

Doyel: 'Broken' IHSAA transfer system leads to 'bullying,' can leave kids, parents in the cold

Adrain Brewer couldn't persuade the IHSAA that her son deserved to play varsity basketball this season for Ben Davis. Not even with a note from the hospital. No, I'm being serious. She took that note into the main conference room of the IHSAA building at 91st Street and Meridian, where she was trying to regain her son's eligibility. A big misunderstanding, she figured. The note from the hospital explained everything.

Brewer works at Franciscan Health in Mooresville. Back in July, when COVID-19 cases were surging, Franciscan asked her to report to work at sunrise. She could do that, but only if her son changed schools. They lived in Wayne Township, you see, but her son, a senior named Jayden Brewer, had always gone to Avon. School officials had let him enroll three years earlier, if he'd provide his own transportation. The bus didn't come to Wayne Township, Avon officials told Adrain. Fair enough. She handled Jayden's transportation.

Three years later, during the coronavirus pandemic, her hours were changing. Going from their home in Wayne Township to Avon High and then to work every morning in Mooresville, and retracing those steps every afternoon, well, it was too much for Adrain Brewer. She's a single mom, doing the best she can. She transferred him to Ben Davis, where Jayden's two older brothers had played.

"I could breathe again," she says.

In October, the IHSAA [ruled Jayden Brewer ineligible](#) for the Ben Davis varsity.

Adrain and Jayden showed up at the IHSAA building at 91st and Meridian in November with a note from the hospital, explaining everything. It did not go well.

"I've never been so humiliated," says Adrain Brewer. "When I left there I had headaches and I cried all the way home, because I knew it wasn't going to be in my favor. You don't know what you're walking into."

Adrain and Jayden Brewer walked out of the IHSAA building like so many had before them, and until state legislators change this broken system, like so many will in the future. They were hurt and exhausted — and out the legal fees Adrain had paid an attorney — by a process where IHSAA officials serve as prosecutor, jury, judge and appellate court.

"The process is tough at times," says Paul Neidig, the IHSAA's commissioner since Aug. 1, "but it's just about to getting to the truth."

A noble goal, but Indiana Department of Education officials describe what happens to families behind closed doors at 91st and Meridian as "unprofessional," "insulting," "condescending" and "bullying."

Those words are taken directly from decisions written by the Case Review Panel, a nine-person mixture of parents, administrators and state DOE officials appointed by the DOE. For families battling the IHSAA, the Case Review Panel is the first neutral line of defense in a process where the state DOE has accused IHSAA staff members of "bad faith and bullying."

Those are the people who decide whether a high school kid can play or not.

This is the process those kids, and their families, endure.

This story will make you very, very angry.

More: [Judge's Jayden Brewer decision dunks on IHSAA, could set precedent for future transfers](#)

One parent's nightmare experience

The IHSAA told Christine and Jay Kroft they didn't need an attorney for a 2018 hearing before the IHSAA Review Committee.

That's the six-person appellate board appointed by the IHSAA, a group of school administrators whose athletic programs are under IHSAA control, and who are charged with reviewing the IHSAA commissioner's original ruling. The Krofts didn't bring an attorney, and realized their mistake before the hearing even began. That's when then-IHSAA commissioner Bobby Cox bent low to speak at eye level to her 7-year-old daughter, Gabryella.

"He told her, 'We will allow you to go in, but if you make any noise, we will have you removed,'" Christine Kroft says. "I about lost it. You've got to be kidding me."

Inside the conference room, Christine and Jay Kroft were grilled by IHSAA attorney Robert Baker about their two sons, Lucas and Andrew, Fort Wayne Northside basketball players who transferred two hours south to Richmond after Jay had taken a job in the area. Both schools recommended full eligibility, but the IHSAA had said no.

"They insinuated we sold our house, bought another house and moved two hours away to follow the coach (to Richmond)," Christine says.

"Never mind the fact you have to have *jobs* to pay for all this. My husband had just changed major corporate jobs. I was a Realtor, and Richmond is the biggest market in the area. I didn't get it. We had two schools who said this was fine."

After the IHSAA had rejected her sons' initial eligibility request, Kroft says, an IHSAA assistant commissioner came to Richmond to discuss the family's plan to appeal before the Review Committee.

"We sat with him at the Starbucks in Richmond," she says. "He says you're fine, no big deal. I said: Should I get an attorney? His exact words to me were: 'If you bring an attorney, you're going to make yourself look guilty.'"

