

**BEFORE THE INDIANA  
CASE REVIEW PANEL**

In The Matter of A.S.,	)	
Petitioner	)	
And	)	<b>CAUSE NO. 071116-55</b>
The Indiana High School Athletic Assoc. (IHSAA),	)	
Respondent	)	
	)	
Review Conducted Pursuant to	)	<b>Closed Hearing</b>
I.C. 20-26-14 <i>et seq.</i>	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

**Procedural History**

A.S., (hereafter, “Petitioner”) attends Lawrence North High School (hereafter, “Lawrence North”), a public school located in Indianapolis, Indiana. Since August, 2007, Petitioner has attended Lawrence North, and is currently attending this school for the 2007-2008 school year. Petitioner attended University High School (hereafter, “University”), a private school located in Carmel, Indiana for the 2005-2006, and 2006-2007 school years. Petitioner attended Lawrence Central High School (hereafter, “Lawrence Central”), a public school located in Indianapolis, Indiana for the 2003-2004, and 2004-2005 school years. Both Lawrence North and Lawrence Central are public high schools located in the MSD of Lawrence Township school district.

In September 2007, Petitioner requested a determination of his athletic eligibility status for the 2007-2008 school year. On October 3, 2007, IHSAA Associate Commissioner Ray Craft, found Petitioner was athletically ineligible beginning the fall 2007 semester, and thereafter pursuant to Respondent’s **Rule C-12-2**.<sup>1</sup> **Rule 12** addresses Enrollment and Attendance. **Rule C-12-2** states as follows:

After enrollment in the 9<sup>th</sup> grade for 15 or more school days, students shall be eligible for no more than four (4) consecutive years, or the equivalent. (e.g. 12 semesters in a trimester plan, etc.)

Petitioner, by his parents, requested a review of the IHSAA Commissioner’s decision. The Respondent’s Review Committee conducted its review on November 2, 2007. The Review Committee upheld the decision of the Commissioner declaring that A.S. had four (4) years (eight

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<sup>1</sup>Respondent has promulgated a series of by-laws as a part of its sanctioning procedures for interscholastic athletic competition. Some by-laws apply to specific genders, but many of the by-laws are “common” to all potential athletes and, hence, begin with “C.” **Rule C-12-2** is “common” to both genders. (All references are to the 2007-2008 by-laws of Respondent.)

(8) semesters) of athletic eligibility available to him since his fall 2003 enrollment in high school, and had used all his athletic eligibility as of the end of the spring 2007 semester. The Review Committee would not grant eligibility under **Rule 12-3** since no evidence was presented which allowed him to qualify under such rules. The Review Committee also determined that: it cannot grant eligibility under the general hardship rule, **Rule 17-8.1**, because that hardship rule did not apply to the eight semester rule; and had the Review Committee considered the case under such rules, it would have denied relief because there was no proof entitling A.S. to more than eight (8) semesters. The Review Committee issued its written decision on November 9, 2007.

### APPEAL TO THE CASE REVIEW PANEL

Petitioner appealed to the Indiana Case Review Panel<sup>2</sup> on November 16, 2007. On November 19, 2007, the parties were notified of their hearing rights. The record from the investigation and review by Respondent was requested and received. The record was copied and provided to each participating member of the CRP. On November 21, 2007, the CRP issued a Notice of Hearing which indicated that a hearing would be conducted on December 6, 2007, at the Indiana Department of Education, 151 West Ohio Street, James Whitcomb Riley Conference Room, Indianapolis, Indiana. The parties received timely notice of the proceedings. The proceedings were closed to the public because Petitioner made no election to disclose student information. On December 6, 2007, the CRP convened.<sup>3</sup> Petitioner and his parents were present at the hearing. The Respondent appeared by counsel. Prior to the hearing a brief pre-hearing conference was conducted. Petitioner and Respondent submitted no additional exhibits.

Testimony was provided under oath or by affirmation.

In consideration of the testimony and record, the following Findings of Fact and Conclusions of Law are determined.

### FINDINGS OF FACT

1. Petitioner (A.S.) is a 19-year-old (d/o/b July 27, 1988). Petitioner attended Lawrence Central High School, a public school located in Indianapolis, Indiana for the 2003-2004, and 2004-2005 school years. Petitioner attended University High School, a private school located in Carmel Indiana for the 2005-2006 and 2006-2007 school years. Since

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<sup>2</sup>The Case Review Panel (CRP) is a nine-member adjudicatory body appointed by the Indiana State Superintendent of Public Instruction. The State Superintendent or her designee serves as the chair. The CRP is a public entity and not a private one. Its function is to review final student-eligibility decisions of the IHSAA when a parent or guardian so requests. Its decision does not affect any By-Law of the IHSAA but is student-specific. In like manner, no by-law of the IHSAA is binding on the CRP. The CRP, by statute, is authorized to uphold, modify, or nullify any student eligibility decision by the Respondent. I.C. 20-26-14-6(c)(3).

