

YOU AND THE LAW

# Recent Rulings From the Courts Affecting HPERD Professionals: A Preliminary Injunction Case in High School Athletics

*Mike Stocz*

*Pritchard v. Florida High School Athletic Association, Inc.*, No. 2:  
19-cv-94-FtM-29MRM (M.D. Fla. Apr. 4, 2019)

A motion for preliminary injunction was filed against the Florida High School Athletic Association (FHSAA), alleging that the FHSAA violated a student's rights under the Americans With Disabilities Act (ADA) and the Rehabilitation Act (*Pritchard v. Florida High School Athletic Association*, 2019).

## **Complaint**

The U.S. District Court for the Middle District of Florida heard arguments from the plaintiff (Thomas Pritchard) when he filed a motion for preliminary injunction against the FHSAA (defendant). Pritchard sought to participate in high school lacrosse for a fifth year during the 2018–2019 school year, citing Title II of the ADA and Section 504 of the Rehabilitation Act as justification. The FHSAA claimed that the plaintiff was not excluded from participation due to disability discrimination, but because he had maxed out his athletic eligibility time limit.

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## **Facts of the Case**

Pritchard participated in high school athletics since he started high school (defined as the ninth grade here). He moved to Florida after 10th grade, where his new school suggested that he repeat the 10th grade. Pritchard continued to participate in sports through 11th grade. During the 2017–2018 school year (junior year, fourth consecutive year in high school), he tested positive for a learning disorder that impaired reading and comprehension, as well as a physical disability (injury to dominant hand) that hindered his proficiency in math. In August 2018 (fifth consecutive year in high school), Pritchard's school submitted a waiver to the FHSAA, which asked that the FHSAA waive Bylaw 9.5.1 to allow Pritchard to have a fifth year of athletics due to his learning disability and physical impairment. Bylaw 9.5.1 states that a student is limited to four consecutive school years of athletics eligibility, starting with the year that the student begins ninth grade for the first time. After the fourth year, the student is ineligible. After three hearings, the Board of Directors for the FHSAA denied this request in November 2018.

On February 14, 2019, Pritchard filed a temporary restraining order, as well as preliminary and permanent injunctions, against the FHSAA to accommodate him under the Rehabilitation Act and the ADA. Pritchard filed these 2 days before the 2018–2019 lacrosse season was set to begin. On February 19, 2020, the court denied the temporary restraining order, citing that the plaintiff created this emergency situation for himself by waiting nearly three and a half months to file the motion. Pritchard then requested a hearing on his motion for preliminary injunction, which was heard in March 2019.

## **Court Analysis**

For a preliminary injunction to be granted, the plaintiff must establish all of the following: a substantial likelihood of success based on the merits, that irreparable damage will be incurred if relief is not granted, that the threatened injury outweighs the harm the relief would inflict on the defendant, and that the relief would serve the public's interest. The court first analyzed the plaintiff's irreparable damages via the three-and-a-half-month delay in filing. Irreparable damage is typically undercut by such an extensive waiting period; however, the court recognized that Pritchard suffered

from depression, which served as a reasonable explanation. Next, the court analyzed if this case would have substantial likelihood of success based on its merits. Pritchard's claims were derived from Section 504 of the Rehabilitation Act, as well as Title II of the ADA; thus, likelihood of success based on its merits would need to be established via the confines of these statutes.

To establish a claim under the Rehabilitation Act, the plaintiff must establish that they have a recognized disability, the plaintiff is otherwise qualified to participate in high school athletics as regulated by the defendant or the plaintiff may be otherwise qualified with reasonable accommodations, the plaintiff is being excluded from participation solely because of their disability, and the defendant received federal financial assistance. The court's analysis suggested that the plaintiff could not prove that he was otherwise qualified to participate or that he was being excluded solely because of his disability. The court also found that allowing a change to Bylaw 9.5.1 would fundamentally alter the FHSAA's program.

To file a successful claim under the ADA, the plaintiff must establish that they are a qualified individual with a disability; they were either excluded from participation in or denied the benefits of a public entity's services, programs, or activities, or were otherwise discriminated against by a public entity; and the exclusion, denial of benefit, or discrimination was due to the individual's disability. The court determined that Pritchard was excluded not because of his disability, but because he had completed 4 consecutive years of high school. Further, allowing him to participate would fundamentally alter the FHSAA via Bylaw 9.5.1.

## **Court Decision**

The U.S. District Court for the Middle District of Florida found that Pritchard failed to establish various elements within the Rehabilitation Act and the ADA, and thus determined that a preliminary injunction would not be granted.

## **Discussion**

While the FHSAA did not have to make any changes in their rules, the time and resources spent on this case and its appeal are still a detriment. Ultimately, the FHSAA heard petitions from November until March within its own chambers as well as a federal courthouse.

Waiting this long to file negated the plaintiff's temporary restraining order, although it is worth noting that a preliminary injunction may be filed at a delayed date if the plaintiff can provide a reasonable explanation for the delay without violating the irreparable harm requirement.

Many lawsuits filed under the Rehabilitation Act are determined by the "otherwise qualified" or "solely because of their disability" elements (Cotton & Wolohan, 2017). In the current case, the plaintiff could not prove that he was being withheld from participation due to his disability (*Pritchard v. Florida High School Athletic Association*, 2019). Allowing him to participate for a fifth year would fundamentally change the FHSAAs rules. While reasonable accommodations may be made, such as making facilities usable by students with disabilities, accommodations that fundamentally alter a program are deemed unreasonable. This same justification can be used for the plaintiff's ADA claim, in that he was excluded by reason of a rule that applies to all, not by reason of his disability.

One defense is to show, if applicable, that the plaintiff cannot prove all of the elements needed for their claims. In the current case, the defense was able to show that the plaintiff was missing at least one element in both the Rehabilitation Act and the ADA, which suggested that there would not be a substantial likelihood of success needed for a preliminary injunction.

## Conclusion

With claims under both the Rehabilitation Act and Title II of the ADA being used in high school sports, it is important for teachers and administrators to understand when these laws apply. Rules that apply to all students may not be fundamentally altered so long as they truly apply to all students and do not discriminate against particular sets of students.

## References

- Cotton, D. J., & Wolohan, J. T. (2017). *Law for recreation & sport managers* (7th ed.). Kendall Hunt Publishing.
- Pritchard v. Florida High School Athletic Association, Inc.*, No. 2:19-cv-94-FtM-29MRM (M.D. Fla. Apr. 4, 2019).