

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Elizabeth Jensen,

Plaintiff,

v.

South Carolina High School League,
Brashier Middle College Charter High
School, and South Carolina Board of
Education,

Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C/A No.: 2019-CP-23-04967

Affidavit of Mike Sinclair

PERSONALLY APPEARED before me Mike Sinclair who, first being duly sworn, deposes and states as follows:

1. I am the Principal at Brashier Middle College Charter High School ("Brashier"). I am above the age of eighteen (18) years, and I submit this affidavit based upon the best of my personal knowledge.

2. Elizabeth Jensen ("Elizabeth") is currently a senior at Brashier with a grade point average of 3.9. In addition, Elizabeth has obtained 21.5 of the 24 credits that she will need to graduate in the spring of 2020.

3. School officials met with Michelle Jensen ("Ms. Jensen") to discuss what Elizabeth's course failure meant, but failed to discuss the eligibility requirements for sports participation.

4. On August 14, 2019, the school athletic director informed Ms. Jensen for the first time that Elizabeth was academically ineligible because she had not passed five (5) Carnegie classes for the previous school year.

5. Based on Brashier's academic standards, Elizabeth did not receive credit for her physics class. Unlike most other high schools, Brashier requires that the student achieve an 80 to receive course credit. Elizabeth made a 77 in her physics class, which would have received credit at most other public high schools in the area against which Brashier competes. It is technically a "C" at those schools, which are on a ten-point scale and only need a 60 to receive course credit.

6. Brashier appealed to the South Carolina High School League ("SCHSL") for a hardship waiver. The SCHSL denied Brashier's appeal, and a hearing will not be set until November 14, 2019.

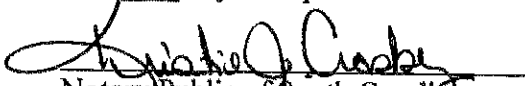
7. Brashier has also appealed to the South Carolina Board of Education for a waiver based on extraordinary circumstances. A true and correct copy of that appeal is attached as *Exhibit A*.

8. Based on the South Carolina Uniform Grading Policy, Elizabeth received the GPA points for a "C" in the course based on her numerical grade of 77. However, she did not receive a credit for the course because Brashier requires the student to achieve an 80 for credit.

9. Elizabeth is a two time state champion swimmer being recruited by schools across the country.

FURTHER AFFIANT SAYETH NAUGHT.

Sworn and subscribed to before me
this 3 day of September 2019.


Notary Public of South Carolina
My commission expires: 04/13/2020

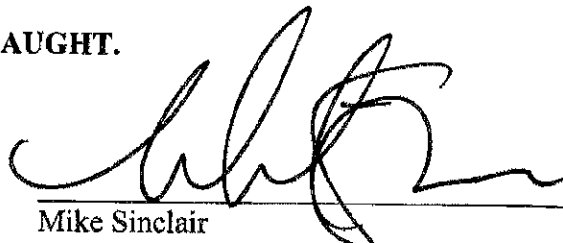

Mike Sinclair
Principal

EXHIBIT A

----- Forwarded message -----

From: **Elliot Smalley** <ESmalley@sccharter.org>

Date: Thu, Aug 22, 2019 at 7:22 AM

Subject: SCPCSD State Board appeal for Brashier student

To: Hazelwood, Cathy <chazelwood@ed.sc.gov>

Cc: gordonstallard@brashiermiddlecollege.org <gordonstallard@brashiermiddlecollege.org>, Taylor Fulcher <tfulcher@sccharter.org>, Erik Norton <Erik.Norton@nelsonmullins.com>, msinclair@faculty.brashiermiddlecollege.org <msinclair@faculty.brashiermiddlecollege.org>

Good morning Cathy,

I hope this finds you well.

I am writing to request a waiver from the State Board to grant Brashier Middle College Charter High School student Elizabeth Jensen eligibility for this 2019 swim season based on the attached/below extraordinary circumstances. I have copied my Chief of Staff Taylor Fulcher (who acts as our Athletic Director), Brashier AD Gordon Stallard, and Brashier Principal Mike Sinclair, whose appeal to the High School League was denied yesterday.

