IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Sitting at Harrisburg

No. 733 C.D. 1974

PENNSYLVANIA HUMAN RELATIONS COMMISSION

vs.

LEECHBURG AREA SCHOOL DISTRICT, APPELLANT

BRIEF FOR APPELLEE

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Commission
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COUNTER-HISTORY OF THE CASE

On July 21, 1972, the Pennsylvania Human Relations Commission filed a Complaint against the Leechburg Area School District, Appellant herein, charging that Appellant had violated Section 5 (a) of the Pennsylvania Human Relations Act, which states in relevant part as follows:

> "It shall be an unlawful discriminatory practice, unless based upon a bona fide occupational qualification... for any employer because of the race, color, religious creed, ancestry, age, sex, or national origin of any individual to refuse to hire or employ, or to bar or to discharge from employment such individual or to otherwise discriminate against such individual with respect to compensation, hire, tenure, terms, conditions, or privileges of employment, if the individual is the best able and most competent to perform the services required...." Act of October 27, 1955, P.L. 744, as amended, 43 P.S. Section 955 (a).

The violation charged against the Appellant arose from the Appellant's maintenance of a maternity leave policy which the Commission alleged was discriminatory to females. The provisions of Appellant's maternity leave policy which the Commission objected to are as follows:

> (1) A teacher must be married to be eligible for maternity leave benefits:
>
> (2) A teacher may not be granted another maternity leave until she has taught at least one year after returning from a leave; and
>
> (3) A teacher must begin a maternity leave at the end of the sixth month or pregnancy.

A pre-hearing conference was held between the parties on September 13, 1973. No agreement was reached between the parties and counsel for both parties stipulated that the case could be decided upon the submission of an agreed statement of facts, and briefs. Said statement of facts was drafted and signed by counsel for both parties, and, on January 21, 1974, briefs were submitted.

On April 30, 1974, a final Order in the matter was entered by the Pennsylvania Human Relations Commission. This final Order of the Commission concluded that Appellant had violated Section 5 (a) of the Pennsylvania Human Relations Act for the reasons that it had discriminated against females in requiring in its formal maternity leave policy that a teacher must begin a leave of absence, without pay, at the end of the sixth month of her pregnancy, that a teacher must be married to be eligible for benefits, and in that a teacher not be granted another maternity leave until she had taught at least one year after returning from a previous leave.

The Order further directed that the Appellant eliminate those provisions from its present maternity leave policy and to take other action required to effectuate the Commission's decision.

Following this Order, a timely Appeal was taken by the Appellant to the Commonwealth Court.

ARGUMENT I

DOES A SCHOOL BOARD HAVE THE AUTHORITY TO DETERMINE IMMORAL CONDUCT?

Because of language included in the Public School Code of 1949, Act of March 10, 1949, P.L. 30, Article XI, §1122, as amended, 24 P.S. 11-1122, Appellant assumes, a fortiori, it has the power to define immoral conduct between males and females.

It is to be specifically noted that all the cases cited by appellant and relating to 24 P.S. §11-1122, "Causes for Termination of Contract", were decided between 1939 and 1966. The addition of sex as a protected category under the Pennsylvania Human Relations Act was made in 1969. Decision Note No. 10, to 24 P.S. §11-1122, titled "Pregnancy and Birth of Child", contains cases holding that a teacher can be fired for becoming pregnant. Such a decision today would be ludicrous. Accordingly, the cases cited by appellant give this Court no firm basis upon which to support a decision, today, in Appellant's favor, in the instant case.

Discrimination on the basis of sex is now prohibited. Case law has begun to develop. Five years ago the Pennsylvania Supreme Court would not have been constrained to label a maternity leave case "...sex discrimination pure and simple." (Cerra v. East Stroudsburg Area School District, 450 Pa. 207, 299 A2d 277 (1973).

