

MICHIGAN HIGH SCHOOL ATHLETIC ASSOCIATION, INC.

EXECUTIVE COMMITTEE MEETING

East Lansing, January 10, 2018

Members Present:

Scott Grimes, Grand Haven
Pete Ryan, Saginaw
Vic Michaels, Detroit
Steve Newkirk, Clare
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 MHSAA is a private, nonprofit corporation, made up of voluntary membership; it is neither a state agency nor a court of law, and is not bound by any particular legal standard of review or burden of proof when applying its Regulations or while administering an internal appeal. The *MHSAA Handbook* may identify which party bears the burden of proof, depending on the particular situation or if a particular Regulation is at issue. The MHSAA staff, its Executive Committee, or its Representative Council, where appropriate, shall determine whether the circumstances in each situation, as presented to the MHSAA, warrant application or waiver of a particular Regulation or Interpretation. To make that determination, the MHSAA considers what a reasonable person given the same information would decide.

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 agreement 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 postseason 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[F-1]) – A request was made to allow a cooperative program in football to continue between these two schools of the same district whose combined enrollment is 1,180 students in 11-player football. On June 15, 2016, the Executive Committee approved this program, which included the requirement that the committee review and specifically approve the renewal of this application after the 2017 football season. Ferndale would be in jeopardy of dropping the sport with 15 varsity players returning in 2018. The JV team finished with 12 players. The request was made in light of recent regulations creating a three-year experiment to allow cooperative programs in excess of 1,000 students in nine named sports (football not among those sports named) when there is a demonstrated history of lack of participants. The Oakland Activities Association supported the request.

The Executive Committee approved the continuation of this cooperative program in football through the 2019 season, after which the Executive Committee must review and specifically grant approval for this cooperative program to continue if the combined enrollment is in excess of 1,000 students.

South Lyon and South Lyon East High Schools (Regulation I, Section 1[F-1]) – A request was made to reconsider the Executive Committee decision of June 2017 that the cooperative programs in girls swimming & diving and boys lacrosse dissolve after the 2017-18 school year due in part to high participation and success in these sports. Information was submitted including the number of divers, non-returning swimmers and graduating seniors in 2018 who are counted as members of the girls swim program, which is a no-cut sport. In boys lacrosse, the school projects lower numbers of incoming 9th-grade lacrosse players in 2018 and 2019 and that South Lyon East may not be able to field a JV team in 2019 and no team in 2020. The school is considering a JV only boys lacrosse agreement. In May 2013, the Executive Committee determined that because of participation numbers and success rates, these programs would not be allowed to continue beyond the 2014-15 school year. The schools requested reconsideration in June 2015 and the two programs were allowed to continue through 2016-17.

The Executive Committee did not approve the continuation of the cooperative programs in girls swimming and boys lacrosse. However, the committee confirmed that under existing rules there are opportunities for the separate teams to share coaches and facilities in swimming & diving and for a junior varsity cooperative program in boys lacrosse. The committee also would review a timely application for a cooperative agreement after the 2018-19 school year with appropriate data to justify a cooperative program at the varsity level for one or both sports.

Belding High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of an 11th-grade student who was the victim of an assault on Nov. 14, 2017 while a student at Ionia. The student also experienced bullying in group chats and social media. The student enrolled at Belding on Nov. 27 and is interested in continuing in bowling.

The Executive Committee did not approve the request for waiver.

Benzonia-Benzie Central High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of a 9th-grade student whose father died a few years ago and whose mother's home was recently foreclosed. The student, his mother and siblings moved in with a family in the Elk Rapids School District and the student enrolled at Elk Rapids to begin 9th grade in the 2017-18 school year and played JV football. The student has left his family and moved in with another family in the Benzie Central School District and enrolled on Nov. 11, 2017. The student was a wrestler in middle school and would like to wrestle for Benzie Central this winter.

The Executive Committee did not approve the request for waiver.

Clarkston High School (Regulation I, Section 9[E]) – On Nov. 30, 2017, the Executive Committee did not approve a request to waive Section 9(A) that causes a student to be ineligible until Jan. 15, 2018, and to set aside the decision of the executive director under Section 9(E) that continues the student's ineligibility for a total of 180 scheduled school days since first enrolling at Clarkston High School. The student involved is a 12th-grader who has transferred from Macomb-Dakota High School. He is 18 years old and relocated on his own last summer from his family in the Dakota district to an apartment in Clarkston's district. Because an Educational Transfer Form has not been completed, the student is ineligible until Jan. 15, 2018. In addition, the student's former school alleged the transfer is primarily for athletic reasons, which the MHSAA executive director confirmed, causing the ineligibility to continue beyond Jan. 15 for a total of 180 scheduled school days of enrollment at Clarkston High School.