Per SC Code of Law, section 59-39-160,

C) The State Board of Education may grant a waiver of the requirements of this section.

(1) This waiver may be granted when a written statement from a school district superintendent and athletic director has been received stating circumstances, including, but not limited to:

(a) a student's ineligibility to participate in interscholastic activities is due to misinformation concerning eligibility requirements being provided by district personnel;

(b) a student's ineligibility to participate in interscholastic activities is due to a long-term absence as a result of a medical condition, but the student has been medically cleared to participate by his health care practitioner; or

(c) any reasonable circumstance as determined by the State Board of Education.

In summary, Brashier High School's college partner began using a new online enrollment program for dual credit students. There were multiple approval requirements for this registration that differed from prior semesters. As a result, when Elizabeth, the student, initiated the enrollment process for the summer session, the college approvals were not completed in time. Elizabeth was denied enrollment for the college course. This occurred on June 26 last summer—unfortunately, while many of the school's staff members, including guidance and athletic staff, were on vacation. The assumption was that Elizabeth would complete the course, and it was not until the end of the summer—when reviewing credits earned—that the school realized she had not earned enough credits for eligibility. Although the attempt was made to ensure Elizabeth earned the minimum requirements, communication between the school and the family did not occur until the end of the summer regarding this eligibility issue.

For further detail, please see attached appeal letter from Principal Sinclair. At this point, per state law, an appeal to the State Board is our only course, and time is of the essence with the swim season starting this week. This may necessitate an special-called telephonic meeting of the Board, and we appreciate you and the Board's timely attention to this matter.

I look forward to hearing back on the Board's decision. If you have any questions, please do not hesitate to contact Mr. Sinclair or me for further information. Warm regards, -Elliot

Elliot Smalley

Superintendent

South Carolina Public Charter School District

803-960-9670

@SC_ELS

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Michael Sinclair, Principal
Brashier Middle College
(864) 757-1800 phone
(864) 757-1850 fax

BRASHIER MIDDLE COLLEGE CHARTER HIGH SCHOOL
WHERE COLLEGE AND HIGH SCHOOL COME TOGETHER

August 20, 2019

Commissioner Singleton,

I am writing to request a hardship consideration for Elizabeth Jensen based on academic requirements of not earning 5 credits. Elizabeth is a senior at Brashier Middle College Charter High School and has performed well during her freshman and sophomore years. During her junior year, she enrolled in her first dual credit course and did not get credit for the course. Our agreement with the college is that students failing a course will not take another course for two semesters. In this case, Elizabeth had to sit out the second semester. The school was allowing her to take it over in the summer, but due to a series of circumstances, she missed the deadline to take the course over the summer. She is currently registered to retake the course along with an additional dual credit course. As the principal, I have full confidence that she will be successful in both of these dual enrollment courses.

Elizabeth also did not receive credit for her science course. She already has her two lab sciences, and this was her third. Elizabeth earned a 77 in the course; however, our charter requires students to earn an 80 to receive credit. A score of 77 would have met the state requirement for credit. Elizabeth unfortunately ran into another obstacle resulting from Physics not being offered during the summer for credit recovery. She did not have a chance to earn this credit toward her eligibility requirement.

Not receiving credit for these two courses was not typical of Elizabeth. Her transcript shows that she has already earned 21.5 of the required 24 credits with a GPA of 3.9. She will earn two credits this semester when she completes her dual credit English and Spanish courses.

I request that you grant Elizabeth Jensen eligibility for this 2019 swim season based on the above extraordinary circumstances. If you require any additional information or would like to speak again regarding any details, please contact me directly.

Sincerely,

Michael Sinclair

1830 W. Georgia Rd. Bldg. 203 Simpsonville, SC 29680

Email: msinclair@brashiermiddlecollege.org

Phone: 864-757-1820 • Fax: 864-757-1850 • Website: www.brashiermiddlecollege.org

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