

**BEFORE THE INDIANA
CASE REVIEW PANEL**

In The Matter T.T.)
Petitioner,)
)
and)
) **CAUSE NO. 210903-227**
The Indiana High School Athletic Association,)
Respondent.)
)
Review Conducted Pursuant to Ind. Code)
§ 20-26-14 et seq.)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PROCEDURAL-HISTORY

On or about August 2, 2021, T.T.’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 2021–2022 school year relating to the Petitioner’s transfer. On August 2, 2021, Lawrence Central High School (“Lawrence Central”), the sending school, completed its portion of the Transfer Report. On August 4, 2021, the receiving school, Mt. Vernon High School (“Mt. Vernon”) completed its portion of the Transfer Report.

On August 6, 2021, the IHSAA Assistant Commissioner determined that Petitioner’s transfer was a Rule 19-6.2 transfer and ruled Petitioner had limited eligibility at the receiving school until May 27, 2022. The Petitioner appealed the Assistant Commissioner’s determination to the IHSAA Review Committee (“Review Committee”).

In response to Petitioner’s request to appeal, the matter was set for a hearing before the Review Committee for August 24, 2021. Following the evidence presented at the hearing, the Review Committee issued its ruling on September 3, 2021, which upheld the decision of the Assistant Commissioner declaring that, according to Rule 19-6.2, Petitioner had limited eligibility.

On September 3, 2021, 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 the record from the IHSAA on September 7, 2021 and received it on September 14, 2021. On September 17, 2021, the Panel held a

meeting¹, 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, a junior, lives with his mother and father in Indianapolis, Indiana. Petitioner attended Lawrence Central, a public school which serves his parents' residence, his freshman (2019-2020) and sophomore (2020-2021) years. While at Lawrence Central he participated in varsity cross-country, track, and wrestling, as well as junior varsity basketball. He last participated athletically at Lawrence Central on May 27, 2021. Record p. 84.
2. On July 27, 2021, Petitioner enrolled at Mt. Vernon, a public school in Fortville, Indiana that does not serve his parents' Indianapolis address. Record 82, 85.
3. Petitioner transferred without a corresponding change of residence when the transfer report was submitted. Record 82.
4. On August 2, 2021, Petitioner's parents completed the Transfer Report which indicated the transfer occurred because Petitioner was "seeking a smaller learning environment after struggling socially this past year." Record 81.
5. Lawrence Central recommended that Petitioner have limited eligibility pursuant to Rule 19-6.2. Mt. Vernon recommended Petitioner have full eligibility through the Limited Eligibility Waiver pursuant to Rule 17-8.5. Mt. Vernon signed the Verification under Rule 17-8.5 while Lawrence Central did not. Both schools indicated the transfer was not for an athletic reason. Record 84, 85.

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

¹The following members participated in the meeting: Ms. Risa Regnier (Chairperson), Mr. Joe Hermann, Mr. John Prifogle, Ms. Laura Valle, Mr. Ben Ballou, and Mr. Chuck Weisenbach. Ms. Leslie-Ann James and Mr. Brandon Knight, staff attorneys, were also present as legal counsel to the Panel.

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 September 3, 2021 and Petitioner sought timely review that same day.
4. The Panel may uphold, modify, or nullify the IHSAA Review Committee’s decision. (Ind. Code § 20-26-14-6(c)(3)).
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. According to Rule 19-6.2, when a student’s parents/guardians do not make a bona fide change of residence to a new district or territory, the student is eligible for limited eligibility at the receiving school, unless there is reason to believe the student transferred primarily for athletic reasons or as a result of undue influence.
7. There are two waivers available to students under the IHSAA Rules: a Limited Eligibility Waiver pursuant to Rule 17-8.5 and a General Waiver of an IHSAA Rule pursuant to 17-8.1. The IHSAA Assistant Commissioner and the Review Committee ruled Petitioner did not qualify for a limited eligibility waiver pursuant to Rule 17-8.5 since the *Verification* was not signed by both schools.
8. In Smock v. the Case Review Panel/Indiana Department of Education/Indiana High School Athletic Association, and Delphi Community School Corporation 08C01-1912-PL-000019, the trial court found that “the Limited Eligibility Waiver Rule (17-8.5) exists to allow non-athletically motivated transfers, which serve the best interest of the student, full eligibility. A school cannot simply unilaterally and erroneously misuse that discretion, and in turn, preclude a student athlete from participating in athletics with full eligibility.” See also In the Matter of J.T. 091002-64 and IHSAA v. Durham, 748 N.E.2d 404 (Ind. Ct. App. 2001). The Panel finds that the sending school did not consider Petitioner for a Waiver of Limited Eligibility based solely on the fact that Petitioner did

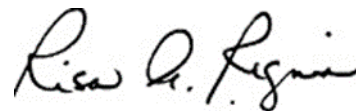
not have a corresponding change of address with the transfer. As explained by Dr. Batts, representing the sending school at the Review Committee hearing, “the overall deal was that [Petitioner] didn’t show a move, and so that’s why it was the 19-6.2. So at that point, it didn’t matter whether it was for athletic reasons; it was [Petitioner] did not show a move.” Record 58. Under that approach, when considering a student for a Waiver of Limited Eligibility, no student would ever receive full eligibility since Rule 17-8.5 only comes into play because there is not a corresponding move. Accordingly, whether the transfer was athletically motivated and served the best interest of the Petitioner could and should have been considered.

9. Just as both schools indicated on their respective sections of the Transfer Report, the Panel finds no evidence that Petitioner’s transfer was for an athletic reason.
10. The evidence provides that Petitioner transferred due to concerns for his physical safety and mental well-being caused by threats he received in June 2020 surrounding an incident involving another Lawrence Central student. These threats involved acts of violence and even death to Petitioner and his family. In addition to the threats, Petitioner received harassing comments requesting that he take his own life. At the Review Committee hearing, the Petitioner’s mother stated that during the subsequent school year, even on a hybrid schedule following an entire semester of virtual learning, Petitioner felt “he had this target on his back, that he always had to walk down the hall with somebody just in case something happened.” Record 49. In addition to the ongoing safety concerns, his mother stated that Petitioner “was sad and still withdrawn.” Record 105. Petitioner described that the incident “drove [him] to such a dark place. [He] had horrible dark thoughts...[a]ll of this was killing [him] every day of that school year.” Record 112. Accordingly, the Panel finds that leaving his environment at Lawrence Central and transferring to Mt. Vernon served the Petitioner’s best interest.
11. The Panel finds the Petitioner eligible for full eligibility at Mt. Vernon under Rule 17-8.5.

ORDER

The Panel finds by a vote of 6-0 that the decision of the IHSAA Review Committee, upholding the decision of the Commissioner is NULLIFIED. The Petitioner has full eligibility as of September 17, 2021 at the receiving school, provided he meets all other eligibility requirements.

DATE: 09/27/2021



Risa Regnier, Chairperson
Case Review Panel

APPEAL RIGHT

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