

MICHIGAN HIGH SCHOOL ATHLETIC ASSOCIATION, INC.

EXECUTIVE COMMITTEE MEETING

East Lansing, November 30, 2017

Members Present:

Scott Grimes, Grand Haven
Fred Smith, Stevensville
Vic Michaels, Detroit
Kris Isom, Adrian
Don Gustafson, St. Ignace

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 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 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.

Clarkston and Bloomfield Hills High Schools (Regulation I, Section 1[E-1]) – The Executive Committee approved a cooperative program at the subvarsity level only in ice hockey between these two schools. The combined enrollment is 4,593 students. A cooperative program was approved in 2016-17 between Cranbrook and Clarkston, but did not occur and was dissolved, as Cranbrook did not have enough participants. Neither school anticipates enough participants to field a JV team this winter. Each of their varsity teams skate at the same ice rink. Clarkston will be the primary school. Support from the Oakland Activities Association was submitted.

Grandville and Byron Center High Schools (Regulation I, Section 1[F-1]) – The Executive Committee approved a cooperative program in girls lacrosse (varsity only) between these two schools whose combined enrollment of 2,833 students will place a new team in the Division 1 tournament. Grandville sponsored girls lacrosse last year and will be the primary school. Support from the OK Conference was submitted.

Madison Heights-Bishop Foley, Clawson and Macomb-Lutheran North High Schools (Regulation I, Section 1[F-1]) – The Executive Committee approved the addition of Clawson to a cooperative program in boys lacrosse which exists between Bishop Foley and Lutheran North (varsity only) whose combined enrollment of 1,552 students will place a new team in the Division 1 tournament. Bishop Foley will be the primary school. Support from the Catholic High School League was submitted.

Muskegon-Mona Shores, Fruitport, Muskegon Catholic Central and Muskegon-Western Michigan Christian High Schools (Regulation I, Section 1[F-1]) – The Executive Committee approved a cooperative program in boys and girls lacrosse (varsity only) between these four schools whose combined enrollment is 2,536 students. The teams will be in the Division 1 tournaments **but do not wish to participate in the MHSAA tournaments in 2017-18**. None of the schools sponsored boys or girls lacrosse previously. Mona Shores will be the primary school. Support from the OK Conference was submitted.

Adrian-Madison 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 an 11th-grade student who has moved from his mother's home in Florida to live with his father and grandparents in the Adrian High School District. The parents never married, and the student was taken to Florida without the court's permission. The father has recently been granted physical custody of the student. The student attended Adrian as a 10th-grader while living with both parents. He enrolled at Madison to begin the 2017-18 school year because he has four cousins who also attend Madison. An otherwise completed Educational Transfer Form is in process.

The Executive Committee approved the request for waiver pending completion of the Educational Transfer Form by both school principals and the MHSAA office. (Kris Isom abstained from voting.)

Ann Arbor-Father Gabriel Richard High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of an 11th-grade student who has moved with his mother only from North Carolina to Northville to care for an ill grandmother. The father will move to Michigan once he secures his job situation. The student attended Charlotte Catholic and enrolled at Gabriel Richard to begin the 2017-18 school year on Aug. 22, 2017. Divine Child is less than one-half mile closer to the family's home than is Gabriel Richard. Because the grandmother lives in Ann Arbor, the student enrolled at Gabriel Richard as Divine Child is 33 miles from the grandmother's home.

The Executive Committee approved the request for waiver.

Battle Creek-Central High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of a 10th-grade student who experienced race-based physical and verbal abuse while a student and athlete at Harper Creek. Support for eligibility from the principal and athletic director at the former school has been submitted. The student participated in football and basketball as a 9th-grader and enrolled at Central on Nov. 7, 2017. The student did not play football in the fall of 2017.

The Executive Committee approved the request for waiver.

Berkley High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of a 10th-grade student who has moved into the residence of his grandmother in Berkley because both of his parents are deceased. The student's father died a few years ago and the mother died suddenly over the summer of 2017. The student previously attended Clarkston and enrolled at Berkley to begin the 2017-18 school year.

