Public Comment
for R277-409

PUBLIC COMMENT RECEIVED FROM
THE UTAH HIGH SCHOOL ACTIVITIES ASSOCIATION (UHSAA)

Education, Administration
R277-409
Public School Membership in Associations

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 41090
FILED: 12/14/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-409 is amended to provide provisions for student transfers and appeals of association hearing determinations.

SUMMARY OF THE RULE OR CHANGE: The amendments to Rule R277-409 provide two new sections. Section R277-409-4 provides procedures for transferring student eligibility to participate in association activities, and Section R277-409-

5 provides procedures for appeals of association actions.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X, Sec 3 and Section 53A-1-401

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The amendments to Rule R277-409 provide provisions for transferring student eligibility and appeals of association actions, which likely will not result in a cost or savings to the state budget.
♦ LOCAL GOVERNMENTS: The amendments to Rule R277-409 provide provisions for transferring student eligibility and appeals of association actions, which may result in a cost to public schools. The cost is speculative.
♦ SMALL BUSINESSES: The amendments to Rule R277-409 provide provisions for transferring student eligibility and appeals of association actions, which likely will not result in a cost or savings to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The amendments to Rule R277-409 provide provisions for transferring student eligibility and appeals of association actions, which may result in a cost to an association that governs public education interscholastic activities if a public school is a member of the association. The cost is speculative.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments to Rule R277-409 provide provisions for transferring student eligibility and appeals of association actions, which likely will not result in any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: To the best of my knowledge, there should be no fiscal impact on businesses resulting from the amendments to this rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2017

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

R277. Education, Administration.
R277-409. Public School Membership in Associations.
R277-409-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and

(b) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to place limitations on public school membership in certain associations with rules or policies that conflict with Board policies.

R277-409-2. Definitions.

(1) "Association" means an organization that governs or regulates a student's participation in an interscholastic activity.

(2) "Eligibility" means eligibility to participate in an association-sponsored interscholastic activity.

Commented [1]: Notwithstanding this, Utah recognizes that the Association should have the primary role in administering extracurricular activities. By way of example, when the UHSAA was first defined in R277-517 (Athletic Coaching), it was defined to mean "an Association of Utah school districts that *administers and supervises* interscholastic activities among its member schools *according to the Association constitution and by-laws.*" (2002 Amendment, emphasis added) That same definition is included in the current R277-605-1. The Rules acknowledge that administration and governance should be pursuant to the Association's own constitution and by-laws. R277-605-3 (Coaching; Athletics and the Core Curriculum) likewise states, "Schools and coaches shall strictly adhere to both the letter and the spirit of the UHSAA by-laws, policies, regulations, and interpretations for high school sports programs." As one court noted, "The member schools are in better position to promulgate rules governing participation in high school athletics than anyone else, and are fully cognizant of the reasons underlying such rules." Indeed, by statute, local school boards "shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education." *Utah Code* § 53A-3-402(20). Plainly, among those "other things" has always been the governing of extracurricular activities.

Commented [2]: Although the Board may have the authority to promulgate this Rule, doing so flies in the face of decades of history where these matters were left to the Association and its member school and district administrators as those are the people with the most direct and substantive involvement with interscholastic activities and the ones that best understand the many issues and considerations surrounding eligibility.

Commented [3]: The Board has not identified any part of the Association's current transfer rule that conflicts with Board policies. To the contrary, the current rule was carefully tailored to protect the very purpose of the Association as set forth in its Constitution, a purpose fully in line with the general interests of schools and students: "Create, administer, maintain and protect the unique type of athletic competition which has existed in high schools in the State of Utah, based on genuine competition between member high schools and suited to the greatest involvement of students. It should stress participation, fairness, competitive balance and foster in the public a belief that the competitions are fair and honest."

([~~2~~]3) "Interscholastic activity" means an activity within the state in which the students that participate represent a school in the activity.

([~~3~~]4) "Recruiting" means a solicitation or conversation:

(a) initiated by:

(i) an employee of a school or school district;

(ii) a coach or advisor of an interscholastic activity; or

(iii) a member of a booster, alumni, or other organization that performs a substantially similar role as a booster organization, affiliated with a school or school district; and

(b) to influence a student, or the student's relative or legal guardian, to transfer to a school for the purpose of participating in an interscholastic activity at the school.

R277-409-3. Membership Restrictions.

(1) Beginning with the 2017-2018 school year, a public school may not be a member of, or pay dues to an association that adopts rules or policies that are inconsistent with this R277-409[~~-3~~].

(2) An association shall permit the Board to audit the association's:

(a) financial statements; and

(b) compliance with Utah Code, Board rule, and the association's bylaws, policies, rules, and best practices.

(3) An association may not treat similarly situated schools differently in the association's designation of division classifications, or in applying other association policies, based solely on the school's status as a charter school or district public school.

(4) An association may sanction a school, coach, or individual who oversees or works with students as part of an interscholastic activity of a public school if the association finds that the coach or individual:

(a) engaged in recruiting activities; or

(b) violated any other rule or policy of the association.

(5) An association shall establish a policy or rule to govern the association's use of student data that complies with the student data privacy requirements of:

(a) FERPA;

(b) Title 53A, Chapter 1, Part 14, Student Data Protection Act;

(c) Title 53A, Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act; and

(d) R277-484.

(6) An association shall establish policies or rules that require:

(a) coaches and individuals who oversee interscholastic activities or work with students as part of an interscholastic activity to meet a set of professional standards that are consistent with the Utah Educator Professional Standards described in Rule R277-515; and

(b) the association or public school to annually train each coach or other individual who oversees or works with students as part of an interscholastic activity of a public school on the following:

(i) child sexual abuse prevention as described in Section 53A-13-112;

(ii) the prevention of bullying, cyber-bullying, hazing, harassment, and retaliation as described in:

(A) Title 53A, Chapter 11a, Bullying and Hazing; and

(B) R277-613; and

(i) the professional standards described in Subsection (6)(a).

(7) An association shall establish procedures and mechanisms to:

(a) monitor LEA compliance with the association's training requirements described in Subsection (6);

(b) sanction individuals who violate the association's professional standards described in Subsection (6)(a);

(c) track individuals who violate the association's standards described in Subsection (6)(a); and

(d) prohibit individuals who have violated the association's standards described in Subsection (6)(a) from coaching, overseeing, or working with students as part of an interscholastic activity.

(8) An association shall establish a policy or rule that requires the association to follow requirements similar to the requirements of:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

R277-409-4. Transferring Student Eligibility to Participate in Association Activities.

(1) An association may not deny a student eligibility to participate in an interscholastic activity except as provided in Subsection (2).

(2)(a) After a student has established eligibility to participate in an interscholastic activity at a school at the varsity level, an association shall deny the student's eligibility to participate in that interscholastic activity at the varsity level for up to twelve months at a new school.

(b) In the case of a subsequent transfer by the student after a transfer described in Subsection (2)(a), an association shall deny the student's eligibility to participate at the varsity level in any interscholastic activity for twelve months from the date of the student's first attendance at a new school.

(3) Notwithstanding Subsection (2), an association may not deny a student eligibility to participate in an interscholastic activity at the varsity level if:

(a) the student's full family moves outside of the boundaries of the originating school;

(b) the student's transfer to the new school is a result of a death in the family, which requires the student to move from the student's original residence;

(c) the student's transfer to the new school is a result of a divorce, which requires the student to move from the student's original residence;

(d) the student moves to live with an individual who has legal or physical custody of the student; or

(e)(i) the student has been a victim of bullying; and

(ii) the bullying was reported, documented, and investigated by the school or law enforcement.

(4) If an association denies a student's eligibility to participate in an interscholastic activity at the varsity level as

Commented [5]: In short, R277-409-4 clearly makes it easier to become instantly eligible at the transferring school. Indeed, that has been a stated purpose of the Rule in Board discussions. The necessary, even if unintended, consequence is that it will be easier, and students will be incentivized to, to transfer for athletic reasons. For these reasons, **it was with near unanimity that 125 of 126 public schools who voted on the matter, and 129 of all 137 governed by the UHSAA, voted against the Board's proposed rule.** One might fairly asked why the Board feels qualified and entitled to ignore the wishes and recommendations of nearly every school affected by this rule and make a change almost unanimously opposed – particularly given the significant (and undue) influence exerted by a single school in this process.

Commented [6]: Whereas the Association's rule starts with the premise that a transfer student is ineligible unless s/he meets certain criteria, R277-409-4 starts with the presumption of instant eligibility, except in two circumstances, and with 5 exceptions to each of those

Commented [7]: Allowing a student to be immediately eligible upon transfer if s/he has not participated in the varsity level for *that* particular sport would allow a student to, for example, play varsity football at one school and, in the same year, transfer to another school to play varsity

Commented [4]: One significant detriment of R277-409-4 is that it increases the incentive for coaches, schools, and boosters to recruit. With the loosening of the transfer rule, it will become much easier to realize the fruits of recruiting – if one is able to attract a top athlete to one's school, it w

Commented [8]: This addresses none of the problems raised in response to Section 2(a)

Commented [9]: Taking away all discretion of the Association to consider all the facts and circumstances of these exceptions will allow for significant abuses by persons who wish to transfer for athletic reasons, including persons whose transfer was a result of recruiting. The Association

Commented [10]: Although a full family move may qualify as a hardship exception under the Association's current transfer rule (and almost every time does), there have been occasions where a family has attempt to defraud the system by, for example, renting an apartment in a new school

Commented [11]: These situations are allowed for under the hardship exception to the current rule; however, the current rule incorporates the idea that the death or divorce requires the student to change schools and to attend the transferee school. This Rule does not. All that is required

Commented [12]: Allowing an automatic exception for a change of "legal or physical custody" creates a situation ripe for abuse, with parents or guardians easily able to file court papers changing guardianship over a child to place him or her under the custody of a relative (or even friend). The

Commented [13]: These circumstances are accounted for in the hardship exception to the current transfer rule.

described in Subsection (3), the association shall issue a written decision, with supported findings, explaining the reasons why the student's eligibility to participate at the varsity level at the new school was denied.

R277-409-5. Appeals of Association Actions.

(1) An association shall establish:

(a) a uniform procedure for hearing and deciding:

(i) disputes;

(ii) questions;

(iii) allegations of violations of the association's rules; and

(iv) other issues related to interscholastic activities governed by the association;

(b) an appeals process to review association decisions on issues described in Subsections (1)(a)(i) through (iv) to determine whether the association properly followed the association's rules and procedures; and

(c) an appeal panel, with members as described in Subsection (2), to conduct the appeals process.

(2) The appeal panel shall consist of the following three members, appointed by the Board, who will serve a one year term:

(a) a judge or attorney who is not employed by, or contracts with a school;

(b) a retired educator, principal, or superintendent; and

(c) a retired athletic director or coach.

(3) The Board shall appoint the members of the appeal panel described in Subsection (2):

(a) from the association's nominations described in Subsection (4); and

(b) in accordance with the Board's appointment process.

(4)(a) The association shall nominate up to 3 individuals for each position described in Subsection (2) for the Board's consideration.

(b) If the Board refuses to appoint members to the panel who were nominated by the association as described in Subsection (4)(a), the Board will request additional nominations from the association.

KEY: schools, memberships, associations
Date of Enactment of Last Substantive Amendment: [~~2016~~]2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401

Commented [14]: Under the Association's By-laws, students have this right to have any denial of eligibility after a Panel hearing to be in writing and setting forth the reasons.

Commented [15]: In one important respect, the new Rule denies eligibility where the Association's Rule allows the exercise of discretion by the Association: The current transfer rule provides for a "hardship exception," defined as "an unforeseeable, unavoidable and uncorrectable act, condition or event, which causes the imposition of a severe and non-athletic burden upon the student and/or his/her family." This provision allows the Association the flexibility to grant a hardship waiver in circumstances that do not fit under a specifically enumerated exception but which are nonetheless compelling, such as a case where a student transfers because a coach slapped him in practice or a teacher has improper contact with a student. Although these are more on the egregious side, there are many legitimate, non-athletic, reasons a student may transfer and for which s/he should not sit out a year, other than the reasons specifically set forth in R277-409-4. Under the current Transfer Rule, the association has the flexibility to address these situations. Under R277-409-4, there is no such flexibility.

Commented [16]: The Association has such a process, as set forth in the Article 6 of the 2017 Handbook. R277-409-5 adds nothing of substance to this process and provides no additional safeguards or protections. The major change is that this Rule places control of the appeal in the hands of the Board, rather than with those local school boards and administrators who are most familiar with these situations:

SECTION 1: Uniform Procedure for Hearings and Process for Appeals
A. The Association shall establish a uniform procedure for hearing and deciding all disputes, questions and allegation ...

Commented [17]: There is no reason to have the Board oversee the panel. The Rules are promulgated by the Association based on years of experience by the Association members and years of dealing with the particular issues and problems. The rules should be administered by the Association members who are familiar with them and with the situations they are enacted to address. Each year scores of panel hearings are held, and rarely is a panel accused of being biased or of misapplying the relevant rules. Aggrieved persons have, on occasion, taken their case to court, but no court has ever found that a panel acted arbitrarily, ...

Commented [18]: Another fundamental problem with R277-409-5 is the delay it will cause. Very often, students apply for a transfer waiver shortly before an athletic season begins. If their waiver request is denied, they seek an immediate hearing – days and even hours sometimes matter as the hearing may be requested after a season has begun and daily practices and games are being missed. Requiring the vetting of panel members through the Board will significantly delay scheduling hearing and may, in fact, render them moot if the panel cannot be constituted and the hearing held before the season ends, or is substantiall ...

PUBLIC COMMENT RECEIVED FROM ALL OTHERS

From: Cory Webb [mailto:cory@millardk12.org]
Sent: Tuesday, January 17, 2017 1:53 PM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject: Transfer Rule.

I am a Coach and Teacher in the Millard School District. I want to let you know I Disagree with the transfer rule passed by the State Board. Allowing kids who have not played varsity sports to transfer at will will kill the 1A 2A 3A athletics. The charter/Private schools in the salt lake Ogden and Utah Counties will be able to get new kids each year from neighboring 4A and 5A schools that did not play at the varsity level and be instant contributors on those Varsity teams. This is something the rural schools do not have the luxury of doing. The charter private schools already have an advantage because of their location and kids they pull from in urban areas. Now to add this rule would make it even tougher than it already is for public schools to compete. While I don't think the UHSAA is perfect I think they had a better model and made it tougher for athletic transfers, and try their best to make things as competitive as possible.
I also feel that letting kids transfer with a documentation of bullying could get taken advantage of by parents and students that just want to move their kid for athletic reasons. I think the Fact that 90% of the schools voted against the transfer rule that the school board put into place shows how everyone feels about it.

Thanks

--
Cory Webb
Delta Baseball
Delta Middle School
Cory@millardk12.org

From: Steve Porter [mailto:sporter@providencehall.com]
Sent: Wednesday, January 18, 2017 9:34 AM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject: Hopeful

I am a teacher and a coach at a charter school. I was dismayed when I saw the new rule that came out about transfer rules. From a teacher's standpoint, I can't see how this can help our students graduate or get an education. If a student can transfer to as many schools as they want as long as they don't play varsity, then how will going to several different schools in a school year help them have any consistency in their education. It seems to me that this rule puts athletics and sports above education and that troubles me.

As a coach, I'm worried about my players. We have followed the rules set forth by the UHSAA about recruiting...seemingly to our detriment. We understand the current rules and have NEVER broken them. Our coaches understand the expectations and rules and we have regular meetings with them to encourage them to avoid getting close to the line. Suddenly, with this rule, it feels like we are being punished for obeying the rules. Also, the wording of the rule is very vague. What exactly is meant by "varsity"? Does it mean a member of the official varsity team, playing a game as a varsity, etc. The vagueness is troubling.

Please repeal this harmful rule. I'm asking this as a teacher, a coach, an athletic administrator and a voter.

Thanks.

--
Steve Porter

Providence Hall High School

From: Steve Porter [mailto:mlmsteve@gmail.com]
Sent: Wednesday, January 18, 2017 9:38 AM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject: please repeal the transfer rule

My name is Steve Porter and I'm a parent of a student and a voter. I was surprised when the transfer rule was passed a few weeks ago. I've read every article and talked with several coaches about the rules. Everything I've read and heard have convinced me that this rule is a bad one. Please, for the sake of our students and my children, repeal this rule!

Please don't let politics ruin the athletics and activities provided to our students.

I will be paying attention to your upcoming decision and will remember the outcome for the next couple of Novembers.

Thanks,

Steve

From: Tom Hansen [mailto:hansent@emeryschools.org]
Sent: Wednesday, January 18, 2017 9:43 AM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject: Against R277-409

R277-409-3§3 does not allow separate classifications for Charter or private schools. In the future this may be something both charters and public schools will want. A separate classification to cut down on travel and create a competitive balance between Charters and rural public schools may be beneficial for both. Yet, with this membership restriction this would be unlawful in the future.

Just because bullying was reported and investigated in R277-409-4§e(ii) doesn't mean it actually occurred. Yet, the reporting and investigating alone allows individuals to subvert the transfer rule and go where they want when they want. Usually from a higher classification in public school to a lower classification charter school.

The appeals committee being appointed by the School Board per R277-409-5 is another problem. The board will undoubtedly appoint cronies along the Wasatch front mostly sympathetic to charter schools who will disproportionately block the public rural schools. The boards power to reject whoever the association submits will make it so that the UHSAA will be forced to put on the committee those cronies of the School board who have their individual school of choice interests in mind.

Tom Hansen
Coach and Educator
Emery High

From: Jay Day [mailto:primary@infowest.com]
Sent: Wednesday, January 18, 2017 10:23 AM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject: R277-409

This comment is regarding Administrative Rule R277-409. I understand that the USBE will meet Thursday, 19 January to discuss this rule. I would like to once again express that I do not support this unilateral move to benefit a trifling percentage of schools in Utah. I would implore of you to support the voice of the majority (UHSAA MEMBER SCHOOLS) and repeal this nonsensical rule and allow the members (high schools) to manage their own activities while the USBE take care of the more pressing and relevant matters of education in Utah.

Thank you,

Jay Day
435-632-0279 Direct
primary@infowest.com

From: Helen Wall [mailto:hwall@tintic.org]
Sent: Wednesday, January 18, 2017 1:17 PM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Cc: Hughes, Kodey <khughes@tintic.org>
Subject: R277-409

I feel the Activity Committee does and as done a great job over the years, it might be better left to them to decide how this rule would work best for all students and schools. I am from Tintic School District with small schools and our opportunity for transfers would be little or none,as with all small schools. I personally oppose this rule. I feel we should work with the students who want to participate in sports and other activities and better their skills as we have always done. We are not professionals! Helen Wall School Board Member

R277-409 comments

From: Hansen, Linda
Sent: Wednesday, January 18, 2017 1:58 PM
To: Board of Education <board@schools.utah.gov>
Subject: Fw: R277-409

From: Rick Robins <rick.robins@juabsd.org>
Sent: Wednesday, January 18, 2017 10:22 AM
To: Hansen, Linda
Subject: R277-409

Hi Linda and USBE members,

I am very happy the board will be hearing the appeal from UHSAA on Thursday in regards to R277-409. I will be in Price with our girls basketball team and unable to attend the meeting. I am emailing to share my input on this issue. I appreciate members of the board that have made efforts to reach out to UHSAA in a spirit of compromise. I hope that dialogue can continue. Myself like many others remain disappointed that USBE voted to pass any transfer rule. By doing so, I believe we will be entering into a new era of recruiting and program arms race which is not central to what I believe is our vision and mission. Because the transfer rules have been softened, the pressure on schools to gain a competitive edge will increase. This will further tip the scales in competitive balance against rural schools like Juab that must compete with private and charter schools on the Wasatch front in 3A. I hope the composition of the new USBE will take a step back to reconsider the long term ramifications of this decision. As you know the vast majority of coaches, parents, and administrators in our state oppose the new rule. Please trust and follow the lead of those that work with our students in this capacity daily. It has been the stewardship of UHSAA for many years to protect and promote the fair and safe play of our students. Please allow them to do their job. There are other ways for USBE to create more oversight and collaboration with UHSAA without disrupting a policy that is so fundamental to the integrity of the activities it will effect. I appreciate all of you very much, and for taking the time to consider these decisions.

Dr. Rick L. Robins
Superintendent
Juab School District

From: Richard Barton [mailto:richard.barton@seviersd.org]
Sent: Wednesday, January 18, 2017 3:15 PM
To: Board Rule Comments <rule.comments@schools.utah.gov>; scott.neilson@schools.gov
Subject: Against R277-409

I have had the opportunity on two occasions this past fall to speak during public comment in fall meetings in opposition of the USBE trying to dictate/mandate what the USHAA does.

At the first meeting I provided letters in support of the UHSAA from the two highest ranking people in education-based athletics, Bob Gardner Executive Director of the NFHS (National Federation of High Schools) and Dr. Mike Blackburn Executive Director of the NIAAA (National Interscholastic Athletic Administrators Association). Obviously those letters were not either read or taken to heart by the board. I have attached them again in hopes that they are considered.

The first step in this whole process was skipped by the USBE when they didn't poll the member schools of the UHSAA and see how they feel the UHSAA is doing with procedures and policy. The UHSAA did provide the information and the results are significant. With regard to the proposed transfer rule, 129 member schools voted against it with 8 voting for it. On the question of Board intrusion into and governing extra-curricular activities, the totals were 132 against and 5 in favor.

Ignoring those who deal with these issues everyday is an abuse of power and demonstrates self interest is at the forefront. I liken this abuse of power to that of President Obama's designation of the Bear's Ear against an overwhelming majority of Utahns who know best. The previous state school board failed UHSAA member schools in this proposal.

Attending the USBE meetings was obvious that this is an area that the majority of USBE members aren't experts in. The sad part about it is the involvement is totally against what is in the best interest of academics. With the proposed changes I can imagine counselors and teachers going to their athletic directors and Principals and saying why do we have so many student athletes moving around school to school and administrators having to explain that the USBE has forced this change on schools.

Just explaining the proposed changes to our school staff brought an uproar of comments such as: "Aren't these the people that are supposed to put academics first!" "This is a step in negating the positives related to education based athletics."

Please seriously reconsider imposing your authority over the UHSAA. This whole process is wrong and I don't think that you will ever convince those against this that self interest is at the heart of why this whole issue was brought to the forefront.

Thanks for all of your time and service on behalf of Utah schools.

Sincerely,

Richard Barton CMAA
NIAAA President
Athletic Director/Assistant Principal
Richfield High School
510 W Wildcat Way
Richfield, UT 84701
Cell: 435-201-9593
Office: 435-896-8247

Memorandum

To: Utah State Board of Education

From: Bob Gardner, NFHS Executive Director

Subject: R277-409 Public School Membership in Associations

Date: September 5, 2016

Having served 32 years in state athletic association work including my current position of the National Federation of State High School Associations (NFHS), I write you to consider carefully the above-reference revision to your code. The ramifications of radical changes to the UHSAA rules regarding transfers and classification may have some serious unintended consequences that damage students and schools.

