IOWA DEPARTMENT OF EDUCATION

(Cite as 29 D.o.E. App. Dec. 231)

In re: Athletic Eligibility	)	
	)	
A.T.,	)	Case No. 20DOE0001
Appellant,	)	DE Admin. Doc. No. 5111
	)	
v.	)	
	)	
Iowa High School Athletic Association,	)	**DECISION**
Appellee.	)	
	)	

STATEMENT OF THE CASE

This matter was heard by in-person hearing on October 24, 2019, by Joseph Ferrentino, designated administrative law judge with the Iowa Department of Inspections and Appeals, presiding on behalf of Ryan M. Wise, Director of the Iowa Department of Education (Department).

The appellant, A.T., appeared personally. Also appearing on his behalf were his parents, Sara T. and Dale T.; his aunt and uncle, Joy F. and Jim F.; and his attorney, Rich Mitvalsky. The Iowa High School Athletic Association (IHSAA) was represented by attorney Brian Humke. Also appearing for the IHSAA was executive director Tom Keating. Sara T. and Keating testified.

An evidentiary hearing was held pursuant to departmental rules found at Iowa Administrative Code agency 281, chapter 6. Jurisdiction for this appeal is pursuant to Iowa Code section 280.13 and Iowa Administrative Code rule 281-36.17. The undersigned finds he and the Director of the Department have jurisdiction over the parties and subject matter of this appeal.

The appellant seeks reversal of a decision the IHSAA Board of Control (Board) made on September 5, 2019, finding A.T., a sixth-year student at Cedar Rapids Washington High School, is ineligible to compete in interscholastic athletics.

At the hearing, the following items were made part of the record:

- A recording of the hearing before the Board;
- Documents that had been made available to the Board, including several letters written in support of A.T.;

- Minutes of the meeting of the Board on August 28, 2019; and
- A copy of the decision of the Board signed by Chairperson Greg Darling.

Both parties filed briefs and presented oral argument. The appellant moved for permission to submit a supplemental exhibit. The motion was granted, the exhibit (exhibit 1) was submitted, and the record is now closed.

FINDINGS OF FACT

A.T. has been diagnosed with Lennox-Gastaut syndrome, a rare form of epilepsy. (R. 83). A.T. had his first seizure at the age of three. (R. 83). He continues to have seizures of multiple types. (Sara T. testimony). A.T. has cognitive and developmental impairments resulting from his condition. (Sara T. testimony). Despite these limitations, A.T. showed an aptitude for running and was encouraged by multiple people to go out for cross country in high school. (R. 37). He did so.

A.T. is a special education student with an individualized education program (IEP). (R. 23, 62–87). He is making adequate progress toward his IEP goals. (R. 62). One of his IEP goals is that he "will participate in nonacademic activities with nondisabled peers and have the same opportunity to participate in extracurricular activities (such as Cross Country) as nondisabled peers." (R. 76).

A.T.'s freshman year of high school was the 2014-15 school year. (R. 15, 39). He was a sophomore in 2015-16, a junior in 2016-17, a senior in 2017-18, and a fifth-year student in 2018-19. (R. 15, 40). He walked with the graduating class in May 2019 but did not receive a diploma. (R. 40). This school year, 2019-20, is A.T.'s sixth year of high school. (R. 1, 40). He turned 20 in May 2019. (R. 1, 40).

A.T. participated in cross country, which is a fall sport, in 2014, 2015, 2016, and 2017. (R. 31). A.T. generally finished near the back of the pack in every race he ran. (Sara T. testimony; R. 19, 33, 53, 57, 60). His participation, however, inspired many positive outcomes. He pushed his teammates to work harder. (R. 55, 59). He taught others the values of empathy, compassion, and acceptance. (R. 52, 54, 55, 57, 58). He showed the value of teamwork. (R. 51). He felt a sense of belonging with his teammates and was given the opportunity to interact with general-education peers on his and other teams. (Sara T. testimony; R. 57, 58). The physical activity improved his health. (Sara T. testimony; R. 49, 57). He learned the value of competition. (R. 49). He gained confidence that carried over into other areas of his life. (Sara T. testimony).

