

**IOWA DEPARTMENT
OF EDUCATION**
(Cite as 25 D.o.E. App. Dec. 58)

In re Klayton Williams :
Kay Dell, :
Appellant, : DECISION
vs. :
Iowa High School Athletic Association, :
Appellee. :

This matter was heard telephonically on March 21, 2008, before Margaret LaMarche, designated administrative law judge with the Iowa Department of Inspections and Appeals-Division of Administrative Hearings, presiding on behalf of Judy A. Jeffrey, Director of the Iowa Department of Education.

Kay Dell filed the appeal on behalf of her son, Klayton Williams. Ms. Dell was self-represented at the hearing. Appellee Iowa High School Athletic Association [hereinafter, "IHSAA"] was represented by attorney Brian Humke. An evidentiary hearing was held pursuant to departmental rules found at 281 IAC [Iowa Administrative Code] chapter 6. Jurisdiction for this appeal is pursuant to Iowa Code section 280.13 and 281 IAC 36.17. The administrative law judge finds that she and the Director of the Department of Education have jurisdiction over the parties and subject matter of this appeal.

Ms. Dell seeks reversal of the IHSAA Board of Control's February 16, 2008 decision, which denied her son's request for an additional year of athletic eligibility, based on its application of the eight consecutive semester eligibility rule found at 281 IAC 36.15(2)"e." Kay Dell testified and presented Exhibits A-D. The IHSAA presented the testimony of Executive Director Richard Wulkow and Exhibits 1-5.

FINDINGS OF FACT

Klayton Williams is a 17 year old student at Ankeny High School who is repeating 11th grade during the current school year. Klay was born on September 10, 1990 and has always been one of the youngest students in his class. His mother has regretted starting him in school so early. Klay struggled academically in elementary school. When Klay transferred to the Ankeny School District in the 5th grade, he was identified as having a reading disability and was recommended for the resources program and for an Individualized Education Program (IEP). Klay staffed out of the IEP in the second semester of his eighth grade year. Nevertheless, he failed two core academic classes

during the first semester of eighth grade and failed one core class in the second semester. The middle school principal confirms that Klay's mother requested that her son be allowed to repeat eighth grade in order to improve his basic understanding in core curriculum areas. However, school policy suggested retention only if a student failed two or more classes *each* semester. The school ultimately made the decision to advance Klay to ninth grade with additional academic support.

Klay continued to struggle academically in high school, despite having a tutor and attending reading workshops and a learning resource center. During 11th grade, Klay failed three core classes and had a grade of "D" in all of his other classes. His mother observed that Klay had become frustrated, would not talk to her about his academic problems, and left the home when she tried to talk to him. Klay's mother approached the high school principal and Klay's counselors and came up with the plan to have Klay repeat 11th grade during the 2007-2008 school year, with the stipulation placed on him by his family that he would not participate in athletics so that he could concentrate solely on academics. In the past, Klay has participated in football, track, and baseball. While team sports have always been very important to Klay, he has never been a starting player on any varsity team.

The principal warned Klay's mother that retained students are at higher risk for dropping out. Klay's mother and the high school principal told Klay that they would do everything in their power to obtain permission for him to participate in athletics during his senior year. Both felt that participation in team athletics would make Klay feel more connected to his school and less likely to drop out, as well as reward him for his hard work by allowing him to participate in an activity that he loves. Klay performed very well academically during the first semester of the 2007-2008 school year. He achieved a 2.88 grade point average, and all of his eighteen week grades were A's and B's

CONCLUSIONS OF LAW

The relevant rule, 281 IAC 36.15(2)"e," provides:

e. A student who meets all other qualifications may be eligible to participate in interscholastic athletics for a maximum of eight consecutive semesters upon entering the ninth grade for the first time. However, a student who engages in athletics during the summer following eighth grade is also eligible to compete during the summer following twelfth grade. Extenuating circumstances, such as health, may be the basis for an appeal to the executive board which may extend the eligibility of a student when the executive board finds that the interests of the student and interscholastic athletics will be benefited.

The issue presented by this appeal is whether Klay's academic struggles and the remediation plan designed to address them constitute sufficient "extenuating circumstances" to justify granting him an additional year of eligibility to participate in athletics during the 2008-2009 school year. Prior reported cases have noted that the

reason for the eight-semester rule is three-fold: (a) it reduces the competitive advantage that an older player would have; (b) it protects younger athletes from injury at the hands of older and presumably more physically mature athletes; and (c) it discourages red-shirting. *In re Justin Moretti-Monpetit*, 23 D.o.E. App Dec.295(2005). Red-shirting is sitting out of school for a semester or year for purposes of gaining a physical (developmental) advantage. See *In re Jason Jewett*, 7 D.o.E. App. Dec. 335 (1990).

