

**BEFORE THE INDIANA
CASE REVIEW PANEL**

In The Matter J.C.)
Petitioner,)
)
and)
) **CAUSE NO. 181227-182**
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 November 1, 2018, J.C.'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 2018–2019 school year relating to the Petitioner's transfer. On November 1, 2018, Pike High School ("Pike"), the sending school, completed its portion of the Transfer Report. The receiving school, North Central High School ("North Central") completed its portion of the Transfer Report on November 1, 2018.

On November 1, 2018, 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 November 1, 2019. 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 December 11, 2018. Following the evidence presented at the December 11, 2018 hearing, the Review Committee issued its ruling on December 20, 2018¹ reversing and modifying the decision of the Commissioner declaring that due to a violation of Rule 17-7.4, Petitioner had limited eligibility until March 23, 2019.

¹The Final order from the Review Committee is dated November 20, 2018. That date is prior to the Review Committee Hearing, therefore the Panel determined the order likely should have been dated December 20, 2018. The record from the IHSAA was not clear.

On December 27, 2018, 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 January 8, 2019. On January 15, 2019, the Panel held a meeting², 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 sophomore, lives with his mother and grandparents in Indianapolis, Indiana. Petitioner attended Pike his freshman year. While at Pike he played freshman basketball. He last participated athletically at Pike on February 5, 2018.
2. The Petitioner lives in Indianapolis, Indiana and attended Pike, a public school which served his father's residence. Petitioner transferred with a corresponding change of residence when transfer report was submitted.
3. The Petitioner transferred to North Central, a public school in Indianapolis, Indiana that does serve his mother's residence.
4. On November 1, 2018, Petitioner's parents completed the Transfer Report and the Petitioner indicated the transfer occurred because "[J.C.'s] mom and decided to separate and [J.C.'s] grandfather had a stroke. [Mother] decided to move in in with her parents to help take care of both of them. [J.C.] moved with his mother into grandparents which is in Washington Township."
5. Petitioner's parents indicated they wanted to pursue a better academic environment for the Petitioner. They also indicated he would benefit from attending a smaller school. There is no evidence the Petitioner or his family sought assistance from Pike to work on his academics and the transfer was to a school that is larger than Pike.
6. During the summer of 2018, the Petitioner enrolled in Central Christian and played in a game with the school. Officials from Pike claim that the Petitioner also attended open facilities at Pike that same summer. At the Review Committee hearing, the Petitioner and his family denied playing at Pike in the summer of 2018.

²The following members participated in the meeting: Cathy Danyluk (Chairperson), Mr. Karl Hand, Mr. Chris Lancaster, Mr. Mickey Golembeski, Mr. Chuck Weisenbach, and Ms. Mary Quinn. Ms. Kelly Bauder, staff attorney, was also present as legal counsel to the Panel.

7. The Assistant Commissioner talked to the Petitioner's mother who indicated the marital home was rented. She then spoke to the Petitioner's father who said they owned that home and paid a mortgage. Additionally, the Petitioner's mother told the Assistant Commissioner she and her husband were separated yet the Petitioner's father told her they were happily married and not separated.
8. Pike recommended Petitioner have no eligibility under Rule 19-4. North Central recommended Petitioner have limited eligibility under Rule 19-6.2.
9. Neither Pike nor North Central signed the 17-8.5 *Verification* limited eligibility waiver.

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 December 20, 2018 and Petitioner sought timely review on December 27, 2018.
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 19-5.1, when a student's parents/guardians make a bona fide change of residence to a new district or territory, the student has several options, including transferring and attempt to obtain full eligibility at the public school in the district serving the student's residence. The Panel acknowledges the Petitioner and his mother made a bona fide change of residence before the transfer report was submitted. The Panel finds that the Petitioner and family have met the burden of proof demonstrating that there was bona fide move. Additionally, North Central accepted this change of address and accepted the Petitioner as a student living in their district.
9. The Panel finds that there is compelling evidence that demonstrates that a violation of Rule 17-7.4 occurred. The Petitioner's family submitted misleading information on the transfer report which could result in the denial or revocation of the Petitioner's eligibility. Additionally, the Petitioner's parents gave conflicting accounts of the status of their marriage to the Assistant Commissioner. The Assistant Commissioner's testimony was corroborated by notes she took contemporaneously when she made the calls to the Petitioner's parents. In the notes from the Assistant Commissioner and her testimony at the Review Committee hearing indicate the Petitioner's mother told her the "lease was up at the previous residence." However, the Petitioner's father indicated they owned the marital residence.
10. The Panel finds that according to Rule 17-7.4, the Petitioner's will have limited eligibility until March 23, 2019.

ORDER

The Panel finds by a vote of 6-0 that the decision of the IHSAA Review Committee, upholding the decision of the Commissioner is UPHELD. The Petitioner has full eligibility as of March 24, 2019 at the receiving school, provided he meets all other eligibility requirements.

DATE: 1/18/2019


Cathy Danyluk, 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.