

**STATE OF MINNESOTA**

**DISTRICT COURT**

**COUNTY OF HENNEPIN**

**FOURTH JUDICIAL DISTRICT**

Civil Case Type: Discrimination

DEBORAH JANE CLAPP, )

Plaintiff, )

vs. )

ROCHELLE COX, in her official capacity )

as Interim Superintendent of Minneapolis )

Public Schools, )

and )

MINNEAPOLIS PUBLIC SCHOOLS, )

SPECIAL SCHOOL DISTRICT NO. 1 )

and )

MINNEAPOLIS BOARD OF )

EDUCATION, )

Defendants. )

Court File No.:

Judge:

**COMPLAINT  
FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

Plaintiff Deborah Jane Clapp, a Minneapolis Public Schools taxpayer, seeks to enjoin Defendants Rochelle Cox, Minneapolis Public Schools, and the Minneapolis Board of Education from implementing and spending public money on the implementing provisions of the 2021-2023 Teacher Chapter Contract between Minneapolis Public Schools and the Minneapolis Federation of Teachers Local 59 that provides preferences, protections, and privileges for certain public school teachers on the basis of race and ethnicity, in violation of the Minnesota Constitution's guarantee of equal protection under the law.

## **PARTIES**

1. Plaintiff Deborah Jane Clapp is a City of Minneapolis homeowner and resident since 2017 and pays property tax yearly on her residence. As a real property owner residing in Minneapolis, she has paid local property taxes that fund Defendant Minneapolis Public Schools, Special District No. 1.

2. Defendant Rochelle Cox is the interim Superintendent of Minneapolis Public Schools, Special District No. 1 (“MPS”). As Superintendent of MPS, Defendant Cox supervises the schools within the district, recommends to the Board of Education employment and dismissal of teachers, and performs other duties prescribed by the board. Minn. Stat. § 123B.143. This action is brought against Defendant Cox in her official capacity.

3. Defendant MPS is a school district that covers Minneapolis, Minnesota. This action is brought against the district pursuant to Minn. Stat. § 123B.25.

4. Defendant Minneapolis Board of Education is charged with the “care, management and control” of MPS schools. Minn. Stat. §§ 123B.02, 123B.09. This action is brought against the board pursuant to Minn. Stat. § 123B.25.

## **JURISDICTION AND VENUE**

5. Jurisdiction in this case is founded on Minnesota’s common law taxpayer standing doctrine, which gives Minnesota taxpayers the right to challenge unlawful expenditure of public money or illegal action by public entities or officials. *McKee v. Likins*, 261 N.W.2d 566, 571 (Minn. 1977); *see also Olson v. State*, 742 N.W.2d 681, 684 (Minn. App. 2007) and *Hayden v. City of Minneapolis*, 937 N.W.2d 790, 799 (Minn. App. 2020). The Court also has jurisdiction over this action pursuant to Minn. Stat. § 484.01.

6. Venue in this Court is proper under Minn. Stat. § 542.03, as the actions at issue are being or will be carried out in Hennepin County, and the taxpayer funds at issue are being or will be expended in Hennepin County.

### **FACTUAL ALLEGATIONS**

7. On or about March 25, 2022, Defendants and the Minneapolis Federation of Teachers Local 59 (“MFT”) entered into an agreement for the 2021-2023 Teacher Chapter Contract to end a nearly three-week strike by members of MFT. Members of MFT ratified the contract on or about March 27, 2022, and Defendant Minneapolis Board of Education ratified the contract on May 10, 2022. On information and belief, public money was used to negotiate, prepare, and ratify the contract.

8. Among other things, the contract provides preferences, protections, and privileges for MPS teachers of certain races and ethnicities under a section entitled “ARTICLE 15. PROTECTIONS FOR EDUCATORS OF COLOR.” There is no similar provision covering educators who are not “of color.”

9. Under the contract, teachers of color are exempt from Defendant MPS’s seniority-based layoffs and reassignments, which means, when layoffs or reassignments occur, the next senior teacher who is not “of color” would be laid off or reassigned. In addition, the contract mandates that Defendants reinstate teachers of color over more senior teachers who are not “of color.”

10. Upon information and belief, prior to the contract, teachers were laid off or reassigned in order of seniority, with the least senior teachers laid off or reassigned first, without regard to race or ethnicity. Similarly, teachers were reinstated in order of seniority, with the more senior teachers reinstated first, without regard to race or ethnicity.

