

IOWA STATE DEPARTMENT
OF PUBLIC INSTRUCTION

(Cite as 1 D.P.I. App. Dec. 125)

In re Patricia McGinnis :

Patricia McGinnis
Appellant :

v. :

Iowa Girls' High School Athletic Union :
Appellee :

DECISION

[Admin. Doc. 384]

The above entitled matter came for hearing on January 21, 1977, at 11:00 a.m. The appeal was heard before a hearing panel consisting of Dr. Robert Benton, state superintendent and presiding officer; Dr. Leonard Gustafson, supervisor, school plant facilities unit; and Mr. David Bechtel, administrative assistant. Mr. Jerry McGinnis represented his daughter, Patricia, at the hearing. Mr. E. Wayne Cooley, executive secretary of the Iowa Girls' High School Athletic Union, appeared on behalf of that organization. The hearing was held pursuant to Departmental Rules, Chapter 670--51, Iowa Administrative Code. Both parties waived the Departmental Rule 670-9.19 requirement of five days written notice before the hearing.

It was determined by the Board of Directors of the Iowa Girls' High School Athletic Union, (hereinafter Board), under the transfer eligibility rule of the State Board of Public Instruction, that Patricia and Juliann McGinnis would be declared ineligible for interscholastic athletic competition for eighteen weeks if they transferred from Dowling High School to Valley High School in West Des Moines, Iowa. The ruling was appealed by Patricia and Juliann McGinnis through their father pursuant to Departmental Rule 670--9.17. At the hearing before the Hearing Panel, Juliann McGinnis was withdrawn as a party because she was continuing in school at Dowling High School for the second semester.

I.
Findings of Fact

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

From the record it appears that the children of Jerry and Sharon McGinnis attended Dowling High School in West Des Moines, Iowa, during the first semester of the 1976-77 school year. Due to financial difficulties, the parents felt that they would be unable to continue their daughters in attendance at Dowling the second semester and found it necessary for Patricia and Juliann to transfer to Valley High School in West Des Moines,

Iowa. However, the older daughter, Juliann, subsequently arranged a work-study program with Dowling and continued in attendance there the second semester. Upon finding that their daughters would be ineligible for interscholastic athletic competition for eighteen weeks after the transfer, Mr. & Mrs. McGinnis petitioned the Board of Directors of the Iowa Girls' High School Athletic Union to consider an exception to the eligibility rule on the basis that the transfer was "involuntary."

After an informal hearing on the matter on January 13, 1977, in which Mr. McGinnis participated and had the opportunity to bring forth all relevant information, the Board applied the facts of the matter to the existing rules of the State Board of Public Instruction. The Board found that a transfer by Patricia and Juliann McGinnis from a private school to a public school in the same district without a change in residence of their parents would make them ineligible for interscholastic athletics for eighteen weeks of school after the transfer. In reaching its decision the Board found that the rule does not allow that an exception be made under the circumstances.

II. Conclusions of Law

The matter currently before this Hearing Panel is governed by the rules of the State Board of Public Instruction pertaining to eligibility for high school athletes who transfer from one school system to another. Those rules are found in rule 670--9.15(6), Iowa Administrative Code. The portion of the rule applicable to this appeal is as follows:

9.15(6) Transfer. A student who changes school systems located within a given public school district shall be ineligible to compete in interscholastic athletics for a period of eighteen weeks of school, exclusive of summer enrollment.

When a like change of parental residence occurs within a public school district, and a transfer of a student occurs between a private and a public school both located within the public school district, distance from the school transferred to shall be taken into consideration. The executive board shall be empowered to make decisions on the merits of the individual case.

A student who transfers from a school located in a public school district to a school located in another school district, except upon a like change of parental residence, shall be ineligible to compete in interscholastic athletics for a period of eighteen weeks of school, exclusive of summer enrollment.

In order to protect student athletes against the possibility of recruitment and enticement and to maintain the amateur character of high school athletics, transfer rules have been enacted by state high school activity associations and local and state education agencies. Regulation is necessary in order to prevent possible abuse in high school athletics. Recruiting in high school sports programs and undue pressures from friends and family to attend a certain school can become a serious problem. The validity of one section of the Iowa transfer rule was challenged in In re Duncan, 1 D.P.I. App. Dec. 117. In that decision the hearing panel found Departmental Rule 670-9.15(6) to be a valid rule in accordance with what appears to be the majority view of most state courts. Most courts which have upheld the validity of such rules have done

so in recognition of the fact that the rules are rationally related to the governmental interests of preventing recruitment and are not arbitrary if uniformly applied.

The Hearing Panel again finds Departmental Rule 670--9.15(6) to be a valid rule and one which was properly applied by the Board of Directors of the Iowa Girls' High School Athletic Union to Patricia McGinnis. The Hearing Panel finds that the interests of interscholastic athletic competition are best served by following what appears to be the majority view of courts which have ruled on the validity of transfer rules.

III.
Decision

The decision of the Board of Directors of the Iowa Girls' High School Athletic Union in the matter of athletic eligibility of Patricia McGinnis is hereby affirmed.

February 18, 1977

DATE



GEORGIA A. STEVERS, VICE-PRESIDENT
STATE BOARD OF PUBLIC INSTRUCTION

February 10, 1977

DATE



ROBERT D. BENTON, Ed.D.
STATE SUPERINTENDENT AND
PRESIDING OFFICER