



Joshua A. Ney
firm@knlawgroup.com
Direct Dial: 913.303.0639

Page 1 of 2

**Testimony Before the Senate Committee on Education
In Support of SB 114
Wednesday, February 12, 2025**

Chairman Erickson, Vice-Chair Thomas, Ranking Member Sykes, and Committee:

I drafted and support SB 114 because it would legislate what should have been common sense for school districts across the state.

In 2023, the Kansas Legislature passed 2023 H Sub SB 113 into law, which gave homeschool and virtual school students the right to participate in high school sports and other activities at their local public school, provided certain statutory qualifications are met (e.g. residency, age and grade-level requirements, fees, etc.). After the passage of that bill, homeschool and virtual school students were allowed to participated in sports and other KSHSAA activities in their local district.

For the past many months, I have represented Keara Richardson regarding her children's discriminatory treatment by Wallace County Schools USD 241 during the 2023-2024 school year. As more fully described in the demand letter attached, the USD 241 board passed a formal policy to prevent the Richardson children and other similarly situated student athletes from participating in ancillary activities promoting those sporting teams and programs, including lettering, activities banquet, and senior night.

To my knowledge, USD 241 is the only district in the state that interpreted this new law (codified in K.S.A. 72-7121) to allow the district to expressly exclude these participating student athletes from formal events honoring the student athletes and lettering honors. This is not just "on paper" discrimination—these students, who proudly competed with the school name and mascot on their uniforms during the season and during the 1A Division II State Tournament, were subjected to public humiliation both in front of the entire community during senior night at a winter basketball game, and in front of their teammates, coaches, and the administration at the year-end activities banquet.

Leading up to these events, Keara Richardson regularly asked the school board to allow their minor children to participate in things like senior night ceremony, the activities banquet, and lettering honors, provided the students had met the criteria for lettering under the school policies (e.g. three-sport participation, playing time, etc.). Aubree Richardson was a senior student athlete who participated in all three sports seasons, was a core part of the volleyball and basketball teams, and even voted "Most Inspirational Teammate" by her volleyball teammates. Aubree qualified under district lettering policies and won all-state honors from KSHSAA, but was intentionally and publicly excluded from district recognition. Not only was she—and other homeschool participating students—excluded from recognition at the district's public events, the school board held special meetings to formalize these discriminatory policies in the days leading up to the each of the events. These students were even publicly and intentionally excluded from

the “all-student-athlete” photo taken at the activities banquet and included in the yearbook after being asked to attend (but not be recognized) at the activities banquet.

Last Friday, I sent a demand letter to the USD 241 board laying out the concerning discriminatory treatment of the Richardson children in the context of their participation in school sports under K.S.A. 72-7121 (demand letter attached as **EXHIBIT A**, with pages listing minor children names and photos excluded to protect privacy). I ask you to read that demand letter in full, as it lays out the irrational and down-right cruel discriminatory treatment of these student athletes solely based on their enrollment status. As I state in the letter, I believe these formal district policies and acts violate the Equal Protection Clause. While we are prepared to file suit in federal court, I think this matter can be much more efficiently and expediently solved by the legislature doing what USD 241 should have done last year or at any point in the past year.

SB 114 would clarify that if a resident student qualifies to participate in district activities under K.S.A. 72-7121, the school cannot deny those students rights and honors afforded enrolled student athletes.

SUGGESTED AMENDMENT

Since the introduction of the bill, I’ve heard from other legislators regarding situations involving students enrolled in the Kansas Academy of Mathematics and Science (KAMS) at Fort Hays State University, as established in K.S.A. 72-3903 et seq. My preliminary understanding is that KSHSAA would not allow these students to participate in district activities under K.S.A. 72-7121, despite the local district wanting these students to play on their teams.

I suggest this committee adopt an amendment that would allow KAMS students to participate in KSHSAA and local district events under K.S.A. 72-7121(a).

Please pass SB 114 favorably with such an amendment.



