

**BEFORE THE INDIANA  
CASE REVIEW PANEL**

**In The Matter of M.C.** )  
**Petitioner,** )  
 )  
**and** )  
 ) **CAUSE NO. 211027-231**  
**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 July 8, 2021, M.C. (“Petitioner”) 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 July 28, 2021, both Silver Creek High School (“Silver Creek”), the sending school, and Floyd Central High School (“Floyd Central”) completed their respective portions of the Transfer Report.

On July 29, 2021, the IHSAA Assistant Commissioner determined that Petitioner’s transfer was a Rule 19-6.2 transfer and ruled Petitioner to have limited eligibility for athletics at the receiving schools until January 23, 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 September 9, 2021. Following the evidence presented at the hearing, the Review Committee issued its ruling on September 28, 2021, which upheld the decision of the Assistant Commissioner.

On October 28, 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 October 28,

2021 and received it on November 8, 2021. On November 9, 2021 the Panel held a meeting<sup>1</sup>, 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 sophomore, lives with her parents in Sellersburg, IN. Petitioner attended Silver Creek, a public school which serves her parent's residence, her freshman (2020-2021) year. While at Silver Creek she participated in varsity soccer and reserve basketball. She last participated athletically at Silver Creek on January 23, 2021.
2. On June 1, 2021, Petitioner enrolled at Floyd Central, a public school that does not serve her parents' address.
3. On June 28, 2021, Petitioner completed the Transfer Report which indicated the reason for the transfer was for "improved academic opportunities and mental health."
4. Petitioner transferred without a corresponding change of residence when the transfer report was submitted.
5. Silver Creek and Floyd Central both recommended that Petitioner have limited eligibility pursuant to Rule 19-6.2. Each school indicated that the transfer was not athletically motivated. Neither school recommended that Petitioner have full eligibility through the Limited Eligibility Waiver under Rule 17-8.5. In turn, neither signed the Rule 17-8.5 *Verification*.
6. The girls' soccer season ended in October 2021 and will begin again in August 2022<sup>2</sup>

### 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.

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<sup>1</sup>The following members participated in the meeting: Ms. Risa Regnier (Chairperson), Mr. Joe Hermann, Ms. Laura Valle, Ms. Mary Quinn, Mr. Brett Crousore, Mr. Chuck Weisenbach, Mr. Ben Ballou, and Mr. John Prifogle. Mr. Brandon Knight, staff attorney, was also present as legal counsel to the Panel.

<sup>2</sup>*Future Important Dates*, ihsaa.org, <https://www.ihsaa.org/Portals/0/ihsaa/documents/calendars/Future%20Important%20Dates.pdf> (last visited November 23, 2021).

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 September 27, 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.
8. Here, because both schools recommended limited liability, neither chose to sign the *Verification* which is required for a waiver under Rule 17-8.5. Further, Floyd Central’s decision to recommend limited eligibility was made even after “an awful lot” of communication between their Athletic Director and Petitioner’s father. *Record 37-39*. Accordingly, the Panel finds that the IHSAA’s determination that Rule 17-8.5 did not apply is neither arbitrary or capricious.
9. Generally, a student seeking a Rule 17-8.1 waiver must prove by clear and convincing

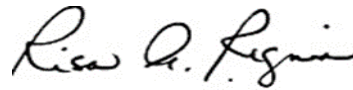
evidence that: the primary purpose of the Rule will still be accomplished if the Rule is not strictly enforced (Rule 17-8.1(a)); a waiver will not harm or diminish the Rule's purpose or spirit (Rule 17-8.1(b)); the student will suffer or be harmed if a waiver of the Rule is not granted (Rule 17-8.1(c)); and a hardship condition exists as defined in Rule 17-8.3 (Rule 17-8.1(d)).

10. At the time of the Panel's meeting, the girls' soccer season was finished. Petitioner will have full athletic eligibility before the next season begins. Additionally, due to Petitioner being "happy" to play junior varsity basketball, the Panel finds that Petitioner will not suffer or be harmed if her limited eligibility is not waived. Therefore, the Panel finds that Petitioner did not meet the burden of proof required for waiver under Rule 17-8.1.
11. The Panel finds that Petitioner is eligible for limited eligibility at Floyd Central under Rule 19-6.2.

### **ORDER**

The Panel finds by a vote of 7-0 that the decision of the IHSAA Review Committee, upholding the decision of the Commissioner, is UPHELD. The Petitioner has full eligibility at the receiving school as of January 23, 2022, provided she meets all other eligibility requirements.

DATE: 11/24/2021



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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.