

**IOWA STATE DEPARTMENT  
OF EDUCATION**  
(Cite as 21 D.o.E. App. Dec. 55)

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*In re Garth Meinhardt* :  
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Lori Meinhardt, :  
Appellant, :  
  
v. : DECISION  
  
Iowa High School Athletic :  
Association, Appellee. : [Admin. Doc. #4494]

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The above-captioned matter was heard on July 9, 2002, before Susan E. Anderson, J.D., designated administrative law judge, presiding on behalf of Ted Stilwill, Director of the Department of Education.

Appellant, Lori Meinhardt; her son, Garth; and Garth's great-aunt, Diane Poch, were present and were unrepresented by counsel. Appellee, Iowa High School Athletic Association [hereinafter, "IHSAA" or "the Association"], was present in the person of Bernie Saggau, Executive Director. The Association was also unrepresented by counsel.

An evidentiary hearing was held pursuant to departmental rules found at 281-Iowa Administrative Code 6. Jurisdiction for this appeal is found at Iowa Code section 280.13(2001) and 281-Iowa Administrative Code 36.17. Appellant seeks reversal of a decision of the Board of Control of the IHSAA made on June 9, 2002, declaring that Garth Meinhardt is ineligible under the provisions of 281-Iowa Administrative Code 36 to compete in interscholastic athletics at Highland High School for a period of ninety school days following his transfer there.

The administrative law judge finds that she and the Director of the Department of Education have jurisdiction over the parties and subject matter of this appeal.

**I.  
FINDINGS OF FACT**

Garth Meinhardt will be a senior enrolled for the 2002-2003 school year at Highland High School, a public school in Riverside, Iowa. He is seventeen years old. During the first week of June 2002, Garth moved to Riverside, Iowa, to reside with Mr. and Mrs. William Poch, his great uncle and aunt. They had opened up their home to Garth so that he could attend a smaller school. Mr. and Mrs. Poch are Garth's temporary custodians. This temporary

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custodial arrangement is pursuant to a notarized document, signed on April 23, 2002, by Lori and Joseph Meinhardt, Garth's mother and father. These documents were not part of a formal court guardianship proceeding nor were they approved by any court. Garth's parents maintain his medical insurance and Garth intends to pay for his clothing and school expenses from money he earns at his summer job in Riverside.

Garth attended public high school in Bettendorf, during his freshman, sophomore and junior years. He participated in soccer, football and wrestling. He did not compete in football games after he became dehydrated before a game mid-season of his junior year. After his brief hospitalization, his coach did not play him in games even though Garth's doctor had put no medical restrictions on him. His grades are consistently high, but his class rank at Bettendorf High School went slightly down from 22 out of 416 his freshman year to 42 out of 366 his junior year. (Exh. 2.) His junior year, he did not go out for soccer in the spring.

Garth decided to move to Riverside for the following reasons:

Once I entered high school, things for me have changed quite a bit. I am a quiet person who devotes a lot of time to my schoolwork then I try to be socially interactive. When I do try to talk with others and just be myself around them, I am not taken seriously. My sophomore and junior years of school have been quite miserable for me and I feel that a smaller school might hold a better environment. ...To participate in sports is not the reason I am transferring to Highland. The

reason is that I believe a smaller environment would be more advantageous for the type of person I am.

(Exh. 1, G. Meinhardt Ltr, May 14, 2002.)

Garth desires to be immediately eligible to compete in football for Riverside High School in the fall of 2002. There was no evidence or indication that the establishment of Garth's residence with his great uncle and aunt was motivated by an improper motive such as recruiting.

On May 14, 2002, Garth wrote a letter to Mr. Saggau explaining his situation and asking for his opinion on Garth's eligibility. Mr. Saggau replied by letter on May 20, 2002, that it was his opinion that Garth would be ineligible to compete in interscholastic competitions at Highland High School for 90 school

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days. On June 9, 2002, the Board of Control of the Association affirmed the decision of its management. The decision of the Board of Control regarding Garth's 90-day period of ineligibility to compete for Highland High School under 281-36.15(3) was communicated to Garth by letter dated June 10, 2002. Garth and his parents then appealed to the Director of the Department of Education. (Exh. 1.)

## **II. CONCLUSIONS OF LAW**

The State Board of Education has adopted rules regarding student athletic eligibility pursuant to the authority contained in Iowa Code section 280.13. Those rules are found in 281-Iowa Administrative Code 36. The rules are enforced by the schools themselves and by the coaches, subject to interpretations and assistance from the Iowa High School Athletic Association (for male athletes) and the Iowa Girls' High School Athletic Union (for female athletes). Pursuant to 28E agreements, the Association and the Union enforce the rules by their official determinations, subject to appeal to the Director of the Department of Education.

