

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
CIVIL 3rd DIVISION**

**BRENDA ROBINSON and JUDY STOCKRAHM,
As Individuals and Class Representatives**

PLAINTIFFS

v.

CASE NO. 60-CV-10-4642

**PULASKI COUNTY SPECIAL SCHOOL DISTRICT,
TIM CLARK, MILDRED TATUM, DANNY GILILLAND,
And CHARLIE WOODS**

DEFENDANTS

**SECOND AMENDED CLASS ACTION COMPLAINT FOR INJUNCTIVE RELIEF
AND PETITION FOR WRIT OF MANDAMUS**

Comes now the Plaintiffs Brenda Robinson and Judy Stockrahm, by and through their attorney, Clayton Blackstock of Mitchell, Blackstock, Barnes & Sneddon, PLLC., and for their Amended Complaint states:

I. PARTIES

1. The Plaintiffs are elementary teachers employed by Pulaski County Special School District ("District").

2. The Pulaski County Special School District ("District") is an Arkansas school district with the power to sue and be sued and to enter into binding contracts under Ark. Code Ann. § 6-13-102(a) and is governed by a Board of Directors ("Board").

3. Individual Defendants, Tim Clark, Mildred Tatum, Danny Gililland and Charlie Woods, are all current Board members of the District ("Board Defendants") and are joined for failing to carry out their statutory obligation to ensure that District Policies are enforced and for affirmatively directing that certain policies not be enforced.

4. Injunctive relief is sought against the District and a Writ of Mandamus is sought against the Board Defendants.

5. The Plaintiffs' employment contracts with the District are not attached to this complaint under ARCP 10 because the documents exceed 140 pages.

II. CLASS ALLEGATIONS

6. Plaintiffs bring this suit in their individual capacities and as Class representatives under Ark. Rules of Civil Procedure 23.

7. As Class representatives, Plaintiffs represent all certified teachers employed by the District for the 2010-2011 school year as elementary teachers who are entitled to planning time.

8. For their Class allegations, Plaintiffs state:

- a. On information and belief, the Plaintiffs state that the Class consists of in excess of 200 teachers and is so numerous that joinder of all members in impracticable.
- b. The questions of fact and law are common to the Class.
- c. The claims of the representative parties are typical of the claims of the Class; and
- d. Plaintiffs and their counsel will fairly and adequately protect the interests of the Class.

9. Pursuant to Article VI, Teacher Duty Day, Section 9 (A)(2) of the Plaintiffs' contracts with the District, as elementary teachers, they are entitled to have their preparation period either before or after their student day. The applicable contract language reads:

2. Elementary teachers shall have the option of having their preparation period according to the following choices:
 - a. The forty-five (45) minutes may be before the student day.
 - b. The forty-five (45) minutes may be after the student day.

10. In violation of the contract, the District will not be providing the Plaintiffs this option for the 2010-2011 school year.

11. Pursuant to Article VI, Teacher Duty Day, Section 9 (A)(1) the Plaintiffs are entitled to no fewer than 45 minutes preparation time daily.

12. On information and belief, the Plaintiffs state that the District will not be providing them with this minimum time for the 2010-2011 school year.

13. Pursuant to Article VI, Teacher Duty Day, Section 3 (A) (1) the student day at the elementary level must be six (6) hours and forty-five (45) minutes. The applicable language of the contract reads:

The student day at the elementary level will be six (6) hours, forty-five (45) minutes.

14. In violation of the contract, the District has extended the elementary student day to 7 hours and 25 minutes.

III. RELIEF AGAINST DISTRICT

15. There is no adequate remedy at law for the Plaintiffs.

16. No damages can remedy this breach.

17. The Plaintiffs are, therefore, entitled to injunctive relief ordering the District to follow these terms of the contract.

18. This suit is also brought pursuant to the Declaratory Judgment Act and ARCP 57 and under those provisions the Plaintiffs are entitled to an expedited hearing.

IV. CLAIMS AND RELIEF AGAINST BOARD DEFENDANTS

19. Board Defendants are required under Ark. Code Ann. § 6-13-620 to ensure that all District policies are enforced. Ark. Code Ann. § 6-13-620. Powers and duties, provides:

The board of directors of each school district in the state is charged with the following powers and *required to perform the following duties* in order to provide no less than a general, suitable, and efficient system of free public schools:

- (1) Attend meetings of the school board;
- (2) Determine the mission and direction of the school district;
- (3) Adhere to state and federal laws governing public schools;
- (4) *Enact, enforce, and obey school district policies;*

20. The Board Defendants have failed to enforce the policies on planning time and school day referenced.

21. Plaintiffs state on information and belief that the Board Defendants have affirmatively instructed the District and its administration not to follow these policies.

22. The Board Defendants' actions were *ultra vires*.

23. The Board Defendants have a ministerial duty to enforce the school District policies and have failed to carry out that duty.

24. A Writ of Mandamus will issue whenever the directors of a school district fail or refuse to do an act which is plainly their duty to do.

25. Plaintiffs do not have an alternate remedy at law that is as plain and complete and as practical and efficient as the remedy of Mandamus.

26. Therefore, Plaintiffs seek a Writ of Mandamus under Ark Code Ann. § 16-115-101 compelling the Board Defendants to see that the applicable District policies are enforced immediately.

27. Under Ark. Code Ann. § 16-115-103, petitions for Writ of Mandamus shall have precedence over all other actions or proceedings.

WHEREFORE, Plaintiffs pray that the Court certify the Class; declare that the District has violated the contract; order the District to follow the contract; issue a Writ of Mandamus against the Board Defendants; expedite this proceeding; and award Plaintiffs attorneys fees, costs and all other just and proper relief.

Respectfully submitted,

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