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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

MARIE TYVOLL,

Plaintiff,

v.

PORTLAND PUBLIC SCHOOLS, an Oregon  
Public School District,

Defendant.

Case No.

COMPLAINT (Unlawful employment  
practices, ORS 659A.030(1)(f), 659A.199,  
ORS 659A.203, and wrongful discharge)

NOT SUBJECT TO MANDATORY  
ARBITRATION; JURY TRIAL DEMAND

AMOUNT OF PRAYER: \$830,000.00

FEE AUTHORITY: ORS 21.160(1)(c);  
\$560.00.

Plaintiff alleges:

1.

Plaintiff Marie Tyvoll ("Ms. Tyvoll") is a resident of Oregon. From February 1, 2016, until her termination on December 29, 2017, Ms. Tyvoll was employed by Portland Public Schools as a Career Learning Coordinator for Office of School Performance. Ms. Tyvoll was responsible for the 7<sup>th</sup> Grade Career Tech Exploration ("7GCTE") program, formerly known as the 7<sup>th</sup> Grade Maker Experience, a PPS Board-mandated program for 7<sup>th</sup> grade students to participate in a hands-on learning experience for three consecutive days, for a total of 9 hours of instruction. The 7GCTE was developed to establish a middle grade system for career readiness and to build and expand awareness of college and career opportunities among 7<sup>th</sup> graders and their families. Students are transported to off-site locations that include college campuses and corporate headquarters. The 7GCTE was piloted in Spring 2016 for the 2015/2016 school year and occurred again in the 2016/2017 and 2017/2018 school years.

2.

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2 Defendant Portland Public Schools (“PPS”) is an Oregon public school district, with its principal  
3 place of business located at 501 N. Dixon Street, Portland, Oregon, County of Multnomah.

4  
5 3.

6 In March of 2016, Ms. Tyvoll was instructed to contact Joe Crelier, Director of PPS Risk  
7 Management, and to forward to him all proposals for the first 7GCTE, which she did. In the Summer  
8 of 2016, Ms. Tyvoll went to Mr. Crelier’s office to request safety protocols for the 2016/2017 7GCTE  
9 program. Mr. Crelier told Ms. Tyvoll to work with Brian Barnes, Cleveland High School woodshop  
10 teacher and to create and implement safety protocols for the 2016/2017 program. Mr. Barnes created  
11 a safety audit outline and Ms. Tyvoll scheduled safety audits to be performed at selected sites at which  
12 students used power tools. In addition, Mr. Barnes developed comprehensive safety protocols to be  
13 used by teachers in the classroom and inserted in the field trip permission forms package and a written  
14 safety test to be used by selected providers. Ms. Tyvoll also included new safety processes and  
15 protocols in the Request for Proposal for the 2017/2018 7GCTE.

16  
17 4.

18 In July of 2017, Ms. Tyvoll’s supervisor Jeanne Yerkovich, Director, CTE/Career Pathways,  
19 gave Ms. Tyvoll a “meets” or “exceeds” performance evaluation for the period July 1, 2016, to June 30,  
20 2017.

21  
22 5.

23 On July 17, 2017, Ms. Tyvoll and Mr. Barnes met with The Rebuilding Center (“TRC”), a 7GCTE  
24 program provider in which the students would be using power tools, for a safety audit meeting. During  
25 the meeting with TRC, Ms. Tyvoll provided an Inspection Checklist from PPS Risk Management and  
26 additional safety materials developed by Mr. Barnes. TRC’s woodshop lead instructor Dave Lowe and  
a TRC woodshop staff member were present at this meeting. During this meeting, Mr. Barnes  
requested to conduct a safety audit for a class offered by TRC during the summer.

26 \

1 6.

2 On August 4, 2017, Mr. Barnes observed a class for 10 students at TRC, each approximately  
3 12 years old. During this audit, Mr. Barnes observed and reported to PPS many serious safety  
4 violations and concerns that included:

- 5 a. scroll saws and band saws that were too high for most students to use safely;
- 6 b. scratched and dirty safety glasses;
- 7 c. band saw blade guides set too high on the saws;
- 8 d. too many students hovering closely around a scroll saw;
- 9 e. drill press materials not clamped down, and
- 10 f. students receiving inadequate supervision when using the drill presses and band saws.