A Department of Justice Opinion Letter dated and circulated on July 16, 1971, and published in the Basic Education Handbook of the Pennsylvania Department of Education on July 19, 1973, gives a clear indication of present thinking in this area, as follows:

> "...It is our opinion that the Pennsylvania Human Relations Commission Guidelines which provide that employers must provide a female employee when she becomes pregnant with a reasonable maternity leave, with or without pay, includes all female employees of the School District and is not limited to professional tenured employees." (Emphasis added).

Although the above opinion dealt with tenured vs. non-tenured employees, it specifically articulated that all female employees are covered, and no differentiation is made between those who are married and those who are not.

Accordingly, it is not at all clear, considering the present state of the law of this Commonwealth, that the instant appellant has the authority to determine what constitutes immoral conduct and it is submitted that, as regards any alleged immorality between males and females, a School Board does not have such authority.

ARGUMENT II

IS THE UNMARRIED PREGNANCY OF A FEMALE TEACHER SUCH IMMORALITY AS TO CONSTITUTE GROUNDS FOR A SCHOOL BOARD TO DENY HER MATERNITY LEAVE BENEFITS?

Assuming, arguendo, a School Board does have the authority to determine what constitutes immoral conduct between males and females, such immorality has not been shown in the instant matter.

The Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744, as amended, 43 P.S. §955 states that "it shall be an unlawful discriminatory practice, unless based upon a bona fide occupational qualification ..." (Emphasis supplied) for an employer to discriminate on certain bases.

Appellant, in its brief, repeatedly states that the prohibition reads "bonafide occupational disqualification" (Sic). This is a distinction with an important difference and colors appellant's determination of what in fact constitutes immorality.

Appellant interprets "disqualification" as meaning a negative occurrence, characteristic or event which takes place subsequent to a teacher's employment which then gives justification for discriminatory treatment. The intent of "bona fide occupational qualification" in the Pennsylvania Human Relations Act is to recognize reasonable requirements which may be set by an employer in order to determine if a job applicant is qualified, ab initio, for a certain position.

Thus appellant can take no solace from §955 of the Pennsylvania Human Relations Act, as that section of the Act gives it no basis for its treatment of presently-employed teachers and is inapplicable.

Appellant then turns to the Public School Code of 1949, Act of March 10, 1949, P.L. 30, Article XI, §1122, as amended, 24 P.S. §11-1122 as its justification, as the Code therein lists immorality as one of the causes for termination of a public employment contract. Appellant readily admits that the term immorality may have varying philosophical, social and cultural differences and has offered no basis as to how the Leechburg Area School Board reached its' determination that conception by an unmarried female teacher constituted immorality. We are presented, for example, with no reports or studies indicating people still hold conception by an unmarried female teacher to be immoral conduct. Appellant admits that "... having a child out of wedlock may not carry the social stigma presently that it once did... "but"... strongly feels... "both that such an event is immoral and, further, that the policy of the Board will discourage such events from occuring in the future.

"Strong feelings" do not constitute any tenable basis for denying either a livlihood or the werewithal to maintain ones self and ones' child to any individual. No data on "harmful impressions" to minor children has been offered by appellant. Appellant is attempting to legislate morality in this matter based upon its, admittedly, "strong feelings" but without any substantive basis to conclude that its strong feelings are either generally held or productive of the results intended.

It has been held that the policy of the School District that it would employ no person who was the parent of an illegitimate child was unconstitutional, because there was no rational connection between such a policy and the School Board objective of having morally fit employees; that the guarantees of due process and equal protection under the Fourteenth Amendment were violated by that policy; that the effect of the policy was to conclusively presume a bad and moral character from the sole fact of having mothered a child out of wedlock, and that the many circumstances under which an illegitimate child may have no bearing on the parent's moral fitness were not considered. Andrews v. Drew Municipal Separate School District, 6 EPD 8727, USDC, N.D. of Mississippi (1973).

Is appellant arguing that the policy of the Board has performed a useful community service because more unmarried teachers do not become pregnant because of the Boards policy? No evidence has been adduced to prove that fact which, it is respectfully submitted, is neither true nor capable of proof.

