

**BEFORE THE INDIANA
CASE REVIEW PANEL**

In The Matter J.D.)
Petitioner,)
)
and)
) **CAUSE NO. 210125-219**
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 4, 2020, J.D.’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 2020–2021 school year relating to the Petitioner’s transfer. On November 5, 2020, Lake Central High School (“Lake Central”), the sending school, completed its portion of the Transfer Report. The receiving school, Chesterton High School (“Chesterton”) completed its portion of the Transfer Report on November 5, 2020.

On December 7, 2020, the IHSAA Assistant Commissioner determined that Petitioner’s case was a Rule 19-4 transfer and ruled Petitioner was entitled to no eligibility at the receiving school until October 21, 2021. 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 January 14, 2021. Following the evidence presented at the January 14, 2021 hearing, the Review Committee issued its ruling on January 25, 2021 upholding the decision of the Commissioner declaring that according to Rule 19-4 Petitioner had no eligibility for 365 days.

On January 25, 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 and received the record from the Petitioner on January 25, 2021. No record was tendered by the IHSAA. The Petitioner submitted a

supplemental submission on January 26, 2021. On January 27, 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 senior, lives with his father in Burns Harbor, Indiana. Petitioner attended Lake Central his freshman (2017-18) sophomore (2018-19), and junior (2019-2020) years, and part of his senior (2020-21) year. While at Lake Central, he participated in varsity wrestling. He last participated athletically at Lake Central on February 15, 2020. The Petitioner is an accomplished wrestler who competed in the semi-state finals last year. Transcript p. 12.
2. The Petitioner lived in Schererville, Indiana and attended a public school which served his mother's residence. In the fall of 2020, the Petitioner moved in with his father, who lives in Burns Harbor, Indiana. The Petitioner transferred to a public school in Burns Harbor, Indiana which serves his father's address. The move was between divorced parents and was determined to be a bonafide move pursuant to Rule 19-6.1 by the schools and the Review Committee. The Panel also finds there was a bonafide move pursuant to Rule 19-6.1. The Petitioner testified he had always wanted to live with his dad and the move to the new apartment allowed for that opportunity. Transcript p. 64.
3. On November 4, 2020 Petitioner's father completed the Transfer Report and the Petitioner indicated he "was moving in with his father within Chesterton [high school] district, [Petitioner] is already enrolled and will begin classes on Monday." Pre-Hearing Submissions p. 11. Additionally, the Petitioner's father said the transfer was for the health and safety of the Petitioner. Transcript p. 17.
4. While at Lake Central, the Petitioner was involved in an incident with the head wrestling coach in November 2019. During the incident the Petitioner was rendered unconscious for 30-60 seconds after being slammed by Coach Triveline. The Petitioner appeared dazed and had trouble walking. Transcript p. 18. The coach did not send the Petitioner to the trainer and told him and his teammates to not mention what happened. The coach said "what happens in the wrestling room, stays in the wrestling room. Transcript p. 17. The Petitioner's parents did not learn about the incident until February 2020. Transcript p. 26. A wrestler from Lake Central testified he saw the incident with Coach Triveline slamming the Petitioner on his head causing him to lose consciousness. Transcript p. 69.

¹The following members participated in the meeting: Dr. Jennifer Jensen (Interim Chairperson), Mr. Brett Crousore, Mr. Ben Ballou, Mr. Marques Clayton, Mr. Mickey Golembeski, Ms. Laura Valle and Ms. Mary Quinn. Ms. Kelly Bauder, staff attorney, was also present as legal counsel to the Panel.

The Petitioner's father complained about the coach to school officials at Lake Central. Transcript p. 17.

5. The Petitioner's father had an altercation with the wrestling coach in January 2020 and the school sent him a letter about his inappropriate conduct. Pre-Hearing Submission p. 13. The Petitioner's father was told he could not "coach" any of the players on the Lake Central team and could not address any coach unless it was concerning the health or safety of the Petitioner. Pre-Hearing Submission. R. 14. The Petitioner's father admits he is a wrestling fanatic and has been helping with the Lake Central wrestling program since he graduated in 1981. Transcript p. 27.
6. Lake Central and Chesterton recommended Petitioner have no eligibility under Rule 19-4. Neither Lake Central nor Chesterton 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 January 25, 2021 and Petitioner sought timely review on January 25, 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. 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)). The Panel finds no compelling hardship condition that would meet the requirements of Rule 17-8.1.
8. Both Lake Station and Chesterton school officials found the Petitioner’s transfer to be primarily for athletic reasons in violation of Rule 19-4. The Panel finds there were on-going tensions with the Petitioner’s father and the wrestling program at Lake Central. Additionally, the incident with the Petitioner and the wrestling coach where the Petitioner was knocked unconscious added to those tensions and hostility. The Petitioner’s father had been displeased with incidents with the wrestling coaching staff and had been told he could no longer have any official affiliation with the program. Pre-Hearing Submission p. 14. The incident with Coach Triveline and the Petitioner being knocked unconscious was the final straw which led to the Petitioner transferring schools. The Petitioner’s father says that is for his health and safety, but it all relates to the wrestling program at Lake Central. Although the Panel finds that there was a bonafide change of residence by the Petitioner, it cannot overlook the athletic motivations that played a substantial part in the transfer to another school. Additionally, both the sending and receiving schools concluded the transfer was primarily for athletic reasons. Therefore, the panel finds a violation of Rule 19-4 that would preclude participation of athletics at Chesterton.

ORDER

The Panel finds by a vote of 6-1 that the decision of the IHSAA Review Committee, upholding the decision of the Commissioner is UPHELD. The Petitioner has no eligibility at the receiving school until October 21, 2021.

DATE: 1/28/2021



Dr. Jennifer Jensen, Interim 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.