

**BEFORE THE INDIANA  
CASE REVIEW PANEL**

**In The Matter G.M.** )  
**Petitioner,** )  
 )  
**and** )  
 ) **CAUSE NO. 201204-213**  
**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 12, 2020, G.M.’s (“Petitioner”) mother 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 2020–2021 school year relating to the Petitioner’s transfer. On September 28, 2020 Avon High School (“Avon”), 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 August 26, 2020.

On October 21, 2020, the IHSAA Assistant Commissioner determined that Petitioner’s transfer was a Rule 19-4 transfer, and the Petitioner had no eligibility at the receiving school until August 6, 2021. The Petitioner appealed the Assistant 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 November 19, 2020. Following the evidence presented at the November 19, 2020 hearing, the Review Committee issued its ruling on December 3, 2020 upholding the decision of the Assistant Commissioner and declaring that according to Rule 19-4 the Petitioner had no eligibility at the receiving school until August 6, 2021.

On December 4, 2020, 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 December 14, 2020. On December 17, 2020, the Panel held a meeting<sup>1</sup>, but could not establish a quorum and reconvened on December 18, 2020. 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 senior, lives with his mother in Indianapolis, Indiana. Petitioner attended Avon for his freshman year (2017-18), sophomore year (2018-19) and junior year (2019-20). While at Avon he played varsity basketball. He last participated athletically at Avon on March 3, 2020.
2. Petitioner transferred with a corresponding change of residence when the Transfer Report was submitted. The Petitioner enrolled in Warren Central, a public school, which serves his mother's new address.
3. On August 12, 2020, Petitioner's mother completed the Transfer Report and the Petitioner indicated he was transferring because they moved into the Warren Central district after she separated from her wife. (R. p. 110). There was a bonafide change of residence.
4. The Petitioner struggled academically at Avon. His mother discovered that he may not have met the requirements to graduate. (R. p. 31). According to Warren Central Officials, there appear to be significant missteps in the academic counseling he received at Avon, including not earning a required physical education credit. (R. p. 34).
5. Avon recommended the Petitioner have no eligibility under Rule 19-4. Warren Central recommended the Petitioner have full eligibility under Rule 19-5. Neither school signed the Verification under Rule 17-8.5.

### 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: Kelly Wittman (Chairperson), Ms. Mary Quinn, Ms. Laura Valle, Mr. Chuck Weisenbach, Mr. Ben Ballou, Mr. Brett Crousore, and Mr. Mickey Golembeski. Ms. Kelly Bauder, staff attorney, was also present as legal counsel to the Panel. Mr. Marques Clayton recused himself from consideration in this case.

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 December 3, 2020 and Petitioner sought timely review on December 4, 2020.
4. The Panel may uphold, modify, or nullify the IHSAA Review Committee’s decision. (Ind. Code § 20-26-14-6(c)(3)). 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).
5. 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 schools did not sign the *Verification*, and the Review Committee ruled Petitioner did not qualify for a limited eligibility waiver pursuant to Rule 17-8.5.
6. 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)). The Panel finds there was a bonafide move, making it unnecessary to determine if a hardship condition existed.
7. There is not insufficient evidence to find that the transfer was primarily for athletic reasons. Avon school officials testified that the Petitioner asked his coach to call his mom because he did not want to transfer. (R. p. 29). The Petitioner told his coach “I’m

not trying to go to Warren Central, I want to stay here with my friends and finish what I started.” (R. p. 29). Avon officials said the Petitioner also explained that it was his understanding that coaches at Warren Central would be taking him to school, however the Petitioner denies making this statement. (R. p. 29 & 140). Avon officials said, the Petitioner also mentioned there was a new coach at Warren Central and he was being highly recruited to play at Warren Central and could get a scholarship. (R. p. 25). The Petitioner’s mother testified that he did not want to leave Avon, but she felt the school had failed him in not having him on a graduation pathway. (R. p. 32). The Petitioner’s mother considered letting him stay with his stepmother so he could finish school at Avon, but decided she needed to find a school that could help him academically. (R. p. 33). The Petitioner’s mother testified she picked Warren Central because of the programs they have in place to make sure kids graduate, including study tables, counselors and tutors. (R. p. 48). There were certainly discussions with Warren Central officials about NCAA eligibility, but that is standard with any student athlete so they can ensure they meet the academic requirements necessary to be eligible to play at the collegiate level. (R. p. 66). Warren Central denied having any coaching staff affiliated with the Petitioner’s AAU team. (R. p. 84). The Petitioner denies being recruited to play basketball at Warren Central (R. p. 140). He also denies talking to a Warren Central student about transferring to the school. (R. p. 140). Warren Central denied the coaches had any contact with the Petitioner or his mother prior to enrollment or that coaches would be transporting him to school (R. p. 144-145). The Panel finds the IHSAA failed to meet the burden of proof to show the move was made primarily for athletic reasons, therefore there was no violation of Rule 19-4.

8. The Panel finds that Petitioner is entitled to full eligibility under Rule 19-5. Warren Central has established that the Petitioner and his mother live in the district, therefore there was a bonafide change of address.

### **ORDER**

The Panel finds by a vote of 4-3 that the decision of the IHSAA Review Committee is NULLIFIED. The Petitioner has full eligibility at the receiving school, effective December 18, 2020, provided he is academically eligible and meets all other eligibility rules.

DATE: 12/21/2020



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 their written decision to seek judicial review in a civil court with jurisdiction, as provided by Ind. Code § 20-26-14-7.