

**BEFORE THE INDIANA  
CASE REVIEW PANEL**

**In The Matter S.B** )  
**Petitioner,** )  
 )  
**and** )  
 ) **CAUSE NO. 140824-120**  
**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 6, 2014, S.B.'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 2014–2015 school year relating to the Petitioner's transfer from Evansville North High School ("North") to Evansville Memorial High School ("Memorial"). On May 6, 2014, North, as the sending school, completed its portion of the Transfer Report. Memorial, as receiving school, completed its portion of the Transfer Report on May 6, 2014.

On May 6, 2014, the IHSAA Assistant Commissioner determined that Petitioner transfer was a Rule 19-6.2 and ruled the transfer was a 19-6.2 transfer and Petitioner was entitled to limited eligibility. The Petitioner appealed the Assistant Commissioner's determination to the IHSAA Executive 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 6, 2014. Following the evidence presented at the August 6, 2014 hearing, the Review Committee issued its ruling on August 18, 2014, upholding the decision of the Assistant Commissioner that Petitioner was entitled to limited eligibility.

On August 24, 2014, 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 September 15, 2014. On October 2, 2014, the Panel held a meeting,<sup>1</sup> 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 lives with her mother and father in a home in Evansville, Indiana. Petitioner attended North her freshman – sophomore years. While at North, during her freshman (2012-2013), and sophomore (2013-2014) years Petitioner was on the varsity basketball team. She last participated athletically at North on February 11, 2014.
2. On May 6, 2014, Petitioner’s parents completed the Transfer Report. On the Transfer Report, Petitioner indicated that the transfer to Memorial was for “parents and student wish for a faith-based school with small class size.”
3. The Petitioner’s parents attached a memorandum to the Transfer Report detailing concerns they had with the North basketball program and coaching staff. The main focus of the Transfer Report was about the North girls’ basketball program.
4. Following North’s 2012 sectional loss, Petitioner’s father asked the North athletic director if North would fully release Petitioner and recommend full eligibility if she transferred. Petitioner’s father was upset about the amount of playing time she received. Before Petitioner was enrolled in Memorial, her father sought a meeting with their athletic director/coach, Bruce Dockery. During the meeting, the majority of the conversation was about the girls’ basketball program at Memorial.
5. There is no evidence Petitioner was struggling at school at North or that the class sizes had an impact on her academics. In fact, she achieved a 4.0 g.p.a while attending North.
6. North did not sign the transfer *Verification* forms. North said the move was for athletic reasons and recommended limited eligibility based on Rule 19-6.2. Memorial recommended full eligibility under Rule 17-8.1, and though Rule 17-8.5 was not selected, the 17-8.5 *Verification* was signed.

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<sup>1</sup> The following members participated in the meeting: Dr. George Frampton (Chairperson), Mr. Bret Daghe, Mr. Michael Golembeski, Mr. Glenn Johnson, Mr. Chris Lancaster, Mr. Keith Pempek, and Ms. Dana Cristee. Ms. Kelly Bauder, staff attorney, was also present as legal counsel to the Panel.

7. Memorial girls' basketball program has been placed on probation for the 2014-15 season by the IHSAA for violations of Rule 20 and the Athletic Director, Bruce Dockery, has been reprimanded for the violation.

#### 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 August 18, 2014, and Petitioner sought timely review on August 24, 2014.

4. The Panel may uphold, modify, or nullify the IHSAA Review Committee's decision. (Ind. Code § 20-26-14-6(c)(3)). The Panel is not required to review the IHSAA determination *de novo*. The Panel review is similar to an appellate-level administrative review. A full hearing to recreate the record is not required.

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. According to Rule 19-4, a student is athletically ineligible if his or her transfer was for primarily athletic reasons or the result of undue influence.

7. Under Rule 19-4, a transfer primarily motivated by athletics or as a result of undue influence will cause a student to be athletically ineligible at the receiving school during the first 365 days following the student's enrollment at the receiving school.

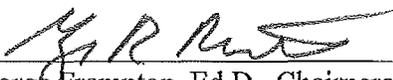
8. Under Rule 20-4, no transfer student may have contact with any member of the athletic program of the prospective transfer school prior to enrollment at that school, unless the member of the athletic program is in some non-athletic capacity and the contact involves only non-athletic matters. Petitioner and her father admitted to meeting with Coach Dockery for a one-on-one meeting prior to her enrollment at Memorial and further admitted that 75% of the conversation was regarding basketball and where Petitioner would fit in. This meeting was prior to any initial family contact with non-athletic memorial officials for the purpose of discussion of general enrollment issues or academic considerations.

9. The totality of evidence supports the conclusion that Petitioner transferred from North to Memorial primarily for athletic reasons. The majority of the reasons for transferring listed by Petitioner involve basketball and more specifically the North Basketball Program. There was a violation of Rule 20-4 which has resulted in the IHSAA sanctioning of the Memorial Girls' Basketball Program and Coach Dockery. When a student athlete transfers from one school to a new school for primarily athletic reasons or as a result of undue influence, the student will be ineligible at the new school for 365 days from the date the student enrolls at the new school.

#### ORDER

The Panel finds by a vote of 6-1 that the decision of the IHSAA Review Committee, declaring Petitioner have limited or junior varsity eligibility at Memorial is NULLIFIED.<sup>2</sup> The Petitioner is athletically ineligible for one year. The Petitioner is athletically ineligible for 365 days following her enrollment at Memorial, up to and including May 6, 2015.

DATE: 10/9/14

  
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George Frampton, Ed.D., 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.

<sup>2</sup> The Case Review Panel notes this case is very similar to two recent cases presented to the Panel, namely 140604-113 and 140611-114. The Panel believes the decisions from the IHSAA appear to be inconsistent, finding some students receive limited eligibility while other students who participate in the same prohibited conduct are deemed athletically ineligible. The Panel believes there needs to be consistency in order to provide students and schools with a clear message that athletically motivated transfers are not permitted. Member schools should also review Rule 3-1, which requires schools to comply with the IHSAA rules and make sure all staff are aware of the rules, regulations, and prohibited conduct.