The Executive Committee approved the request for waiver.

Beverly Hills-Detroit Country Day 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 began the 9th grade in 2015-16 at a sports academy boarding school in Florida. For the 10th grade in 2016-17, in anticipation of the father's new employment, the mother moved into a nearby condominium in Florida, intending to build a home pending the father's employment opportunity. Over the summer, the employment opportunity dissolved and the mother and students returned to the same home in Bloomfield Hills where they had resided for over a decade (Exception 1). The father remained in Michigan during this time due to his position in the auto industry. The student attended Bloomfield Hills Middle School in the 7th and 8th grades. Detroit Country Day is not the closest nonpublic school, but two older siblings graduated from there in 2009 and 2011.

The Executive Committee approved the request for waiver, stipulating that this is the only opportunity for Interpretation 67 to apply to this student.

Birch Run High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of an 11th-grade student who experienced bullying while a student at Clio in the spring and summer of the 2016-17 school year which resulted in hospitalization, medication, counseling and entering an outpatient health program. The student attempted to return to his former school but was unable to remain, and enrolled at Birch Run on Oct. 23, 2017. Support for eligibility was submitted by the former school.

The Executive Committee approved the request for waiver.

Canton High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of an 11th-grade student whose father has a medical condition that necessitates the student attending his school of residence in Canton to assist in an emergency and prevent a progression of the disease. The father's illness has caused a driving impairment. The student previously attended Detroit-Cass Tech and enrolled at Canton to begin the 2017-18 school year.

The Executive Committee did not approve the request for waiver.

Chesterfield-Austin Catholic High School (Regulation I, Section 9[D]) – A request to waive the transfer regulation to permit eligibility on the 91st school day of enrollment for compelling reasons was made on behalf of a 10th-grade student who experienced anxiety issues that caused the student to enroll at Austin Catholic on Oct. 23, 2017. The student played JV girls soccer while enrolled as a 9th-grader at Utica High School in the 2016-17 school year.

The Executive Committee did not approve the request for waiver.

Clarkston High School Regulation I, Section 9) – A request was made to waive Section 9(A) (base transfer rule) that causes a student to be ineligible until Jan. 15, 2018, and set aside the decision of the executive director under Section 9(E) (athletic-motivated transfer rule) 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 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 MHSAA executive director did not find evidence to sustain allegations of undue influence (Regulation I, Section 10) on the part of any Clarkston personnel.

In its written appeal, Clarkston administration stated the opinion that the MHSAA staff was biased toward Dakota's administration and overzealous in its efforts to penalize transfers. It opined that Dakota's administration did not satisfy its burden of proving the transfer was primarily for athletic reasons and that the student's family had demonstrated dissatisfaction with the student's educational experience at Dakota before the choice of attending Clarkston High School had been made.

The school was represented at this meeting by its superintendent, principal and athletic director. While they do not agree with the former school's refusal to complete the Educational Transfer Form and believe the student should have immediate eligibility, they did not focus their appeal on the determination that the student is ineligible under Regulation I, Section 9(A) until Jan. 15, 2018. They asked that the executive director's decision under Regulation I, Section 9(E) – causing the student to continue to be ineligible for the remainder of his senior year – be vacated. They argued that the alleging school had not met its burden of proof to establish that the transfer was primarily for athletic reasons, and that documentation from the family was not given adequate weight. They acknowledged that the transfer made for "bad optics" but the family had compelling reasons for seeking a different educational environment for their son, including specific math and media curricula not available at the student's previous school.

The Executive Committee affirmed that the student is ineligible under Regulation I, Section 9(A) until Jan. 15, 2018. None of the exceptions that would allow immediate eligibility has been satisfied by the student; and the Executive Committee has not, and will not in this case, substitute its judgment for that of a local school principal with respect to completing an Educational Transfer Form.

