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**AMERICAN CIVIL LIBERTIES UNION
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Attorneys for the Complainants

BEFORE THE CASSIA COUNTY JOINT SCHOOL DISTRICT NO. 151

In the matter of SIERRA NORMAN,
a student, with her mother **JANEIL
NORMAN.**

Case no. _____

CIVIL RIGHTS COMPLAINT

Sierra Norman, along with her mom Janeil Norman, make this complaint because Declo High School and this school district refused to even let her name be listed on the ballot for Student Body President. There was no legitimate reason for excluding her. Sierra takes AP and college credit classes online that are not available from a live teacher at Declo High School. The school district told Sierra that she couldn't run for Student Body President because she was not enrolled in at least six non-online classes. But the only other student who petitioned to run wasn't enrolled in six non-online classes for credit either. The difference? He was enrolled in online classes *and* LDS seminary. And he is male.

Sierra and her mom ask this district to admit that what it did was wrong, fully apologize to Sierra for what happened, fix its policies so that students can't be treated differently like this, and train all of its people so that this never happens again.

SUMMARY

1. Sierra Norman wanted to run for 2014–2015 Student Body President at Declo High School. She followed all the rules to get on the ballot. She picked up a petition soon after they were available, collected all the signatures she needed, and turned it in on time to the right place.

2. Only one other student turned in a petition to run for Student Body President, Sierra believes based on the information she has.

3. The morning after Sierra turned in her petition, the teacher coordinating the election told her that the school would not allow her name to be on the ballot because she was not a full time student. The constitution of the Declo High School student body says that “Students must be full time to hold major office.”

4. But Sierra is a full time student. The school district’s records say so. In fact, the school district takes funding from the State and its taxpayers calculated based on Sierra being a full time student. The school district confirmed this during the 2013–2014 school year (see the May 2014 email from the district’s Superintendent, exhibit A below) and again during the current school year when Sierra had to get a form signed by a Declo High School official stating that she was a full time student.

5. The excuse that the school district gave Sierra for why she could not be on the Student Body President ballot was that she was taking online classes. Sierra was taking Advanced Placement (AP) classes and dual credit classes for college credit online because they are not all available at Declo High School. She registers for these classes through Declo High School, and took them through the Idaho Digital Learning Academy, which is a “partnership with Idaho school districts to offer online choices that would not otherwise exist.” Sierra is physically present at Declo High School, in the library, to participate in these online classes, and it is Declo

High School—not IDLA—that assigns her grade for these classes. The point of IDLA is to “increase[] access and equity for students statewide.”

6. The other student—the one who *was* allowed on the ballot—was also taking online classes, Sierra believes based on the information she has.

7. The difference between Sierra and the other student is that he goes to LDS seminary, and he is male.

8. Declo High School officials only care about the constitution when they want to, anyhow. The very same section that they used to keep Sierra off the ballot contains a number of requirements they completely ignored, including the deadline for candidate petitions.

9. The officials exploited the constitution as an excuse to favor the other student because of his religion and his gender, taking an opportunity from Sierra that she will never have again.

KEY FIGURES INVOLVED

10. Sierra Norman is a full time student at Declo High School. She has been a full time student at Declo High School all the years that she’s been a student there, including during the 2013–2014 and 2014–2015 school years. Janeil Norman is Sierra’s mother (Sierra’s dad passed away last year).

11. Roland Bott is the Principal of Declo High School. He’s been the Principal of the school throughout the times relevant to this complaint. He was one of the school district officials who helped make and implement the decision to keep Sierra off the 2014–2015 Student Body President ballot.

12. Jeff Roper is a teacher at Declo High School. He is one of the school district employees responsible for the student body government at that school. He’s the person that collected the candidate petitions for 2014–2015 student body officer positions. And he’s the one

who called Sierra shortly after she submitted her petition and told her she could not be on the ballot because she was not a full time student (even though she was).

