

MICHIGAN HIGH SCHOOL ATHLETIC ASSOCIATION, INC.

EXECUTIVE COMMITTEE MEETING

East Lansing, January 8, 2014

Members Present:

Jim Derocher, Negaunee
Scott Grimes, Grand Haven
Vic Michaels, Detroit
Fred Smith, Buchanan
Al Unger, Kingsford

Staff Members Present:

Tom Rashid
Jack Roberts (Recorder)

Executive Committee Authority and Responsibility – The Executive Committee reviewed its authority under Article VII of the MHSAA Constitution and specifically its responsibility to consider each application for waiver of an eligibility requirement on its individual merits, determining if the regulation serves the purpose for which it was intended in each case or if the regulation works an undue hardship on any student who is the subject of a request for waiver. (These underlying criteria may not be restated for every subject of these minutes.)

The Executive Committee was reminded that it was the responsibility of each member school involved to provide sufficient information about the specific request for the Executive Committee to reach a decision without further investigation. If information is incomplete, contradictory or otherwise unclear or has been received too late to be studied completely, the Executive Committee may deny the request for waiver or delay action. Such requests may be resubmitted to the Executive Committee with additional information at a subsequent meeting or appealed to the full Representative Council.

It is possible that some of the information presented as facts to the Executive Committee by school personnel and others may be inaccurate. However, to avoid constant repetition in this report of phrases such as “it was alleged” or “it was reported,” no attempt is made in the introduction of each waiver request to distinguish between truth, allegation, hearsay, opinion, summary or conclusion. If any information provided to the Executive Committee is inaccurate, any decision of the Executive Committee to grant waiver of a regulation shall be null and void.

The Executive Committee is not authorized to approve waiver based on alleged or actual differences between schools based on “environment,” demographics, curriculum or extracurricular offerings. A determination of undue hardship is a matter addressed to the discretion of the Executive Committee within the educational philosophy and secondary role of voluntary extracurricular competitive athletics in the academic environment. The Executive Committee will avoid making exceptions that would create precedent that effectively changes a rule without Representative Council action or local board of education adoption, which would exceed Executive Committee authority. The contract the MHSAA has with member schools obligates the MHSAA to not change rules during the school year.

Students for whom waiver of a particular regulation is approved must be eligible in all other respects under all sections and interpretations of the regulations prior to their participation.

Adoption of these regulations, as well as policies, procedures and schedules of MHSAA tournaments, is a choice schools make locally when they consider their option of MHSAA membership. Consistent with rulings of the Attorney General and Michigan Supreme Court, schools are not bound by the decisions of the Executive Committee, but the association may limit participation in the post-season tournaments it sponsors to those schools which choose to apply rules and penalties as promulgated by the MHSAA and adopted by each member school’s board of education. The MHSAA exercises no independent authority over schools or students.

Ferndale and Ferndale-University High Schools (Regulation I, Section 1[E]) – On Dec. 5, 2013, the Executive Committee tabled a request, pending more information, to waive the 1,000-student enrollment cap to allow a cooperative program in football between these two schools of the same district whose combined enrollment in February 2013 was 1,241 students (Ferndale 784 students; University 457 students). Currently only Ferndale sponsors football, it has struggled to offer subvarsity teams and is the smallest off the 24 teams in the Oakland Activities Conference. On Dec. 5, the current and previous athletic directors, head football coach and booster club president met with the Executive Committee. At that meeting, the Executive Committee tabled the request for waiver and directed staff to seek additional information from the school district. Subsequently, K-12 enrollment by gender for Ferndale feeder schools and specifics on residency of students attending University was requested and submitted.

The Executive Committee was not shown and could not develop principles that would permit waiver in this case without creating precedent that would undermine a rule and an established enrollment cap that had been recently reviewed and revised by the Representative Council. The Executive Committee did not approve the request for waiver.

Hudson High School (Regulation I, Sections 4 & 5) – A request to waive or interpret the maximum enrollment and competition portions of the eligibility regulation was made on behalf of a 12th-grade student who has recently completed his fifth first trimester and will begin his fifth third trimester (and 13th overall) at the close of this school year. The student is currently enrolled in his fourth second trimester which is his 12th trimester overall. The student began the 9th grade at Northville High School in 2009-10 and did not attend any school after the first trimester. He then moved in with an aunt in Hudson and began the 9th grade again in 2010-11. The student was adopted in 2001 from an orphanage in Guatemala and found starving and physically and emotionally abused. From the beginning of entry into school, the student's language and social barriers and severe dyslexia caused him to struggle academically, requiring accommodations and mental health counseling. The parents' requests to retain the student were not approved.

