

Elizabeth Jensen's Outline of Hardship Wavier Approval

The hardship waiver approval is necessary to prevent Elizabeth Jensen from being denied the privilege she has earned: the unique opportunity to compete in her Senior season in swimming (as well as compete for scholarships & career promotion)

I. Hardship Waiver Grounds

(a) Elizabeth Jensen was not informed about the 5 Carnegie Classes needed for eligibility.
See – Affidavit Mike Sinclair and Michelle Jensen

(b) Additionally, School was not able to approve the online class registration for credit recovery. See Affidavits and appeal exhibits

(c) According to her transcript and the Board of Education Standards for passing, she passed 4 Carnegie Classes as required by the SC Code Section 59-39-160

(d) The SCHSL has indicated that if Elizabeth does not pass the 5 classes as required by the SCHSL but passes four classes as required by the statute, she would qualify for the hardship waiver.

(e) Elizabeth maintains that she met this standard. She did the work to earn Science 91 (.5 of class), Sociology 82 (.5 of class), US History 80 (1 class), Calculus 80 (1 class) and Physics 77 (1 class).

(f) The confusion is caused by the Charter Schools higher standard for earning CREDIT of 80. The interpretation that has previously been applied to Elizabeth's petition requires her to get an 80 to be considered passing. This interpretation of the laws creates an unfair and uneven playing field by setting a much higher and different standard for competition eligibility for Charter School student athletes like Elizabeth. The interpretation most favorable to the athlete should be used and that is the one urged by Senator Ross Turner that you consider the 77 passing for purposes of eligibility to compete under the laws See SCHSL ByLaws, Article XII - section 7 says in calculating passing average you can use GPA (i.e., credit) or numerical value - *choose method most favorable to athlete* - Elizabeth asks that you interpret this rule in the method most favorable to her, that is that the 77 she earned is enough to meet the standard of "passing" set by statute and is one that promotes a fair and even playing field.

II. Constitutional implications

The SC Supreme Court has held that the SCHSL is a State Actor [SCHSL v Richland One] and therefore required to afford Elizabeth equal protection as required by the Constitution.

(A) equal protection -(unlawful application of the rule to deprive a privilege from student who earned it)

This is different than other cases involving the High School League and athlete participation because in those cases (Bruce and Richland One), the application of the rules was not at issue so there were no true equal protection considerations as do exist in Elizabeth's case. SCHSL is state actor and would arguably be unlawfully denying Elizabeth a privilege she earned based on her passing four classes as required of public schools (77 = pass) - must treat all students same - numerical average shows she passed physics with a C (despite not earning credit). See Bruce v. SCHSL (there is some discussion of this potential in Bruce although the facts in that case had uniformity of rules so different because the uniformity of rules is at issue in this case.

(B) violation of 14th amendment due process – Not necessary to address at this time

Elizabeth respectfully requests that this honorable board grant her hardship waiver so she can compete in the balance of her senior season of swimming competition. She appreciates your consideration.