Appellant further admits that "... the moral standards acceptable in society at present are admittedly more lax than those of past generations..." but argues that the policy should not be stricken because the policy is based on reasons related to the purpose to be achieved, even though the policy "... might be thought by some to be unwise, improvident or out of harmony with current thought." By using the word lax as it relates to moral standards appellant is placing a value judgment of its own by denigrating the present state of moral standards. Who is to say that merely because moral standards have changed

that they are lax? Who is to say that the community is offended by an unmarried teacher-mother? Who can show that exposure to an unmarried teacher is inimical to the welfare of students? The School Board was elected to perform certain official duties. Legislating what constitutes morality is not one of them unless it can prove a valid basis for the definition.

Is a formerly-married female teacher who conceived either before she was divorced or before her husband's death immoral? Such a teacher would be unmarried as well as pregnant. Such a teacher would be denied maternity benefits under Appellants' Maternity Leave Policy.

Appellant, aware of its inability to determine morality turns for refuge to the Courts and submits that the courts have determined the instant situation to be immoral. Such is not the case.

While it is true that in the Appeal of Edwards, 57 Luz. L. Reg. (1966) the Common Pleas Court extolled the influence exerted by a teacher, cited by appellant, that case involved a professional school employee who, on various occasions, required specific male students to remove their clothing and expose themselves in his presence. Further it has been held that the claim that school girls would become pregnant if any parents of illegitimate children were employed there could not justify a blanket rule that barred employment of such persons. There was, in that case, no evidence that the woman fired from her teaching aide job or the one rejected for a job would have so influenced the school girls, nor was there any evidence that such parents would be an improper role model or image for the students. Andrews v. Drew, cited supra.

And in Flannery Appeal, cited by appellant, 406 Pa. 515 178 A2d 751 (1962), while the Supreme Court Accepted immorality as a basis for a teachers' dismissal, the facts indicated that the immorality involved a teacher's misappropriation of school-administered funds.

In Schwer's Appeal, 36 D&C 531 (1940) the Court noted that the teacher in question had engaged in sexual conduct with a married man, as a prime factor in its determination that a teacher's dismissal would be upheld. Such is not the case here. Would the decision have been different if the teacher's sexual relations involved an unmarried man?

Appellant cited the case of Horosko v. Mt. Pleasant School District, 335 Pa. 369, 6 A2d 866 (1939), to support the proposition that teachers must set a good example for their students. Yet the Horosko Court determined that "incompetency" and "immorality", were to be construed according to their common and approved usage, having regard, of course, to the context in which the legislature used them. The context in which the Pennsylvania legislature used those terms was "Causes for Termination of a Contract", 24 P.S. §11-1122, not as grounds for the denial of maternity leave benefits.

In sum and substance, it is not for the Court or School Board to determine immorality unless presented with clear and convincing proof that such is the case. In the case now at bar Appellant has offered no proof whatsoever that the conduct in question is immoral... that the public believes it to be immoral... that it is inimical to the welfare of students... that such an occurrence precipitates a cavalier sexual attitude by the Leechburg Area School

District students... or that conception by unmarried female teachers is on the wane since the School Board adopted the policy in question.

Absent the above criteria the appellant has not shown immorality.

ARGUMENT III

IS A MATERNITY LEAVE POLICY WHICH DENIES UNMARRIED PREGNANT, FEMALES MATERNITY LEAVE BENEFITS ON THE GROUND OF IMMORALITY VIOLATIVE OF THE PENNSYLVANIA HUMAN RELATIONS ACT WHEN THERE ARE NO PUNITIVE ACTIONS TAKEN AGAINST UNMARRIED MALES WHO FATHER CHILDREN OUT OF WEDLOCK AND WHERE THERE IS NO ATTEMPT MADE TO DENY MARRIED, PREGNANT TEACHERS BENEFITS IN THOSE INSTANCES WHEN THE FATHER OF THE CHILD MAY NOT BE HER HUSBAND?