A.T. also brought acclaim to Iowa high school athletics. During the 2016 season, A.T. was running in a race when he got distracted. Another runner from a competing high school noticed A.T.'s distraction and turned around, took A.T.'s hand, and ran with him the final mile of the race, holding his hand the whole time. (R. 19). That other runner and A.T. became linked in media reports and on social media. (R. 18, 53). ABC News named the two competitors their persons of the week. (R. 18; Ex. 1). They are still linked: the other runner and his family wrote a letter of support for A.T. in this appeal. (R. 52). Perhaps more impressive, though, is that this is not the

only time A.T. has inspired such sportsmanship in other runners, as a newspaper account of the incident names two other times this has happened. (R. 19).

After running for four years, A.T. requested an additional year of eligibility for 2018. (R. 31). His request was denied. (R. 26). A.T. did not participate in cross country in 2018.

A.T. renewed his request for an additional year of eligibility before the 2019 season. (R. 11, 34). His request was again denied. (R. 1). A.T. appealed the decision to the IHSAA Board of Control, which affirmed the decision deeming him ineligible. (R. 39–43).

The Board's ruling discusses two Department rules: the maximum-age rule and the eight-semester rule.

The maximum-age rule is found at Iowa Administrative Code agency 281, rule 36.15(2)(b). It provides: "All contestants must be under 20 years of age." (R. 40). The Board concluded this rule "creates a commonality between student-athletes and schools in interscholastic competition" and ensures "equality of competition and opportunity." (R. 41). At hearing, Keating affirmed these purposes of the rule. (Keating testimony). The Board concluded there are no exceptions to this rule. (R. 42). Because A.T. is 20, the Board ruled, he is ineligible to participate in interscholastic athletics. (R. 42).

The Board also discussed the eight-semester rule. The rule provides: "A student who meets all other qualifications may be eligible to participate in interscholastic athletics for a maximum of eight consecutive semesters upon entering the ninth grade for the first time." (R. 41). The rule further provides under certain circumstances an exception to this rule may be granted. (R. 42). The Board concluded A.T. did not meet "all other qualifications" because he is 20. (R. 42). Therefore, the Board concluded, it had no power to grant an exception to the eight-semester rule. Because A.T.'s eight-semester clock from the start of his first ninth-grade year had run, and no exceptions were available, the Board concluded A.T. was also ineligible for interscholastic competition because of the eight-semester rule. (R. 42). Keating testified the eight-semester rule has substantially the same goals as the maximum-age rule. (Keating testimony).

The family filed a timely appeal.

CONCLUSIONS OF LAW

This appeal is brought pursuant to Iowa Administrative Code rule 281-36.17, which provides if a claimant is "still dissatisfied" following a Board hearing, the claimant may make a written appeal to the director of education. *See* Iowa Admin. Code r. 281-36.17. The procedures for such a hearing are set forth in Iowa Administrative Code agency 281, chapter 6; that is, they are the general rules for Department appeals, "except that the decision of the director is final." *Id.* "The decision shall be based on the laws of the United States, the state of Iowa and the regulations and policies of the department of education and shall be in the best interest of education." *Id.* r. 281-6.17(2).

Standard of Review

The standard of review in these cases is de novo. *See id.* r. 281-6.12(2) (providing for submission of evidence at appeal hearing); 281-6.12(2)(o)(1) ("Because the administrative law judge must decide each case correctly as to the parties . . . [and] must also decide what is in the public's best interest, it is necessary to allow for the reception of all relevant evidence which will contribute to an informed result."); *In re T.M.*, 29 D.o.E. App. Dec. 38, 43–45 (2018); *In re Austin Trumbull*, 26 D.o.E. App. Dec. 99, 100 (2011) (considering facts not raised before Board); *In re Chase S.*, 22 D.o.E. App. Dec. 136, 137 (2003) (same); *In re Douglas Gillett*, 21 D.o.E. App. Dec. 218, 221 (2002); *In re Malcolm S. Bevel*, 21 D.o.E. App. Dec. 186, 191 (2002); *In re Webster N. Clayton IV*, 21 D.o.E. App. Dec. 176, 182 (2002); *In re Nancy Sue Walsh*, 3 D.P.I. App. Dec. 34, 39 (1982) ("Only after an open and complete revelation of the facts, as [this tribunal] had before it, could a fair and equitable decision be rendered in this matter."); *In re Scott Anderson*, 1 D.P.I. App. Dec. 280, 282 (1978); *cf. In re Evan P.*, 27 D.o.E. App. Dec. 634, at *2, *5 (2015) (stating standard is "abuse of discretion" but considering testimony); *In re Thor L.*, 27 D.o.E. App. Dec. 530, 530, 533 (2014) (same); *In re Derek Sears*, 25 D.o.E. App. Dec. 15, at *3 (2007) (noting "abuse of discretion" standard is proper only at judicial review stage).[1]

