriminatory and wrongful acts, Dr. Settlegoode has past monetary losses and will suffer future losses in an amount to be determined at trial up to \$700,000.00.

27. The intentional conduct of Defendants **PPS**, **Winthrop**, **Crebo**, and **Whitson**, were illegal or in violation of societal norms and should be punished with punitive damages in the amount of one million dollars, or such other amount as determined at trial.

28. Dr. Settlegoode has retained the services of one or more attorneys in this action, and if she prevails is entitled to her reasonable attorney fees pursuant to 42 USC 1988.

COUNT THREE - Equal Pay Act, 29 USC § 206(d).

29. Plaintiff realleges paragraphs 2 and 3.

30. During her period of employment with **PPS** for two school years from February, 1999, through June, 2000, Dr. Settlegoode was an athletic coach for more than five students participating on a track and field team located at Cleveland High School, and classified as:

(A) Head Coach for a track and field team, with one or more assistant coaches working under her supervision;
or

(B) Assistant Coach - for a track and field team with one or more other assistant coaches working under her supervision.

31. During the 1999 and 2000 track seasons, Dr. Settlegoode was paid an hourly rate equal to her teaching salary each year, and was last paid at the rate of \$27.71 per hour, which was less than the salaries described in paragraphs 32 and 33 below.

32. At various times during the course of her employment as

a coach at Cleveland High School, Dr. Settlegoode has performed work equal in skill, effort, and responsibility to the work of certain male employee coaches, including the head track coach or assistant track coach at Cleveland High School, who were paid a higher hourly wage by virtue of receiving pay equal to a percentage of \$26,545.00 for 1998-1999, or \$27,076 for 1999-2000, of 15% and 16% for head track coach, or 10% and 11% for assistant track coach (varsity), or 9% or 10% for assistant track coach. This constitutes a violation of 29 USC 206(d)(1).

33. Had Dr. Settlegoode been paid a wage equal to that of the male employees who performed equal work to the work she performed, she would have been paid at a rate of not less than \$2,389.00 or \$2,654.00 or \$3,981.00 for the 1998-1999 track season, and \$2,707.60 or \$2978.36, or \$4,332.16 for the 1999-2000 track season.

STATE LAW CLAIMS

COUNT FOUR - Whistleblower claim under ORS 659.530

34. Plaintiff realleges paragraphs 18 through 24, and 26.

35. To the extent required a tort claim notice was sent to **Defendant PPS**.

36. **Whitson** aided or abetted PPS, as defined by ORS 659.030(1)(g), an unlawful employment practice.

37. In violation of ORS 659.510, **Defendant PPS** through Crebo and Winthrop, and **Defendant Whitson** attempted to or took disciplinary action against Dr. Settlegoode, or attempted to discourage, restrain, or coerce Dr. Settlegoode to refrain from

discussing or communicating any information that she believed evidenced a violation of federal law, state law, mismanagement or misuse of funds.

38. Dr. Settlegoode is entitled to the relief provided in ORS 659.035(3), ORS 659.530, and ORS 659.121, including the greater of \$250.00 or her compensatory damages alleged, injunctive relief including back pay and reinstatement, and reasonable attorney fees.

COUNT FIVE - Defamation

39. Plaintiff realleges paragraphs 7, 8, 9, 12, 16, 20, 21, and 35.

40. Whitson, Winthrop, and Crebo published false and defamatory statements to others that Dr. Settlegoode was unprofessional, promoting adversarial relationships, and incompetent in the performance of her profession as a teacher.

41. Defendants **PPS** is liable for Dr. Settlegoode's damage to her reputation in the community.

WHEREFORE, plaintiff seeks the following relief:

1. COUNT ONE - § 504 of Rehabilitation Act Violation against Defendant Portland Public Schools:

- a) injunctive relief, both preliminary and permanent, as described in paragraph 15;
- b) compensatory damages as set forth in paragraph 16; and
- c) reasonable attorney fees pursuant to 29 USC 794a(b).

2. COUNT TWO - Color of State Law Violation, 42 USC § 1983 against Defendants Portland Public Schools, Susan Winthrop, Robert

Crebo, and Larry Whitson:

- a) in addition to the injunctive relief as to PPS, Winthrop, and Crebo, her damages as set forth in paragraphs 16 and 26;
- b) punitive damages as set forth in paragraph 27; and
- c) reasonable attorney fees pursuant to 42 USC 1988.

3. **COUNTY THREE** - Equal Pay Act against Defendant Portland Public Schools:

- a) Damages in the form of backpay in such amount as the Court shall find Plaintiff has been unlawfully underpaid;
- b) Liquidated damages in an amount equal to Plaintiffs's actual damages for this count;
- c) reasonable attorney fees pursuant to 29 USC 216(b).

4. **COUNT FOUR** - ORS 659.510 against Defendant Portland Public Schools:

- a) the greater of \$250.00 or her compensatory damages up to \$1,000,000.00;
- b) injunctive relief to prevent future violations of ORS 659.510; and
- c) reasonable attorney fees under ORS 659.121.

5. **COUNT FIVE** - Defamation against Defendant Portland Public Schools for compensatory damages as set forth in paragraph 16, for damage to her reputation.

Dated this _____ day of June, 2000.

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