"I said: 'Guilty of *what?*'"

With no lawyer at the hearing, after the IHSAA commissioner warned her 7-year-old to be quiet or "we will have you removed," Christine Kroft says she encountered "the most demeaning person I've ever met in my life."

She was referring to Robert Baker, the IHSAA attorney.

"This is high school athletics," Kroft says. "I thought I was being prosecuted. It was a horrific experience. My husband said: 'Out of everything I've ever been part of, real legal meetings where people are injured and wrongly accused, this was the most aggressive, nastiest ...'"

Christine Kroft pauses. This was 2½ years ago, but she's remembering it all.

"I'll never forget," she says. "They could cut you off, they could basically call you a liar, it was incredible."

Another parent: "They mocked me"

"It is completely intimidating," Christine Kroft continues. "I can't say that any other way, and you can quote me with it. It was the most uncomfortable experience I've ever sat through. I thought we were going to sit down and have a conversation, but we were persecuted from the beginning.

"My boys were attacked, and they were both honor-roll kids. They spoke with such eloquence, and (Baker) didn't care. Their attorney was ruthless."

The Krofts' experience before the IHSAA Review Committee is echoed by Lawrence McFarrin of LaPorte County and Kent Carroll of Knox County, whose kids' eligibility was denied by the IHSAA but reinstated by the Case Review Panel.

"Very disrespectful," McFarrin says of his experience inside the IHSAA conference room at 91st and Meridian. "They mocked me."

"The hearing was brutal," Carroll says. "I'm talking, brutal."

Those descriptions jibe with findings by the state DOE's Case Review Panel, and by two Indiana judges. An IndyStar review of dozens of eligibility cases that reached the Case Review Panel or courts found multiple references to the IHSAA attorney being "unprofessional."

In one case, the Case Review Panel lectured the IHSAA about its staff's behavior during one hearing: "Laughing while a student is testifying

about being bullied is both cruel and unprofessional. Additionally, berating a family about the validity of a son's depression and suicidal thoughts is not productive or professional."

In another, where the Case Review Panel overturned the IHSAA's ruling on a kid who said he transferred six hours to live with and care for his ailing grandmother — a case where both schools had signed off on full eligibility, including the kid's previous wrestling coach, who happens to be his father — these were the final words from the Case Review Panel:

"The Panel is concerned that the IHSAA is limiting family's abilities to appeal decisions made about students' participation in sports. The IHSAA and the Case Review Panel should want schools and decision-makers to consider what is the best interest of students, it frankly should be our mission."

The IHSAA did not make attorney Robert Baker available for comment, but Commissioner Paul Neidig reminded me that, for all the attention a handful of transfers generate, most end happily. Last year, he says, the IHSAA processed 3,285 transfers and revoked or gave limited eligibility (junior varsity, essentially) in 321 cases: roughly 10%. That means 90% went through without a hitch.

But the story here, I'm telling the commissioner, is the process as much as the result.

"I'm sorry that the process is tough at times," he says, "but it's just about to getting to the truth."

Your attorney, Robert Baker, has been criticized by parents, the state DOE and two judges, I'm telling the commissioner. Are you comfortable with that?

"Mr. Baker has done a good job representing this association for over 30 years," Neidig says.

I remind Neidig that I've reviewed dozens of Case Review Panel findings, and tell him the following phrase appears so often, verbatim, that it appears to be a cut-and-paste by the CRP to save time: "The biggest complaint from families appealing to the Panel is how poorly they were treated by IHSAA staff."

And you're comfortable, I'm asking Neidig, with *that*?

"Absolutely not comfortable," he says. "I've done numerous hearings over the years. I've sat with families. I can assure you the treatment is not that. The treatment is fair. I sit with families before they go into the hearing to explain the process. They are not treated horribly."

A Marion County superior court judge disagrees.

Judge sides with Ben Davis' Jayden Brewer, blasts IHSAA

The IHSAA tried to end Jayden Brewer's high school career with circular logic.

Last season, before the COVID-19 pandemic changed his mom's work hours at the hospital, Brewer had averaged 15.2 points as a junior at Avon. That was the only concrete "evidence" against him, by the way: his basketball ability.

Jayden's transfer was athletically motivated, the IHSAA attorney argued, because a transfer by a player this good is always athletically motivated. Well, attorney Robert Baker conceded, almost always. But

that's close enough.