11 7.

12 On September 7, 2017, Mr. Barnes provided notes to be added to his safety audit report for the  
13 TRC class he observed on August 4, 2017. Those notes focused on the deficient instructional  
14 strategies used by TRC instructors. Mr. Barnes noted that:

- 15 a. he was compelled to intervene several times to prevent students from using the  
16 bandsaw improperly and making dangerous cuts;
- 17 b. on-site instructors were not properly supervising the students using the bandsaws;
- 18 c. the lead instructor was paying more attention to Mr. Barnes than to the students; and
- 19 d. the assistant instructor stood in close proximity of students who were using the band  
20 saws incorrectly, but did not intervene to provide guidance or instruction.

21 Mr. Barnes reported that the instructors at TRC could create a much safer environment while  
22 increasing the quality of students' experiences by including a more robust "best practices" approach  
23 to their instruction. Ms. Tyvoll shared Mr. Barnes' safety audit reports with Mr. Crelier.

24 8.

25 On September 8, 2017, Ms. Tyvoll forwarded Mr. Barnes' safety audit reports to Mr. Stephen  
26 Reichard, Executive Director of TRC, copied to Mr. Barnes and Mr. Crelier. Mr. Reichard responded

1 by email, thanked Ms. Tyvoll for the “excellent reports” and expressed a commitment to ensure that  
2 TRC safety protocols and practices meet the needs of PPS students. Mr. Creilier requested to meet  
3 with Mr. Reichard to discuss Mr. Barnes' safety audit reports of August 4, 2017 and to convey PPS's  
4 concerns for student safety.

5 9.

6 Ms. Tyvoll also forwarded Mr. Barnes' safety audit reports to Ms. Yerkovich. Ms. Tyvoll told Ms.  
7 Yerkovich that they documented egregious safety issues at TRC. Ms. Yerkovich did not respond.

8 10.

9 On September 21, 2017, Mr. Creilier met with Mr. Reichard, Mr. Barnes and Ms. Tyvoll at the  
10 PPS District Office to discuss Mr. Barnes' safety audit reports and the necessary changes required at  
11 TRC to ensure student safety. During the meeting, Mr. Reichard expressed a commitment to  
12 implement all safety protocols and systems required by PPS to ensure student safety at TRC. In  
13 addition, given the serious nature of PPS's safety concerns, it was agreed that Mr. Barnes would  
14 conduct safety training for all TRC woodshop staff and volunteers present on October 3, 2017, the next  
15 date TRC was scheduled to work with PPS students. Mr. Barnes also committed to observing TRC  
16 staff and PPS students on October 3, 2017.

17 11.

18 On or about September 25, 2017, at the suggestion of Mr. Reichard, Ms. Tyvoll contacted  
19 TRC's safety consultant Joe Mullens from Safety Northwest, LLC, about safety concerns for the  
20 7GCTE program and TRC. Mr. Mullens reviewed Mr. Barnes' safety audit reports and visited TRC on  
21 October 4, 2017. Mr. Mullens identified priority safety items for TRC to address before PPS students  
22 next attended TRC, including providing aprons for students in shorts, providing clean safety glasses,  
23 free of scratches, and providing adequate ventilation. Safety Northwest, LLC, committed to providing  
24 training materials, morning and afternoon safety checklists, and student safety curriculum for TRC.  
25 Mr. Reichard reported that TRC could not afford to pay for the materials, consequently, no safety  
26 materials were created by Safety Northwest.

12.

1  
2 On September 27, 2017, at Mr. Crelier's request, Mr. Barnes provided woodshop safety training  
3 to five members of PPS's Environmental Health and Safety staff who reported to Mr. Crelier. The  
4 training was held in Mr. Barnes' woodshop at Cleveland High School. Ms. Tyvoll was present at this  
5 training. The PPS staff had little to no experience or training in woodshop safety management systems,  
6 protocols or practices; nevertheless, none of the staff took notes while Mr. Barnes reviewed specific  
7 safety practices for several power tools.