Permitting students to transfer for any reason, thus no reason undermines the fundamental belief of education-based athletics that students should live at home with their family and participate for the school, public or private where they reside. It sets up the possibility that students will be displaced from teams by students who are not part of a school community. It undermines school loyalty and permits jumping for athletic reasons which has never been a valid reason for transfer in education-based athletics and never should be permitted.

We live in an age where no one wants to hear "no." However, without a sound structure, chaos abounds. Creating a system with no rules will demonstrate why you must have rules.

In addition, to remove the authority from the UHSAA for assignment of schools to classes and leagues, will lead to many problems. Every individual begins such considerations with their own school at the center of the universe. That just does not work. You must approach this from a sound philosophical basis that provides a basic fairness and structure. This is an always controversial. In any state, there is rarely universal satisfaction with this phase of governing. However, it is a fundamental element of governing and providing the fairest competition possible.

RBG/mm

National Interscholastic Athletic Administrators Association

Richard Barton, CMAA
NIAAA President Elect
Athletic Director/Assistant Principal
Richfield High School
510 W Wildcat Way
Richfield, UT 84701

Utah State Board of Education Standards and Assessment Committee

Nearly 60,000 high school student-athletes participated in programs capably lead by the Utah High School Athletic Association during the 2015-16 school year. These Utah participants were part of 7.8 million students that participated in education-based school athletic programs during that same period.

State athletic and activity associations have existed since the early 20th century for the purpose of guiding athletic programs that are a part of our educational offering, and that serve as an extension of the regular classroom. The original purpose of such an association was to provide direction, oversee safety and determine the rules that assure students and schools are not taken advantage of. Without such associations as the UHSAA, amateur sports as we know them in America would exist in chaos with no direction toward ethics on the part of schools and communities, nor integrity by those individuals who would seek avenues that would provide them an advantage on the stage of competition.

Years of pursuing the most appropriate governance rules, processes, policies and regulations for the purpose of conducting safe and plentiful athletic events for our nation's student-athletes, have contributed significantly to determining equity and best practices in the areas of participation, eligibility, transfer, classifications

I urge the Utah State Board of Education to sustain and uphold the by-laws of the UHSAA and its member schools. Support the institution of fair competition, consistent expectations for member schools and integrity of enforcement. Work to keep our fields, tracks, courts, pools and courses the classrooms that they are; with life lessons taught that are a part of a traditional classroom setting. Support education-based athletic programs as the compliment to the educational experience, being inherently educational and an enhancement to the academic mission of the school

State office personnel, district superintendents, school principals and athletic administrators need your support in their continual efforts to provide participants a safe environment in which to participate, quality opportunities for students, while making sound decisions that will keep you and local school boards free of litigation. Help them keep the best interest of parents, students, schools, and school boards as they ensure safety and maximize the positive impacts of sports participation for all; not simply those disgruntled few that want what they view best for them.

I wish you the well, as you perform your very best for the students of Utah by keeping the current leadership, structure and policy in place.

Michael L. Blackburn

Dr. Michael Blackburn, Executive Director
National Interscholastic Athletic Administrator Association (NIAAA)

Anonymous Please:
I understand the dilemma in question and the concerns everyone has raised. There are great arguments from both camps. Here are a few thoughts to consider when making this monumental decision:

The current method USHAA runs athletics needs evaluated and held accountable to someone. Covert recruiting happens in very obvious ways. I know of many personally. Bullying and hazing was also evident in one case I'm too familiar with where coaches ignored bullying on the field by players to protect their friend from losing his position. Coaches answer: "i don't care about talent, I'll play whoever has the best rapport with the team."

Unethical coaches run unchecked for too long without any consequences for their unethical decisions. Coaches look out for each other and when a kid is targeted, there is not much hope for him to compete at other schools in that particular region, even with legit transfer reasons.

There needs to be a method to keep coaches accountable to the UHSAA and state guidelines of fair play, competition and a chance to try out and earn a position fairly, regardless of how dialed in players Dads are with corporate companies, who they are related to, or how much parents pay and chip in financially. For new kids moving into a school for example, even for legitimate reasons, if they didn't play little league with the "dream team" kids or attended their team camp as a 4th grader, any chance to challenge a position is impossible with some coaches. This was what I was told by College coaches and parents of former players before we sold and bought in a new district. Our belief to play through the adversity and earn the position in the long run, was a dream, no matter how much better the new player was or would be. At this school, you could have the best player in the country and he'd be on the bench if it threatened the local boy. One coach told my son: "Theirs no question you're the better player at that position but we like our local guy better." I learned that winning isn't everything to some coaches and loyalty to home town players is hard to beat. On another occasion when I considered returning to coaching and to take my son with me as a transfer to another school, his coach found out and called and intimidated the other coach and program from considering me as an assistant coach so that he wouldn't have to compete against my son, but to keep him on his roster. What business is it of his to interfere with my family and interests in coaching?

This leads to the concern that coaches will begin to play their freshman talent early to lock them into a varsity experience and prevent them from transferring. The retaliation has been horrible. If a student athlete has competed at a national level of competition and has been ranked amongst the top in the country for his position, and he's locked into a bench warming

position without hope of transferring, there needs to be some outlet for him to compete. College coaches who say "we like everything about you but without varsity film, we're not interested." Unlike soccer, track, baseball and others where film and exposure happen off season, football for example can only produce film during the season and when positions are locked up before any fair tryouts, it seems unfair to lock a kid out of an opportunity to play and get film, compared to someone who, as well liked as they are at the local level, won't have a chance to play on at the next level anyway.

Hopefully this gives an angle on this policy and for future athletes who find themselves in such a predicament, without having a coach and team who embraces talent and comradery regardless of where it came from and who enhance a players talent and future rather than squash it. To me if a student athlete hasn't earned it and proven it at the national level, then let high school sports continue for the local kids who want to play but since high school sports is big business, protecting students interests is vital as well and responsible as UHSAA protocol.

Thanks
Anonymous Please

From: Jer Bates [mailto:batesj@ogdensd.org]
Sent: Wednesday, January 18, 2017 4:52 PM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject: Opposition to R277-409

To the Utah State Board of Education and the Utah High School Activities Association,

Ogden School District is adamantly opposed to the rule change (R277-409) allowing student athletes to transfer schools without adhering to previously required stipulations for approval.

Ogden School District and its member schools see no equitable value in this rule change and view it as detrimental many to schools throughout the state.

While opposed to the rule change, Ogden School District expresses hope that the current board members recognize the damage that this transfer rule change may cause and will choose to find a more equitable resolution.

Jer Bates | Director of Communications | Ogden School District

☏ 801 737 7310 | ☏ 801 550 1424 cell ✉ batesj@ogdensd.org | Twitter: @ogdensd

OGDEN SCHOOL DISTRICT
Empowering Excellence Through Education

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Sincerely,

Jer Bates | Director of Communications | Ogden School District
' 801 737 7310 | ' 801 550 1424 cell * batesj@ogdensd.org | Twitter: @ogdensd

From: Edward Lyman [mailto:elyman@sjsd.org]
Sent: Wednesday, January 18, 2017 4:53 PM
To: Board Rule Comments <rule.comments@schools.utah.gov>; Steven Black <sblack4@sjsd.org>; Rasmussen, Benjamin <Ben.Rasmussen@schools.utah.gov>
Subject: Letter opposing ussb changes to uhsaa

Please find attached a letter approved by San Juan School District Board of Trustees. We regret not being able to attend the meeting Thursday. Travel distance and short notice make it impossible to have representatives of our board present to testify.

Sincerely,

Ed Lyman, Ed.D.
Superintendent
San Juan School District
435-678-1211

We are what we repeatedly do. Excellence, then, is not an act but a habit.

--Aristotle

200 North Main Street · Blanding, UT 84511 · phone: (435) 678-1211 · fax: (435) 678-1272 · www.sjsd.org

January 18, 2017

Dear Utah State School Board:

The San Juan School District is opposed to the Utah State School Board (USSB) becoming involved in managing the important work of the Utah High School Activities Association (UHSAA). The UHSAA, made up of public and private schools from throughout the State of Utah, has coordinated extracurricular activities in Utah for the past 90 years.

During that time, the UHSAA has tackled many delicate challenges. While there is always room to improve, we feel that the UHSAA is the organization most closely tied to local school issues and most likely to make decisions for the general welfare of students in the state.

There is no better evidence of why we oppose this development than in the recent rule passed by the State School Board. The transfer policy approved creates a fundamentally unfair competitive advantage for urban schools.

As a case in point, San Juan High School and Summit Academy have competed against one another for the past several years in the same classification. Under the new transfer policy, Summit Academy would have an unfair competitive advantage over its rural counterparts.

There are more than 18,000 high school students who attend schools within ten miles of Summit Academy. In contrast, the San Juan High School student population is just more than 300 students. How could the schools compete against one another while Summit Academy has a "recruiting pool" of 18,000 students.

Transferring to a rural school is fundamentally different than an urban transfer. It requires a new home, a new job, and a new life for a family. An urban transfer may be as simple as a five-mile commute in the other direction.

The sub varsity transfer policy only makes sense from an urban, large school perspective. The reality is that sub varsity means little or nothing in a small school. For a variety of reasons, most of the students in a small school will letter in their sport. The sub varsity transfer policy will allow unprecedented mobility for urban students, while at the same time severely limiting mobility for rural students.

These policies make sense only when viewed from a very narrow perspective of a small urban school. It makes no sense whatsoever from a rural perspective. This is evidenced by the fact that of the 126 public schools that voted on the matter, 125 opposed. Despite the advantages for the urban schools, there is only one public school in the entire state, urban or rural, that supports the proposal. No one should be surprised that the Board of Trustees of the Utah High School Activities Association, primarily consisting of elected officials from around the state, voted unanimously against the proposal.

Sincerely,

Mr. Steven Black
President
San Juan School District Board of Education

From: GLEN ZOBELL [mailto:gzobell@alpinedistrict.org]
Sent: Wednesday, January 18, 2017 10:26 PM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject: In regards to the athlete transfer rule

I have been coaching for about 8 years now and I have seen athletes transfer multiple times. What I can tell you is that it is a very messy process. I am a teacher also, and it affects their grades tremendously. They have to go off of what they had at their last school and the teacher at the new school is responsible for catching them up on what they didn't learn at their last school. Different schools teach different topics, and same topics in different orders. If you were to allow this transfer rule, academically, students would be missing core concepts normal people in life need to know.

It also affects relationships. Coaches invest in their athletes. If athletes come and go whenever they want, you will lose good coaches. You will lose competitiveness. The next step in athletics for high school kids is college. They don't let you transfer schools without sitting out a year in college. Why would we not prepare them for that?

I have seen families fall apart, relationships ruined, and people entirely quitting sports due to this. I hope you will not pass the transfer rule. I think students should accept accountability for what they do, learn to work as a team wherever they are at. Success in education does not determine how well your sports teams do. It depends on how your athletes learn to work as a team, as individuals, and develop pride for the school they play for.

--
Glen Zobell

Timpanogos High School

Biology/Japanese/Tennis

"The difference between tri- and triumph is a little *umph*!"

From: Ron Dolphin [mailto:dolphinr@grandschools.org]
Sent: Thursday, January 19, 2017 7:00 AM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject: R277-409

I ask that the Utah State Board of Education consider rescinding rule R277-409. I feel that this rule will not be effective in creating level playing opportunities for schools in the state to compete fairly without undue influence. I ask that the board please rescind the entire rule and allow the UHSAA BOT time to create a transfer rule that meets the needs of the schools in the association. Please allow the UHSAA BOT and its' member schools to have the ability to create rules that are effective and create the desired results they intend their rules to have.

Thank you for your time and consideration.

--
Ronald F. Dolphin, CAA
Grand County High School AD
608 S. 400 E. Moab UT 84532
Office: 435-719-4871
Email: dolphinr@grandschools.org
Mobile: 435-260-6024

From: Michael King <king.aquaholics@gmail.com>
Sent: Thursday, January 19, 2017 10:38:26 AM
To: Board Rule Comments
Subject: R277-409

I am a former UHSAA Student Athlete as well as NCAA Division 1 Student-Athlete. This rule makes absolutely no sense. I would like to voice my opinion on this matter. There are two major issues I see with this rule.

First and foremost, there already is a lack of enforcement of current transfer and recruiting rules. The rule states the following: **Recruiting means a solicitation or conversation initiated by an employee of a school, a coach or advisor of an interscholastic activity, or a member of a booster, alumni, or other organization that performs a similar role to influence a student, or the student's relative or legal guardian to transfer to a school for the purpose of participating in an interscholastic activity at the school.**

This is already an issue with so many schools and is greatly overlooked. There are numerous parents and student-athletes who persuade other student-athletes and their parents from leaving their current schools in order to join them. I am a BIG proponent in playing where you live.

The NFHS (National Federation of State High School Associations) states in their mission statement that interscholastic athletics is to ENRICH EACH STUDENTS EDUCATIONAL EXPERIENCE and IS A PRIVILEGE. By allowing students to transfer at-will with no penalty goes against that creed. It sacrifices the STUDENT-athletes educational experience by switching schools as well as demeaning the privilege that comes with participating in interscholastic athletics. The NFHS Mission Statement continues in saying "we support equitable opportunity." By allowing students the ability to transfer at will takes away that opportunity for every other student playing by the rules.

I urge this ruling to be reversed.

Michael King
Aquaholics Manager

583 E. 7200 S.
Midvale, UT 84047
(801)-748-0588

801-748-4209 (office)

From: Dave McKee [mailto:dave.mckee@nebo.edu]
Sent: Thursday, January 19, 2017 11:42 AM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject: Help Please

Good Morning,

I have served the students and citizens of Utah as a high school principal for 15 years and Football, Basketball, Track, Baseball and Golf coach for 19 years previous to being a principal. I've lived Utah my whole life and was an athlete in high school. I represented Utah as the High School principal of the year in 2013 and I've been in the trenches, and understand high school athletics and education.

I writing you to express my concern over the new rule imposed on the Utah State Board of Education rule R277-409. This rule hurts schools and hurts kids.

The USOE has always been in favor and stressed the importance of local control. As you know, we live in a very diverse and populated state. One law (rule R277-409) doesn't fit all in this case, it hurts students and makes teaching, learning and fairness difficult. Please repeal this rule! 144 out of 149 schools are not in favor of the rule for dozens of reasons. It doesn't make sense to impose something like rule R277-409.

Let those who are in the trenches throughout the state govern athletics. We know what we are doing and why we do it.

Thanks you so much and please contact me with any questions!

Dave McKee
Principal
801-798-4060

Spanish Fork High School
"ROCK SOLID"

From: Gordon Hinckley [mailto:hinckleygk@gmail.com]
Sent: Thursday, January 19, 2017 1:07 PM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject: R 277-409

Dear Board of Education,

I am writing this e-mail expressing my opinion regarding the change in the player transfer rule from the original rule sponsored by the UHSAA. Even though their rule was not perfect it tried to help establish equal playing field for athletes and schools where you try to prevent some schools from dominating in a particular sport. Some would argue that to get that COVETED SCHOLARSHIP you need to play for the powerhouse high school. I disagree with that philosophy. All seven of my children attended Granger High School and participated in athletics. I have the personal philosophy that athletes should play at their boundary school. I never once thought about sending my children to other schools for athletic reason. Two of my sons Zack and Josh received college scholarship proving that if you are good enough you will be found. Both the UHSAA and the UIAAA are concerned with what is best for the athlete and the schools. As retired Athletic Director from Riverton High and Past President of the Utah Interscholastic Athletic Administrator (UIAAA) I would hope that you would reverse your ruling and return to the UHSAA Transfer Rule. I personally know the Executive Directors at the UHSAA and they are working hard to make all athletics FAIR for everyone.

Respectfully,

Gordon K.

Hinckley CMAA

Retired

Athletic Director Riverton High

Past-

President of UIAAA

From: J D REX [mailto:rex1616@msn.com]
Sent: Thursday, January 19, 2017 5:35 PM
To: Stallings, Angie <Angie.Stallings@schools.utah.gov>
Subject: UHSAA Transfer guidlines public comment

My name is J.D. Rex, and I am not able to attend the meeting tonight at the Board Of Eduction downtown. I have sent a few emails and was in contact with some of the members of the Board last year, but I realize that some of them are no longer on the board after the year end change.

I was hoping to live stream it, but it doesn't look like it's up and running.

I wanted to make sure that you had my notes from previous public comment sessions where we voiced concern over this subject.

I have been researching the topic of transfer rules in relationship to the UHSAA for about 6 months now. I gave the Utah School Board a binder that had all 50 states rules in it back in October, and I think that you guys have done a marvelous job of fixing a problem with our local UHSAA rules. The rules that they had were entirely to restrictive, and the new rules that you have put into place hit all of the major points that I thought needed to be changed.

I appreciate the work that you guys have put in, and commend you for taking steps to make sure that all of the kids that have been negatively impacted by the old rules have a voice. I wanted you to have another voice tonight regarding the rules, as I am sure that the vocal majority will be coaches that don't want power taken away from them.

There are 22 mandated open enrollment states like Utah, and until your revision of the rules, Utah's were the most restrictive and it wasn't even close.

Utah was/is the only state that restricts a transfer from playing any sport at any level regardless of reason for transfer. without an appeal granting that eligibility.

Of the 50 states in the Union, more than 40 of them have NO RESTRICTION on sub varsity. You guys did a marvelous job of making that change.

I have a ton of information below that I don't expect you to read through, but I did want you to have it. If you still have the binder that I left in Nov. then you already have all of the other state rules.

The last thing that I would mention is that the one thing that probably needs a little bit different definition is what does it mean to participate in Varsity athletics. Is that simply on the roster? is it one appearance at any event? etc.. etc..

Anyway I just wanted to say thank you, and from a grateful parent of a student affected by this, we appreciate your work on the subject.

My notes are below.

Thanks,

J.D. Rex

Here are a few ways that other states deal with transfer students, noting that some of the states have the same ideas.

Not allowing midseason transfers so that it doesn't cause academic interruption.
limiting the number of Varsity games a transfer student is allowed to participate in. so for example Colorado and Ohio allow all transfers to play in half the games regardless for the reason for transfer.
Allowing for a one time transfer without any penalty
Giving the student a sitting out period such as other states have done at both 90 day, and 180 day intervals.
Only limiting a student who has already competed in a Varsity Sport at another school.
Only limiting competition in the sports that the student athlete has actually y have played both varsity, and JV.

In the Utah state handbook it states that they are the ones that decide if "academic transfers are to be allowed". The way that their rule is written now only the IB program is allowed that distinction.

In J.9 it states
"PLEASE BE ADVISED that UHSAA appellate panels have determined that the following conditions are NOT considered hardships: Allegations of better education"
In section J.8 it states "Academic exceptions"

8. Academic Exceptions; And then they continue to site which Academic exceptions qualify for the hardship.

Why are students denied sub varsity playing time when NO other open enrollment state has that kind of restriction especially when you consider the mission statement of the UHSAA which is and i quote that it's belief is that these activities are an essential part of the high school experience and go a long way to improving academic performance and producing better citizens."

In J.9 it states
"PLEASE BE ADVISED that UHSAA appellate panels have determined that the following conditions are NOT considered hardships: Allegations of better education"
In section J.8 it states "Academic exceptions"

8. Academic Exceptions;

a. International Baccalaureate Program A student who has transferred to another high school to take advantage of the International Baccalaureate (IB) Program may be ruled eligible upon approval of the UHSAA. Such a student who transfers under this provision and who subsequently drops out of the Program shall be declared immediately ineligible and may be subject to sanctions. To apply for this hardship exception, the School principal or athletic administrator shall send via letter: 1. Confirmation of the student's acceptance into the International Baccalaureate Program within the school into which the student has transferred. 2016-17 UHSAA HANDBOOK BY-LAWS 35 2. Verification of the fact that the school administration, the parents and the student understand that if the student drops out of the IB program he or she shall be immediately ineligible as well as subject to additional sanctions.
Why is the high school ACTIVITIES association making judgments and rulings about what is a qualified "Academic Exception"????
They dismiss the thought of "allegations of a better education as a reason for a hardship, but as you guys know, each school is in fact not created equal.

Utah is an open enrollment state similar to 22 other states. Utah is far and away the outlier of this group, and has the most exclusionary practices when it comes to high school transfers out of any of those states. ***Any student transferring from one high school to another shall lose eligibility for participation in Association- sponsored athletic activities (including varsity, junior varsity, sophomore and freshman) for twelve (12 months.***
Why do they limit the ability to play sub Varsity sports, when no other open enrollment state

does this, and virtually NO other state (Even the closed boundary states) does this.
Utah was the only state that restricted NO athletic activity at any level in all sports regardless if they played in that sport the previous year.

From: Nate Marshall <nmarshall@providencehall.com>
Sent: Friday, January 20, 2017 7:08:16 AM
To: Board Rule Comments
Subject: R277-409

To whom it may concern
I feel like I need to reach out and voice my deep concerns regarding the new R277-409 for a number of reasons. 1st there seems to be a deep divide between the State Board and the people they represent. There was almost unanimous rejection of this bill when it was brought the the schools, principals, and administrators throughout the state of Utah. It was distributed, like it should have been by the board, to all school districts and principals and over 90% of the rejected the bill. To ignore the concerns and feedback from not just a portion of your constituency but the entire administrative voice is dangerous and divisive. It fails to garner the trust and support of those you represent.

2nd there is no need for additional oversight of the UHSAA. It already is made up of the appropriate representation from administrators and schools who can provide insight and overview in conjunction with the board. Additionally, the system of determining eligibility now is equitable and appropriate and vetted by the UHSAA. They have done extensive research on how to best serve the student athletes throughout the state and have modeled policy after many of the other states throughout the US.

Please support myself along with the vast majority of principals and administrators by rejecting the bill and help us continue to build the trust that you represent the best interest of our schools, students, and administrators.

--
Nathan Marshall MEd CAA
Providence Hall Principal

From: Krista Nielson <krista.nielson@seviersd.org>
Sent: Friday, January 20, 2017 8:30:41 AM
To: Board Rule Comments
Subject: R277-409

To Whom It May Concern:

On behalf of Sevier School District Board of Education and Administration

, we are writing to express support for the Utah High School Activities Association (UHSAA) and their continued efforts to do what is best for education based athletics in our state.

Utah's future success depends on continuing to provide a quality education. Part of that success comes from extra-curricular opportunities provided for students. Extra-curricular activities are a wonderful asset and enrich the school climate. We encourage you to continue to enforce the transfer rule set by the UHSAA.

Allowing students to enroll and participate when living with an individual who claims have physical custody of a student without proving legal custody, will cause liability issues and have an effect on students grades, attendance, and health care needs.

Having a rule in place will discourage those wanting to increase rigor within their sport and keep coaches from recruiting young students and putting hardships on families. The current transfer rule promotes competitive balance and fosters a sense of community.

