



## Oregon School Activities Association

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November 30, 2015

Krista Nieraeth  
Principal  
Pacific High School  
PO Box 8  
Port Orford, OR 97465

**Subject: Austin Lee Brown**

**Status: Eligible**

Dear Krista:

I have thoroughly reviewed the Eligibility Request Form that you have submitted seeking a waiver of OSAA Rule 8.3 (Age Rule). From the documentation that you have submitted, I have concluded the following:

**Findings of Fact:**

1. Austin first entered the 9th grade in September 2011 at Pacific High School and his 4 consecutive years of eligibility expired at the conclusion of the 2014-15 school year.
2. Austin graduated from Pacific High School in June 2015 with a Modified Diploma. He is currently enrolled for a 5<sup>th</sup> year because of disabilities that make him eligible for an IEP that allow him to attend school and receive educational services until he is 21 years of age.
3. Austin was enrolled in school and received academic credit during each of his 8 semesters in high school.
4. Austin has been on an Individualized Education Plan (IEP) during his entire educational career. He has Down's Syndrome and has faced many challenges over the years. In addition to his intellectual disability he also has a hearing impairment and a speech/language impairment. He is required to have a one-on-one aide during the school day, with multiple specialist visits during the school year. Even though Austin has earned his modified diploma his parents have chosen to have him return to school so he can continue to work on his academic skills, as well as social and job skills. It is the IEP team's hope that Austin will be learning and developing skills that will allow him to be successful in pursuit of a job in the community and to live a happy and fulfilling life.

**Conclusions:**

From the information submitted I conclude the following:

1. Although the student has graduated from high school with a Modified Diploma in June, 2015, which fails the first required condition for waiver of the age rule, I find that under the unique circumstances of this case, his "graduation" with a modified diploma is not graduation in the sense intended by the rule. The student has significant disabilities and is continuing with his education under an IEP in the same manner as prior to his "graduation", and will continue to do so until he reaches age 21. The untimely award of a modified diploma in this case should not bar this student from a waiver of the age rule.
2. The student's Individualized Education Program (IEP) Team has determined that the student has a "disability" as determined under the Individuals with Disabilities Education Act (IDEA) and that the

student is meeting the requirements of his IEP. "The modifications and accommodations listed on Austin's IEP include a modified curriculum, preferential seating, FM system, visual supports, calculator, computer/word processor, educational assistant, frequent checks for understanding, repeat/simplify directions and wait/processing times. In addition to his speech/language and audiology goals, Austin has goals in the areas of Social Communication, Community Instruction, Functional Reading Comprehension and Functional Math. Austin is making good progress on his goals. However, he still has difficulty with social skills, particularly in initiating a conversation with others about a topic of mutual interest" (Chuck Mitchell, Pacific High School Special Education Teacher).

3. The student's participation would not constitute an undue risk to the health or safety of other students. Austin is five feet five inches tall and weighs approximately 130 pounds. He averaged about two minutes of play per game in the last four minutes of the game. "He is a dedicated Pacific Pirate and would be an excellent ambassador for students with disabilities and athletes that play for the love of the game" (Christine Nichols, Superintendent).

Therefore, I conclude that the student satisfies the requirements for eligibility as outlined in Rule 8.3.1 and is ELIGIBLE to participate in OSAA activities during the 2015-16 school year.

I sincerely hope that the student will benefit from this waiver.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Welter", with a long horizontal flourish extending to the right.

Tom Welter  
Executive Director

TW/ar

cc: Krista Nieraeth, Athletic Director