

**BEFORE THE INDIANA  
CASE REVIEW PANEL**

**In The Matter of S.B.** )  
**Petitioner,** )  
 )  
**and** )  
 ) **CAUSE NO. 211014-229**  
**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 June 21, 2021, S.B. (“Petitioner”) 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 July 16, 2021, Concord High School (“Concord”), the sending school, completed its portion of the Transfer Report. On July 19, 2021, the receiving school, Northridge High School (“Northridge”) completed its portion of the Transfer Report.

On July 27, 2021, the IHSAA Assistant Commissioner determined that Petitioner’s transfer was a Rule 19-4 transfer and ruled Petitioner ineligible for athletics at the receiving schools until June 15, 2022. The Petitioner appealed the Assistant Commissioner’s determination to the IHSAA Review Committee (“Review Committee”).

In response to Petitioner’s request to appeal, the matter was set for a hearing before the Review Committee for September 9, 2021. Following the evidence presented at the hearing, the Review Committee issued its ruling on September 27, 2021, which upheld the decision of the Assistant Commissioner.

On October 14, 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 the record from the IHSAA on October 15,

2021 and received it on October 26, 2021. On November 9, 2021 the Panel held a meeting<sup>1</sup>, 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 her mother in Elkhart, Indiana. Petitioner attended Concord, a public school which serves her parent's residence, her freshman (2018-2019) and sophomore (2019-2020) years. While at Concord she participated in varsity basketball. She last participated athletically at Concord on February 2, 2021.
2. On June 21, 2021, Petitioner enrolled at Northridge, a public school in Middlebury, Indiana that does not serve her parent's address.
3. Petitioner transferred in an anticipation of a change of residence by parent when the transfer report was submitted. However, a corresponding change of residence never occurred.
4. On June 21, 2021, Petitioner's mother completed the Transfer Report which indicated the transfer occurred because Petitioner was "not thriving as student/mental health not positive."
5. Concord indicated the transfer was for an athletic reason and recommended that Petitioner have no eligibility pursuant to Rule 19-4. Northridge recommended Petitioner have limited eligibility under Rule 19-5.2 and indicated the transfer was not for an athletic reason.

### 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-

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<sup>1</sup>The following members participated in the meeting: Ms. Risa Regnier (Chairperson), Mr. Joe Hermann, Ms. Laura Valle, Ms. Mary Quinn, Mr. Brett Crousore, Mr. Chuck Weisenbach, Mr. Ben Ballou, and Mr. John Prifogle. Mr. Brandon Knight, staff attorney, was also present as legal counsel to the Panel.

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 September 27, 2021 and Petitioner sought timely review that same day.
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. The Panel finds that the Review Committee disregarded the facts of this case by erroneously finding "that neither [Petitioner] nor her mother discussed academics at the hearing." Record at 16. To start, the very first thing Petitioner's mother did once the Review Committee hearing began was to admit Petitioner's Northridge grades as an exhibit. When asked why she wanted to submit the grades, she responded, "[b]ecause part of the reason why [Petitioner] left was for academics." Record at 25. Then, during her initial presentation, Petitioner explained that the transfer was better for her academically because Northridge was ranked higher than Concord. Record at 32. Additionally, the evidence shows that, due to her academic struggles, Petitioner requested to physically attend school on days she was not required pursuant to the hybrid scheduling in place at the time. Record at 35. During the hearing, Coach Cepeda was asked about the multiple conversations she'd had with Petitioner's mother and she acknowledged that, in addition to having basketball-related conversations, they also had conversations about academics. Specifically, "what we could do to help [Petitioner] out academically." Record at 49. The Panels finds it noteworthy, regarding the conversations between Petitioner's mother and Coach Cepeda, that the Review Committee only asked for details of those that involved athletics, never about academics. Record at 50. Lastly, even the Assistant Commissioner, in her concluding remarks, mentioned that she was "glad to hear [Petitioner] is doing well academically." Record at 64. The Panel finds ample evidence to support the notion that Petitioner's transfer was

motivated, in part, by academics. The Review Committee's disregard of the evidence that suggests Petitioner's transfer was academically motivated causes their ruling to be arbitrary and capricious.

7. Further, 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 primarily for athletic reasons<sup>2</sup>.
8. When a student transfers for primarily athletic reasons, pursuant to Rule 19-4, they would be athletically ineligible for one year from the date they enrolled in the new school. The purpose of this rule is "to preserve the integrity of interschool athletics and to prevent or minimize recruiting, proselytizing and school 'jumping' for athletic reasons." *IHSAA 2021-22 By Laws & Articles of Incorporation*, page 94.
9. The evidence here provides that, while part of the Petitioner's decision to transfer certainly stemmed from her involvement with the basketball team at Concord, the transfer was not for primarily athletic reasons. The record is void of any evidence to support the notion that the transfer occurred due to Petitioner seeking an athletic advantage, seeking a team consistent with her basketball abilities, or seeking to nullify punitive action taken by Concord. The Panel does find that Petitioner transferred to seek relief from a conflict with the actions of her coach at Concord. However, it was not a conflict relative to athletics such as the starting lineup, playing time, play calling, etc. Instead, here, the conflict for Petitioner was how she felt she was treated by her coach as well as a few teammates and how that impacted her mentally and emotionally. According to Petitioner, she felt like she "didn't belong...didn't fit in." Record at 39. Further, Petitioner's mother provided at the Review Committee hearing that she met with the coach multiple times to discuss the way her daughter was being treated because she felt as though she was being singled out. Record at 41. Consequently, the Panel finds that Petitioner's experience with the basketball program negatively impacted her mental health, which, in addition to academics, motivated her transfer.
10. Having found that the transfer was not for primarily athletic reasons, the Petitioner shall have limited eligibility at Northridge under Rule 19-6.2.

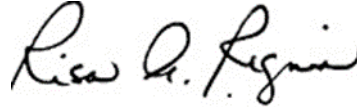
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<sup>2</sup> A Transfer For Primarily Athletic Reasons includes, but is not limited to:

- a. a transfer to obtain the athletic advantage of a superior, or inferior, athletic team, a superior athletic facility or a superior coach or coaching staff;
- b. a transfer to obtain relief from a conflict with the philosophy or action of an administrator, teacher or coach relative to athletics;
- c. a transfer seeking a team consistent with the student's athletic abilities;
- d. a transfer to obtain a means to nullify punitive action taken by the previous school. (*IHSAA 2021-22 By Laws & Articles of Incorporation*, page 93).

**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 MODIFIED. The Petitioner has limited eligibility at the receiving school as of November 9, 2021 until February 2, 2022, provided she meets all other eligibility requirements.



DATE: 11/24/2021

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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.