

**IOWA STATE DEPARTMENT  
OF EDUCATION**

(Cite as 19 D.o.E. App. Dec. 94)

<p><b><i>In re Christi Anderson</i></b></p> <p>Douglas Craig, Appellant,</p> <p>v.</p> <p>Iowa Girls High School Athletic Union, Appellee.</p>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p>DECISION</p> <p>[Admin. Doc. #4282]</p>
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The above-captioned matter was heard on October 5, 2000, before a hearing panel comprised of Ms. Sara Petersen and Ms. Donna Eggleston, consultants, Bureau of Administration and School Improvement Services; and Susan E. Anderson, J.D., designated administrative law judge, presiding on behalf of Ted Stilwill, Director of Education.

Appellant, Douglas Craig, Athletic Director at Prince of Peace Preparatory School ["Prince of Peace"], was present and was unrepresented by counsel. Appellee, Iowa Girls High School Athletic Union [hereinafter, "IGHSAU" or "the Union"], was present in the person of Troy Dannen, Associate Executive Secretary. The Union was 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(1999) and 281-Iowa Administrative Code 36.17. Appellant seeks reversal of a decision of the Board of Directors of the IGHSAU made on September 27, 2000, declaring that Christi Anderson is ineligible under the provisions of 281-Iowa Administrative Code 36 to compete in high school athletics for 90 school days following her transfer.

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.

## FINDINGS OF FACT

Christi Anderson ("Christi") is currently a seventeen-year-old junior attending high school at the Prince of Peace Preparatory School, located in Clinton, Iowa. Christi lives with her parents in Erie, Illinois, which is across the Mississippi River from Clinton, Iowa. Christi and her family have not changed residences during any time that is pertinent to this appeal.

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During her freshman and sophomore years, Christi attended Unity Christian High School, a nonpublic school located in Fulton, Illinois. Christi participated in Unity Christian School's soccer and basketball programs during her freshman and sophomore years. Cross country was not an available athletic activity at Unity Christian.

In August, 2000, Christi transferred to Prince of Peace and began her junior year there. She sought to compete in athletics in the Prince of Peace athletic program. She has been practicing with the cross country team and wishes to compete in the remaining cross country meets and in the basketball season.

On August 15, 2000, Mr. Craig, Athletic Director at Prince of Peace, sent a letter to the Union requesting a ruling on Christi's athletic eligibility.

The Union's management decided that Christi was ineligible to compete in interscholastic athletics under the provisions of 281-Iowa Administrative Code 36.15(3), the *General Transfer Rule*. Rule 36.15(3) provides, in pertinent part:

A student who transfers from one school district to another school district, except upon a contemporaneous change in parental residence, shall be ineligible to compete in interscholastic athletics for a period of 90 school days.<sup>1</sup>

The decision of the Union's management regarding Christi's 90-day ineligibility to compete for Prince of Peace was communicated to Appellant by letters dated August 21 and September 8,

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<sup>1</sup> Mr. Saggau testified that the Association interprets the word "contemporaneous" to mean within 30 school days.

2000. On August 27, 2000, the Board of Directors of the Union affirmed the decision of its management, and sent its decision to Appellant by letter dated August 29, 2000. Appellant then appealed to the Director of the Department of Education.

Mr. Craig's Affidavit of Appeal asserts, in pertinent part:

My original petition was based on Iowa Administrative Code rule 281 subrule 36.15(4) open enrollment transfer rule paragraph "a" concerning situations for which the 90-school-days ineligibility period does not apply, which reads: "Participates in an athletic activity in the receiving district that is not available in the district of residence." IGHSAU Associate Executive Secretary Troy

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Dannen pointed out that I could not base my petition on subrule 36.15(4)a because this only applies to open enrollment transfer, which this clearly is not. Because there were no other extenuating circumstances concerning the transfer Associate Executive Secretary Dannen denied uninterrupted athletic eligibility for the student-athlete Anderson.

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My next appeal was in the form of an oral hearing in front of the Executive Board of the IGHSAU. The position of Prince of Peace Schools at this hearing was that there is an inconsistency in the Iowa Administrative Code. Paragraph "A" of IAC 281-36.15(4) creates a benefit for open enrollment transfers that our school system feels is unfair if not applied in all transfer cases. In this situation Prince of Peace Schools fails to distinguish between general transfer and open enrollment transfer. Based on this I asked the IGHSAU Executive Board to exercise its administrative authority to grant the student-athlete Anderson uninterrupted athletic eligibility for cross country.

Rule 36.15(4) provides in pertinent part as follows:

*Open enrollment transfer rule.* A student in grades 10 through 12 whose transfer of schools had occurred due to a request for open enrollment by the student's parent or guardian is ineligible to compete in interscholastic athletics, but may practice with the team, during the first 90 school days of transfer. However, if an open enrollment student participates in the name of a member school during the summer, the student is ineligible to participate in the name of another member school for the first 90 school days of the following school year. This period of ineligibility does not apply if the student:

- a. Participates in an athletic activity in the receiving district that is not available in the district of residence; or

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Appellant, therefore, bases his appeal on his contention that the same exception should apply to Christi since cross country was not offered at Unity Christian.

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## 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.

We conclude that the General Transfer Rule is not applicable to this appeal because Christi did not "transfer from one school district to another school district." 281 IAC 36.15(3). Christi transferred from one nonpublic school, Unity Christian located in Fulton, Illinois, to another nonpublic school, Prince of Peace located in Clinton, Iowa. We also conclude that rule 36.15(5), entitled, "Transfers between public and nonpublic schools," does not apply. Furthermore, we agree with the Union's Board of Directors that Rule 36.15(4), entitled, "Open enrollment transfer rule," does not apply.

Christi's transfer from one nonpublic school to another nonpublic school, where the first school did not offer the activity, is not explicitly provided for in Chapter 36. Therefore, we turn to rule 36.15(3)(b)(8), which provides:

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

We conclude that under the above rule, it is fair and reasonable to allow Christi Anderson to be eligible to compete at Prince of Peace since her prior school did not offer cross country as an athletic activity. We emphasize that we are limiting this eligibility to the specific facts of this appeal.

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

### **III. DECISION**

For the foregoing reasons, the September 27, 2000, decision of the Board of Directors of the Iowa Girls High School Athletic Union, declaring Christi Anderson ineligible to compete in

athletics for 90 school days at Prince of Peace Preparatory School, is hereby reversed. There are no costs of this appeal to be assigned.

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DATE

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

It is so ordered.

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DATE

TED STILWILL  
DIRECTOR