

**BEFORE THE INDIANA  
CASE REVIEW PANEL**

<b>In The Matter B.F.</b>	)	
<b>Petitioner,</b>	)	
	)	
<b>and</b>	)	
	)	<b>CAUSE NO. 150130-131</b>
<b>The Indiana High School Athletic Association,</b>	)	
<b>Respondent.</b>	)	
	)	
<b>Review Conducted Pursuant to Ind. Code</b>	)	
<b>§ 20-26-14 <i>et seq.</i></b>	)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

**PROCEDURAL HISTORY**

On or about September 8, 2014, B.F.'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 Lebanon High School ("Lebanon") to Western Boone High School ("Western Boone"). On September 15, 2014, Lebanon, as the sending school, completed its portion of the Transfer Report. Western Boone, as receiving school, completed its portion of the Transfer Report on October 2, 2014.

On November 17, 2014, the IHSAA Assistant Commissioner determined that Petitioner transfer was a Rule 19-4 transfer and Petitioner was athletically ineligible. 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 January 15, 2015. Following the evidence presented at the January 15, 2015 hearing, the Review Committee issued its ruling on January 28, 2015, upholding the decision of the Assistant Commissioner that Petitioner was athletically ineligible at Western Boone until August 15, 2015.

On January 30, 2015, 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 February 9, 2015. On March 18, 2015, 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 his mother and father in a home in Lebanon, Indiana. Petitioner attended Lebanon his freshman – sophomore years. While at Lebanon, during his freshman (2012-2013) year, the Petitioner was on the junior varsity baseball team. During his sophomore (2013-2014) year Petitioner was on the varsity baseball team. He last participated athletically at Lebanon on April 1, 2014.

2. On September 8, 2014 Petitioner's parents completed the Transfer Report. Petitioner's parents believe Petitioner has struggled with school since Lebanon implemented the use of laptops the 2012-13 school year. Petitioner's parents believed the use of technology in combination with his ADHD, contributed to the decline of Petitioner's grades. Petitioner has had a difficult time while at Lebanon as a result of school's use of laptops as the primary source of learning materials and homework. Despite the parent's concerns regarding his ability to learn in this way, the effect it had on Petitioner's state of mind and his poor grades, there is little evidence Petitioner's parent's addressed those concerns with the school or that the school refused to make special accommodations for Petitioner in this regard.

3. During his freshman (2012-13) year, Petitioner had issues with the Lebanon baseball program. Petitioner was on the JV team, but with 1-2 games remaining in their season, he was released from the program by the Lebanon head coach. Petitioner's father did not explain what the reason was, but stated the head coach disrespected him.

4. During his sophomore (2013-14) year, Petitioner continued to be very unhappy with his participation in the Lebanon baseball program. He explained that he went through baseball winter workout and was told that he would be a catcher on the Lebanon varsity team for the 2014 season, however, two new players came into the program, and when the 2014 baseball season began, Petitioner learned he was no longer going to be the catcher for the team.

---

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

5. Petitioner was a member of the varsity team at the beginning of the season, and played in a scrimmage with Chatard High School on March 25, 2014. He did not play the next varsity game with Sheridan High School on March 31, 2014, and when Lebanon was to start its next game with Pike on April 1, 2014, Petitioner apparently learned that he again was not going to start as the catcher and he walked out of the Lebanon dugout and quit the team. Petitioner explained he did not want to play for the Lebanon coach, because he was not going to be the catcher as he was promised.

6. Within a day or two of Petitioner quitting the baseball team, his parents were meeting with the Lebanon Athletic Director to discuss his transfer out of Lebanon and requested information on what his eligibility would be.

7. Lebanon said the move was for athletic reasons and recommended no eligibility based on Rule 19-4. Lebanon did not sign the Rule 17-8.5 transfer *Verification* forms. Western Boone recommended full eligibility under Rule 19-6.1(j), Rule 17-5.5 was not selected; the 17-8.5 *Verification* was not signed.

#### 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 January 28, 2015 and Petitioner sought timely review on January 30, 2015.

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.

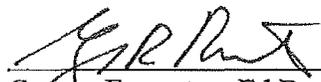
8. The totality of evidence supports the conclusion that Petitioner transferred from Lebanon to Western Boone primarily for athletic reasons. During both his freshman and sophomore year he was dissatisfied with his level of participation on the Lebanon baseball team. Petitioner also expressed his frustration with the coaching staff at Lebanon. When Petitioner did not start at the first game of season, he walked out of the dugout and never returned. Soon after this game, the Petitioner’s parents inquired with the Athletic Director at Lebanon regarding his athletic eligibility if he were to transfer schools.

### ORDER

The Panel finds by a vote of 7-0 that the decision of the IHSAA Review Committee, declaring Petitioner athletically ineligible for 365 days at Western Boone is UPHELD. The Petitioner is athletically ineligible for 365 days following his enrollment at Western Boone, up to and including August 15, 2015.

DATE:

March 24, 2015



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.