Discussion

Rule 281-36.15(2) provides:

> **36.15(2)** *Scholarship rules.*
>
> *a.* All contestants must be enrolled and in good standing in a school that is a member or associate member in good standing of the organization sponsoring the event.
>
> *b.* All contestants must be under 20 years of age.
>
> *c.* All contestants shall be enrolled students of the school in good standing. They shall receive credit in at least four subjects, each of one period or "hour" or the equivalent thereof, at all times. To qualify under this rule, a "subject" must meet the requirements of 281—Chapter 12. Coursework taken from a postsecondary institution and for which a school district or accredited nonpublic school grants academic credit toward high school graduation shall be used in determining eligibility. No student shall be denied eligibility if the student's school program deviates from the traditional two-semester school year.
>
> (1) Each contestant shall be passing all coursework for which credit is given and shall be making adequate progress toward graduation requirements at the end of each grading period. Grading period, graduation requirements, and any interim periods of ineligibility are determined by local policy. For purposes of this subrule, "grading period" shall mean the period of time at the end of which a student in grades 9

[1] Department appeal decisions are available at: https://www.edinfo.state.ia.us/web/appeals_float.asp.

through 12 receives a final grade and course credit is awarded for passing grades.

(2) If at the end of any grading period a contestant is given a failing grade in any course for which credit is awarded, the contestant is ineligible to dress for and compete in the next occurring interscholastic athletic contests and competitions in which the contestant is a contestant for 30 consecutive calendar days.

d. A student with a disability who has an individualized education program shall not be denied eligibility on the basis of scholarship if the student is making adequate progress, as determined by school officials, towards the goals and objectives on the student's individualized education program.

e. A student who meets all other qualifications may be eligible to participate in interscholastic athletics for a maximum of eight consecutive semesters upon entering the ninth grade for the first time. However, a student who engages in athletics during the summer following eighth grade is also eligible to compete during the summer following twelfth grade. Extenuating circumstances, such as health, may be the basis for an appeal to the executive board which may extend the eligibility of a student when the executive board finds that the interests of the student and interscholastic athletics will be benefited.

f. All member schools shall provide appropriate interventions and necessary academic supports for students who fail or who are at risk to fail, and shall report to the department regarding those interventions on the comprehensive school improvement plan.

g. A student is academically eligible upon entering the ninth grade.

h. A student is not eligible to participate in an interscholastic sport if the student has, in that same sport, participated in a contest with or against, or trained with, a National Collegiate Athletic Association (NCAA), National Junior College Athletic Association (NJCAA), National Association of Intercollegiate Athletics (NAIA), or other collegiate governing organization's sanctioned team. A student may not participate with or against high school graduates if the graduates represent a collegiate institution or if the event is sanctioned or sponsored by a collegiate institution. Nothing in this subrule shall preclude a student from participating in a one-time tryout with or against members of a college team with permission from the member school's administration and the respective collegiate institution's athletic administration.

i. No student shall be eligible to participate in any given interscholastic sport if the student has engaged in that sport professionally.

j. The local superintendent of schools, with the approval of the local board of education, may give permission to a dropout student to participate in athletics upon return to school if the student is otherwise eligible under these rules.

k. Remediation of a failing grade by way of summer school or other means shall not affect the student's ineligibility. All failing grades shall be reported to any school to which the student transfers.

Iowa Admin. Code r. 281-36.15(2).

A.T.'s position. A.T. argues subsection (d)'s provision for progressing IEP students overrides subsection (b)'s age limit because subsection (b) is a "scholarship" rule, *see id.* r. 281-36.15(2), and subsection (d) expressly fends off denials of eligibility based on "scholarship." *See In re Michael Dodge*, 15 D.o.E. App. Dec. 328, 330 (1998) (calling maximum-age rule a "scholastic eligibility criteri[on]"); *In re Joe Schisel*, 11 D.o.E. App. Dec. 230, 233 (1994) (same); *see also Good v. Iowa Dep't of Human Servs.*, 924 N.W.2d 853, 860 (Iowa 2019) ("[A]lthough the title of a statute cannot limit the plain meaning of the text, it can be considered in determining legislative intent.").

