

**BEFORE THE INDIANA
CASE REVIEW PANEL**

In The Matter L.S.)
Petitioner,)
)
and)
) **CAUSE NO. 191022-192**
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 June 14, 2019, L.S.’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 2019–2020 school year relating to the Petitioner’s transfer. On August 14, 2019, Twin Lakes High School (“Twin Lakes”), the sending school, completed its portion of the Transfer Report. The receiving school, Delphi High School (“Delphi”) completed its portion of the Transfer Report on August 14, 2019.

On August 14, 2019, the IHSAA Commissioner determined that Petitioner’s transfer was a Rule 19-6.2 transfer and ruled Petitioner had limited eligibility at the receiving school until May 30, 2020. 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 October 9, 2019. Following the evidence presented at the October 9, 2019 hearing, the Review Committee issued its ruling on October 22, 2019 upholding the decision of the Commissioner declaring that according to Rule 19-6.2, Petitioner had limited eligibility.

On October 22, 2019, 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 November 6, 2019. On November 13, 2019, 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 sophomore, lives with his mother and father in Monticello, Indiana. Petitioner attended Twin Lakes for his freshman year (2018-19). While at Twin Lakes he played varsity basketball, tennis, and junior varsity basketball. He last participated athletically at Twin Lakes on May 30, 2019.
2. The Petitioner lives in Monticello, Indiana and attended a public school which did serve his parents' residence. Petitioner transferred without a corresponding change of residence when Transfer Report was submitted.
3. The Petitioner transferred to Delphi, a public school in Delphi, Indiana that does serve his parents' residence.
4. In June 2019, Petitioner's parents completed the Transfer Report and the Petitioner indicated "[a]cademic classes at previous school (Twin Lakes) are not weighted. Delphi Schools do have an academic program that is weighted. A discussion between parents and the previous school did not resolve the academic issues. Previous school's policy will impact the students GPA adversely and may impact college admissions. Please see attached transcripts from previous school."
5. The Petitioner enrolled at Delphi on May 30, 2019, the receiving school, because he and his family was frustrated with Twin Lakes' grading system because they did not weight Honors courses. In addition, Petitioner's family were not satisfied with the reasoning behind Twin Lakes prohibiting the Petitioner from taking AP U.S. History his sophomore year.
6. Twin Lakes recommended Petitioner have limited eligibility under Rule 19-6.2.
7. Delphi recommended Petitioner have full eligibility signing the 17-8.5 *Verification* limited eligibility waiver.

¹The following members participated in the meeting: Kelly Wittman (Chairperson), Mr. Ben Ballou, Mr. Brett Crousore, Mr. Chris Lancaster, Ms. Mary Quinn, Mr. Mickey Golembeski, and Mr. Chuck Weisenbach. Ms. Kelly Bauder, 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 22, 2019 and Petitioner sought timely review on October 22, 2019.
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 19-6.2, when a student's parents/guardians do not make a bona fide change of residence to a new district or territory, the student is eligible for limited eligibility at the receiving school, unless there is reason to believe the student transferred for athletic reasons or the result of undue influence.
9. The Panel finds that Petitioner's decision to transfer to Delphi was a choice and he was not compelled to transfer due an extremely negative non-athletic condition as is required under Rule 17-8.1. The Petitioner and his family wanted to have more weighted classes in order to get a higher GPA in order to be competitive for scholarships and college admissions. However, Twin Lakes would have provided AP classes his junior and senior year that could have helped him achieve an academic honors diploma as well as provide information to possible colleges regarding his academic success and willingness to challenge himself at the high school level. While at Twin Lakes, the Petitioner was an exceptional student who was ranked third in his class. The Panel finds that the Petitioner and his family did not meet the burden of proof demonstrating there is a hardship condition present that would allow for a waiver of Rule 19-6.2.
10. The Panel finds that Petitioner is eligible for limited eligibility at Delphi under Rule 19-6.2.

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 full eligibility as of May 30, 2020 at the receiving school, provided he meets all other eligibility requirements.

DATE: 11/18/2019



Kelly Wittman, 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.