Joshua A. Ney, Partner
Kriegshauser Ney Law Group
firm@knlawgroup.com
Direct Dial: 913-303-0639

Page 1 of 5

FOR SETTLEMENT PURPOSES ONLY

February 7, 2025

VIA EMAIL AND HAND DELIVERY

Wallace County USD 241 School Board
c/o JoAnna Basgall, Board Clerk
521 North Main Street
Sharon Springs, KS 67758
joannab@usd241.org

**RE: DEMAND TO RESCIND DISCRIMINATORY DISTRICT POLICIES AND
CEASE AND DESIST DISCRIMINATORY ACTS; K.S.A. 72-7121**

Board of Education of Wallace County Schools USD 241:

Our office has been retained by Keara Richardson, a mother of several school age children who reside within your school district. Mrs. Richardson's children attend a home school, but several of her children have participated in public school activities at USD 241 ("District") since August 2023 pursuant to K.S.A. 72-7121. However, discriminatory policies passed by the USD 241 School Board ("School Board") last year and prior discriminatory acts by school district personnel have violated our client's constitutional rights under the 14th Amendment and discriminated against homeschool students and/or virtual school students who were qualified to participate in the School District's athletic program ("participating homeschool students"). In advance of this letter, our firm has drafted a petition to be filed in federal district court that will seek an injunction under 42 U.S. Code § 1983 against any future discriminatory District policies and acts against participating homeschool students. Additionally, our firm has assisted in the drafting and introduction of SB 114 (attached as **EXHIBIT 1**) which will be heard by the Kansas Senate Education Committee on February 12, 2025 at 1:30pm.

To avoid a lawsuit, we demand the USD 241 School Board rescind all district policies that directly or indirectly discriminate against participating homeschool students and adopt equal opportunity policies as necessary regarding student athlete participation in all awards, honors, and events associated with athletic participation, as more specifically provided at the conclusion of this letter.

FOR SETTLEMENT PURPOSES ONLY

HISTORY OF DISCRIMINATORY POLICIES AND ACTS

As the District is aware, the Kansas Legislature passed a new law in 2023 that allowed students who do not attend a public school to be able participate in any activities offered by a school district, such as athletics, music, forensics, and any other such interschool extracurricular activity, provided certain statutory qualifications are met. This new law was codified in Kansas statute under K.S.A. 72-7121. School districts across the state were mandated to allow, not only qualifying home school students, but also students who attend private and virtual schools, to participate in school activities offered by the School District (hereinafter “participating homeschool students”).

Mrs. Richardson learned of this new opportunity, and shortly thereafter, enrolled four of her children in school activities offered by USD 241 during the 2023-2024 and 2024-2025 school years. Our client took all of the necessary steps and submitted all the necessary documentation to the District so that her children would be able to participate in school activities at USD 241. Indeed, several of Mrs. Richardson’s children have been qualified to participate in various school sports at the high school and middle school levels over the past two years.

However, on February 20, 2024, Mrs. Richardson’s eldest daughter (a senior in high school at the time) was formally prohibited from participating in Senior Night pursuant to a School Board policy to limit participation to enrolled students. In response to anonymous complaints from others, the School Board held a special board meeting four days before Senior Night, with the sole purpose of adopting a policy to exclude participating homeschool students from participating in “non-sanctioned” KSHSAA events, and more specifically, to exclude Mrs. Richardson’s daughter (the only senior participating homeschool student senior athlete at USD 241) from Senior Recognition Night. The policy was passed and adopted by the School Board on a 5-2 vote (minutes attached as **EXHIBIT 2**). This overt discrimination was not only cruel but lacked any rational basis. Our client’s daughter was a senior and participated with distinction in various school activities covered by K.S.A. 72-7121, yet she was publicly excluded from participation in the “official” senior night solely on the basis of her homeschooled status.