"I've sat through probably over a thousand of these hearings," Baker told the IHSAA Review Committee. "And I have seen that phenomenon many, many times. And I can tell you that afterwards, we have learned that kids who change their senior year, almost to a kid, was doing it for athletic reasons, if they were a player, if they were on the team, if they were the MVP. It just doesn't happen any other way."

Almost to a kid...

That's in the official transcript of the hearing in October at 91st and Meridian, where Baker's circular reasoning won the day. The IHSAA Review Committee ruled against Brewer over the protestations of the family's attorney, Robert Turner of Indianapolis, who'd never faced the IHSAA before and says he was "made to feel like an outsider, a troublemaker."

"The IHSAA came across like: 'Gee, you're just a bunch of fools. Don't you understand?'" Turner says. "Their positions are guided by the rules they make. One of their rules is that no matter what we decided, you have to prove we're wrong. I've never seen anybody so damn arrogant."

Turner took the IHSAA's ruling on Brewer to Marion County Superior Court, where Judge Patrick J. Dietrick gave Brewer full eligibility and blasted the IHSAA. Dietrick found the IHSAA's position "insulting and condescending (that) Jayden really does not have to be seen by college recruiters in the future because Jayden already has received two D-I college scholarship offers."

Judge Dietrick didn't stop there:

"The court finds that the IHSAA's overt threat — to wit, that if the court grants an injunction to permit Jayden to play varsity basketball, and it is later vacated, dismissed or reversed, Ben Davis may be required to forfeit the games ... to be further evidence of the IHSAA's bad faith and bullying, not only of the Brewer family, but of the Ben Davis family as well."

"The IHSAA in this case chose not to believe, and has at all times repeatedly and disdainfully dismissed, Mrs. Brewer's work and transportation hardship," Dietrick wrote. "The IHSAA chose to disbelieve her, based on its subjective conclusion that Mrs. Brewer's stated 'hardship' was at best, a mere 'inconvenience' or, at worst, an out-right lie."

More: [Ben Davis' Jayden Brewer granted full eligibility](#)

Jayden Brewer is eligible at Ben Davis only because his mom hired an attorney to fight the IHSAA.

"If you don't have the money to get a lawyer and file the lawsuit, it's over," says Adrain Brewer. "It's done."

'The worst of kangaroo courts'

Attorney Art Mandelbaum of Carmel has appeared just once before the IHSAA Review Committee at 91st and Meridian. He helped reverse an IHSAA ineligibility decision for a family friend in August 2019, and 18 months later remains furious about the process.

"It was the worst of kangaroo courts, and fraught with injustices," says Mandelbaum, a 1982 graduate of North Central, then IU. "This aspect of that organization is so broken, so unfair. I'm a moderate politically,

not out here trying to save the world or whatever, but this is terrible."

Attorney Michael Jasaitis of Crown Point has helped nearly a dozen kids within the past year involving eligibility disputes against the IHSAA.

"It is an eye-opening experience for not only these families, but also for some school officials, who have left in disbelief," Jasaitis says. "It's set up in such a way that it's extremely difficult to prevail at the Review Committee level. It's hard to comprehend, especially when the mental health benefits of athletics are more important than ever."

In one case where the IHSAA review process took more than three months to rule on a transfer from Twin Lakes to Delphi, the student missed an entire sports season and his family took the matter to Carroll County Circuit Court so he wouldn't miss more. The student was seeking a transfer because his goal was to become valedictorian, and Delphi gave extra weight to honors courses and offered more Advanced Placement classes.

The court overturned the IHSAA in February 2020, and Carroll County Judge Benjamin Diener, like Judge Dietrick in the Brewer case, was heavily critical of the IHSAA and its time-consuming review process.

"The Court ADMONISHES the IHSAA inasmuch as its transfer process is flawed," Diener wrote. "The transfer process relies too heavily on participant schools to correctly apply IHSAA'S rules, (the) IHSAA is unwilling to swiftly correct misapplication of its rules, as happened in this case, and it takes entirely too long to exhaust the administrative remedies when contrasted to a child's total time in high school."

Judge Diener also wrote that the IHSAA was "subjecting children to complex and arduous administrative and judicial review processes" and

that “no reasonable person would come to the conclusion that the IHSAA Review process comported with or provided fairness to the Plaintiffs.”

Example after example after...

Some examples, quoted directly from [published Indiana DOE decisions](#):

- ▶ On a transfer from Floyd Central to New Albany in 2015: “As expressed in previous orders from the Case Review Panel, the IHSAA requires parents and students to follow all of the IHSAA rules and by-laws, but often does not comply with their own rules involving transfer cases. This will not be tolerated by the Panel.”

