

**IOWA DEPARTMENT  
OF EDUCATION**  
(Cite as 25 D.o.E. App. Dec. 186)

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Sara J. Westemeyer, Ryan Westemeyer, Appellants,	:	DIA DOCKET NO. 09DOE002 [Admin. Doc. #4700]
vs.	:	DECISION
Iowa High School Athletic Association, Appellee.	:	

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This matter was heard telephonically on October 19, 2009, before John M. Priester, designated administrative law judge with the Iowa Department of Inspections and Appeals-Division of Administrative Hearings, presiding on behalf of Judy A. Jeffrey, Director of the Iowa Department of Education [hereinafter, "Department"].

The Appellants, Sara and Ryan Westemeyer, were represented by Attorney Patrick Peters. The Appellee, Iowa High School Athletic Association [hereinafter, "IHSAA"] was represented by attorney Brian Humke. An evidentiary hearing was held pursuant to departmental rules found at 281 IAC [Iowa Administrative Code] chapter 6. Jurisdiction for this appeal is pursuant to Iowa Code section 280.13 and 281 IAC 36.17. The administrative law judge finds that he and the Director of the Department of Education have jurisdiction over the parties and subject matter of this appeal.

The Appellants seek reversal of a decision that the IHSAA Board of Control made on August 10, 2009, finding that Ryan Westemeyer is ineligible to compete in varsity interscholastic athletics for 90 consecutive school days under the provisions of the general transfer rule, 281 IAC 36.15(3). Bruce Westemeyer testified on his son's behalf in the hearing. The IHSAA presented the testimony of its Executive Director, Richard Wulkow, and the IHSAA exhibits.

## FINDINGS OF FACT

Ryan Westemeyer has enjoyed playing basketball since he was very young. He has played on competitive teams and has won numerous awards for his play. Ryan played basketball his freshman year at Iowa City Regina High School. Due to various factors, including an injury, Ryan's experience his freshman year was not satisfactory. Ryan decided to transfer to Iowa City High School after basketball season was over. He transferred before the end of the school year so that he would not have to sit out the 90-days required when a student transfers schools without changing living locations.

Ryan's coach at Regina High School, Adam Loria, was not happy that Ryan transferred away from Regina High School. Coach Loria would not speak to Ryan's father when Mr. Westemeyer tried to speak to him about the transfer.

Ryan played his sophomore year at City High. His coach was very supportive of him and told him that he had a starting position if he continued to improve. Iowa City High won the state championship during Ryan's sophomore year. After that year the coach left to be employed at Creighton University.

Iowa City High hired Coach Loria as the varsity high school basketball coach. Coach Loria brought his hard feelings about Ryan to City High. Coach Loria played Ryan sparingly during Ryan's junior year. During the last game of the season, a tournament game where City High was defeated soundly, everyone played in the game except Ryan.

After the basketball season Ryan and his parents were concerned about Ryan's future at City High under Coach Loria. Ryan was receiving interest from colleges to play basketball after high school. The Westemeyers were concerned that Ryan would not play his senior year under Coach Loria and that would affect his ability to play college basketball.

Mr. and Mrs. Westemeyer met with the Iowa City High Athletic Director, D'Anne Kroemer. The Westemeyers expressed their concerns with Coach Loria and asked Ms. Kroemer to look into the matter. The Westemeyers knew that the 90-day rule would affect Ryan's ability to play at another school, so they asked that the matter be reviewed shortly.

Ms. Kroemer spoke with Ryan a few weeks after the meeting with Ryan's parents. The Westemeyers thought that Mrs. Kroemer would report back to

them after investigating the matter. The Westemeyers never heard back from Ms. Kroemer.

Ms. Kroemer testified that when she spoke with the Westemeyers, Mr. Westemeyer told her that this was a situation that could not be resolved. The Westemeyers asked her to looking into Coach Loria's treatment of Ryan.

Ms. Kroemer met with Ryan and then met with Coach Loria. Coach Loria told Ms. Kroemer that there was a more talented player ahead of Ryan during Ryan's junior year. That was the reason Ryan did not play very much. Ms. Kroemer believed that she looked into the matter and was not required to contact the Westemeyers to report on her findings.

The Westemeyers waited to hear back from Ms. Kroemer, hoping that she would contact them and let them know what her findings were. As the school year came to a close the Westemeyers never heard back from the Athletic Director.

Ryan's appeal letter states that:

Since they had not heard back from Ms. Kroemer, they now believed that nothing would come out of their meeting with Ms. Kroemer, and the decision now was for Ryan to stay at City and not play basketball or return to Regina to play basketball with his brother his Senior year. However, because there was only a month or less of school left it would be academically disastrous for Ryan to leave City, Ryan's parents felt forced to keep Ryan at City until the end of the school year.