Assuming, only for the purpose of this argument, that a School Board has the authority to determine immoral conduct and, assuming further, that conception by an unmarried female teacher is immoral, the School Board has nonetheless promulgated and enforced a policy which discriminates against unmarried female teachers on the basis of their sex.

If it is true that the policy of the School Board is to preserve certain, supposed, values of the public, it is also immoral for an unmarried male teacher to father a child. Yet the male teacher is not harmed by such an event. Should not the School Board seek information from all unmarried male teachers as to their parenthood status if, in fact, the Board is attempting to protect the public morals? There is not even the suggestion that unmarried male teachers are investigated, denied any benefits, or dismissed on such an occasion. Moreover, when a married teacher gives birth to a child fathered by one other than her husband, she is denied no benefits whatsoever. It is not sufficient to say that an unmarried pregnacy is prohibited because it is easily seen and the other instances cited above are not. If the Board has the public interest in mind it should take

whatever steps may be necessary to ascertain the existence of those "hidden" situations. How else can students be protected from the influence of such a teacher? How else can the public be protected from an offense against its' morality? How else can appellant maintain a "... sound educational environment for public school children"? (Appellant's Brief, p. 6)

Appellee contends that the birth of a child is not an immoral or illicit event, but rather a biological and physiological fact. Thus, the true intent of the rule is, or logically should be, directed to the practice of pre-marital coitis of which pregnancy and eventual childbirth is mere evidence.

> "If suchbe the case and morality is the true issue, plaintiffs contend that the regulation, to be constitutional, must be equally burdensome against male employees who may participate in such 'immoral' acts. We must agree, and under strict review now mandated for sex-based classification, the obvious distinction in the rules applicability is not constitutionally justified." Frontiero v. Richardson, 5 EPD 8609 (1973), cited with approval in Andrews v. Drew, cited supra.

Furthermore, appellant does not submit that an unmarried female teacher who becomes pregnant is terminated. Appellant only denies her maternity leave benefits... and suggests that the granting of maternity leave benefits to such a person would "...offend the morals of the community and set a bad example for the youth of the Leechburg Area School District." Appellant does not tell us how the youth of the Leechburg Area School District become aware that maternity leave benefits are granted to anyone. Is this not a provision in the School Board/Professional Employees' Contract? If so, a public hearing would not have to be convened to grant a teacher that which the contract was already obligated to give.

And if a public hearing is not held how then does the public and student body see their morals and examples vindicated? Are unmarried female teachers pilloried for all to see, or is a public announcement of this contract provision denying them benefits disseminated into all reaches of the School District to prove to the citizenrythat their morals have been upheld?

> "Where a State has adopted a suspect classification like sex, it 'bears a heavy burden of justification'. McLaughlin v. Florida, 379 US 184, 196, 13 L.Ed. 2d. 222 (1964). 'In order to justify the use of a suspect classification, a State must show that its' purpose or interest is both constitutionally permissible and substantial, and that its' use of the classification is necessary to the accomplishment of its purpose or of the safeguarding of its' interest.' Sugarman v. Dougall, 6 EPD 8682 (1973). The defendants' in the case Sub Judice have made no showing whatever that their policy against employing unwed parents serves a compelling State interest or is necessary for the operation of an educational program. Hence, the policy cannot survive strict judicial scrutiny." Andrews v. Drew, cited supra.

Appellee submits that the instant maternity leave policy protects no one, safeguards no public interest, and is discriminatory on the basis of sex in its' application.

As early as 1970 it has been held that an employer's maternity leave policy that limited benefits to married female employees amounted to unlawful sex discrimination against unwed mothers in the absence of a provision for the termination of unmarried fathers. EEOC Decision No. 71-562, CCH, EEOC Decision 6184 (1970).

And in Cirino v. Walsh, 165 N.Y.L.J. (1971) the New York Supreme

Court for New York County, held:

> "If the fact of children is more easily discovered about the mother who looks after them than the father who does not, then it is discriminatory against women."