13. Gaylen Smyer is the Superintendent of the Cassia County Joint School District No. 151. He ratified the decision to ban Sierra from the Student Body President ballot.

14. The Cassia County Joint School District No. 151 is a school district of the State of Idaho. It is governed by its Board of Trustees, which has adopted policies and procedures, including policies prohibiting discrimination (policy no. 290) and concerning civil rights grievances (policy no. 294), among others. Sierra and her mom file this complaint under the procedures and jurisdiction set out by those policies.

FACTS

15. Since she was little, Sierra has had two big goals for high school: to be her student body's president and to be her class's valedictorian. When she finally got her chance to meet the first goal school officials refused to even put her name on the ballot.

16. The chance came—and went—during the week of April 21, 2014. That week, Declo High School announced that juniors could pick up petitions to run for Student Body President (and Vice President and Secretary) from teacher Jeff Roper's room. Sierra picked up a petition to run for Student Body President, collected all the required signatures (twenty of them), and returned it on April 23, 2014, before the 3:20 p.m deadline. She followed all the rules.

17. The very next day, Roper called Sierra and left a voicemail. He said that Principal Bott and he had reviewed her petition. He claimed there was an "issue" with it because "you aren't a full time student," he said.

18. When Sierra called Roper back, he told her that her name would not be placed on the ballot. The Declo High School Student Body Constitution says that "Students must be full time

to hold a major office” (see exhibit B below). Roper said the reason why Sierra could not be on the ballot was because she was not a full time student.

19. But this reason was just a pretext.

20. First of all, Sierra was a full time student when she turned in her petition, and she still is. The school district Superintendent confirmed this in an email (see exhibit A, below). The district even takes funds from the State of Idaho based on Sierra being a full time student.

21. Second of all, if Sierra wasn't a full time student, then the only other student who petitioned to be on the 2014–2015 Student Body President ballot wasn't either.

22. Sierra was, at the time of her candidacy petition, taking online classes. So was the other student who petitioned to run, on information and belief.

23. The other student who petitioned to run was allowed religious release from school, so that he could attend LDS seminary during school hours. Sierra was not. Sierra is not LDS.

24. Sierra is female. The student who got to be on the ballot (and therefore won the election) is male. The two Declo High School officials who decided that Sierra could not be on the ballot are both male. The district's Superintendent who ratified and defended that decision is also male.

25. When Sierra and her mom asked the district to justify its decision, Roper confessed in an email that he and Bott “read the [Student Body] constitution several times” and then just made up their minds that they would use “full time student' requirement” to exclude Sierra from the ballot and election.

26. Roper and Bott apparently only started to read the Student Body Constitution with any care after they got Sierra's petition to be on the ballot. Had they read it before then, they would have seen that, in the very same section as the “full time” student provision, the

constitution requires that petitions to be on the Student Body President ballot must be filed during the last week of March. Roper and Bott didn't even make the petitions available until late April. And they did not exclude the other student who petitioned to run for Student Body President because his petition was late and in violation of the constitution.

27. There is nothing in the Student Body Constitution that defines what "full time" student is, anyway, or that would have in any way prohibited Roper, Bott, and the district from allowing Sierra on the ballot. This is even more obvious because the other student, who was not only taking online classes but also leaving the school entirely for completely non-curricular purposes, was allowed to run for, to win, and now to serve in a major office.

28. In fact, when Sierra's mom asked Principal Bott to justify excluding Sierra, he said in an email that he and Roper looked to the Idaho High School Activities Association's rule, which Bott said requires a student to be passing six of eight classes in order to participate in high school sports. Bott said that they decided that what "made sense" was to require that a student be enrolled in six of eight classes at Declo High School to hold a major office in the student body government.

29. But the other student who petitioned to be on the Student Body President ballot was not enrolled in six of eight classes for credit at Declo High School, on information and belief: he was taking two classes online and was not going to school at all for one class period, so that he could attend LDS seminary.