A.T. further argues this reading is necessary to avoid violating his right to an education as a disabled student. Distinguishing *Pottgen v. Missouri State High School Activities Association*, 40 F.3d 926, 929 (8th Cir. 1994), A.T. argues reading subsection (d) as he does harmonizes Iowa's eligibility-rule framework with federal law protecting his right to a free and appropriate public education (FAPE) through the age of 21, *see* 20 U.S.C. § 1412(a)(1)(A), and permits the Board to engage in an individualized inquiry that recognizes "the unique challenges of disabled students by subordinating eligibility determinations under all other scholarship rules to [subsection (d)'s] protective mandate."

Finally, A.T. argues, because (d) overrides (b), A.T. *does* meet "all other qualifications"[2] for purposes of (e), and therefore an exception to (e)'s eight-semester rule is possible and should be granted. To this end, he presents evidence demonstrating running cross country with the team is a benefit to him and to interscholastic athletics.

IHSAA's position. The IHSAA argues subsection (d) is unambiguous: "*All* contestants must be under 20 years of age." The IHSAA argues applying subsection (d) to override (b) would be "a disaster." The IHSAA has never granted an exception to the maximum-age rule. The IHSAA notes, as the Board did, the maximum-age rule promotes commonality of age among contestants and ensures equality of competition and opportunity. The Board concluded subsection (d)'s reference to "scholarship" is a reference to subsection (c)'s discussion of academics.

In response to A.T.'s FAPE argument, the IHSAA notes it "has nothing to do" with IEPs. In other words, it would not have been considering IEPs or harmonizing eligibility rules with "the unique challenges of disabled students" when it was drafting its rules.

Statutory interpretation. Interpreting regulations proceeds in the same fashion as interpreting statutes. *See Colwell v. Iowa Dep't of Human Servs.*, 923 N.W.2d 225, 235 (Iowa 2019) ("The rules of statutory construction and interpretation also govern the construction and interpretation of administrative rules and regulations."). The Iowa Supreme Court has summarized standards for statutory interpretation:

[2] Both parties read subsection (e) to require a student to "meet[] all other qualifications" before the exception contemplated by subsection (e) may be granted.

> We will not ordinarily resort to rules of statutory construction when the language of a statute is so clear and free from obscurity that its meaning is evident from a mere reading. . . . A statute is ambiguous if reasonable minds could differ or be uncertain as to the meaning of the statute. Ambiguity may arise in two ways: (1) from the meaning of particular words; or (2) from the general scope and meaning of a statute when all its provisions are examined. Our ultimate goal in interpreting statutes is to determine and give effect to legislative intent. When a statute is ambiguous, in order to ascertain the legislature's intent, we look to the spirit of the statute as well as the words and give a sensible, workable, practical, and logical construction. In order to arrive at a reasonable construction which will best affect rather than defeat the legislative purpose, we consider the following: (1) the language of the statute; (2) the objects sought to be accomplished; and (3) the evils sought to be remedied. We may consider an ambiguous statute's legislative history and the applicable preamble or statement of policy.

In re Schley, 509 B.R. 901, 911 (Bankr. N.D. Iowa 2014) (quoting *Holiday Inns Franchising, Inc. v. Branstad*, 537 N.W.2d 724, 728 (Iowa 1995)).

The starting point for statutory and regulatory interpretation is the language of the statute or rule. If the language of the rule is plain and the meaning clear, the inquiry is over. *United Electrical, Radio & Machine Workers of America v. Iowa Pub. Emp't Relations Bd.*, 928 N.W.2d 101, 109 (Iowa 2019). If a statute is ambiguous, however, "we use a variety of methods, including traditional tools of statutory construction, to determine the meaning of the statute." *Young v. Iowa City Cmty. Sch. Dist.*, No. 18-1427, 2019 WL 5275026, at *7 (Iowa Oct. 18, 2019).