During the summer months Ryan began investigating his options of transferring back to Regina High School due to the hostile environment he was experiencing with Coach Loria. Ryan made his decision to transfer and he enrolled at Iowa City Regina for his senior year.

Ryan petitioned the IHSAA to allow Ryan to play varsity basketball without having to sit out the 90-days. The petition was denied and Ryan and his mother then appealed that decision to the Board of Control. After reviewing the matter the Board of Control denied the appeal after the August 6, 2009 meeting. The denial was based upon the fact that the Board found no compelling reason to grant an exception to the general transfer rule. Ryan and his parents filed a timely appeal of this decision.

In the hearing Mr. Westemeyer outlined the chronology of Ryan's basketball career and his problems with Coach Loria. Mr. Westemeyer believes that Ryan was forced out of City High due to Coach Loria's vindictive attitude towards Ryan and the fact that Coach Loria created a hostile environment for Ryan. The Westemeyers believe that the 90-day rule should be waived due to the extenuating circumstances.

### CONCLUSIONS OF LAW

The Iowa State Board of Education has adopted rules regarding student interscholastic eligibility, pursuant to Iowa Code section 280.13. The rules are found at 281 IAC chapter 36, and an intergovernmental agency agreement allows the IHSAA to interpret and enforce these rules, subject to appeal to the Director of the Department of Education. See 281 IAC 36.17.

The general transfer rule, 281 IAC 36.15(3), states in pertinent part as follows:

36.15(3) *General transfer rule.* A student who transfers from one member or associate member school to another member or associate member school shall be ineligible to compete in interscholastic athletics for a period of 90 consecutive school days...The period of ineligibility applies only to varsity level contests and competitions...

There are eight exceptions listed in the general transfer rule, the two that are the basis of the Appellants' appeal are as follows:

...

(8) In any transfer situation not provided for elsewhere in this chapter, the executive board shall exercise its administrative authority to make any eligibility ruling which it deems to be fair and reasonable. The executive board shall consider the motivating factors for the student transfer. The determination shall be made in writing with the reasons for the determination clearly delineated.

The exception the Westemeyers are requesting to be applied is the catchall exception for what is "fair and reasonable." The Appellants are requesting an exception to the 90 day ineligibility ruling because the transfer from Iowa City

High School to Iowa City Regina High School was based upon the unfair treatment that Ryan was receiving from Coach Loria.

The Board of Control found that the "It is clear that Ryan's transfer to Regina is clearly for the sole purpose of participating in school sports. The reason for transferring is due to a lack of playing time."

The undersigned agrees with the determination made by the Board of Control. This appeal boils down to an issue of playing time and a problem with Coach Loria.

From the record introduced in the hearing it seems clear that Coach Loria is holding a grudge against Ryan for his departure from Iowa City Regina after Ryan's freshman year. However, from that departure Ryan and his family became intimately aware of the intricacies involved with the 90-day transfer rule. They were careful for Ryan to transfer from Regina to City High so that he would be eligible to play once basketball began during his sophomore year.

Ryan and his parents knew during his junior year that there were issues with Coach Loria. After the tournament game where Ryan was the only player not put in the game it was crystal clear that Coach Loria was not going to play Ryan.

The Westemeyers tried to address the issue with the City High Athletic Director. However a coach cannot be forced to play an athlete. The Athletic Director cannot direct Coach Loria to play Ryan. That is not how athletic departments are run. The Westemeyers knew of Coach Loria's attitude towards Ryan in March, but kept him enrolled at City High.

The Westemeyers did not attempt to contact Ms. Kroemer to ascertain her progress on the investigation during April, they just sat and waited for a decision. By their own appeal letter, after it became obvious that nothing was going to be done they chose to keep Ryan at City High instead of transferring him with a month to go in the school year.

The undersigned finds that the Appellants have not established a valid basis to waive the requirements of the General Transfer Rule. Issues regarding playing time or personality conflicts with the head coach, no matter how valid, do not constitute a valid reason to waive the requirements of the General Transfer Rule.

**DECISION**

For the foregoing reasons, the August 10, 2009 decision of the Board of Control of the Iowa High School Athletic Association that Ryan Westemeyer is ineligible to compete in varsity interscholastic athletics at Regina High School for a period of 90 consecutive school days is **AFFIRMED**. There are no costs associated with this appeal to be assigned to either party.

It is so ordered.



John M. Priester  
Administrative Law Judge

November 10<sup>th</sup> 2009

Date

11/13/09

Date



Judy A. Jeffrey, Director  
Iowa Department of Education