The student's eligibility status beginning Jan. 15, 2018, is within the discretion of the MHSAA executive director, pursuant to Regulation I, Section 9(E). Under this Section, the executive director may not commence an inquiry in the absence of a timely allegation by the administration of the student's former school, and he may not decline to make an inquiry when a timely allegation is made by a member school administrator under Section 9(E). The former school is the first filter of an athletic-motivated transfer.

In this matter, Dakota administration pointed to indicators of an athletic-motivated transfer and other possible violations of MHSAA Regulations, and Clarkston administration responded with indicators that the student or his parent was concerned about the culture and academic atmosphere of Dakota High School and saw better opportunities at Clarkston for this student. Anticipating these kinds of debates, Section 9(E) lists seven situations, any one of which would indicate a transfer is more for athletic than other reasons. In this case, two of the items (#6, and especially #7) were among the factors identified by Dakota, and they were confirmed by the MHSAA. It is undisputed that this student and a Clarkston team member played together on the same non-school basketball team during the 12 months prior to this student's transfer – a clear violation of the rule.

The Executive Committee reiterated its reluctance (as stated in the introduction to these minutes) to base decisions on perceived differences in the general and/or academic environments between schools; and when the schools are of the same size and legal status, as is the case here, and many other similar schools are located between the two schools, a transfer to this particular school for academic reasons can be questioned by a reasonable person.

Beyond what was submitted by both schools are reports in both traditional and social media about the “chemistry” this student developed while playing AAU basketball last summer with a returning Clarkston student, who will also be his teammate in college. When statewide media quote the student saying, “We just want to build off this summer and how well we did play together and continue to master that,” there is no doubt in a reasonable person’s mind what the primary motivation for the transfer is.

Examining the whole record, the Executive Committee determined the correct decision has been made in this matter, and it affirmed the student’s ineligibility for a total of his first 180 scheduled school days at Clarkston High School. (The MHSAA staff designee responsible for the inquiry in this matter was excused for the Executive Committee’s deliberations and decision.)

Dearborn-Divine Child High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of a 10th-grade student whose father was suddenly dismissed as president of the student’s former school, Ann Arbor-Father Gabriel Richard, on July 28, 2017. The student enrolled at Divine Child in August to begin the 2017-18 school year

The Executive Committee did not approve the request for waiver.

Detroit-Cass Technical High School (Regulation I, Section 9) – A request was made on behalf of a 12th-grade student to waive the transfer regulation and specifically Interpretation 61-b. Interpretation 61 is a provision for a multi-school district with both types of schools (district-wide and geographical boundaries) that provides immediate eligibility when meeting a residency exception only at the school with geographical boundaries. The student’s parents were divorced in California in October 2014. Over the summer of 2017, the student moved between her divorced father in California to her mother in Detroit who lives in the Mumford attendance area. The student enrolled to begin the 2017-18 school year at Cass Tech, which is a district-wide school. An otherwise completed Educational Transfer Form was submitted.

The Executive Committee did not approve the request for waiver.

Fowler 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 Middleton-Fulton before enrolling at Fowler on Oct. 10, 2017.

The Executive Committee approved the request for waiver following the student’s 90th scheduled school day of enrollment at Fowler High School beginning Oct. 10, 2017.

Fowler 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 Ionia before enrolling at Fowler on Oct. 9, 2017.

The Executive Committee approved the request for waiver following the student’s 90th scheduled school day of enrollment at Fowler High School beginning Oct. 9, 2017.

Goodrich High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of a 9th-grade student who previously attended Goodrich Schools his entire career except for the first quarter of the 2016-17 school year when the student attended Flint-Powers Catholic and participated in football. After classes began, the student’s parents determined that the former school was not a good fit socially for the student, who waited until the end of the first marking period to reenroll at Goodrich on Nov. 6, 2017.

The Executive Committee did not approve the request for waiver.

