

**BEFORE THE INDIANA
CASE REVIEW PANEL**

In The Matter of B.C.)
Petitioner,)
)
and)
) **CAUSE NO. 211202-238**
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 27, 2021, B.C. (“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 September 9, 2021, the sending school, Whiteland High School (“Whiteland”) completed its portion of the Transfer Report. On September 10, 2021, the receiving school, Franklin High School (“Franklin”), completed its portions of the Transfer Report.

On September 20, 2021, the IHSAA Assistant Commissioner determined that Petitioner’s transfer was a Rule 19-4 and 20-2 transfer and ruled Petitioner ineligible for athletics at the receiving school until June 4, 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 November 5, 2021. Following the evidence presented at the hearing, the Review Committee issued its ruling on November 19, 2021, which upheld the decision of the Assistant Commissioner.

On December 2, 2021, 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 December 2, 2021 and received it on December 8, 2021. On December 14, 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 parents in Franklin, Indiana. Petitioner attended Whiteland, a public school that does not serve his parents' address, his freshman (2019-2020) and sophomore (2020-2021) years. Petitioner chose to attend Whiteland because his mother is employed by that school corporation. While there, he was involved in varsity swimming and last participated athletically on February 26, 2021.
2. On June 4, 2021, Petitioner enrolled at Franklin, a public school that serves his parents' Franklin address. There was not a change of address.
3. According to the Transfer Report the reason for the transfer was "transportation issues." At the Review Committee hearing, Petitioner provided additional reasons for the transfer that include: (1) Petitioner's family has lived in the Franklin school district for over fifteen years; (2) Petitioner is considering participating in unified track, unified flag football, and esports, which are not available at Whiteland; and (3) the opportunities to earn post high school credits are greater at Franklin.
4. Following the 2017-2018 swim season, Whiteland's head swim coach resigned which also caused Whiteland's swim club to dissolve. At that time, the swim clubs at Franklin, Greenwood, and Center Grove were recommended as they were the closest clubs available. Petitioner opted to swim for the club in Franklin, the Franklin Regional Swim Team ("FRST").
5. The coaches for FRST also coach Franklin's school team.
6. During a meeting with Whiteland's Athletic Director, Mr. Edens, Petitioner's family explained that due to a recent drop in his swimming times, they "didn't want to sit back after his [high school] career and wonder what if [they] would have transferred to [Franklin] and been able to swim for those coaches year round." R. at 50.
7. Both Whiteland and Franklin recommended ineligibility pursuant to Rule 20-2.

¹The following members participated in the meeting: Ms. Risa Regnier (Chairperson), Mr. Joe Hermann, Ms. Laura Valle, Ms. Mary Quinn, Mr. Chuck Weisenbach,, Mr. Ben Ballou, and Mr. John Prifogle. Ms. Leslie-Ann James and Mr. Brandon Knight, staff attorneys, were also present as legal counsel to the Panel.

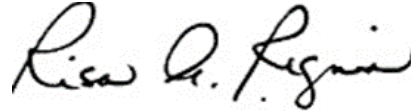
CONCLUSIONS OF LAW

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 November 19, 2021 and Petitioner sought timely review on December 2, 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. *Carlberg* 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 is no question that a past link exists between Petitioner and Franklin’s swim coaches based on their involvement with FRST for the last several years. In previous decisions, this Panel has found Rule 20-2 ineligibility determinations to be unreasonable when the past links are very attenuated or merely coincidental. However, here, not only was Petitioner aware of the past link when he decided to transfer, the evidence confirms that this link was, at the very least, a motive for the transfer. The fact that both schools originally recommended ineligibility because of the past link and then did not change their recommendations after additional evidence was presented at the Review Committee hearing is compelling to the Panel. Accordingly, the Review Committee’s decision regarding Rule 20-2 was neither arbitrary nor capricious.

7. The period of ineligibility is the same under Rule 20-2 as it is for Rule 19-4. Accordingly, even if Petitioner's transfer was only found to be a Rule 20-2 transfer, he would still be ineligible until June 4, 2022. However, because the IHSAA also determined that Petitioner's transfer fell under Rule 19-4, the Panel reviews that determination as well.
8. While it is evident that other factors such as transportation, credits, and the opportunity to participate in Unified Sports did, in fact, play a role in the decision, this transfer appears to be driven primarily by swimming. Specifically, the opportunity to swim for Franklin's coaches year-round. Especially considering the information and testimony regarding the conversation between Petitioner's family and Whiteland's Athletic Director, Mr. Edens. The Panel must commend the Petitioner and family for their candor throughout this process; however, based on the entirety of the evidence, the IHSAA's decision regarding Rule 19-4 was also neither arbitrary nor capricious.

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 UPHELD. The Petitioner has no athletic eligibility at the receiving school until June 4, 2022, when he will be fully eligible, provided all other eligibility requirements are met.



Risa Regnier, Chairperson
Case Review Panel

DATE: December 21, 2021

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.