

IOWA STATE BOARD OF
PUBLIC INSTRUCTION

(Cite as 3 D.P.I. App. Dec. 34)

In re Nancy Sue Walsh	:	
	:	
Darrel Donaldson, Appellant	:	DECISION
v.	:	
Iowa Girls' High School Athletic Union, Appellee	:	[Admin. Doc. 659]

The above entitled matter was heard on May 29, 1982, before a hearing panel consisting of Dr. Robert Benton, state superintendent and presiding officer; Mr. David Bechtel, administrative assistant; and Mr. Dwight Carlson, director, school transportation and safety education division. The hearing was held pursuant to Departmental Rules, Chapter 670--9, Iowa Administrative Code. The Appellant was represented by Attorney Douglas Hansen. The Laurens-Marathon Community School District (hereinafter District) was represented by Superintendent James Scharff, and the South Clay Community School District was represented by Superintendent Louis Doty. Officials of the Iowa Girls' High School Athletic Union (hereinafter Union) were unable to attend the hearing due to a prior commitment out of state, but did advise the Department that they had no objection with the Department proceeding to hearing in the matter in their absence.

For purposes of hearing, this appeal was combined with an appeal of a decision of the District Board of Directors to accept Nancy Walsh as a resident student. That appeal was filed by the Board of Directors of the South Clay Community School District. The resolution of that appeal will be contained in a separate written decision.

In this matter, the Appellant has appealed a decision of the Board of Directors of the Union finding his ward, Nancy Walsh, ineligible for athletic competition for 90 days.

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.

Nancy Walsh is a 17-year-old high school junior who, until April, 1982, resided with her parents in the South Clay Community School District. She is an excellent student with nearly a straight A average and has outstanding athletic ability. While she has previously competed in girls' track, volleyball and basketball, she excels in softball. She began pitching in girls' softball competition for the South Clay District during the summer season between her eighth and ninth grade years. That year she pitched in 15 games and was chosen to be on the all-conference team. She repeated her all-conference honor the next two summers.

Her athletic endeavors indirectly resulted in a severe emotional strain on her and her family. Over the years she worked hard at her athletic pursuits and was assisted by the South Clay girls' softball and basketball coach. They frequently practiced to-

gether both in the company of other students and not. Early in their relationship, Nancy heard occasional comments from other students about the attention she received from the coach. At first she dismissed them as insignificant. As time passed, the comments grew into rumors and spread from students to adults in the community. While she was concerned by the rumors that were being repeated about her and the coach in the community, she did not give the matter a great deal of attention. Both the coach and his wife were good friends of Nancy's parents.

The rumors of improprieties became progressively worse and snide remarks to her from students become commonplace. At one point, the coach offered to find another pitcher to replace her on the team if she did not want to continue to take the pressure. Nancy declined.

The continuing problem with her reputation in the community mushroomed as a result of an incident in August, 1981. A different person had coached the softball team that summer because the regular coach had taken his family to California for the summer.

By tradition, the South Clay softball team makes an annual overnight trip to the state softball tournament. In the summer of 1980, the team had gone to the tournament and stayed one night at a motel. Two team members had shared a room with the regular coach and his wife.

For some reason, the coach for the 1981 season was unable to take the girls' team to the state tournament scheduled to be held in Fort Dodge. Two senior girls approached the regular coach and his wife, who had returned from their California trip, and sought and received their consent to chaperon the trip. Nancy and another team member were scheduled to stay in the same motel room with the coach and his wife.

Shortly before the scheduled trip, the coach and his wife learned they would have to move to another residence on short notice. The coach's wife decided that she should forego the trip and stay home and prepare for the move. A former team member who had graduated several years earlier was asked to help chaperon the trip, and she consented.

After arriving in Fort Dodge, the former coach apparently objected to staying in a motel room with two female team members in the absence of his wife as had been planned. But, after attempts to find alternative lodging failed, he decided to stay in the room with the two girls.

There is nothing in the record to indicate that anything improper occurred that night between the coach and the two girls. There is nothing in the record to indicate that anything improper had ever occurred between the coach and Nancy.

By the time school was scheduled to begin a few weeks later, word of the Fort Dodge situation had spread, and rumors in the community of an improper relationship between the coach and Nancy had become rampant. Nancy received phone calls suggesting she was anything but a nice girl. She came under a severe emotional strain. She cried much of the time and found it difficult to go to school. Several persons suggested, in a friendly manner, that she change schools. She considered dropping out of school.

School officials learned of the Fort Dodge incident in September. After investigation, the coach was admonished for his poor judgment, but no other disciplinary action was taken. He apparently acknowledged his use of bad judgment in the matter.

