

**BEFORE THE INDIANA  
CASE REVIEW PANEL**

**In The Matter R.S.** )  
**Petitioner,** )  
 )  
**and** )  
 ) **CAUSE NO. 151218-143**  
**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 September 11, 2015, RS's ("Petitioner") father completed the student portion of the 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 2015-2016 school year relating to the Petitioner's transfer from Brownsburg High School ("Brownsburg") to Covenant Christian High School ("Covenant Christian"). On September 14, 2015, Brownsburg, as the sending school, completed its portion of the Transfer Report. Covenant Christian, as receiving school, completed its portion of the Transfer Report on September 15, 2015.

On September 15, 2015, the IHSAA Assistant Commissioner determined that Petitioner's transfer was a Rule 19-6.2 transfer and the Petitioner had limited eligibility at Covenant Christian. 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 November 5, 2015. Following the evidence presented at the November 5, 2015 hearing, the Review Committee issued its ruling on November 19, 2015, nullifying the decision of the Assistant Commissioner and declared the Petitioner was athletically ineligible pursuant to Rule 19-4 and 20-2.

On December 18, 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 the record from the IHSAA and received it

on January 8, 2016. On January 12, 2016, 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 father and an older sibling. Her transfer was not accompanied by a corresponding change of address. Brownsburg is the public school which serves the Petitioner's father's residence in Hendricks County, Indiana. In late summer 2015, the Petitioner enrolled at Covenant Christian for the 2015-16 school year; Covenant Christian is a private Christian school in Marion County, Indiana. The Petitioner attended Brownsburg her freshman – sophomore years. While at Brownsburg during her sophomore year (2014-15) she played varsity softball and junior varsity basketball.
2. On September 11, 2015, the Petitioner's father completed the student's portion of the transfer form. Her father indicated that the Petitioner was living with her father and her older sibling in her father's home in Brownsburg, Indiana, and that the reason for the transfer was "desire to receive an education aligned with the Petitioner's faith". At the Hearing, the Petitioner's father explained that her mother was sick and both he and the Petitioner wanted her to find a strong female role model to help her as she grows up. The family believed someone at a religious school could best fit this role.
3. The Assistant Commissioner ruled on September 15, 2015, that the transfer was a rule 19-6.2 transfer (transfer without a change of residence) and ruled the Petitioner was entitled to limited eligibility at Covenant Christian.
4. Right before the Review Committee Hearing, the Covenant Christian athletic director sent a letter to the IHSAA which indicated that there was a Past Link between the Petitioner and the Covenant Christian varsity softball coach. Apparently, the Petitioner has played summer softball for the past 4-5 years for the coach who was hired as the Covenant Christian varsity softball coach at the beginning of the summer 2015. The Covenant Christian varsity softball coach was aware that the Petitioner was enrolling there and there were discussions about the prior connection between the coach and the Petitioner at the school level. That information was not disclosed by the school or the Petitioner until just before the Review Committee Hearing. There is no evidence Brownsburg was made aware of this information prior to their decision to recommend a Rule 19-6.2 transfer.

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

5. Brownsburg and Covenant Christian signed the transfer verification forms. Brownsburg recommended Petitioner have limited eligibility under Rule 19-6.2. Covenant Christian, as the receiving school, indicated the Petitioner began attendance on July 29, 2015 and recommended full eligibility under rule 17-8.5, and signed the *17-8.5 Verification*.

### CONCLUSIONS OF LAW

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.

1. 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).
2. 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 November 19, 2015, and Petitioner sought timely review on December 18, 2015.
3. The Panel may uphold, modify, or nullify the IHSAA Executive 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.
4. 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).
5. 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.
6. 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. Considering the totality of the circumstances, the evidence supports the Petitioner transferred from Brownsburg to Covenant Christian primarily for athletic reasons. The Petitioner certainly wanted to make a change for herself, which appears to be very personal and ultimately in her best interest, but she transferred to a school she knew had a coach she had played for in the past. There are a variety of excellent private religious schools in both Marion and Hendricks County, yet the Petitioner chose the one school where she had a connection to a prior coach.

7. Under Rule 20-2 if there is recruitment or undue influence of a student which results in a student transferring schools, the student will be ineligible at that receiving school. Both the coach at Covenant Christian and the Petitioner were aware of the Past Link between the two yet failed to disclose that information during the IHSAA appeal process. The Petitioner had decided a private religious school was best for her, yet she picked the one school she had a connection to a prior coach. The Petitioner never disclosed this information and Covenant Christian only disclosed it at the very last minute prior to the Review Committee Hearing.

### ORDER

The Panel finds by a vote of 5-0 that the decision of the IHSAA Review Committee, upholding the decision of the Commissioner that there was a violation of Rule 19-4 and 20-2 is UPHELD. The Petitioner is athletically ineligible for 365 days following her enrollment at Covenant Christian.

DATE:

1/14/2014

  
George Grampton, 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.