13.

8  
9 On October 3, 2017, Mr. Barnes conducted safety training in the TRC woodshop before the  
10 PPS students arrived. Three TRC instructors and one TRC volunteer were present. At Mr. Crelier's  
11 request, three PPS Environmental Health and Safety staff were also present. After the safety training,  
12 Mr. Barnes remained at TRC to observe PPS students working in the woodshop and to conduct a  
13 debrief with all PPS and TRC staff after students departed. Ms. Tyvoll observed that none of the TRC  
14 staff or volunteers took notes during the training or at the debrief, until she requested that a TRC staff  
15 member take notes after the debrief started and one of the TRC instructors did so. None of the PPS  
16 Environmental Health and Safety staff expressed concerns for student safety.

14.

17  
18 After leaving TRC, Mr. Barnes and Ms. Tyvoll met to discuss their serious concerns for student  
19 safety based on their observations of TRC staff and volunteers. They created a list of five requests  
20 ("the list") and documented additional observations and concerns about deficient instructional practices  
21 and student safety at TRC. Items listed included the absence of TRC volunteers as Mr. Lowe had  
22 committed to having four TRC volunteers at each day to provide adequate supervision of students.  
23 The list also included a request that TRC ensure that students with long hair have it pulled back at all  
24 times as Ms. Tyvoll observed a student using the drill press with hair hanging down in front of her face.  
25 Ms. Tyvoll immediately removed the student from the drill press and ensured that her hair was safely  
26 tucked back.

15.

1 On October 3, 2017, Ms. Tyvoll sent an email and the list to Dave Lowe, TRC woodshop lead  
2 instructor. She asked that the safety concerns be addressed.  
3

16.

4  
5 On or about October 4, 2017, Mr. Reichard resigned from TRC. Ms. Tyvoll communicated with  
6 TRC's Board Chair Cary Stacey about PPS's safety concerns, shared the safety audit reports  
7 completed by Mr. Barnes, and advised her of the commitment previously made by Mr. Reichard to do  
8 everything necessary to ensure student safety at TRC.

17.

9  
10 On October 4, 2017, Ms. Tyvoll sent an email to Kenzy Sorensen, Environmental Health and  
11 Safety staff member in Mr. Crelier's department, requesting Ms. Sorensen's help with TRC and  
12 expressing her continued concerns for student safety at TRC. Ms. Tyvoll did not receive a response  
13 from Ms. Sorensen.

18.

14  
15 On October 4, 2017, only two TRC volunteers were present at TRC and Mr. Lowe informed Ms.  
16 Tyvoll that he had no TRC volunteers scheduled for the class on October 5, 2017. Ms. Tyvoll was  
17 alarmed by this information since it meant there would be inadequate supervision of students at TRC  
18 on October 5, thereby putting student safety at risk. On October 4, Ms. Tyvoll asked Richard Martin,  
19 PPS Coordinator Web/Graphic Designer, to send an urgent message to all PPS staff to request they  
20 be volunteer chaperones. Many staff responded and Ms. Tyvoll was able to confirm that more than  
21 four PPS staff would volunteer at the TRC on October 5, 2017.

19.

22  
23 On October 5, 2017, Mr. Lowe sent an email to Ms. Tyvoll, copied to Mr. Barnes, Mr. Reichard,  
24 Mr. Crelier, Ms. Sorensen, Mr. Borgeson, Mr. Wagner and Mr. Mullens, with his responses to Ms.  
25 Tyvoll's October 3, 2017 email. Mr. Lowe said that "he expected this level of oversight to expire after  
26 next week..." and was dismissive of the safety concerns. Ms. Tyvoll did not receive a response from

1 Mr. Crelier, Ms. Sorensen, Mr. Borgeson, Mr. Wagner or Mr. Mullens. On October 5, 2017, Mr. Lowe  
2 also sent an email to Ms. Tyvoll, Mr. Barnes and Mr. Mullens in which he described TRC's program as  
3 "safe, supported and substantial." He thanked them "for your tireless contributions to ReFind's  
4 exemplary programming."