The Executive Committee interpreted the current wording of Sections 4 and 5 to permit this student eligibility during the second trimester of the 2013-14 school year (the student has no eligibility thereafter).

The Executive Committee agreed with the long-standing application of Sections 4 and 5 – that a student ineligible under these sections for an academic term is not eligible for a subsequent term. The committee also agreed that students should not have participation opportunities under a trimester system that would not be available to students in an academic system using semesters. The Executive Committee requested staff to prepare for the Representative Council's action in May revisions to Sections 4 and 5 to accomplish these agreed outcomes in future cases.

Athens High School (Regulation I, Section 9[D]) – A request to waive the transfer regulation to permit eligibility on the 91st school day based on compelling circumstances was made on behalf of a 9th-grade student who enrolled at Athens High School in October due to significant anxiety and physical ailments as he struggled to adjust to his new school, Climax-Scotts. The student began the 9th grade at Climax-Scotts and participated in athletics. The student is under treatment for anxiety. The student lives in Athens and attended Athens Schools since kindergarten, and the reenrollment in that district is supported by the former school.

The Executive Committee approved the request for waiver, effective with the student's 91st school day of enrollment at Athens High School.

Belding High School (Regulation I, Section 9) – A request to waive the transfer regulation and specifically Interpretation 61 (public school of residence) was made on behalf of a 12th-grade student who is changing residence from her divorced father's home in Mt. Pleasant to her mother's home in the Lowell School District. The student attended Belding High School until the first trimester of the 11th grade before moving to Mt. Pleasant and enrolling at Mt. Pleasant High School. The student did not participate in athletics at Mt. Pleasant. The student reenrolled to begin the 2013-14 school year at her former school but not her school of residence. An otherwise completed Educational Transfer Form is in process.

The Executive Committee approved the request for waiver, pending completion of the Educational Transfer Form.

Byron Center High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of an 11th-grade student who chose to remove himself from a negative environment and unstable family situation in Montana. In late July 2013, the student moved into the residence of an aunt and uncle in Michigan and enrolled at Byron Center High School to begin the 2013-14 school year.

The Executive Committee did not approve the request for waiver.

Cadillac High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of an 11th-grade student who withdrew from Leroy-Pine River High School due to personal problems. The student has been receiving counseling.

The Executive Committee did not approve the request for waiver.

Clarkston High School (Regulation I, Section 9) – A confidential request to waive the transfer regulation was made on behalf of a 12th-grade student who has been under the care of counselors due to issues with a classmate at his former school, Notre Dame Prep. The student relocated to an aunt in California for three weeks and then returned to his home in Clarkston. The student was hospitalized in October 2013 and remains in outpatient treatment. The student was in California from Nov. 23 to Dec. 15, 2013, and enrolled at Clarkson on Dec. 16, 2013. Support from Notre Dame Prep was submitted.

The Executive Committee approved the request for waiver.

Commerce Township-Walled Lake Northern High School (Regulation I, Section 9[C]) – A request to waive the transfer regulation was made on behalf of a 10th-grade student who was the victim of an assault at Walled Lake Central and will be enrolling at Walled Lake Northern on Jan. 21, 2014, to begin the second semester. The student participated in the girls lacrosse cooperative program between the three schools of this district in 2012-13. Support from the former school was received.

The Executive Committee approved the request for waiver for girls lacrosse only for the remainder of the 2013-14 school year.

Grand Rapids-Forest Hills Northern High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of a 12th-grade student who moved in August from her parents' home in Canton while enrolled at Salem High School to the home of an aunt and uncle in the Forest Hills Northern School District. The student was having difficulties with her stepmother, is in counseling, and changed residence and schools for emotional stability.

The Executive Committee did not approve the request for waiver.

Sturgis High School (Regulation I, Section 9) – A request to waive the transfer regulation and specifically Interpretation 61 (public school of residence) was made on behalf of a 10th-grade student who is moving between divorced parents into the Bronson School District and reenrolling at her former school (Sturgis, grade 9) but not her school of residence. The student played JV soccer at Sturgis in 2012-13 while living with her mother and then moved to the father's residence in Traverse City and attended Traverse City West and Fife Lake-Forest Area High Schools but did not participate in athletics. The student reenrolled at Sturgis on Dec. 4, 2013. An Educational Transfer Form is in process.

