

223-00

BARRY STATON, :
PETITIONER , :
V. : COMMISSIONER OF EDUCATION
CAPE-ATLANTIC LEAGUE AND : DECISION
NEW JERSEY STATE INTERSCHOLASTIC :
ATHLETIC ASSOCIATION, :
RESPONDENTS. :

SYNOPSIS

This is an appeal of a decision of the NJSIAA to suspend petitioner, Barry Staton, from coaching track and field for the 1999-2000 Spring track season for pulling his team from a track competition on April 27, 1999 prior to its completion. Specifically, Staton was found to have failed to field competitors in three events scheduled after the 200 meter race was completed because of his dissatisfaction with the officiating in that race. The NJSIAA, after reviewing the transcripts of the hearing before the Cape-Atlantic League (CAL) and the arguments of the parties, determined to uphold the determination of CAL to suspend Staton for the 1999-2000 Spring track season for violating its sportsmanship rule.

Staton argues on appeal that the record does not support a determination that he failed to permit his team to complete the track meet on April 29, 1999, arguing instead, that his determination not to field athletes in certain events does not constitute a failure to complete the track meet. In this regard, Staton argues that he permitted an athlete to compete in the high jump competition, which event concluded after the 200 meter race. As such, petitioner argues that he cannot be held to have violated NJSIAA's sportsmanship rule.

The Commissioner affirmed the determination of the NJSIAA. The Commissioner determined that Staton received the full measure of due process to which he was entitled by the NJSIAA. The Commissioner also affirmed the NJSIAA's determination that Staton's failure to field athletes in several events at the April 27, 1999 track meet after completion of the 200 meter race because of his dissatisfaction with the officiating violated its sportsmanship rule, thus warranting his suspension for the 1999-2000 Spring track and field season. Finally, the Commissioner rejected petitioner's argument that, because he permitted an athlete to compete in the high jump competition, which event concluded after the 200 meter race, he did not fail to complete the competition. The Commissioner noted that the high jump competition began prior to the 200 meter race, and that Staton permitted the athlete to participate in order to facilitate his qualification for all-star status. As such, this argument provided no basis to reverse the determination of the NJSIAA as arbitrary, capricious or unreasonable.

JULY 10, 2000

BARRY STATON, :
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RESPONDENTS. :

For Petitioner, Waltman, Reilly & Rogovoy (Ned P. Rogovoy, Esq.)

For Respondent, New Jersey State Interscholastic Athletic Association (NJSIAA),
Herbert, Van Ness, Cayci & Goodell, P.C. (Michael J. Herbert, Esq. and
Steven P. Goodell, Esq.)

For Respondent, Cape-Atlantic League (CAL), That, Stanton & McCrosson (Michael P.
Stanton, Esq.)

PROCEDURAL HISTORY

This matter was opened before the Commissioner of Education by way of a Petition of Appeal filed on April 17, 2000, by petitioner Barry Staton (hereinafter “Staton”), a track and field coach at Pleasantville High School. Petitioner seeks a reversal of the decision of the New Jersey State Interscholastic Athletic Association (hereinafter “NJSIAA”) Executive Committee, dated April 5, 2000, which affirmed the determination of that body’s Controversies Committee, dated March 3, 2000, upholding the February 1, 2000 decision of the Cape-Atlantic League (hereinafter “CAL”) Executive Committee. Such CAL decision declared that Staton had violated the CAL Constitution and by laws and NJSIAA rules by terminating an April 27, 1999

track meet against Bridgeton High School prematurely, and imposed a penalty of suspension on Staton for the 1999-2000 spring track season. Staton seeks a reversal of the NJSIAA Executive Committee decision as being arbitrary, capricious and unreasonable, alleging that the facts and the record do not sustain a finding of premature termination of a meet.