5 20.

6 On October 5, 2017, Ms. Tyvoll requested that Mr. Crelier schedule a meeting with the TRC  
7 Board Chair, Mr. Barnes and herself, as a result of Mr. Reichard's resignation. Mr. Crelier refused this  
8 request. Because of Mr. Crelier's refusal to meet with or otherwise confirm that TRC's new leadership  
9 was committed to ensuring student safety at TRC, on October 6, 2017, Ms. Tyvoll drafted a list of next  
10 steps and requirements that TRC must meet in order for PPS to continue to schedule the 7GCTE at  
11 TRC in 2018. Ms. Tyvoll reviewed the draft list of next steps and requirements with Mr. Crelier on  
12 October 6, 2017, and he did not suggest any changes. Included in this list was that the class  
13 scheduled on December 14-16 would be cancelled and that "we hope we can continue to schedule  
14 students at TRC in 2018, after we have assurances that TRC has instituted appropriate safety systems,  
15 as confirmed by PPS." Ms. Tyvoll was prepared to cancel the PPS contract in 2018 with TRC if  
16 appropriate safety systems were not instituted at TRC.

17 21.

18 On October 6, 2017, Ms. Tyvoll sent an email to Ms. Yerkovich, copied to Jan Osborn, Career  
19 Learning Coordinator, Pauline Celino, Administrative Assistant, Mr. Crelier and Mr. Barnes, with the  
20 list of next steps and requirements TRC must meet in order for PPS to continue to schedule the  
21 7GCTE at TRC in 2018. In this email, Ms. Tyvoll asked Mr. Crelier to "let me know if I've missed  
22 anything." Ms. Tyvoll did not receive a response from Mr. Crelier; however, Ms. Tyvoll received  
23 approval from Ms. Yerkovich to send the list of next steps and requirements to the TRC Board Chair.

24 22.

25 On October 9, 2017, Ms. Tyvoll emailed the TRC Board Chair the list of next steps and  
26 requirements that Ms. Yerkovich had approved. In addition, Ms. Tyvoll cancelled the classes

1 scheduled for TRC in December. Ms. Tyvoll did not receive a response from TRC.

2 23.

3 On October 10-12, 2017, Ms. Tyvoll observed the PPS students at TRC. Ms. Tyvoll  
4 documented numerous safety concerns, including:

- 5 a. long hair that was not tied back;
- 6 b. hooded sweatshirt strings hanging loose;
- 7 c. failure to turn on the air filtration system and open the back door;
- 8 d. inadequate supervision on the drill presses; and
- 9 e. TRC volunteers did not interact with students.

10 24.

11 On October 13, 2017, the TRC Board Chair, TRC Board member Courtney Aguirre, and Mr.  
12 Lowe, met with Ms. Tyvoll and Ms. Yerkovich to discuss PPS's safety requirements. Ms. Tyvoll  
13 reported that she observed several near-misses during the last two 7GCTEs at TRC. Mr. Lowe was  
14 dismissive of the safety requirements and stated that there will always be near-misses. No one in the  
15 meeting discussed Ms. Tyvoll's October 9, 2017 email listing the next steps and requirements that TRC  
16 must meet in order for PPS to continue to schedule at TRC in 2018. Mr. Lowe requested that Ms.  
17 Tyvoll not be present at TRC for future classes, to which Ms. Yerkovich replied that "it's Ms. Tyvoll's  
18 program," implying that Ms. Tyvoll would be present at TRC. Ms. Yerkovich also stated "we'll trust you  
19 Dave [Lowe] to implement what we ask you to implement" regarding PPS's requests to ensure  
20 adequate safety management systems and practices are in place at TRC.

21 25.

22 On October 19, 2017, the TRC Board Chair sent her notes from the October 13, 2017, meeting  
23 to Ms. Yerkovich and Ms. Tyvoll, copied to Mr. Lowe, with a list of several safety issues that TRC  
24 committed to correcting before October 31, 2017, the next date that PPS students were scheduled at  
25 TRC. Ms. Tyvoll forwarded that email to Ms. Yerkovich, Mr. Crelier and Mr. Barnes, stating that "...if  
26 this constitutes TRC's response to the email sent to the TRC Board Chair on October 9, 2017, then



1 my unequivocal recommendation is to cancel TRC's contract." Ms. Tyvoll did not receive a response  
2 from Ms. Yerkovich or Mr. Crelier.