Finally, "what is required by Congress is the removal of artificial, arbitrary and unnecessary barriers to employment when the barriers operate invidiously to discriminate on the basis of racial or other impermissible classification." Griggs v. Duke Power Co., 3 EPD 8137, 39 L.W. 4317, 4319 (1971).

ARGUMENT IV

IS A REQUIREMENT THAT A TEACHER MUST HAVE COMPLETED ONE FULL YEAR'S TEACHING FOLLOWING A MATERNITY ABSENCE BEFORE SHE WILL BECOME ELIGIBLE FOR ANOTHER MATERNITY ABSENCE, DISCRIMINATORY AND VIOLATIVE OF THE PENNSYLVANIA HUMAN RELATIONS ACT?

Again Appellant misinterprets the thrust of the language of the Pennsylvania Human Relations Act when it refers to "bona fide occupational disqualification" (Sic). The term "bona fide occupational qualification" is to recognize reasonable requirements an employer may establish to determine if a job applicant is qualified, initially, for a certain position. They cannot be used to disqualify a teacher-mother from maternity benefits after she has been employed and after she gives birth to a child.

It has been held that not all discriminatory practices violate the equal protection clause of the United States Constitution. Where a rational basis exists for the difference in treatment between similar categories of persons similarly situated, such discrimination is permissible.

Here the appellant urges continuity of instruction constitutes such a rational basis.

However, here, the interests of the School District do not appear to be sufficiently promoted by the maternity leave policy in order to justify different treatment in the area of pregnancy from that of other temporary medical problems. In Green v. Waterford Board of Education, 473 F.2d 629 (2nd Cir. 1973), the Court of Appeals reversed a District Court's dismissal of a complaint which had

alleged that an inflexible maternity leave policy denied equal protection. That case stated:

> 'The heart of plaintiff's case is that disqualifying physically capable woman from working because of a condition related solely to her sex is unconstitutionally discriminat Plaintiff admits the obvious, that men do not become pregnant, but points out that men, being human, are also subject to crises of the body some of which, like childbirth, give ample warning: A cataract operation or a prostatectomy, for example, may be planned months ahead. Because male teachers are not forced by Defendant-Board to take premature leave because of a known forthcoming medical problem, female teachers should not be treated differently. Thus stated, the argument is persuasive, even compelling."

Although the instant case does not involve premature leave, the analogy is apt because males are not subject to a re-qualification period when they have been subject to certain illnesses.

Appellant cites Cleveland Board of Education v. LaFleur and Cohen v. Chesterfield County School Board, 945 S.Ct. 791, 411 U.S. 947 (1974) for the proposition that reasonable rules and regulations may be made to safeguard both the teacher and students during the pregnancy period and after childbirth. While it is obvious that the welfare of the teacher after childbirth is in no manner related to the instant maternity leave provision, appellant urges that continuity of instruction protects the students.

> This argument is easily refuted.
>
> As noted in Green V. Waterford Board of Education, 473 F2d 629 (2nd Cir. 1973):
>
> "Where a pregnant teacher provides the Board with a date certain for commencement of leave, however,

> that value (continuity) is preserved; an arbitrary leave date set at the end of the fifth month is no more calculated to facilitate a planned and orderly transition between the teacher and a substitute than is a date fixed closer to confinement."

And one year's teaching betwen pregnancy absences does not mean a teacher will not conceive again. This policy provision is no more calculated to facilitate a planned and orderly transition between the teacher and a substitute than no prohibition whatsoever.

In Cleveland Board of Education v. LaFleur (cited supra) it was concluded that arbitrary cut-off dates in maternity leave rules have no rational relationship to the valid state interest of preserving continuity of instruction. It was further stated that as long as the teacher is required to give substantial advance notice of her condition, the choice of firm dates later in pregnanc can serve the state's interest just as well while imposing a lesser burden on women exercise of her constitutionally protected freedoms.

It is submitted that the right of a woman to bear a child is a constitutionally protected freedom and that the promulgation and enforcement of the instant policy, if permitted to stand, would impair that right by penalizing a woman for becoming pregnant. Such a situation is abhorrent to our concepts of personal freedom in the United States.