Our District fully understands the role and responsibility the USBE has to adopt and maintain administrative rules. It is our opinion that the UHSAA policies are closely aligned with USBE rules and are appropriate and fairly administered to meet those regulations. However, we do express our support and appreciation for some of the suggested changes made to the appeals

process as noted in section R277-409-5.

Thank you for your consideration in this manner.

--
Krista Nielson
Executive Secretary
Sevier School District
180 E 600 N
Richfield, UT 84701
435-896-8214
krista.nielson@seviersd.org

From: Doug Jacobs <djacobs@morgansd.org>
Sent: Friday, January 20, 2017 8:26:41 AM
To: Board Rule Comments
Subject: Written Comments in Opposition to R277-409

Opposition to R277-409

My name is Doug Jacobs. I am the Superintendent of the Morgan School District. I was a rural Utah high school principal for 16 years and served a term as a member of the Utah High School Activities Association Board of Managers. I appreciate the opportunity to share my views.

The Utah High School Activities Association has been a healthy and productive Association for many years without the oversight of the Utah State Board of Education. It has evolved consistently with Utah law and its members' decisions. It has proven itself capable of developing and executing policies to manage the issues involved in high school sports and activities AND it has the overwhelming support of its member schools.

Since the introduction of Board Rule 277-409 it has felt like someone attempting to fix something that isn't broken. It seems like a solution looking for a problem. The Rule is aimed directly and solely at the Utah High School Activities Association. I've heard if the State Board doesn't do it, the legislature will. Legislation directed solely at one entity is a path fraught with problems. We fight federal overreach and overregulation but then turn around and overregulate and micromanage ourselves. Please remember that an overwhelming majority of member schools in the state have spoken out against this Rule.

I worry about the potential for legal action between the Association and the

Utah State Board of Education and the Legislature. The resources that could potentially be taken from the functions of the association and instead used for legal fees is undesirable. This Rule seems to assume, without discussion or legal analysis that the Board is "over" the Association. The fact that this Rule directs the Association to develop rules for itself is even worse. If the Board believes it has the authority—it should just tell the Association what to do. This Rule seems to complicate issues by requiring the Association to make rules—but to the Board's specifications.

Even more alarming is the micro-managing in an area that the Board has no experience or expertise. The Rule doesn't have general directives or suggestions. The directives are very specific and will have serious negative consequences for schools and student athletes. Current Association by-laws and procedures allow for greater flexibility for families and athletes than does this new Rule.

The Rule gives urban schools an advantage in transfers. Rural schools are affected because they will be competing against schools that bring athletes for various allowable reasons. Student-athletes will no longer learn to work through hard times, but will instead - at the first sign that they will not be a varsity starter - go school shopping until they find a school that will make them a starter. Just imagine the complicated pressure on a coach who now has to choose between loyal, local players and transfer students.

At the end of the day this Rule was developed and pushed through by former school board members (based on anecdotal evidence) who had a personal agenda and were upset over transfer denials by the Association. It might be a solution for them, but is not a solution for everyone else. I strongly and respectfully recommend that you reconsider this rule.

Thank you.

Dr. Doug Jacobs
Superintendent
Morgan School District

240 E. Young Street
Morgan, UT 84050
801.829.3411
Cell 801.845.8221
Email djacobs@morgansd.org

Education, Administration
R277-409
Public School Membership in Associations

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 41090
FILED: 12/14/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-409 is amended to provide provisions for student transfers and appeals of association hearing determinations.

SUMMARY OF THE RULE OR CHANGE: The amendments to Rule R277-409 provide two new sections. Section R277-409-4 provides procedures for transferring student eligibility to participate in association activities, and Section R277-409-5 provides procedures for appeals of association actions

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X, Sec 3 and Section 53A-1-401

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The amendments to Rule R277-409 provide provisions for transferring student eligibility and appeals of association actions, which likely will not result in a cost or savings to the state budget.
♦ LOCAL GOVERNMENTS: The amendments to Rule R277-409 provide provisions for transferring student eligibility and appeals of association actions, which may result in a cost to public schools. The cost is speculative.
♦ SMALL BUSINESSES: The amendments to Rule R277-409 provide provisions for transferring student eligibility and appeals of association actions, which likely will not result in a cost or savings to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The amendments to Rule R277-409 provide provisions for transferring student eligibility and appeals of association actions, which may result in a cost to an association that governs public education interscholastic activities if a public school is a member of the association. The cost is speculative.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments to Rule R277-409 provide provisions for transferring student eligibility and appeals of association actions, which likely will not result in any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: To the best of my knowledge, there should be no fiscal impact on businesses resulting from the amendments to this rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2017

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

R277. Education, Administration.
R277-409. Public School Membership in Associations.
R277-409-1. Authority and Purpose.
(1) This rule is authorized by:
(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and
(b) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
(2) The purpose of this rule is to place limitations on public school membership in certain associations with rules or policies that conflict with Board policies.

R277-409-2. Definitions.
(1) "Association" means an organization that governs or regulates a student's participation in an interscholastic activity.
(2) "Eligibility" means eligibility to participate in an association-sponsored interscholastic activity.

Commented [DCP1]: Notwithstanding this, Utah recognizes that the Association should have the primary role in administering extracurricular activities. By way of example, when the UHSAA was first defined in R277-517 (Athletic Coaching), it was defined to mean "an Association of Utah school districts that *administers and supervises* interscholastic activities among its member schools *according to the Association constitution and by-laws.*" (2002 Amendment, emphasis added) That same definition is included in the current R277-605-1. The Rules acknowledge that administration and governance should be pursuant to the Association's own constitution and by-laws. R277-605-3 (Coaching; Athletics and the Core Curriculum) likewise states, "Schools and coaches shall strictly adhere to both the letter and the spirit of the UHSAA by-laws, policies, regulations, and interpretations for high school sports programs." As one court noted, "The member schools are in better position to promulgate rules governing participation in high school athletics than anyone else, and are fully cognizant of the reasons underlying such rules." Indeed, by statute, local school boards "shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education." *Utah Code* § 53A-3-402(20). Plainly, among those "other things" has always been the governing of extracurricular activities.

Commented [DCP2]: Although the Board may have the authority to promulgate this Rule, doing so flies in the face of decades of history where these matters were left to the Association and its member school and district administrators as those are the people with the most direct and substantive involvement with interscholastic activities and the ones that best understand the many issues and considerations surrounding eligibility.

Commented [DCP3]: The Board has not identified any part of the Association's current transfer rule that conflicts with Board policies. To the contrary, the current rule was carefully tailored to protect the very purpose of the Association as set forth in its Constitution, a purpose fully in line with the general interests of schools and students: "Create, administer, maintain and protect the unique type of athletic competition which has existed in high schools in the State of Utah, based on genuine competition between member high schools and suited to the greatest involvement of students. It should stress participation, fairness, competitive balance and foster in the public a belief that the competitions are fair and honest."

([2]3) "Interscholastic activity" means an activity within the state in which the students that participate represent a school in the activity.

([3]4) "Recruiting" means a solicitation or conversation:

(a) initiated by:

(i) an employee of a school or school district;

(ii) a coach or advisor of an interscholastic activity; or

(iii) a member of a booster, alumni, or other organization that performs a substantially similar role as a booster organization, affiliated with a school or school district; and

(b) to influence a student, or the student's relative or legal guardian, to transfer to a school for the purpose of participating in an interscholastic activity at the school.

R277-409-3. Membership Restrictions.

(1) Beginning with the 2017-2018 school year, a public school may not be a member of, or pay dues to an association that adopts rules or policies that are inconsistent with this R277-409[-3].

(2) An association shall permit the Board to audit the association's:

(a) financial statements; and

(b) compliance with Utah Code, Board rule, and the association's bylaws, policies, rules, and best practices.

(3) An association may not treat similarly situated schools differently in the association's designation of division classifications, or in applying other association policies, based solely on the school's status as a charter school or district public school.

(4) An association may sanction a school, coach, or individual who oversees or works with students as part of an interscholastic activity of a public school if the association finds that the coach or individual:

(a) engaged in recruiting activities; or

(b) violated any other rule or policy of the association.

(5) An association shall establish a policy or rule to govern the association's use of student data that complies with the student data privacy requirements of:

(a) FERPA;

(b) Title 53A, Chapter 1, Part 14, Student Data Protection Act;

(c) Title 53A, Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act; and

(d) R277-484.

(6) An association shall establish policies or rules that require:

(a) coaches and individuals who oversee interscholastic activities or work with students as part of an interscholastic activity to meet a set of professional standards that are consistent with the Utah Educator Professional Standards described in Rule R277-515; and

(b) the association or public school to annually train each coach or other individual who oversees or works with students as part of an interscholastic activity of a public school on the following:

(i) child sexual abuse prevention as described in Section 53A-13-112;

(ii) the prevention of bullying, cyber-bullying, hazing, harassment, and retaliation as described in:

(A) Title 53A, Chapter 11a, Bullying and Hazing; and

(B) R277-613; and

(iii) the professional standards described in Subsection (6)(a).

(7) An association shall establish procedures and mechanisms to:

(a) monitor LEA compliance with the association's training requirements described in Subsection (6);

(b) sanction individuals who violate the association's professional standards described in Subsection (6)(a);

(c) track individuals who violate the association's standards described in Subsection (6)(a); and

(d) prohibit individuals who have violated the association's standards described in Subsection (6)(a) from coaching, overseeing, or working with students as part of an interscholastic activity.

(8) An association shall establish a policy or rule that requires the association to follow requirements similar to the requirements of:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

R277-409-4. Transferring Student Eligibility to Participate in Association Activities.

(1) An association may not deny a student eligibility to participate in an interscholastic activity except as provided in Subsection (2).

(2)(a) After a student has established eligibility to participate in an interscholastic activity at a school at the varsity level, an association shall deny the student's eligibility to participate in that interscholastic activity at the varsity level for up to twelve months at a new school.

(b) In the case of a subsequent transfer by the student after a transfer described in Subsection (2)(a), an association shall deny the student's eligibility to participate at the varsity level in any interscholastic activity for twelve months from the date of the student's first attendance at a new school.

(3) Notwithstanding Subsection (2), an association may not deny a student eligibility to participate in an interscholastic activity at the varsity level if:

(a) the student's full family moves outside of the boundaries of the originating school;

(b) the student's transfer to the new school is a result of a death in the family, which requires the student to move from the student's original residence;

(c) the student's transfer to the new school is a result of a divorce, which requires the student to move from the student's original residence;

(d) the student moves to live with an individual who has legal or physical custody of the student; or

(e)(i) the student has been a victim of bullying; and

(ii) the bullying was reported, documented, and investigated by the school or law enforcement.

(4) If an association denies a student's eligibility to participate in an interscholastic activity at the varsity level as

Commented [DCP5]: In short, R277-409-4 clearly makes it easier to become instantly eligible at the transferring school. Indeed, that has been a stated purpose of the Rule in Board discussions. The necessary, even if unintended, consequence is that it will be easier, and students will be incentivized to, to transfer for athletic reasons. For these reasons, it was with near unanimity that 125 of 126 public schools who voted on the matter, and 129 of all 137 governed by the UHSAA, voted against the Board's proposed rule. One might fairly asked why the Board feels qualified and entitled to ignore the wishes and recommendations of nearly every school affected by this rule and make a change almost unanimously opposed -- particularly given the significant (and undue) influence exerted by a single school in this process. ... [2]

Commented [DCP6]: Whereas the Association's rule starts with the premise that a transfer student is ineligible unless s/he meets certain criteria, R277-409-4 starts with the presumption of instant eligibility, except in two circumstances, and with 5 exceptions to each of those ... [3]

Commented [DCP7]: Allowing a student to be immediately eligible upon transfer if s/he has not participated in the varsity level for *that* particular sport would allow a student to, for example, play varsity football at one school and, in the same year, transfer to anoth ... [4]

Commented [DCP4]: One significant detriment of R277-409-4 is that it increases the incentive for coaches, schools, and boosters to recruit. With the loosening of the transfer rule, it will become much easier to realize the fruits of recruiting -- if one is able to attract a top athlete to on ... [1]

Commented [DCP8]: This addresses none of the problems raised in response to Section 2(a)

Commented [DCP9]: Taking away all discretion of the Association to consider all the facts and circumstances of these exceptions will allow for significant abuses by persons who wish to transfer for athletic reasons, including persons whose transfer was a result of recruiting. The Associa ... [5]

Commented [DCP10]: Although a full family move may qualify as a hardship exception under the Association's current transfer rule (and almost every time does), there have been occasions where a family has attempt to defraud the system by, for example, renting an apartment in a ... [6]

Commented [DCP11]: These situations are allowed for under the hardship exception to the current rule; however, the current rule incorporates the idea that the death or divorce requires the student to change schools and to attend the transferee school. This Rule does not. All t ... [7]

Commented [DCP12]: Allowing an automatic exception for a change of "legal or physical custody" creates a situation ripe for abuse, with parents or guardians easily able to file court papers changing guardianship over a child to place him or her under the custody of a relative (or ... [8]

Commented [DCP13]: These circumstances are accounted for in the hardship exception to the current transfer rule.

described in Subsection (3), the association shall issue a written decision, with supported findings, explaining the reasons why the student's eligibility to participate at the varsity level at the new school was denied.

R277-409-5. Appeals of Association Actions.

(1) An association shall establish:

(a) a uniform procedure for hearing and deciding:

(i) disputes;

(ii) questions;

(iii) allegations of violations of the association's rules; and

(iv) other issues related to interscholastic activities governed by the association;

(b) an appeals process to review association decisions on issues described in Subsections (1)(a)(i) through (iv) to determine whether the association properly followed the association's rules and procedures; and

(c) an appeal panel, with members as described in Subsection (2), to conduct the appeals process.

(2) The appeal panel shall consist of the following three members, appointed by the Board, who will serve a one year term:

(a) a judge or attorney who is not employed by, or contracts with a school;

(b) a retired educator, principal, or superintendent; and

(c) a retired athletic director or coach.

(3) The Board shall appoint the members of the appeal panel described in Subsection (2):

(a) from the association's nominations described in Subsection (4); and

(b) in accordance with the Board's appointment process.

(4)(a) The association shall nominate up to 3 individuals for each position described in Subsection (2) for the Board's consideration.

(b) If the Board refuses to appoint members to the panel who were nominated by the association as described in Subsection (4)(a), the Board will request additional nominations from the association.

KEY: schools, memberships, associations
Date of Enactment of Last Substantive Amendment: [2016]2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401

Commented [DCP14]: Under the Association's By-laws, students have this right to have any denial of eligibility after a Panel hearing to be in writing and setting forth the reasons.

Commented [DCP15]: In one important respect, the new Rule denies eligibility where the Association's Rule allows the exercise of discretion by the Association: The current transfer rule provides for a "hardship exception," defined as "an unforeseeable, unavoidable and uncorrectable act, condition or event, which causes the imposition of a severe and non-athletic burden upon the student and/or his/her family." This provision allows the Association the flexibility to grant a hardship waiver in circumstances that do not fit under a specifically enumerated exception but which are nonetheless compelling, such as a case where a student transfers because a coach slapped him in practice or a teacher has improper contact with a student. Although these are more on the egregious side, there are many legitimate, non-athletic, reasons a student may transfer and for which s/he should not sit out a year, other than the reasons specifically set forth in R277-409-4. Under the current Transfer Rule, the association has the flexibility to address these situations. Under R277-409-4, there is no such flexibility.

Commented [DCP16]: The Association has such a process, as set forth in the Article 6 of the 2017 Handbook. R277-409-5 adds nothing of substance to this process and provides no additional safeguards or protections. The major change is that this Rule places control of the appeal in the hands of the Board, rather than with those local school boards and administrators who are most familiar with these situations.

SECTION 1: Uniform Procedure for Hearings and Process for Appeals [9]

Commented [DCP17]: There is no reason to have the Board oversee the panel. The Rules are promulgated by the Association based on years of experience by the Association members and years of dealing with the particular issues and problems. The rules should be administered by the Association members who are familiar with them and with the situations they are enacted to address. Each year scores of panel hearings are held, and rarely is a panel accused of being biased or of misapplying the relevant rules. Aggrieved persons have, on occasion, taken their case to court, but no court has ever found that a panel acted arbitrarily. [10]

Commented [DCP18]: Another fundamental problem with R277-409-5 is the delay it will cause. Very often, students apply for a transfer waiver shortly before an athletic season begins. If their waiver request is denied, they seek an immediate hearing – days and even hours sometimes matter as the hearing may be requested after a season has begun and daily practices and games are being missed. Requiring the vetting of panel members through the Board will significantly delay scheduling hearing and may, in fact, render them moot if the panel cannot be constituted and the hearing held before the season e [11]

Page 2: [1] Commented [DCP4] **Craig Parry** **1/18/2017 3:52:00 PM**

One significant detriment of R277-409-4 is that it increases the incentive for coaches, schools, and boosters to recruit. With the loosening of the transfer rule, it will become much easier to realize the fruits of recruiting – if one is able to attract a top athlete to one's school, it will be much easier to for that athlete to be immediately eligible. And with it being easier to transfer and to become immediately eligible, coaches and boosters will feel pressure to recruit in order to keep up with other programs that are attracting (recruiting) top athletes. (Because the Association lacks subpoena power, it is exceedingly difficult to establish a case of recruiting under the definition set forth in R277-409-2(4); however, indicia of recruiting, such as athletically motivated transfers, are frequently seen, and currently the Association is able to deny eligibility in those circumstances now, thus deterring recruiting to some extent, but would not be able to do so under the Board's proposed rule.)

Page 2: [2] Commented [DCP5] **Craig Parry** **1/18/2017 3:58:00 PM**

In short, R277-409-4 clearly makes it easier to become instantly eligible at the transferring school. Indeed, that has been a stated purpose of the Rule in Board discussions. The necessary, even if unintended, consequence is that it will be easier, and students will be incentivized to, to transfer for athletic reasons. For these reasons, **it was with near unanimity that 125 of 126 public schools who voted on the matter, and 129 of all 137 governed by the UHSAA, voted against the Board's proposed rule.** One might fairly asked why the Board feels qualified and entitled to ignore the wishes and recommendations of nearly every school affected by this rule and make a change almost unanimously opposed – particularly given the significant (and undue) influence exerted by a single school in this process.

Loosening the eligibility restriction upon transfer will substantially increase competitive imbalance and unfairly impact student athletes. For example, urban schools, with a much greater pool of potential transferees geographically close, will be unfairly advantaged vis-a-via rural schools. "Super teams" will flourish as students who excel at the sub-varsity level are able to transfer to a school for varsity competition the following season. Coaches who work with and develop their players on freshman, sophomore, and JV teams will be more likely to lose them to another school for varsity competition. Moreover, students who are unwilling to "school shop" for athletics will lose playing opportunities to those who do.

Page 2: [3] Commented [DCP6] **Craig Parry** **1/18/2017 4:02:00 PM**

Whereas the Association's rule starts with the premise that a transfer student is ineligible unless s/he meets certain criteria, R277-409-4 starts with the presumption of instant eligibility, except in two circumstances, and with 5 exceptions to each of those circumstances. This presumption reverse will necessarily make it significantly easier for students to transfer and be immediately eligible to play, thus leading to all the negative impacts expressed by scores of schools, their coaches and administrators.

Page 2: [4] Commented [DCP7] **Craig Parry** **1/18/2017 4:05:00 PM**

Allowing a student to be immediately eligible upon transfer if s/he has not participated in the varsity level for *that* particular sport would allow a student to, for example, play varsity football at one school and, in the same year, transfer to another school to play varsity basketball, so long as he didn't play varsity basketball the previous year. With so many multi-sport athletes, this is a very real and significant issue. Further, a student could play JV football at one school, JV basketball at a second school, and then transfer to a third school, in the same school year, and play varsity baseball. That same student could then transfer to a fourth school (or back to the first or second school) to play varsity football the

following school year. Indeed, if a student does not participate in any sport at the varsity level, s/he can freely school shop and transfer to any number of schools and play at the JV level, not committing him/herself to any school until playing on a varsity team (and even then able to transfer again to play a different varsity sport).

Page 2: [5] Commented [DCP9] **Craig Parry** **1/18/2017 4:16:00 PM**

Taking away all discretion of the Association to consider all the facts and circumstances of these exceptions will allow for significant abuses by persons who wish to transfer for athletic reasons, including persons whose transfer was a result of recruiting. The Association has learned though long experience that these exceptions can be manipulated and made a sham of by unscrupulous athletes, parents, and coaches, thereby eviscerating the restrictions.

Page 2: [6] Commented [DCP10] **Craig Parry** **1/18/2017 4:08:00 PM**

Although a full family move may qualify as a hardship exception under the Association's current transfer rule (and almost every time does), there have been occasions where a family has attempt to defraud the system by, for example, renting an apartment in a new school boundary (and purported to move the full family there) to establish eligibility but maintaining their former home, only to return when the sports season or school year ended. R277-409-4 does not allow any discretion to address such circumstances. Moreover, inexplicably, this Subsection does not even require that the student attend the boundary school for his new home. Under this rule, if a family were to move (legitimately or otherwise) outside the boundaries of the first school, the student would be immediately eligible to play at any school in the state. For example, a student could move two blocks, from Bountiful High boundaries to Woods Cross High boundaries, and then enroll and be immediately eligible to play football at Bingham, a scenario that has happened – although under the Association's rule, that student had to sit out a year, thus discouraging such athletic-motivated moves.

Page 2: [7] Commented [DCP11] **Craig Parry** **1/18/2017 4:24:00 PM**

These situations are allowed for under the hardship exception to the current rule; however, the current rule incorporates the idea that the death or divorce requires the student to change schools and to attend the transferee school. This Rule does not. All that is required is that the death or divorce requires to student to move from the student's current residence. This is a significant problem with each of Subsections (3)(a) – (d). For example, under Subsection (c), all that is required is that the student be required to move from her/his original residence. Thus, for example, if a Murray High student's parents divorce and the student moves with her mother into an apartment a block away, still in Murray High's boundaries, she would be immediately eligible to run track at, for example, Lehi. All she would have to say is that her transfer to Lehi is the result of her parents' divorce, and the Association has no discretion deny her eligibility.

Page 2: [8] Commented [DCP12] **Craig Parry** **1/18/2017 4:15:00 PM**

Allowing an automatic exception for a change of "legal or physical custody" creates a situation ripe for abuse, with parents or guardians easily able to file court papers changing guardianship over a child to place him or her under the custody of a relative (or even friend). The Association has had numerous experiences with students who transferred guardianship to a relative (sometimes distant) when there was substantial evidence that the reason was simply to be immediately eligible to play sports at the new school. By taking away the Association's ability to examine the surrounding (often compelling) evidence of intent, R277-409-4 will open the doors wide to athletically motivated transfers. Additionally, like the exception for a full family move, this exception does not require that the student move to live within the boundaries of the new school. Thus, under this Rule, a student living in, for example, West Jordan High boundaries could have custody (even temporarily) transferred to another family member, like a

grandparent, who *also* lives in West Jordan High boundaries, and that student would be immediately eligible to play basketball at Lone Peak. There is no rational reason to permit this.

