



GENTNER DRUMMOND
ATTORNEY GENERAL

September 16, 2024

Via Email

Oklahoma Secondary Schools Activities Association
c/o David Jackson, Executive Director
7300 Broadway Extension
Oklahoma City, OK 73113
djackson@ossaa.com

Re: Rule 24 conflicts with Senate Bill 783, 2021 Okla. Sess. Laws ch. 6

Dear Mr. Jackson:

This office has received complaints about a new rule adopted by the Oklahoma Secondary Schools Activities Association (“OSSAA”)—Rule 24. As the Legislature and other organizations empower students and families by loosening restrictions, the OSSAA strangely takes the opposite approach. As the State’s Chief Law Officer, I demand that OSSAA cease and desist its enforcement of Rule 24.

Without question, Oklahoma law establishes the right to attend public school in the district of residence. 70 O.S.2021, § 1-114. Concerning transfers to a non-resident school, the Oklahoma Legislature authorizes a student to transfer from one school district to another “any time in the year unless the number of transfers exceeds the capacity of a grade level for each school site within [the receiving] school district.” 70 O.S.2021, § 8-101.2(A). But Rule 24’s heavy-handedness dissuades student-athletes from moving or transferring, fearing that they may be declared ineligible to participate in varsity sports. On review, this rule indefensibly contravenes the Legislature’s plain and unambiguous expressions and intent related to student rights to attend school and receive meaningful educational benefits. This punitive reach also snubs Senate Bill 783’s silence on a student athlete’s participation in athletics. Critically, the Oklahoma Legislature did not consider any OSSAA eligibility rules as exceptions to the new transfer rule in Senate Bill 783.

As I noted in my March 10, 2023, letter, Oklahoma courts and the Tenth Circuit consider OSSAA a state actor.¹ State actors such as the OSSAA cannot apply the law or any rules arbitrarily or capriciously. Rule 24’s broad language invites arbitrary and capricious interpretation and application at the expense of student-athletes. Historically, OSSAA unfortunately possesses a lengthy history of taking arbitrary and capricious actions against member schools and student-

¹ Letter from Gentner Drummond, Oklahoma Attorney General, to OSSAA (March 10, 2023).

athletes. Here, OSSAA's own Q&A publication concerning Rule 24 acknowledges OSSAA's penchant for extraordinary interpretation.

For example, paragraph 1 of Rule 24 declares a student athlete ineligible to participate if he or she was coached by a coach at the receiving school for an out-of-school team. Nothing in OSSAA's Constitution, Board Policies, or Rules establishes what constitutes an "out-of-school team." Thus, OSSAA could construe everything from a community league team at a local or area YMCA to a regional league team participating in out-of-state tournaments as an out-of-school team. Lacking defined terms will result in arbitrary and capricious line drawing that will effectively swallow this provision.

Used by OSSAA itself, another example violating Rule 24 may result when a student athlete and coach move from one school to another but the coach-athlete relationship ceases. Following the move, the coach no longer coaches the student-athlete at the new school. OSSAA's Q&A publication finds that a Rule 24 violation occurs. Adding insult to injury, the student-athlete must file for hardship eligibility. Even more, the same publication finds that a student-athlete will be ineligible if he or she transfers to a school where a coach employed by the receiving school may have been employed by a clinic or camp *even though* Rule 24's language requires the coach to *run* the camp.

Finally, Rule 24's most egregious provision is the final catch-all sentence: "The above are considered to be violations even in the event of a bona-fide move into a district." It ignores the unpredictability of life. It expresses uncompromising indifference to changes in circumstances from job changes to financial struggles to deaths in the family to divorce. All of the above happen outside the student athlete's control. As written, Rule 24 unnecessarily impedes a student athlete from exercising their right of transfer. As applied, Rule 24 lends itself for arbitrary and capricious enforcement and to confused compliance.

Rule 24 appears to solve a nonexistent problem with unreasonable and incongruous force. Its application will prevent otherwise eligible students from transferring schools as is their right under state law. Additionally, OSSAA's reputation for interpretation proves unsatisfactory. Therefore, I hereby demand that the OSSAA immediately cease and desist any further efforts on this matter. Please advise me no later than Monday, October 7, 2024, of OSSAA's intent to comply with the demands of this correspondence.

Respectfully,



GENTNER DRUMMOND
Oklahoma Attorney General