The primary issue before the Board of Control was the application of the Department of Education's longstanding rules

relating to transfer. Rule 281-36.15(3)(a) provides, in pertinent part, as follows:

*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 school days, as defined in 281-12.8(2), exclusive of summer enrollment, unless one of the following exceptions listed in paragraph 36.15(3) "a" applies. In ruling upon the eligibility of transfer students, the executive board shall consider the factors motivating student changes in residency. Unless otherwise provided in the rules, a student intending to establish residency must show that the student is physically present in the district for the purpose of making a home and not solely for school or athletic purposes.

- (a) Exceptions. The executive officer or executive board shall consider and apply the following exceptions in formally or informally ruling upon the eligibility

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of a transfer student and may make eligibility contingent upon proof that a request for transfer has been made and that the student has been in attendance in the new school for at least ten days...

281-IAC 36.15(3) "a".

In its consideration of Garth's situation, the Board of Control applied the *General Transfer* rule to the facts and reached the conclusion that Garth is ineligible to compete for 90 school days. It was undisputed that there has been no contemporaneous change of parental residence. Therefore, the 90-day ineligibility period stands unless there is an applicable exception. Rule 281-36.15(3) "b" (4) provides:

(4) Pursuant to Iowa Code section 256.46, a student whose residence changes due to any of the following circumstances is immediately eligible provided the student meets all other eligibility requirements in these rules and those set by the school of attendance:

- (1) Adoption.
- (2) Placement in foster or shelter care.
- (3) Participation in a foreign exchange program recognized by the school of attendance.
- (4) Placement in a juvenile correction facility.
- (5) Participation in a substance abuse program.
- (6) Participation in a mental health program.
- (7) Court decree that the student is a ward of the state or of the court.
- (8) The child is living with one of the child's parents as a result of divorcee decree, separation, death, or other change in the child's parents' martial relationship.

*Id.*

Garth and his parents do not contend that any of the above exceptions are applicable to Garth's situation. They argue, however, that Garth's situation falls under a "catchall exception" in 281-36.15(8), which states:

(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 deter-

mination shall be made in writing with the reasons for the determination clearly delineated.

*Id.*

Mr. Saggau testified that the "catchall exception" doesn't apply because Garth's situation is already explicitly provided for in Rule 281-36.15(3); Garth is transferring from one public school to another public school. We agree with Mr. Saggau that 281-36.15(8) is not applicable to Garth's situation.

The 90-day period of ineligibility for students who transfer from one school to another exists to prevent recruitment of student athletes by school districts and to prevent students from shopping around for schools which they believe will give them the best opportunity for their athletic career. *In re Scott Halapua*, 13 D.o.E. App. Dec. 394 (1996). The facts in Garth's situation show that recruitment for athletic participation did not motivate the transfer from Bettendorf to Highland. This does not invalidate the rule. The Director of the Department of Education has refused to make an exception to the 90-day ineligibility rule in a number of cases. *In re Travis Bass*, 19 D.o.E. App. Dec. 179(2001); *In re Erin Kappeler*, 17 D.o.E. App. Dec. 348 (1999); *In re R.J. Levesque*, 17 D.o.E. App. Dec. 317(1999); *In re Joshua Birchmier*, 14 D.o.E. App. Dec. 243 (1997); *In re Tim Ratino*, 13 D.o.E. App. Dec. 249(1996); *In re Scott Halapua*, 13 D.o.E. App. Dec. 394 (1996); and *In re Leo Sullivan*, 13 D.o.E. App. Dec. 400(1996).

Although the evidence in Garth's appeal showed that his reasons for transferring to Highland were not motivated by recruitment for athletic purposes, the transfer rules are applicable and controlling because the rules are reasonably related to achieving the IHSAA's purpose in deterring recruitment.

Any motions or objections not previously ruled upon are hereby denied and overruled.

**III.**  
**DECISION**

For the foregoing reasons, the June 9, 2002, decision of the Board of Control of the Iowa High School Athletic Association, declaring Garth Meinhardt ineligible to compete in athletics for 90 school days at Highland High School, is hereby affirmed. There are no costs of this appeal to be assigned.

\_\_\_\_\_  
DATE

SUSAN E. ANDERSON, J.D.  
ADMINISTRATIVE LAW JUDGE

It is so ordered.

\_\_\_\_\_  
DATE

TED STILWILL  
DIRECTOR