Page 3: [9] Commented [DCP16]	Craig Parry	1/18/2017 4:34:00 PM

The Association has such a process, as set forth in the Article 6 of the 2017 Handbook. R277-409-5 adds nothing of substance to this process and provides no additional safeguards or protections. The major change is that this Rule places control of the appeal in the hands of the Board, rather than with those local school boards and administrators who are most familiar with these situations:

SECTION 1: Uniform Procedure for Hearings and Process for Appeals

A. The Association shall establish a uniform procedure for hearing and deciding all disputes, questions and allegations of violations of the Association's eligibility rules or any other issues which relate to the activities under the jurisdiction of the Association.

B. Any person or member school subject to the authority of this Association who shall be charged with violating the Constitution, By-Laws or other rules and regulations of this Association shall be entitled to a hearing before the Association shall impose any penalty or sanction.

C. Member districts' boards of education, member governing boards of charter or private high schools, UHSAA member schools and students through their high school, shall have the right to appeal to an Appeals Committee any adverse decision which affects their interests. An appeal must be filed with the Association within thirty (30) calendar days of the decision to be appealed.

Interpretation & Guidelines 6.1.1: HEARINGS

A. In all cases in which the facts of an alleged violation of the Association's rules are undisputed, the Executive Director, pursuant to his authorization to interpret the Constitution and By-Laws, may make a decision and rule on any such matter presented to him. Such action by the Executive Director shall be considered a hearing and will be subject to an appeal pursuant to the Rules of the Association.

B. In all applications for a waiver of ineligibility due to transfer, including full family moves, the Executive Director, together with such review committees as may be deemed necessary shall review all of the written information provided, together with such other evidence as may be available and relevant. Following such a review, which shall be deemed a hearing, the Executive Director may make a decision and rule on the request for a waiver. The decision of such a review committee is subject to appeal pursuant to UHSAA Constitution Article 6, Section 1-C and Section 2.

C. All other disputes, questions and allegations of violations of the Association's By-Laws, rules, regulations and/or policies shall be heard by a panel of the Executive Committee.

1. A hearings panel of the Executive Committee shall be comprised of no fewer than three members.

2. The decision of an Executive Committee hearings panel is subject to appeal pursuant to UHSAA Constitution Article 6, Section 1-C and Section 2.

3. Hearings before a panel of the Executive Committee shall be recorded and made available at cost to affected parties. No recording of a hearing shall be provided until payment is received.

D. Written decisions of any hearing will be provided upon request. The cost of providing a written decision shall be borne by the party requesting the written decision and payment shall be received prior to the issuance of a written decision.

SECTION 2: Appeals Committees

A. An Appeals Committee shall review the evidence presented at the hearing and may, in its discretion, request additional written materials. The decision on appeal shall be limited to the evidentiary record presented in the hearing.

B. Decisions of an Appeals Committee are final.

Interpretation & Guidelines 6.2.1: APPEALS COMMITTEES
A. In cases involving an appeal of a decision of the Executive Director and in cases involving the appeal of a decision by a review committee regarding a request for waiver of ineligibility due to transfer, an appeals committee shall be comprised of no fewer than three members of the Executive Committee and/or
members of the Board of Trustees none of whom shall represent the same region as any party involved in the hearing.

B. In cases involving an appeal of a decision issued by a hearings panel of the Executive Committee, an appeals committee shall be comprised of no fewer than three members of the Board of Trustees.

C. Written decisions of any appeals committee will be provided upon request. The cost of providing a written decision shall be borne by the party requesting the written decision and payment shall be received prior to a written decision.

Page 3: [10] Commented [DCP17] **Craig Parry** **1/18/2017 4:43:00 PM**

There is no reason to have the Board oversee the panel. The Rules are promulgated by the Association based on years of experience by the Association members and years of dealing with the particular issues and problems. The rules should be administered by the Association members who are familiar with them and with the situations they are enacted to address. Each year scores of panel hearings are held, and rarely is a panel accused of being biased or of misapplying the relevant rules. Aggrieved persons have, on occasion, taken their case to court, but no court has ever found that a panel acted arbitrarily, capriciously, with bias, or contrary to the relevant rules. This R277-409-5 is directed to an issue that simply does not exist.

Page 3: [11] Commented [DCP18] **Craig Parry** **1/18/2017 4:48:00 PM**

Another fundamental problem with R277-409-5 is the delay it will cause. Very often, students apply for a transfer waiver shortly before an athletic season begins. If their waiver request is denied, they seek an immediate hearing – days and even hours sometimes matter as the hearing may be requested after a season has begun and daily practices and games are being missed. Requiring the vetting of panel members through the Board will significantly delay scheduling hearing and may, in fact, render them moot if the panel cannot be constituted and the hearing held before the season ends, or is substantially over.

Recently the Utah Board of Education voted 9-5 with six of the members lame duck and one absent to permit student-athletes to transfer to any school with no penalty before they play a Varsity sport. Traditionally the member of the board, Mr. David Crandall who spearheaded the legislation doesn't vote. However, Mr. David Crandall voted for the change. The rules states that once they are a Varsity member if they choose to transfer they would have to sit out a year.

Having attended the first meeting of the board last fall, it was obvious to me that Mr. Crandall and Mr. Spencer Stokes had their own agenda and would influence the board to make a decision that was contrary to the majority that attended the meeting in which 99% of the district superintendents, principals, athletic directors, coaches, and teachers voiced STRONG opinions to the board to not change any of the present UHSAA rules concerning transfer of athletes.

A recent poll by the UHSAA resulted in an overwhelming 132 schools against the new rule and 5 in favor. Mr. Crandall and Greg Hughes, Speaker of the House, are both on the Board of Trustees at Summit Academy, and Spencer Stokes is a lobbyist and very close to Speaker Hughes who seem to have their own agenda on the transfer rule and didn't take into consideration what the majority voiced to the board members that were present.

. Mr. Stokes repeatedly expressed that there should be more communication between the State School Board and the UHSAA and Mr. Rob Cuff said he had no problem with that. It's ironic that Mr. Stokes is on the 30 man committee of the USHAA but doesn't attend the meetings? As a former Player Personnel Director for the Cleveland Cavaliers and Los Angeles Clippers dealing with players, agents, owners, etc. I sensed the meeting was a waste of time because Mr. Crandall and Mr. Stokes had used their influence and had already fixed the outcome.

Having a M.A. in education and 30 hours towards a PHD, coached and taught in high school (West HS), college, and 21 years in the NBA it is my opinion that the Board has no clue what they are doing by getting involved in High School Sports. Researching the background of the Board the only member that had any coaching/sports experience of the 14 members was Mr. Crandall on a youth level.

The Board of Education needs to stick to education and improve the quality in Utah. Teacher/Pupil ration is ranked 50th in the USA. Lowest spending 49th. Highest and lowest financial gaps by race 33. Cities with the most and least educated 32. It seems to me that they have plenty to do to

improve our education system without taking on High School sports in which they have no expertise.

Coaches are underpaid and overworked and the majority do not want to RECRUIT to compete. If this transfer rule goes into effect, that's what would result. What happens to the 1-A, 2-A, and 3-A schools when there star athlete is recruited to a bigger school or to a school in their league that is dominant in a particular sport? Coaches build their programs by developing and working with the ninth and tenth grade classes. What happens when they put all that time into an athlete and he leaves because another coach tells him he can do this and that for him or her. The new rule will create disparity, an uneven playing field, and conflict between coaches and schools.

There is nothing to be learned by one school beating another by 30 points. High School sports is about learning to compete, work hard, teamwork, discipline, working through adversity, and most of respect for his or her teammates, coaches, teachers, parents, and society. Not every parent like their child's behavior all the time, but most don't go and get another parent to take care of the problem. The child learns about discipline and how to incorporate it into his life. Unless a coach is totally abusive to a player, that player learns the same life lessons of hard work, respect and commitment to others. Most coaches coach because they love the game and want to make their players productive people in society.

I can't tell you how many phone calls and letters I have received over a 40 year coaching career thanking me for giving the players tough love and now as adults they appreciate it and are better off for it. This is a very difficult time for young people; internet, Facebook, texting, and cell phones have changed our entire way of life. The discipline of most schools is created by the presence of coaches and sports form the backbone of the school. Why would you put an additional burden on the coaches to have to recruit to compete, it's tough enough dealing with overzealous parents who think their son or daughter should be playing so they can get a scholarship. This rule will open up the floodgates so as soon as the parent or player doesn't like a coach he/she will transfer somewhere else. What happens when they become adults and they don't like their boss/manager?

Speaker Hughes was interviewed on Channel 5 and his argument was non-athletes could transfer and wanted to make the rule uniform for all students. However, he is forgetting one big point, these students are not on a TEAM and only responsible for themselves. Athletes are accountable to their coaches, teammates, classmates, parents and community. High

school sports has a tremendous positive experience for as long as it has been in existence and is an integral fabric of American Society, "Remember the Titians, Hoosiers", cheerleaders, pep bands, booster clubs, and most of all community involvement.

There was a recruiting violation at Summit Academy and the UHSAA ruled there was a violation. In speaking with Mr. Rob Cuff, Director of UHSAA and a very successful former coach, he doesn't makes snap decisions, he researches the situation and wants to make an unbiased decision. What are the motives of Mr. Crandall, Mr. Hughes, and Mr. Stokes? By changing the rule do they want to make Summit Academy into a powerhouse sports school?

In Conclusion, something is rotten in Denmark or should I say the School Board with the overwhelming majority (132) saying they don't want a rule change and the minority (5) having the SAY. SOMETHING IS NOT RIGHT. I am confused on what the definition of a democratic vote is and so is the School Board. In January the Board needs to do the right thing and go back to the previous transfer rules.

Barry Hecker
Salt Lake City

Utah High School Activities Association
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Mr. Rasmussen, Ms. Stallings, Mr. Huntsman and USBE Board Members. Thank you for allowing us the opportunity for this public hearing. My name is Rob Cuff, Executive Director of the Utah High School Activities Association.

The Utah High School Activities Association is an association formed to administer education based, interscholastic activities on behalf of its members. The UHSAA, with its 30 member Board of Trustees and 149 member schools, is a member driven organization to develop, regulate, govern and administer high school activities and high school athletic competition. The association belongs to its members and is governed by its members.

The UHSAA rule making process is based upon our membership and their votes. Every school should be heard and be part of the consideration of the policies and rules of the organization to which it belongs.

As a UHSAA staff, we administer the rules adopted by our membership through their representatives: the Board of Trustees. The 30 member Board of Trustees is made up of elected school board members and superintendents representing all region and areas throughout Utah, principals from each of the 5 classifications and a state board of education representative.

We appear today to discuss a matter of great importance to fair play for students across the state. The purpose of the rules is to maintain a level playing field for all students. Every state has a transfer rule; however, there is no perfect rule. The UHSAA acknowledges it is impossible to craft a perfect rule. This is the reason why there have been ongoing discussions and meetings every year to improve it. Freedom of movement in sports dramatically alters the competitive environment and nature of the experience of every other competitor. It widens the competitive balance between urban and rural schools, displaces students, diminishes sports programs and creates a loss of school and community pride.

The strength of the UHSAA is from our 149 member schools and their coaches, athletic directors, principals, superintendents and elected local Boards of Education from the 41 public school districts and governing boards of member charter and member private schools. I firmly believe our students are the focus, and the reason, for the Association as stated in the UHSAA Mission Statement.

It is the position of the UHSAA Board of Trustees that changes to current UHSAA By-laws should remain with its member schools through local district boards of education and the governing boards of member charter and member private schools who make up the Utah High School Activities Association.

Mr. Hunstman, Board members, Mr. Rasmussen, my name is Mark Van Wagoner. I am counsel for the Activities Association, a position I have happily held for some time. Today, however, I am not acting in the role of a lawyer; rather I wish to discuss two topic about which I have firsthand knowledge. The first is the historical relationship between the UHSAA and the Board. For at least 30 years I have been involved in the process by which the BOE raised, discussed and suggested changes to the Association's rules or procedures. Second, because of my work with the Association I have had extensive experience in formulating and crafting eligibility rules. I believe it would be useful for the Board to know the process by which any rule, regarding recruiting or transfers, is developed. I intend to discuss both of these topics.

These proposed rules represent a sharp departure from the relationship of the BOE and the Association over the previous three decades. In those years, the BOE maintained a cooperative relationship with the Association. There were, in those years, many issues raised by the BOE with the Association which resulted in changes to eligibility rules and other procedures. For example, many changes were made to rules relating to new educational developments, such as charter schools and home schooling. Other adjustments were made to the rules related to the eligibility of foreign students. There are many others which I can detail if requested.

Many times I was told by the BOE and the State Superintendent that the last thing the BOE wanted to do was write sports rules for the Association. The BOE wanted to be informed—and they took a seat on the BOT—but wanted no sports governance.

Then, something happened. It came as a surprise to the Association considering prior history. There was no outcry from schools, coaches, players or even the media. Rather, just a notice that the BOE intended to upend what had been an overwhelming successful partnership. Where did it come from? Why did the

Board suddenly reverse decades of this relationship? Why did the BOE think it knew more about governing sports than the local schools and school districts?

Those were questions left unanswered.

I give you this history for context. First, it seems to me that for the BOE to have departed from a process that worked wonderfully for decades, there should have been a significant and new development which the Association refused to remedy. There was no such event. Second, to the extent that anyone feels reluctance to suspend this rule out of deference to the prior board, you should be aware that the adoption of these Rules showed no deference to decades of Board policy and to other existing Rules. The adoption of these Rules is an anomaly. It is unprecedented.

In addressing the rules themselves, I have offered an exhibit. This exhibit reflects the criticism and scrutiny that the Association regularly applies to any rule it intends to implement. At the Association there is a Constitution and By-laws Committee that meets regularly to discuss needed changes to the rules. The Committee is made up of principals and elected officials from the districts. It includes all the classifications as well as the private and charter schools.

This composition is intended to insure that any proposed rule is fair to all schools in all classifications. For the Association, making rules without including every viewpoint would be irresponsible. Fairness, not agenda is what the Committee seeks.

Personally, I have been involved in crafting many "transfer" rules from 1974 through today. While there is no "perfect" transfer rule, some are significantly more ambiguous and unfair than others.

As you can see from the exhibit, the proposed "transfer" rule does not address many of the issues covered by the current rule and, in fact, unfairly advantages certain schools in certain classifications.

As a matter of concern to competition and education, the proposed transfer rule clearly makes it easier to become instantly eligible at the transferring school. The necessary, even if unintended, consequence is that it will be easier, and students will be incentivized to, to transfer for athletic reasons. For these reasons, **it was with near unanimity that 125 of 126 public schools who voted on the matter, and 129 of all 137 governed by the UHSAA, voted against the Board's proposed rule.**

Loosening the eligibility restriction upon transfer will substantially increase competitive imbalance and unfairly impact innocent student athletes. For example, smaller urban schools, generally charter and private, with a much greater pool of potential transferees geographically close, will be unfairly advantaged vis-a-via rural schools. "Super teams" will flourish as students who excel at the sub-varsity level are able to transfer to a school for varsity competition the following season. Students who are unwilling to "school shop" for athletics will lose playing opportunities to those who do.

Whereas the Association's rule starts with the premise that a transfer student is ineligible unless s/he meets certain criteria, R277-409-4 starts with the presumption of instant eligibility, except in two circumstances, and with 5 exceptions to each of those circumstances.

Subsection (2)(a): After a student has established eligibility to participate in an interscholastic activity at a school at the varsity level, an association shall deny the student's eligibility to participate in that interscholastic activity at the varsity level for up to twelve months at a new school.

Comment: First of all, coaches reading this proposed rule will immediately

place any promising athlete on the "varsity" roster. Several have already told me this. Whatever was intended to be accomplished can so easily be avoided. But, there are other problems. Assuming coaches do not take steps to capture athletes, allowing a student to be immediately eligible upon transfer if s/he has not participated in the varsity level for *that* particular sport would allow a student to, for example, play varsity football at one school and, in the same year, transfer to another school to play varsity basketball, so long as he didn't play varsity basketball the previous year. With so many multi-sport athletes, this is a very real and significant issue. Further, a student could play JV football at one school, JV basketball at a second school, and then transfer to a third school, in the same school year, and play varsity baseball. That same student could then transfer to a fourth school (or back to the first or second school) to play varsity football the following school year. Indeed, if a student does not participate in any sport at the varsity level, s/he can freely school shop and transfer to any number of schools and play at the JV level, not committing him/herself to any school until playing on a varsity team (and even then able to transfer again to play a different varsity sport).

Finally, this rule unfairly advantages smaller, urban schools where a high classification player, who knows he will not play varsity, will slide down to 2A or 3A and supplant another player. Who protects that student's interest?

Subsection 3: Notwithstanding Subsection (2), an association may not deny a student eligibility to participate in an interscholastic activity at the varsity level if:

Subsection 3(a): the student's full family moves outside of the boundaries of the originating school;

Comment: There is no definition of "full family move." Does the Association take the risk of creating one that is disliked by the BOE?

Although a full family move may qualify as a hardship exception under the Association's current transfer rule (and almost every time does), there have been

occasions where a family has attempt to defraud the system by, for example, renting an apartment in a new school boundary (and purported to move the full family there) to establish eligibility but maintaining their former home, only to return when the sports season or school year ended. R277-409-4 does not allow any discretion to address such circumstances. Moreover, inexplicably, this Subsection does not even require that the student attend the boundary school for his new home. Under this rule, if a family were to move (legitimately or otherwise) outside the boundaries of the first school, the student would be immediately eligible to play at any school in the state. For example, a student could move two blocks, from Bountiful High boundaries to Woods Cross High boundaries, and then enroll and be immediately eligible to play football at Bingham, a scenario that has happened – although under the Association's rule, that student had to sit out a year, thus discouraging such athletic-motivated moves.

Subsection 3(b) and (c): (b) the student's transfer to the new school is a result of a death in the family, which requires the student to move from the student's original residence;

(c) the student's transfer to the new school is a result of a divorce, which requires the student to move from the student's original residence;

Comment: These situations are allowed for under the hardship exception to the current rule; however, the current rule incorporates the idea that the death or divorce requires the student to change schools and to attend the transferee school. This Rule does not. All that is required is that the death or divorce requires to student to move from the student's current residence. This is a significant problem with each of Subsections (3)(a) – (d). For example, under Subsection (c), all that is required is that the student be required to move from her/his original residence. Thus, for example, if a Murray High student's parents divorce and the student moves with her mother into an apartment a block away, still in Murray High's boundaries, she would be immediately eligible to run track at, for example, Lehi. All

she would have to say is that her transfer to Lehi is the result of her parents' divorce, and the Association has no discretion deny her eligibility.

Subsection 3(d): the student moves to live with an individual who has legal or physical custody of the student

Comment: The definitions of "legal" and "physical" custody create great ambiguity. To be sure, if all that is needed is a sense of "physical" custody, a student could easily enroll in 3 schools in a year by moving under the idea of changed "physical" custody. Over time, the Association has had examples of students transferring for football or basketball and simply moving in with a cousin or even a coach. Seemingly, under this rule, that would create immediate and unquestioned eligibility. Thus, under this Rule, a student living in, for example, West Jordan High boundaries could have custody (even temporarily) transferred to another family member, like a grandparent, who also lives in West Jordan High boundaries, and that student would be immediately eligible to play basketball at Lone Peak. There is no rational reason to permit this. Unless the object is to remove any restriction on student movement, this rule fails.

Subsection 3(e): (i) the student has been a victim of bullying; and (ii) the bullying was reported, documented, and investigated by the school or law enforcement.

Comment: These circumstances are accounted for in the hardship exception to the current transfer rule.

It should be noted that in one important respect, the new Rule denies eligibility where the Association's Rule allows the exercise of discretion by the Association: The current transfer rule provides for a "hardship exception," defined as "an unforeseeable, unavoidable and uncorrectable act, condition or event, which causes the imposition of a severe and non-athletic burden upon the student and/or his/her family." This provision

allows the Association the flexibility to grant a hardship waiver in circumstances that do not fit under a specifically enumerated exception but which are nonetheless compelling, such as a case where a student transfers because a coach slapped him in practice or where a student has been denied a fair tryout because a parent discovered a teacher has improper contact with a student. Although these are more on the egregious side, there are many legitimate, non-athletic, reasons a student may transfer and for which s/he should not sit out a year, other than the reasons specifically set forth in R277-409-4. Under the current Transfer Rule, the association has the flexibility to address these situations. Under R277-409-4, there is no such flexibility.

In every case in which an Association Panel's decision has been reviewed by a Utah District Court, it has been found to be fair and legal.R277-409-5 is directed to a problem that simply does not exist. Nevertheless, this is one of those areas that in decades passed would have been remedied through conversation with both the BOE and the UHSAA.

Chair Huntsman, thank you for allowing me the opportunity to address members of the state board of education in the appeal hearing of rule R277-409. My name is Kristen Betts. I am the school board president for the Nebo Board of Education and am also currently serving as the chair of the Utah High School Activities Association's Board of Trustees. The majority of the Board of Trustees are locally elected school board officials representing 149 membership schools.

This past fall I had the opportunity to serve on a subcommittee made of USBE and UHSAA board of trustees' members as we discussed possible rule changes in regards to associations. During that time valuable insights and positive changes were made. I not only represent the citizens of Santaquin, Goshen, Payson, Elkridge, West Mountain, Salem, Spanish Fork, Lake Shore, Mapleton, and Springville but as a member of the UHSAA BOT I represent the 149 member schools of UHSAA; the same schools you respresent. It is as their representative that I am asking you to repeal R277-409. The information gathered and presented last fall shows that this rule does NOT have support at the local school level especially in regards to the transfer rule. For the past month, I have been asked a number of times by coaches, administrators, parents, and athletic directors why the State Board of Education would ignore the wishes of every school but one that was surveyed when they were so opposed to aspects of this rule. I honestly don't know how to respond. When the evidence is so strong that those that work daily with student athletes is ignored it is very difficult to explain. I understand it is arduous and even cumbersome to repeal a rule from a previous respected board, however, I strongly believe that we must do what is best for our students.

The concerns I have heard include the following:

- The rule makes it easier to become instantly eligible at the transferring school. While at first glance this may seem helpful to students the consequence of this would be detrimental. A student athlete could play junior varsity sports at multiple schools they could then transfer to a different school and automatically be eligible for a varsity sport. I would like to share a specific example of how this could academically hurt students in Nebo School District; my daughter MoMo could play junior varsity soccer at her home school of Maple Mountain. The way the rule reads, if she wanted to, she could switch

schools and play JV basketball at Springville HS, and finish off the year playing JV golf for Salem Hills. The next year, she could play varsity soccer at any school and then transfer and play varsity basketball at a different school. All of these schools are within 11 miles of our home so this could realistically happen. How is this rule best for students academically?

