

Lawsuit Filed Against Montgomery County Public Schools To Fix Its Age Discriminatory Pension Provisions

Silver Spring, MD – AARP Foundation and the Andalman & Flynn law firm filed a lawsuit today in federal district court in Maryland against Montgomery County Public Schools (MCPS) alleging that the school district's Pension Plan violates the federal Age Discrimination in Employment Act (ADEA). MCPA employees who suffer a service connected disability over the age of 62 are ineligible for accidental disability retirement benefits solely on the basis of their age.

Ernie Brandenburg worked for MCPS for approximately 11 years as a maintenance worker. In March 2017, at the age of 65, Brandenburg applied for a service connected accidental disability retirement from the Plan due to an injury incurred from his job. The Disability Retirement Review Board approved his application on March 13, 2017. Mr. Brandenburg retired on April 1, 2017. Since his retirement, however, Mr. Brandenburg has received his monthly pension benefit at the rate of a normal retirement benefit, instead of the amount of the higher service connected accidental disability retirement. On July 5, 2017, the MCPS Plan confirmed in writing that, because Brandenburg had applied for a service connected accidental disability retirement at over age 62, he is not entitled to the higher benefit.

The differences in the pension amounts are significant. His pension is 2/3 less than he would have received if MCPS did not discriminate on the basis of age. Mr. Brandenburg will lose almost \$35,000 every year merely because he was injured after he turned age 62.

"This is just plain unfair. My eligibility for a pension shouldn't be different just because I'm over a certain age," said Mr. Brandenburg.

"It's a common, stereotype that individuals who reach a certain age should retire, or that they will be retiring soon anyway, and therefore it is not necessary to provide them with certain benefits. The ADEA was enacted, in part, to challenge such unfounded assumptions. Mr. Brandenburg would have continued to work had he not become injured on the job. He should not have been denied benefits based solely on his age at the time he suffered the injury. That is age discrimination, plain and simple," said Elliott Andalman, Partner at Andalman & Flynn.

"AARP has long battled ageism in the workplace. This case presents a textbook case of age discrimination in employment. Mr. Brandenburg is receiving lower pension benefits based only on his age. That is just unacceptable," said Laurie McCann, Senior Attorney at AARP Foundation Litigation.

About AARP Foundation

AARP Foundation works to end senior poverty by helping vulnerable older adults build economic opportunity and social connectedness. As AARP's charitable affiliate, we serve AARP members and nonmembers alike. Bolstered by vigorous legal advocacy, we spark bold, innovative solutions that foster resilience, strengthen communities and restore hope.

Andalman & Flynn are attorneys in Montgomery County who are dedicated to provide winning representation to clients who need help with a variety of different legal issues including issues surrounding disability law, disability benefits and other employee benefit claims.