

IOWA STATE BOARD OF
PUBLIC INSTRUCTION

(Cite as 3 D.P.I. App. Dec. 88)

In re Terry Thill	:	
	:	
Mr. & Mrs. Lee Elliott, Appellants	:	DECISION
v.	:	
	:	
Iowa High School Athletic Association, Appellee	:	[Admin. Doc. 672]

The above entitled matter was heard on September 24, 1982, before a hearing panel consisting of Dr. Robert Benton, state superintendent and presiding officer; Mr. Frank Vance, director, special education division; and Dr. Lenola Allen, supervisor, preparatory and supplemental services section. The hearing was held pursuant to Departmental Rules, Chapter 670--9, Iowa Administrative Code. The Appellants were represented by Ken Mallas, superintendent of the Corning Community School District (hereinafter District). The Iowa High School Athletic Association (hereinafter Association) was represented by Bernie Saggau, executive secretary of the Association.

The Appellants requested a hearing regarding the eligibility of Terry Thill to participate in extracurricular activities.

The Hearing Panel, at the conclusion of the hearing, entered its decision orally into the record and reserved the right to render a full, written decision on the matter. This is that written decision.

I.

Findings of Fact

The Hearing Panel finds that it and the State Board of Public Instruction have jurisdiction over the parties and subject matter.

Terry Thill is a 17-year-old high school student residing with an aunt and uncle in the District. Prior to moving to live with his aunt and uncle in the summer of 1982, Terry resided in Wisconsin. His last two years of residence in Wisconsin were a very tumultuous period in his life. Part of the time he lived with his parents on their dairy farm, and other times he lived where he could find shelter. On occasion, he stayed in the homes of relatives and friends. He even slept in barns, sheds and cafe booths. He frequently went without proper food and sleep and became involved with drugs and alcohol.

The exact nature of the family's domestic problem was not disclosed in the record. Clearly, however, the boy was alienated from his immediate family and home environment.

Needless to say, his school work and regular school attendance suffered from the family discord. He was absent over 75 days of the 1980-81 school year and failed most subjects. In the 1981-82 school year he was absent 61 days and failed all of his courses for both semesters except an art course the first semester and driver education

the second. During the second semester of the 1981-82 school year, he failed to receive passing grades in the equivalent of 15 semester hours credit toward graduation. The record indicates that under applicable eligibility rules in Wisconsin, he would not have been eligible for athletics in the fall of 1982 due to his not meeting the scholastic requirements of that state.

Sometime in August, 1982, Terry contacted his aunt and uncle in the District and requested permission to come to Iowa and live with them. His experience in the District up to the time of the hearing was uneventful in the usual sense. For Terry, however, those few weeks of the new school year evidenced efforts to obtain a fresh start. He had positive experiences in school and his new home environment. School officials and his aunt and uncle joined together with Terry in his efforts to remake his life.

At the time of the hearing, which was about one month into the fall semester, he had missed only 1½ days of school. That absence was a result of a leg injury suffered in a physical education class. He was receiving passing grades in all five subjects in which he was enrolled and had no discipline problems that had been brought to the Principal's attention. Written comments from teachers entered into the record indicate that he had a positive attitude about most classes and had no discipline problems in class.

Terry went out for football in the District; but because he was determined to not be eligible for scholastic reasons, he practiced with the team but did not participate in contests. He served as team manager during games.

The general concensus of Terry, his aunt and uncle, his parents and school officials is that the likelihood of Terry's overcoming his personal problems will be greatly enhanced by the opportunity for him to participate in athletics.

With that end in mind, District officials, Terry and his aunt and uncle petitioned the Association's Board of Control to waive the scholastic eligibility for Terry. The Board found that Terry could not be eligible under the Department's scholastic requirements. The Board also ruled that Terry would not be considered eligible under the "dropout" rule. The Board also apparently considered the issue of extending Terry's eligibility beyond the eight consecutive semesters, but did not specifically rule upon an extension of eligibility beyond the maximum eight consecutive semesters. Terry's aunt and uncle filed a timely appeal of the ruling to the State Board of Public Instruction.

There was no evidence of recruiting or other improper conduct on the part of the parties.

II. Conclusions of Law

The particular Departmental Rules at issue here are 670--9.14(3), 9.15(1) e., 9.15(2) c. and 9.15(5). Those rules read as follows:

670--9.14(280) Eligibility requirements.

* * * * *

9.14(3) All contestants shall be regular students of the school in good standing; they shall have earned fifteen semester hours credit toward graduation in the preceding semester of the school, and shall

be making passing grades in subjects for which fifteen semester hours credit is given for the current semester as determined by the local school administration.

The term "preceding semester" means that semester immediately preceding the semester in which the student wishes to participate in athletics. Fifteen semester hours means three subjects of one period or "hour" each, daily, five times a week for one semester or the equivalent. A "subject" to qualify under this rule must meet the requirements of 3.5(5) and 3.5(6). [emphasis added]

670--9.15(280) Interscholastic Athletics.

* * * * *

9.15(1) Definitions.

* * * * *

e. "Dropout" means a student forced to quit because of extenuating circumstances over which the student has no control or who voluntarily withdrew from school. This does not include a student who has been expelled, or one who was doing failing work when the student voluntarily dropped from school. [emphasis added]

9.15(2) Scholarship rules.

* * * * *

c. 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. 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 it finds that the interests of the student and interscholastic athletics will be benefited. [emphasis added]

9.15(5) Dropouts. 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 such person is otherwise eligible under these rules.

Clearly, Terry's most difficult problem in obtaining eligibility during the first semester of the 1982 school year is that he runs afoul of the requirement of Departmental Rule 9.14(3) -- that he earn 15 semester hours of credit in the preceding semester. Terry clearly did not pass the equivalent of 15 semester hours credit in his preceding semester of school in Wisconsin as required by that Rule. The only course he did pass was driver education. The Association Board of Control's decision in that regard must be upheld. Participation in interscholastic activities is merely a privilege extended to high school students in Iowa. See Board of Directors v. Green, 147 N.W.2d 854, 860 (1967). It must not be forgotten that academic progress should be the foremost priority of high school students.

We find that we must also uphold the Board of Control's determination that Terry cannot be eligible under the "dropout" provisions of Departmental Rules 9.15(1) e. and 9.15(5). Since, according to the record before us, Terry was failing all his courses except driver education at the time he left school, he cannot be considered a "dropout" under the Department's eligibility rules.

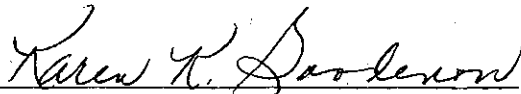
We find on the third issue, however, and the parties are in agreement, that the issue of extending eligibility beyond the eight consecutive semesters was not fully explored and considered by the Board of Control. We therefore decline to rule on that issue as the parties have agreed to further deliberation and consideration of the issue. We hope, and are in fact confident, that if indeed, that deliberation and consideration does take place on the subject of extending Terry's eligibility beyond eight consecutive semesters, that a full, complete and objective hearing will be held on that issue.

III.
Decision

The decision of the Iowa High School Athletic Association's Board of Control in this matter is hereby affirmed.

November 10, 1982

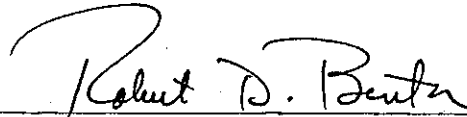
DATE



KAREN K. GOODENOW, PRESIDENT
STATE BOARD OF PUBLIC INSTRUCTION

October 29, 1982

DATE



ROBERT D. BENTON, Ed.D.
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
AND
PRESIDING OFFICER