

**BEFORE THE INDIANA
CASE REVIEW PANEL**

In the matter of R. R.,)	
Petitioner,)	
)	
and)	CAUSE NO. 120829-87
)	
The Indiana High School Athletic Association,)	
Respondent.)	

Angela Rapp Weber, Chairperson, dissenting.

The Executive Committee determined that Petitioner may participate in athletics at Mater Dei on a limited-basis because his transfer did not correspond to a change in residence. The Executive Committee relied on Rule 19-6.2 of the IHSAA’s Bylaws when rendering its decision. The question in this case is whether Rule 19-6.2 applies to transfers from a traditional public with a defined territory or district to a private school. I conclude it does not.

Rule 19-6.2 states, “A student who transfers without a corresponding change of residence to a new district or territory by the student’s parent(s)/guardian(s) will have limited eligibility at the new school, provided the transfer was not for primarily athletic reasons or the result of undue influence.” The key language is “to a new district or territory” and “at the new school.” The language of Rule 19-6.2 contemplates a move from one school district or territory to a different school district or territory. If a student chooses to enroll at a school without moving into that school’s district or territory, he or she will receive limited eligibility at the new school.

This interpretation is consistent with the Philosophy provided at the beginning of Rule 19. Item (c)(6) listed in Rule 19’s Philosophy states, “[T]hey maintain the fundamental principle that a high school student should live at home with his/her parents or legally-appointed guardian (if the parents are deceased) and *attend school in the school district in which the parents or guardian live[.]*” (emphasis added). Rule 19’s definition of “bona fide change of residence” indicates a student and his or her entire immediate family must abandon the previous residence and legitimately establish a new residence. Reading Rule 19-6.2 together with Rule 19’s philosophy and the definition of “bona fide change of residence,” it is clear that for a student to be fully eligible for athletic participation at the receiving school without receiving a waiver pursuant to Rule 17-8.1 or 17-8.5, he or she is expected to move into the receiving school’s district or territory.

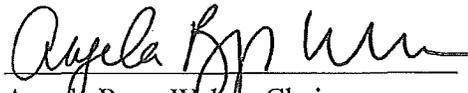
In this case, Petitioner wishes to transfer from a public school to a private school. Private schools, however, do not have defined districts or territories for attendance purposes. Thus a student, for example, who lives in Columbus, Indiana and wishes to attend Brebeuf Jesuit Preparatory School located on the north side of Indianapolis, Indiana is not prohibited from doing so based on his or her address. Petitioner is likewise not required to attend Reitz Memorial Catholic High School in Evansville, Indiana because he lives closer to it than Mater Dei.

I therefore conclude that Rule 19-6.2 only applies to transfers from a traditional public school with an established territory or district to another. Since Petitioner is transferring from a public school to a private school, only Rule 19-4 applies.¹ The evidence clearly indicates that Petitioner's transfer was neither primarily for athletic reasons nor the result of undue influence. Petitioner is entitled to full athletic eligibility. This conclusion is consistent with the state legislature's authorization of a voucher system under the School Choice Scholarship program,² which provides students in Indiana the opportunity to choose which school to attend regardless of an address.

ORDER

The CRP finds by a vote of 5-1 that Petitioner is eligible to participate in athletics on a limited-basis at Mater Dei until December 15, 2012. Petitioner will be eligible to fully participate in athletics at Mater Dei on December 16, 2012.

DATE: 9/27/12


Angela Rapp Weber, Chairperson
Case Review Panel

APPEAL RIGHT

Any party aggrieved by the decision of the Case Review Panel has forty-five days from receipt of this written decision to seek judicial review in a civil court with jurisdiction, as provided by Ind. Code § 20-26-14-7.

¹ Rule 19-4 states, "[A] student athlete who transfers from one school to a new school for primarily athletic reasons or as a result of undue influence will be ineligible at the new school for 365 days from the date the student enrolls at the new school. . . ."

² Ind. Code 20-51-1 *et seq.*