The Executive Committee approved the request for waiver upon completion of the Educational Transfer Form by both schools and the MHSAA office.

Ubly High School (Regulation I, Section 9) – A request to waive the transfer regulation is made on behalf of a 12th-grade student whose parents lost their jobs and home in Marine City and reside in separate locations with relatives in Ubly due to space restraints in these homes. The stepfather lives with his son in nearby Sandusky, closer to a facility where he receives daily kidney dialysis. The mother is living with her parents in Ubly and the student and 9th-grade sister are living with an aunt and uncle also in Ubly. A request was also submitted for eligibility at the subvarsity level for a 9th-grade sister. The drivers' licenses have been changed to the grandparents' address where the mother lives. The family has plans to reestablish financially and reside together in the Ubly School District.

The Executive Committee approved the request for waiver.

Subvarsity Waiver Requests Meeting All Conditions of Section 9(B) – The Executive Committee approved immediate eligibility at the subvarsity level for the following transferring 9th- or 10th-grade students (after entering 9th grade, before completing 10th grade) **who have not previously participated in an interscholastic scrimmage or contest in any MHSAA sport at the high school level** (whether MHSAA member schools or not) and who do not qualify for one of the 15 stated exceptions to the transfer regulation and have transferred for reasons having nothing to do with athletics, discipline or family finances and would not require Executive Committee evaluation or comparison of school demographics or curriculum:

Requesting High School	Grade	Former High School	Date of Enrollment	Length of Subvarsity Eligibility Status
Howell	9	Ann Arbor-Gabriel Richard	Nov. 4, 1013	Remainder of 13-14 school year
St. Johns	9	DeWitt	Dec. 2, 1013	Remainder of 13-14 school year
Ubly	9	Marine City	Dec. 16, 2013	Remainder of 13-14 school year
Ypsilanti-Arbor Prep	10	Romulus-Summit Academy	Sept. 3, 2013	Jan. 20, 2014

Detroit-U of D Jesuit High School (Regulation I, Section 10) – A request was made to set aside the finding and penalty of the executive director that undue influence occurred with respect to two 9th-grade international students whose arrival, enrollment and residency was secured and encouraged by the father of a 10th-grade student on the U of D Jesuit varsity basketball team. The students are among four sons of employees of the father's business in Nigeria who arrived and enrolled in MHSAA member schools this past fall. Two of the students attend Ray Township-Austin Catholic and two attend U of D Jesuit. All four students are ineligible for one calendar year from the date of enrollment under the prescribed maximum penalty for undue influence. U of D Jesuit asked that if the finding of undue influence is not reversed for the two students enrolled at that school, then the penalty should be reduced, allowing these two students eligibility on Jan. 20, 2014. Austin Catholic has not made a similar request.

The Executive Committee noted that schools and their personnel may be penalized for undue influence when those students who were the subjects of undue influence do not actually finalize their enrollment at those schools, and conversely, that students may be penalized for undue influence when school personnel themselves may not have appeared to have engaged overtly in undue influence, but other persons indirectly associated with that school have performed acts that the undue influence rule prohibits. While there are concerns that the basketball coach is also the admissions director for the school and that the enrollment of these students was not reported to the MHSAA promptly and directly by the school (in contrast to the appeal below), there is no ambiguity that the acts of others violate Regulation I, Section 10. *MHSAA Handbook* Interpretation 110 makes special note that parents of players are indirectly associated with the schools of those players and cannot perform acts that school personnel cannot do. School personnel may not arrange for students of other cities, states or countries to relocate to their communities for reasons significantly related to athletics, regardless of grade of school or national origin; they may not provide such students room and board; and they may not pay any portion of their tuition. All those facts exist in this situation.

Those who are appealing in this matter argue that the MHSAA should not bring extra scrutiny to the enrollment of international students, but they appear to take the position that the MHSAA should do less. Pursuant to MHSAA rules, however, if the same facts applied to two students from Niagara Falls, New York or Niles, Michigan, they would receive the same scrutiny and penalty as these students from Nigeria.