30. Bott has admitted in writing that he and Roper decided that LDS seminary class would be allowed to count towards full time student status. Under this policy, students qualify for major office candidacy even if they would otherwise not be eligible, so long as they are in LDS seminary.

31. Sierra and her mom notified the district Superintendent, Gaylen Smyer, that Sierra had been refused ballot access. He ratified the decision and did not overturn it.

32. Sierra and her mom next notified the Board of Trustees that Sierra had been refused ballot access. After a meeting in executive session in May 2014, the Board ratified the decision and did not overturn it.

33. The election for 2014–2015 Declo High School Student Body President has been held. Sierra’s name was not listed on the ballot. Only one student—the other student who was in LDS seminary—was listed on that ballot. He was elected and is the current Student Body President at Declo High School.

34. Roper has since conceded that he and Bott “may have made the wrong decision” Bott has, too, allowed that the decision could have been “made in error.” Yet, it was not until the next school year, five months later and after the ACLU announced that it was investigating, that Bott offered a letter of apology to Sierra.

35. And still, when the ACLU recently asked the district if the Superintendent and the Principal would meet with Sierra and her lawyer to talk about their concerns, the district refused.

36. This is not the first time Sierra and her mom have experienced discrimination by this school district. They are far from the only ones, either. The policies, practices, and personnel at Declo High School need to be investigated, and Sierra’s mistreatment should be remedied in ways that will improve the entire district for a long time to come.

CIVIL RIGHTS GRIEVANCE

37. Policy no. 290 (exhibit C below) of this district's Board of Trustees prohibits discrimination on the basis of religion or sex within the district's programs and practices.

38. Policy no. 294 (exhibit D below) provides for a procedure for handling civil rights grievances and a means to eliminate biased treatment within the district.

39. Under policy no. 294, anyone can complain about illegal discrimination by this district or its employees by following the procedures specified in the policy.

40. Sierra and her mom complain because the district and its employees favored the other student who wanted to run for 2014–2015 Student Body President at Declo High School because of his religion or his participation in religious activities, and because the district and its employees treated Sierra differently because of her sex. That different treatment, which is detailed above, is illegal discrimination prohibited by the school district's policies and by state and federal law. It must be investigated and remedied.

41. After receiving this complaint, the district must contact the complainants within ten working days of receiving it. They must tell the complainants, at that time, what action the district has taken or will take in an attempt to resolve the complaint.

42. Within 90 calendar days after getting the complaint, the Superintendent or his designee must investigate this complaint and issue a finding. The investigation must include interviews with the complainants and with district personnel, and the investigator must allow the parties to present written statements of witnesses and other evidence. After the investigator issues a finding, the complainants get another 30 days to provide additional information for further review if they don't agree with the initial finding. If the investigator finds that any alleged discrimination occurred, the Superintendent must take immediate steps to remedy it.

43. Because the Superintendent, Gaylen Smyer, has defended and effectively ratified the decision to keep Sierra off of the ballot, the complainants ask that he and all staff under him be disqualified from investigating this complaint. For the same reasons, they ask that Bott, Roper, all of the members of the Board of Trustees, and, of course, the district's and board's lawyers be disqualified from investigating this complaint. Instead, Sierra and her mom ask that the district appoint an independent investigator selected with the consensus of all parties.

44. Sierra and her mom also request that the independent investigator, once appointed, immediately convene a meeting between all key figures involved in this grievance, for the purpose of trying to resolve it amicably, by agreement.

45. Policy no. 294 expressly prohibits anyone from intimidating, coercing, discriminating against, or taking retaliatory action against Sierra or her mom for making this complaint.

WHEREFORE, Sierra Norman and Janeil Norman, both together and individually, respectfully ask for immediate, independent investigation of all the grievances and complaints set out in this document and for the District and its Board of Trustees to do justice, grant all appropriate relief, and take all actions that are necessary to remediate the harm already done and prevent future violations and other harm, including but not limited to:

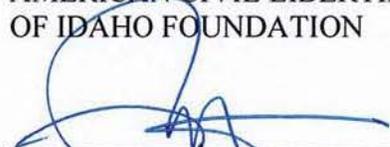
1. Smyer, Bott, Roper, and the Board of Trustees admitting that they wrongfully and illegally denied Sierra access to the ballot.
2. Smyer, Bott, Roper, and the Board of Trustees fully apologizing in writing to Sierra and her mom, to their satisfaction.

