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HSLDA[®]

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November 15, 2017

VIA ELECTRONIC MAIL (TANA.PENDELL@WVHEPC.EDU)

Tana Pendell
Program Administrator
West Virginia Higher Education Policy Commission
1018 Kanawha Blvd. East, Suite 700
Charleston, WV 25301

Re: *Promise Scholarship Eligibility for Jonathan Biedler*

Dear Ms. Pendell:

By way of introduction, the Home School Legal Defense Association (HSLDA) is a national organization whose mission is to protect the fundamental constitutional right of parents to direct the education and upbringing of their children. With over 80,000 member families, we are the world's largest homeschool advocacy organization. The Biedler family is a member of our association.

I was recently contacted by Mr. and Mrs. Philip Biedler regarding the eligibility of their son Jonathan Biedler for the West Virginia Promise Scholarship. I understand that the Biedlers have been informed that Jonathan must take the TASC to be eligible for the Promise Scholarship because he is homeschooled. However, the Biedlers have been told that Jonathan cannot take the TASC because he is only 16. No homeschooled child under age 17 is able to take the TASC without enrolling in the credit recovery program, and this program is explicitly not open to homeschooled students. However, because of recent changes to West Virginia law, I am writing to clarify that the West Virginia Higher Education Policy Commission ("HEPC") must act on Jonathan's application because the HEPC is proscribed from discriminating against Jonathan on the basis that he was homeschooled.

Homeschool programs in West Virginia are recognized and governed by the provisions of Section 18-8-1(c) of the West Virginia Code. Mr. and Mrs. Biedler are homeschooling Jonathan in compliance with West Virginia law. West Virginia Code 18-8-12 states that "a person who administers a program of secondary education at a public, private *or home school* . . . may issue a diploma or other appropriate credential." Therefore, the Biedlers may issue a valid high school diploma and transcript to any of their children who complete their school's graduation requirements. Jonathan Biedler will receive his home school high school diploma

H O M E S C H O O L L E G A L D E F E N S E A S S O C I A T I O N

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in May 2018. West Virginia Code 18-8-12 specifically recognizes that a homeschool high school diploma (and transcript) "is legally sufficient. . . . No state agency or institution of higher learning in this state may reject or otherwise treat a person differently solely on the grounds of the source of such diploma or credential."

By enacting West Virginia Code 18-8-12, the legislature superseded the current Promise Scholarship requirements that would otherwise require a homeschooled student to be required to take the GED. The HEPC is a state agency and may not discriminate against a homeschool diploma by requiring a TASC score in addition to other requirements. HSLDA is working with legislators to address this conflict within the law in the upcoming legislative session.

One of the purposes of the TASC is to demonstrate that a person has achieved the knowledge equivalent to a high school diploma; as a matter of law Jonathan has demonstrated that he will accomplish this. His academic record includes an SAT score of 1390 and National Merit Semifinalist status, and he has passed 7 College Level Examination Program (CLEP) exams to receive college credit. This is precisely the kind of student that the legislature had in mind to offer the Promise Scholarship. Keeping students like Jonathan in West Virginia is a major purpose of the Promise Scholarship program, and the HEPC should revise its operating policy to take this into consideration and take immediate action to evaluate Jonathan's application without requiring the TASC.

In light of West Virginia law, I trust this information will be sufficient to demonstrate that Jonathan Biedler is academically eligible for the Promise Scholarship and respectfully request that his application be processed accordingly. Please contact me as soon as possible but no later than November 29th to affirm that the HEPC will process Jonathan's application. Any additional questions or concerns, please feel free to contact me at 540-338-5600.

Very truly yours,



Michael P. Donnelly

MPD/rjb
cc: Mr. and Mrs. Philip Biedler