The school's superintendent, principal and athletic director met with the Executive Committee, which consisted of three different members than on Nov. 30.

The Executive Committee has absolute discretion to determine if a matter it previously acted upon is reviewed at a subsequent meeting. When, in the opinion of the school involved, there is substantially new information provided by the school, MHSAA staff will prepare the item for the next regularly scheduled Executive Committee meeting agenda; but it remains for the Executive Committee to determine if this matter will be an action item for that meeting.

In this instance, the Executive Committee determined that Clarkston had presented no supplemental information that has bearing on the merits of earlier decisions made in this matter, citing these examples particularly:

1. The school district's earlier contention that the entire family has relocated to live within the Clarkston School District was inconsistent with the parent's signed affidavit of Nov. 13, indicating that the student's parents lived apart from their son and in a different school district at that time. It has not been demonstrated that the parents have yet satisfied the conditions of a completed residential change. Nevertheless, a completed change of residence by the parents at this time would not correct the deficiency and allow immediate eligibility, pursuant to the specific language of the rule involved.
2. The school district's attribution of comments by the MHSAA associate director are missing the context that the associate director was speaking to the administration of both schools and to the parent prior to the student attending any classes at Clarkston and while that student's eligibility continued at Macomb-Dakota High School. It was not a determination of future eligibility but a statement of fact under the Transfer Rule that a student remains eligible at his former school, even if his residence changes to outside the former school's enrollment boundaries.

Furthermore, the affidavit of Clarkston's athletic director that is included in the "new information" provided for this appeal is false and misleading in multiple ways, including the following:

- The MHSAA associate director did **not** improperly encourage the student to remain at Dakota, for it was the only school where the student's eligibility was assured at the start of the 2017-18 season. The athletic director admits MSU's basketball coaches gave the student the same advice.
 - MHSAA staff did **not** fail to assist Clarkston's athletic director in finding MHSAA eligibility rules applicable to this student. MHSAA records demonstrate prompt and specific responses to his questions.
3. The school district's examples of other transfer students who were eligible without delay or after a wait of one semester ignores that the facts were different in those cases. If a student meets one of the 15 stated exceptions to the Transfer Rule (which this student did not do), then the student may be immediately eligible at the new school. If the school from which a student transfers does not allege an athletic-motivated transfer (which Dakota did in this case), then the student may be eligible after one semester. The facts of the cases cited are not the facts of this student's transfer to Clarkston High School.
 4. The school district's inclusion of material from an MSU fan-based blog which reports that an unnamed source within the MHSAA had contacted the blogger in late October – saying a decision had already been made and the student would not play this year at Clarkston – is wrong and irrelevant.

If such a conversation took place, it was not with an MHSAA staff person; and if it was not an MHSAA staff person who was involved, then the conversation was mere speculation by a person from outside the MHSAA office staff who was without direct knowledge of the matter and without authority to speak for the MHSAA. Perhaps the blogger's source was a speculating or even wishful thinking coach or administrator within an MHSAA member school.

More important, the Executive Committee could find no relevance in the submission of this blog, nor could it see any rationale behind it that would be sufficient to overturn the executive director's decision on Oct. 31 or the Executive Committee's affirmation of the decision on Nov. 30.

5. Clarkston's supplemental comments regarding the role of the MHSAA associate director in this matter added nothing substantially new that was not already stated when Clarkston appealed to the Executive Committee on Nov. 30.
6. The school district did not deny but, especially in its oral statement to the Executive Committee, confirmed multiple times that the student played non-school basketball with a member of the Clarkston High School boys basketball team. This is one of the seven items provided in Regulation I, Section 9(E), any one of which defines an athletic-motivated transfer. It is evidence, provided by the student's previous school and, unrefuted, meets its burden of proof.

The supplemental information and discussion did not persuade the Executive Committee that this was not an athletic-motivated transfer. The Executive Committee left undisturbed its decision of Nov. 30, 2017.

(As was the case on Nov. 30, the associate director was excused from the meeting at the same time as the school district's representatives.)

Custer-Mason County Eastern High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of a 12th-grade special education student who has been enrolled in an online school since the 8th grade. The student's disability affects his ability to fit in socially. He played basketball with the Special Olympics but did not fit in there. The student enrolled at his school of residence to begin the 2017-18 school year.