3. Amending the constitution of the Declo High School Student Body, as well as amending or creating other policies of this district, to prevent different treatment of students who take online classes.
4. Amending or creating policies of this district to prevent exceptions or exercise of discretion, by policy or custom or practice, that favor students participating in LDS seminary or other non-curricular religious activities.
5. Training all of its personnel, including Smyer, Bott, Roper, and the members of the Board of Trustees, on all amended or new policies mentioned above and to work to eliminate bias and implicit bias based on sex or religion or other characteristics protected by law or district policy.

DATED this 16th day of October, 2014.

Respectfully submitted,

AMERICAN CIVIL LIBERTIES UNION
OF IDAHO FOUNDATION



Richard Alan Eppink
Attorneys for Complainants

Attorney-client privilege

May 13, 2014 (3)

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

From: **Gaylen Smyer** <smygalen@cassiaschools.org>

Date: Tue, May 13, 2014 at 4:39 PM

Subject: Re: State Funding

To: Janeil Norman <jnorman@triplemrec.com>

Cc: Roland Bott <botrolan@cassiaschools.org>

Ms. Norman,

Sierra has been reported as a full-time student attending Declo High School with a notation she is enrolled in four (4) Idaho Digital Learning Academy classes. The district is receiving funds based on her attendance.

Gaylen

On Mon, May 12, 2014 at 3:22 PM, Janeil Norman <jnorman@triplemrec.com> wrote:

I apologize for all these emails asking questions, and I will keep them to a minimum as much as possible...but as you know I do not take what has happened with Sierra being discriminated against lightly. With that said I need to know if DHS/Cassia District has been receiving full time state funding for Sierra this year...or part time state funding.

I appreciate your quick response in answering these questions...I understand you are busy but we are needing this information to decide how best to proceed.

Thanks,

Janeil Norman

Triple M Recreation

8700 E. Vista Bonita Dr #188

Scottsdale, AZ 85255

PH: 480-315-9103

FX: 480-315-9991

jnorman@triplemrec.com

www.triplemrec.com

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www.facebook.com/triplemrec

**Triple M
Recreation**



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A PLAYCORE COMPANY

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Gaylen

Gaylen Smyer, Ph.D.

Superintendent

Cassia Joint School District 151

3650 Overland

Burley, ID 83318

Phone (208)-878-6600

Facsimile (208)-878-4231

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Superintendent

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3650 Overland

Burley, ID 83318
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Facsimile (208)-878-4231

2. Student receives honor collar for National Honor Society to wear at graduation

CONSTITUTION OF DECLO HIGH SCHOOL

PREAMBLE

We, the students of Declo High School, do hereby establish a representative government, to encourage, good citizenship, promote students and faculty cooperation, and insure a sincere respect for law and order at Declo High School.

ARTICLE I- MEMBERSHIP

Section 1

1. All members enrolled in Declo High School shall be eligible for membership to the student body and become a member upon enrollment as a student of this school.

Section 2 Student Council

1. Members shall include presidents of such classes and organizations and shall have one vote.
2. Annual and paper representative shall have one vote combined between them.
3. Any person may attend Student Council meetings without a vote.

ARTICLE II OFFICE

Section 1- Student Officers

1. Officers of the Student Body shall consist of President, Vice President, Secretary
2. The President, *(Shall be from the senior class unless no qualified candidates are available.)* Vice President, Secretary will be a junior or senior.
3. Student Body Officers will also serve as presiding officers of the Student Council.

