

**BEFORE THE INDIANA
CASE REVIEW PANEL**

In The Matter M.S.)	
Petitioner,)	
)	
and)	
)	CAUSE NO. 180531-176
The Indiana High School Athletic Association,)	
Respondent.)	
)	
Review Conducted Pursuant to Ind. Code)	
§ 20-26-14 <i>et seq.</i>)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PROCEDURAL HISTORY

On or about January 23, 2018, M.S.'s ("Petitioner") parents completed the student portion of an Indiana High School Athletic Association ("IHSAA") Athletic Transfer Report ("Transfer Report"). The Transfer Report requested that the IHSAA make an athletic eligibility determination for the 2017–2018 and 2018-19 school years relating to the Petitioner's transfer. On January 25, 2018, Lawrence North High School ("Lawrence North"), the sending school, completed its portion of the Transfer Report. The receiving school, Warren Central High School ("Warren Central") completed its portion of the Transfer Report on February 16, 2018.

On February 18, 2018, the IHSAA Commissioner determined that Petitioner's transfer were Rule 20-2 and Rule 19-4 violations and ruled Petitioner had no eligibility for 365 days from enrollment at the receiving school. The Petitioner appealed the Commissioner's determination to the IHSAA Review Committee ("Review Committee").

The IHSAA sent a letter to Petitioner acknowledging receipt of Petitioner's request for appeal and set the matter for a hearing before the Review Committee for April 30, 2018. Following the evidence presented at the April 30, 2018 hearing, the Review Committee issued its ruling on May 10, 2018, upholding the decision of the Commissioner declaring that according to Rules 20-2 & 19-4, Petitioner was athletically ineligible for 365 days following his enrollment at Warren Central.

On May 31, 2018, the Petitioner appealed the Review Committee's decision to the Indiana Case Review Panel ("Panel"), and the Panel notified the parties that it would review the decision during a Panel meeting. The Panel requested and received the record from the IHSAA on June 15, 2018. On June 20, 2018, the Panel held a meeting,¹ and based on a review of the record and applicable rules and laws, the Panel made the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

The Panel finds the following facts to be true and relevant to its decision.

1. Petitioner, an in-coming senior, lives with his father in Indianapolis, Indiana. Petitioner attended Lawrence North for his freshman – junior years (first semester only). While at Lawrence North, during his freshman (2015-16) and sophomore year (2016-17) he played varsity track and field and junior varsity and varsity football. His junior year (2017-18), he played varsity football. He last participated athletically at Lawrence North on October 27, 2017.
2. The Petitioner lived in the Lawrence North district with his mother during his freshman-junior years. Lawrence North was the public school which served his mother's residence. In January, 2018, the Petitioner began living with his father. On January 8, 2018, the Petitioner was enrolled in Warren Central, which serves his father's residence in Indianapolis, Indiana.
3. Petitioner transferred with a corresponding change of residence moving in with his father in a new district or territory. The Petitioner began living with his father at some point in January, 2018 by agreement of his divorced parents.
4. On January 23, 2018, Petitioner's parents completed the Transfer Report and the Petitioner indicated his transfer was because he "moved in with his father that resides in Warren Township." The Petitioner's parents indicated the Petitioner moved in with his father due to a private family issue that would be better resolved having the Petitioner move out of his mother's house and into his father's home. Particularly, the Petitioner and his step-father were not getting along and the Petitioner had always expressed a desire to live with this father.
5. During the fall football season and training completed afterwards, the Petitioner expressed his displeasure with his playing time and strategies implemented by the coaches at Lawrence North. Additionally, the Petitioner was dismissed from a practice in

¹ The following members participated in the meeting: Kelly Wittman (Chairperson), Mr. Bret Daghe, Mr. Keith Pempek, Mr. Karl Hand, Mr. Jesse Williams, Mr. Mickey Golembeski, and Ms. Mary Quinn.

December, 2017. There were conflicts between the coaching staff at Lawrence North and the Petitioner. There are differing accounts regarding the conflict, Lawrence North staff indicate the Petitioner was just removed from practice, however the Petitioner said he was told he was kicked off the team around December 19, 2017.

6. In December 2017, the Petitioner tried out for and made the Indy Select Academy 7 x 7 football team who is directed by Chad Spann from Warren Central. As the director, Mr. Spann handles the “logistics like scheduling tournaments, getting fields rented, acquiring and procuring sponsorships.” The teams are coached and picked by other members of the organization who come from various local community schools. Mr. Spann indicated he does “not have anything to do with the selection process of the players and I do not communicate with the players directly on a normal basis.”
7. Lawrence North recommended Petitioner have no eligibility for 365 days under Rules 20-2 and 19-4. Warren Central recommended Petitioner have full eligibility under rule 19-6.1(b).

