

NO. 292,921-C

ALLYSON TALBOTT  
Plaintiff,

V.

ROGERS INDEPENDENT SCHOOL  
DISTRICT  
Defendant.

IN THE DISTRICT COURT

169TH JUDICIAL DISTRICT

OF BELL COUNTY, TEXAS

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**ORIGINAL PETITION FOR DECLARATORY JUDGMENT,  
CLAIM FOR DUE-PROCESS VIOLATION  
UNDER THE TEXAS CONSTITUTION,  
REQUEST FOR TEMPORARY RESTRAINING ORDER  
AND REQUEST FOR INJUNCTIVE RELIEF**

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**TO THE HONORABLE JUDGE OF SAID COURT:**

NOW COMES ALLYSON TALBOTT, Plaintiff herein, filing this Petition for Declaratory Judgment, pursuant to the Texas Uniform Declaratory Judgments Act, Chapter 37 of the Texas Civil Practice and Remedies Code, and would show the Court the following:

**DISCOVERY CONTROL PLAN LEVEL**

1. Plaintiff intends that discovery be conducted under Discovery Level 2.

**PARTIES AND SERVICE**

2. Plaintiff, ALLYSON TALBOTT brings this action individually. Plaintiff resides in Bell County, Texas.

3. ALLYSON TALBOTT has not been issued a driver's license. The last three numbers of ALLYSON TALBOTT's social security number are 274.

4. Defendant ROGERS INDEPENDENT SCHOOL DISTRICT, may be served with process by serving the Superintendent of ROGERS INDEPENDENT SCHOOL DISTRICT, Joe Craig, at 1 Eagle Drive, Rogers, Texas 76569. Service of said Defendant as described above can be effected by personal delivery.

### **JURISDICTION AND VENUE**

5. The subject matter in controversy is within the jurisdictional limits of this court.

6. Plaintiff seeks:

only monetary relief of \$100,000 or less, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees.

7. This court has jurisdiction over the parties because Defendant is a Texas school district.

8. Venue in Bell County is proper in this cause.

### **FACTS**

9. ALLYSON TALBOTT is an 18-year old senior at Rogers High School, class of 2017.

10. Per the ROGERS INDEPENDENT SCHOOL DISTRICT's Board Policy and the ROGERS INDEPENDENT SCHOOL DISTRICT's Student Handbook, the senior-class Valedictorian is determined based upon the grades of students at the end of the third nine-week grading period of the senior year.

11. As has been widely reported, due to an incorrect grade being entered into ALLYSON TALBOTT's transcript, the school has decided that ALLYSON TALBOTT will not be the Valedictorian of the senior class. The Superintendent has admitted that if the correct score was calculated, and District policy followed, ALLYSON TALBOTT would have the highest average at the end of the third nine-week grading period.

12. ALLYSON TALBOTT has appealed to the Principal, Superintendent, and the ROGERS INDEPENDENT SCHOOL DISTRICT Board. Despite acknowledging that ALLYSON TALBOTT is the student with the highest grade-point average at the end of the third nine-weeks, ALLYSON TALBOTT is being denied the honor of being named Valedictorian due to the error in the originally reported grade.

13. Based upon ALLYSON TALBOTT's grades at the end of the third nine-week grading period, Allyson had the highest grade-point average in the senior class, and therefore Allyson should be named the Valedictorian.

14. Being named Valedictorian has been ALLYSON TALLBOTT's goal for many years, and an honor that she has strived diligently to achieve. There are scholarships that are uniquely available only to the Valedictorian of a school B scholarships that ALLYSON TALBOTT will not be able to utilize to pay for her college education at Baylor University.

15. Moreover, Rogers Independent School District has failed to include a dual-credit course class into ALLYSON TALBOTT's overall transcript which has also caused her to not be named the student with the highest year-end grade-point average.