On April 28, 2000, respondent NJSIAA filed its Answer to the Petition of Appeal, along with a listing, pursuant to *N.J.A.C. 6A:3-7.2(b)*, of the Statement of Items Comprising the Record on Appeal. On May 4, 2000, respondent CAL advised that its position with respect to petitioner's claims herein was identical to that of the NJSIAA and it, therefore, adopted the Answer filed by the NJSIAA as the CAL's responsive pleading in this matter. On May 11, 2000, Staton, in accordance with *N.J.A.C. 6A:3-7.3(a)*, submitted a brief in support of his position and copies of all items comprising the record which had been identified by the NJSIAA. Pursuant to *N.J.A.C. 6A:3-7.3(b)*, both the NJSIAA and the CAL filed opposing briefs on May 24, 2000. Upon receipt of these submissions, the record in this matter was closed.

STATEMENT OF FACTS

The record evidences the following relevant facts:

- The NJSIAA is a voluntary association of approximately 430 member schools, established pursuant to *N.J.S.A. 18A:11-3*, which organizes high school athletics in New Jersey. Each member school adopts the rules and regulations of the NJSIAA as policies of its school's board of education.
- The CAL is a league of 23 public and parochial schools in Cumberland, Atlantic and Cape May counties. This league organizes competitions among these schools in accordance with a league constitution and bylaws approved by the NJSIAA.

- Delegation of authority between the NJSIAA and the leagues/conferences is delineated in the League/Conference Position Statement.¹ (1999-2000 NJSIAA *Handbook* at pp. 134-135)
- The Pleasantville and Bridgeton High Schools are members of both the CAL and the NJSIAA, and have adopted the rules and regulations of these organizations.
- On April 27, 1999, the male and female teams of Pleasantville and Bridgeton High Schools participated in a dual track meet.
- Following the conclusion of the men's 200m race, Coach Staton raised issues relating to the officiating of the race and made allegations of official misconduct. In so doing, Coach Staton threatened to withdraw his male athletes from the remaining events.
- Coach Staton subsequently pulled his athletes from competition in the shot-put, the 1600-meter relay and the 3200-meter run. Coach Staton allowed his high jumper to complete that event.
- Both the NJSIAA Bylaws and the NJSIAA rules governing Procedure before a game is terminated expressly prohibit a coach or school administrator from unilaterally withdrawing a team from an event which is in progress and vests meet or game officials with the sole authority to prematurely conclude an event.²

¹Such provision encourages leagues and conferences to adopt disciplinary procedures through which infractions of good sportsmanship can be penalized, and specifies that the NJSIAA will not interfere with those disciplinary actions imposed by leagues/conferences unless the actions are arbitrary, capricious or in violation of the NJSIAA Constitution and Bylaws.

²NJSIAA Bylaws, Article IX, Sportsmanship, Section 2E (NJSIAA *Handbook*, 1999-2000 at p. 51) in pertinent part specifies:

COACHES MUST BE CAUTIONED NOT TO REFUSE TO PLAY OR TO COMPLETE A GAME/MEET. SUCH DECISIONS ARE WITHIN THE JURISDICTION OF THE GAME/MEET OFFICIALS ONCE A GAME/MEET HAS STARTED, OR REST WITH HOME MANAGEMENT AND/OR TOURNAMENT DIRECTOR IF THE GAME/MEET HAS NOT STARTED. (emphasis in original)

The policy against improper termination of an event is further memorialized in the Procedure section of the NJSIAA Handbook wherein it states:

- On January 31, 2000, the CAL Executive Committee held a full hearing, where Staton was represented by counsel and a stenographic record was compiled, to consider testimony and evidence with respect to the allegation that Staton had improperly terminated the track and field contest.
- The CAL Executive Committee, in its decision issued on February 1, 2000, concluded that “Staton refused to participate, and indeed removed some athletes preparing to participate, in the remaining events as a result of his strongly expressed disagreement with several decisions made by the meet officials****” in violation of NJSIAA Sportsmanship policy (Article IX, Section 2, E), the National Federation of High School Sports Code of Ethics (NFHS 1999 Track and Field Rules Book at p. 74)³, and CAL Bylaws, Article X, Section 7-B.⁴ (CAL Executive Committee decision at pp. 2-4) The CAL decision offered the following substantiation for its conclusion:

Bridgeton Athletic Director Joe Blandino communicated, in writing, with the NJSIAA on 4/28/99, detailing the incident and his attempt to convince Coach Staton to finish the meet. In this letter, Mr. Blandino stated he warned Coach Staton that his actions could be in violation of NJSIAA and Cape-Atlantic League Rules and Regulations and that a report would be submitted. His

TERMINATION, ONCE THE GAME HAS STARTED, IS NOT THE PREROGATIVE OF A COACH OR SCHOOL MANAGEMENT, AND THE ACTION OF REMOVING A TEAM FROM THE EVENT PRIOR TO THE CONCLUSION OF THE GAME/MEET/EVENT, REGARDLESS OF THE CIRCUMSTANCES, WILL RESULT IN SEVERE PUNITIVE ACTION BY THE NJSIAA CONTROVERSIES OR EXECUTIVE COMMITTEE.
(NJSIAA *Handbook*, 1999-2000 at p. 142, emphasis in original)

³This provision states “[t]he coach shall respect and support contest officials. The coach shall not indulge in conduct which would incite players or spectators against officials. Public criticism of officials or players is unethical.” (CAL Executive Committee decision, at p. 3)

⁴This provision specifies that “[a]ny coach using profanity, obscene gestures, excessive harassment or any motions or actions that could be described as unsportsmanlike...may be subjected to Article X, Section 7-A.” Article X, Section 7-A states “[a]fter a hearing, a coach may be censured or barred from the field of play during sanctioned play and/or the school employing him/her made subject to probation, suspension and/or fine where there is a definite indication that the school district is not fulfilling its responsibility for control of its athletic program.” (CAL Executive Committee decision at p. 4)

communication relates Coach Staton's comments that his team was "cheated" by the officials and that he was not going to finish the meet. Mr. Blandino provided credible testimony at the hearing that was consistent with the findings in his report, which was written the day after the subject track meet. Mr. Blandino's testimony was supported and confirmed by testimony given by Will Barry, Head Coach Bridgeton Boys Track and Field, who testified he had his own discussion with Coach Staton, in which Coach Staton said his team was being cheated and that they were leaving. Coach Barry testified that he asked Coach Staton to reconsider leaving. Howard Furtek, Assistant Coach Bridgeton Boys Track and Field, testified that Coach Staton said directly to him that Pleasantville was being cheated and he was taking his team from the meet, and that he, (Furtek), attempted to convince Coach Staton to reconsider. In his testimony, Coach Staton did not deny stating to Coach Furtek that Pleasantville was being cheated.

The Press, April 28, 1999 article titled "Bridgeton boys post win after Pleasantville bolts", in which Coach Staton commented, "Beat me I can take it...Cheat me, I'd rather take my kids home," is consistent with Mr. Blandino's testimony and report and the testimonies of Coaches Barry and Furtek. The article additionally states that Pleasantville did not compete in the shot-put, 3200 meter run and 1600 meter relay. In his testimony, Coach Staton claimed that he did not speak directly to the newspaper reporter, even though he was directly quoted three times and referenced four times by the reporter.

[T]he testimony of Starter and Head Official Andrea Kuhar was consistent with the report she submitted to her assignor on May 1, 1999. Ms. Kuhar's testimony corroborated many of the details presented by Athletic Director Blandino including her knowledge of Coach Staton's disagreement with the results of the boys 200 meter race. She also testified that a member of her officiating staff informed her that the Pleasantville teams were boarding the busses prior to the start of the 3200 meter run. Ms. Kuhar additionally testified that the field official in charge of the shot-put, Tony Copare, informed her that the Pleasantville athletes had warmed-up for the event but were told, by their coach, to leave.

[T]he findings of the investigation conducted by the Pleasantville Board of Education, dated September 10, 1999, included the "Undisputable Material Facts" that "Following the conclusion of the men's 200m race, Coach Staton raised issues relating to the officiating of the race and made allegations of official misconduct.

