

**BEFORE THE INDIANA
CASE REVIEW PANEL**

In The Matter K.M.)
Petitioner,)
)
and)
) **CAUSE NO. 210308-221**
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 January 4, 2021, K.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 2020–2021 school year relating to the Petitioner’s transfer. On January 6, 2021, Knox High School (“Knox”), the sending school, completed its portion of the Transfer Report. The receiving school, North Judson-San Pierre High School (“North Judson”) completed its portion of the Transfer Report on January 8, 2021.

On January 18, 2021, the IHSAA Commissioner determined that Petitioner’s transfer was a Rule 19-4 transfer and ruled Petitioner had no eligibility at the receiving school until January 5, 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 February 19, 2021. Following the evidence presented at the February 19, 2021 hearing, the Review Committee issued its ruling on March 2, 2021 upholding the decision of the Commissioner declaring that according to Rule 19-4, Petitioner had no eligibility until January 5, 2022.

On March 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 April 1, 2021. On April 13, 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.

FINDINGS OF FACT

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

1. Petitioner, a junior, lives with his mother and father in Knox, Indiana. Petitioner attended Knox his freshman (2018-2019), sophomore (2019-2020) and the fall semester of his junior year (2020-2021). While at Knox he played varsity football and basketball. He last participated athletically at Knox on November 19, 2020. Record p. 40.
2. The Petitioner lives in Knox, Indiana and attended Knox, a public school which served his parents' residence. Petitioner transferred without a corresponding change of residence. Record p. 1.
3. The Petitioner transferred to North Judson a public school in North Judson, Indiana that does not serve his parents' residence. Record p. 2.
4. On January 4, 2021, Petitioner's parents completed the Transfer Report and the Petitioner indicated the transfer occurred because "mental wellbeing, grades, and environment of the school is not conducive to [Petitioner's] success as a student." Record p. 44.
5. While at Knox, Petitioner exhibited poor sportsmanship on the football field and basketball court. After demonstrating poor behavior at a basketball scrimmage, Knox required Petitioner to take the NFHS Sportsmanship class and sign the sportsmanship contract to be athletically eligible at Knox. Petitioner did not take the sportsmanship class because he felt it was no longer necessary since he was no longer a member of the basketball team. Transcript p. 27
6. Knox recommended Petitioner have no eligibility under Rule 19-4 and Rule 3-8. North Judson recommended Petitioner have no eligibility under Rule 19-4.
7. Neither Knox nor North Judson school officials signed the 17-8.5 *Verification* limited eligibility waiver. Rule 17-8.5 requires both schools sign the waivers, if the move is in the best interest of the student.

¹The following members participated in the meeting: Dr. Jennifer Jensen (Chairperson), Mr. Ben Ballou, Mr. Marques Clayton, Ms. Laura Valle and Ms. Meisha Wide. Ms. Leslie-Ann James, staff attorney, was also present as legal counsel to the Panel.

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 March 3, 2021 and Petitioner sought timely review on March 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

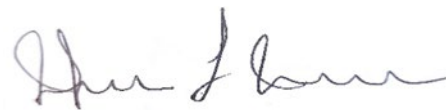
Rule is not granted (Rule 17-8.1(c)); and a hardship condition exists as defined in Rule 17-8.3 (Rule 17-8.1(d)).

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 for athletic reasons or the result of undue influence. The Petitioner's parents indicated that the transfer occurred because Petitioner needed a fresh start for his mental well-being and academic success. The record demonstrates that Petitioner's behavior on and off the court resulted in Knox's administration requiring the student to take the NFHS Sportsmanship class and sign a sportsmanship contract to address his behavior. The Petitioner was aware that he would not be athletically eligible until he took the course and signed the contract. The Petitioner refused to take the class or sign the contract because he quit basketball team. The Petitioner did take the NFHS course, but it was prior to his IHSAA Review Committee hearing. Furthermore, the sending and receiving school both recommended ineligibility for the Petitioner because they felt the transfer was athletically motivated. The Panel believes that the Petitioner was experiencing emotional struggles at Knox, but they did not rise to the level of a hardship condition. In addition, the Panel finds the decision to transfer was a choice that did not rise to the level of a hardship condition that would allow eligibility at the receiving school. Therefore, all of the requirements of Rule 17-8.1 were not met.

ORDER

The Panel finds by a vote of 5-0 that the decision of the IHSAA Review Committee, upholding the decision of the Commissioner is UPHOLD. The Petitioner has no eligibility until January 5, 2022 the receiving school and full eligibility on January 5, 2022, provided he meets all other eligibility requirements.

DATE: 04/21/2021



Dr. Jennifer Jensen, 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.