Grand Rapids-South Christian 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 a 10th-grade student who previously attended Caledonia before enrolling at South Christian on Oct. 12, 2017.

The Executive Committee approved the request for waiver following the student's 90th scheduled school day of enrollment at South Christian High School beginning Oct. 12, 2017.

Ishpeming-Westwood 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 a 10th-grade student whose parents are in the process of divorcing. The student moved with his father into the NICE School District and enrolled at Westwood on Oct. 10, 2017. The student played basketball while enrolled at Republic-Michigamme as a 9th-grade student during the 2016-17 school year.

The Executive Committee approved the request for waiver following the student's 90th scheduled school day of enrollment at Westwood High School beginning Oct. 10, 2017.

Jonesville 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 moved with his mother into Jonesville and is residing with an uncle. The student's father and brother remain in the family residence in the Addison School District. The student previously attended Addison and enrolled at Jonesville on Oct. 10, 2017.

The Executive Committee approved the request for waiver following the student's 90th scheduled school day of enrollment at Jonesville High School beginning Oct. 10, 2017.

Jonesville 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 an 11th-grade student from an Approved International Student Program whose host family lives in the Hillsdale School District but their two children have attended Jonesville Schools for several years. The student enrolled at Jonesville to begin the 2017-18 school year.

The Executive Committee approved the request for waiver.

Livonia-Churchill High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of a 12th-grade student who was diagnosed with a health issue and hospitalized for 11 days during the fall of 2017 and on homebound status while a student at Livonia-Stevenson, a school of the same district. The student's condition was caused by mental and physical exhaustion stemming from peer pressure related to participation at a cross country team camp in August 2017. The student requested and was granted a transfer within the Livonia Public Schools and enrolled at Churchill on Nov. 6, 2017. The student has met the conditions for academic eligibility.

The Executive Committee approved the request for waiver.

Madison Heights-Lamphere High School (Regulation I, Section 9) – A request to waive the transfer regulation was made on behalf of an 11th-grade student whose father died in January 2017. The student's sister was named full guardian in March 2017. The student began the 9th grade at Dearborn Heights-Annapolis in the 2015-16 school year and continued attendance until enrolling at Lamphere on Nov. 7, 2017, when the sister became an employee of the Lamphere School District and she could no longer transport the student to Annapolis. The student continues to reside with his sister in the Detroit-Cody attendance area; the same home lived in with the father prior to his death. The student's mother has not been in the student's life since 2011.

The Executive Committee did not approve the request for waiver.

Whitehall 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 10th-grade student who is moving from his father's home in Oak Park to his mother's residence in the Muskegon School District. The student attended Whitehall as a 9th-grader in the 2016-17 school year and participated in athletics. The parents never married, and an otherwise completed Educational Transfer Form was submitted. The student attended Ferndale University Prep to begin the 10th grade and reenrolled at Whitehall on Nov. 13, 2017.

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
Alanson	9	Petoskey	Oct. 16, 2017	91 st school day of enrollment
Battle Creek-Harper Creek	10	Ridgeview, FL	Oct. 9, 2017	91 st scheduled school day
Bellevue	10	Olivet	Nov. 6, 2017	Remainder of 17-18 school year
Bloomfield Hills-Brother Rice	10	Detroit-U of D Jesuit	Aug. 24, 2017	Jan. 15, 2018
Bridgeport	9	Saginaw	Nov. 6, 2017	Remainder of 17-18 school year
Calumet	10	Houghton	Sept. 5, 2017	Jan. 15, 2018
Flint-Powers Catholic	9	Linden-Lake Fenton	Nov. 27, 2017	Remainder of 17-18 school year
Goodrich	9	Flint-Powers Catholic	Nov. 6, 2017	Remainder of 17-18 school year
Hanover-Horton	9	Jackson-Vandercook Lake	Oct. 23, 2017	Remainder of 17-18 school year
Hudson	10	Addison	Sept. 5, 2017	Jan. 15, 2018
Jackson	9	Jackson-Northwest	Sept. 28, 2017	Jan. 15, 2018
Kentwood-Grand River Prep	10	Gr Rapids-Ottawa Hills	Aug. 28, 2017	Jan. 15, 2018
Marysville	9	Ledyard, CT	Nov. 27, 2017	Remainder of 17-18 school year
Menominee	9	Pleasantville, NJ	Oct. 30, 2017	Remainder of 17-18 school year
Muskegon	9	Fennville	Nov. 3, 2017	Remainder of 17-18 school year
Muskegon-Western Michigan Christian	9	Grand Haven	Nov. 17, 2017	Remainder of 17-18 school year
North Adams-Jerome	10	Jonesville	Oct. 25, 2017	Remainder of 17-18 school year