The Executive Committee was not unsympathetic to the school's concern that MHSAA staff advised that these students were to be deemed preliminarily ineligible until the MHSAA received more information, but this is consistent with MHSAA advice "When in doubt, sit them out" recited in many instances in order to avoid the participation of potentially ineligible student-athletes. Moreover, it was acknowledged that MHSAA staff has been forced to be especially alert to transfers by international students because of the more than 900 percent increase in F-1 visa students enrolled in US secondary schools since 2007, and because state associations across the country are discovering increasing problems with athletic-related reasons for those transfers; and in this case it was clear that the reasons for finding undue influence strengthened as additional information was secured.

The Executive Committee did not approve a reversal of the executive director's finding of undue influence in this case or a reduction in the penalty. Under current MHSAA regulations, the students become eligible for interscholastic athletics at the start of the 2014-15 school year.

(Note: As the MHSAA staff member who conducted the inquiry in this matter and the next, Mr. Rashid absented himself from the final deliberations and votes on both matters.)

Grand Rapids-NorthPointe Christian High School (Regulation I, Section 10) – A request was made to set aside the finding that undue influence occurred with respect to a 12th-grade student from Senegal whose arrival in the United States for the 2012-13 school year and subsequent relocation and residency in Grand Rapids was secured and encouraged by a former volunteer basketball coach at Oak Hill Academy in Virginia who is now a personal basketball trainer operating in the Grand Rapids area who is also originally from Senegal and an Oak Hill Academy alumnus. The same individual had arranged for another 12th-grade student's arrival from Italy, residency and subsequent enrollment at another nonpublic school in Grand Rapids that is not appealing the determination of undue influence. Both students are ineligible under the transfer regulation. Both students are ineligible for one calendar year under the prescribed maximum penalty for undue influence. This student began the 11th grade at Oak Hill High School in Virginia and relocated over the summer to a family at the request of the former Oak Hill volunteer coach. The student then continued residing with the same family and enrolled at NorthPointe Christian to begin the 2013-14 school year where the host family's children attend and one son is on the varsity basketball team.

Even more so than in the previous appeal, the Executive Committee was sympathetic to the school's concerns that inquiries into undue influence can be made and violations of undue influence can occur without the school appearing to be culpable. However, the Executive Committee agreed that MHSAA rules would be rendered useless if staff did not follow all leads and did not assess penalties when those tips lead to people who have connections to a sport and are involved with people who have connections to a school. In this case, those connections exist, as the parents of a member of the school's boys basketball team are providing room and board and tuition for this student who played basketball out of state last year through arrangements made by the former volunteer coach and current basketball trainer; and it is of no relevance that this transfer student is a native of another country.

The Executive Committee reaffirmed the executive director's finding of undue influence and the penalty assessed (ineligibility of the student for 2013-14).

Flint-Michigan School for the Deaf (Regulation II, Section 6) – A request was made to waive the 300-mile round-trip travel limitation to permit the boys and girls basketball teams' participation at the Kentucky School for the Deaf Basketball Homecoming Event on Feb. 7-9, 2014, in Danville, Kentucky which is 422 miles one-way from Flint. The participating schools for the deaf include teams from Georgia, North Carolina and Kentucky. Similarly, a request to attend the Berg/Seeger Track & Field Classic in Danville, Kentucky on April 10-13, 2014, was also made for the boys and girls track & field teams. The schools participating in track & field are unknown at the present time and have been requested prior to approval. Waiver has been approved in years past for these events with some concerns about the track event related to NFHS sanctioning and the teams involved.

The Executive Committee approved only the request for waiver for the basketball event in February.

Regulation III, Section 1(C) – Pursuant to 2013-14 *Handbook* Interpretation 262, the Executive Committee approved waiver of the enrollment regulation for the following junior high/middle schools to permit 6th-grade students to participate with and against 7th- and/or 8th-graders for the sports listed in the 2013-14 school year only (unless otherwise indicated below).

Junior High/ Middle School	Sport(s)	High School Enrollment	Middle School Enrollment
Pickford	7 th -grade boys basketball	126	67 7 th - & 8 th -graders

Next Meetings – The next meetings of the Executive Committee are scheduled for Wednesday, Feb. 19, at 8:30 a.m. in East Lansing (Audit & Finance Committee follows); Thursday, March 20, at 8:30 a.m. in East Lansing (Representative Council following day); Wednesday, April 23, at 8:30 a.m. in East Lansing (Audit & Finance Committee follows); Sunday, May 4, at 10:30 a.m. in Gaylord (Representative Council in p.m.); and Wednesday, June 11, at 9 a.m. in East Lansing.