- The new rule increases the incentive for recruiting. This would especially hurt our rural high schools that compete against the smaller schools located on the Wasatch Front.
- Student athletes would be displaced by transferring students and we should feel a responsibility to those students as well as the transferring student.

I am sure during the course of public comment you will hear specific examples of these and other concerns. I would respectfully ask that you carefully consider these opinions from those involved in activities at a LOCAL level as you make a final decision. Please listen to those that are working with students in our local schools. Please value their expertise and experience.

We would like to give the balance of our time to Mark Van Wagoner who has been with the Association for the past 43 years. Thank you.

From: Eric Arthur [mailto:eric.arthur@jordandistrict.org]
Sent: Friday, January 20, 2017 9:34 AM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject: In Oposition to Rule R277-409

To whom it may concern,

My name is Eric Arthur and I am a resident of Taylorsville writing to you in order to make my voice heard on a matter of great concern to me. I am writing in regard to Rule R277-409, aka the "open transfer" rule for high school athletics. In addition to being a resident of your district, I am also a high school math teacher at West Jordan High School as well as a soccer coach there for both the boys and girls teams. I have been teaching and coaching at West Jordan for 5 years now and have loved it. I strongly believe that performance in the classroom can be greatly enhanced by extracurricular activities such as sports, the arts, and various clubs. That belief has driven me to emphasize the importance of being a student first and an athlete second for all the boys and girls that have played for me over the years. That belief is one of the main reasons I am very opposed to Rule R277-409. I believe it sends the wrong message to our athletes by saying that athletics can dictate a student's academic life rather than the other way around. If a student is unhappy for any reason, athletic or academic and provided they have not played at a varsity level, they can run away from their problems and pick any other school in the state to attend and play right away. This is a terrible life skill to teach our athletes. It goes against the entire purpose of high school athletics which is enhancing the classroom experience. I am extremely disappointed that the state school board would prioritize that which is extracurricular over that which should be their main focus, academics.

I am also concerned that the school board is treading into territory that prior to Rule R277-409 was managed by a separate entity, the UHSAA. I know all too well the "politics" that happen in the world of high school athletics at a local level. I seriously fear how those same attitudes could bleed into the larger platform of state politics. Additionally I oppose Rule R277-409 because I believe that high school academics and athletics should not be governed by the same entity, especially since this rule in my opinion shows a willingness to put athletics before academics.

And finally I'd like to state my concern that most people in opposition to this rule have stated. I feel that this rule would ruin high school athletics for all but a select few athletes and schools. West Jordan High is by no means a powerhouse sports school. We have traditionally struggled in most sports. We pull from an economically disadvantaged demographic and we are a small school in comparison to others in our division. But every year we at least have a chance at making the playoffs and going somewhere in them. That hope is what keeps our athletes coming back each year. If Rule R277-409 stays in place that hope will be taken from them. With Rule R277-409 our sports landscape in the state of Utah will be dominated by a handful of schools that come with the promise of winning and college exposure. While I recognize that powerhouse schools exist in every sport, they tend to shift or go through cycles. I feel that Rule R277-409 would prevent even that and we would be living in a state of institutionally created dynasties. It's not fair to the kids that just love their sport but aren't planning on taking it to the next level. It's not fair to take away a system that has treated all schools equally in favor of one that supports inequality. And it's certainly not fair to destroy competitive parity because a handful of good athletes have a problem with their coaches or schools.

I've tried to keep my thoughts organized and to the point but I could certainly highlight many more problems and consequences that I foresee stemming from Rule R277-409. I would be happy to do so if you would like. I am asking you as my representative to oppose and work toward changing Rule R277-409 in favor of the system governed by the UHSAA. They have always dealt with me and my teams fairly and I feel like their transfer process gives due process to all students and teams involved.

I do appreciate the work that the state school board does for the students of Utah. Education is always a hot issue in our state and the board is right on cutting edge of that issue. I would just urge you to keep your focus on the immense task of improving the academic lives of our students and let the extracurricular activities continue to be handled by the UHSAA. Thank you for your time and consideration on this matter.

Sincerely,
Eric Arthur

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-Eric Arthur
West Jordan High School
Math Teacher/Soccer Coach
801-256-5600 ext. 6616

From: Robyn Luke [mailto:robyn.luke@jordandistrict.org]
Sent: Friday, January 20, 2017 9:20 AM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject: Policy

I would like to go record as opposing an "open transfer" policy outlined in R277-409. I believe it will have negative consequences for schools athletically and academically.

Robyn Luke
West Jordan High School employee.

From: Mike May [mailto:mmay@alpinedistrict.org]
Sent: Friday, January 20, 2017 8:50 AM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject: Transfer Rule Appeal

To whom it may concern,

I would like to express my full support to the UHSAA and their efforts in requesting the repeal of rule (R277-409). I have been involved in athletics as a participant, parent, coach (28 years), teacher and administrator. As an assistant principal over athletics at Orem High School for two years and Lone Peak High School for three years, I have about seen it all in regards to transfers. It is my opinion that the current transfer rule will only hurt attempts to help student-athletes achieve academic success as well as maintain as level a playing field as possible in interscholastic competition.

I have had the opportunity to attend the public meetings and hearings at the SBE in regards to this issue. It is very disappointing to me that there has been such disregard for the UHSAA and their governing board which represents 99% of all schools in the state of Utah. These individuals that lead the UHSAA have a great depth of experience and insight on the inner workings of high school athletics and activities. Their advice, counsel and recommendations have appeared to have fallen on deaf ears in regards to what is truly best for our student-athletes.

Please repeal this rule and please exercise a higher level of trust in the UHSAA. They truly have the best interest of our student-athletes, parents, coaches, administrators and communities as top priority.

Respectfully,
Michael May
ASD Athletic Director/Facility Rental & Driver Education Coordinator
801-610-8484
801-850-3778 (Cell)

From: Morgan Nelson [mailto:Morgan.Nelson@domo.com]
Sent: Thursday, January 19, 2017 11:00 PM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject: It was a bad decision - repeal

High School Athletics are intended to augment a students academic pursuits. R277-409 puts student athletes at risk of shopping programs and losing out on community, pride, and academic stability.

If you really want to make a positive impact in Utah High School athletics and provide the student athletes with enhanced support, skill development, and athletic and academic satisfaction – INCREASE the amount of money Coaches can be paid and loosen the off-season limitations the coaches a shackled with.

In communities where there are supportive Club programs that work in concert with the High School coaches, programs flourish and student athletes are content and satisfied. It's when there are no off-season programs that they are exposed to other clubs and other school programs that are lacking for the afore-mentioned reasons.

Also – push for a shot clock in High School basketball – the Utah Stall Ball is tiring and is the main reason communitiesdon't go to the games – they are BORING.

—

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January 20, 2017

Utah State Board of Education
250 East 500 South
Salt Lake City, UT

RE: State Board Rule 277-409

Dear State Board Members,

First I have to say I was disappointed in the way that last night's public hearing was carried out. To announce on Tuesday that you would have the hearing on Thursday seems rushed and not really sincere in making it possible for people to rearrange their schedules and be heard on this rule that has such adverse impacts to so many students throughout the state. I was further disappointed to see that some state board members, who had pushed this rule so hard, did not attend the hearing. Even more so, I was disappointed that those who came to speak, were cut short at only 2 minutes and then the hearing ended 45 minutes prior to the allowed time. All of this sends the message that the state board was not really interested in hearing from the public.

Given the shortened time allowed to speak, I am providing written comments so that I have the opportunity to place my full comments on the record.

You have heard a significant amount of unified opposition to Rule 277-409 from UHSAA, individual school districts, individual schools, sports coaches and individuals. This opposition is almost completely focused on letting you know the serious negative impact that this rule has on individual student athletes throughout the state.

It is clear from my observations, discussions with state board members, media reports and the timing and process involved with this rule, that the rule was targeted against and desires to control the Utah High School Activities Association. It appears that the state board was willing to impact student athletes with this rule.

I recognize that the state board has general control over public schools and not specifically over UHSAA so this rule is written to prevent schools and therefore students from participation in any interscholastic activities governed by an association that does not submit to the control of the state board.

You have heard from those opposed to the state board's intentional consequences of this rule. I join with those in opposition. However, I wish to also share my concern about the un-intended consequences of this rule. I say that because I have not heard or seen any indication that the state board members intended to impact music students, theater students, speech and debate students, dance students or the special needs students involved in unified sports. All of these students participate in activities that are part of the UHSAA. All are directly in the line of fire. Shame on all state board members who voted in favor of this rule without even noticing that the special needs students are being impacted. And greater shame on any who noticed and voted in favor anyway.

The state board rule must be enforced by the state uniformly and without preference towards any individual group. The rule does not create exceptions to allow certain programs to continue operating without these impacts. Further, since it is written generally and does not specifically limit its applicability to those activities sanctioned by the UHSAA, it affects all associations and all interscholastic activities throughout the state.

The rule states the following:

> Association means an organization that governs or regulates a student's participation in an interscholastic activity.
>
> Interscholastic activity means an activity within the state in which the students that participate represent a school in the activity.

There are many thousands of interscholastic activities governed by many hundreds of associations meeting the definitions of this rule. The rule does not specify elementary, middle school or high school activities. All are included.

I have a daughter who currently represents her school as a cheerleader. Last Saturday we attended a regional cheerleading competition where teams from all over the state came to qualify for the state competition held on January 28th. We are pleased that her team qualified and will be competing for the state 4A title. These cheer competitions are governed by the Universal Cheerleaders Association (UCA), a private national association founded in 1974 to provide high quality educational training for college and high school cheerleaders. This association governs regional, state and national cheer competitions.

There are so many associations like UCA that govern various interscholastic activities. Some others may include Future Farmers of America, Skills USA, Rocky Mountain Band Invitational, etc. I think I could go on and on.

When I shared my concern with the state board member in our area about all of the other associations that may be impacted by State Board rule 277-409, he consulted with the state board attorney and informed me that this rule only prohibits Utah public schools from being a MEMBER of or paying dues to the association.

Really, that is all that we are talking about? Are you telling me that all of the other associations are exempt if they do not grant the schools membership status? They just talk about paying fees instead of "dues".

So if the UHSAA were to remove the schools membership input and just refer to fees instead of dues… they would also be exempt from this rule?

Taking away local school's membership in UHSAA and their local control of the activities would be removing the best quality of the UHSAA. It is all about Local Control. The UHSAA is an association created by the local schools so that they could self-govern the activities and look after the interests of all students.

But, actually that is not how the rule is written. The rule is full of ambiguity in the way it is written. Section R277-409-3 (1) is the only part of the entire rule that governs what a public school may not do. All other parts of this rule are governing associations. The rule is not written in such a way that makes all other parts of the rule subservient to Section R277-409-3 (1). This rule is written such that it identifies all kinds of rules about associations, regardless of member status.

I can assure you that the national cheer association has no intention of permitting the state board to audit its financial statements and will not submit to the open and public meetings act and will not submit to the government Records Access and Management Act. Further the cheer teams have no intention of denying eligibility to any student when the team starts practicing for the new school year in June based on the fact that a transferring cheerleader participated at her prior school up through May.

We have regularly and recently been impacted in this state by rules and executive orders issued by the federal government. While our state works hard to do what is best for the people in the state, we are often most upset when the federal government oversteps its place and dictates rules on the people in Utah.

One recent executive order was the declaration of the Bears Ears National Monument. Utah has long desired appropriate protections for its wonderful public lands but is unable to initiate these protections because the lands are federally mis-managed. But when the Feds step in and declare over a million acres as a national monument in the month prior to the end of the president's term, the outrage over process and broad unintended consequences is louder than the efforts to protect the actual historic sites.

When the state board rushes to pass a rule with far reaching impacts to students across the whole state, without accommodating a unified opposition from almost every school in the state, and does so in the month prior to the end of the state board's term of office, the outrage from families, students and schools is louder than the efforts to provide fair completion and wonderful interscholastic activities.

Please repeal rule R277-409. Let the local schools govern themselves and the interscholastic activities. Please find a state board member who believes in all students and appreciates the value of all the interschool activities that we have here and send him or her to participate in the Utah High School Activities Association. The UHSAA will work collaboratively with the state board to resolve concerns and adjust its rules and bylaws for the betterment of all students in our state.

Scott Carlson
2264 North 1450 East
Lehi UT 84043

From: Doral Vance [mailto:dloarlv1@gmail.com]
Sent: Friday, January 20, 2017 1:42 PM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject: transfer rule

I urge the Board to repeal the new transfer rule. My children attended a west side school which suffered even under the existing rule. This new rule will make it even more difficult to be competitive. It will result in the strong getting stronger until all you have is a few elite schools. I urge you to listen to the parents and especially the schools, coaches, and administrators that are in the trenches and repeal the new rule. Let's level the playing field. Let's restore pride to all our schools.

Thank you
Doral Vance

From: Barbara Brower [mailto:bbbrower@gmail.com]
Sent: Friday, January 20, 2017 2:19 PM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject: Reconsider R277-409 and Repeal it.

Please reconsider R277-409 and repeal it. The Board has spent too much time and effort on this issue. It is an issue with which the Board should not be dealing. This rule should never have been passed.

The Utah State Board of Education is over reaching into local school issues in this instance to placate Board Members and Legislators associated with Charter schools that have their own personal agendas. They are not working for the good of Utah Students collectively. UHSAA was formed by individual member schools throughout Utah to govern sporting and other activities and to ensure extra-curricular activities are fair and competitive. UHSAA is local control. Individual schools control UHSAA and the Board should drop this issue and allow local control to continue.

It seems that the proponents of the rules R277-409 & R277-409-1 had an ax to grind with UHSAA possibly because they were sanctioned for recruiting violations. I hope that is not true but, regardless, it appears they misused their positions as USBOE members to promote personal agendas pushing to control local schools and making recruiting and athlete transfers easier for institutions with which they are closely related. That is not the appropriate way to make public policy.

Please weigh the public input received at meetings and act in the best interest of the whole instead of a select few. Vote for local control. Vote to repeal R277-409.

From: smacdonald@beaverhospital.net [mailto:smacdonald@beaverhospital.net]
Sent: Friday, January 20, 2017 3:23 PM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject: comments on R277-409

Simply put:
Take the transfer option out!!!

Shame on whoever slipped in the transfer rule just like Washington pork barrel politicians
Only one school wanted it to pass-Summit Academy
The umbrella of safety is good for everyone. The transfer portion hurts everyone.

Let's use common sense.

Scott Macdonald
Volunteer Track and Field Coach
Beaver High School
CIO, compliance Officer
Beaver/Milford Hospitals

From: Matt Jacobs [mailto:matt@praedo.com]
Sent: Friday, January 20, 2017 3:48 PM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject: Transfer Rule Change - R277-409

Rule R277-409 makes zero sense to me. I add my voice to the overwhelming majority of people who the rule affects directly and ask you to pull the plug on the change.

I love high school sports. I have been heavily involved in high school sports as a student and as a coach. My experience tells me loosening the eligibility restrictions will do far more harm than good. The Rule should never been passed. I firmly believe the Rule will ruin high school sports. Do the smart thing. Do the right thing. Reverse the Rule.

MATT JACOBS

From: LAURA HORNE <BL1214@msn.com>
Sent: Friday, January 20, 2017 9:23:24 PM
To: Board Rule Comments
Subject: Transfer rule

I just have 1 question that I have not heard being discussed. Why in the world are we allowing a 'Charter' school with a very small enrollment dictate public education issues? Please someone explain this to me? Mr. Stokes shame on you for not showing up at the meeting Thursday and you are the one that stated and I quote " I ran for this office for 2 reasons, to bring down Brad Smith check that off and to bring down the activities association." Really and to think you would not even show up to defend your actions we call those type 'cowards' and you fit the definition perfectly. I am guessing Stokes was cut from every team that he tried out for and this is his vendetta against people that he does not even know.
SHAME ON YOU Mr. EGO and I can only hope as a 27 year veteran in coaching and education that the State Board of Education will not want to tackle this heated topic and that they will also 'take you down'.
Listen to the people in the 'trenches' as was said on Thursday. This sounds a little like Obama and his socialistic attitude
Thank you for your time,
Ben Horne

From: Gary & Nancy Mecham <gn_mecham@yahoo.com>
Sent: Saturday, January 21, 2017 9:47:32 AM
To: Board Rule Comments
Subject: New rule

What this creates in my opinion is a college environment of recruiting. If two or three real good athletes move into a school to because they like the coach or want to play together they displace two or three athletes that would have made the team otherwise. You've heard all the arguments I would just echo the athletic director who ask the question "Why are you not listening to the people in the trenches?
One last comment is that parents with athletes (talented) would support the new rule so they can send their child to the school they choose. An example that I see would be a school like Clearfield who struggles because of so many students who move a lot vs Syracuse which has a more stable student environment. Your good athletes will migrate to Syracuse.
Thanks for letting me express my opinion.
Gary Mecham

From: Heidi Galbraith <heidigalbraith1@yahoo.com>
Sent: Saturday, January 21, 2017 3:20:53 PM
To: Board Rule Comments
Subject: New transfer rule for high school sports

This is such a crazy rule! This will kill finding coaches for those schools who will be labeled the bad schools for certain sports. I have been a coach for both volleyball and basketball in high school and this will create such an imbalance. It will create such an uneven playing field and will kill athletic programs for a lot of schools. Please repeal this rule.
Thanks,
Heidi Galbraith

Sent from my iPhone

From: Jeannie Smith <jeannieteach@gmail.com>
Sent: Sunday, January 22, 2017 1:26:07 PM
To: Board Rule Comments
Subject: NEW TRANSFER RULE

As a parent of a son who had natural athletic ability and the tenacity to practice and work hard at a chosen sport, we always told him to dream and work hard and you will succeed. When he was a sophomore at one of the biggest high schools, we were faced with the reality of a deep bench and parental political clout. It was clear that he was only going to be a bench warmer. He became depressed, discouraged, and self- doubting. So we made the decision to move. In his junior year, he was a starter on his new team and played in two state championship games. That experience taught him that he always had options. Later as an adult, he had the courage to leave a mundane, no-where job and take the risk of opening his own eventually successful business. I often wonder how many parents do not have the luxury of moving because of economics to give their children the advantage we gave ours. Now we have administrators and coaches complaining about the new rule change of the UHSAA. What they are saying is "too bad, kid, accept the status quo and settle for less," because it will cause us too much trouble. Who are more important—our children or coaches and administrators?

From: Dan LaPray <dslapray@gmail.com>
Sent: Sunday, January 22, 2017 11:59:36 PM
To: Board Rule Comments
Subject: It Should Be About the Players

I understand this is a complicated issue. Here's what happened to me as a student in Idaho, in 1990.

Coaches are not always the sharpest tools in the shed, and have their own agendas, unfortunately.

My brother played varsity basketball as a Sophomore. He was 9 years older than me. He was a great player. He wanted to come to a practice late one day with another player, who both wanted to attend baptisms for the dead. The coach was an inactive member, and told them if they chose to go they would be kicked off the team. They went, and told the coach that they quit. That was it.

When it came time for me to play, the coach was still there. In fact he was in my ward boundaries, and I was friends with his son, who was just younger than me. He agreed to coach our varsity scout team and we were really good. His son and I were the stars; we dominated.

The next year, tryouts came and I was a Junior. I was a clear standout on the court. On the last day, he called me in to his office, and told me that I did a great job, and then said that it wasn't going to work out. I didn't make the team.

It seems he still held a grudge. Now, he wouldn't admit that it was that scenario with my brother, but there is no way that it was because I wasn't good enough. I was left without an option.

Players shouldn't be punished because of imperfect coaches idiocy. There are many other scenarios that exist like this where coaches hold players fate in their hands, and choose to put a player on the team because they are friends with someone's dad, or because a "donation" comes in that helps the school get new bleachers... a real situation like this happened recently here in Utah. A very good volleyball player was cut from the team, and a girl who had a dad with deep pockets, and her friend were put on the team instead.

It's a shame to leave kids without options because of stupid politics with coaches and administrators. Are you talking about this kind of corruption, too? At least players that go to play at other schools are getting the opportunity to develop their skills, and are opening up spots on teams that can find the best talent to take that students place.

This is a real problem, that the best players are not the ones put on the team.... Just want to be sure that your looking at all the angels.

Best of luck.

From: Robert Steele [mailto:rsteele@alpinedistrict.org]
Sent: Monday, January 23, 2017 10:29 AM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject:

The Great State of Utah has always been a front runner in policy and rules that give all students equal ground in the competitive world in which they live. There is competition for jobs, for grades, for college acceptance, etc.. If you allow this bill to pass you will be starting to set an unfair playing field for an already very competitive, but fair, area of athletics. By allowing "free" and unrestricted transfer of students you will bring in recruiting and possible unethical program all to be "the best" not worrying or caring for "all" students. Only the most gifted will get the shot to be Champion. I would strongly recommend that you look at all the students in the State and make rules and policy for the majority not just the gifted. Thank You for your time and consideration.

Robert Steele
175 south 400 east
Orem UT 84058

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My email has changed to rsteele@alpinedistrict.org

From: mattnorman <mattnorman@alpinedistrict.org>
Sent: Monday, January 23, 2017 11:30 AM
To: Board Rule Comments
Subject: R277-409

To Whom it May Concern:

I would like to express my opposition to R277-409 which makes it easier for student/athletes to transfer to a different school for athletic purposes. This rule is bad in many ways. I will paste the email that I sent to all state board member after the first public hearing. It was obvious that certain member of the board had a conflict of interest as it related to their desire to change the rule. Specifically, Mr. Crandall who is employed by Summit Academy. I hope the new state board will do the right thing and repeal this rule.

Members of the Utah State Board of Education,

First I want to thank you for working diligently to serve all public education students in Utah. I must admit I'm not very familiar with your role as board members, despite my twenty years as a public school employee in Alpine School District. I attended the first board sub-committee meeting in Salt Lake City several weeks ago to listen to the discussion and proposed changes to the UHSAA transfer rule and policy. The vast majority (all but one) of the packed house was opposed to the proposed changes to the transfer rule that Spencer Stokes and David Crandall authored. The crowd consisted of superintendents, principals, teachers, counselors, coaches and parents with valuable experience in public education. Despite the pleas, in opposition, from all that spoke, it seemed the sub-committee, especially Mr. Stokes & Crandall disregarded these pleas and demonstrated their desire to get their way. I was saddened by the board members lack of knowledge relative to the high school athletic transfer rule. After all, this group was wanting to make significant changes to policy that they knew very little about and the problems that the proposed changes would/will create. However, even with a very limited understanding of the transfer rule they still pushed forward and pushed aside the recommendation from UHSAA.

As members of the board of education in the state of Utah, I hope you will consider the detrimental effects your proposed changes will create since it provides loopholes to the transfer policy. I believe the transfer rule should actually be tightened not loosened and know that most of those in the trenches of public education feel the same way.

UHSAA is represented by all member schools and all of us have a part in making changes to policy. Unlike the sub-committee that wants to make changes quickly to avoid more opposition.