CONCLUSIONS OF LAW

1. Any Finding of Fact that may be considered a Conclusion of Law shall be so considered. Any Conclusion of Law that may be considered a Finding of Fact may be considered as such.
2. Although the IHSAA is a voluntary not-for-profit corporation and is not a public entity, its decisions with respect to student eligibility to participate in interscholastic athletic competition are considered a “state action” making the IHSAA analogous to a quasi-governmental entity. IHSAA v. Carlberg, 694 N.E.2d 222 (Ind. 1997), *reh. den.* (Ind. 1998).
3. The Panel has jurisdiction in this matter. The Panel was established to review final student eligibility decisions with respect to interscholastic athletic competition. Ind. Code § 20-26-14. The Panel has jurisdiction when a student’s parent or guardian refers the case to the Panel not later than thirty days after the date of the IHSAA decision. Ind. Code § 20-26-14-6(b). In this matter, the Review Committee rendered a final determination of student-eligibility adverse to the Petitioner on May 10, 2018, and Petitioner sought timely review on May 31, 2018.
4. The Panel may uphold, modify, or nullify the IHSAA Review Committee’s decision. (Ind. Code § 20-26-14-6(c)(3)). The Panel is not required to review the IHSAA determination *de novo*. The Panel review is similar to an appellate-level administrative

review. A full hearing to recreate the record is not required.

5. The Panel reviews the IHSAA determination for arbitrariness or capriciousness. See Carlberg, 694 N.E.2d at 233. A rule or decision will be found to be arbitrary and capricious “only when it is willful and unreasonable, without consideration and in disregard of the facts or circumstances in the case, or without some basis which would lead a reasonable and honest person to the same conclusion.” Id. (citing Dep’t of Natural Resources v. Indiana Coal Council, Inc.), 542 N.E.2d 1000, 1007 (Ind. 1989).
6. The Panel finds that the Petitioner’s move with his father was a bonafide move under Rule 19-5.
7. There was not sufficient evidence under Rule 19-4 to establish the transfer was primarily for athletic reasons. There was certainly tension between the coaching staff at Lawrence North and the Petitioner. Each party felt there was wrong-doing or inappropriate behavior by the other. The Petitioner did convey his displeasure with the coaching staff regarding his playing time and position. Staff at Lawrence North expressed their displeasure with the Petitioner’s level of commitment in practice and games. At the same time, there were family issues in the Petitioner’s home that precipitated the need for a change in the daily living situation for the Petitioner. While there were certainly disagreements and issues with the Petitioner and Lawrence North regarding his participation in the football program, there was not sufficient evidence that established the transfer from Lawrence North to Warren Central was *primarily* for athletic reasons, which would be required for a finding of a Rule 19-4 violation. Additionally, there was no evidence of undue influence on the part of any Warren Central staff.
8. There was also not sufficient evidence under Rule 20-2 to establish there was undue influence. The IHSAA enacted Rule 20-2 to prohibit recruiting of student athletes. The past link Rule in 20-2, as written, would prohibit any student from ever moving to a school where any person may have coached or had contact with them at school or in club participation. This rule holds students responsible for grown-up’s decisions that he/she can have no input or influence over. There was no evidence in the record that in any way Chad Spann or any other Warren Central staff recruited or used undue influence to get the Petitioner to Warren Central. While the Panel agrees Rule 20-2 is a necessary rule to prevent recruitment of students, as it is written, it would prevent students who ever had contact in club sports to participate if a both the coach/school staff and the student ever switched schools, regardless of any undue influence or recruitment. The Rule, as written, unfairly punishes student athletes who participate in club sports who subsequently have parents who move or transfer to another district. Therefore, the IHSAA failed to prove a violation of Rule 20-2, and with a bonafide change residence, the Petitioner would be fully eligible to participate in athletics at Warren Central.

ORDER

The Panel finds by a vote of 6-1 that the decision of the IHSAA Review Committee, upholding the decision of the Commissioner under Rule 19-4 is NULLIFIED. The Panel finds by a vote of 7-0 that the decision of the IHSAA Review Committee, upholding the decision of the Commissioner under Rule 20-2 is NULLIFIED. The Petitioner has full athletic eligibility as of June 20, 2018 at the receiving school, provided he is academically eligible and meets all other eligibility rules.

DATE: June 25, 2018



Kelly Wittman, Chairperson
Case Review Panel

APPEAL RIGHT

Any party aggrieved by the decision of the Case Review Panel has forty-five days from receipt of this written decision to seek judicial review in a civil court with jurisdiction, as provided by Ind. Code § 20-26-14-7.