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HIGH SCHOOL SPORTS > SOFTBALL

Prosper ISD faces legal action from former Rock Hill softball player

The family says their daughter has disabilities requiring Section 504 accommodations that coaches did not provide.



Jocelyn Spence, a Prosper Rock Hill senior and former softball player, photographed at her home on Tuesday, May 9, 2023, in Prosper. (Smiley N. Pool / Staff Photographer)



By [Lia Assimakopoulos](#)
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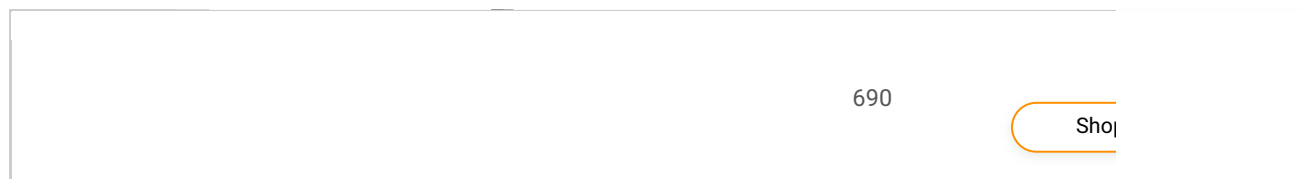


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When Jocelyn Spence hears her coaches call out to her in the softball field at shortstop, her gut reaction is fear.

She sees the pitcher winding up. She knows she has only moments to process the information before the ball comes flying in her direction. At some point during her career at [Prosper Rock Hill](#), she started to doubt her ability to react.



If wrong, Jocelyn feared punishment from the coaches. But if she called for a timeout to clarify, she worried she'd disappoint them and embarrass the team.

Or worse, that she'd call even more attention to what makes her different.



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Jocelyn decided to quit playing for the school team before her senior season.

“I couldn’t be near the program anymore,” she said in a recent interview. “I had to rework my mental health because I had completely fallen apart. I’ve never been a fearful person, and I was scared.”

Jocelyn and her parents, Greg and Jamie Spence, have filed for pre-suit discovery ahead of a potential federal lawsuit against Prosper ISD, alleging their daughter was not given the proper accommodations required by [Section 504 of the Rehabilitation Act](#). She has ADHD and Central Auditory Processing Disorder, which require extra support the family says the coaching staff did not provide.

Prosper ISD issued a statement denying the accusations.

“While federal privacy laws prevent the district from commenting on individual student situations in detail, we do not believe that we have discriminated in any way against this student,” the statement read. “As a district, we are committed to the success of our students, their well-being. Our goal is to set our students up for success, on the field and in the classroom.”

What Jocelyn and her parents say she experienced is not uncommon for student-athletes with disabilities — especially ones that aren't visible and may be overlooked or forgotten, nearly a dozen advocates and legal experts told *The Dallas Morning News*. But they say an onerous grievance process and fear of retaliation discourage families from reporting possible discrimination, depressing the federal data that tracks such incidences.



Although there are training and educational programs for coaches (who are often also classroom teachers), experts say they fear the desire to win is prioritized over accommodating all students, so athletes like Jocelyn don't receive the opportunities they're entitled to under the law.

“If [a 504 plan] doesn't get properly implemented, it's just a piece of paper,” said Roy Atwood, a Dallas-based attorney who specializes in education law and is representing an Austin family in a similar case. “Implementation is a lot of times where this breaks down.”

‘I was scared’

Jocelyn's [Section 504](#) plan includes accommodations that a student with a disability needs to receive equal access to the same opportunities as his or her peers. Under federal law, students are guaranteed a public education free from discrimination for their disabilities.

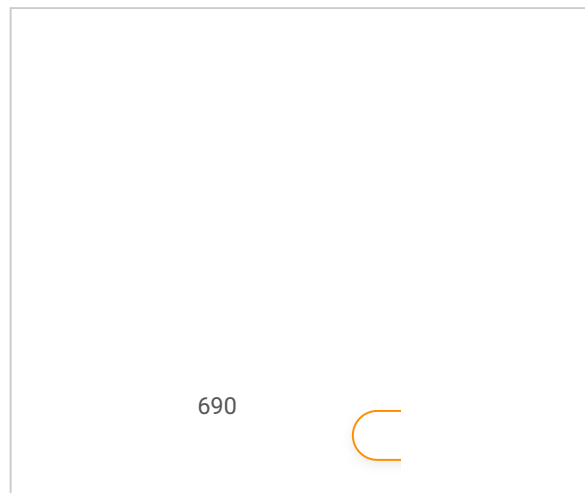
A decade ago, the Department of Education’s Office of Civil Rights [clarified a student’s right under Section 504](#) to an equal opportunity to participate in extracurricular activities, including athletics. It came in response to [a June 2010 report](#) that found that students with disabilities participated in athletics at consistently lower rates and that schools lacked guidance on their responsibilities to support student participation.