## **REQUEST FOR DECLARATORY JUDGMENT**

16. There exists a genuine controversy between the parties herein that would be terminated by the granting of declaratory judgment. Plaintiff therefore requests that declaratory judgment be entered as follows:

17. That ALLYSON TALBOTT be declared the Rogers High School Class of 2017 valedictorian;

18. That ALLYSON TALBOTT be declared to be the student with the highest grade point average of the Rogers High School Class of 2017.

### **PLAINTIFF'S CLAIM FOR DUE PROCESS VIOLATION**

19. ROGERS INDEPENDENT SCHOOL DISTRICT has violated the due process rights of ALLYSON TALBOTT afforded to her under the Texas Constitution in that ALLYSON TALBOTT has no right to appeal the decision of the Rogers Independent School District to not name her the Valedictorian.

### **TEMPORARY RESTRAINING ORDER, INJUNCTIVE RELIEF AND BOND**

20. ALLYSON TALBOTT requests an order from this Court restraining the ROGERS INDEPENDENT SCHOOL DISTRICT from naming a valedictorian until after a hearing on this matter. After the hearing ALLYSON TALBOTT requests that the relief requested be made a temporary injunction.

21. ALLYSON TALBOTT further requests an order from this Court restraining the ROGERS INDEPENDENT SCHOOL DISTRICT from naming the student with the year-end

highest grade-point average until after a hearing on this matter. After the hearing ALLYSON TALBOTT requests that the relief requested be made a temporary injunction.

22. ALLYSON TALBOTT would show this injunctive relief is necessary, as she will be deprived the honor of being named valedictorian at the upcoming graduation ceremony and commencement exercises of the Rogers High School class of 2017.

23. The graduation ceremony is scheduled for Thursday, May 25, 2017.

24. Therefore, a temporary restraining order, temporary injunction and permanent injunction are necessary because the injury that ALLYSON TALBOTT would suffer is immediate and irreparable.

25. The pecuniary cost to ROGERS INDEPENDENT SCHOOL DISTRICT if the Court grants the Temporary Restraining Order is nominal. Therefore, ALLYSON TALBOTT requests that this Court require her to post a bond of \$100.00.

#### **ATTORNEY'S FEES**

26. Pursuant to Section 37.009 of the Texas Civil Practice and Remedies Code, request is made for all costs and reasonable and necessary attorney's fees incurred by Plaintiff herein, including all fees necessary in the event of an appeal of this cause to the Court of Appeals and the Supreme Court of Texas, as the Court deems equitable and just.

#### **PRAYER**

**WHEREFORE, PREMISES CONSIDERED**, Plaintiff prays that Defendant be cited to appear and answer herein, and that on final trial hereof declaratory judgment be granted as requested herein and Plaintiff be awarded costs and reasonable and necessary attorney's fees, and for such other and further relief that may be awarded at law or in equity.

Respectfully submitted,

BRETT H. PRITCHARD, P.C.

By: 

\_\_\_\_\_  
BRETT H. PRITCHARD

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Attorney for Plaintiff  
ALLYSON TALBOTT

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Attorney for Plaintiff  
ALLYSON TALBOTT

Respectfully submitted,

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Attorney for Plaintiff  
ALLYSON TALBOTT

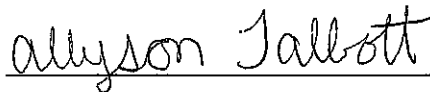
My name is Allyson Talbott. I am a Senior in Rogers High School, class of 2016-17.

Per the Rogers ISD School Board Policy and the Rogers ISD Student Handbook, a Valedictorian is determined based upon the grades of students at the end of the third nine-week grading period of the senior year.

As has been widely reported, due to an incorrect grade being entered in my transcript, the school has decided that I would not be the Valedictorian of the senior class. The Superintendent has admitted that if the correct score was calculated, I would have the highest average at the end of the third nine-week grading period. I have appealed to the Principal, Superintendent, and the School Board. Despite acknowledging that I am the student with the highest grade point average at the end of the third nine-weeks, I am being denied the honor of being named Valedictorian due to the error in the originally reported grade.

