CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1168

Citations Affected: IC 20-26-14.

Synopsis: High school athletics. Conference committee report for EHB 1168. Directs the state superintendent to administer the functions of the case review panel that hears cases relating to disputes over the application or interpretation of rules governing interscholastic high school athletics. 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 a high school athletics association 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. **(This conference committee report does the following: (1) Requires the department of education to collaborate with a high school athletic association in studying and preparing a report concerning the impact and feasibility of allowing a high school student who attends a nonpublic school or charter school that is not a member of an athletic association to participate in the athletic program at a public school that is a member of an interscholastic athletic association, including a study of practices in other states. (2) Changes provisions concerning panel actions.)**

Effective: July 1, 2010.

Adopted Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1168 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

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) The state superintendent shall administer the functions of the panel.

~~(4)~~ **(5)** 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)~~ **(6)** 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)~~ **(7)** A quorum of the panel is five (5) members. The affirmative vote of ~~five (5)~~ **the greater of the majority present or four (4)** members of the panel 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.

(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) business 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~~ **a stipend of at least fifty dollars ($50) for each meeting** 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 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 association in collaboration with the department of education 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.

(3) The practices of other states concerning participation in organized high school athletic events by nonpublic schools, identifying strengths and weaknesses in the practices of those states, as well as the correlation to Indiana's rules and practices governing interscholastic high school athletics.

(d) The association, in collaboration with 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 must include findings regarding other states' practices concerning participation in organized high school athletic events by nonpublic schools, identifying strengths and weaknesses of the practices of those states, as well as the correlation to Indiana's rules and practices governing interscholastic high school athletics.

(f) This SECTION expires January 1, 2011.

(Reference is to EHB 1168 as reprinted February 25, 2010.)

Conference Committee Report
on
Engrossed House Bill 1168

Signed by:

_____	_____
Representative Grubb Chairperson	Senator Kruse
_____	_____
Representative Turner	Senator Sipes
House Conferees	**Senate Conferees**