<sup>3</sup>Six members were present: Joan L. Keller, Chair; Edwin Baker; Christi L. Bastnagel; Scott F. Eales; James Perkins, Jr.; and Stephen Sipes.

- August, 2007, Petitioner has attended Lawrence North, and is currently attending this school for the 2007-2008 school year. Both Lawrence North and Lawrence Central are public high schools located in the MSD of Lawrence Township school district.
2. The *IHSAA Athletic Transfer Report*, dated August 20, 2007<sup>4</sup>, indicated that Petitioner was in the 12<sup>th</sup> grade. The “Yes” box was checked to question H.1. “Are you seeking hardship.”<sup>5</sup> Petitioner claimed that both parents lost their jobs, filed for bankruptcy, recently obtained jobs but cannot afford tuition at University. The Sending School indicated that Petitioner had participated in basketball in 10<sup>th</sup> grade, and 11<sup>th</sup> grade at the Varsity level. The “No” box was checked to question 3 “Would the student have been eligible for athletics if continuing in your school?” The reason given was that the Student is in his fifth consecutive year of high school. The Sending School indicated that the Student does not have eligibility to play sports. The Sending School also indicated the student withdrew because of financial reasons. The “No” box was checked to question 7 “Did student transfer for athletic reasons?” The “No” box was checked to question 8 “Did student transfer as a result of undue influence?” The action recommended by the sending school was that the Student should be declared ineligible according to **Rule 12-2**. Lawrence North, the Receiving School, indicated that Petitioner did not transfer for athletic reasons and did not transfer as a result of undue influence. The action recommended by the receiving school was that the Student should be declared ineligible according to **Rule 12-2**.
  3. Petitioner repeated the 10<sup>th</sup> grade in the 2005-2006 school year because of a decision made by Petitioner and Petitioner’s parents.
  4. Petitioner requested a determination of his athletic eligibility status for the 2007-2008 school year.
  5. On October 3, 2007, the IHSAA’s Associate Commissioner, found Petitioner was athletically ineligible beginning the fall 2007 semester, pursuant to IHSAA **Rule C-12-2**.
  6. On November 9, 2007, the IHSAA’s Review Committee upheld the decision of the IHSAA Commissioner declaring that A.S. had four (4) years (eight (8) semesters) of athletic eligibility available to him since his fall 2003 enrollment in high school, and had used all his athletic eligibility as of the end of the spring 2007 semester. The Review Committee also determined that: it will not grant eligibility under **Rule 12-3**, since no evidence was presented which would allow A.S. to qualify under such rules; it could not grant eligibility under the general hardship rule, **Rule 17-8.1**, because the general hardship rule does not apply to the eight semester rule; and had the Review Committee considered the case under any such rules, it would have denied relief because there was no proof entitling A.S. to more than eight (8) semesters.
  7. By the end of the 2006-2007 school year A.S. had four years of high school athletic eligibility.

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<sup>4</sup>Dated 8-20-07 on the second page of the *IHSAA Athletic Transfer Report* under II. Reasons for Transfer.

<sup>5</sup>Part II. Reasons for Transfer on the *IHSAA Athletic Transfer Report*.

## CONCLUSIONS OF LAW

1. Although the IHSAA, the Respondent herein, 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 “state action” and for this purpose makes the IHSAA analogous to a quasi-governmental entity. IHSAA v. Carlberg, 694 N.E.2d 222 (Ind. 1997), *reh. den.* (Ind. 1998). The Case Review Panel has been created by the Indiana General Assembly to review final student eligibility decisions with respect to interscholastic athletic competition. I.C. 20-26-14 *et seq.* The Case Review Panel has jurisdiction when a parent, guardian, or eligible student invokes the review function of the Case Review Panel. In the instant matter, the IHSAA has rendered a final determination of student-eligibility adverse to the student. Petitioner has timely sought review. The Case Review Panel has jurisdiction to review and determine this matter. The Case Review Panel is not limited by any by-law of Respondent. The Case Review Panel is authorized by statute to either uphold, modify, or nullify the Respondent’s adverse eligibility determination.
2. 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.
3. By the end of the 2006-2007 school year, Petitioner had four years of high school athletic eligibility.
4. Respondent’s denial of athletic eligibility for a fifth high school year for the 2007-2008 school year is upheld.

## ORDER

1. The Case Review Panel upheld the IHSAA’s decision that A.S. had four (4) years (eight (8) semesters) of athletic eligibility available to him since his fall 2003 enrollment in high school and had used all his athletic eligibility by the end of the 2006-2007 school year. This was determined by a unanimous vote of 6-0.

DATE: December 17 , 2007

/s/ Joan L. Keller, Chair  
Indiana Case Review Panel

## APPEAL RIGHT

Any party aggrieved by the decision of the Case Review Panel has thirty (30) calendar days from receipt of this written decision to seek judicial review in a civil court with jurisdiction, as provided by I.C. 4-21.5-5-5.