

**BEFORE THE INDIANA
CASE REVIEW PANEL**

In The Matter of J.A.,)
Petitioner)
)
And)
) **CAUSE NO. 121213-98**
The Indiana High School Athletic Association,)
Respondent)
)
Review Conducted Pursuant to Ind. Code ch. 20-26-14)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PROCEDURAL HISTORY

On or about May 11, 2012, J.A. (“Petitioner”) submitted a request for a waiver of Indiana High School Athletic Association (“IHSAA”) Rule 4-1 so he could be athletically eligible to play basketball at Tipton High School for the 2012–2013 season. On May 14, 2013, IHSAA Commissioner Bobby Cox determined that Petitioner was athletically ineligible for the 2012–2013 season and not eligible for a waiver of Rule 4-1. On November 7, 2012, Petitioner submitted another request for a waiver of Rule 4-1, which Commission Cox denied. Petitioner appealed Commissioner Cox’s decision to the IHSAA Executive Committee (“Executive Committee”).

The IHSAA sent an email to Petitioner acknowledging receipt of the request for appeal and set the matter for hearing before the Executive Committee for November 30, 2012. Based on the evidence and testimony presented at the November 30, 2012 hearing, the Executive Committee issued its ruling on December 7, 2012 upholding Commissioner Cox’s decision.

On December 13, 2012, Petitioner appealed the Executive Committee’s decision to the Indiana Case Review Panel (“CRP”),¹ and the CRP notified the parties that it would review the decision during a CRP meeting. The CRP requested and received the record from the IHSAA. On January 3, 2013, the CRP held a meeting where a quorum of members was present.² Based on a review of the record and applicable rules and laws, the CRP made the following Findings of Fact and Conclusions of Law.

¹ According to Ind. Code § 20-26-14-6(c)(3), the CRP is a nine-member panel whose members are appointed by the Superintendent of Public Instruction, and his or her designee serves as the Chairperson.

² The following members were present at the meeting: Ms. Angela Rapp Weber (Chairperson), Ms. Dana Cristee, Mr. Keith Pempek, Mr. Brett Daghe, and Mr. Mickey Golembeski. Mr. Chris Greisl attended the meeting as counsel to the CRP.

FINDINGS OF FACT

1. Petitioner is a Senior at Tipton High School and plays basketball and football.
2. Petitioner was born on March 16, 1993 and will turn twenty years of age on March 16, 2013.
3. The IHSAA state finals for basketball start on March 23, 2013.
4. As a result of Commissioner Cox's ruling, which was upheld by the Executive Committee, Petitioner was deemed ineligible to play basketball at Tipton High School for the 2012–2013 season. Petitioner seeks a waiver of Rule 4-1 pursuant to Rule 17-8.1.

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 CRP has jurisdiction in this matter. The CRP was established to review final student eligibility decisions with respect to interscholastic athletic competition. Ind. Code ch. 20-26-14. The CRP has jurisdiction when a student's parent or guardian refers the case to the CRP not later than thirty days after the date of the IHSAA decision. Ind. Code § 20-26-14-6(b). In this matter, the Executive Committee rendered a final determination of student-eligibility adverse to the Petitioner on December 7, 2012, and Petitioner sought timely review on December 13, 2012.
4. The CRP may uphold, modify, or nullify the IHSAA Executive Committee's decision. Ind. Code § 20-26-14-6(c)(3).
5. The CRP is not required to review the IHSAA determination *de novo*. The CRP review is similar to an appellate-level administrative review. If the CRP upholds the IHSAA decision, pursuant to Ind. Code § 20-26-14-7(c), a court of jurisdiction may consider the IHSAA decision as opposed to the CRP decision.
6. The CRP 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)).

7. Rule 4-1 states:

A student who is or shall be twenty (20) years of age prior to or on the scheduled date of the IHSAA state finals in a sport shall be ineligible for interschool athletic competition in that sport; a student who is nineteen (19) years of age on the scheduled date of the IHSAA state finals in a sport shall be eligible as to age for interschool athletic competition in that sport.

8. Pursuant to Rule 4-1, Petitioner is ineligible to participate in basketball at Tipton High School for the 2012–2013 season. Thus, Petitioner seeks waiver of Rule 4-1 under Rule 17-8.1.

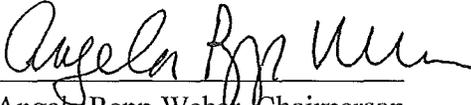
9. Rule 17-8.1 General Waiver of an IHSAA Rule clearly states, “*Except with respect to Rules 4, 12 and 18*, the Commissioner, his designee, the [Executive] Committee or [CRP] shall have the authority to set aside the effect of any Rule and grant a general waiver” (emphasis added).

10. Accordingly, Petitioner is not eligible for a Rule 17-8.1 General Waiver. The CRP affirms the Executive Committee’s determination that Petitioner is not eligible to participate in basketball at Tipton High School for the 2012–2013 season.

ORDER

The CRP finds by a vote of 5-0 that Petitioner is ineligible to participate in basketball at Tipton High School for the 2012–2013 season.

DATE: 1/15/13


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.