There’s a wide range in the percentage of Dallas-area high school students with 504 plans who participate in extracurricular activities, according to the districts that track this data.

Students on 504 plans and in athletics in North Texas’ 20 largest school districts

School district	# of high school student-athletes on 504 plans	Total high school enrollment (2022-23)
Dallas ISD	No available data	35,206
Fort Worth ISD	No available data	28,546
Frisco ISD	No available data	23,055
Arlington ISD	16 (0.9%)	17,569
Garland ISD	251 (1.45%)	17,284
Plano ISD	150 (.97%)	15,541
Lewisville ISD	No available data	16,599
Mesquite ISD	429 (3.74%)	11,476
Richardson ISD	No available data	10,520
Mansfield ISD	295 (2.55%)	11,570
Keller ISD	No available data	11,469

School district	# of high school student-athletes on 504 plans	Total high school enrollment (2022-23)
Irving ISD	200 (2.38%)	8,389
Denton ISD	No available data	9,427
Grand Prairie ISD	No available data	6,949
Northwest ISD	590 (7.25%)	8,135
Carrollton-Farmers Branch ISD	138 (2.01%)	6,866
McKinney ISD	404 (5.14%)	7,856
Hurst-Euless-Bedford ISD	No available data	6,787
Birdville ISD	No available data	7,040
Allen ISD	837 (11.8%)	7,102



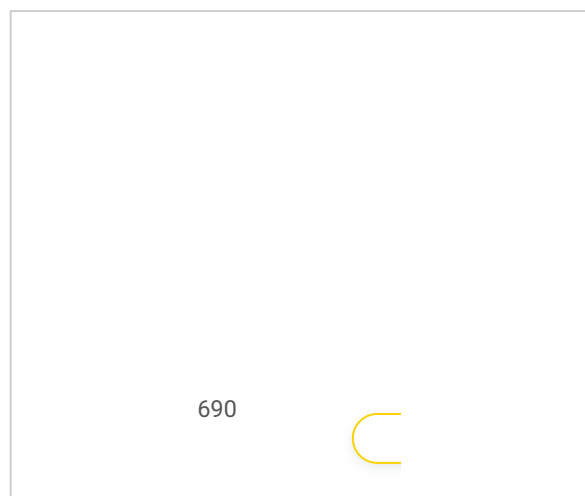
Prosper ISD did not have data for the number of students in athletics and on 504 plans. It also declined to say whether it requires educators to track how accommodations are implemented.

Districts expect coaches to read a student's 504 plan, but legal experts say it's not always obvious how to apply generally broad accommodations in an

athletic setting.

“A lot of kids who have trouble sitting still in math class, on the soccer field are going to be OK,” said Kendra Yoch, counsel at Thompson & Horton LLP, who has represented public school districts on student issues, including special education. “That doesn’t mean they’re never going to struggle. ... But it may be less obvious to a coach.”

When working with Jocelyn, coaches and educators are expected to check for understanding, provide written direction, allow her to take notes when needed and provide clear and specific directions and instructions, according to her 504 plan.



Prosper Rock Hill opened in fall 2020, and Jocelyn joined the softball program as a sophomore the following spring. She and her parents say they notified head coach Leigh Anne Budd, assistant coach Rhana Ramos and JV coach Ashlyn Phelps about her 504 plan.

But throughout two years in Budd’s program, Jocelyn said those accommodations were never administered and her relationship with the coaches deteriorated.

“Anytime I was given instructions, and I didn’t understand it, it was taken as me questioning their authority,” Jocelyn said. “Because I was worried about questioning their authority, I would just do it, and then I’d be wrong, and then I’d get yelled at, and then we’d all have to run.”