Sometime in early March, 1982, Nancy came home from school in an unusually upset state. She apparently had an argument with her family as a result and stayed overnight at a friend's home to let things settle down. She had told her father she would quit school rather than return to what she considered a hostile environment. She asked her father if she could change schools but did not specifically request a particular school. She only desired to be allowed to attend school in another community.

The escalation of Nancy's stress in early March may have been precipitated by meetings of the South Clay Community School District Board of Directors on March 8 and March 10, 1982. The matter of the Fort Dodge incident was mentioned at those meetings in regard to the issue of hiring a girls' softball coach for the 1982 summer season.

Nancy's father agreed to do what he could to find another school for her to attend if she would agree to return to school until he could find a solution to the problem.

On April 2, Nancy accompanied her father to a meeting with District Superintendent Scharff and discussed the possibility of her attending school in the District. It was agreed that she would be enrolled as a student on a tuition basis. Superintendent Scharff recognized the unusual nature of the situation and made inquiries of Mr. Walsh and later of Mr. Donaldson. He determined that Nancy's change in school district was the result of emotional stress which she felt in her parent's community. He also felt some of this community hostility resulted from some of Mr. Walsh's publically-held positions with regard to a proposed dissolution of the South Clay School District and opposition to a school bond issue. Mr. Walsh obviously felt that the atmosphere in the South Clay District was not conducive to his daughter's well-being.

On April 5, 1982, Nancy enrolled at the District High School as a nonresident student transferring from the South Clay Community School District. On that same date, Bill Grice, the athletic director at the District High School, wrote a letter to E. Wayne Cooley, the Union's Executive Secretary, requesting information on several athletic eligibility questions regarding Nancy. The three questions were stated as follows:

1. The number of weeks the student-athlete would be ineligible for interscholastic competition.
2. What dates would this period cover? Please indicate the beginning date of ineligibility and the date of gaining eligibility status.
3. Would Nancy be eligible to compete in summer softball for L-M? Does the ineligibility period cover the summer months? There also is a distinct possibility that South Clay will not field a softball this summer and would that have any effect?

On April 7, Mr. Grice discussed the matter on the telephone with a Union official. In a written response to the letter and telephone inquiry, Robert Smiley, assistant executive secretary for the Union, informed Mr. Grice of the eligibility rules for transfer students adopted by the State Board of Public Instruction. Mr. Grice was advised of the following with regard to the three questions he raised in his April 5 letter:

The following rules do apply:

1. Student transferring from one district to another without like move of the parents must serve a period of 90 school days of ineligibility. If that period is not completed by the last day of school in the spring, it continues on through the fall semester.

2. The 90 days will commence on the first day of enrollment and be completed at 4:00 p.m. on the 90th day.
3. The fact that South Clay does or does not field the softball team this summer has no influence on the 90 day period.

Neither letter made any reference regarding the existence of a planned guardianship.

Apparently sometime in early April, Mr. Walsh approached Darrel Donaldson, a long-time business, church and social friend and asked if his daughter could reside with the Donaldson family. The two families had close personal ties, and Mr. Walsh was able to relate the problem in some detail. After conferring with his wife and 19-year-old daughter living at home, Mr. Donaldson agreed to let Nancy come into his home. It was thought that the Donaldson family environment would have a beneficial and calming effect on Nancy. Mr. Donaldson contacted an attorney to determine his legal rights and responsibilities under the circumstances.

On May 10, 1982, Mr. Donaldson appeared before a regular meeting of the District Board of Directors and requested that Nancy Walsh be accepted by the Board as a resident student. After discussion, the District Board accepted Nancy Walsh as a resident student conditioned upon the occurrence of three events. Evidence of the legal guardianship papers had to be filed with the Superintendent; Mr. Donaldson was to provide a written guarantee that Nancy was actually residing with his family; and the Board attorney was to review the situation and give assurances that the action was proper. The District Board was concerned that evidence of the establishment of a guardianship be provided and that Nancy was an actual resident of the District.

All three conditions established by the District Board were subsequently met. The guardianship documents were filed with the Superintendent as requested and included a voluntary petition for appointment of guardian signed by Nancy Walsh and dated April 7, 1982; a copy of the guardian's oath signed by Mr. Donaldson and dated April 15, 1982; a letter of appointment and a court order of appointment from the District Court in Buena Vista County establishing Mr. Donaldson as the court-appointed guardian of Nancy Walsh. In a written statement dated May 13, 1982, Mr. Donaldson addressed the following remarks to the District Board:

Due to personal circumstances I have assumed guardianship [sic] of Nancy Walsh as verified by official court document on file in the Laurens-Marathon Superintendent's office. I have checked the legal obligations and responsibilities of the more [sic] with an attorney and am taking full responsibility for her support and growth.

