

DIAA Board of Directors' Meeting Minutes  
April 15, 2010 – 9:00 a.m.  
Collette Building

I. Opening

A. Call to Order

The meeting was called to order at 9:05 a.m. by DIAA Chairperson Gerald Kobasa.

B. Roll Call

The following DIAA Board members were present: Gerald Kobasa, Michael Wagner, Curtis Bedford, Debbie Corrado, Joan Samonisky, Harvey Hyland, Dr. Dianne Sole, Dr. Jeffery Hawtof, Susan Coffing, Dr. George Stone, Catherine Marvel, Ron Eby, Robert Reed, Edna Cale, and Dr. Michael Owens. Paula Fontello, Deputy Attorney General was also in attendance. Michael Modica, Randall O'Neal, Eugene Montano, Teresa Taylor, and Woody Long were unable to attend. Mr. Kobasa commented that Kevin Charles was not present today but that Thomas Neubauer would be filling in for him.

C. Approval of Agenda

Ms. Samonisky made a motion to approve the agenda. The motion was seconded by Mr. Reed and carried unanimously.

D. Approval of Minutes of March 18, 2010 Board of Directors' Meeting

Dr. Owens asked if the minutes could be changed to reflect that he was in attendance at the March 18, 2010 meeting. Ms. Samonisky made a motion to approve the corrected minutes of the March 18, 2010 Board of Directors meeting. The motion was seconded by Mr. Bedford and carried unanimously.

E. DIAA Financial Report

Mr. Neubauer stated that for the fiscal year the total income was \$605,192.00 which is 84% of the projected revenue for the year. Mr. Neubauer stated that the primary source of revenue was from winter tournaments. Mr. Neubauer stated that the expenses for the year were \$622,153.00 which were 86% of the total for the year. Mr. Neubauer stated that for this reporting period the expenses were \$79,420.00 which were primarily from tournament expenses. Mr. Reed made a motion to approve the financial report. The motion was seconded by Ms. Corrado and carried unanimously.

III. Action Items

A. Approval of Tournament Sanctions

Mr. Neubauer stated that there are 18 total requests for sanction 17 of which are track and field and one for boys' volleyball that doesn't have to be sanctioned. Mr. Neubauer stated that they are all in accordance with DIAA and NFHS regulations. Ms. Cale made a motion to approve the sanction requests. The motion was seconded by Dr. Stone and carried unanimously.

#### IV. Executive Director Report

##### B. Miscellaneous

Mr. Neubauer commented on a handout from the Commissioner of the IHSAA Blake Ress explaining the value of interscholastic athletics not only from a cost point but the value to the student athlete. Mr. Neubauer commented that this valuable information and will be giving this to the athletic directors at the next athletic directors meeting.

Mr. Neubauer stated that he was asking for some clarification from the Board. Mr. Neubauer explained that the DIAA Regulations allow athletes to play two sports in the same season. Mr. Neubauer then stated that we do have a regulation that limits weekday practice to two hours, however; the regulations are silent on how many individual contest an athlete is allowed during the week. A Board member commented that the Blue Hen Conference prevents this from happening. Mr. Wagner commented that this would be a tracking nightmare. Ms. Corrado commented that athletes are only allowed three contests a week and that is what it should be regardless if you play one or two sports. Ms. Corrado also stated that this should be judged by contest per week and not how much time or hours spent in each sport. Mr. Neubauer suggested surveying the schools to see how many dual sport athletes there are. Ms. Samonisky commented that their school does not allow it because if an athlete participates in two sports and each sport has a game the same day how would the athlete choose what sport to participate in.

Mr. Neubauer asked for volunteers for reviewing the Harry Roberts/DIAA Scholarships for this year. Mr. Neubauer asked if anyone interested to contact Mr. Charles.

Mr. Neubauer informed the Board that Mr. Reed, Ms. Corrado, and Dr. Stone would be leaving the Board. Dr. Stone commented that he was relocating July 1, 2010 but will be retiring from the Cape Henlopen School District on June 1, 2010.