Prosper Rock Hill head coach Leigh Anne Budd (center) talks to batter Katerina Luna (left) during the 6th inning against Montgomery Lake Creek in the Class 5A softball state semifinal at Red & Charline McCombs Field in Austin, Texas on Friday, June 3. (Brendan Maloney / Special Contributor)

Jocelyn and her parents say the coaches viewed her as an obstacle to achieving on-field success because of the special attention she required.

[Rock Hill went to the state tournament last year](#) in Budd's second season with the program — the season before Jocelyn quit. Rock Hill finished fifth in its district this season and missed the playoffs. The 2023 UIL softball season [concludes with the state tournament this weekend](#) in Austin.

When an athlete's disability manifests on the field, experts say it could be misinterpreted as challenging authorities or team norms. This is largely due to the fact that sports are centered around discipline and compliance.

“It's like they're assigning a motive to behaviors that are symptoms of her disorders,” Jamie said. “There's no motive.”

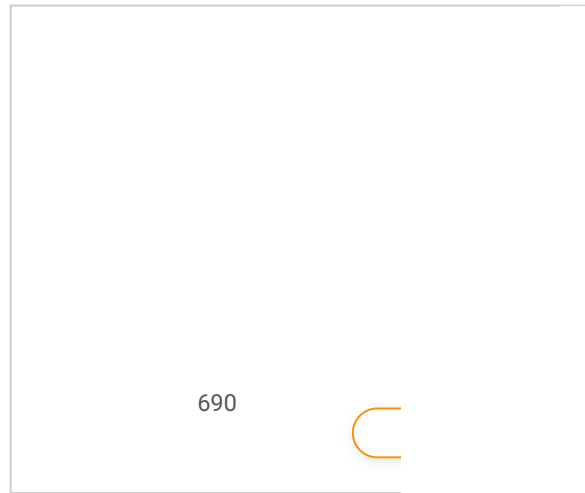
The News contacted multiple teammates of Jocelyn's, but most declined to comment on the record or did not respond.

Prosper ISD declined to make the coaches or athletic director Valerie Little available for comment and referred to its statement. *The News* contacted

Budd directly, but she did not respond to requests for comment.

“In athletics, there are often difficult decisions that are made relating to playing time and placement on a team. And sometimes, coaches and parents do not see eye-to-eye in those situations,” the district’s statement read.

“Coaches consider many things including an athlete’s physical conditioning, adherence to team rules, compliance with expectations as a team member, as well as any educational accommodations.”



‘Give her a fair chance’

According to the Spences, the summer before her senior year, the coaches told Jocelyn she’d be the only senior in the program on junior varsity, despite being a top athlete on travel softball teams, starting at shortstop for the JV team and batting .514 in her time with the program.

“Typically, when you play travel ball at this level, you’re probably a varsity player,” said Max Ellyson, Jocelyn’s coach on the North Texas Bombers. “You have to be on a really, really, really good high school team not to be on varsity at this level.”

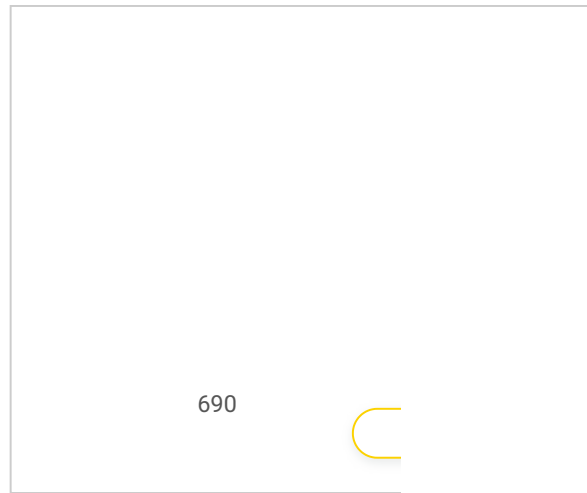
The Spence family says Jocelyn not making varsity doesn’t have anything to do with their desire to file a lawsuit against Prosper ISD.

“We told the coaches we didn’t expect them to put her on varsity,” Greg said. “All we wanted them to do was give her the same opportunities as all the other girls on the field, give her a fair chance to prove herself.”

Despite her goal of playing college softball, Jocelyn and her family decided it was no longer in her best interest to be a part of the program. But her parents wanted to pursue action against Prosper ISD, even though they knew Jocelyn, who graduated last week, could be out of high school before the resolution.