Most of the coaches I work with at Pleasant Grove High school will resign if these proposed changes are ratified.

Sincerely,

Matt Norman
Assistant Principal
PGHS

From: Lisa <sjznharris@hotmail.com>
Sent: Monday, January 23, 2017 11:40:43 AM
To: Board Rule Comments
Subject: against transfering rule

As the head coach of swimming at Pleasant Grove High School I am opposed to the new rule of allowing students to transfer to any school they have not played Varsity at. High school is a time to develop academic, social, and sports skills. I believe this transfer rule would hinder this process. Thank You

Lisa Harris
Pleasant Grove Vikings Swim Coach

From: Cindy Davis [mailto:cindycamellia@gmail.com]
Sent: Monday, January 23, 2017 1:29 PM
To: Board Rule Comments <rule.comments@schools.utah.gov>
Subject: Rule 2277-409

Dear Review Committee,

Please repeal Board Rule 2277-409. Aside from creating "super teams" and displacing students in local schools on teams with transplants, I think the process of this new rule has been wrong. Perhaps there is a technical "right" of USBE to oversee UHSAA. However, the process has seemed heavy handed.

I heard Board Member, Linda Hansen say that even if there was a technical right, it didn't make the process right. She asked, "Is this how we treat those that we are supposed to be partnering with?" I appreciated her insight and would answer, that it is not the way that things should progress.

It is rare that public input is so unanimous on an issue. This new rule opens the door to greater recruiting and less focus on academics. Please reconsider and keep control at its more local level with the UHSAA.

Thank you for the time that you take to study issues important to all of our children. I appreciate your service.

Cindy Davis
Parent

From: Darrin Jenson [mailto:djenson@utah.gov]

Sent: Monday, January 23, 2017 1:58 PM

To: Board Rule Comments <rule.comments@schools.utah.gov>

Subject: Comments on Rule (R277-409)

The rule clearly favors Charter & Private Schools at the expense of Rural Utah Public schools. That has been the source of contention for several years between the Private or Charter Schools and the Rural Schools. The rule basically opens the door for more recruiting. It creates an unfair competitive advantage for those schools. Look no further than what Wasatch Academy has become. A few year ago they were a 1A school, now they are the number 1 ranked team in the entire state of Utah. They chose to take the shackles of the old rules off and become independent. At least 3 players from when they completed 2A are major contributors for their college programs this year. Cody John a starter at Weber State, Koby McEwen a starter at Utah State. Geno Luzcando a starter at Idaho State. Those are the three I know of, without doing any research. Other's may also be on college rosters. They were competing 2A. This clearly was not a fair and competitive situation for rural schools who for the most part are limited to the kids who live in their boundaries. Rural Schools were and are understandably upset by the lack of fairness. Just like Wasatch Academy, other Private and Charter Schools have that advantage, sure Wasatch Academy brought in international players because they are a boarder school. Not all Private and Charter Schools have that advantage, but they do have an advantage of luring in kids from a far bigger population base. Here are some selling points. Let's be honest and upfront.Summit Academy is a huge part of this discussion. Look at their schedule this year. 3 California teams, 2 teams from Canada & a team from San Marino. Meaning they are attracting kids to their program based on their schedule alone. Their is not one rural school that can even afford a schedule like that. It is not just the kids that get cut from their 5A teams choosing to attend Summit Academy, and it is not just the kids that are attracted to the school because of academics. They have found a recruiting tool and they are using it. Some of the parents, I assume the same ones that contacted the Deseret News in favor of keeping the rule want more of an advantage. Summit Academy is 2A. Last year there was a huge issue at the state tournament in Richfield involving Emery fans and Summit Academy players, even involving racial slurs and a ton of news coverage. It is not just that Rural Utahns are a bunch of racist. They are sick of the competitive advantages of the Private and Charter Schools. I do not condone that behavior, but I see why they are frustrated. Sure people can say practice harder, but the bottom line is the Private and Charter Schools can bring in better athletes and still win. And that is just unfair. The main driver of this whole situation is not educational for either side of the argument. It is being used, but the main driver of the this whole situation on both sides is athletics. The Summit Academy Coach spoke up advocating that the State Tournament should not be

in the rural area's because he never has any problems like this except when they are in the rural areas. If they are 2A or 3a, they are going to play rural teams. Rural teams and fans are going to be just a frustrated playing them in Orem as they would be in Richfield. It is not a valid argument at all. The most logical solution is for the teams not to play each other. Which would mean they cannot be in the same classification. I do have a suggestion.

Private schools should compete in their own league, unless they are willing to compete in a league based on the population of where the school is located. I understand the Wasatch Academy problem would have still existed. North Sanpete was 3A and that Wasatch Academy team would have dominated that classification. Their recruiting pool was the world. Private Schools willing to compete in the classification that matches their area population can be included in the 1A- 6A classifications. With this idea, you could likely go back to 5 classifications and a private school classification. This solves a ton of issues. The 1A not very competitive private schools can stop being blown out by competitive public schools. The Private schools that want to compete at a higher level can without venturing out into Rural Utah, which they really don't like to do anyway, but they do like that they are winning. Some smaller 2A teams can be moved back into 1A, Some smaller 3A teams can be moved back into 2A. Some smaller 4A teams move back to 3A. It actually would create a more fair situation for all. The Private and Charter Schools could then dictate who was " recruiting" too much and ask those schools to go compete in the public classification.It puts responsibility back on the Private and Charter Schools to be fair. There is no sense in allowing this rule to stay in place and there is no sense in allowing the riff between the Private and Rural schools to continue. To make it fair any other way would almost be impossible, and would involve a ton of rules which would be a nightmare to enforce. Many Private or Charter Schools are not abusing the system, but some are. The temptation is there, because is can be done with the current and old rules. This is not discrimination at any level. It offers Private and Charter Schools options, The only change is that the population of the student body is not the determining factor of who to include in a classification for private schools, because that is not a true indicator of competitive balance. And it is more cost effective. Travel will be reduced for the majority of Private and Charter Schools.Please see through why these abusing schools want to remain in lower classification.

Darrin Jenson 435-893-1706

From: William Bruce [mailto:WBruce@tooeleschools.org]

Sent: Tuesday, January 24, 2017 8:16 AM

To: Board Rule Comments <rule.comments@schools.utah.gov>

Subject: transfer

How can a group of people get together and use the word varsity and not have a definition for this word. Our association has worked well for years and promoted a level playing ground. This group would have us destroy this concept for the benefit of a few. Has there even been a thought given to how this would affect the academic progress of a student changing school several times for athletic reasons?

-----Original Message-----

From: Shirl Briggs [mailto:sjbriggs@q.com]

Sent: Tuesday, January 24, 2017 9:35 AM

To: Board Rule Comments <rule.comments@schools.utah.gov>

Subject: Open Transfer Rule 277-409

Utah State School Board Members:

This email is to voice our opposition to the ill-conceived Transfer Rule 277-409. Our hope is that with the new board members, you'll take the time to listen to your constituents and eliminate this rule which will only create chaos within the communities you are supposed to serve. It's obvious this boondoggle was conceived by the previous board president, who also sits on the board of Summit Academy and had a personal and vested interest in its passing (which may well have been a conflict of interest). As has been reported by the news media, the majority of people living in Utah DO NOT want this rule and want school transfer authority left to local jurisdictions. Governor Herbert has also spoken out and is opposed to this rule. I hope you'll do the right thing and remove it before it can do irreparable damage to our local schools. There are a number of educational needs within our state that the board should address; this certainly isn't one of them.

Thank you,

Shirl and Sharon Briggs

10698 S. 3210 W.

South Jordan, UT

801-253-9856

January 23, 2017

To: Lisa Cummins

From: Gary and Deanne Curtis

Subject: R-277-409

Dear Lisa:

My wife and I have been associated with high school athletics for 50 plus years. My wife worked in 3 different high school and retired with 30 years of service. I played high school football, basketball and baseball. I considered myself to be very competitive and wanted to win every game, unfortunately that was not the case, but my high school experience was a good one and I gained many life lessons from it.

My wife and I are concerned about the future of high school athletics due to this recent proposal, allowing a student athletic to play football at school "A" then transfer to school "B" and play basketball, then transfer a third time to school "C" and play baseball, tennis, wrestling, softball or track and field seems to be very unfair.

This will allow students and parents to shop around to find the best high school athletic program for their student/athlete. Is this in the best interest of the student, the coaches or the schools? That is the most important questions. How important is it to actually attend several different schools within a single school year just for athletics. Athletics is supposed to be a companion to the whole high school experience not the reason for high school.

We think the State School Board should take into consideration the student/athletes that want to play high school athletics in the school within the boundaries of their home. What happens when two student athletes decide they want to play at another school outside of their boundaries because they think that school has a winning program and they want to win a championship or receive a scholarship to a college or university? What happens to the two students who live in that boundary school who think they will make a particular team and are cut from that team because of the two students who transferred? Then will these two students decide they want to transfer to a school where they think they can participate. What happens if a student/athlete transfers to the high school of their choice thinking they will make the team and they are cut? What happens if you have an exceptional student/athlete that beings playing as a freshman, this student/athlete could conceivably transfer 3 times as a freshman, 3 times as a sophomore, 3 times as a junior and 3 times as a senior? That would be a total of 12 transfers during his or her high school experience. Yes we understand that may be an unusual circumstance but it could and will happen. This type of thinking will just open a Pandora's Box.

School choice is already in place in all districts for students to pick what school they want to go to. We do not feel that it is necessary or in the best interest of the schools, coaches, teachers, parents or students to make athletics so disruptive. As it is now we all know some high schools have built exceptional programs and this type of transfer will add to that. In some regions the playing field is not equal. This is still high school and the experience of playing sports should be for the fun experience of being on a team and working hard for a common goal.

Let's consider the education of student/athletes. Will their education suffer because they are transferring 3 or 4 times each year? Will the student/athlete suffer academically because of these transfers? Withdrawing and enrolling in different schools 3 or 4 times each year could have an impact on academics. Let alone the impact it will have on the office staff at each of the school to facilitate the withdrawals and enrollments. After all what are we promoting?

Please consider wisely the reasoning behind this idea. Is it for the best interest of the student/athlete, the school, coach or the parent? We hope a great deal of study and research will go into this matter before a decisions is made.

Thank you for your time and consideration on this matter.

Gary and Deanne Curtis
1179 W. 13200 S.
Riverton, Utah
84065

-----Original Message-----

From: Tommy T. Maras [mailto:tommy@maras.com]

Sent: Wednesday, January 25, 2017 10:20 AM

To: Board Rule Comments <rule.comments@schools.utah.gov>

Subject: Strongly against the new trasfer rules, R277-409

Utah Board of Education-

I would like to express in the strongest terms possible my opposition of the new transfer rule. There is not a single fact that proves this is good for the students in any way. The only thing this is good for is the career of coaches who are trying to build a stronger program by recruiting students from other schools. There are several ways this is bad for the student and the community. First of all, when students change schools they need time to assimilate. In the mean time their school work will slip, their grades will slip and they will be dealing with stress while being accepted into a new social environment. It also hurts the community. If quality players are leaving a program, the community won't have the desire to come and support that team which will hurt the program and the remaining students. That would make it difficult for the program to attract and keep quality coaches, which also hurts the students. A better plan is to play where you live, period. That would build school and community pride and would bring both the community and school together to create a stronger school for that community. The community would then will turn out at a higher rate to support the school, which creates a better environment for all students, which also benefits the community. It's a positive, never ending cycle.

High school sports shouldn't be about winning. It should be about creating character in the students. It should be about creating self esteem in the athletes. It should be about creating school and community pride. It should be about learning what team work is all about. It should be about learning how to win and how to lose. It should be about realizing that you can always push yourself a little harder and do what you didn't think was physically possible. It should be about making the student a better adult. If that is what high school sports are all about then it's more than clear overturning this rule is the only option.

If this rule is allowed to remain several schools with struggling programs could very well see their programs continue to struggle, and possibly fail. It isn't fair for athletes in

some districts to not have access to some of the smaller, less popular sports because for years prior all the interested athletes were forced to change schools to play a sport because for years prior to that the more talented athletes were recruited to ‘better’ schools.

As a parent of a student athlete I strongly urge the board to do the right thing and over turn the new transfer rule and protect the integrity of high school sports in the state.

Regards,

Tommy T. Maras

From: Dean Oborn <doborn@gmail.com>

Sent: Wednesday, January 25, 2017 11:58:53 AM

To: Board Rule Comments

Subject: R. 277-409

It is my opinion R. 277-409 is going beyond the limits needed by the USOE to oversee the UHSAA. The UHSAA BY-LAWS govern the the issues addressed in the new Rule and are already being taking care of. I believe that a few members of the USOE (the Board) could see a way to benefit their own schools and make recruiting athletes easier. The new rule will make "stacking" a team with athletes much easier while making it harder for another team to stay competitive in their region or state competitions. I know the Association is willing to work with the Board to improve the application of the BY-LAWS. I hope you will consider another attempt at talking without a set agenda, before the meetings even begin.

I have been a coach, athletic director, principal, school board member, and a member of the BOT. I haven't always agreed with the decisions that were made but I know the current system works, and will continue to work, if we just look at how to improve it's application.

From: Cooper, Jaren [mailto:jcooper@murrayschools.org]

Sent: Tuesday, January 24, 2017 10:44 PM

To: Austin, Lorraine <lorraine.austin@schools.utah.gov>

Cc: Johnson, Belinda <bjohnson@murrayschools.org>

Subject: Proposed Rule Change R277-409

Hi,

As a member of the Murray City School Board, I would like to express my concern with the proposed rule change R277-409. While I understand what the intended consequences of what this rule wants to create. I feel that the unintended consequences will far out way what this rule change is suppose to support.

Our current process within the UHSAA is able to adequately handle the variety of issues that can arise with a students need to transfer. All while helping to monitor and limit inappropriate requests which my unfairly help or handicap various school programs and athletics. As I understand it, the appeals process is not overly cumbersome and in most cases, has granted the requested transfer. Which would indicate to me that the current process meets the needs of the students, schools and various programs or sports.

I believe that the vast majority of schools are in support of keeping the current process as it has worked well in the past and we see no reason why it wouldn't continue to work in the future.

Again, I would ask you to please consider not making this rule change.

Thank you for your time,

Jaren Cooper

MCSB Member

From: Robert Smith [mailto:bostagg@gmail.com]

Sent: Tuesday, January 24, 2017 3:50 PM

To: Board Rule Comments <rule.comments@schools.utah.gov>

Subject: NEW TRANSFER RULE

For years, middle class and upper middle class parents have been able to afford to move in order for their student athletes to have the opportunities to play chosen sports. They have also been able to afford personal trainers and special sport camps for their students. Finally, the new rule has given equal opportunities to lower income students who have never had the luxury of moving. Please do not repeal the new rule. Give all students the same equal opportunities.

From: Bill Sivert [mailto:bill.sivert@uintah.net]

Sent: Friday, January 27, 2017 1:57 PM

To: Board Rule Comments <rule.comments@schools.utah.gov>

Subject: Uintah High School

State Board of Education Members,

As a school, we oppose the current changes to the transfer rule. As the largest rural school in the state, we see it having an adverse effect on our students and their ability to play against equal competition. The reality is that all rural schools would suffer because so many of us are one high school communities and have no way to benefit from the transfer rule the board has pushed on UHSAA. The only transfers we ever have are full family moves since we live too far from the nearest community to ever see any transfers for athletic purposes. Please consider this request and repeal the current Board ruling on transfers.

I also was made aware that the State Board member representing Uintah was under the impression that we were in favor of the changes due to a communication with a Uintah School District Board Member. While one member of the board might favor the rule change, the position of the district is that we are not in favor of it and any inquiries regarding the district's position should be made to Superintendent Mark Dockins mark.dockins@uintah.net and School Board President Kevin Dickson kevin.dickson@uintah.net.

Respectfully,

Bill Sivert

Vice Principal/Athletic Director

Uintah High School

1880 W 500 N, Vernal, UT

(435) 781-3110 Ext. 2607

From: Alan Sparrow <alansparrow@rowlandhall.org>

Sent: Friday, January 27, 2017 3:24:57 PM

To: Board Rule Comments

Cc: Kendra Tomsic

Subject: R277-409

Hello Members of the USBOE,

I am very opposed to R77-409

1. UHSAA has been overseeing Utah high school athletics since 1927 (90 years). Has managed athletics in the State of Utah in an organized, professional, student-centered manner throughout all of those years. UHSAA has been working with the USOE for over 40 years and is happy to continue that congenial relationship.

2. The power of the UHSAA is not held by the Executive Director and 4 Assistant/Associate Directors and their support staff--the Utah High School Activities Association's strength is the fact that

their motto is "You are us, we are you"...the makeup of the UHSAA is such that the Executive Director and Assistant Directors carry out the wishes of the MEMBER SCHOOLS via the association's organizational chart which includes: 1) 20 Regions into which the 125 member schools are each assigned to, each Region having a Region Board of Managers composed of school principals and/or Athletic Directors; 2) an Executive Committee comprised of 1 member from each Region in the state, plus the State Superintendent of Public Instruction; and 3) the Board of Trustees who has the governing authority vested in them to set policy and give direction to the operations of the UHSAA--this Board is comprised of Region Reps (one from each Region), At large Reps, Classification reps (one principal from each of the 5 classifications 1A-5A), an elected Charter school representative, and an elected private school representative, as well as a State Board of Education representative.

The Executive Director and Assistant Directors operate under the direction of the Board of Trustees and have no vote on any issue brought before the Board or the Executive Committee.

3. Three or four public meetings have been held regarding Rule R277-409--a couple prior to its adoption and a couple since its adoption. These meetings have been well

attended by all who have a voice in the UHSAA: not only the Executive Director and Assistant Directors, but always up to 50-60 other vested parties, including Superintendents, Principals, Athletic Directors, Coaches, and parents, folks from public schools, charter schools, and private schools from all parts of the State. In all of these meetings, only ONE person--a parent from Summit Academy--has raised their voice in support of this rule. To a person, every one else has voiced strong opposition to this rule throughout the process, to no avail.

4. We are very concerned about any rule and/or bill that takes local control away from the governing of high school activities. Local control is defined as the UHSAA Board of Trustees made up of local school board members, superintendents and principals, which as a body, currently governs high school activities. The people who have voiced their strong opposition to the rule are those who have been in the "trenches" for many, many years and who understand the ramifications of taking local control of athletics--defined as the UHSAA Board of Trustees made up of local school board members, superintendents and principals which, as a body, currently governs high school activities-- out of the hands of those who live it every day and put it into the hands of a group far removed from the everyday workings of athletics in Utah's high schools .

5. Implementation of Rule R277-409 or passage of any legislation similar to this rule would change the landscape of high school activities in Utah and will tilt the playing field. Education based athletics will become a thing of the past and student-athletes will be in the driver's seat as they change schools at will when even the least bit of adversity arises...what a nightmare will be created if this Rule is allowed to stand in its entirety. Not only will the athletic playing field be tilted, students transferring in and out of schools will impact student population and thus academic programs.

6. Schools throughout out the State strongly oppose this Rule as was confirmed via a survey poll sent out by the UHSAA to all member schools.

The Association agreed to canvass the schools and report their position regarding the currently proposed transfer rule. At the same time, the Association sent ballots asking whether the schools approved of the Board making an attempt to govern high school activities. The results are significant. With regard to the proposed transfer rule, 129 member schools voted against it with 8 voting for it. On the question of Board involvement into and governing extra-curricular activities, the totals were 132 against and 5 in favor.

Both Board actions are so overwhelmingly unpopular with all schools that it calls for re-examination of the proposed rules and the sudden change in the long- standing and excellent relationship between the Association and the Board. The schools are standing and yelling, “Stop!”

The nearly unanimous opposition to the Board's actions is more than enough to cause the Board to table this rule and reconsider its prior action.

7. The language of Rule R277-409 is very vague and ambiguous.

The proposed rules are vague, ambiguous, incomplete, and difficult to enforce. The proposed transfer rule will certainly harm small, rural schools in the 1A, 2A, and 3A classification. It will permit students from larger schools who cannot play varsity to move, immediately to smaller schools and upend any competitive balance.The recruiting rule will hamper the already difficult task of gathering evidence to prove and enforce a recruiting violation

8. The Legislature has directed that matters such As Extra- Curricular activities are to be left to the local districts, not the State Board.

Essentially, what we would all like to happen is that the USBOE repeal the part of Rule R277-409 that has to do with transfers and to leave governance of high school activities in the hands of the Utah High School Activities Association who would be happy to keep lines of communication open with USBOE members regarding any concerns.

Thank you for considering my views on this. They are shared by all at my school and all those educators that I know and work with in schools throughout the state.

Sincerely,

Alan Sparrow

--

Alan Sparrow

Head of School

Rowland Hall

720 Guardsman Way

Salt Lake City, Utah, 84108

801-355-7485

From: Dan Egbert <degbert@qwestoffice.net>

Sent: Friday, January 27, 2017 7:59:28 PM

To: Board Rule Comments

Subject: Transfer rule

Please stay strong in your decision you made in December. This new rule is the only saving grace we have to get my son out of the situation he is in at Riverton High School.

The "good old boy" system has to end an R277-409 is the only chance of that happening. Please, Please, don't give in to outside pressure. Stay firm in your decision and give the new rule a chance.

Thank you

Dr. Dan Egbert

Sent from my iPhone

From: Amber Bonner <albonner07@gmail.com>

Sent: Saturday, January 28, 2017 1:30:16 PM

To: Board Rule Comments

Subject: Repeal R277-409

Dear Members of the USBE:

I would like to ask you to repeal R277-409, which made changes to the Utah High School Activities Association. I believe in local control for our schools. Decisions should be made by those who are as close to the students as possible. The UHSAA is made up of representatives from every district and most schools in the state. My HS principal is a voting member. I would prefer that these principals and representatives make decisions for High School Athletics and Activites, rather than those being under the direction of the USBE. My children participate in the Marching Band and other activities that are currently overseen by the UHSAA and I have been happy with the way those have been managed. I would prefer for the control over decisions affecting these groups to remain with the local school districts and schools.

Please consider repealing R277-409 and turning control of high school activities back to the UHSAA.

Thank you

Amber Bonner

Alpine School District

From: Joshua S. Kanter joshkanter@chicagoadvisory.com
Sent: Sunday, January 29, 2017 11:36:32 AM
To: Board Rule Comments
Subject: R277-409

Ladies & Gentlemen:

I am writing in connection with proposed Rule R277-409 relating to high school athletics. I would like to encourage you to help defeat this rule. As a member of the board of an independent school in Utah, I am writing not only as a constituent but as an advocate for our high school and the many high schools who oppose this Rule.

The UHSAA has been successfully overseeing high school athletics in an organized, professional and student-centered manner for 90 years. Our school has found, and believes, that the UHSAA operates within a governance structure that well represents the member schools' interests. Attendance at public meetings about R277-409 has been overwhelmingly opposed to the Rule. We believe that the UHSAA is the best mechanism for insuring local control of school athletic decisions. This is consistent with the legislature's direction that extra-curricular activities be controlled at the local level and not by the State Board of Education. We are also concerned that passage of the Rule or similar legislation will push our education system from being academic-based to athletics-based in negative ways and to the detriment of preparing our students for their futures.