To make matters worse, on May 6, 2024, three Richardson children and other participating homeschool students were invited to the High School Activities Banquet, which sought to celebrate student athletes and their accomplishments over the course of the year. While all other student athletes received district awards in their packet upon arrival, none of the participating homeschool students were provided such basic courtesies. Some participating homeschool students received awards directly from KSHSAA, but no homeschool students received district recognition that evening, despite qualifying under the district lettering policies. The Activities Banquet program specifically excluded participating homeschool students from lettering designations, despite these students qualifying for various letters under the District lettering policies. (program attached as **EXHIBIT 3**) The Activities Banquet invitation specifically excluded Mrs. Richardson as a “senior mother,” despite her daughter being a three-sport senior student athlete. (invitation attached as **EXHIBIT 4**)

The irrationality of the School Board’s contortion of K.S.A. 72-7121 to allow homeschool students to participate in only “KSHSAA approved activities” and not ancillary district programs,

FOR SETTLEMENT PURPOSES ONLY

awards, and recognition promoting these KSHSAA activities is laid bare by the fact that KSHSAA sent awards and recognition to these participating homeschool students, even though such awards are not specifically listed in K.S.A. 72-7121. Moreover, Mrs. Richardson's senior daughter was voted "most inspirational teammate" by her volleyball team. In other words, this is not just a lack of common sense and good faith on the part of the District, but rather intentional discrimination based seemingly on how much state money any given student pulls in for the district. Both KSHSAA and high school teammates knew how to interpret K.S.A. 72-7121 in good faith, while the motives of the School Board and district personnel in adopting a more rigid "interpretation" are far more suspect.

During the banquet, when the school called all three-sport-participants to the stage to be recognized and have their group photo taken for the yearbook, many of the participating homeschool students reported to the stage. The group photo was promptly postponed by staff until later in the evening until certain enrolled students arrived. At the end of the banquet, staff was instructed to call individual student names one by one, and none of the homeschooler's names were announced or recognized. The School District refused to recognize or provide letters to participating homeschool students solely due to their enrollment status. The group photo included in the school yearbook featured only fully enrolled students (photo attached as **EXHIBIT 5**).

These policies and actions by the School Board and the School District are illegal and had a systematic discriminatory effect on the Richardson children and other participating homeschool students. During the 2023-2024 school year, Mrs. Richardson's children qualified for participation in district sports under K.S.A. 72-7121 and were legally entitled to the same privileges as other student athletes of USD 241. However, Mrs. Richardson's children were treated unequally and discriminatorily, solely due to their status as a homeschool student, and their right to equal protection of the law under the 14th Amendment of the Constitution was violated.

Senior Recognition Night is a public display of the District's recognition of seniors who have participated in district activities, which should include all senior student athletes who participated and contributed to each team. While all other student athletes were allowed to participate and be recognized by the school, Mrs. Richardson's senior daughter was intentionally and formally excluded pursuant to last minute policies passed by the school board at a special meeting. Student athletes should be able to receive student-athletic awards, regardless of their status as a homeschool student athlete. Nothing in K.S.A. 72-7121 prevents this, and the fact that SB 114 even needs to be considered by the state legislature demonstrates that lawmakers cannot rely on common sense and good faith interpretations of an otherwise clear state statute.

Last year, Mrs. Richardson's eldest daughter qualified to receive a varsity letter in all three sports, in addition to a "three-sport letter", pursuant to the School District's own lettering policies. Lettering not only recognizes a student athlete's accomplishments and contributions to the school's athletic program but also can be beneficial for a student's resume and post-secondary opportunities. In the months following the Activities Banquet, some participating homeschool students quietly received letters after some district personnel objected to the discriminatory treatment of these students. However, the School Board's stated intent to revisit these discriminatory policies in the summer of 2024 never materialized, and 2024-2025 school year participating homeschool students and their families face uncertainty regarding whether they will

FOR SETTLEMENT PURPOSES ONLY

be subject to the same public shaming and discriminatory acts in the school district's upcoming honors ceremonies.

DEMAND TO RESCIND DISCRIMINATORY POLICIES AND CEASE AND DESIST ALL DISCRIMINATORY ACTS

Our clients have waited months for the Board to adopt a rational, non-discriminatory policy regarding events and programs that promote activities under K.S.A. 72-7121, but on the eve of Senior Night for the 2024-2025 school year, these issues are unresolved. As a result, we must proceed forward with both litigation and legislative remedies unless the School Board rectifies these discriminatory practices and policies immediately.

