Reprinted
February 2, 2010

HOUSE BILL No. 1168

DIGEST OF HB 1168 (Updated February 1, 2010 6:50 pm - DI 109)

Citations Affected: IC 20-26; noncode.

Synopsis: High school athletics. Provides that the case review panel that hears cases relating to disputes over the application or interpretation of rules governing interscholastic high school athletics may take action by the affirmative vote of a majority of the panel members present at a meeting if a quorum of the panel is present. (Under current law, an action of the panel requires the vote of five of the nine members of the panel.) Provides that a parent may take legal action regarding a dispute over the application or interpretation of the rules after the panel has issued a decision on the case. Requires the panel to issue a written decision on a case not later than 10 days after the panel hears the case. Provides that a parent who disagrees with the panel's decision may file a legal action to review the panel's decision not later than 45 days after the panel issues its decision. Allows a student or the student's parent to proceed directly to a court with jurisdiction to resolve a dispute if an interscholastic high school athletics association fails to follow its bylaws regarding hearing and appeals procedures. Directs the department of education to study and prepare a report to the general assembly by December 31, 2010 concerning the impact and the feasibility of allowing a high school student who attends a nonpublic nonaccredited school, a nonpublic school or a charter school that is not a member of an interscholastic athletic association to participate in high school athletics at a public high school that is a member of an interscholastic athletic association if the public high school is located within the legal settlement of the student. Makes other changes.

Effective: July 1, 2010.

Grubb, Turner, Porter

January 7, 2010, read first time and referred to Committee on Education.
January 25, 2010, reported — Do Pass.
February 1, 2010, read second time, amended, ordered engrossed.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

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HOUSE BILL No. 1168

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 20-26-14-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 5.5. (a) Not later than three (3) business days after the association makes a decision concerning the application or interpretation of a rule of the association to an individual student, the association shall notify by registered or certified mail the following of the association's decision:**

(1) The student's parent.

(2) The student's school.

(b) In its notice to the parent under subsection (a)(1), the association shall include information about the process under this chapter for appealing the association's decision.

(c) The association shall conduct its investigation, review, and decision making in an expeditious manner.

SECTION 2. IC 20-26-14-6, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) The association must establish a case review

panel that meets the following requirements:

(1) The panel has nine (9) members.

(2) The state superintendent or the state superintendent's designee is a member of the panel and is the chairperson of the panel.

(3) The state superintendent appoints as members of the panel persons having the following qualifications:

(A) Four (4) parents of high school students.

(B) Two (2) high school principals.

(C) Two (2) high school athletic directors.

(4) A member of the panel serves for a four (4) year term, subject to the following:

(A) An appointee who ceases to meet the member's qualification under subdivision (3) ceases to be a member of the panel.

(B) The state superintendent shall appoint fifty percent (50%) of the initial appointees under each clause in subdivision (3) for terms of two (2) years, so that terms of the panel are staggered.

(5) The panel must meet monthly, unless there are no cases before the panel. The panel may meet more frequently at the call of the chairperson. However, the chairperson must call a meeting within five (5) business days, **or as soon thereafter as a quorum can be assembled,** after the panel receives a case in which time is a factor in relation to the scheduling of an athletic competition.

(6) A quorum of the panel is five (5) members. The affirmative vote of ~~five (5) members of~~ **a majority of** the panel **members present at a meeting at which a quorum is present** is required for the panel to take action.

(b) A student's parent who disagrees with a decision of the association concerning the application or interpretation of a rule of the association to the student shall have the right to do one (1) of the following:

(1) Accept the decision.

~~(2) Take legal action without first referring the case to the panel.~~

~~(3)~~ **(2)** Refer the case to the panel. **The parent must refer the case to the panel not later than thirty (30) days after the date of the association's decision.**

(c) ~~Upon receipt of~~ **After** a case **is referred under subsection (b)(2),** the panel must do the following:

(1) Collect testimony and information on the case, including testimony and information from both the association and the parent.

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(2) Place the case on the panel's agenda and consider the case at a meeting of the panel.

(3) ~~Make~~ **Not later than ten (10) days after the meeting at which the panel considers the case, issue a written decision that does** one (1) of the following: ~~decisions.~~

(A) ~~Uphold~~ **Upholds** the association's decision on the case.

(B) ~~Modify~~ **Modifies** the association's decision on the case.

(C) ~~Nullify~~ **Nullifies** the association's decision on the case.

(d) **Subject to section 7 of this chapter,** the association must implement the decision of the panel on each case. However, a decision of the panel:

(1) applies only to the case before the panel; and

(2) does not affect any rule of the association or decision under any rule concerning any student other than the student whose parent referred the case to the panel.

(e) The association shall pay all costs attributable to the operation of the panel, including travel and per diem for panel members.

SECTION 3. IC 20-26-14-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 7. (a) If the association or the parent who referred a case to the panel under section 6(b)(2) of this chapter disagrees with the decision of the panel, the association or the parent may file a legal action to review the panel's decision.**

(b) An action must be filed under subsection (a) with a court with jurisdiction not later than forty-five (45) days after the panel issues its decision under section 6(c) of this chapter.