Polling of schools shows strong opposition to this measure – 129 to 8 in the last question about this particular Rule.

For these and other reasons, I urge you to oppose the passage of Rule R277-409.

Thank you for your consideration.

Sincerely,

Josh Kanter

Joshua S. Kanter
Windy City, Inc.
7090 Union Park Avenue
Suite 460
Midvale, Utah 84047
Direct: 801.947.9981
Mobile: 801.520.0757
Fax: 801.906.7795
josh@chicagoadvisory.com

From: Alexis Smith <lexiksmith211@gmail.com>

Sent: Sunday, January 29, 2017 4:22:05 PM

To: Board Rule Comments

Subject: keep the new rule

Coaches already have way too much influence and power. Players and parents are afraid to say anything about them that might be taken negatively because it could mean less chance of ever playing. I saw that first hand when I was in high school. If a coach didn't like a player or believed the player didn't fit her/his "mold," that player was either cut or never played. On the other hand, if a coach thought a player was great , she/he would start , become team captain, and receive constant praise and extra tutoring. The only choice many players had moving to another school, never playing, or dropping out. Please do not change the new rule. It will only return student participation to the past of "coaches being all powerful" and leave many underprivileged students behind.

From: Shaler Smith <shaler828@gmail.com>

Sent: Sunday, January 29, 2017 7:09:53 PM

To: Board Rule Comments

Subject: New rule change is good

This new rule evens the playing field for student athletes. Many kids already transfer to different schools for a better opportunity using a hardship or moving. Many kids don't have the resources to transfer legally. This is about the kids, not the coaches or the administrators. Kids can transfer to any school they want for academic opportunities and not have to forfeit a year of eligibility. Why should it be any different for athletes? Kids and parents should have the choice. Don't limit a kid's opportunities. Equal opportunity for all.

From: Chet Wall <chetwall40@gmail.com>

Sent: Sunday, January 29, 2017 9:37:13 PM

To: Rasmussen, Benjamin

Subject: Ruler 277-409

I am against letting athletes transfer to any school of their choosing for the purpose of putting together unbeatable sports teams. I am all for school sports. They teach kids many good lessons. But let the schools and the athletes play with the hand they were dealt. We don't need to transfer kids all over to create superstar teams. I think a schools first concern should be education. Sincerely Chet Wall

Sent from my iPad

From: Kendra Tomsic kendratomsic@rowlandhall.org
Sent: Sunday, January 29, 2017 9:51:35 PM
To: Board Rule Comments
Subject: IMPORTANT: Rule R277-409

Dear Members of the Utah State Board of Education,

My name is Kendra Tomsic, and I am currently the Director of Athletics at Rowland Hall-St. Mark's School in Salt Lake City. I have been involved in high school athletics as a coach and administrator for the past 37 years. I am writing to express my major concern about Rule R277-409 that was passed by the Board recently and the ramifications it will have for high school athletics and activities in Utah.

I attended all but one of the USBOE Committee meetings regarding this Rule, one of many from schools from the across the state of Utah who were present at each meeting to voice concerns about the Rule and to offer support to the Utah High School Activities Association (UHSAA). Of the 60 plus people who attended each of these four meetings, only ONE ever spoke FOR the Rule, a disgruntled parent from the school from whom the rule originated when initially proposed to the Board...the remainder of us who collectively have hundreds of years of experience in high school activities/athletics serving as superintendents, principals, athletic directors, and coaches have been and continue to be adamantly opposed to the Rule and for good reason.

In a poll sent out to each member school of the UHSAA, 129 member schools voted against the proposed transfer rule with only 8 voting in favor. When asked about the Utah State Office of Education's intrusion into and governing extra-curricular activities in Utah's high schools, the totals were 132 against and 5 in favor. To anyone looking at these numbers and who has attended the meetings held regarding this Rule, it is obvious that both Board actions are overwhelmingly unpopular with all schools and that the Board would be remiss not to re-visit it and the sudden change in the long-standing and positive relationship between the UHSAA and the USBOE.

It was obvious during all discussions that I attended that the majority of the USBOE Committee members had not spent much time reviewing or studying UHSAA policies, procedures, or composition of the organization, even as it related to the specific proposals that were on the table before them. That fact, in and of itself, warrants further discussion and thorough review before what was passed goes into effect. Further research and conversation with UHSAA representatives is warranted, plain and simple.

It has been apparent from the onset that the overwhelming sentiment of those attending the meetings about this Rule is that the UHSAA--which, by the way is NOT the individual staff members in the office as they simply facilitate the rules and regs proposed and passed by member schools (public, charter and private) who are represented on the Board of Trustees, Executive Committee, and Region Boards of Managers by superintendents, school board members, and principals from schools throughout the state, as well as a voting representative from the State Board of Education--is doing a fantastic job of facilitating high school athletics and activities in our state and has done so since 1927, nearly 90 YEARS! Suddenly, the people closest to the everyday workings of high school athletics and activities are not capable of governing them??

The primary issue that seemed to come forward during these meetings is that there has not been ENOUGH communication between the UHSAA and the USBOE regarding policies and procedures regulating activities/athletics in Utah's high schools, something

that could be easily and readily remedied--at the least the UHSAA representatives are more than happy to open that dialogue and discuss the issues more thoroughly as needed. It would seem from the meetings that I attended early in the process of this Rule proposal, that a couple of State Board members were not open to that very obvious next step and definitely had a personal agenda in getting said Rule passed...that is unacceptable behavior from those who are elected by and serve the public.

It is very concerning to me, my school administration, and all our coaches that Rule R277-409 be allowed to remain in place--there will be chaos not only in the athletic arena across the state, but also in the academic world. The playing field will be tilted beyond repair in our high schools--education based athletics will become a thing of the past and student-athletes will be in the driver's seat as they change schools at will when even the least bit of adversity arises...what a nightmare you will create if you do not review and subsequently repeal the part of this Rule dealing with transfers. The language of this Rule is very ambiguous, vague, open to many interpretations, and will be extremely difficult to enforce. Small schools such as mine (those in 1A, 2A and 3A) will be particularly hard hit by this Rule should it be allowed to go into effect and it will permit students from larger schools who feel they cannot make teams at the 6A, 5A, 4A level to transfer freely and destroy competitive balance in these smaller schools.

You have no idea, frankly, what monster you will be unleashing--and that in and of itself should make you take pause and go back to the drawing board and open up further discussion with the UHSAA who KNOWS athletics and understands the ramifications of these proposals. I believe you can work TOGETHER for a "win-win".

If you do indeed represent the best interests of students and do indeed represent the people of Utah whose children are educated in the public and charter schools you oversee, I implore you to step back and re-evaluate this rule, repeal it, and take control of athletics/activities in our state high schools out of the hands of the USBOE who is far removed from the everyday workings of athletics/activities in our high schools and put it back into a local control situation, namely the UHSAA Board of Trustees made up of local school board members, superintendents, and principals which, as a body, currently oversees/governs high school activities. The nearly unanimous opposition to Rule R277-409 from schools across the state demands your reconsideration of that action.

Thanks for listening.

Kendra K. Tomsic, CAA
Director of Athletics
Rowland Hall-St. Mark's School
kendratomsic@rowlandhall.org
801-924-5946

From: Charlotte Ducos [mailto:cdducos@gmail.com]
Sent: Monday, January 30, 2017 9:30 AM
To: Board Rule Comments rule.comments@schools.utah.gov
Subject: Rule R277-409

Dear State School Board,

I am writing, asking you to repeal Rule R277-409. I am requesting this for the following reasons:

- This rule creates competitive imbalances—students can go to whatever school benefits them, displacing local students in their home schools and creating recruiting scenarios.
- Teaches kids that winning is the only outcome and to jump ship to go get what you want.
- Creates entitlement mentality--I am entitled to win, so I will go where I can get what I am entitled to, and it puts athletics over academics.
- Lends itself to creating super teams at particular schools—it happens already, but this legitimizes it and creates magnet schools, which is not what is best for all schools and students.
- Students are never better academically after having transferred schools. Almost always, it impacts negatively acadmically. And again, this creates a focus on the athletics rather than the academics.
- We want the UHSAA rule back in force. All of those board members oppose this issue. They were bypassed for this rule.
- Most applicants are approved anyway. Only when requests are blatant violations are they turned down anyway. The school that brought this rule into place was actively recruiting but had people in influential positions and were able to get this through. Instead of playing by the rules that everyone else was living by, they changed the rules to allow themselves to recruit. This new rule is bad policy set by a few to benefit themselves. I am asking this Board to right this wrong.

Thank you for your consideration and for taking the time to repeal this new rule and put back into place rules that have been working and which, for most, are considered somewhat flawed but fair. No set of rules will ever be perfect, but if we put fair rules in place that work in most instances, and then use good judgement to grant the exceptions that are needed when they are needed, we will be much better off than we are with this new rule, which is a lose-lose for all except for the entitled athletes, parents, and coaches that will abuse it.

Charlotte Ducos

From: Scott Briggs [mailto:scott.briggs@jordandistrict.org]
Sent: Monday, January 30, 2017 10:27 AM
To: Board Rule Comments rule.comments@schools.utah.gov
Subject: High School Eligibility

To Whom It May Concern,

Not only does this allow for kids to jump from championship sport to to sport from school to school, but it also will create havoc on students graduation progress. As students move from district to district graduation requirements are not all the same, but the school at which they attend their senior year is responsible for making sure the student graduates.

If a student comes from a district that only requires the state minimum of 24 credits, but then they plan on graduating from a district that requires 27 credits the student will be 3 credits deficient, meaning their graduation and possible NCAA eligibility will be impacted.

Onto the NCAA, not all schools have classes that are recognized from the NCAA, and so when push comes to shove parents will be angry at the schools, even though parents and students are told and reminded repeatedly that NCAA eligibility is their own responsibility.

If you allow for this to pass you will be feeding a monster that is already growing out of control. Please reconsider, and look at the overall impact not only to school sizes and athletic programs, but at the educational experience and human growth of our students.

Thanks for your time

Zan Elder
West Jordan High School Counselor

USCA Board member
UACTE Past President and current board member

From: ed askew [mailto:eds700rmk@yahoo.com]
Sent: Monday, January 30, 2017 11:14 AM
To: Board Rule Comments rule.comments@schools.utah.gov
Subject: comments

Dear State School Board,

I would like to give some input to the transfer policy. Because of the way the UHSAA and coaches have been act about this I am afraid to give my name because I have other students still in school. I am a parent who took a child from one side of the salt lake valley school to a school on the other side of the valley for sports. That student was one of the top recruited high school athletes in their sport their junior and senior year. That student was offered over 10 major D1 full college scholarships and had easily three to four times that many more verbal conversations with coaches that said you want to come to my school, call me and I will make it happen.

Let's me first talk about the moving from school to school. We seem to throw this out like it is an easy thing to do and everyone will do it. But what does it really take to do it?

Number one, there must be room for a student at that new school.

Number two, there is no school bus. You as a parent must get up early and in rush hour traffic, drive them, in our case 40 minutes, then drive home or to work. It added 20 minutes to my work commute for a total of 60 minutes. We had to leave our house no later than 6:10 AM. During Nov, Dec, Jan, Feb, snow traffic, add another hour. You now must get them home at the end of the day or they walk to the UTA bus route and wait, pay, ride it to the trax station, wait, ride trax, then wait, ride bus, then walk 1 mile home (2.5 hours one way). We did this for 9th grade and 10th grade until my student was able to drive.

Number three. Picture yourself as a fifteen year old going to your first day of ninth grade leaving all of your friends at your old school, to go to a different junior high school where you know nobody. Yes not one person. Yes there are many conversations with old friends that we will still see each other after school and on weekends but it didn't happen. At the end of the four years not one of the best friends that were coming around the house before still were coming around after. Now you're driving the student Saturdays and Sundays to friends by their new school, oh if there is practice on Saturday morning you could be making two trips up and back, one for practice and one for friends.

Number four, they show up to tryouts and you have other freshman along with sophomores, juniors and seniors who have been on the team for one to three years and they and their parents think they know how everyone fits on the varsity, JV and sophomore teams. Imaging the drama that unfolds when an unknown freshman makes the varsity team. Imagine the drama in the first game when it's time to sub out the starters and the other seniors, juniors and sophomore athletes and their parents in that position expect it to be them or their child and it a freshman. Imaging the drama towards the end of the season when everyone watches that freshman start. The amount of snootiness from a couple of parents and students continued to escalate until

after my student's junior year. The parents were complaining constantly to the coach. The problem is that this other student could have started at a different school but can't transfer without sitting out a year, which would have been the student's junior year. That is the year that the college coaches are making their decisions and offering scholarships. If you are not playing they won't know who you are. Sitting on the bench hoping my student gets hurt is the only option.

You ever asked the UHSAA lawyer how many of his kids he move from school to school to play sports? They don't have a clue what it take to do it. Sports don't end during quarter breaks, to transfer a student in the middle of the term and expect them to get good grades is not going to happen. Doing it three times a year is nothing more than adults making up stuff to try and keep control of something that they shouldn't have in the first place. Basketball tryouts are before the last football state game, how are you going to be at one school preparing for the state payoffs in football and be transferring to another high school and tryout for basketball at the same time. Then the baseball tryouts are before basketball ends. It makes no sense. The truth is it has got to the point that you almost can't do multiple sports when you factor in club sports in the off season along with weight training and college camps.

Let's move to college. You must register to play sports at the NCAA clearing house and submit your grades to them each year in high school and take the correct number of classes to be eligible for playing in college. Those requirements are different than what you need to graduate from high school in Utah. If you're not eligible by the clearing house you can't play, if you can't play they are not going to want you. College coaches' bonuses are determined by number of wins, going to tournaments and athletes grades. My student's coaches all took over a $10,000 hit one year because two athletes GPA fell below a 2.0. If your have bad grades they will not want you because it will hit them in the wallet.

Each college sport has an NCAA limit to the number of scholarships that can be given. The limit for D1 schools is higher than D2 schools and D3 schools can give out no athletic scholarships. Just because you can give out so many scholarships doesn't mean that the school has that many funded scholarships to give. Colleges can split scholarships and give two students a half or three each a third. Here is a link to the limits http://www.scholarshipstats.com/ncaalimits.html. As an example University of Utah has 12 girls on its gymnastics team and by rule can only give out 6.3 scholarships. The only way to get good kids and offer everyone a scholarship is to be able to offer academic scholarships for the other half or other two thirds of a scholarship. So you give them one third athletic scholarship and two thirds academic scholarship. This is why it is as important to be good in the classroom as on the field or court. Another example of why it is not possible for a student to transfer three times a year and keep good grade in the core classes required and be eligible to play at college.

My student was academic all conference all four years and started all four years. My student had a car and a great support system at home. But that isn't the case for many other student. I personally witnessed students on my student's college team who had nothing but a gym bag full of cloths and personnel items when they showed up at college. They stayed all year, all four years because they had no money to get home. They were the first in their families to go to college. When they have six mothers at

college also called coaches and staff checking that they are in class and if they're not in class giving them one on one personal time with the weight coach at 3 AM until they are crying assures that they will be in class. Mandatory study hall for athletes with tutors assures that they will have good grades. Four years of this in college assures a college graduate and a coaches with a bonus. Taking a kid from a low income house, in bad neighborhoods and transforming him to a college graduate with a good paying job not only changes his life but his future wife and kids life for generations. It could also change the life of his brothers and sisters. Why on earth would we want to allow a bunch of people that are more concerned about a trophy to make life long decisions for a student that would affect him and his family for generations? Is a trophy really as important as changing one kids like forever?

I have many concerns as a parent/taxpayer with the whole discussion with the transfer policy. I don't hear anyone saying we need to do this or that because it's best for the student. The conversation is all about how it may make that team win a trophy or be a powerhouse. Do we say that when someone transfers to play in the band or be on the debate team? The parents and students have no representation on the UHSAA board or aren't even a members of the board. No elected official is on the board either answering to the taxpayer. The real question might really be, why is taxpayer funded public education sports being controlled by an association? But what I hear is them telling the state school board who is over public schools that they don't have any control over them. It's like we have created a large monster with a lawyer that has full power and answers to nobody. Taxpayers have been complaining about the transfer policy for years now and they have not changed anything. It seems like five years ago there was some lawmakers going to pass a bill about it, now it's back again and this association still doesn't want to listen and make any changes.

What is best for the student? If a student isn't playing, having drama with teammates or coaches isn't it really in everyone best interest for that student to go somewhere else if they choose. The UHSAA is using the same arguments that they used when the state allowed the open door policy where students were allowed to go to whatever school they wanted to. Here we are years later and high school sports are still fine and none of their prediction came true. They control the lives of students, the student's future. The parents/tax payer have no representation. Are they are putting a trophy in a cabinet at the school ahead of what is best for the students? We have all seen the blindside and back to the future. I think the rules of allowing a transfer if not playing varsity sports is a start in the right direction. I think everyone should be allowed a least one transfer during their high school years. Better yet pull public high school sport from the association and let it be run by the school board. Debate, athletics, band, art, or whatever should have no restrictions. You participate where you are currently attending school provided your grades are good.

From: Stephen Thurgood [mailto:sthurg@gmail.com]
Sent: Monday, January 30, 2017 11:24 AM
To: Board Rule Comments rule.comments@schools.utah.gov
Subject: Rule R277-409

Rule R277-409

I am a high school tennis coach and I am not in favor of this rule change. High school is for getting a good education and for socially adjusting. Jumping schools is not in the best interest academically for a high school student.

I coach at a small school and allowing kids to jump schools is not good for my small teams. I feel also that this rule can give certain schools an competitive advantage. We have had to play Juan Diego for several years and basically they can recruit from anywhere and it has shown in their tennis program. That being said I will support whatever decision is made.

From: mike.savage [mailto:mike.savage@garfk12.org]

Sent: Monday, January 30, 2017 3:13 PM

To: Board Rule Comments <rule.comments@schools.utah.gov>

Subject: R277-408

To whom it may concern,

I appreciate your willingness to reconsider this bill. Like most of my fellow board members across the state I believe the best course of action is to let the UHSAA continue their long history of management over Utah High School activities. Let the USBE focus on helping provide the best education for our students and work together with the UHSAA to resolve any conflicts.

I wouldn't be surprised if there are more elected officials serving on the UHSAA than there are on the USBE. I think both organizations should be able to work together.

Thanks,

Mike Savage

Garfield County School Board

From: D. Craig Parry
Sent: Friday, January 20, 2017 10:40 AM
To: lbelnap@utahonline.org
Subject: USBOE Hearing; USHAA

Good morning Laura,

Thank you for saying hello last night. It was a pleasure to speak with you.

I appreciate the Board taking the time to listen to those concerned with R277-409.

If you or any Board member has a question about the email/handout you received yesterday with line-by-line comments on the Rule, please let me know as I drafted that. I'd be happy to address anything in that document that raises questions or needs clarification.

I would like to submit this as a further comment to the Board as Mr. Rasmussen mentioned last night was allowed until January 31. May I submit through you or do I need to provide to someone else?

Of all that was said last night, I think the most persuasive argument against the rule was stated by Mr. Rasmussen himself when, after noting that procedure requires that speakers alternate between those in favor and those opposed, he said, 'But we don't need to worry about that tonight as there are none in favor.' The reasons for that were stated on the record last night and are in the documents you received and need not be repeated. If one looks at all the interests objectively, the only group that would uniformly benefit from and like this rule are parents of children who want their children to transfer for athletically motivated reasons, parents who are all-too-often willing to lie and mislead, and coaches who are at times complicit in this behavior. That group will unquestionably benefit from this rule. In the long run, no one else will. (As you saw last night, even schools that would likely see a net increase of high-caliber athletes transferring in, like Jordan, spoke against the Rule.)

I understand that there is personal self-interest of some in this Rule, and that there may also be a sense of ownership of the Rule by current/previous Board members that may make it difficult to repeal, but repeal is the right thing the do – Really, the only reasonable thing to do. Amending is not the answer, as you could see from the reaction when Mr. Huntsman suggested last night at the end of the discussion that that was an option.

The reasonable answer, as suggested by Rob, Kristen and others, is for the Board to participate in the UHSAA's process of reviewing and promulgating rules through the Board of Education's representative(s) on the UHSAA Board of Trustees. If the Board truly cares about the well-being of the student athletes, local control, and the interests of the member schools and districts – and not personal agendas – that is clearly the best way to proceed.

Lastly, I have heard it suggested that R277-409 was intentionally left vague to give the Association latitude in its interpretation and application of the Rule. While perhaps well intentioned, as anyone who has been involved in the transfer waiver process and appeals process at the Association knows, vague rules are an unmitigated disaster. Parents, students, and administrators want, need, and deserve clarity with this rule. As Mark said last night, 99% of the transfer wavier applications received by the Association are approved – that is because the current rule is relatively clear and well-understood by the constituents. Parents, students, and administrators know what does and what does not qualify as a waiver exception. And as Utah courts have repeatedly held when this rule has been challenged in court, the clarity and unbiased application of the rule are what make the Association's decisions legitimate and not subject to judicial reversal. With an unclear rule, like R277-409, subject to differing interpretations, the Association will be faced with a flood of complaints, objections, appeals, and judicial challenges, as well as accusations that one student athlete is being treated differently from others. Several years ago, with the input of the entire association membership, the transfer rule was re-written to make it more clear and less subject to subjective interpretation. Eighty percent of the schools surveyed after felt that the new rule (the one in place now) was more clear and fair than the old. To enact a rule that is more vague and ambiguous, like R277-409, would be a dramatic step backwards.

Regards,

Craig Parry

Monday, January 30, 2017

Dear State School Board,

My name is Natalie Meyer. I am the boys' and girls' tennis coach at Brighton High School, the president of the high school girls' tennis state coaches' association, a 27-year math teacher, and a department chair of 18 years. I am writing to you concerning R277-409. The bill in question could seriously damage our high school sports and academic programs.

First, teacher positions(FTE) are based on student numbers taken twice a year. When enrollment goes down, teachers lose their jobs. With the opportunity for students to transfer for sports at any time throughout the year, teachers' jobs are at stake.

The second concern is that of the creation of super teams or the actual loss of programs. Several schools have coaches who are not high school teachers but are comp/club team coaches. They have interaction with players from all over the state on a regular basis. I can see the transfer rule as an opportunity for them to recruit students to the schools that they coach at and take away from the schools with smaller programs. We currently have a few high schools who can barely field a team.

My third concern is the instability of academics if students choose to transfer from school to school. A high school staff gets to know their students and makes decisions on what is best for them. Moving schools creates a lack of community, and a disconnect for a student's well-being.