Dr. Hawtof commented on the waivers that the DIAA Board receives a question from a previous waiver. He stated that he would like see a letter from the principal either supporting or not supporting the requests. Dr. Hawtof also commented that he feels the school should be explaining the DIAA Regulations to the applicant so that they have a clear understanding of the rules and the waiver application process. Mr. Wagner asked if the principal should also send a paragraph stating that they believe there is a hardship. Mr. Bedford commented that when a parent comes asking for a waiver he does not believe it is his place to tell them they cannot come to the Board. Dr. Hawtof stated that

the principal should still let the people know whether the school is in support or not. Dr. Sole commented that she feels a rationale from the school should be included in the waiver request packet. Ms. Fontello advised the Board regarding the current regulations and cautioned that the Board is the one that makes the decision and that they must be careful not to establish a process where their decision making is supplanted by someone else. Ms. Fontello further cautioned the Board that they must make their decision based on the evidence presented and that it would not be appropriate for the Board to base their decision on the school's appearance or lack of appearance or on a letter of support or non support. Ms. Fontello further clarified that under the current regulations, the Student has the right to request a waiver and the school must submit the request to DIAA. She also explained that why the school's opinion may be relevant, it is simply one of many factors for the Board to consider in weighing the evidence. Ms. Fontello explained that the Board should not form a presumption against the waiver by the school's actions or opinions. She explained that it is ultimately the Board's opinion of the evidence that matters not the schools. Ms. Fontello also clarified that the school is not mandated to appear for a hearing and that the Board should not presume that the school is not in favor of a waiver request if they do not appear for the hearing. Ms. Fontello stated that every year that the new members receive an orientation regarding the regulations and the waiver process and that she would be happy to provide the information again to any Board member. She stated it would be beneficial to any Board member who has not attended or as a refresher. Ms. Fontello also added that she is more than willing to review the Regulations and the waiver process with any Board member individually.

The Board recessed at 9:50 a.m. and reconvened at 10:00 a.m.

### III. Action Items

#### F. Request for Waiver of DIAA Reg. 1009.2.4 by Dickinson HS for D. O.

Student, Student's parents, and Andy Dick; athletic director at Dickinson High School were in attendance to present this request. Student's parents requested a closed hearing. Ms. Coffing made a motion to go into executive session for the purposes of protecting the pupil file as an exception to the Freedom of Information Act. The motion was seconded by Ms. Cale and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Fontello explained that DIAA is a 20 member Board and has 19 voting members. Ms. Fontello further explained that the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Ms. Fontello explained that there are 14 voting members participating and present to consider this matter. The parties confirmed that they understood and wished to proceed. All persons participating in this hearing were sworn in. Ms. Fontello reviewed all documents pertaining to this request.

Ms. Marvel made a motion to come out of executive session. The motion was

seconded by Dr. Hawtof and carried unanimously.

Dr. Stone made a motion to approve the waiver based on the evidence presented that the transfer was not for athletic reasons but for academic reasons. The motion was seconded by Ms. Cale. Dr. Stone amended his motion that the request be granted based on the evidence of a hardship that was presented and that the transfer was for academic reasons and not for athletic reasons. Ms. Cale agreed and seconded his amendment and the motion carried unanimously.

E. Request for Waiver of DIAA Reg. 1009.4.1.1 by DIFCA & DFRC

Mark DelPercio; DFRC Athletic Chair and DIFCA Officer; Tony Glenn; Executive Director for DFRC, Mike Tkack; President of DIFCA and head football coach at Milford High School were in attendance to present this case.