In doing so, Coach Staton threatened to withdraw the male athletes from the remaining events.” (pg2,pp3). Additionally, the Board found that “The facts clearly establish that Coach Staton threatened to withdraw his male athletes from the meet and did in fact withdraw his entries from the 3200 and 1600m(sic) races.”, (pg3, pp4) (CAL Executive Committee decision at pp. 2-3)

The CAL’s decision discounted Staton’s assertion that his action was taken out of concern for his players due to a “hostile environment” stating:

Considerable testimony was provided by Coach Staton and his witnesses detailing alleged actions by Bridgeton fans in the stands and surrounding areas, creating what Coach Staton and the other Pleasantville High School witnesses referred to as a “hostile environment”. The Committee members weighed the testimony carefully in relation to the charges brought against Coach Staton. While there was some consistency in the testimony offered by those witnesses, there was also significant conflicting testimony as to the location of the “hostility” and the degree of danger represented by the alleged actions of the fans. No witness reported the fan behavior to the meet site manager or to an official. The Committee felt it compelling that Coach Staton did not report any “hostile” behaviors to Athletic Director Blandino or to Head Official Kuhar, even though prior testimony demonstrated the opportunity to do so. While Coach Staton asserts he pulled his athletes off the track for protection, he allowed Fred Lemons to continue to compete in the high jump and allowed many of his athletes to stand in the area directly adjacent to the east side of the stadium, below the fans in the area some witnesses described as “hostile”. Additionally, Coach Staton did not provide evidence that he immediately informed his athletic administration of the “hostile environment”, and, indeed, did not present any such evidence until a Pleasantville Board meeting scheduled on May 18, 1999, eight days after receiving a notice of suspension, from Pleasantville Interim Superintendent Avrami, for the remainder of the track and field season, effective May 10, 1999. (CAL Executive Committee decision at p. 3)

Finally, the Committee’s decision determined that “[t]he fact that Coach Staton allowed an athlete to complete an event he had already entered before the coach pulled his team, does not change the stated intent of Coach Staton’s actions.” (*Ibid.*)

- The CAL Executive Committee’s decision imposed a penalty of suspension for the 2000 Spring Track and Field season on Coach Staton. (*Id.* at p. 4)
- On February 9, 2000, NJSIAA’s Controversies Committee reviewed the full record and concluded that the CAL had acted properly and decided not to overturn the the CAL’s decision.⁵ (NJSIAA Answer, Second Affirmative Defense, at p. 3) It further separately determined that the imposition of a one-season suspension was not arbitrary or capricious noting that another CAL coach had previously been terminated for a similar violation. (March 3, 2000 decision of the NJSIAA Controversies Committee at p. 2)
- On April 5, 2000, the NJSIAA Executive Committee considered Staton’s appeal from the NJSIAA Controversies Committee’s ruling and affirmed that body’s decision.

PETITIONER’S POSITION

Staton argues that the within record does not sustain a finding that he failed to complete a meet and, therefore, the conclusions of the NJSIAA Controversies Committee, sustained by the NJSIAA’s Executive Committee, are arbitrary, capricious and unreasonable calling for the Commissioner’s overturning of such decision and vacating of the penalty imposed against him. (Brief in support of Appellant at pp. 2-3)

⁵NJSIAA’s Controversies Committee’s decision did, however, modify the last page of the CAL’s decision “to make clear that, although Coach Staton improperly terminated the track meet with Bridgeton in violation of Article IX, Section 2E of the NJSIAA Bylaws, he did so without ‘using profanity, obscene gestures or excessive harassment.’ The Committee believed this was important in view of the otherwise unblemished record of Coach Staton and the need for clarification that the Coach did not use abusive or profane language while removing his team from the track meet on April 27, 1999.” (NJSIAA Controversies Committee March 3, 2000 Decision at p. 2)

In support of his contention, Staton advances that the April 27, 1999 boys track meet between Pleasantville and Bridgeton had a total of 15 events, with “the meet” comprising the sum total of the scores derived from each team’s completion of these 15 individual events.