Another issue is the problem of students who transfer into a program their junior or senior year. I have players that made my team their freshmen year and worked their way up the ranks to play on varsity their senior year. What happens when a senior transfers from another school and gets a spot on the varsity team? What message does that send to kids? I've had students from other sports tryout for my team because they wanted a state ring. They didn't care about the program or what position they played. They just wanted a ring.

Personally, I was shocked by this board's decision to pass the rule regardless of the incredibly overwhelming outcry against it from experienced people in the world of education. Utah High School Activities Association has been in operation since 1927. This organization reaches 149 schools and 87,000 participants in high school activity programs. UHSAA is an organization of people who have been at the grass roots level of high school activity implementation. Several members are coaches, teachers, administrators, athletic directors, etc.

They are highly qualified to make decisions regarding high school activities and always involve coaches' associations to make necessary changes to benefit each sport and program.

I would hope that this board will take into consideration the huge detriment that this rule could have on schools, programs, and students. Please, do not pass this rule.

Sincerely,

Natalie Meyer

From: Rusty Taylor <rusty.taylor@washk12.org>

Sent: Tuesday, January 31, 2017 9:35:02 AM

To: Board Rule Comments

Subject: Repeal R277-409

I am the principal of Desert Hills High Shcool in St. George, Utah. I have concerns about R277-409 and the negative affect it will have on schools and high school athletics.

The recent board rule adopted by the old school board is unmanageable, opens the door to make sports even MORE over-emphasized in schools, and creates greater difficulty in maintaining as even a playing field as we can.

Please, allow our organization, the UHSAA, to manage high school athletics.

Rusty Taylor

Principal, DHHS

"As the faculty and staff of Desert Hills High School, we are committed to..."

1. Making students and student learning the focus of our efforts.

2. Using the Professional Learning Communities framework to improve instruction and student achievement in our classrooms.

3. Providing real-life application of learning standards and life skills required for post-high success.

4. Involving parents in their students' education.

From: k finch [mailto:kfinch@earthlink.net]
Sent: Tuesday, January 31, 2017 10:34 AM
To: Board Rule Comments rule.comments@schools.utah.gov
Subject: Comments Regarding State Board Rule R277-409

Do the fair thing. As so many other states have in effect, do NOT allow student athletes to participate in athletic programs unless they live in that school's boundaries; period. Do NOT allow students to transfer (from any location, or for any reason) and participate in athletics; ever.

If you want to be fair to all student athletes, and have a consistently competitive environment, there is a simple solution. Student athletes should only attend the school in which boundaries they live; period. If a student wants to transfer to participate in some academic, or artistic program at another school, they should not be allowed to participate in athletics; ever.

As long as there is a transfer policy that allows transfer students to participate in athletics at a new school, there will be recruiting. In effect, this type of transfer policy facilitates cheating (recruiting). Remove the ability for an athlete to transfer = eliminate this form of cheating. You are simply rewarding coaches who are good at cheating (recruiting).

If you want to continue with schools recruiting and building programs that dominate the state's athletic record boards, then change nothing. I don't know what athletes, parents, coaches, the State, and the USHAA see as fun and interesting about a few schools building empires and crushing schools that follow recruiting and transfer policies. Why would the State and the UHSAA be a part of such unfair and inconsistent treatment of student athletes?

Another unreasonable part of the current transfer policy is that foreign students are allowed to transfer from a high school in another country and begin participating in athletics with no 12-month wait period. These foreign transfers (non-citizens) displace local student athletes on the team, take away "athletic scholarships", and add to the college-like feel of the current athletic environment.

By eliminating the ability of athletes to transfer, the State and UHSAA will save a lot of money. There will be nothing to monitor, nothing to regulate, little policy to write and re-write, and no athletic transfer appeals. Best of all, championships will be meaningful and everyone will be returned to a fair playing field. Student athletes will know that fairness and equity are an important part of education and athletics. One of the ugliest sides of the current athletic transfer policies is that it creates an environment where students are aware of the cheating (recruiting). Everyone knows cheating is going on today, and the State and the UHSAA are overlooking, and even facilitating, it all. Recruiting, and the athletic transfer policy, are also creating race-segregated teams.

Do the right thing. As so many other states have in effect, do NOT allow student

athletes to participate in athletic programs unless they live in that school's boundaries; period. Do NOT allow students to transfer (from any location, or for any reason) and participate in athletics; ever.

Stop favoring the cheaters, and give all teams/schools/communities the same opportunity to win a state championship.

GORDON LAW GROUP
a full-service law firm

Tuesday, January 31, 2017

From: Tyler Dow
Gordon Law Group, P.C.
345 West 600 South, Ste. 108
Heber City Utah, 84032
(435) 657-0984

To: The Utah State Board of Education
250 E 500 S
Salt Lake City, UT 84111
(801) 538-7500

Regarding: Concerns stemming from efforts to alter the recently enacted rule changes to high school athletic transfers in the state of Utah.

Dear Members of the Utah State Board of Education,

Introduction

If a student in the state of Utah were on a competitive debate team and happened to make the decision, for either personal, academic, hardship-related, or other unusual circumstances, that a different school would offer them the ability to better compete in the activity they love, they would be free to transfer to any school they saw fit. Until recently, if that same person was a student athlete, their path would be significantly more complicated. Thanks to the Utah State Board of Education's (The Board) recent rule changes, families and students are able to make such decision without running into unnecessary roadblocks.

Under rules recently adopted by The Board, if a non-senior student has only played junior-varsity sports and has the desire to transfer to a different school, they are allowed to do so. The old rules placed the controlling power in those personal, academic, hardship-related, or circumstantial decisions in the hands of Utah High School Activities Association (UHSAA). The UHSAA required that students apply for a waiver before making such a transfer.

To combat the overreach of power, the Utah State Board of Education enacted the new rules for the benefit of all students and their families to make decisions that best fit their needs. The current high school transfer rules benefit all students by allowing elected representatives to exercise supervision over the UHSAA and avoid limiting families from making the best decision for their student's success. The Board should reject the UHSSA's attempts to unfairly assert control over familial rights and elected officials oversight.

The Rules

The Utah Constitution, Article X, Section 3, grants the Utah State Board of Education the power to make rules in relation to high schools in the state. It also provides The Board with the power to place limitations on schools with regard to participation in associations with rules or policies that conflict with those of The Board.

Under the new rules, a student who has never played varsity sports would be able to transfer to another school, and be eligible for athletic play without allowing the UHSAA to review whether a student's personal, academic, hardship, or unusual circumstances are sufficient to grant them the ability to do so. The formal language is as follows; "[a]n association may not prohibit a student from participating in an interscholastic activity as a result of the student: (a) transferring between schools; or (b) participating in an interscholastic activity with a different school during the prior school year." Sub-varsity athletes may transfer at will, while varsity athletes may only transfer in defined circumstances.

The State of Utah has made it clear that students and their families *should not* be limited in the decision of where to attend school. Open enrollment laws in Utah allow students to attend any public school in the state so long as it has capacity (based on the school district's average class size). If parents feel their child will excel at one school more than another, they are giving the ability to transfer that student without being forced to justify it. Local school districts are even required by law to post capacity statistics on the district's website. In 2008, the Utah Legislature passed HB 349, which sets as a standard that "accepting or rejecting applications for enrollment may not include: (i) previous academic achievement, (ii) athletic or other extracurricular ability."

These laws give parents and students "the flexibility to choose a school that provides what the parents regard as experience best suited to their children's unique needs and interests." Students are legally allowed to transfer to any eligible

school with capacity and participate in interscholastic competitions without restrictions.

Athletes seeking to make those same transfers may be punished for their decision if changes to the new transfer rules are made. The Legislature and the Utah State Board of Education have been, and should be, the power source making decisions affecting whether or not a families and students can make these very personal decisions.

UHSAA

The "UHSAA has played an important role in coordinating events, establishing rules of play, and encouraging sportsmanship in high school athletics . . . ." However, the UHSAA has sought to overtake the responsibilities of not only parents, but Utah State Board of Education and the State Legislature.

The UHSAA is a "legal and administrative enigma" that "is a private organization with governmental powers." The attempt of the UHSAA to transfer power away from parents, the Utah State Board of Education, and the State Legislature creates a misaligned power structure. In addition, the incentives created by the UHSAA's proposed changes put students and parents up against coaches, school administrators, athletic directors, and forces a result that is "more favorable to schools than to student-athletes and their families."

The basis for UHSAA's proposed rule come from the idea that super athletes are attempting to transfer from one school to the next trying to game the system and take advantage of only the best opportunities to play sports. The reality is that the average athlete who wants to attend a different school for any number of reasons and play sports at a different school is the one who ends up left out in the cold. Data collected from the Office of the Utah Legislative Auditor General confirms that the fears presented by the UHSAA are not backed up in facts.

Arguments

The Board should reject the UHSAA's attempts to alter recently implemented transfer rules because families deserve to make decisions as to what is best for their student. The state of Utah has made it clear that families should be able to make the decision as to what school their student attends without facing arbitrary sanctions from the UHSAA.

To assume that the previous board did not do their due-diligence or understand the issue, and that new board, because of its new make-up, should change the rule provides little substantive reasoning for changes. While some may find it "arrogant" that the Utah State Board of Education gets to make decisions that control how a student's education is handled, that power is rooted in the Constitution of the State. The Utah State Board of Education, representing their constituents, will make better decisions aligning with the needs of student-athletes and families than unelected UHSAA board members with competing incentives.

The UHSAA's efforts to overstep their bounds would hurt those students who need help and support the most. The current system allows for families to make decisions that best fit their student's needs. Families and student-athletes are the ones who know best whether or not the benefit from being at one school or another are worth the costs of making such a move. Families should be the ones left to make that decision not the UHSAA. If the UHSAA wants what is best for all student-athletes, families should be left alone to decide what is in their best interests. The interests of coaches, athletic directors, or administrators, and schools should not trump those of the family.

Conclusion

Utah State Board of Education should reject the UHSAA's power grab attempts and maintain current rules because they allow families the right to decide if their personal, academic, hardship-related, or other unusual circumstances are of enough importance that a student should be moved to another school and participate in interscholastic activities. The current rules properly balance the role of the legislature, the Utah State Board of Education, and families when making their decisions about education.

Thank you for your consideration.

Sincerely,

Tyler Dow

From: Carolyn Gough [mailto:carolyn.gough@jordandistrict.org]
Sent: Monday, January 30, 2017 2:06 PM
To: Board Rule Comments rule.comments@schools.utah.gov
Subject: Public Comment from Carolyn Gough, Principal of Riverton High School on R277-409

When the first proposal was made back in September, we as principals were very surprised by the approach being taken by the Utah State Board of Education.

Since that time several changes have been made and now we're looking at a board rule which I believe places unnecessary oversight on the part of the State Board.

Among others, my concerns are as follows:

- I am concerned about the state board taking on an additional role of overseeing the regulations associated with extra curricular activities. I believe it is a good idea for local associations to work with the state school board, but not as an extension of the state school board. There needs to be a separation of curriculum and extra curricular activities to allow for greater oversight by those who are more specifically dealing with the issues of extra curricular events. The State Board should be focused on educational curriculum, not extra curricular activities. Additionally, membership in an association gives those within the organization the right to make decisions for the body of the members. I will not feel comfortable as a current member of a region board knowing that any decisions we make are not truly under control of the UHSAA.
- Given my first concern, the entire rule should not exist, but as it is now, I specifically disagree with section R277-409-5 about the make up of an appeals panel which will be appointed by the Board even though they are nominated by the association. Again, why is there a demand for such oversight of an association? I do not understand the desire to be so intimately connected to the appeals process unless there is some personal benefit to be gained. This entire section is an attempt to govern and regulate an independent organization. It is my personal opinion that the more the State Board is involved in the workings of any athletic association, the less reputable that association will be due to the lack of objectivity.

Although we as principals do not always agree with the decisions made by the UHSAA, they provide a way for schools to organize themselves and share ideas with other member schools to better regulate policy within. Any action or rule on the part of the USBE to remove the privileges that come with membership in such an association should be opposed.

It is obvious to every principal who talks about this issue that the reach of the USBE has gone too far. It is our hope that the USBE will quickly regulate itself and recognize its purview is educational curriculum, not extra curricular activities. Otherwise, principals

will be encouraged to reach out to state legislative leadership to help remind the USBE of its mission and goals.

Thank you,

Carolyn Gough

--

Carolyn Gough, M.A., NBCT

Principal, Riverton High School

Riverton, Utah

"It is not the strongest of the species that survives, nor the most intelligent, but the one most responsive to change." Darwin

From: Christian Smith [mailto:chsmith@alpinedistrict.org]
Sent: Tuesday, January 31, 2017 12:44 PM

To: Board Rule Comments <rule.comments@schools.utah.gov>; Warner, Terryl <terryl.warner6@gmail.com>; Stokes, Spencer <utahboard2@gmail.com>; Hansen, Linda <Linda.Hansen@schools.utah.gov>; Belnap, Laura <lbelnap@utahonline.org>; Cummins, Brittney <b4cummins@gmail.com>; Cannon, Janet <Janet.Cannon@schools.utah.gov>; Wright, Joel <joel.wright.uted@gmail.com>; Riebe, Kathleen <Kathleen.Riebe@schools.utah.gov>; Cummins, Lisa <Lisa.Cummins@schools.utah.gov>; Alisa Ellis <alisa.ellis12@gmail.com>; Neilson, Scott <scott.neilson@schools.utah.gov>; Huntsman, Mark <mhuntsman@sunrise-eng.com>; Michelle Boulter <michellekboulter@gmail.com>

Cc: bmolen@alpinedistrict.org; Braden Walker_lphs <bwalker@alpinedistrict.org>; Christian Smith_lphs <chsmith@alpinedistrict.org>; Courtney Meldrum <cpuggy@gmail.com>; Daniel Biolo_afhs <dbiolo@alpinedistrict.org>; David Evans_unknown <davideevans@alpinedistrict.org>; Gina Higbee <gina@ginahigbeegolf.com>; Heather Dahl <heathermdahl1@gmail.com>; Jared Huff <jhuff@alpinedistrict.org>; John La Cognata DHS <jlacogna@utah.gov>; Kelli Schwartz <kelliann33@gmail.com>; KIP SAUNDERS_lphs <ksaunders@alpinedistrict.org>; Lori Eisenger <lorieisinger36@gmail.com>; Mark Graham <Mark.J.Graham@wellsfargo.com>; MATTHEW BEZZANT_lphs <matthewbezzant@alpinedistrict.org>; Melody Craig <melody.clyde@gmail.com>; Michael Mower <mowemi@alpinedistrict.org>; Reed Carlson <reed@clubvvolleyball.com>; Rhonda Bromley_admin <rbromley@alpinedistrict.org>; Rob Stanger <robstangergolf@gmail.com>; Ryan Bybee <ryan@bybeemail.com>; SHERRI BERRY <sberry@alpinedistrict.org>; Tim Pead <tpead@alpinedistrict.org>; TRACY WALLACE <twallace@alpinedistrict.org>; William Blackburn <coachsamb@gmail.com>; Rex Brimhall_lphs <rbrimhall@alpinedistrict.org>; Aaron Barth_lhs <abarth@alpinedistrict.org>; cuff@uhsaa.org; Matt Norman_pghs <mattnorman@alpinedistrict.org>; Chad Wilson_whs <chadw@alpinedistrict.org>

Subject: R277-409 Input

Dear Board Members,

Thank you again for holding a public hearing regarding R277-409 earlier this month. I was fortunate enough to have attended that meeting. I wanted to email you my thoughts from that meeting with the hope of persuading you to to repeal the rule:

- At the end of the meeting, one of the board members suggested that, after listening to the comments, all people wanted was a few changes to the rule. I have listened to the recording I made of the comments. Not one person asked for changes to the rule. Each person that spoke asked for a repeal of the rule. The desire for repeal was unanimous.
- You were told by Superintendent Jarman, superintendent of the largest district in the state, that "all nine of the high schools that participate in UHSAA

activities in the Alpine School district voted unanimously to maintain a directionally responsibility for extracurricular activities with the High School Activities Association". In other words, all nine schools voted to repeal the rule.

- The transfer rule that was replaced had a 97% success rate. It did not require replacement.
- In the survey of all UHSAA participating schools in the state, only one school voted in favor of the rule change. Changing the rule based on one unsatisfied school does not make sense. 99% of the schools in the state, having worked with the UHSAA and their transfer rules, want the rule repealed.
- The expertise and knowledge of athletics, the affects of different rules, and the governing of the participation in these activities can be found in the UHSAA; the executive board consists of principals and school board members. Let the experts closest to the students and parents govern themselves.
- The way that the rule was written and voted on makes it obvious that the rule's target is the UHSAA. However, one disturbing fact is that it does not limit the State School Board's reach on other associations that govern different extra-curricular activities that high schools participate in. There is no guarantee that the School Board, when they see something or someone that they do not like, will strip authority of other associations.

Besides the facts that I have presented, the most important fact to remember is that the majority of people that you heard from that night are not only involved with high school athletics as coaches, administrators, and teachers but are/have been parents of children that have participated in high school athletics. They know what is best for their children. The overwhelming response from parents throughout the state has been for you to repeal this poorly handled rule.

I urge you to please repeal R277-409.

Sincerely,

Christian Smith
Assistant Principal, Lone Peak High School

From: Amber Shill [mailto:amber.shill@gmail.com]

Sent: Tuesday, January 31, 2017 3:21 PM

To: Board Rule Comments <rule.comments@schools.utah.gov>

Subject: Rule 277-409

State Board Members,

Thank you for your service and your recent decision to allow waivers for the middle school classes College and Career Awareness and Digital literacy. Thank you for allowing local districts to work with students and provide a well rounded education.

I am on the UHSAA Board of Trustees and have recently served on the sub-committee that was set up to meet with State Board members. I think it has been a valuable learning experience for both sides. The subcommittee came to understand what concerns the USBE had and explained the UHSAA policies and processes in place. The UHSAA Subcommittee was fine with the parts of Rule 277-409 dealing with oversight such as audits, adding training for coaches, following open meetings laws and GRAMMA. That being said I do not know if it needs to be in Rule. UHSAA does most of those things already. The transfer rule is the part that oversteps that oversight because USBE is now writing specific policy for UHSAA. The main purpose of UHSAA's transfer rule is to maintain a level playing field. The transfer rule, as written in 277-409, will have detrimental consequences to fair play in urban versus rural schools and will hurt students academically who will now be able to easily transfer. I am also on the UHSAA Constitution and Bylaws committee and we are constantly looking at ways to improve the transfer rule. We have made small changes each year. The transfer rule is a living policy that is constantly being tweaked. It would be difficult to make those needed adjustments if it is in USBE rule. I know that the Constitution and Bylaws Committee will look at the transfer rule closely in the upcoming year and try to make changes to make it more objective. There is no perfect transfer rule. It is important that the changes come within UHSAA though. The bottom line is about local control and having the people closest to the activities/athletics make the decisions. They are the ones that will have to implement and live with the decisions made. I know that UHSAA wants to have a close relationship with USBE and will listen to any concerns the USBE brings forward and try to make changes. Thank you for your time and consideration in this important issue.

Sincerely,

Amber Shill
Canyons School Board
UHSAA Board of Trustees

From: Janis Christensen [mailto:janischristensen@gmail.com]

Sent: Tuesday, January 31, 2017 11:18 PM

To: Board Rule Comments <rule.comments@schools.utah.gov>

Subject: Proposed Rule R277-409, Public school Membership in Associations (Transfer Rule)

Dear State School Board Members,

As a member of a local school board, representing a sizable constituency, I write to express my strong opposition to Proposed Rule R277-409.

The rule would allow various undesirable circumstances to prevail:

---First and foremost, it puts an inordinate emphasis on athletics in what is an academic environment.

Athletics are supposed to be auxiliary and exist in our school settings as learning tools toward endurance, resilience and self-confidence. Athletics are not the focus of our institutions.

With the rule allowing multiple moves from one school to another, a student's entire educational experience could be interrupted numerous times in favor of finding a new team at the the whim of student, parent or coach.

--- The rule would encourage the "stacking" of teams to group star athletes. In the process, the competitive balance would be destroyed in regions and the state. Many students would be denied the growing experience of participating in athletics with authentic competition.

I am told that the Utah Athletic Association Board of Trustees offered their opposition to the adoption of R277-409, but were essentially ignored by the previous State Board leadership.

I would ask that you reconsider and remove Proposed rule R277-409 due to its significant deleterious effects.

Thank you for your service.

Sincerely,

Janis Christensen

Weber District School Board

From: Steve Porter [mailto:mlmsteve@gmail.com]

Sent: Tuesday, January 31, 2017 10:48 PM

To: Board Rule Comments <rule.comments@schools.utah.gov>

Subject: Transfer rule

My name is Steve Porter and I'm a parent and a voter. I hope that you will do the right thing and repeal this new transfer rule. It is too vague and opens up a scenario that rewards recruiting and punishes the students. I can't imagine a kid transferring three times for athletics but I know it will happen. If this is allowed, then we need to drop the pretext that the primary function of schools is education. Because transferring three times in a year will destroy a kid's education.

Please repeal this rule! We elected you because the last school board didn't listen to the voters and the teachers. Please don't make the same mistake they did!

Thanks,

Steve Porter

From: Mark Oftedal [mailto:markoftedal@rowlandhall.org]

Sent: Tuesday, January 31, 2017 4:00 PM

To: Board Rule Comments <rule.comments@schools.utah.gov>

Subject: Opposition to Rule R277-409

I am writing to express my opposition to Rule R277-409 and to any other legislative attempts to wrangle control from the Utah High School Activities Association. I have been coaching high school cross country and track & field in Utah since 1996 (Olympus High School, East High School, and currently Rowland Hall). I participated in both high school and college athletics in the state of Illinois before moving to Utah in 1983. When I began my coaching career in 1996 I was immediately impressed with the outstanding job the UHSAA did in regard to their administration of Utah sports. Not a year goes by that I do not recognize the sincere and professional work of this committed group of individuals made up of local school board members, superintendents, and principals. My dealings with them have always been extremely courteous, with information, requests, and concerns dealt with in a timely, honest, and professional manner. In the matter of transfers, I have always found them to take each application seriously, while keeping the best interest of the student-athlete into full consideration. The UHSAA has worked tirelessly since 1927 for all of those who have participate in these positive life-changing opportunities and I see no reasons to strip them of any of their duties.

Thank you for this opportunity to speak on behalf of this wonderfully run organization.

Sincerely,

Mark Oftedal

Rowland Hall Upper School

Head Coach Track & Field and Cross Country

From: Janice Boswell [mailto:jboswell@tintic.org]

Sent: Tuesday, January 31, 2017 3:54 PM

To: Board Rule Comments <rule.comments@schools.utah.gov>

Subject: reply to rule.comments@schools.utah.gov

my name is Janice Boswell , board member at Tintic School District:

I would like to state my opinion on the State School Board making this decision.

in the past the activities association has been making the rule. the new rule would put a small district like ours at a great disadvantage as the larger schools would be able to select their teams and as a small district we would not have that opportunity. Please reconsider this recommendation.