The Executive Committee approved the request for waiver.

Detroit-Loyola High School (Regulation I, Section 9) – A request to waive the transfer regulation and specifically Interpretation 62 (closest nonpublic school) was made on behalf of an 11th-grade student who made a complete residential change with his mother from Florida to the home of the student's grandfather in Detroit. Loyola is not the closest nonpublic school to the student's new home, but the student began attending Loyola for the 9th grade in the 2015-16 school year.

The Executive Committee approved the request for waiver.

Fennville High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of an 11th-grade student who began the 9th grade in the 2016-17 school year at Fennville before dis-enrolling near the start of the 10th grade on Sept. 14, 2017. The student enrolled in the Michigan Department of Education's Virtual Learning Online Charter School Academy. The student reenrolled at Fennville on Nov. 17, 2017. In part, a recent divorce by the student's parents caused the online school enrollment.

The Executive Committee did not approve the request for waiver.

Highland-Milford High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of an 11th-grade student who attended a non-traditional alternative program while a student at Walled Lake Northern. To begin the 2017-18 school year, this program was discontinued and the student was to enroll at another alternative program connected to the Walled Lake Schools (Oakland Opportunities Academy) whose classes ran from 1-8 p.m. The student began the 2017-18 school year at Walled Lake Northern High School. After three weeks, Walled Lake Northern advised the student to enroll at the O.O.A., which ran the evening program. The student attended the O.O.A. program through the end of the first trimester before enrolling on Nov. 28, 2017 at Harbor High School, the alternative school connected to Milford. The student and his mother moved into a trailer in the Milford attendance area. The family home in Walled Lake has been on and off the market for a year. The student's father remains in the Walled Lake home with two siblings who continue to attend school in Walled Lake: a special needs brother who was advised to stay at the same school for consistency, and an incoming 9th-grade sister who was given a choice between Milford and Walled Lake Northern. Support for eligibility from the former school was submitted.

The Executive Committee did not approve the request for waiver.

Ishpeming High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of a 10th-grade student who was accused of criminal wrongdoing by a fellow student but not charged by authorities. The student previously attended Ishpeming-Westwood, where the student withdrew due to the accusations. The student enrolled at neighboring Ishpeming on Oct. 23, 2017, and is interested in wrestling. Support for eligibility was submitted from an officer of the 25th Circuit Court, Family Division Juvenile Court.

The Executive Committee approved the request for waiver.

Saginaw-Arthur Hill High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of a 10th-grade student who began the 9th grade at Arthur Hill in the 2016-17 school year before enrolling at Saginaw-Swan Valley for ten school days from Nov. 27-Dec. 8, 2017. The student reenrolled at Arthur Hill on Dec. 11. The student played basketball at Arthur Hill and attended open gyms at Swan Valley prior to his reenrollment.

The Executive Committee approved the request for waiver.

Schoolcraft High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of a 9th-grade student who experienced berating and harassment because her father is the school police resource officer assigned to the student's former school, Portage Northern. The student enrolled at Schoolcraft on Oct. 23, 2017 because the father has no connection to that school. The student participated in two JV volleyball games at Portage Northern. Support from the former school was submitted.

The Executive Committee approved the request for waiver.

Waterford Mott High School (Regulation I, Section 9) – A request to waive the transfer regulation and specifically Interpretation 62 (public school of residence) was made on behalf of a 9th-grade student who began the 9th grade at Pontiac, participated in one JV basketball game and recently made a full and complete residential change into the Waterford Kettering attendance area. The school district allowed the student to enroll at Waterford Mott on Dec. 1, 2017 because the student attended a Waterford elementary school through grade 5 which was a feeder school to Waterford Mott. The student also has a 10th-grade half-brother who also moved into the Waterford Mott attendance area and enrolled to begin this school year.

The Executive Committee approved the request for waiver.

Whitehall High School (Regulation I, Section 9) – A request to wave the transfer regulation was made on behalf of a 9th-grade student who lived with his grandmother through middle school to the 9th grade at Muskegon-Mona Shores where the student played freshman football. On Dec. 14, 2017, the student moved into Whitehall with an aunt and uncle and enrolled at Whitehall. The student has lived with both parents separately on and off and in foster care through the 4th grade before living with his grandmother. The grandmother married during this time and does not have the ability to serve as the student's parent. Support for eligibility from the former school was submitted.