Based upon my grades at the end of the third nine-week grading period, I have the highest average in the senior class, and so I believe that I should be named the Valedictorian.

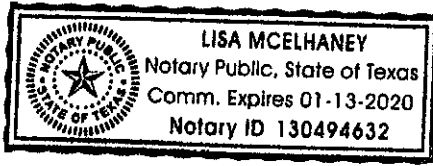
Being named Valedictorian has been a goal of mine for years, and an honor that I have strived to achieve. There are scholarships that are uniquely available only to the Valedictorian of a school – scholarships that I will not be able to use to pay for my future college education at Baylor University. If I did not have the highest grade average at the end of the third nine-week period, I understand that I would not be named the Valedictorian. But that is not the case, and that is why it is important that I pursue being named Valedictorian.

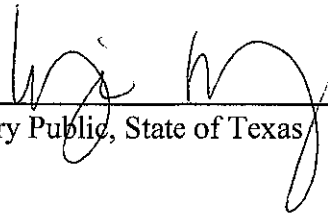
A handwritten signature in cursive script that reads "Allyson Talbott". The signature is written in black ink and is positioned above a horizontal line.

Allyson Talbott



SIGNED under oath before me on May 22, 2017 by ALLYSON TALBOTT



  
\_\_\_\_\_  
Notary Public, State of Texas

Print

Date: Tuesday, May 16, 2017 2:29 PM  
 From: Lee Vi Moses <lmoses@rogersisd.org>  
 To: Lori Talbott <gtalbot@hotmail.com>  
 Subject: Fwd: Mid-Term Dual Credit Student Grade Issue

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

From: Spencer Dr. Daniel <dan.spencer@templejc.edu>  
 Date: Mon, May 15, 2017 at 3:57 PM  
 Subject: Mid-Term Dual Credit Student Grade Issue  
 To: Joe Craig <joe.craig@rogersisd.org>  
 Cc: "Lee Vi Moses (lmoses@rogersisd.org)" <lmoses@rogersisd.org>, Griffith Kristen <kristen.griffith@templejc.edu>, Burden Benjamin <benjamin.burden@templejc.edu>, "Spencer Dr. Daniel" <dan.spencer@templejc.edu>, "Smith Dr. Mark A." <mark.a.smith@templejc.edu>

Mr. Joe Craig:

I have done some additional exploration into grades reported to you for Ms. Allyson Talbott. It appears that two different timelines are being used for the evaluation and reporting of Ms. Talbott's grading snapshots. I believe that this has caused some of the confusion in understanding the grade(s) reported.

Temple College reports mid-term (8-week) grades for college courses offered for dual credit. Kristen Griffith, Dual Credit Director, requested these grades from faculty, the grades were collected and reported to the respective ISDs as required as part of our MOU agreements with our ISD partners. At a more recent time, Ms. Talbott contacted her instructor, Mr. Pretzsch, via email, with a specific inquiry about her points that were reported at the nine (9) week point in the spring semester. The original mid-term grade of 92 was reported to the ISD by Ms. Griffith, representing 78 points out of a total of 85 points possible for all work completed at the end of the 8-week timeframe. Instead of a 92 being reported at the mid-term as explained above, a 97.5 percent should have been reported representing 78 points out of a total of 80 possible for all work completed at the end of the 8-week timeframe (instead of a total of 85 possible points). Upon investigation, it has been determined that this error did occur in the reporting of the 8-week mid-term grade.

In response to Ms. Talbott's inquiry, Mr. Pretzsch then reported a grade of 97.6 representing 83 points out of a total of 85 points possible for all work completed at the end of the 9-week timeframe (as referenced by Ms. Talbott's computer screen shot). The grade Mr. Pretzsch reported of 97.6 percent representing 83 points out of a total of 85 points possible for all week completed at the end of the 9-week timeframe (as referenced by Ms. Talbott's computer screen shot she sent in her email) is correct and represents all work completed for the 9-week period.