3 26.

4 On October 30, 2017, at Mr. Crelier's request, Ms. Tyvoll forwarded to him the email she had  
5 sent on October 9, 2017, to the TRC Board Chair and the Board Chair's notes from the meeting at PPS  
6 on October 13, 2017. Ms. Tyvoll did not receive a response from Mr. Crelier.

7 27.

8 On October 31, 2017, Ms. Tyvoll observed students at TRC and documented numerous serious  
9 and alarming safety issues. Mr. Lowe diminished the importance of a safety protocol and said to the  
10 PPS students that they had one more "boring thing" to do, that was the safety test created by Mr.  
11 Barnes and required by PPS. Multiple commitments made by TRC to ensure student safety were not  
12 in place. i.e.

- 13 (a) several students wore hooded sweatshirts with ties or had long pony tails hanging loose  
14 which could get caught in the power tools. When Ms. Tyvoll pointed out to TRC instructor Aaron  
15 Green a student who had hoodie ties hanging loose, he responded to "tell them yourself";  
16 (b) TRC staff did not ask the teacher if there were special needs students in attendance;  
17 (c) only two TRC volunteers were present instead of four; and  
18 (d) there was only one TRC volunteer instead of three at the drill press station.

19 Ms. Yerkovich and Mr. Crelier visited the students at TRC for approximately one hour while Ms. Tyvoll  
20 was also there. Ms. Yerkovich stated that she planned to work with TRC to reduce the length of time  
21 students waited to use power tools, but she did not ask Ms. Tyvoll about her safety concerns. Ms.  
22 Tyvoll pointed out several safety concerns to Mr. Crelier and asked him specifically if he was  
23 concerned, to which he replied that he was.

24 28.

25 On October 31, 2017, Ms. Tyvoll sent by email to Ms. Yerkovich and Mr. Crelier, copied to Mr.  
26 Barnes, her rough notes documenting her observations of TRC from that day. She noted that "I have

1 seen very little improvement over time (since Brian Barnes did his training at TRC) and am very  
2 concerned that TRC continues to put PPS students at risk." Ms. Tyvoll did not receive a response from  
3 Ms. Yerkovich or Mr. Crelier.

4 29.

5 On November 1 and 2, 2017, Ms. Tyvoll observed students at TRC and documented numerous  
6 serious safety issues. On November 1, 2017, Mr. Lowe asked Ms. Tyvoll why she was at TRC and  
7 what she was doing. Ms. Tyvoll responded that Mr. Lowe should reach out to Ms. Yerkovich and Mr.  
8 Crelier if he had questions. On November 2, 2017, Mr. Lowe held up the parent volunteer safety  
9 handout and said to everyone "it's really boring but here's information if you need it." Ms. Tyvoll again  
10 observed numerous safety violations, i.e.

11 (a) the students' long hair falling forward and sweatshirt hood ties hanging loose. A TRC  
12 instructor, Sam Serling, contradicted Ms. Tyvoll's request to a student to tuck a long pony tail  
13 away, saying that "that's not necessary, it's not a safety protocol for a woodshop,"

14 (b) a special needs student attempting to use the band saw without supervision, even though  
15 TRC had committed to providing the student with one-on-one supervision at all times;

16 (c) students using the band saw with no TRC supervision;

17 (d) students fingers 2-3 inches from the band saw blade rather than the recommended 4 inches  
18 from the blade;

19 (e) students not using push sticks for the smaller pieces of wood resulting in their fingers  
20 becoming too close to the blade; and

21 (f) a student using the nail gun over the edge of the table while a TRC volunteer was watching.  
22 Ms. Tyvoll intervened and asked the student to move his guitar onto the table so if he slipped  
23 with the nail gun he would not accidentally shoot a nail into his foot.

