

The allegations of the complaint as to discrimination, which are denied in the answer, but which must be taken as true on the motion to dismiss, are as follows:

"11. Defendants over a long period of years have consistently pursued and maintained and are now pursuing and maintaining the policy, custom, and usage of paying Negro teachers and principals in the public schools of Norfolk less salary than white teachers and principals in said public school system possessing the same professional qualifications, certificates and experience, exercising the same duties and performing the same services as Negro teachers and principals. Such discrimination is being practiced against the plaintiffs and all other Negro teachers and principals in Norfolk, Virginia, and is based solely upon their race or color.

"12. The plaintiff Alston and all of the members of the plaintiff association and all other Negro teachers and principals in public schools in the City of Norfolk are teachers by profession and are specially trained for their calling. By rules, regulations, practice, usage and custom of the Commonwealth acting by and through the defendants as its agents and agencies, the plaintiff Alston and all of the members of the plaintiff association and all other Negro teachers and principals in the City of Norfolk are being denied the equal protection of the laws in that solely by reason of their race, and color they are being denied compensation from public funds for their services as teachers equal to the compensation provided from public funds for and being paid to white teachers with equal qualifications and experience for equivalent services pursuant to rules, regulations, custom and practice of the Commonwealth acting by and through its agents and agencies, the School Board of the City of Norfolk and the Superintendent of Schools of Norfolk, Virginia.

"13. Plaintiff, Melvin O. Alston, has been employed as a regular male teacher by the defendants since September, 1935, and is in his fifth year of experience as a regular teacher in the Booker T. Washington High School, a public high school maintained and operated under the direct control, supervision, rules and regulations of the defendants. He successfully completed the course of instruction provided at Virginia State College for Negroes, an accredited college maintaining and operated by the State of Virginia for the instruction and preparation of Negroes as teachers in the public schools of the State. He holds a Collegiate Professional Certificate, the highest certificate issued by the Virginia State Board of Education for teaching in the public high schools of Virginia. In order to qualify for this certificate plaintiff has satisfied the same requirements as those exacted of all other teachers, white as well as Negro, qualifying therefor, and he exercises the same duties and performs services substantially equivalent to those performed by other holders of the said certificate, white