The Executive Committee approved the request for waiver.

Wyandotte-Roosevelt High School (Regulation I, Section 9[D]) – A request to waive the transfer regulation to permit eligibility on the 91st school day of enrollment was made on behalf of an 11th-grade student who previously attended Brownstown-Woodhaven before enrolling at Roosevelt on Oct. 16, 2017.

The Executive Committee approved the request for waiver following the student's 90th scheduled school day of enrollment at Roosevelt High School beginning Oct. 16, 2017.

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
Bellevue	10	Lakeview	Aug. 28, 2017	Jan. 15, 2018
Howell	9	Novi-Detroit Catholic Central	Nov. 1, 2017	Remainder of 17-18 school year

Harrison High School (Regulation I, Section 10) – A request was made to remove the penalty assessed by the executive director upon a coach and student for a violation of undue influence. The student was deemed ineligible until Jan. 15, 2018 (MLK Day) and the coach not allowed to coach basketball games or practices at the school effective on Jan. 15, 2018 for the remainder of the 2017-18 season, including the MHSAA tournament.

The coach was hired in the summer of 2017 and changed residence to Harrison from Chicago, moving with a 12th-grade student for whom he had become a guardian in May 2017 and who had lived with the coach for the year prior in Chicago. This student's eligibility was not impacted.

In July 2017, a second 18-year-old student moved unaccompanied by either parent into Harrison and, unknown to the MHSAA, began residing with the coach. The student was encouraged to leave Chicago and come to Michigan by his former high school coach in Chicago. This same person also once coached the Harrison coach who was a girls basketball coach at the same school as this student in Chicago. An Educational Transfer Form was completed and return signed to the school by the MHSAA on Aug. 1, 2017. On Dec. 11, 2017, the MHSAA inquired with the athletic director and coach in a phone call about eligibility of these students. A written response was submitted shortly after by Harrison, and upon review, the MHSAA declared the Educational Transfer Form null and void from that point for the second student because of undue influence.

The school's written appeal stated that protocols of Regulation V were not followed in that the superintendent and principal were not informed of the allegation from a member school. The student was eligible under Transfer Regulation Section A and exception 12. His relocation here from Chicago was for educational purposes and for a safer environment encouraged by his dean of students/coach in Chicago acting as a mentor. The Harrison coach was attempting to provide support for this student who was in need of help and a change. The Harrison coach should not be prevented from being in the gym to teach, coach, mentor or watch the second student for whom he has been awarded guardianship.

The Executive Committee noted that Regulation V, Section 1 is explicit that, unless a particular regulation says otherwise, MHSAA staff may request or conduct investigations on the basis of any information in any form from any source, and that member schools are obligated to follow the rules regardless of whether an allegation is made or how; and the Executive Committee found no procedural defect under the MHSAA's Rules of Procedure that govern investigations into alleged or contested violations. While not required, the principal and superintendent were both included in email correspondence between Harrison's athletic director and MHSAA staff prior to the finding of a violation.

The Executive Committee could not ignore the assistance given the second transfer student, and determined that failure to apply the rule in this case would create precedent that would be unfavorable to applying the rule in similar circumstances in the future. Moreover, the penalties applied under the MHSAA's discretion are at the minimum end of the scale outlined under the rule. The request to vacate the executive director's decisions was not approved.

(Mr. Newkirk did not participate in the discussion or decision.)

Waterford Mott High School (Regulation II, Section 15) – A request was made to permit a 12th-grade student to compete as a Division 2 gymnast as opposed to Division 1. The student participated in two Level 7 USAG meets prior to January 2017, which would have placed her in Division 1. The student then suffered a knee injury and surgery, causing the student to miss the remainder of the USAG season and be off her knee for several months. All of her teammates in this cooperative program participate in Division 2.

The Executive Committee approved the request for waiver for this student. The student may compete as a Division 2 gymnast in the 2017-18 season.

Next Meetings – The next meetings of the Executive Committee are scheduled for Wednesday, Feb. 21, 2018, at 8:30 a.m. in East Lansing (followed by Audit and Finance Committee); Thursday, March 22, 2018, at 8:30 a.m. in East Lansing (Representative Council meets next day); Wednesday, April 25, 2018, at 8:30 a.m. (followed by Audit and Finance Committee); Sunday, May 6, 2018, at 10 a.m. in Gaylord (Representative Council meeting follows); and Wednesday, June 13, 2018, at 9 a.m. in East Lansing.