Requesting High School	Grade	Former High School	Date of Enrollment	Length of Subvarsity Eligibility Status
Pellston	9	SOAR Academy, San Diego, CA	Oct. 4, 2017	91 st school day of enrollment
Plainwell	9	Refugee Status	Sept. 5, 2017	Jan. 15, 2018
Plainwell	9	Refugee Status	Sept. 5, 2017	Jan. 15, 2018
Romulus-Summit Academy North	10	Detroit-Cass Technical	Sept. 5, 2017	Jan. 15, 2018
St. Clair Shores-South Lake	9	Detroit-East English Village	Oct. 4, 2017	91 st school day of enrollment
Sparta	9	Rockford	Sept. 25, 2017	Jan. 15, 2018
Warren-Cousino	10	Fraser-Art Academy in the Woods	Sept. 5, 2017	Jan. 15, 2018

Benton Harbor High School (Regulation I, Section 10) – A request was made to set aside the two-year probation and the finding that a violation of undue influence occurred by a volunteer Benton Harbor basketball coach. The inquiry resulted from written allegations by the administration of a member school in September.

In the fall of 2017, in a conversation with the student's father, this Benton Harbor coach attempted to secure or encourage the enrollment of a Stevensville-Lakeshore student to Benton Harbor because of basketball. The student did not change schools but remained at Lakeshore. The coach who was found to be in violation has a brother who previously attended Stevensville-Lakeshore, played basketball and enrolled at Benton Harbor to begin the 2017-18 school year.

Benton Harbor submitted that the finding of a violation and determination that the basketball program be placed on probation for two years was defective because the individual found to have committed a violation has never been a coach or volunteer for the district. The penalty assessed to the coach was suspension from coaching any sport at Benton Harbor for two years (2017-18 and 2018-19). He also may not coach in any MHSAA tournament at any MHSAA member school for the same period. Except for being a spectator at games in which his brother is participating, he may have no connection with Benton Harbor athletics through the end of the 2018-19 school year.

The school was represented at this meeting by its athletic director whose prepared statement focused on perceived flaws in the investigative process of MHSAA staff and perceived damage to the school district by the two-year probation that has been imposed.

The Executive Committee found that, in spite of the school district's position that the person involved was not and is not a person approved by the district to coach the high school basketball team, there were many indications that he acted and was treated as a coach. While he did not complete internal Benton Harbor personnel processes required of the school district's coaches, he was often allowed to operate as a coach. He was at least an unapproved volunteer coach of basketball, in attendance at many practices and on the bench for many games. He was clearly connected to the program.

The MHSAA designee responsible for examining the allegations involving several students and adults had many communications with the Benton Harbor athletic director to attempt to understand all the adults, students and interactions involved. While the MHSAA designee determined there was insufficient reason to sustain most allegations, the designee found that a conversation took place between one Benton Harbor volunteer coach and the father of a Benton Harbor resident whose son played basketball for Stevensville-Lakeshore and remains enrolled there. While the content of this conversation is disputed, the following distinguished this allegation from the others and substantiated it in his mind:

- A conversation regarding the enrollment of this student did take place between this volunteer coach and this student's parent. Both parties confirm the conversation occurred and that the content was about basketball and enrollment.
- The conversation was part of the original allegation by Stevensville-Lakeshore and was reported to the Lakeshore staff.
- The student's father confirmed the contents of the conversation over the phone with MHSAA staff and in a subsequent email. The contents of the conversation and the email were shared orally by MHSAA staff with the Benton Harbor athletic director.
- The coach's brother did transfer from Lakeshore to Benton Harbor to begin the 2017-18 school year.
- There were additional conversations alleged and one confirmed to have occurred between the volunteer coach's father (whose brother did transfer from Lakeshore into Benton Harbor to begin the 2017-18 school year) and this student's mother. This confirmed conversation was reported by the Lakeshore student's mother in the initial allegation and, while the content was disputed, involved one or more basketball players changing schools.

While he held that the opposite is true, the athletic director conceded that a reasonable person could conclude that this person was connected to the basketball program and violated the undue influence rule.

The Executive Committee affirmed that the language of Regulation I, Section 10 and Interpretations 113 and 115 permits the finding of a violation of undue influence when prohibited acts are committed by persons only indirectly associated with a school's team.

The Executive Committee upheld the determinations of the executive director, specifically: (a) probation for the school for two years without loss of any privileges or services or MHSAA tournament participation opportunities; and (b) suspension of the person involved for two years, during which time he may not coach any sport at Benton Harbor and may not coach in any MHSAA tournament at any other MHSAA member school in any sport.

(Executive Committee member Fred Smith was excused during the presentation, discussion and decision on this matter. The MHSAA staff designee responsible for the inquiry in this matter was excused for the Executive Committee's deliberations and decision.)

Orchard Lake-St. Mary Preparatory High School (Regulation I, Section 10) – A request was made to set aside the finding of a four-year period of ineligibility in varsity basketball only and one-year ineligibility in all other sports assessed to two incoming 9th-grade boarding school students from two different schools in Lagos, Nigeria. The finding was under the undue influence (anti-recruiting) regulation that a violation occurred because a person directly or indirectly associated with the students secured or encouraged enrollment because of athletics.

The MHSAA learned in September that an individual with a basketball background assisted in the enrollment of these two students at St. Mary in the summer of 2017. This person had been involved with four other basketball players from Nigeria in 2013-14 who played basketball at two other high schools and were found to be ineligible under Regulation I, Section 10 (undue influence) for the maximum penalty at that time (one school year).

The school appealed the decision of ineligibility, indicating there is no evidence, even under an exceedingly broad interpretation of the rules and Interpretation 115, that a person whose activities are related to athletics arranged, secured or encouraged the arrival or residency of these students into St. Mary based on athletic ability or potential. The school appealed the decision of ineligibility to the students as no current improper action by St. Mary personnel was found.

The school was represented at this meeting by its principal, athletic director and vice-chair of the school's board of regents. The focus of their comments was on the severity of the penalty when there was no evidence of wrongdoing by either the school or the students. The petitioners attempted to distinguish this situation from other cases where penalties have been assessed for undue influence.

The school's written appeal had been critical of Interpretation 115, which the school believes is overbroad; but the Executive Committee noted that Interpretation is neither isolated nor unfocused, but is purposeful:

- *MHSAA Handbook* Regulation I, Section 10 states (in part): "The use of undue influence for athletic purposes by any person or persons directly or indirectly associated with a student, a student's parents, the school or its athletic program to secure or encourage the attendance of a student or the student's parents or guardians as residents of the school district, shall cause the student to become ineligible for interscholastic scrimmages or contests a minimum of 90 scheduled school days and a maximum of four years." (Underscoring added.)
- Interpretation 113 states: "Persons 'indirectly associated with the school' include but are not limited to parents of alumni, players, booster club members and representatives of non-school athletic programs. Such persons are prohibited from providing or performing any of the examples of undue influence listed in this Section and its Interpretations." (Underscoring added.)
- Interpretation 115 states: "It is an undue influence violation for a person directly or indirectly associated with a school or for a person whose activities are related to athletics to arrange, secure or encourage the arrival or residency of a student into a school district or the enrollment of a student into a school based on athletic ability or potential. It is undue influence for a student of one school to encourage because of athletics the relocation to their community or transfer to their school by students who are enrolled in another school." (Underscoring added.)