Ms. Fontello explained that DIAA is a 20 member Board and has 19 voting members. Ms. Fontello further explained that the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Ms. Fontello explained there were 13 voting members participating and present to consider this matter. The parties confirmed that they understood and wished to proceed. All persons participating in this hearing were sworn in. Ms. Fontello reviewed all documents pertaining to this request. Mr. Tkack explained that the goal is to promote high school football and to draw attention to DFRC. Mr. Tkack commented that they came up with the idea to move two football games one day earlier. Mr. Tkack explained by doing this and making these two games a big event which would hopefully draw a large crowd which will allow them to promote DFRC to a large number of people. Mr. DelPercio explained that they want to highlight the two football games to draw a large crowd. Mr. DelPercio commented that they contacted the football coaches to see how they felt about this and he said the coaches were in full support. Mr. DelPercio stated that he contacted the athletic directors, the DFRC Board, school chiefs, and the conferences and all were in favor of this event. Mr. DelPercio explained that there would be one upstate game and one downstate game. Mr. DelPercio explained how the schools would be chosen for this event and stated that it will not be mandatory for the schools to participate. Mr. DelPercio also commented that DFRC, which is the Delaware Foundation Reaching Citizens with intellectual disability, will set up informational booths, t-shirts, ticket sales and Blue-Gold merchandise at each game. Mr. DelPercio stated that the schools will receive the income from the game and that they are just trying to get information out about DFRC. Mr. DelPercio stated that alumni Blue-Gold participants will also be asked to participate. Mr. Glenn explained what DFRC does and the bond that is developed between the athletes and the children. Mr. Glenn commented that they just want awareness of DFRC to get out to the public. Mr. Kobasa commended Mr. Glenn for all his work with DFRC. Mr. DelPercio stated that the DIFCA board will pick the teams by looking at all the games scheduled and picking out the game that according to records will be the best game to watch. Mr. Neubauer commented that Mr. Charles commented that he would like to see something like this happen with a girls' sport as

well. Mr. Neubauer commented that he too would like to see this happen with other sports. Mr. Glenn commented that this event is to educate the public about DFRC. Dr. Hawtof commented that he would like the schools that participate in this are monitored.

Dr. Hawtof made a motion to make this an annual request and approve it based on the evidence and that it is for a great cause and the timing is perfect. The motion was seconded by Dr. Sole and carried unanimously.

B. Interim Waiver of Reg. 1009.2.4 Granted by Executive Director to C. W. of St. Georges

Ms. Fontello stated that this matter is being considered under modified procedures with the consent of the parent and that the parent has requested a closed hearing for the purpose of protecting the pupil file. Mr. Wagner made a motion to go into executive session for the purpose of protecting the privacy of the pupil file as an exception to FOIA. The motion was seconded by Mr. Eby and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Fontello stated that this request is being done under the interim waiver process and that there is a signed consent from the student's parent in this case in order to proceed under these modified procedures. Ms. Fontello stated that this full hearing is scheduled for the May 13 meeting should it be necessary. Ms. Fontello explained that Mr. Charles has granted two interim waivers in this hearing one allowing the student to participate and the second to allow the student and parent not to appear. Mr. Neubauer was sworn in. The waiver packet and letter sent to the parents from Mr. Charles was made part of the record. Evidence was taken.

Ms. Coffing made a motion to come out of executive session. The motion was seconded by Dr. Sole and carried unanimously. Ms. Corrado made a motion to approve the interim waiver request by the Executive Director and grant the Student's waiver request based on the evidence presented that a hardship was established by the documentation of student trying to get into St. Georges. The motion was seconded by Dr. Hawtof and carried unanimously. Ms. Fontello clarified that based on the motion the hearing for May 13 is no longer necessary and it is cancelled.

C. Interim Waiver of Reg. 1009.2.7 Granted by Executive Director to A. R. of Glasgow

Ms. Fontello stated that this matter is being considered under modified procedures with the consent of the parent and that the parent has requested a closed hearing for the purpose of protecting the pupil file. Dr. Stone made a motion to go into executive session for the purpose of protecting the privacy of the pupil file as an exception to FOIA. The motion was seconded by Ms. Cale and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Fontello stated that this request is being done under the interim waiver process and that there is a signed consent from the student's parent in this case in order to proceed under these modified procedure. Ms. Fontello stated that this full hearing is scheduled for the May 13 meeting should it be necessary. Ms. Fontello explained that Mr. Charles has granted two interim waivers in this hearing one allowing the student to participate and the second to allow the student and parent not to appear. Mr. Neubauer was sworn in. The waiver packet and letter sent to the parents from Mr. Charles was made part of the record. Evidence was taken.