24 On November 1 and 2, 2017, Ms. Tyvoll sent an email to Ms. Yerkovich and Mr. Crelier, copied to Brian  
25 Barnes, with notes documenting her observations of ongoing safety concerns at TRC. Ms. Tyvoll did  
26 not receive a response to her emails from Ms. Yerkovich or Mr. Crelier.

1 30.

2 On November 5, 2017, Ms. Tyvoll sent an email to Ms. Yerkovich and Mr. Crelier, and copied  
3 Mr. Barnes, with her notes documenting numerous safety issues at TRC on October 31, November 1  
4 and 2. Ms. Tyvoll also pointed out that TRC had failed to implement many safety protocols that TRC  
5 had committed to implementing and therefore continued to put students at risk for serious injury. On  
6 November 5, 2017, Ms. Yerkovich sent an email to Ms. Tyvoll which stated that going forward, all  
7 risk/safety assessments and documentation at TRC would be made by PPS Risk Department and that  
8 “there is no need for you to compile additional documentation re your observations.”

9 31.

10 On November 5, 2017, Ms. Tyvoll sent an email to Terri Burton, Benefits Director, HR, to notify  
11 her that Ms. Yerkovich had told her that she could no longer document her observations of safety  
12 issues at TRC. Ms. Tyvoll wrote that she was emailing Ms. Burton in confidence because she feared  
13 retaliation. Ms. Tyvoll also stated that she believed that TRC continues to put PPS students at risk for  
14 serious injury and that she advocated for the termination of TRC’s contract with PPS. Ms. Tyvoll  
15 received an automated message saying that Ms. Burton was out of the office until November 14, 2017.

16 32.

17 On November 5, 2017, Ms. Tyvoll sent her earlier email to Terri Burton to the head of PPS  
18 Human Resources, Kylie Rogers, Chief of Talent & Culture, copied to Ms. Burton and Mariana Parra-  
19 Castilla, Ms. Rogers’ Executive Assistant. Ms. Tyvoll wrote, “I have been dealing with a provider of my  
20 program who I unequivocally believe is putting PPS students at risk for serious injury.” Ms. Tyvoll  
21 sought assistance from HR to address the student safety concerns at TRC. Ms. Tyvoll did not receive  
22 a response from Ms. Rogers.

23 33.

24 On November 6, 2017, Ms. Yerkovich told Ms. Tyvoll that she was not allowed to document her  
25 observations of PPS students at TRC. Ms. Tyvoll responded that she was obligated to document her  
26 observations to ensure student safety and to report these concerns to PPS. Ms. Yerkovich again

1 stated that Ms. Tyvoll was not allowed to document her observations, to which Ms. Tyvoll responded  
2 that she was ethically and professionally obligated to document her concerns for student safety.

3 34.

4 On November 10, 2017, Ms. Tyvoll sent an email to Ms. Burton to notify her that Ms. Yerkovich  
5 stated that Ms. Tyvoll was not allowed to document her observations of PPS students at TRC. Ms.  
6 Tyvoll also forwarded the email sent from Ms. Yerkovich on November 5, 2017, which stated that there  
7 was no need for Ms. Tyvoll to "compile additional documentation re your observations." Ms. Tyvoll did  
8 not receive a response.

9 35.

10 On November 13, 2017, Ms. Tyvoll sent an email to Ms. Burton with a request to meet or talk  
11 by phone "because students will potentially suffer serious injury and PPS has liability exposure if we  
12 continue with TRC." Ms. Tyvoll did not receive a response.

13 36.

14 On November 13, 2017, Ms. Yerkovich and Kehaulani Haupu, Interim Director, Office of  
15 Teaching & Learning, directed Ms. Tyvoll to not return to TRC as scheduled on November 14, 15, or  
16 16, 2017. Ms. Haupu further directed Ms. Tyvoll to stop documenting her observations and safety  
17 concerns at TRC. Ms. Tyvoll responded that it was her ethical and professional obligation to document  
18 her concerns about student safety at TRC. Ms. Haupu stated that Ms. Tyvoll's intention to document  
19 her observations and concerns constituted insubordination. These directives were repeated in an email  
20 sent to Ms. Tyvoll later that day.