Neither is continuity of education enhanced by the instant policy nor is a similar punishment meted-out to male teachers who may need a second or third absence for the same medical problem.

Accordingly, this provision of the appellant's maternity leave policy is violative of the Pennsylvania Human Relations Act and should be stricken.

Respectfully submitted,

Jay Harris Feldstein, Esquire
Assistant General Counsel
Pennsylvania Human Relations Commission

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA HUMAN RELATIONS COMMISSION

PENNSYLVANIA HUMAN RELATIONS COMMISSION, Complainant	)	
-vs-	)	Docket No. E-5181
LEECHBURG AREA SCHOOL DISTRICT, Respondent	)	

HISTORY OF THE CASE, FINDINGS OF FACT, CONCLUSIONS OF LAW, COMMISSION 'S DECISION, AND FINAL ORDER

HISTORY OF THE CASE

On August 30, 1973, the Pennsylvania Human Relations Commission filed a complaint at the instant docket number against the instant respondent, which alleged that the respondent maintained a maternity leave policy which was discriminatory to females in that it stipulates:

(1) A teacher must begin leave of absence without pay at the end of the sixth month of pregnancy;

(2) A teacher must be married to be eligible for benefits, and;

(3) A teacher may not be granted another maternity leave until she has taught at least one year after returning from a leave.

It was alleged that such provisions were violative of Section 5(a) of the Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744, as amended.

An investigation into the allegations contained in the complaint was made by representatives of the Pennsylvania Human Relations Commission and a determination was made that there was probable cause to credit the allegations of the complaint.

Thereafter, attempts to effectuate an amicable settlement of the complaint being unsuccessful, counsel for complainant and respondent both agreed to submit the matter to a hearing panel appointed by the Commission for determination on a case-stated basis. It was agreed by counsel for both parties that there were no factual disputes to be determined and that, therefore, a public hearing was not necessary in the instant matter.

Accordingly, on November 29, 1973, a statement of "stipulated facts presented to the Pennsylvania Human Relations Commission to serve as basis for briefs to be submitted", executed by the attorneys for complainant and respondent, was submitted to the Pennsylvania Human Relations Commission. A hearing panel consisting of Commissioner Elizabeth M. Scott, Chairman, and Commissioner Robert W. Goode and Commissioner John P. Wisniewski was subsequently appointed and that panel directed briefs to be submitted by January 21,1974.

Briefs having been received from both parties and an evaluation made thereof, the hearing Commissioners recommend that the Commission find in favor of the complainant and make the following Findings of Fact (based upon the stipulations arrived at between counsel) and Conclusions of Law.

FINDINGS OF FACT

1. On August 30, 1973, the Pennsylvania Human Relations Commission filed an amended complaint at the instant docket number against the instant respondent, alleging that the respondent maintains a maternity leave policy that is discriminatory to females.

2. Such action complained of, if correct, would be a violation of Section 5(a) of the Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744, as amended.

3. Respondent school district maintains a maternity leave policy which contains the following three provisions, all of which are alleged to be discriminatory to females:

(a) A teacher must begin leave of absence without pay at the end of the sixth month of pregnancy;

(b) A teacher must be married to be eligible for benefits;

(c) A teacher may not be granted another maternity leave until she has taught at least one year after returning from a leave.

4. The complaint in this matter was timely filed.

CONCLUSIONS OF LAW

1. At all times herein mentioned, the Pennsylvania Human Relations Commission had and still has jurisdiction over complainant and respondent and the subject matter of the complaint herein under the Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744, as amended.

2. Section 5(a) of the Pennsylvania Human Relations Act, cited supra, provides as follows:

> It shall be an unlawful discriminatory practice . . . For any employer, because of the race, color, religious creed, ancestry, age, sex, or national origin of any individual to refuse to hire or employ, or to bar or to discharge from employment such individual or to otherwise discriminate against such individual with respect to compensation, hire, tenure, term, conditions or privileges of employment, if the individual is the best able and most competent to perform the services required.

