

**BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA**

DOROTHY ANSETH,  
Petitioner,

-v-

GEYSER SCHOOL DISTRICT, No. 58.  
Respondent.

Case No.: 0049010879

**ORDER AFFIRMING NOTICE OF  
DISMISSAL**

On or about August 5, 2004, the Human Rights Bureau issued a Final Investigative Report and corresponding Notice of Dismissal and Notice of Right to Sue in the above-captioned matter. Oral argument was requested. Charging Party, Dorothy Anseth (Anseth), appeared through counsel, Gale Gustafson. Debra Silk, counsel for the Montana School Board Association, appeared on behalf of Respondent, Geysers School District No. 58. The Commission considered the matter on November 19, 2004.

In the Final Investigative Report (FIR) issued by the Human Rights Bureau (HRB) the investigator determined that a preponderance of the evidence did not support Anseth's assertion that she had been discriminated against on the basis of age by Respondent Geysers School District No. 58 (Geysers). Further, the investigator concluded Geysers had not retaliated against Anseth for engaging in a protected activity.

At the hearing before the Commission, Anseth argued the HRB investigator correctly characterized this as a "disparate treatment" case. Anseth, however, contended the investigator failed to address the manner in which Geysers terminated Anseth from her position. Additionally, Anseth raised issue with the conflicting application of the district's salary cap.

In response, Geysler initially noted that this matter is not within the jurisdiction of the Commission since Anseth filed over 180 days after the date of the last alleged incident. On the merits, Geysler noted that the salary cap was not based on age; rather the cap was a decision to bring Geysler's classified employees (such as Anseth) in line with a similar salary structure currently used for Geysler's certified employees (teachers).

After careful and due consideration, the Commission concludes the findings of the Human Rights Bureau are supported by the record and, therefore, there was no abuse of discretion in the issuance of a Notice of Dismissal. Admin. R. Mont. 24.9.1714(3).

Charging Party will have 90 days after the receipt of this order to petition a district court in the district where the alleged violation occurred for the appropriate relief. Mont. Code Ann. § 49-2-509(5)(2003); Admin. R. Mont. 24.9.1714(5). If Charging Party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

IT IS HEREBY ORDERED, that Charging Party's objection is overruled. The Commission adopts the findings of the Human Rights Bureau and the notice of dismissal is affirmed.

DATED this \_\_\_\_ day of December 2004.

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Chair Gary Hindoien  
Human Rights Commission

## CERTIFICATE OF SERVICE

The undersigned employee of the Human Rights Bureau certifies that a true copy of the forgoing Human Rights Commission ORDER was served on the following persons by U.S. mail, postage prepaid, on December \_\_\_\_ 2004.

DOROTHY ANSETH  
128 RIVERVIEW A  
GREAT FALLS MT 59404

GALE GUSTAFSON  
GUSTAFSON & ROHRER  
400 SOUTH MAIN STREET SUITE 101  
CONRAD MT 59425-2338

DENNIS GERKE  
GEYSER SCHOOL DISTRICT 58  
PO BOX 70  
GEYSER MT 59447

DEBRA SILK  
MONTANA SCHOOL BOARD ASSOCIATION  
1 SOUTH MONTANA AVENUE  
HELENA MT 59601