11. In a MPS press conference held on March 25, 2022 addressing the contract, the superintendent at the time stated the following:

“Minneapolis Public Schools, the Board, the Administration has had very much a focus and a priority to create a contract that allows us to recruit and retain and prioritize our educators of color. . . .And you’ll see that we remained focused on that commitment. That was a priority. That was one of the most significant priorities that we talked about all through the negotiation process, and our negotiations team did a wonderful job of maintaining that focus and certainly we need our students to feel the representation in the educators, and that commitment remains.”

12. The president of MFT’s teacher chapter, Greta Callahan, applauded the contract, commenting in an interview, “We now have a legal document holding both the district and the union accountable to protect and support educators of color.”

13. MFT’s president of education support professional chapter, Shaun Laden, also stated that the contract is “a nation-leading model that exempts teachers of color from seniority-based layoff[s]” and includes “national-leading language on protecting teachers of color.”

14. The contract concerns the two-year term between July 1, 2021 and June 30, 2023, and, therefore, is in effect and will remain in effect until at least June 30, 2023.

15. On information and belief, approximately 31 percent of Defendant MPS’s costs were paid for with local property taxes. Such costs include programs, services, and other expenses, including expenses associated with the process of laying off, reassigning, reinstating, and retaining teachers.

16. Defendants are using and will use public money to implement the contract, including laying off, reassigning, reinstating, and retaining teachers in accordance with Article 15. Defendants also are expending and will expend public money in furtherance of and to ensure compliance with Article 15.

17. In addition, according to the former superintendent of MPS, Defendant MPS will need to lay off or reassign approximately 220 teachers between 2022 and 2027. For Defendant to lay off or reassign teachers, Defendant MPS must undertake a comprehensive process, which includes identifying all teachers employed at the school where the layoffs or reassignments are to occur; identifying positions to which teachers may be reassigned; several rounds of employment interviews for those reassigned positions; reference checks of teachers to be reassigned; and an appeal process, which includes mediation. Each step will cost Defendants public money.

**COUNT ONE**  
**(Taxpayer Action – Illegal Expenditures – Declaratory and Injunctive Relief)**

18. Plaintiff reaffirms paragraphs 1-17 as though fully restated herein.

19. Article 15's preferences, protections, and privileges for certain public-school teachers on the basis of race and ethnicity violates Minnesota's Equal Protection Guarantee, which states that "no member of this state shall be disenfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land or the judgment of his peers." Minn. Const. art. 1, § 2. The Equal Protection Guarantee is analyzed under the same principles and mandate as the Equal Protection Clause of the U.S. Constitution. *Scott v. Minneapolis Police Relief Association*, 615 N.W.2d 66, 74 (Minn. 2000).

20. All public money used to implement Article 15, including laying off, reassigning, reinstating, and retaining teachers on the basis of their race and ethnicity are therefore illegal.

21. Similarly, all public money used in furtherance of and to ensure compliance with Article 15 are also illegal.

22. Defendants therefore are illegally expending public money.

**COUNT TWO**  
**(Taxpayer Action – Illegal Action – Declaratory and Injunctive Relief)**

23. Plaintiff reaffirms paragraphs 1-22 as though fully restated herein.

24. By implementing Article 15, including laying off, reassigning, reinstating, and retaining teachers on the basis of their race and ethnicity, Defendants are engaging in acts in violation of Minnesota's Equal Protection Guarantee.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for the following relief against Defendants:

1. A judgment declaring any and all actions taken in furtherance of, ensuring compliance with, or otherwise effectuating the racial and ethnic preference provisions of Article 15 of the contract to be illegal;

2. A judgment declaring any and all expenditures of public money in furtherance of, ensuring compliance with, or otherwise effectuating the racial and ethnic preference provisions of Article 15 of the contract to be illegal;

3. An injunction permanently prohibiting Defendants from taking any action in furtherance of, ensuring compliance with, or otherwise effectuating the racial and ethnic preference provisions of Article 15 of the contract;

4. An injunction permanently prohibiting Defendants from expending or causing the expenditure of public money in furtherance of, ensuring compliance with, or otherwise effectuating the racial and ethnic preference provisions of Article 15 of the contract;

5. Costs of suit herein;

6. Reasonable attorneys' fees; and

7. Such other relief as this Court deems just and proper.

Dated: August 22, 2022

Respectfully submitted,

ROSEN LLC

By: s/ Daniel N. Rosen

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The undersigned acknowledges that this pleading is submitted subject to the provisions of Minn. Stat. §529.211.

s/ Daniel N. Rosen

Daniel N. Rosen