To determine if a rule is ambiguous or unambiguous, one reads the rule as a whole. *State v. Richardson*, 839 N.W.2d 609, 616 (Iowa 2017). "The determination of whether a statute is ambiguous does not necessarily rest on close analysis of a handful of words or a phrase utilized by the legislature, but involves consideration of the language in context." *Id.*

Discussion. The undersigned concludes the rule is ambiguous. Specifically, subsection (d)'s phrase "on the basis of scholarship" injects ambiguity into the rule. Indeed, it is precisely the "consideration of the language in context," *id.*, that creates the ambiguity. "Scholarship" is not a term of art and is not defined in the IHSAA's rules. Therefore, it is proper to give "scholarship" its ordinary meaning. *Lauhoff Grain Co. v. McIntosh*, 395 N.W.2d 834, 839 (Iowa 1986). "The dictionary provides a ready source for the common meaning of a word or phrase." *State v. Tesch*, 704 N.W.2d 440, 451 (Iowa 2005). The ordinary meaning of "scholarship" is "learning; knowledge acquired by study; the academic attainments of a scholar." *Scholarship*, available at http://www.dictionary.com/browse/scholarship. In short: academics. Were we to limit ourselves to "close analysis of a handful of words or a phrase," *Richardson*, 839 N.W.2d at 616, the meaning would be plain. It is only when we view the language in context (as we must) that ambiguity arises. "Scholarship" is used in the title for rule 36.15(2). The IHSAA argues the title of a section is not the be-all, end-all of statutory construction. That is true enough, but the title may be

considered in determining legislative intent. *See Good*, 924 N.W.2d at 860. In context, then, "on the basis of scholarship" could mean "on the basis of any one of the rules enumerated in rule 36.15(2)." Because "reasonable minds could differ," the rule is ambiguous. *Young*, 2019 WL 5275026, at *7.

The tools of statutory interpretation, however, put this ambiguity to bed. First, "identical language may convey varying content when used in different statutes, sometimes even in different provisions of the same statute." *Yates v. United States*, 135 S. Ct. 1074, 1082 (2015). That is, "scholarship" may mean two different things in the rule's title and in subsection (d). For example, it would not be far-fetched for the section title "scholarship rules" to mean "rules about the qualities, methods, or achievements of a scholar," which does not necessarily have an academic connotation, while simultaneously reading subsection (d)'s "on the basis of scholarship" to possess that academic connotation. *See scholarship*, available at https://dictionary.cambridge.org/us/dictionary/english/scholarship ("the qualities, methods, or achievements of a scholar").

Second, "student" does have a defined meaning in the IHSAA's rules. "Student" "means a person under 20 years of age enrolled in grades 9 through 12." Iowa Admin. Code r. 281-36.1. In context, then, every reference to a "student" in rule 36.15(2) contains an assertion such person is under 20. Substituting this language in subsection (d), the subsection becomes: "A [person under 20 years of age enrolled in grades 9 through 12] with a disability who has an individualized education program shall not be denied eligibility on the basis of scholarship if the student is making adequate progress . . . ." The definition of "student" in the rules strongly aligns with the IHSAA's view of the rules and suggests an intent to limit participation to those under 20.

Third, under A.T.'s interpretation, "on the basis of scholarship" has no limiting principle. This is a relevant consideration when interpreting statutes and rules. *See Iowa Ins. Inst. v. Core Grp. of Iowa Ass'n for Justice*, 867 N.W.2d 58, 79 (Iowa 2015). If the reach of subsection (d) were extended to each of the scholarship rules within 36.15(2), as A.T.'s brief argues it should be, then progressing IEP students could, with impunity, participate prior to grade 9, compete against college athletes, compete professionally, participate for more than eight semesters, participate despite failing grades, participate until age 21, or even participate despite not being enrolled at an IHSAA member school. *See* Iowa Admin. Code r. 281-36.15(2)(a)–(i). To reiterate, the "ultimate goal in interpreting statutes is to determine and give effect to legislative intent." *Schley*, 509 B.R. at 911. It is extremely unlikely the drafters of these rules intended one set of rules for non-IEP students and almost unlimited freedom for progressing IEP students.

The undisputed "objects sought to be accomplished," *Schley*, 509 B.R. at 911, with the maximum-age rule and eight-semester rule are promoting commonality among students and schools who participate in competition and ensuring equality of competition and opportunity. (The IHSAA further argues "commonality" means "commonality of age.") Here those objects are accomplished by adopting the IHSAA's interpretation of the rule better than they would be by adopting A.'s interpretation. Limiting participation to students under 20 limits the range of ages participating in high school athletic contests, promoting commonality among participants. The

IHSAA's interpretation also ensures equality of opportunity: IEP students and non-IEP students alike must abide by the same rules and therefore share equal opportunity.