All Temple College faculty and staff concerned with this grading error in the misreporting of the 8-week mid-term grade apologize for this mistake and fully realize the implications this type of error potentially has on the ISD partner, learner(s), and their parents. We also regret that it took such an extended time for this issue to be identified. We will be reviewing and improving our grade reporting processes and procedures to make sure this type of mistake will not occur in the future.

Dan

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#### Mission of Temple College

The mission of Temple College is to foster student success for our diverse community by providing quality lifelong learning and enrichment experiences that empower students to achieve their dreams and aspirations.

# Rogers cheerleader says she was robbed of valedictorian title

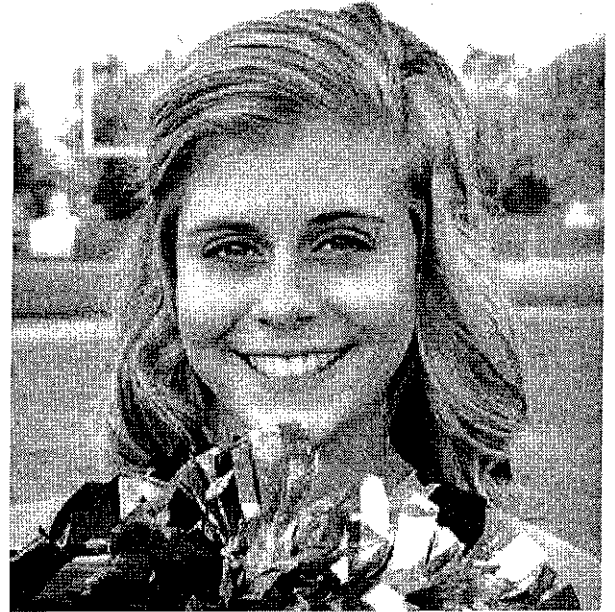
BY MARIEL WILLIAMS | TELEGRAM STAFF | Posted: Wednesday, May 17, 2017 5:24 pm

ROGERS — Rogers High School senior Allyson Talbott said that she was robbed of valedictorian status due to a clerical error in her dual-credit classes at Temple College — a mistake that Rogers district officials haven't corrected.

Talbott's mid-term grades were miscalculated at the college when they were submitted to Rogers High, and the error led to her being selected as salutatorian instead of valedictorian.

In spite of a clarification and apology from Temple College, Rogers school officials haven't fixed the problem.

Talbott, a cheerleader, initially trusted the 92 percent grade she was given in the middle of the spring semester, even though the average was lower than what she expected from tracking her own progress. But when her TC professor began posting grades online last week, she became more convinced that there had been a mistake.



Allyson Talbott

"So I calculated it, and it came out as a 97.5," Talbott told the Temple Daily Telegram. "And now my school won't recalculate the correct grade."

Talbott contacted Temple College about the error, and once the mistake was found, the college submitted corrected grades to the high school.

"The college helped me out a lot," Talbott said. "They found the mistake, they corrected the mistake and also sent an apology email to the school."

But Rogers Independent School District officials decided that leaving the graduation honors as originally posted would be more in keeping with district policy.

The policy in question reads:

"For the purpose of determining honors to be conferred during graduation activities, the district shall calculate class rank using grades available at the time of calculation at the end of the third nine-week grading period of the senior year. The grade of the third nine-week grading period shall be used as the semester grade for this purpose."

Superintendent Joe Craig said the district determined the valedictorian and salutatorian honors by using both the high school grade reports and grade reports submitted by Temple College on March 10.

“We determined, through consult with our school attorney, the district followed our board policy in naming the valedictorian and salutatorian for the graduation ceremony based on the information that was available to us at time set in the established policy,” Craig said.

