

University Interscholastic League

Waiver Review Board

Case No. 16-1107-03

DECISION ON APPEAL

**November 7, 2016
Austin, TX**

On the above date, the University Interscholastic League (UIL) Waiver Review Board (WRB) held a hearing to consider the appeal of the UIL Waiver Officer's decision to deny student/Appellant a parent residency waiver. Student/Appellant was represented at the hearing by his brother and his high school basketball coach. The following members of the WRB were present and participated in the decision of this case: Diana Negrete, Chair¹, Steve Arthur, Jimmy Thomas, Brad Connelly, Georgia Johnson, Dr. Gary Bates, Harry Miller and Randy Reid.

Background and Facts

Appellant sought a waiver of the parent residence rule, Section 403 (f) and Section 442, *UIL Constitution and Contest Rules*, because he moved in with his brother, who was granted power of attorney, so that Appellant could live and attend a school in America.² Appellant previously lived with his mother in Mexico, but stated that the increase in violent crimes within the past couple of years made it too dangerous to continue living there. Appellant is a U.S. citizen because he was born in California, but his mother is working towards obtaining documentation that would allow her to immigrate to America legally. Appellant's father was a citizen of the U.S. but was murdered near Mexico two years ago.

Waiver Officer's Decision

The completed waiver request application originally submitted to the Waiver Officer included a copy of a completed Previous Athletic Participation Form, personal letters from the student, his brother and his current coach, his father's death certificate, a power of attorney document, and a copy of the student's transcript. The Waiver Officer denied the waiver application because, in the opinion of the Waiver Officer, the documentation presented did not demonstrate that the circumstances that cause the student to be ineligible were caused by involuntary and/or unavoidable action such that the student could not reasonably be expected to comply with the rule, Section 465 of the UIL Constitution and the Contest Rules.

¹ The Chair only votes in case of a tie.

² Section 403 (f), of the *UIL Constitution and Contest Rules* states, generally and subject to certain exceptions, that in order for a student representative to be eligible for varsity athletic competition the student must be a resident of the member school district (See Section 442) and a resident of the attendance zone in which the participant school being attended is situated. In this case, none of the exceptions stated in Section 403 applied. Section 442 addresses student/parent residency in more detail.

Waiver Review Board Discussion

Appellant sought to overturn the UIL Waiver Officer's decision to deny a parent residency waiver request. Appellant and representatives were allowed to present facts relevant to the case, answer questions from the WRB and Waiver Officer, and close the hearing with a summary statement. Among other things, WRB members inquired about the reasons Appellant moved in with his brother and what the living conditions were like in Mexico. Appellant's basketball coach began the hearing with testimony regarding Appellant's virtuous character and admirable work ethic. He further explained that despite Appellant being labeled a Junior, he would not be eligible to participate on varsity his senior year because it would be his fifth year in high school. The coach informed the committee that Appellant lives with his brother in the school's attendance zone. Appellant's brother explained that their mother lived illegally in the U.S. until she was deported in 2006. Their father was a U.S. citizen who was working on obtaining the mother a green card, but was murdered near the border in 2014. Appellant's brother graduated from a high school in Mexico in 2013 and then moved to the U.S. to pursue a college degree. Appellant's brother further clarified that their hometown in Mexico was dangerous when he lived there, but the violence has surged the past couple of years to a point where he feared for his mother and brother's safety. Consequently, the brother was given custody of Appellant so that he could live and attend school in the U.S. Appellant's brother explained that while Appellant was a U.S. citizen, he was the only person that Appellant could reside with inside the U.S. because of his father's death and his mother's inability to obtain a green card. Appellant then testified that his school in Mexico was safe, but living in the small town was not because of the increased violence.

Decision

Section 468 (a) of the *UIL Constitution and Contest Rules* states that the WRB's basis for decision will be focused on whether or not the circumstances that caused the student to be ineligible were caused by involuntary and/or unavoidable action such that the student could not reasonably be expected to comply with the rules.

After hearing the argument and evidence presented by the Appellant and representatives, the WRB voted unanimously to grant the Appellant's request to overturn the Waiver Officer's decision. Thus, the decision of the Waiver Officer is overturned and the Appellant's request for a waiver of the parent residency rule is granted.