Prior reported cases have recognized that the phrase “such as health” is meant to be a *nonexclusive* example of circumstances which may be sufficient reason to extend athletic eligibility beyond the eight consecutive semesters. *In re Terry Thill*, 3 D.P.I. App. Dec. 190 (1983). One prior decision acknowledged that severe academic problems and attempts to remedy those problems *could* constitute “extenuating circumstances” under the eight semester eligibility rule in an appropriate case. *In re Dennis Vacha*, 3 D.P.I. App. Dec. 143 (1983). However in that case, additional eligibility was denied to a student who dropped out of school for a year and obtained tutoring to raise his academic standing in order to potentially take advantage of a college athletic scholarship.

Prior decisions have further noted that the “such as” terminology, indeed the very creation of an exception, is acknowledgement of the fact that there may be a myriad of unimagined, unanticipated, rather unique circumstances that could arise in a student’s life, and the rule exception cannot contemplate them all. *Jewett, supra*, at p. 338. Nevertheless, while the agency has examined, interpreted, and applied the eight-consecutive semester eligibility rule in several previous appeal decisions, it has found sufficient extenuating circumstances to extend additional athletic eligibility in only two reported cases. *In re Joshua Owens*, 20 D.o.E App Dec.92(2001)(lack of stable residence and parental support resulted in student not attending school for an entire year because he had to work full-time to support himself; student had only used six semesters of eligibility); *In re Shawn North*, 8 D.o.E. App Dec. 87(1990)(unstable home life led to student going from home to home, in and out of school and working to support himself; at most student had exercised one month of his athletic eligibility during his high school years) In both cases, severe circumstances beyond the students’ control caused them to be absent from school for an entire year.

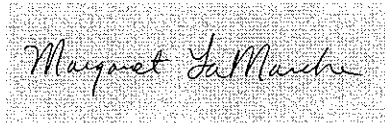
In all of the other reported cases, the request for additional athletic eligibility was denied. See, e.g. *In re Rob Olmstead*, 10 D.o.E. App. Dec. 330(1993)(denied request for ninth semester of eligibility for a student who did not go out for football in his sophomore year because he had to work 30 hours a week to help with family finances); *In re Jason Jewett*, 7 D.o.E. App. Dec. 335 (1990) (finding that the student’s serious sports injury and his physical immaturity, which required medical treatment and caused him to miss 75% of the wrestling season, were not unusual enough circumstances to justify granting additional eligibility); *In re Terry Thill*, 3 D.P.I. App. Dec. 190 (1983) (extension request denied because the record failed to establish that the student’s drug and alcohol problem was sufficiently severe to constitute extenuating circumstances).

Clearly, a student faces a very heavy burden when seeking to establish the type of “extenuating circumstances” that justify an extension of the eight consecutive semester

rule. This record fails to show sufficiently compelling and/or unique circumstances to justify granting an extension to Klay. By the end of the current school year, Klay will have attended school for eight consecutive semesters since entering the ninth grade and will have had the opportunity to participate in sports during that entire time. It would be a significant and inappropriate expansion of past agency precedent to grant additional athletic eligibility when a student voluntarily repeats a grade and opts out of sports for the year. As pointed out by the IHSAA, even without additional athletic eligibility, Klay remains eligible to participate in baseball during the summer of 2008, and he may maintain his connection to team athletics by serving as a manager, statistician, or practice player, if permitted by his school.

DECISION

For the foregoing reasons, the February 18, 2008 decision of the Board of Control of the Iowa High School Athletic Association denying Klayton Williams' request for an additional year of athletic eligibility is **AFFIRMED**. There are no costs associated with this appeal to be assigned to either party.



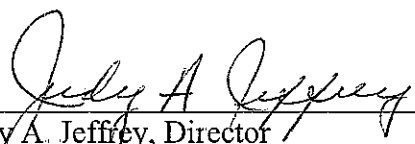
4-10-08

Date

Margaret LaMarche
Administrative Law Judge

It is so ordered.

4/10/08
Date



Judy A. Jeffrey, Director
Iowa Department of Education