21 37.

22 On November 13, 2017, at the suggestion of Mariana Parra-Castillo, Ms. Tyvoll sent an email  
23 to Ms. Rogers, copied to Ms. Burton, Sharon Reese, Ms. Parra-Castillo, and Guadalupe Guerrero, PPS  
24 Superintendent, which summarized her meeting with Ms. Yerkovich and Ms. Haupu, her ongoing  
25 concerns for student safety at TRC, and that she was ethically and professionally obligated to  
26 document her observations and concerns about student safety. In addition, Ms. Parra-Castillo said she

1 would personally reach out to Ms. Rogers, Ms. Reese and the Superintendent's office to share Ms.  
2 Tyvoll's concerns for student safety. Ms. Tyvoll recommended that PPS cancel the Jackson Middle  
3 School class at TRC scheduled for November 14-16, 2017. Ms. Tyvoll expressed that she was  
4 particularly concerned that she could not be on site at TRC at this time, that she would not be able to  
5 intervene to prevent near-misses as she had in the past, and that students would be put at  
6 extraordinary risk for serious injury. Ms. Tyvoll did not receive a response from Ms. Rogers or any  
7 other individuals copied on the email.

8 38.

9 On November 13, 2017, Ms. Tyvoll made one final appeal in person to Cheryl Pitman, Executive  
10 Assistant to Superintendent Guerrero, and asked her if she had access to his email and she said that  
11 she did. Ms. Tyvoll told Ms. Pitman that Superintendent Guerrero could reach her on her mobile phone  
12 at any time. Ms. Tyvoll did not receive a response from the Superintendent's office.

13 39.

14 On November 14, 2017, Jackson Middle School was scheduled to go to TRC. Ms. Tyvoll spoke  
15 to Mr. Crotchett, Jackson Middle School Principal, and forwarded to him the email she had sent the  
16 previous day to Ms. Rogers. Ms. Tyvoll told Mr. Crotchett that since she had not received a response  
17 to this email from HR or the Superintendent, she was coming to him directly. Ms. Tyvoll had identified  
18 an alternate provider for Jackson students. She explained to Mr. Crotchett that he could elect to send  
19 students there instead of TRC and that the decision on where to send his students was his. Mr.  
20 Crotchett elected to send his students to the alternate 7GCTE provider. Ms. Tyvoll notified Ms.  
21 Yerkovich regarding her communications with Mr. Crotchett.

22 40.

23 On November 15, 2017, Ms. Tyvoll received written notification that PPS was considering  
24 dismissing her for insubordination because she had informed Mr. Crotchett of her safety concerns  
25 about TRC, which were described by PPS as "ongoing, unsubstantiated, negative verbal and written  
26

1 observations regarding safety concerns have created a baselessly negative view of TRC's education  
2 programming." Ms. Tyvoll was placed on paid administrative leave.

3 41.

4 On November 15, 2017, Ms. Tyvoll forwarded to PPS Human Resources a draft report she had  
5 compiled regarding PPS Students at Risk for Serious Injury at The Rebuilding Center. The report  
6 contained a timeline of events, emails and observations related to the safety concerns at TRC. Ms.  
7 Tyvoll did not return to TRC.

8 42.

9 On November 17, 2017, at a meeting at PPS, Ms. Tyvoll submitted a response to the  
10 November 15, 2017 pre-dismissal notice. Ms. Tyvoll also submitted a hard-copy of the draft report she  
11 had compiled regarding PPS Students at Risk for Serious Injury at TRC.

12 43.

13 On December 20, 2017, Ms. Tyvoll submitted a formal complaint to the PPS Superintendent  
14 and PPS Board Members, reporting that she was being punished for having concerns that PPS  
15 students are being put at risk for serious injury at TRC. Ms. Tyvoll did not receive a response from  
16 PPS to this specific issue in her formal complaint.

17 44.

18 On December 29, 2017, Ms. Tyvoll was terminated by PPS for insubordination for contacting  
19 Mr. Crotchett to suggest an alternative location for his students.

20 45.