When Coach Staton chose not to enter athletes in the shot put event, Bridgeton received, after completing the event, 9 points. The[n], Bridgeton completed the 3200 meter run and received 9 points, then Bridgeton completed the 1600 meter relay and received 5 points, then, by all accounts, approximately twenty minutes later, the high jump event concluded with Pleasantville receiving 5 points and Bridgeton receiving 4 points. After the last event was concluded, that being the high jump, the meet was concluded and Pleasantville left. There is no doubt ***that the last thing that occurred was the completion of the high jump event. ***Coach Staton could have stopped his high jumper from completing the event but he let the event continue until the meet was concluded. (Brief in Support of Appellant at pp. 3-4)

Staton, therefore, reasons that because the last points of the cumulative score of the meet were compiled in the high jump, an event in which Pleasantville competed and received 5 points, he cannot be charged with improperly terminating the meet. (*Id.* at p. 5) Staton posits that there is no prohibition against a coach choosing not to enter athletes in particular events, “no matter what his subjective motivation” may be. (*Id.* at p.6) Consequently, petitioner argues that, notwithstanding that the reviewing authorities in this matter may have been displeased with what they perceived was Staton’s motivation for not entering his athletes in certain events, such displeasure does not equate to “termination of a meet and to reach [such] a conclusion ***is an arbitrary premise coloring what should be [a] clinical analysis of the facts.” (*Ibid.*) Rather, he argues, he must be tried on the specific charge which he has been accused of violating, “not on some concept of nebulous fairness with no written standard, the law so mandates.” (*Ibid.*)

RESPONDENTS' POSITIONS

CAL

The CAL argues that Staton received a full measure of due process pursuant to the CAL Constitution and Bylaws, *i.e.*, he had a hearing, he was represented by counsel, he had an opportunity to present witnesses on his behalf, and he received a prompt written decision. (Brief of Respondent Cape-Atlantic League, at p. 3) Additionally, it proffers, the CAL's decision to suspend Staton for the 2000 spring track season for terminating the April 27, 1999 Pleasantville/Bridgeton meet "is supported by sufficient credible evidence in the record as a whole," (*Ibid.*) in that there was evidence and substantial credible testimony, under oath, from meet officials and coaches present at the event which "establishe[s] "that [Staton] *** refused to participate, and removed some athletes preparing to participate in the events scheduled after the 200 meter race as a result of his strongly expressed disagreement with judgement decision made by the meet officials." (Brief of Respondent Cape Atlantic League p. 4) As such, the CAL argues, under the Commissioner's applicable standard of review in matters of this kind, the decision rendered by the CAL and the NJSIAA should be affirmed. (*Id.* at pp. 3-4)

NJSIAA

NJSIAA advances that this matter represents a classic example of interpretation of NJSIAA rules, "specifically, when is a track meet 'terminated' and a coach subject to punishment for prematurely terminating the meet?" (NJSIAA Brief at p. 2) NJSIAA further argues that, although Staton had three hearings before entities charged with interpreting NJSIAA rules with respect to termination of a meet, each of which found him guilty of such charge, he, nonetheless, seeks to persuade the Commissioner "that because he allowed one event to proceed,

he did not in a technical sense ‘terminate’ the track meet.” (*Id.* at pp. 1-2) NJSIAA urges that, absent a deprivation of due process, a lack of sufficient substantiation in the record or a demonstration that the NJSIAA’s rules were applied in an arbitrary and capricious manner, the Commissioner should not overturn the CAL and NJSIAA’s interpretation and application of their rules. Here, the NJSIAA argues, it is clear that both the CAL and the NJSIAA provided Staton the due process to which he was entitled, the decisions reached by these bodies were based on substantial evidence in the record and were neither arbitrary nor capricious. (NJSIAA Brief at pp. 10-15)

Initially, the NJSIAA observes that “Staton has received an extraordinary degree of due process” in this matter. (NJSIAA Brief at p. 10) He received a plenary hearing before the CAL Executive Committee, comprised “of athletic directors and principals from nine Cape-Atlantic League schools”, where he was represented by counsel, sworn testimony was offered, witnesses were cross examined, a stenographic record was made, and a written decision advancing that body’s rationale for its decision was issued one day later. (NJSIAA Brief at p. 11) This was followed by appeals before two NJSIAA Committees.