Section 2- Qualifications

1. All officers, kings, and queens and Mascot shall have a 2.0 average for the previous semester and maintain that average while holding office.
2. Any officer who fails any class is automatically removed from office for the year.
3. No candidate shall have been suspended out of school or truant from school during the school year.
4. Any officer suspended out of school or truant from school shall forfeit that office.
5. Any officer will be removed from office if guilty of a criminal act.

Section 3- Nominations and Elections

1. During the last week of March petitions shall be filed through the office for the office of Student Body President, Vice President, Secretary, and all President, Vice Presidents, and Secretaries.

2. Class officers shall pass petitions through their class only.
3. Primary elections shall be held the first week of April.
4. General elections shall be held during the second week of April.
5. Class elections shall be held during the third week of April.
6. All student body members shall be eligible to vote in Student Body Elections for Student Body Officers.
7. All voting shall be done by secret ballot.
8. No student planning an early graduation may run for office.
9. Campaigns may be held for both primary and general elections.
 - a. Campaign signs will be placed in designated areas only.
 - b. Candidates running for office are responsible for all campaign materials concerning his/her campaign. (including cleanup)
10. All elections shall be done by organizing polling booths. Each student will be crossed off the list as they vote.
11. Students must be full time to hold a major office.
12. Any candidate who has a complaint about the voting during the elections has until the morning after the election to voice his/her complaint. The complaint will be heard by student council members and the administration. No complaints will be heard after that time.

Section 4- Duties of the Student Body President

1. The President shall preside over all Student Council Meetings and call special meetings whenever necessary. (Student Council meetings will be held a minimum of once a month.)
2. The Vice-President shall act as President Pro-tem.
3. The Secretary shall:
 - a. Keep minutes of all Student Body Officer and Student Council meetings and give a copy of each account to the advisor and the principal.
 - b. Handle correspondence with other schools.
 - c. Keep accurate records of distribution of the funds for all student body organizations.
 - d. Manage money of the student council.

Section 5- Recall

1. Class and club officers may be recalled by a petition signed by 50% of the class or club and 2/3 vote of the class or the club.
2. Student Body Officers may be recalled by a petitions signed by 50% of the student body and a 2/3 majority vote of the student body.

Section 6- Classifications

1. Major offices shall be Student Body Officers, class and organization presidents.

2. No student shall hold more than one major office and two minor offices at one time.

ARTICLE III- CONSTITUTIONS

1. Clubs and organizations shall have a constitution or set of rules to govern the club. This constitution will be made not to conflict with the school constitution.

ARTICLE IV- AMENDMENTS

Any amendments must be brought before the Student Council by any student or faculty member and read once for discussion, then again for voting. If it is passed by a majority vote in the Student Council, it may be presented to the Student Body to be read and passed by a majority vote. The faculty has the final say on any amendment.

It is the policy of the Cassia County Joint School District No. 151 Board of Trustees not to discriminate on the basis of race, color, creed, national origin, religion, age, disability or sex in its educational programs or employment practices.

Furthermore, persons who exercise rights protected by Title VI of the Civil Rights Act of 1964, shall not be subject to intimidation, threats, coercion, or discrimination because they exercised such rights. Protected rights include the right to assert a Title VI concern, file a Title VI complaint, to testify, assist, or participate in any manner in a Title VI investigation, proceeding, or hearing.



LEGAL REFERENCE:

- Title VII of the Civil Rights Act of 1965,
42 USC Section 2000e, et seq.
- Title VI of the Civil Rights Act of 1964,
42 USC Section 2000d, et seq.
- Section 1981 of the Civil Rights Act of 1866,
42 USC Section 1981
- Section 1983 of the Civil Rights Act of 1871,
42 USC Section 1983
- The Equal Pay Act 1963,
29 USC Section 206d
- Title IX of the Education Amendments of 1972,
20 USC Section 1681
- Age Discrimination and Employment Act of 1967,
29 USC Section 621, et seq.
- Americans with Disabilities Act of 1990,
42 USC Section 12101, et seq.
- Section 504 of the Vocational Rehabilitation Act 1973,
29 USC Section 794
- Idaho Commission on Human Rights,
Idaho Code Section 67-5901, et seq.