21 On January 29, 2018, Ms. Tyvoll submitted a Notice of Tort Claim to PPS pursuant to ORS  
22 30.275.

23 **FIRST CLAIM FOR RELIEF**

24 **Unlawful Employment Practices - ORS 659A.030(1)(f)**

25 46.

26 Plaintiff realleges and incorporates paragraphs 1 through 45 above.

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47.

PPS terminated Ms. Tyvoll in violation of ORS 659A.030(1)(f), because Ms. Tyvoll filed a complaint of retaliation with PPS.

48.

As a result of PPS's unlawful employment practice, Ms. Tyvoll has incurred economic damages for lost wages and benefits in the approximate amount of \$30,000.00, plus prejudgment interest in an amount to be determined at trial. Ms. Tyvoll's economic damages are continuing and she will continue to suffer future lost wages and benefits, plus prejudgment interest in an amount to be determined at trial.

49.

Ms. Tyvoll is entitled to reinstatement to her position, or in lieu of reinstatement, Ms. Tyvoll is entitled to front pay in an amount to be determined at trial.

50.

As a further result of PPS's unlawful employment practice, Ms. Tyvoll has been subjected to pain, suffering, anxiety, humiliation, loss of enjoyment of life and emotional distress entitling her to an award of compensatory damages in the sum of \$800,000.00.

51.

Ms. Tyvoll is further entitled to her reasonable attorneys fees and costs, pursuant to ORS 659A.885.

**SECOND CLAIM FOR RELIEF**

**Unlawful Employment Practices - ORS 659A.199**

52.

Plaintiff realleges and incorporates paragraphs 1 through 45 and 48 through 51 above.

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53.

PPS terminated Ms. Tyvoll in violation of 659A.199, because Ms. Tyvoll in good faith reported information which she believed was evidence of a violation of a state or federal law, rule or regulation regarding a school district's obligation to keep students safe.

**THIRD CLAIM FOR RELIEF**

**Unlawful Employment Practices - ORS 659A.203**

54.

Plaintiff realleges and incorporates paragraphs 1 through 45 and 48 through 51 above.

55.

PPS terminated Ms. Tyvoll in violation of ORS 659A.203, because Ms. Tyvoll disclosed violations of a federal, state or local law, rule or regulation requiring that schools provide safe learning environments for students, and because Ms. Tyvoll disclosed specific dangers to public health and safety of students.

**FOURTH CLAIM FOR RELIEF**

**Wrongful Discharge**

56.

Plaintiff realleges and incorporates paragraphs 1 through 45 and 48 through 50 above.

57.

PPS wrongfully terminated Ms. Tyvoll because she was fulfilling an important societal obligation to report and protest specific and serious dangers to student safety, and because she intervened when she reasonably believed sending students to TRC posed a danger to the students. Schools have a special duty to not unreasonably expose students in their care to a foreseeable risk of harm. Schools also have a duty to provide a safe learning environment for students. Ms. Tyvoll reasonably believed that sending PPS students to TRC posed a serious risk of harm to students that was foreseeable in light of TRC's failure to implement necessary safety protocols.

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1 58.

2 Ms. Tyvoll is further entitled to her costs.

3 **DEMAND FOR A JURY TRIAL**

4 59.

5 Plaintiff demands a jury trial.

6  
7 WHEREFORE, plaintiff prays for judgment against defendant as follows:

- 8 1. A declaration that PPS has violated Ms. Tyvoll’s right to be free of unlawful employment
- 9 practices;
- 10 2. Economic damages for lost wages and benefits of not less than \$30,000.00, plus
- 11 prejudgment interest, in an amount to be determined at trial;
- 12 3. Economic damages for future lost wages and benefits in an amount to be determined
- 13 at trial;
- 14 4. Reinstatement, or front pay in lieu of reinstatement in an amount to be determined at
- 15 trial;
- 16 5. Compensatory damages in the amount of \$800,000.00; and
- 17 6. Plaintiff’s attorneys fees, costs and disbursements incurred herein.

18 DATED this 11<sup>th</sup> day of June, 2018.

19 LAW OFFICES OF JUDY SNYDER

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