Although this policy determines who receives the valedictorian and salutatorian honors at graduation, Craig said that the school does calculate final class rankings after all grades have been received to determine which seniors will receive an honor graduate certificate from the state of Texas.

“Final class rank and the distinction of the highest ranking graduate is determined at the end of the school year,” Craig said.

The Telegram received a copy of an email sent to Craig from Dr. Daniel Spencer, associate vice president at Temple College, explaining that Allyson’s reported mid-term grade was made in error, and that her grade should have been either a 97.5 or 97.6, depending on whether or not the average was calculated at the end of eight weeks or nine weeks.

“Upon investigation, it has been determined that this error did occur in the reporting of the eight-week mid-term grade,” Spencer’s email reads. “All Temple College faculty and staff concerned with this grading error in the misreporting of the eight-week mid-term grade apologize for this mistake and fully realize the implications this type of error potentially has on the ISD partner, learner(s) and their parents. We also regret that it took such an extended time for this issue to be identified.”

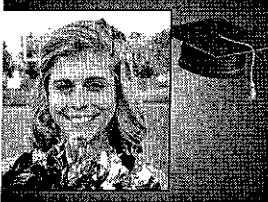
Rogers High School’s valedictorian and salutatorian will be officially announced at the senior honors event today. Thursday

In the fall, Talbott plans to attend Baylor University and study nursing.

“If it was like the difference between seventh and eighth (ranking) I wouldn’t really be upset about it, but the fact that it’s the difference between first and second is what’s really disappointing,” Talbott said.

# Rogers ISD admits Valedictorian mistake, will not change

Stephen Adams, KCEN 6:21 PM. CDT May 19, 2017



TEMPLE, Texas -- In a statement emailed late Thursday night, Rogers ISD admitted that when Allyson Talbott's correct midterm grade was accounted for, she would have been the high school Valedictorian. However, despite knowing that, the district will not award her the position.

Instead of making Talbott Valedictorian, the district changed its mind and decided to use final grades instead of midterm grades, as it typically does, for the class ranks. When the final grades were calculated, Talbott had dropped back to number two -- with the other student being number one.

"Now that the rank was proven to be me as number one, they all of the sudden are basing Valedictorian and Salutatorian off final grades, which is against school policy," Talbott wrote in an email.

District Superintendent Joe Craig issued a statement, explaining the situation Thursday. In the statement, he named the other student, which KCEN-TV will not do out of respect for her family's privacy. A copy of the statement with the name redacted can be seen below.

Read the original story [here \(http://www.kcentv.com/news/education/star-cheerleader-robbed-of-valedictorian-after-clerical-error/440499606\)](http://www.kcentv.com/news/education/star-cheerleader-robbed-of-valedictorian-after-clerical-error/440499606).

Rogers ISD Statement (5-18-17):

“ Rogers High School established class rank at the end of the 3rd Nine Weeks on March 10th. At that time, according to policy, we calculated grades as they were presented by Rogers High School teachers and Temple College. On May 15th, we were notified that a grade being reported for Allyson Talbott was incorrect. Beginning this week, we did the utmost research, with the help of Temple College, to establish what grade should have been reported. We also went to great lengths to establish who would represent the class of 2017 as the Valedictorian. The final class rank is normally not calculated until all grades are final both from Rogers High School and Temple College, forcing us to delay the awarding of the highest ranking student. With great help from the teachers at Rogers High School and the finalization of grades from both Rogers and Temple College, this year we were able to finalize class rank for both of these two students at an earlier time than we have been able to in the past. The class rank for these two students at the end of the 3rd nine weeks established [student] as the Valedictorian and Allyson Talbott as the Salutatorian. When the corrected grade was accounted for on May 15th, it resulted in the two positions to be switched. When all final grades were verified, [student] was ranked as the Valedictorian and Allyson Talbott was the Salutatorian.

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