

## HIGH SCHOOL

### **IHSAA to make changes to under-fire transfers appeals process — starting with no lawyers**

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The Indiana High School Athletic Association is making changes to its appeals process for transfers and there may be more to come.

Paul Neidig, who will officially complete his first year as the IHSAA commissioner at the end of July, said he is in the process of putting together a committee of individuals — both within the IHSAA and outside the organization — to “take a year to take a look at our transfer rules.”

“We’re going take a look at every aspect of it,” Neidig said. “We’re going to ask for input from people who, while they may be familiar with sports and the schools, are not entrenched in what the IHSAA does. We value outside perspective also. Maybe there’s something there (that needs to be changed).”

The IHSAA transfer rules — and process — has come under fire, most recently and visibly, when basketball standout Jayden Brewer transferred from Avon to Ben Davis last year. Brewer was initially ruled ineligible, then allowed limited eligibility (junior varsity) before a judge overruled the IHSAA’s decision and granted Brewer eligibility after he missed the first 12 games of the season.

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**Doyel:** A win for one of the state's best sophomores, and another loss for the IHSAA

Brewer is just one case. But Brewer’s attorney, Robert Turner, said at the time he hoped Brewer’s case would force the IHSAA to take a look at its review process. “I think they need more diversity, not just in terms of race, but diversity in terms of gender,” Turner said. “...I think the whole program needs to be revamped. I think that this is a case that could establish some groundwork for improvement within the IHSAA process.”

Turner's words came after Marion County judge Patrick J. Dietrick overturned the IHSAA's decision on Brewer in late January, finding the decision of the IHSAA review committee to be "willful and unreasonable, without consideration and in disregard of the facts of circumstances in the case, or without some basis which would lead a reasonable and honest person to the same conclusion."

Neidig said there was no specific case that led the IHSAA to consider changes to the transfer process. Under its transfer rule, the IHSAA allows eligibility unless the student is discovered to have transferred "primarily for athletic reasons."

At its most-recent executive committee meeting at the end of June, the IHSAA voted to make a few changes to its hearing procedure of the review committee. Most notably is that neither side — the IHSAA nor the student and parents — will be represented by legal counsel. The by-law 17-4.5 addendum reads, in part: "To make each Review Committee hearing more informal and less intimidating, neither the IHSAA nor a party may be represented at the hearing by a professional representative or an attorney, provided however, the Review Committee reserves the right to consult with its own counsel at any time; and, only witnesses with relevant testimony may attend a Review Committee hearing; a witness may attend via a video/audio conferencing platform (e.g. Zoom), provided good cause is timely shown. Note: Review Committee hearings are non-public and may not be streamed or published by a witness attending via a video/audio conferencing platform."

The IHSAA's general counsel, Robert Baker, retired from the association at the end of the 2020-21 school year. Neidig said he has sat in on roughly 200 transfers over the years. He said considering changes to the review process is something he had been thinking about since he started his role as commissioner.

"I've been in there as the sending school and the receiving school," Neidig said. "I've been in there as a board member, as assistant commissioner and as commissioner. I've oftenthought about the process and what it needs to look like in the future. This is something I've been developing in my mind for quite a while."

Neidig said the thought behind the change is to make it "a less intimidating process for everybody."

"There are a lot of decisions that go on that are beneficial for kids that attorneys aren't involved with on a daily basis in the school business," Neidig said. "I thought, 'There's no reason why our

procedures need to be any different than that.’ That’s why we changed the process. If a parent has a compelling story that needs to be heard, who better to tell it to than school people and let school people ask those questions. If you think about the experience of the people in that room, it’s significant. We felt it was time to offer a process where parents could come in and tell their story. That’s why we made the change. We decided to take attorneys out of the process on our side and the parents’ side. We’ll see how this works. We’re trying to get at the truth and I think it’s much easier to do in this fashion.”

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After the initial eligibility ruling by the IHSAA commissioner or assistant commissioner, the student may appeal the decision to the IHSAA review committee. The next step in the process is to appeal to the Case Review Panel, which is run by the Indiana Department of Education. The student could then file suit in the local judicial system.

The IHSAA reported that 2,617 of the 2,833 transfers (92.38%) during the 2020-21 school year received full eligibility. Another 183 (6.46%) received limited eligibility and 33 (1.16%) were declared ineligible.

“What I do know is there has to be a transfer process along the way,” Neidig said. “As soon as there’s not and the best kids within a large metropolitan community can gather on a team, the hope of winning a state championship if you’re at a smaller school or in a school that is more rural where the kids who grew up in that community and play in that community, is probably going to go away. In my mind, that’s not going to be very much fun anymore. All 407 of our schools ought to start the season with a chance — or at least a dream of success.”

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