The Executive Committee acknowledged that among the MHSAA's stated purposes is the promotion of a level playing field for participation in MHSAA-sponsored tournaments, as well as regular season interscholastic athletic competition. This is difficult to accomplish within a very diverse membership where the resources of communities and their schools vary widely, where some schools are public and others private, and where some private schools enroll residential students and others do not.

During the past decade, both public and nonpublic schools have enrolled increasing numbers of international students; and because of unequal opportunities under Federal law for public and nonpublic schools to enroll international students, the MHSAA was obligated to modify its rules so that F-1 and J-1 visa students were treated more alike in competitive athletics and so that international students, whether on F-1 or J-1 visas, would have no greater opportunities to participate in interscholastic athletics at nonpublic schools than at public schools. This was accomplished by the MHSAA Representative Council in 2014.

This still leaves one group of international students and one group of MHSAA member schools with advantages over others – namely, international students enrolled as residential students at boarding schools. MHSAA leadership is right to be concerned about the negative effects this favored treatment could have on competitive equity; it has been seen before. MHSAA leadership is right to be concerned when an individual, who has been involved in the past with international students who have been ruled ineligible because of undue influence, is involved with the enrollment of other international students today. Concerns that participation by the two students who are subject of this appeal will harm within interscholastic athletics the reputation of this school, as well as boarding schools generally and nonpublic schools universally, are real and legitimate concerns.

The school's listing of MHSAA decisions that suggest a pattern of more lenient penalties in the past is random and misleading. In fact, the MHSAA has been consistent in imposing the maximum penalty when international students have been enrolled through special efforts and/or third parties at nonpublic schools, noting that this occurred five times during the 2013-14 school year, involving students from four different countries to five different nonpublic schools and focused on two different sports, which led to the development and adoption by the Representative Council and member schools of a longer period of ineligibility being available as a means to discourage abuses and promote competitive equity.

The Executive Committee reviewed specifically matters that occurred in 2013 involving this same third party, other international students and other schools where the maximum period of ineligibility was applied to the students. The committee noted that if there are not long-term consequences for students when a third party secures players and facilitates their enrollment at Michigan schools in part because of athletics, the same situation will play out over and over.

The executive director made a decision in this matter that attempted to strike a balance, providing opportunities for these two students to participate in every season of their enrollment in grades 10 through 12, but avoiding the circumstances where, in grades 10 through 12, they upset competitive balance in boys basketball, as occurred with international students at two schools during 2013-14 through 2016-17 school years when the MHSAA's maximum penalty for undue influence for students was limited to one year and proved ineffective when applied to 9th-, 10th- and 11th-graders. Since the penalty for undue influence was increased to four years for students enrolled after the 2013-14 school year, no similar situations requiring enforcement have been reported.

The Executive Committee cited ample evidence that in spite of representations to the contrary, the third party involved with the two students who are subject of this appeal has remained involved in youth basketball years longer than indicated and is still actively involved as the registered agent for One Nation Youth Club, which was incorporated in 2014 for the purpose of "Boys/Girls AAU Basketball Instruction and Play," and he is the current promotional and registration contact for Front Page Events which lists basketball events during 2017 and 2018. The affidavit for this person that was submitted is misleading regarding details important to this matter.

The Executive Committee determined that the executive director's decision is permissible in not penalizing the school for accepting students brought to it by a person whose past involvement in undue influence involving international students may not have been known to the school's current leadership. School administration acknowledged that if they had known of this person's history and current involvement, they would not have enrolled these students.

