

**BEFORE THE INDIANA
CASE REVIEW PANEL**

In The Matter of J.F.)	
Petitioner,)	
)	
and)	
)	CAUSE NO. 140901-121
The Indiana High School Athletic Association,)	
Respondent.)	
)	
Review Conducted Pursuant to Ind. Code)	
§ 20-26-14 <i>et seq.</i>)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PROCEDURAL HISTORY

On or about May 30, 2014, J.F.'s ("Petitioner") father 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 McCutcheon High School ("McCutcheon") to Harrison High School in West Lafayette ("Harrison"). Both high schools are part of the Tippecanoe School Corporation. On May 31, 2014 McCutcheon, as the sending school, completed its portion of the Transfer Report. Harrison, as the receiving school, completed its portion of the Transfer Report on June 2, 2014.

On July 22, 2014, the IHSAA Assistant Commissioner determined that the transfer was a Rule 19-6.2 transfer (transfer without a change of residence) and ruled Petitioner was entitled to limited eligibility at Harrison. The date Petitioner last participated in interscholastic athletics at McCutcheon, which was on November 1, 2013. The Petitioner appealed the Assistant 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 19, 2014. Following the evidence presented at the August 19, 2014 hearing, the Review Committee issued its ruling on August 28, 2014, upholding the decision of the Assistant Commissioner declaring Petitioner have limited or junior varsity eligibility at Harrison until November 1, 2014, and then on November 2, 2014, he would be fully eligible to participate in athletics, provided he is academically eligible and meets all other eligibility rules.

On September 1, 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 11, 2014. On October 2, 2014, the Panel held a meeting,¹ 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 his parents in Lafayette, Indiana. Petitioner attended McCutcheon his freshman, sophomore, and junior years.
2. Several years ago the school corporation drew new boundary lines. After the redistricting, Petitioner's home was located in Harrison's district. Petitioner continued to attend McCutcheon to remain with his friends and was provided transportation by his sister to school. Petitioner's sister graduated in 2014 and could no longer provide his transportation to school.
3. Petitioner's family had to declare bankruptcy due to circumstances outside of their control that affected the family's business. Petitioner did not have reliable transportation and would have to rely on the school's bus, which means he would have to go to the school in the district where his home is located, Harrison. The family asked Petitioner to switch schools to help with their financial situation as they could no longer provide transportation for him to McCutcheon.
4. At McCutcheon, Petitioner participated in freshman football (2011-12), junior varsity his sophomore year (2012-13) and varsity football his junior year (2013-14).
5. McCutcheon believed the transfer was for athletic reasons because Petitioner had a better chance of being a starter his senior year at Harrison. McCutcheon's athletic director heard Petitioner was transferring for athletic reasons, it appears this was gossip around the school.
6. Petitioner withdrew from McCutcheon on or around May 30, 2014 and enrolled at Harrison.
7. On May 30, 2014, Petitioner's father completed the Transfer Report. On the Transfer Report, Petitioner indicated the transfer was due to "our son's (Jami) car being extremely unreliable and since we live in the Harrison district, we need to rely on bus transportation to Harrison High School. Therefore it is imperative that Jami transfer to Harrison takes place."
8. McCutcheon, the receiving school, recommended that Petitioner receive limited eligibility under Rule 19-6.2 and said the transfer was primarily for athletic reasons.

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

McCutcheon, as sending school, did not sign the Rule 17-8.5 *Verification*. Harrison, the receiving school, recommended Petitioner have limited eligibility under 19-6.2 and did not sign the Rule 17-8.5 *Verification*.

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 28, 2014 and Petitioner sought timely review on September 1, 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. Generally, a student seeking a Rule 17-8.1 waiver must prove by clear and convincing evidence that, among other things, a hardship condition existed as defined in Rule 17-8.3. The Case Review Panel finds that Petitioner met his burden of showing a hardship, as there was a financial condition in his family that is beyond his control. Additionally, Petitioner is attending school where his family home is districted.

ORDER

The Case Review Panel REVERSES the decision of the Review Committee and finds by a vote of 5-2 that Petitioner should receive a Rule 17-8.3 waiver due to his families' financial hardship. Petitioner has full eligibility as of October 2, 2014 and would be able to participate in athletic events, should he be academically eligible and meets all other eligibility rules.

DATE: 10/2/2014



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.