- ▶ From Evansville Central to Heritage Hills in 2020: “Counsel for the IHSAA continues to conduct himself in a manner at hearings that is unprofessional.”

- ▶ From Forest Park to Barr Reeve in 2019: “Counsel Baker on behalf of the IHSAA inappropriately made light of the situation by claiming that ‘I’ve been called, worse, repeatedly, and I don’t think for a moment I or anybody else considered that any form of bullying.’ This Court finds it inappropriate to belittle (the athlete’s) feelings. Counsel may have been called worse repeatedly but such is not relevant here. ... The Court finds that both Forest Park and the IHSAA need a refresher course on how to appropriately handle complaints of bullying or harassment particularly involving teenage males.”

- ▶ From Muncie Central to Delta in 2019, a student under a federally sponsored 504 plan who cited anxiety and panic attacks: “The Panel also cautions the Review Committee from minimizing the Petitioner's

condition as merely an inability to make friends, when there is a medical diagnosis that necessitates special accommodations for a student resulting (in) a 504 Plan. A student's disability should not be minimized or ignored."

- ▶ From Pendleton Heights to Liberty Christian in 2015: "At the hearing, the student was questioned by the IHSAA regarding his personal religious journey. The Panel finds this line of questioning both offensive and inappropriate."
- ▶ From Southwestern to Triton Central in 2015: "Students should be treated with respect during this process and should not be subjected to unfounded and baseless accusations of a personal nature."
- ▶ From Chesterton to Michigan City in 2017: "Name calling or characterizing the Petitioner's father as 'narcissistic' is unprofessional in an IHSAA order, and is unfair to the Petitioner and his family. The Panel has made similar notes in previous opinions and felt it was important to acknowledge this language is unnecessary and not appropriate when discussing a student athlete's future."

The IHSAA has allowed this to happen for years. I asked why.

IHSAA Commissioner Paul Neidig explains

Paul Neidig has read the decisions. Everything you've seen in this story? He saw it first, decisions posted by the state DOE. References to:

— IHSAA staff being "unprofessional," "insulting," "condescending" or "bullying."

— IHSAA staff minimizing bullying or questioning the validity of a student's suicidal thoughts.

— The IHSAA "often (not complying) with their own rules involving transfer cases."

"I read those reports," Neidig told me. "Yes."

Why, I ask, haven't you made it stop?

"Well," he says, "those words are written on a piece of paper. There's no context, no tone in voice. It's just words. And sometimes they can be misrepresented."

I repeat some of those "just words" to the IHSAA commissioner, words authored by an Indiana DOE attorney: unprofessional, insulting, condescending, bullying. And I ask: Are you saying there's wiggle room in those words?

"What I'm saying," he says, "is that I've sat with Bob (Baker) numerous times. Questions can be tough — by student-athletes, by their representatives, by the board, by the IHSAA. It's all in an effort to get to the truth to make the correct decision."

Truth is the key word here. The IHSAA believes students, and their families, aren't always truthful about their reason for transferring.

"I'm not going to sit here and tell you the process isn't tough at times. It is," Neidig says. "But from my lens, every time a student transfers under false pretenses, there's a kid at the receiving school that doesn't get to play, may not even make the team. I'm just as concerned about that kid as the best kid that transfers to the team."

"Nobody has ever told me: 'We're transferring for athletic reasons.'"

Families say they have other reasons. When the IHSAA doesn't believe those reasons, it leads to a showdown in a conference room at 91st and Meridian, where families endure "unprofessional" and even "bullying" behavior from IHSAA staff, and then are judged by a panel appointed by the IHSAA. The kid is presumed guilty until proven innocent, a broken system that rarely produces a winner. Even when the kid wins.

Says attorney Robert Turner, who fought the IHSAA on behalf of Jayden Brewer and won: "Everything they thought was simply for the convenience of winning the decision. Any concern or thought of the student or family was completely gone, or void."

Says Christine Kroft, whose sons fought the IHSAA and won: "I don't think any kid or any family should ever — I mean ever — have to go through that. It's so bad."

Says Kent Carroll, whose daughter fought the IHSAA and won: "I have a very jaded view of the IHSAA today, because I don't believe it's for the kids."

Says Adrain Brewer, whose son fought the IHSAA and won: "I thought it was going to be fair play. Seemed like it was going to be for the kids — that's what they kept saying, but it wasn't like that. It wasn't for the kids."

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