

**BEFORE THE INDIANA
CASE REVIEW PANEL**

In The Matter L.G.)
Petitioner,)
)
and)
) **CAUSE NO. 191003-191**
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 May 8, 2019, L.G.'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 May 29, 2019, Jay County High School ("Jay County"), the sending school, completed its portion of the Transfer Report. The receiving school, Blackford High School ("Blackford") completed its portion of the Transfer Report on August 1, 2019.

On August 7, 2019, the IHSAA Commissioner determined that Petitioner's transfer was a Rule 19-4 transfer and ruled Petitioner ineligible at the receiving school until April 24, 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 August 27, 2019. Following the evidence presented at the August 27, 2019 hearing, the Review Committee issued its ruling on September 6, 2019 upheld the decision of the Commissioner declaring that according to Rule 19-4, Petitioner would not be eligible until April 24, 2020.

On October 3, 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 October 11, 2019. On October 15, 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 junior, lives with his parents in Portland, Indiana. Petitioner attended Jay County his freshman (2017-18) and sophomore (2018-19) years. While at Jay County he played varsity football and JV and varsity basketball. He last participated athletically at Jay County on March 27, 2019.
2. The Petitioner lives in Portland, Indiana and attended, a public school which serves his parent's residence. Petitioner transferred without a corresponding change of residence when transfer report was submitted.
3. On May 8, 2019, Petitioner's mother completed the Transfer Report and the Petitioner indicated the transfer occurred because the petitioner "*[L.G.] is suffering from a conversion disorder which is stress and anxiety related. [L.G.] needed a fresh start in a new environment. His older brothers are drug abusers and [L.G.] had these issues as a result of that. From His mother ...: this disorder actually paralyzed him a couple weeks. Another issue was that he had a teacher who was a police officer and a coach who worked at the jail and [L.G.] tried to keep tabs on his brothers through them [sic] and the info received caused a rise in his stress and anxiety levels. A [sic] article was actually written in October of 2018 on [L.G.]'s experience with this disorder. (That article will be attached below). They also felt that getting involved in JROTC would be beneficial to [L.G.]. Jay County does not have that program. They feel it would help [L.G.] stay on a better path than his older brothers were taking.*"
4. Jay County recommended Petitioner have no eligibility under Rule 19-4. Blackford recommended Petitioner have full eligibility under Rule 17-8.5. Jay County did not sign the 17-8.5 *Verification* limited eligibility waiver. Blackford signed the 17-8.5 *Verification*.

CONCLUSIONS OF LAW

¹The following members participated in the meeting: Kelly Wittman (Chairperson), Mr. Brett Crousore, Ms. Meisha Wide, Ms. Laura Valle, and Mr. Chuck Weisenbach, and Ms. Mary Quinn. Ms. Kelly Bauder, staff attorney, was also present as legal counsel to the Panel.

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 September 6, 2019 and Petitioner sought timely review on October 3, 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 school 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 primarily for athletic reasons or as a result of undue influence. The Panel acknowledges the Petitioner made statements regarding athletics and his transfer. The Petitioner made references to school officials regarding athletics, but the Panel does not find the move was the result of primarily athletic reasons or as a result of undue influence. As with many students, athletics provided the Petitioner with an outlet and a means to develop himself as an athlete and as a student.
9. The Panel finds that there is compelling evidence that demonstrates the move to Blackford was primarily for medical purposes. The Petitioner's mother provided the IHSAA Review Committee documents establishing that the Petitioner experienced extreme physical symptoms due to conversion disorder. Furthermore, the conversion disorder was being triggered by a variety of school and home stressors. Moreover, Petitioner's mother submitted documentation from a medical profession that expressed barring the Petitioner's athletic participation could trigger his conversion disorder. Thus, it would not be in the best interest of the Petitioner to be prohibited from participating in athletics. The Panel finds the primary reason for the move was related to the Petitioner's medical condition as well as a variety of school and home issues.
10. The Panel does not find this rose to the level of a hardship condition. The move was certainly in the Petitioner's best interest and will likely provide him with a less stressful school experience.
11. The Panel finds that according to Rule 19-6.2, that the Petitioner has limited eligibility as of April 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 NULLIFIED. The Petitioner has limited eligibility as of April 23, 2019 at the receiving school, provided he meets all other eligibility requirements.

DATE: 10/18/2019



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.