ADOPTED: May 8, 2000

REVISED: August 13, 2001

EXHIBIT C

Grievances by employees, students or other persons alleging illegal discrimination by Cassia County Joint School District No. 151 or any of its employees in any of the district's public facilities, programs or activities based on race, sex, national origin, color, age (persons forty (40) years of age or older), religion, or disability may be filed as follows:

FILING A CIVIL RIGHTS GRIEVANCE COMPLAINT

A complaint should be filed in writing by the complainant, by the complainant's representative, parent or guardian or both. Any complaints received by this district by telephone or verbally will be recorded by the district in written form. The complaint must be filed with the office of the superintendent within one hundred eighty (180) days of the alleged discriminatory action. The complaint should set forth the date, place, and nature of the discriminatory action and specify the remedy sought by the complainant.

INVESTIGATION AND REPORT

The district will contact the complainant in writing within ten (10) working days of receipt of the complaint to let him or her know the complaint was received and what action the district has taken or will take in an attempt to resolve the complaint.

Within ninety (90) calendar days after receiving the complaint, the superintendent or designee must investigate the incident and issue a finding of whether or not discrimination was found. The investigation will include, but not be limited to, interviews with the complainant and district personnel. The investigator will allow both parties an opportunity to present written statements of witnesses and/or other evidence.

If the complainant does not agree with the findings of the superintendent or designee, he or she will have thirty (30) days to provide additional information to the designee of the superintendent to facilitate further review of the complaint.

The complainant will be notified of his or her right to appeal the findings of the district to the proper state or federal compliance agency. A complainant may at any time file a complaint directly with other agencies listed on page two of this policy.

REMEDY IF DISCRIMINATION IS FOUND

If the superintendent or designee finds that the alleged discrimination occurred, the superintendent will take immediate steps to remedy such discrimination. The superintendent will provide the complainant with a written report of the findings and proposed remedy, if any. The superintendent will report the investigation findings and proposed remedy, if any, to the Board at the next special or regular meeting.

EXHIBIT D

FILING OTHER COMPLAINTS

The complainant may also file a complaint with the following state and federal agencies:

1. Idaho Human Rights Commission, 1109 Main Street, P.O. Box 83720, Boise, Idaho 83720-0040.
2. U.S. Department of Justice, Washington, D.C. 20530.
3. Office for Civil Rights, U.S. Department of Education, 330 C Street Southwest, Suite 5000, Washington, D.C. 20202.

Employment complaints may be filed with the Equal Employment Opportunity Commission, 2815 2nd Avenue, Suite 500, Seattle, Washington 98121.

NO RETALIATORY ACTION

No individual who has filed a complaint, testified, assisted or participated in any matter in the investigation of a complaint will be intimidated, coerced or otherwise discriminated against.

RETENTION OF RECORDS

All records of complaints and investigations filed under this procedure will be retained with the district for a period of three (3) years.

SCHOOL DISTRICT ACTIONS

All employees, students, and third parties of the district will be responsible for acting in accordance with this policy.



LEGAL REFERENCE:

- Americans with Disabilities Act
42 USC 12101
- Section 504 of the Rehabilitation Act
29 USC 794
- Title IX of the Education Amendments of 1972
20 USC Section 1681(a)

- Age Discrimination and Employment Act of 1967
29 USC Section 621, et seq.
- Title VII of the Civil Rights Act of 1965
42 USC Section 2000e, et seq.

Title VI of the Civil Rights Act of 1964
42 USC Section 2000d, et seq.
Section 1981 of the Civil Rights Act of 1866
42 USC Section 1981
Section 1983 of the Civil Rights Act of 1871
42 USC Section 1983
The Equal Pay Act 1963
29 USC Section 206d

ADOPTED: May 8, 2000

REVISED: January 24, 2012