Dr. Hawtof made a motion to go into deliberation. The motion was seconded by Ms. Cale and carried unanimously. Dr. Hawtof made a motion to come out of deliberation. The motion was seconded by Mr. Eby and carried unanimously. Dr. Hawtof made a motion to come out of executive session. The motion was seconded by Dr. Sole and carried unanimously. Dr. Hawtof made a motion to approve the interim waiver requests and grant the Student's waiver request that a hardship was established based on evidence presented and testimony given. The motion was seconded by Ms. Samonisky and carried unanimously. Ms. Fontello clarified that based on the motion the hearing for May 13 is no longer necessary and it is cancelled.

#### D. Interim Waiver of Reg. 1009.4.3 Granted by Executive Director to Ursuline

Mr. Neubauer is still under oath. Ms. Fontello commented that since this is a request from the school they are not mandated to appear before the Board and that the school opted not to appear and is not present. Ms. Fontello also reviewed all documents pertaining to this request and the documents were made part of the record. Mr. Neubauer commented that this request was for relief from the game limitation regulation of one contest in a day. Mr. Neubauer explained that the event has not taken place but Mr. Charles made an interim waiver so that they could move forward with the scheduling and travel. Mr. Neubauer commented that this is an annual girls' lacrosse tournament involving three sister Ursuline Schools located in New York, Missouri, and Delaware. The tournament rotates locations and this year's tournament is in St. Louis. The request is to play two girls' lacrosse games in one day so that the three girls may play each other over a two day period. DIAA regulations limit schools to one contest per day. Mr. Neubauer also commented that the Board has conditionally granted this request in past years.

Mr. Eby made a motion to approve the interim waiver and grant this request with the conditions as stated. The motion was seconded by Ms. Cale and carried unanimously.

#### B. Legal Update

Ms. Fontello commented that there is an appeal still pending before the SBE and stated that the hearing officer should issue a written decision.

V. Other

VI. Public Comment

None.

VII. Adjournment

Mr. Eby made a motion to adjourn at 12:05 p.m. The motion was seconded by Ms. Samonisky and carried unanimously.

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Tina Hurley

Executive Session

III. F. Request for Waiver of DIAA Reg. 1009.2.4 by Dickinson HS for D. O.

While in executive session the waiver request for D. O. was discussed and evidence was taken. Student's mother explained how important it was to approve this request due to student's medical problems and that student was a model student. Student's medical records were discussed. Mother explained that classes were too hard for student at the school he was attending and that is why they were transferring him

B. Interim Waiver of Reg. 1009.2.4 Granted by Executive Director to C. W. of St. Georges

Ms. Fontello stated that the hearing was proceeding under the modified waiver procedure due to Mr. Charles being out of town and to abbreviate this so that the student would not miss any playing time. During the Executive Session testimony was taken. Student's records were reviewed. It was determined that the student applied for a seat in St. Georges and because the school had no openings attended St. Marks for five days at which time a seat opened at St. Georges. Student then transferred to St. Georges. The Board determined that the transfer was not for athletic reasons.

C. Interim Waiver of Reg. 1009.2.7 Granted by Executive Director to A. R. of Glasgow

Ms. Fontello stated that this hearing was proceeding under the modified waiver procedure because Mr. Charles was out of town and to abbreviate this so that the student would not miss any playing time. During the Executive Session evidence was taken. Student's records were reviewed. Mr. Neubauer testified that the interim waiver was given based on previous procedures already established and that all documentation of medical diagnosis was complete.