

**BEFORE THE INDIANA  
CASE REVIEW PANEL**

**In The Matter of A.F.** )  
**Petitioner,** )  
 )  
**and** )  
 ) **CAUSE NO. 211028-232**  
**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 July 30, 2021, A.F. (“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 August 9, 2021, Brown County High School (“Brown County”), the sending school, completed their portion of the Transfer Report. Indian Creek High School (“Indian Creek”), the receiving school, completed their portion of the Transfer Report on August 12, 2021.

On August 24, 2021, the IHSAA Assistant Commissioner determined that Petitioner’s transfer was a Rule 19-6.2 transfer and ruled Petitioner to have limited eligibility for athletics at the receiving schools until May 25, 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 on October 7, 2021. Following the evidence presented at the hearing, the Review Committee issued its ruling on October 26, 2021, which upheld the decision of the Assistant Commissioner.

On October 28, 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 28,

2021 and received it that day. 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 parents in Morgantown, Indiana. Petitioner attended Brown County, a public school which serves her parents' residence, her freshman (2019-2020) and sophomore (2020-2021) years. While at Brown County she participated in varsity basketball and cross country, as well as track and field. She last participated athletically at Brown County on May 25, 2021.
2. On July 27, 2021, Petitioner enrolled at Indian Creek, a public school that does not serve her parents' address.
3. On July 30, 2021, Petitioner completed the Transfer Report which indicated the reason for the transfer was because "[Petitioner] is pursuing FFA/Agricultural In House Program/Classes (Plant and Soil Science 5170 and Advanced Life Science Plants/Soils 5074)."
4. Petitioner transferred without a corresponding change of residence when the transfer report was submitted and sought full eligibility through a waiver of the limited eligibility rule.
5. Brown County indicated that the transfer was for an athletic reason as well as a result of undue influence. However, Brown County still recommended limited eligibility pursuant to Rule 19-6.2.
6. Indian Creek indicated the transfer was not for athletic reasons or a result of undue influence and recommended full eligibility through a Rule 17-8.1 waiver.
7. Neither Brown County nor Indian Creek recommended full eligibility pursuant to a Rule 17-8.5 waiver and, in turn, the *Verification* was not signed by either school.

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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.

## 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 October 26, 2021 and Petitioner sought timely review on October 28, 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. Rule 19-6.2 allows a student to have limited eligibility when that student transfers without a corresponding change of residence to a new district or territory, “provided the transfer was not for primarily athletic reasons or the result of undue influence.” This rule establishes that the period of limited eligibility at the new school begins on the date of enrollment and continues until the first anniversary of the date on which the student last participated in interscholastic athletics at the previous school. Under this rule, the Petitioner can participate in interscholastic athletics, with full eligibility, at Indian Creek starting May 25, 2022.
7. 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. Rule 17-8.5 does not apply here because the *Verification* was not signed by either school.

8. 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)).
9. The Review Committee ruled that transferring to a new school for a specific program/course does not establish a hardship condition because it:
  - does not describe any 'conditions' at Brown County that [were] 'extremely negative' and 'peculiar' to [Petitioner]; which [were] 'unforeseen, unavoidable and uncorrectable ... which [were] 'beyond the election, control or creation of the student ... or which objectively 'compel' [Petitioner] to leave Brown County.  
*Record* at 12.The Panels finds that the Review Committee's analysis of the IHSAA's rules and guidance as it pertains to what constitutes a hardship condition, and the application of those rules to the facts in this case, was neither arbitrary nor capricious. Petitioner's decision to transfer to Indian Creek was a choice and she was not compelled to transfer due to an extremely negative non-athletic condition as required by Rule 17-8.1.
10. The Panel was extremely disheartened to learn of the treatment Petitioner received from Brown County after discussions of her transfer began. However, the Panel agrees with the Review Committee that, due to the timeline of events surrounding the alleged bullying, that does not qualify as a hardship condition; it is clear from the record that the reason behind the transfer was for the specific program/course offerings at Indian Creek. The unfortunate environment to which Petitioner was exposed was a result of the transfer, not the basis.
11. Accordingly, the Panel finds that Petitioner did not meet the burden of proof necessary to succeed on a request to waive Rule 16-2.

**ORDER**

The Panel finds by a vote of 6-2 that the decision of the IHSAA Review Committee, upholding the decision of the Commissioner, is UPHELD. The Petitioner has limited eligibility at the receiving school until May 25, 2022, when she will regain full eligibility, 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.