3. Respondent violated Section 5(a) of the Pennsylvania Human Relations Act by discriminating against females in requiring in its formal policy that a teacher must begin leave of absence without pay at the end of the sixth month of her pregnancy, that a teacher must be married to be eligible for benefits, and in that a teacher not be granted another maternity leave until she has taught at least one year after returning from a previous leave.

4. The complaint in the instant matter was timely filed and in accordance with the requirements of the Pennsylvania Human Relations Commission.

Elizabeth M. Scott, Presiding Commissioner

Robert W. Goode, Hearing Commissioner

John P. Wisniewski, Hearing Commissioner

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA HUMAN RELATIONS COMMISSION

PENNSYLVANIA HUMAN RELATIONS COMMISSION, Complainant	)	
-vs-	)	Docket No. E-5181
LEECHBURG AREA SCHOOL DISTRICT, Respondent	)	

COMMISSION'S DECISION

AND NOW this 30th day of April, 1974, upon consideration of the History of the Case, Findings of Fact, Conclusions of Law, and Statement of Facts submitted, and recommendations of the Hearing Commissioners, the Pennsylvania Human Relations Commission finds and determines that respondent, Leechburg Area School District, has committed an unlawful discriminatory practice in violation of Section 5(a) of the Pennsylvania Human Relations Act, cited supra, in that it discriminated against its female teachers in the three areas cited in the original complaint. It is, therefore, the decision of the Commission to enter an order against Respondent requiring it to eliminate the subject provisions from its present maternity leave policy and to take such other actions as are hereinafter enumerated in the final order attached hereto.

Attest:

Dr. Robert Johnson Smith,
Secretary

PENNSYLVANIA HUMAN RELATIONS COMMISSION

By: Joseph X. Yaffe, Chairman

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA HUMAN RELATIONS COMMISSION

PENNSYLVANIA HUMAN RELATIONS COMMISSION,)
Complainant
-vs-) Docket No. E-5181

LEECHBURG AREA SCHOOL DISTRICT,)
Respondent

FINAL ORDER

AND NOW this 30th day of April, 1974, upon consideration of the foregoing Findings of Fact and Conclusions of Law, and pursuant to Section 9 of the Pennsylvania Human Relations Act, cited supra, the Pennsylvania Human Relations Commission

ORDERS:

1. That the respondent immediately eliminate those provisions of its maternity leave policy which stipulate that a teacher must begin leave of absence without pay at the end of the sixth month of pregnancy, that a teacher must be married to be eligible for benefits, and that a teacher not be granted another maternity leave until she has taught at least one year after returning from a leave.

2. Respondent is directed to change any and all provisions in its present maternity leave absence policy as articulated in its Collective Bargaining Agreement and in any other publication, manual, or form, in order to comply with the Pennsylvania Human Relations Commission regulations and copies of said changes and any new policy adopted by respondent shall be mailed for approval of the Pennsylvania Human Relations Commission within thirty (30) days to: Pennsylvania Human Relations Commission, 100 N. Cameron Street, Harrisburg, Pennsylvania 17101.

3. Respondent is directed to advise all present and incoming teachers, in writing, within thirty (30) days of the changes so made, and a copy of said notification shall be mailed for approval to the Pennsylvania Human Relations Commission, 100 N. Cameron Street, Harrisburg, Pennsylvania 17101.

4. Respondent is directed to submit in writing, within thirty (30) days, to the Pennsylvania Human Relations Commission, 100 N.Cameron Street, Harrisburg, Pennsylvania 17101, a statement of policy that, in granting absences for sickness, illness, or pregnancy, the respondent will not discriminate on the basis of sex, race, color, ancestry, religion or age.

5. Respondent is directed to post the Pennsylvania Human Relations Fair Employment Notice in an accessible, well-lighted place and properly maintain it.

Attest:

Dr. Robert Johnson Smith,
Secretary

PENNSYLVANIA HUMAN RELATIONS COMMISSION

By: _____
Joseph X. Yaffe, Chairman