

**BEFORE THE INDIANA
CASE REVIEW PANEL**

In The Matter P.B.)
Petitioner,)
)
and)
) **CAUSE NO. 180104-174**
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 10, 2017, P.B.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 2017–2018 school year relating to the Petitioner’s transfer. On November 16, 2017, Tri-Central High School (“Tri-Central”), the sending school, completed its portion of the Transfer Report. The receiving school, Guerin Catholic High School (“Guerin Catholic”) completed its portion of the Transfer Report on November 21, 2017.

On November 21, 2017, the IHSAA Commissioner determined that Petitioner’s transfer was a Rule 20-2 violation and ruled Petitioner was ineligible at the receiving school until November 15, 2018 due to the past link. 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 14, 2017. Following the evidence presented at the December 14, 2017 hearing, the Review Committee issued its ruling on December 23, 2017 upholding the decision of the Commissioner declaring that according to Rule 20-2, Petitioner would not be fully eligible until November 15, 2018.

On January 4, 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 11, 2018. On January 31, 2018, 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 her mother and father in Sharpsville, Indiana. Petitioner attended Tri-Central her freshman through junior years. While at Tri-Central she played varsity basketball, soccer, and track and field. She last participated athletically at Tri-Central on November 9, 2017.
2. The Petitioner attended Tri-Central, a public school which served her parents' residence. Petitioner transferred without a corresponding change of residence.
3. The Petitioner transferred to Guerin Catholic, a private school in Noblesville, Indiana. The Petitioner enrolled at Guerin Catholic on November 15, 2017, the beginning of the second trimester, due to Guerin Catholic's policy barring senior year transfer students.
4. On November 10, 2017, Petitioner's parents completed the Transfer Report and the Petitioner indicated the transfer occurred was due to "Academics." The Petitioner's family wanted more opportunities for AP and dual credit classes.
5. Tri-Central recommended Petitioner have no eligibility under Rule 20-2 after being notified of a connection between Petitioner and Justin Curry, a member of Guerin Catholic's Girls Basketball staff. Guerin Catholic recommended Petitioner have no eligibility under Rule 19-4.
6. The Petitioner and her family had a relationship with Mr. Curry prior to his hiring at Guerin Catholic. Mr. Curry was a private coach/trainer to the Petitioner from October 2016 through February 2017. Mr. Curry was hired as an assistant coach at Guerin on October 31, 2017. The Petitioner's parents took a tour of Guerin on November 7, 2017 and applied for admission to the school. Prior to Mr. Curry accepting a position with Guerin Catholic, the Petitioner's family had written a letter of recommendation in the summer of 2017 for him when he applied for a coaching position at Tri-Central.

¹The following members participated in the meeting: Cathy Danyluk (Chairperson), Mr. Karl Hand, Mr. Chris Lancaster, Mr. Keith Pempek, Mr. Chuck Weisenbach, and Ms. Kelly Bauder, staff attorney, was also present as legal counsel to the Panel.

7. Neither Tri-Central nor Guerin Catholic signed the 17-8.5 *Verification* limited eligibility waiver.

CONCLUSIONS OF LAW

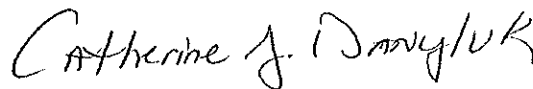
1. Any Finding of Fact that may be considered a Conclusion of Law shall be so considered. Any Conclusion of Law that may be considered a Finding of Fact may be considered as such.
2. Although the IHSAA is a voluntary not-for-profit corporation and is not a public entity, its decisions with respect to 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 23, 2017 and Petitioner sought timely review on January 4, 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. The Panel finds that there is compelling evidence that demonstrates there was a past link between the Petitioner and Coach Curry. Notably, Petitioner's parents submitted a recommendation letter on Mr. Curry's behalf for a coaching position at Tri-Central after he had been the Petitioner's trainer. In addition, the short time period between Mr. Curry being hired at Guerin Catholic and the petitioner's enrollment at the receiving school. The Panel further finds that there is no hardship condition present that would allow for a waiver of Rules 19-6.2 or 20-2 for the Petitioner.
9. The Panel finds due to the Petitioner receiving training from a member of the Guerin Catholic coaching staff during a twelve-month time period under Rule 20-2, there was a violation of the past link rule thus the Petitioner has no eligibility 365 days from the date of enrollment at Guerin Catholic.

ORDER

The Panel finds by a vote of 5-0 that the decision of the IHSAA Review Committee, upholding the decision of the Commissioner is UPHOLD. The Petitioner has no eligibility based on Rule 20-2 at the receiving school until November 15, 2018, provided she meets all other eligibility requirements.

DATE: 2/2/2018



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.