

**BEFORE THE INDIANA
CASE REVIEW PANEL**

In The Matter B.M.)
Petitioner,)
)
and)
) **CAUSE NO. 211108-233**
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 30, 2021 B.M.’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 September 7, 2021, Mona Shores High School (“Mona Shores”), the sending school, completed its portion of the Transfer Report. The receiving school, Fort Wayne Northrop High School (“Fort Wayne”) completed its portion of the Transfer Report on, 2021.

On September 8, 2021, the IHSAA Commissioner determined that Petitioner’s transfer was a Rule 20-2 transfer and ruled Petitioner had no eligibility at the receiving school until August 30, 2022. 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 October 21, 2021. Following the evidence presented at the October 21, 2021 hearing, the Review Committee issued its ruling on November 5, 2021 upholding the decision of the Commissioner declaring that according to Rule 20-2 Petitioner had no eligibility.

On November 8, 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 and received the record from the IHSAA

on November 24, 2021. On December 14, 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.²

FINDINGS OF FACT

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

1. Petitioner, a junior, lives with her father in Fort Wayne, Indiana. Petitioner attended Mona Shores her freshman year (2019-2020) and sophomore year (2020-2021). While at Mona Shores she played freshmen volleyball and varsity basketball. She last participated athletically at Mona Shores on March 29, 2021. Record p. 85.
2. The Petitioner lived in Muskegon, Michigan and attended Mona Shores, a public school which served her parents' residence. Petitioner transferred with a corresponding change of residence when transfer report was submitted. Record p. 83.
3. The Petitioner transferred to Fort Wayne Northrop, a public school in Fort Wayne, Indiana that does serve her father's residence in Fort Wayne. Transcript p. 87.
4. On August 30, 2021, Petitioner's parents completed the Transfer Report and the Petitioner indicated the transfer occurred because "Dad recently got a job in Fort Wayne and they moved from Michigan" Record p. 86.
5. Mona Shores recommended Petitioner have no eligibility under Rule 19-4.
6. Fort Wayne recommended Petitioner have no eligibility under Rule 20-2 after being notified of a connection between Petitioner and Katie Jackson. Ms. Jackson is a member of Fort Wayne Northrop's Girls Basketball staff. Record p. 85
7. The Petitioner's father indicated that on multiple occasions Ms. Jackson assisted the Petitioner's Always 100 AAU team. Transcript p. 39. Ms. Jackson's assistance occurred within the twelve-month period prior to the Petitioner's enrollment at Fort Wayne.
8. Neither Mona Shores nor Fort Wayne signed the Verification under Rule 17-8.5. Record p. 85, 86.

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

² Prior to the meeting, the Panel received a Supplemental Submission from Petitioner as well as an objection from the IHSAA regarding the submitter of the Supplemental Submission. The Panel, over the IHSAA's objection, considered the Supplemental, recognizing that it is largely a persuasive document to which the Panel is not bound.

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 November 5, 2021, and Petitioner sought timely review on November 8, 2021.
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. 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 sending and receiving schools did not sign the *Verification*, so Petitioner did not qualify for a limited eligibility waiver pursuant to Rule 17-8.5.
7. 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)).

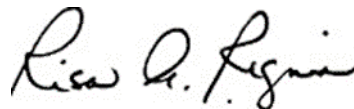
8. According to Rule 19-6.2, when a student's parents/guardians do not make a bona fide change of residence to a new district or territory, the student is eligible for limited eligibility at the receiving school, unless there is reason to believe the student transferred primarily for athletic reasons or as a result of undue influence. While the Panel found the student and her father made a bona fide change of residence, the Panel finds that the Petitioner and family did not meet the burden of proof demonstrating that there was no evidence of athletic motivation or the transfer was the result of undue influence. Moreover, the Panel finds there is no hardship condition present that would allow for a waiver of Rules 19-6.2 or 20-2 for the Petitioner.

9. The Panel finds there is evidence that demonstrates there was a past link between the Petitioner and Coach Jackson. At the Review Hearing Committee, the Petitioner's father indicated that on occasion Ms. Jackson assisted with the Petitioner's Always 100 AAU team. Transcript p. 39. Ms. Jackson's assistance occurred within the twelve-month period prior to the Petitioner's enrollment at Fort Wayne. Ms. Jackson was then later hired on as the girl's head basketball coach at the receiving school. The Petitioner then enrolled at Fort Wayne on August 30, 2021. In addition, the Panel notes that both the sending and receiving schools recommended Petitioner have no eligibility at Fort Wayne. The Panel finds that due to the Petitioner receiving instruction from a member of the Fort Wayne coaching staff during a twelve-month period under Rule 20-2, there was a violation of the past link rule thus the Petitioner has no eligibility 365 days from the date of enrollment at Fort Wayne.

ORDER

The Panel finds by a vote of 6-1 that the decision of the IHSAA Review Committee, upholding the decision of the Commissioner is UPHELD. The Petitioner has no eligibility based on Rule 20-2 and 19-4 for 365 days from the date of his enrollment at the receiving school, which was August 25, 2022, provided she is academically eligible and meets all other eligibility

DATE: 12/29/2021



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.