For the reasons enumerated above, the undersigned concludes the IHSAA has the better interpretation of the rule's intent.

Application. These considerations shed light on A.T.'s arguments. It is unlikely subsection (d) is meant to apply to subsection (b). More likely is that the "scholarship" in (d) means something narrow, like the academic requirements sketched out in subsection (c), and not the broad definition of the "scholarship" in the rule's title. The Board's interpretation of this interaction is the more likely one based on the intent of the rule. Under this interpretation, subsection (b) prohibits A.T.'s participation in interscholastic athletics.

It is also unlikely the rule as a whole was written to harmonize with federal law such as the Individuals with Disabilities Education Act (IDEA). The rule does not suggest the Board intends to undertake any individualized inquiries or afford disabled students any rights additional to those permitted to non-disabled students. As outlined above, the intent of the rule is to limit participation to students under 20. This is at odds with the harmonization argument, which is hereby rejected.

A.T. has exhausted eight semesters of eligibility. Subsection (e) renders him ineligible unless he is granted (e)'s exception. "Extenuating circumstances, such as health, may be the basis for an appeal to the executive board which may extend the eligibility of a student when the executive board finds that the interests of the student and interscholastic athletics will be benefited." Iowa Admin. Code r. 281-36.15(2)(e). By the rule's definition, A.T. is not a "student" and is therefore ineligible for subsection (e)'s exception. Subsection (e), too, prohibits A.T.'s participation in interscholastic athletics.

Conclusion. At an earlier stage of the process, A.T.'s parents wrote a letter to Keating expressing their belief "no one read the grounds" upon which they based their appeal. (R. 9). In the same letter, they expressed their feeling "the creation and enforcement of the [eight-semester] rule fails to take into consideration special education students." (R. 9). They asked the IHSAA to be "inclusive instead of rigid." (R. 10).

It is a poor result when litigants leave cases feeling as though no one heard their arguments. This will be small solace to the family, but their argument has been heard. In fact, the undersigned agrees with A.T.'s parents that the rules, as constructed, fail to take into consideration a situation like A.T.'s. There is no exception provided for a special-education student of his age who will not disrupt the sport's competitive balance by his participation. The rules, and the cases on the maximum-age rule, all seem to contemplate "redshirting" athletes who stay in high school seeking to dominate younger, less physically mature students, potentially putting those younger students at risk. *See Dodge*, 15 D.o.E. App. Dec. at 328 (noting Dodge's plans to run cross country in college); *Schisel*, 11 D.o.E. App. Dec. at 230–31 (noting Schisel was "captain of the football team, a part-time starter on the basketball team, placed at the state track meet for the third time

in four years (he [had] also set three school track records), and [was] currently playing center field" for the baseball team); *In re Shawn Shaffer*, 9 D.o.E. App. Dec. 376, 379–80 (1992) (noting additional age of one or two years and concomitant physical maturity would provide significant advantage in wrestling, which by definition pits students of same weight against one another). Focused on those dominant athletes, the rules exclude a population whose lives are all too often defined by exclusion. The purpose of doing so is to promote equality, (Keating testimony; R. 41), but equality is not the same as equity. In promoting equality, the IHSAA applies its rules rigidly, as is its prerogative. If it sought to promote equity, it would allow for exceptions, individualized hearings, or other procedures to consider appeals on a case-by-case basis. But it does not, and under its existing rules, it need not. Under these conditions, the Board's determination must stand.

DECISION

For the foregoing reasons, the September 5, 2019 decision of the Iowa High School Athletic Association that A.T. is ineligible to compete in interscholastic athletic contests and competitions is **AFFIRMED**. There are no costs associated with this appeal to be assessed to either party.

Any allegation not specifically addressed in this decision is either incorporated into an allegation that is specifically addressed or is overruled. Any legal contention not specifically addressed is either addressed by implication in legal decision contained herein or is deemed to be without merit. Any matter considered a finding of fact that is more appropriately considered a conclusion of law shall be so considered. Any matter considered a conclusion of law that is more appropriately considered a finding of act shall be so considered.

Dated this 13th day of November, 2019.

Joseph D. Ferrentino
Administrative Law Judge

Ryan M. Wise, Director
Iowa Department of Education

cc: Richard Mitvalsky, attorney for appellant (by email and mail)
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