However, this does not change the fact that the same third party, who was involved with student ineligibilities during 2013-14 and remains involved in youth basketball programs today, arranged for these students to enroll in Michigan secondary schools; and that their participation in competitive athletics and their potential to alter fair and equitable play is problematic for schools which do not have the same opportunities to enroll and keep students that nonpublic schools and especially boarding schools have. This is a recurring problem which the less-than-maximum penalty imposed by the executive director attempts to address, balancing the interests of these two students as well as the interests of students competing for other MHSAA member schools.

Nevertheless, the Executive Committee modified the executive director's decision as follows: Beginning Aug. 1, 2018, and assuming the students are eligible in all other ways, these students may participate at any level of any sport; but they are not eligible for MHSAA season-ending tournaments in 2018-19. If any connection with the third party involved here is found in the future, either the executive director's original ruling or the maximum penalty under Regulation I, Section 10 will be imposed. (The MHSAA staff designee responsible for the inquiry in this matter was excused for the Executive Committee's deliberations and decision.)

Flint-Michigan School for the Deaf (Regulation II, Section 6) – A request to waive the 600-mile round-trip travel limitation was made to permit participation in a boys and girls basketball game on Dec. 15, 2017 at the Rochester, New York School for the Deaf which is 337 miles one way from Michigan School for the Deaf.

The Executive Committee approved the request for waiver.

Rockford High School (Regulation II, Section 11[H]) – Pursuant to Interpretation 241, a request to waive the four-player rule for the 2018-19 school year was made on behalf of a Rockford assistant varsity girls swimming coach whose primary source of income will be coaching the Rockford Riptide Swimming Program. The program is open to the general public and includes over 150 participants from the Rockford and Grand Rapids area including students from five school districts: Rockford, Cedar Springs, Grand Rapids-Northview, East Kentwood and Sparta. Approximately 20 of the participants are Rockford students in grades 7-12. A similar request was granted to coaches from this program in 2015-16 and 2016-17.

The Executive Committee approved the request for waiver for this assistant varsity girls swimming coach for the 2018-19 school year.

Union City High School (Regulation II, Section 11) – A request to waive the scrimmage regulation is made on behalf of an 11th-grade student who wrestles in the heavyweight class (215-285 pounds) and has no teammate to wrestle against near his weight class. The closest teammate is 180 pounds. The school requested that he be allowed to practice no more than two times a week with nearby Bronson which is a member of the same conference, and that these sessions not count as one of the allowed four scrimmages.

The Executive Committee did not approve the request for waiver.

Muskegon-Mona Shores, Fruitport, Muskegon-Catholic Central and Muskegon-Western Michigan Christian Middle Schools (Regulation III, Section 1[D]) – The Executive Committee approved a cooperative program in boys and girls lacrosse between these four member middle schools (7th and 8th grade combined). None of the schools sponsored lacrosse previously. Mona Shores will be the primary school.

Interstate 8 Middle School Athletic Conference (Regulation IV, Section 10) – A request was made to allow this league to begin middle school football practice five days earlier than allowed by the regulation, on Wednesday, Aug. 15, 2018. Practice is permitted on the 14th Monday before Thanksgiving (Aug. 20, 2018). The early start date would allow schools the option to have three additional days of practice so they may scrimmage on the Wednesday or Thursday of the last week of August prior to Labor Day in order to have nine practice days prior to the scrimmage. It would also permit schools to not practice on the Friday or Monday of Labor Day. The Interstate 8 Middle School Conference offers four seasons of participation with winter sports beginning on Monday, Oct. 15, 2017, and this would permit some time off between fall and winter seasons. NOTE: In March 2016, the Representative Council did not approve a proposal from the Junior High/Middle School Committee to change the date for all schools, but rather suggested schools or leagues with four seasons seek Executive Committee waiver of the current start date.

The Executive Committee approved the request for waiver.

Next Meetings – The next meetings of the Executive Committee are scheduled for Wednesday, Jan. 10, 2018, at 1 p.m. in East Lansing (follows Classification Committee); 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.