To resolve these matters short of litigation, we demand the School Board:

- 1) rescind any and all policies that prevent or prohibit homeschool and/or virtual school students who participate in District activities pursuant to K.S.A. 72-7121 from participating in activities, events, and honors related to such activities in the same manner as all other student athletes;**
- 2) expressly allow participating homeschool students to participate in other events honoring or promoting student athletes including, but not limited to, Senior Recognition Night, Activities Banquet, lettering and promotion activities, and other similar events;**
- 3) adopt District policies as necessary to ensure equal treatment of student athletes regarding eligibility for and participation in all awards, honors, and events associated with athletic participation, regardless of enrollment status; and**
- 4) direct all District administration and staff to follow such policies to ensure treatment among all student athletes, regardless of enrollment status.**

DEMAND FOR PRESERVATION

To Wallace County Schools - USD 241 and all other related parties, contractors, agents, and assigns involved in the matter in question:

Because litigation is possible on this matter, this letter is to further notify you of your duty not to destroy, conceal or alter, in any manner whatsoever, any or all evidence, documents, information, paper or electronic data, other tangible items pertaining or relevant to, or items discoverable related to the above matters. Such items include, but are not limited to, all computers and cell phones owned by District employees, School Board members, all other related parties, contractors, agents, and assigns involved in the contract in question, or computers and cell phones in the possession or control of the School District, as further described below. Although not limited to the following, particular care should be used to preserve all discoverable electronic and physical communications, contracts, accounting documents, advertisements, commission sheets, presentations, receipts, travel logs, time sheets, access logs, email correspondence, text messages,

Kriegshauser Ney Law Group | 15050 W. 138th St., Unit 4493 | Olathe, KS 66063
www.knlawgroup.com

FOR SETTLEMENT PURPOSES ONLY

call logs, reports, meeting notes, VPN access logs, webpages, procedure manuals, employee handbooks, work reviews, operating agreements, bylaws, and corporate documents. Again, this duty encompasses employee and independent contractor records. Please notify all necessary parties of this preservation demand.

This demand applies to all electronic data. Electronic data includes, but is not limited to, all data generated and/or stored on any and all computers and cellular telephones owned or used by the District; all data stored on any and all other electronic storage media of any type such as hard disks, floppy disks, CD-ROMs, DVDs, flash drives, backup tapes, online backup services, cloud services, or any other storage media or service; all emails; all instant messages; all SMS/MMS text messages; all third party messaging apps; all audio data such as voicemail, tape recordings; and all photographs, videos, writing or other documentary material of any nature found or stored by the District's or other related parties', contractors', agents', and assigns' computers, cellular telephones, or Internet accounts or stored by a third party on an internet server such as Gmail.com, Yahoo.com, Hotmail.com, Facebook or any other third-party Internet service.

With regard to electronic data created subsequent to the date of delivery of this letter, relevant evidence is not to be destroyed. The District is to take whatever steps necessary to avoid destruction of evidence. It is anticipated that these items will be used as evidence in the possible forthcoming litigation. To assure the District obligation to preserve documents and all other evidence is met, please forward a copy of this letter to any and all persons and entities with custodial responsibilities for the items referred to herein. Failure to preserve this information will be dealt with in accordance with law and as we deem advisable.

We are unaware if you are represented by an attorney at this time. If you are represented by an attorney, please forward this letter as applicable. Please direct any communication regarding this matter to us at all times going forward. Please inform your attorney of this request, if applicable. With the above being said, we reserve all rights to pursue any remedy we deem advisable for our client at any time without further notice to you if the facts and circumstances are in favor of our client.

We hope we can quickly resolve this matter without resorting to further legal action; however, Mrs. Richardson is willing to move forward in any way advisable, including any available legal recourse or otherwise. Nothing in this letter shall constitute a waiver of any option and all rights are expressly reserved herein.

If the District does not respond to letter by noon on February 12, 2025, my client will proceed with any and all legal and equitable remedies available to her and her children.

Sincerely,
/s/ Joshua A. Ney, Partner
Kriegshauser Ney Law Group