She has become a member of our family in all respects, has her own room in our home, and will be physically residing with us a majority of the time. I feel this does satisfy the requirements of residency and intention for Nancy to be granted tuition free attendance at Laurens-Marathon Schools as any other resident of the District.

In testimony before the Hearing Panel, Mr. Donaldson, with one exception, affirmed his May 13 written statement and the Hearing Panel does not question his sincerity in accepting his assumed responsibilities. He did state before the Hearing Panel that instead of Nancy having her own room, she shares a room with the Donaldson's daughter. In a letter dated June 16, the District Board's attorney stated that the Board was legally entitled to rely upon the guardianship papers unless someone successfully challenged their validity in Court.

In a letter dated May 18, 1982, District Superintendent Scharff requested an eligibility status review of Nancy Walsh's situation by Union officials in light of the guardianship circumstance. The letter generally outlined the details of the matter and stated Nancy would not be allowed by the District to compete in interscholastic competition until approval was received from the Union.

Officials of the Union conducted an informal investigation of the circumstances and made a recommendation to the Union Board of Directors that Nancy be declared ineligible for 90 school days under the State Board's transfer rule. Rather than contesting the decision in a hearing before the Union Board, as provided in Departmental Rules, the Appellant decided to waive rights to a hearing in order to obtain a timely resolution of the issue from the State Board of Public Instruction.

It is unfortunate that in the rush to obtain a timely State Board decision the Union Board and its officials were denied the opportunity to hear the full details surrounding the circumstances of Nancy's transfer. We certainly are not attempting to fault the Union Board or its officials for accommodating the needs and desires of the Appellant here, but it is unlikely that the informal investigation conducted by the Union could have brought out information of the sensitive and personal nature that the Hearing Panel had before it. Mr. Hansen, the attorney for the Appellant, even felt it necessary to obtain the consent of the Donaldson and Walsh families and from Nancy before actually bringing the facts of the issue before the Hearing Panel. Had the Union Board and officials heard the same facts as did the Hearing Panel, it may very well have decided differently than it did.

In a letter from E. Wayne Cooley to the Department of Public Instruction, dated June 17, 1982, with copies to the District and South Clay Superintendents, Mr. Cooley made known that the Union's Board of Directors declared Nancy ineligible from athletic competition for 90 school days. The letter noted that "[g]uardianship in itself does not automatically insure the transfer of eligibility privilege from one school to another. . . . Fundamentally, the Board of Directors [Union] could not find justifiable cause for granting athletic eligibility at Laurens-Marathon; the student did, through her parents, voluntarily change school residence from one district to another."

There is no evidence on the record of any recruiting on the part of the staff of the District. The record indicates that the girls' softball program in the South Clay School District is generally considered to be superior to that in the District.

The Hearing Panel finds that the guardianship established in the Appellant was established for the purpose of helping Nancy Walsh deal with problems of a personal nature and was not established for the purpose of athletic competition or academic program.

II.

Conclusions of Law

Rules of the Department of Public Instruction provide generally that students who transfer between schools without a like change in parental residence are to be ineligible for interscholastic athletic competition for a period of 90 school days. When a transfer of a student occurs in conjunction with the establishment of a legal guardianship, the executive board of the appropriate activity organization must be notified of all circumstances surrounding the situation. See 670--9.15(6), Iowa Administrative Code. The implication is that if the legal guardianship was established for a primary purpose of athletic competition or academic program, eligibility would be withheld for

the 90-day period. The reverse is also true. If a guardianship is established for a primary purpose other than athletic competition or academic program, the student would not be ineligible for the 90-day period.

In finding Nancy Walsh ineligible, the Union Board had not determined the existence of a "justifiable cause for granting athletic eligibility at Laurens-Marathon." As we have stated above, the Union Board's finding was not an unexpected result under the circumstances. Much of personal and family anguish involved in this situation was not public knowledge. Even South Clay Superintendent Doty acknowledged in his closing remarks before the Hearing Panel that after hearing the evidence presented, he could better appreciate Nancy Walsh's stressful situation and position.

Only after an open and complete revelation of the facts, as the Hearing Panel had before it, could a fair and equitable decision be rendered in this matter. It is with that understanding that the Hearing Panel feels that it must reverse the Union's Board of Directors' decision at issue here.

We feel that the circumstances surrounding the transfer of Nancy Walsh to the District's High School and creation of a guardianship in the Appellant, as established on the record before us, was done for justifiable purposes and not for the purpose of athletic competition or academic program.

III. Decision

The decision of the Iowa Girls' High School Athletic Union Board of Directors in this matter is hereby overruled.

July 8, 1982

DATE

July 2, 1982

DATE

William N. Cropp

WILLIAM N. CROPP, VICE PRESIDENT
STATE BOARD OF PUBLIC INSTRUCTION

Robert D. Benton

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