

IOWA DEPARTMENT OF EDUCATION

Cite as 30 D.o.E. App. Dec. 1 (2021)

<i>In re: Petition for Waiver of Rule</i>	:	
<i>High School Eligibility</i>	:	
281 IAC 36.15(2)“h”	:	DECISION
Michael Stein,	:	
Petitioner.	:	[Admin. Doc. #5136]
	:	

Michael Stein is a student at Spirit Lake High School. An accomplished student (Exhibit F), he represents Spirit Lake High School in track and field and baseball. He recently has developed a passion for the javelin (Exhibits A-C). Largely self-taught and self-coached (Exhibit E), he is unable to compete against high school students in Iowa because javelin is not an event at the high school level in Iowa. Michael requests a waiver of Iowa Administrative Code rule 281 – 36.15(2)“h”. He wishes to throw javelin in open meets against collegiate athletes, as an unattached athlete, without forfeiting his high school track and field eligibility. For track, he will compete in sprint and relay events. He does not compete in shot or discus. The Iowa High School Athletic Association (IHSSA) appears to believe this rule would block Michael’s competition as an unattached athlete in meets where collegiate athletes are also participating. *See generally White-Ciluffo v. Iowa Girls’ High Sch. Athletic Union*, 27 D.o.E. App. Dec. 559 (2014), *aff’d sub nom. White-Ciluffo v. Iowa Dep’t of Educ.*, No.

16-0309, 2017 WL 2469216 (Iowa Ct. App. June 7, 2017). His baseball eligibility is not at issue.

The relevant portion of the rule at issue is as follows:

A student is not eligible to participate in an interscholastic sport if the student has, in *that same sport*, participated in a contest with or against, or trained with, a National Collegiate Athletic Association (NCAA), National Junior College Athletic Association (NJCAA), National Association of Intercollegiate Athletics (NAIA), or other collegiate governing organization's sanctioned team. A student may not participate with or against high school graduates if the graduates represent a collegiate institution or if the event is sanctioned or sponsored by a collegiate institution.

Iowa Admin. Code r. 281 – 36.15(2)“h” (emphasis added).

To determine whether a waiver of this rule is necessary, I must determine whether this rule applies to the facts for which a waiver is sought. *See generally DeLeon, Inc. v. Dep't of Hum. Servs.*, 188 P.3d 354, 357 (Or. Ct. App. 2008) (“An agency may determine whether the standard established in a rule has been met in a particular instance by interpreting the rule in the course of applying it.”). I rely on my duty to “[i]nterpret the school laws and rules related to the school laws.” Iowa Code § 256.9(16) (2020); *see also Iowa Ass'n of Sch. Bds. v. Iowa Dep't of Educ.*, 739 N.W.2d 303 (Iowa 2007). In evaluating the evidence and the positions of the parties, I may apply “[c]ommon sense.” *In re Petition for Waiver of Rule 58.11*, 26 D.o.E. App. Dec. 67, 69 (2011). The threshold question is whether javelin is the “same sport” as track and field generally in Iowa high schools. I must address that question before I reach the waiver request. Under these facts, I find and conclude that it is not.

Michael will not compete in shot or discus in open meets or in high school meets, and will only compete in javelin in open meets. The IHSSA states that javelin “is not similar to the track events currently sanctioned by the IHSSA” (IHSSA Response, ¶ 4). This is not a circumstance where Michael intends to compete in the same track event in high school and against collegiate athletes. *See White-Ciluffo*, 27 D.o.E. App. Dec. 559 (track athlete ineligible after competing in identical or similar distances in meets against collegiate athletes). Far from it. Michael intends to draw a clear line between the event he enters in open meets — the javelin — and the events he enters in high school meets — sprints and relays. So long as this clearly drawn line is honored, there is no violation of rule 36.15(2)“h” and no waiver is necessary.

Additionally, I find and conclude Michael’s fellow track athletes would not be disadvantaged by his participation as an unattached javelin competitor in open meets. Javelin is a specialty event and, as noted by the IHSSA, “not similar” to other track and field events offered in Iowa high schools. If the events were similar, the outcome would not be the same. They would be the “same sport,” in the language and logic of the rule. For example, consider an athlete who wanted to compete against collegiate athletes in the 5000 meter run, which does not appear to be a sanctioned distance for Iowa high school track and field, yet compete for his high school team in the 3000 meter run. That athlete would bear the heavy burden of persuasion that he did not obtain a competitive advantage against high school distance runners by competing

against older athletes at a longer distance, although one that is “similar” in character to his high school track events.

In conclusion, so long as Michael competes in meets only in javelin, and so long as his open meet competition is as an unattached athlete and not supported by or connected with Spirit Lake High School in any way, and so long as he only competes for Spirit Lake’s track team in the sprint and relay events he identified, I conclude that Michael will not violate Rule 281 – 36.15(2)“h”. Violation of these conditions will constitute a violation of Rule 281 – 36.15(2)“h”. The parties will take note and govern themselves accordingly.

As no waiver is necessary, this matter is closed. Any pending motion or objection is dismissed as moot.

Done on February 24, 2021, in Des Moines.



Ann Lebo
Director, Iowa Department of Education

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