

**BEFORE THE INDIANA
CASE REVIEW PANEL**

In The Matter J.G.)
Petitioner,)
)
and)
) **CAUSE NO. 210524-223**
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 February 5, 2021, J.G.’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 February 5, 2021, Western Boone High School (“Western Boone”), the sending school, completed its portion of the Transfer Report. The receiving school, Covenant Christian High School (“Covenant Christian”) completed its portion of the Transfer Report on February 8, 2021.

On February 10, 2021, the IHSAA Commissioner determined that Petitioner’s transfer was a Rule 19-6.2 transfer and ruled Petitioner had limited eligibility at the receiving school until September 25, 2021. 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 May 3, 2021. Following the evidence presented at the May 3, 2021 hearing, the Review Committee issued its ruling on May 14, 2021 upholding the decision of the Commissioner declaring that according to Rule 19-6.2, Petitioner had limited eligibility.

On May 24, 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 June 18, 2021. On July 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 senior, lives with his mother and stepfather in Lebanon, Indiana. Petitioner attended Western Boone his freshman year (2018-2019), sophomore year (2019-2020), and the fall semester of his junior year (2020-2021). While at Western Boone he played junior varsity and varsity football. He last participated athletically at Western Boone on September 25, 2020. Record p. 45.
2. The Petitioner lived in Lebanon, Indiana and attended Western Boone, a public school which served his parents' residence. Petitioner transferred without a corresponding change of residence when the Transfer Report was submitted. R. p. 47
3. The Petitioner transferred to Covenant Christian, a private school in Indianapolis, Indiana that does not serve his parents' residence in Lebanon. R. p. 47.
4. On February 5, 2021, Petitioner's parents completed the Transfer Report and the Petitioner indicated the transfer occurred because "[Petitioner] is transferring because we want him to be in a Christian education setting for his mental, emotional, and spiritual well-being. He also looks forward to being challenged more academically in a college-preparatory school." R. p. 2
5. Western Boone recommended Petitioner have limited eligibility through Rule 19-6.2. Covenant Christian also recommended Petitioner have limited eligibility under Rule 19-6.2.

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

¹The following members participated in the meeting: Risa Regnier (Chairperson), Mr. Ben Ballou, Mr. Brett Crousore, Ms. Laura Valle, Ms. Mary Quinn, Mr. Chuck Weisenbach, and Ms. Meisha Wide. Ms. Leslie-Ann James, staff attorney, was also present as legal counsel to the Panel.

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).

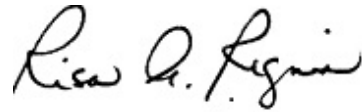
3. The Panel has jurisdiction in this matter. The Panel was established to review final student eligibility decisions with respect to interscholastic athletic competition. Ind. Code § 20-26-14. The Panel has jurisdiction when a student’s parent or guardian refers the case to the Panel not later than 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 May 14, 2021 and Petitioner sought timely review on May 24, 2021.
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 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.
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)).
7. 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.
8. According to the record, the Review Committee stated, “while these circumstances very strongly suggest that athletic[s] was a reason for [Petitioner’s] transfer, the Committee

concludes that the evidence fails to show that primary reason for the transfer was athletic.” R. 9 Furthermore, the Review Committee found no violation of Rule 19-4. R. p. 9-10. The Panel finds there is no evidence of athletic motivation in the record. Moreover, the record does not demonstrate any evidence of recruitment and undue influence. In addition, there were no discussions held between the Petitioner and the Covenant Christian coaching staff before Petitioner enrolled at the receiving school. The Petitioner’s only contact with Covenant Christian staff prior to his enrollment was a shadow visit.

9. The Panel finds that the Petitioner’s decision to transfer to Covenant Christian was in his best interest. The Petitioner expressed to his parents that he would be better served at Covenant Christian because he would gain a “fresh start.” Tr. p. 13. At the Review Committee hearing, Petitioner revealed that he felt “...emotionally and mentally abused by the football coaching staff.” Tr. p 13. The Petitioner stated that the abuse mainly came from the defensive coordinator and continued as the season progressed. In consultation with his parents, the Petitioner felt it was in his best interest to quit the football team. The Petitioner’s parents also shared their concerns about the defensive coordinator with Western Boone’s football coach after noticing a significant shift in Petitioner’s behavior. Petitioner’s parents stated they were told by the head football coach “you should have seen him eight years ago; I’ve been working on him.” Tr. p. 31. However, Western Boone staff testified at the IHSAA hearing that they were not aware of any issues between the defensive coordinator and other players. After leaving the team, Petitioner experienced feelings of isolation at Western Boone which lead him to consider transferring. After researching schools in the area, Petitioner decided to do a shadow visit at Covenant Christian. Weighing concerns about bullying, transportation, and academic needs, Petitioner found that transferring to Covenant Christian served his specific needs.
10. In Smock v. the Case Review Panel/Indiana Department of Education/Indiana High School Athletic Association, and Delphi Community School Corporation 08C01-1912-PL-000019, the trial court found that “the Limited Eligibility Waiver Rule (17-8.5) exists to allow non-athletically motivated transfers, which serve the best interest of the student, full eligibility. A school cannot simply unilaterally and erroneously misuse that discretion, and in turn, preclude a student athlete from participating in athletics with full eligibility.” See also In the Matter of J.T. 091002-64 and IHSAA v. Durham, 748 N.E.2d 404 (Ind. Ct. App. 2001). In the absence of athletic motivation and when presented with evidence from the Petitioner that the move was in his best interest, the Review Committee should have found the move was in his best interest and given full eligibility by Rule 17-8.5.
11. The Panel finds that Petitioner is eligible for full eligibility at Covenant Christian under Rule 17-8.5.

ORDER

The Panel finds by a vote of 7-0 that the decision of the IHSAA Review Committee, upholding the decision of the Commissioner is NULLIFIED. The Petitioner has full eligibility as of July 13, 2021, at the receiving school, provided he meets all other eligibility requirements.



DATE: 07/21/2021

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.