(c) In an action brought under this section, the court may reverse the panel's decision if the court, upon its own review of the facts and issues involved in the decision and the applicable rule of the association, determines that the decision of the panel, or the decision of the association upheld by the panel, is:

(1) not a fair and logical interpretation or application of the association's rule;

(2) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(3) contrary to a constitutional right, power, privilege, or immunity;

(4) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(5) without observance of procedure required by law; or

(6) unsupported by substantial evidence.

(d) The court reviewing a panel decision under this section may

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do any of the following:

(1) Affirm the panel's decision.

(2) Modify the panel's decision.

(3) Reverse the panel's decision and remand the action to the panel for action directed by the court.

(e) Notwithstanding this chapter, if an association fails to follow its bylaws regarding hearing and appeals procedures, a student or the student's parent may proceed directly to a court with jurisdiction to resolve a dispute.

SECTION 4. [EFFECTIVE JULY 1, 2010] **(a) As used in this SECTION, "association" means an organization that conducts, organizes, sanctions, or sponsors interscholastic high school athletic events as the association's primary purpose.**

(b) As used in this SECTION, "legal settlement" means a student's status with respect to the school corporation that has the responsibility to allow the student to attend its local public schools without the payment of tuition, or to pay transfer tuition under IC 20-26-11 if the student attends school in a local public school of another school corporation.

(c) The department of education established by IC 20-19-3-1 shall study the following:

(1) The feasibility of allowing a high school student who attends:

(A) a nonpublic nonaccredited school;

(B) a nonpublic school; or

(C) a charter school;

that is not a member of an association to participate in high school athletics at a public high school that is a member of an association if the public high school is located within the legal settlement of the student.

(2) The impact of allowing a high school student who attends:

(A) a nonpublic nonaccredited school;

(B) a nonpublic school; or

(C) a charter school;

that is not a member of an association to participate in high school athletics at a public high school that is a member of an association if the public high school is located within the legal settlement of the student.

(d) The department of education shall prepare a report concerning the topics set forth in subsection (c) and submit the report to the legislative council in an electronic format under IC 5-14-6 not later than December 31, 2010.

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(e) The report shall identify the conditions to be met for students described in subsection (c)(1) and (c)(2) to be allowed to participate in high school athletics at a public high school.

(f) This SECTION expires January 1, 2011.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1168, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

PORTER, Chair

Committee Vote: yeas 10, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1168 be amended to read as follows:

Page 1, line 3, delete "five (5)" and insert "**three (3)**".

Page 1, line 6, after "notify" insert "**by registered or certified mail**".

Page 1, line 9, delete "panel." and insert "**student's school.**".

Page 2, line 22, after "days" insert ", **or as soon thereafter as a quorum can be assembled,**".

Page 3, line 3, delete "fourteen (14)" and insert "**ten (10)**".

Page 3, line 27, delete "section by a parent who" and insert "**section,**".

Page 3, line 28, delete "disagrees with a decision of the panel,".

Page 4, after line 6, begin a new paragraph and insert:

"**(e) Notwithstanding this chapter, if an association fails to follow its bylaws regarding hearing and appeals procedures, a student or the student's parent may proceed directly to a court with jurisdiction to resolve a dispute.**".

(Reference is to HB 1168 as printed January 25, 2010.)

GRUBB

HOUSE MOTION

Mr. Speaker: I move that House Bill 1168 be amended to read as follows:

Page 4, after line 6, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE JULY 1, 2010] **(a) As used in this SECTION, "association" means an organization that conducts,**

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organizes, sanctions, or sponsors interscholastic high school athletic events as the association's primary purpose.

(b) As used in this SECTION, "legal settlement" means a student's status with respect to the school corporation that has the responsibility to allow the student to attend its local public schools without the payment of tuition, or to pay transfer tuition under IC 20-26-11 if the student attends school in a local public school of another school corporation.

(c) The department of education established by IC 20-19-3-1 shall study the following:

(1) The feasibility of allowing a high school student who attends:

(A) a nonpublic nonaccredited school;

(B) a nonpublic school; or

(C) a charter school;

that is not a member of an association to participate in high school athletics at a public high school that is a member of an association if the public high school is located within the legal settlement of the student.

(2) The impact of allowing a high school student who attends:

(A) a nonpublic nonaccredited school;

(B) a nonpublic school; or

(C) a charter school;

that is not a member of an association to participate in high school athletics at a public high school that is a member of an association if the public high school is located within the legal settlement of the student.

(d) The department of education shall prepare a report concerning the topics set forth in subsection (c) and submit the report to the legislative council in an electronic format under IC 5-14-6 not later than December 31, 2010.

(e) The report shall identify the conditions to be met for students described in subsection (c)(1) and (c)(2) to be allowed to participate in high school athletics at a public high school.

(f) This SECTION expires January 1, 2011.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1168 as printed January 25, 2010.)

THOMPSON

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