

## HIGH-SCHOOL TEACHER TAKES A KENTUCKY SCHOOL BOARD TO COURT



A social-studies teacher at Fairdale High School in Jefferson County, KY, filed suit against the school board, alleging discrimination, retaliation, a hostile work environment and intentional infliction of emotional distress. His case is a good example to show that solid evidence is a necessity when taking legal action. The teacher, a 58-year-old African-American, had numerous complaints, including the principal's accusation that he'd lied on a discipline report relating to a student using a racial slur, excessive classroom observations and being forced to resign from the school's Decision-Making Committee. He also claimed that he was more severely punished than two female teachers for violating a confidentiality policy and was denied professional training opportunities. The Jefferson County Board of Education found his grievance letter "unsubstantiated," and the EEOC (Equal Employment Opportunity Commission), though dismissing a charge of race and age discrimination and retaliation, issued a Right-to-Sue letter. His lawsuit in federal court alleged claims under the Civil Rights Act and state laws. The district court ultimately found in favor of the school board, believing that the teacher had failed in directly proving discrimination and couldn't show any unfavorable effects of his employers' actions. On appeal, the man did not dispute the lack of direct evidence of discrimination, and appellate judges considered each of his claims individually. The teacher asserted that receiving an E-2 Form was an adverse action from the principal. But this was in response to the teacher submitting a "Behavior Log" to faculty members. In it, he discussed certain students' behavior problems, using full names, phone numbers and sections of confidential discussions between the teacher and parents – all in breach of the school's confidentiality policy. He also violated the policy when, after a student disciplinary referral he'd written claimed that a student called him by a racial slur, he admitted at a parent-teacher conference that the student had merely called him a "racist." The principal testified that the E-2 Form was not a "formal reprimand," but even considering it an adverse action, the teacher could not show a harmful outcome. He was still employed, was never demoted and did not receive a reduction in either pay or benefits. He argued that female teachers violated the same policy but were only reprimanded verbally. These women, however, mentioned students' names in emails and nothing more – not as significant as the plaintiff's actions. The teacher's inability to show how he was adversely affected was also the reason for other claims being dismissed, including classroom observations and the denial of training opportunities – one was a fellow teacher asking him to fill a slot because she couldn't afford to go, and later attending when the school offered to pay. His "forced" resignation from the committee had no supportive argument – no one ever asked him to resign. And being "snubbed" for a promotion was an interim position that lasted less than a month. He didn't apply for the position but felt he was denied it because he wasn't asked to take the position. Finally, the hostile work environment and retaliation claims likewise failed. The former simply had no evidence, and the latter was negated by the man's admission that what he considered adverse actions happened prior to the EEOC charge – clearly not in response. The district court's ruling was affirmed.