First, the NJSIAA’s Controversies Committee, where Staton was represented by counsel, reviewed the CAL decision, heard oral argument, and questioned both Staton and the Bridgeton Athletic Director, and the Committee’s decision, unanimously upholding CAL’s determination, was promptly issued. Second, Staton appeared before the NJSIAA’s Executive Committee where, again, he was represented by counsel who presented his arguments. The Executive Committee voted 31-1 to uphold the two prior decisions. (*Ibid.*) As such, NJSIAA argues that, to date, Staton’s “case has been reviewed by 50 educators, all but one of whom have

determined that he violated the rules and exhibited unsportsmanlike conduct by prematurely withdrawing his team from the track meet on April 27, 1999.” (*Ibid.*)

Next, the NJSIAA posits, the record clearly supports the findings of the CAL “that Coach Staton purposefully pulled his team from the meet, failing to complete the shot-put, 3200-meter and 1600-meter runs.” (NJSIAA Brief at p. 13) The sportsmanship provisions of the NJSIAA Bylaws and Rules (NJSIAA *Handbook*, 1999-2000 at pp. 51-52) it argues, unequivocally provide that “[a] coach’s failure to complete a meet, regardless of the circumstances” is a violation of these provisions, subjecting such coach to “severe punitive action.” (*Ibid.*) Specifically, the NJSIAA proffers, the evidence and testimony show:

*** that the real reason [Staton] *** pulled his team from the field was not because of any commotion, but because he was angry at the officiating. Three witnesses testified that Coach Staton had said that he was being cheated and that he was leaving. One witness, Coach Furtek, tried in vain to convince him to reconsider. The Bridgeton athletic director even said that he warned Coach Staton that his actions could be in violation of NJSIAA and Cape-Atlantic League rules, and that a report would be submitted, but Coach Staton pulled his team from the field anyway. The testimony of these witnesses was supported by an article in the Atlantic City Press reporting the events, and testimony of the starter and head official, Andrea Kohar, who said that Coach Staton had disagreed with the results of the 200-meter race and that officials reported to her that the Pleasantville teams were boarding the busses prior to the start of the 3200-meter run and Pleasantville shot-putters had been told by their coach to stop warming up and to leave. Coach Staton’s complaints about a “hostile environment” are further belied by the fact that he never reported the “hostile environment” to meet officials, and only raised it as a issue when he faced disciplinary action by the Pleasantville Board of Education.

(NJSIAA Brief at pp. 12-13)

Finally, NJSIAA contends that Staton’s exclusive defense in this regard, *i.e.*, that, because the rules do not expressly prohibit a coach from determining not to enter athletes in specific events, and because he allowed his high jumper to complete the meet, he was not in

technical violation of the rules, fails on at least four levels. First of all, it asserts, three separate committees of educators, fully knowledgeable of NJSIAA, CAL and track and field rules, found to the contrary when they undertook to interpret such rules. Specifically, the NJSIAA contends that these individuals recognized that “[w]hile a track coach might elect to save a runner so as not to tire him or her out, or scratch runners from competition for strategic reasons, there is no right to refuse to participate because the coach does not like the way the meet is being run.” (NJSIAA Brief at p. 13)

Second, the NJSIAA asserts, irrespective of Stanton’s belief as to whether his conduct in this matter was a violation of the rules, “he acted in an unsportsmanlike manner because he deprived his athletes, specifically his shot-putters, 3200-meter runners and 1600-meter relay team, of the opportunity to compete.” (NJSIAA Brief at p. 14) Because of Staton’s “impulsive act,” it avows, these athletes were denied the chance to vie in one of their limited high school contests. (*Ibid.*)

Third, it argues, Staton’s position is fully belied by the facts in this matter. NJSIAA argues that:

The high jump began *before* the 200-meter dash, and the only reason he allowed his jumper to finish the event was because the jumper asked him to. The jumper wanted to jump a personal best and qualify for all-star status. *Coach Staton refused to participate in every event that began after the 200-meter*, when he felt he had been cheated, and he thus failed to complete the meet. (Emphasis in original). (*Ibid.*)⁶

⁶It is noted that the NJSIAA’s submission presents a proffer of explanation of the sequence of events in track and field meets in general, and the meet at issue herein in particular:

[I]n a track and field dual meet, events on the track follow a fixed schedule, while field events run simultaneously in different areas. The last three running events of a meet are the 200-meter dash, the 3200-meter run, and the 1600-meter relay. During the Bridgeton-Pleasantville meet, the high jump, a field event, started before the 200-meter dash, and concluded sometime before the end of the running races. (Pet. App. Ex E, p. 105 & 118). The shot-put, another field event, was scheduled to begin shortly after the 200-meter dash was finished. *Id.* (NJSIAA Brief at pp. 3-4)

Fourth, the NJSIAA charges that Staton's argument fails on the basis of prior decisional law, citing *Bower v. NJSIAA*, 94 N.J.A.R. 2d (EDU) 80, wherein the Commissioner upheld a determination of the NJSIAA sanctioning a wrestling coach for pulling his athletes from a tournament match for improper motives, thereby precluding them from participation in a significant competition. (NJSIAA Brief at pp. 14-15)

The NJSIAA urges that, under all of these circumstances, the Commissioner should uphold the decisions of the League and the Association.

APPLICABLE LAW

The Commissioner's standard of review in NJSIAA determinations is explicitly delineated in *N.J.A.C. 6A:3-7.4*:

- (a) In determining appeals from NJSIAA decisions, the Commissioner's scope of review shall be appellate in nature.
 - 1. If the NJSIAA has granted a petitioner due process and its decision is supported by sufficient credible evidence in the record as a whole, the Commissioner shall not substitute his or her judgment for that of the NJSIAA, even if the Commissioner might judge otherwise in a *de novo* review.
 - 2. The Commissioner shall not overturn NJSIAA's application of its own rules absent a demonstration by the petitioner that such rules were applied in an arbitrary, capricious, or unreasonable manner.

Furthermore, it is well-established that the burden of proof that an action was so deficient rests with the person challenging the decision. *Kopera v. West Orange Bd. of Education*, 60 N.J. Super. 288, 297 (App. Div. 1960).

COMMISSIONER'S DETERMINATION

After consideration of the full record in this matter,⁷ the Commissioner determines to uphold the decision of the NJSIAA finding Staton guilty of violating the sportsmanship rules and imposing a penalty of suspension for the 1999-2000 spring track season.

In so determining, the Commissioner, initially, is convinced that there can be no reasonable claim made here that Staton did not receive the full measure of due process owed him by each of the three deliberative bodies which reviewed the charges against him. Similarly, the Commissioner is persuaded that the CAL and the NJSIAA did not act arbitrarily or unreasonably when, on the basis of the record before them, they found Staton guilty of unsportsmanlike conduct for prematurely terminating the competition on April 27, 1999. The rules in this regard are clear. That Staton permitted his high jumper to conclude participation in his event, which had begun prior to the running of the 200-meter race, in order to facilitate the athlete's qualification for all-star status, does not serve to mask or to nullify the reasonableness of, and rational basis for, the Committees' determinations. The record here is abundantly clear that Staton purposely acted to pull his athletes from every competitive event which began subsequent to the running of the 200-meter race, with regard to which he had expressed his dissatisfaction with the officiating and stated his intent to leave the meet, thereby depriving those athletes of a meaningful opportunity to compete in those events. The Commissioner finds it unmistakable that in so doing Staton violated both the letter and the spirit of the sportsmanship rules.

⁷It is noted that the record includes transcripts of the CAL hearing conducted on January 31, 2000 and the NJSIAA Controversies Committee and Executive Committee hearings held on February 29, 2000 and April 5, 2000, respectively.

The Commissioner, therefore, concludes that under these circumstances, Staton has failed to establish that the NJSIAA's interpretation and application of its rules in this matter constituted arbitrary, capricious or unreasonable action which would warrant reversal of that body's decision. The Commissioner, likewise, finds no cause to disturb the penalty prescribed to Staton as a consequence of his infraction.

Accordingly, the Commissioner affirms the determination of the NJSIAA in this matter and hereby dismisses the within Petition of Appeal.⁸

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

DATE OF DECISION: July 3, 2000

DATE OF MAILING: July 3, 2000

⁸This decision, as the Commissioner's final determination in this matter, may be appealed to the Superior Court pursuant to *N.J.S.A.* 18A:11-3.