“These processes take a lot of time,” said Janelle Davis, an attorney who specializes in helping families navigate education grievances and has counseled the Spences. “If you have an issue that’s time sensitive, you’re pretty much out of luck.”

According to documents reviewed by *The News*, the Spences filed the first grievance on July 28, 2022, shortly after Jocelyn’s coaches told her about her JV placement. Rock Hill principal Dustin Toth denied the grievance, which the family appealed on Aug. 12, 2022, with a Level 2 notice.



On Aug. 29, the Spences also filed a formal complaint with the [Texas Education Agency](#) against the three coaches. The hearing officer recommended dismissal, and the family is appealing the decision.

Prosper ISD superintendent Holly Ferguson did not respond to the Level 2 grievance in a timely manner, which prompted the family to file a Level 3 appeal with the school board on Sept. 18. After a hearing, the school board decided not to take action.

Jocelyn's parents also twice submitted a complaint with the [Department of Education's civil rights office](#). The agency said it rejected the first complaint because the district grievance process needed to play out before it could investigate. Greg Spence said he hasn't received a response to the second filing.

The absence of a resolution led the family to seek the legal counsel of George Shake, a Dallas-based attorney who specializes in family and special education law. The Spences filed for pre-suit discovery this month, which could result in depositions of district officials and the release of additional records.

When the Spences requested Jocelyn’s disciplinary records from the district, they were heavily redacted. Given the severity of the complaint, Shake said he believes more information exists that could benefit them in forming a case for a lawsuit.

The results of a pre-suit discovery proceeding could take approximately two months, Shake said. He said past discrimination cases in Texas that have reached courts of appeal have awarded families \$250,000 to \$1.2 million.

Jocelyn Spence, a Prosper Rock Hill senior and former softball player, photographed with her parents Jamie and Greg Spence at thier home on Tuesday, May 9, 2023, in Prosper. (Smiley N. Pool / Staff Photographer)

“Communication is constant and predictable, so when we demand all of those records and get almost none of them or nothing that evidenced any of that activity, I am intensely suspicious that those items have been withheld,” he said.

The News also requested public records from Prosper ISD, including complaints and grievances, email communication and personnel files for the coaches.

Prosper ISD said there are thousands of pages of responsive documents, all protected under the Family Educational Rights and Privacy Act or government code protecting information related to pending or anticipated litigation involving a government body.

Legal experts say it's rare for families to go to the lengths the Spence family has. Many do not report or escalate these situations beyond the district level due to financial demand, fear of retaliation or simply not knowing that there is a process to file such a complaint.

It is also rare for grievances to reach the federal level.

Between Aug. 1, 2010, and Feb. 6, 2023, 33 disability discrimination cases related to athletics in K-12 Texas public schools have reached the federal Office of Civil Rights, according to agency records. Fifteen were in high schools.

“It doesn't mean it doesn't happen,” said Sharon Ramage, a McKinney-based attorney who represents clients in family law and special education matters. “It means it's not complained about legally very often. People just don't know what their rights are.”

‘We’re all wired differently’

While Jocelyn’s chances of playing high school softball are gone, her parents say they are committed to continuing to fight for her and other students like her.

She and her father traveled to Austin in March to testify in front of lawmakers about her experiences on the softball team and with the grievance process, the subject of two bills related to student and parent rights. Those bills are not going to pass this legislative session.

The Spences say they understand some may question why they’ve continued to fight this battle, especially after Jocelyn’s graduation.

She plans to head to the University of North Texas to study marketing and theater and said she hopes to walk on to the softball team as well.

Since quitting her high school team, Jocelyn said she found support from coaches in a different arena: the stage. In the middle of rehearsing scenes with Rock Hill’s production and theater program, she’s learned to catch critiques on the fly and change her actions without pausing.

She said her theater directors have learned not to interrupt, wait for the scene to end and correct her during a break before running it again. They allow her to ask questions and will demonstrate what they want from her, even if it takes extra time.

“At least being willing to listen, that’s the base of it,” Jocelyn said. “Look past putting together practices and just try to invest in students a little more and realize we’re all wired differently.

“If you paint everything with such a broad brush and expect everything to be so uniform all the time and everyone can only act and react a certain way, then you’re going to kill your own program before it even starts.”

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