

DIAA Board of Directors' Meeting Minutes
Thursday, March 17, 2011 – 9:00 a.m.
John W. Collette Education Resource Center

I. Opening

A. Call to Order

The meeting was called to order at 9:10 a.m. by Gerald Kobasa, DIAA Chairperson.

B. Roll Call

The following DIAA Board members were present: Gerald Kobasa, Michael Wagner, Curtis Bedford, Edna Cale, Craig Eliassen, Laura Leone, Harvey Hyland, Terre Taylor, Pam Love, Dr. Jeffrey Hawtof, Dr. Mark Holodick, Dr. Dianne Sole, Eugene Montano and Randall O'Neal. Kevin Charles, Executive Director, and Paula Fontello, Deputy Attorney General, were also in attendance. Catherine Marvel, Susan Coffing, Ron Eby, Woody Long, and Dr. Amelia Hodges were unable to attend the meeting.

C. Approval of Agenda

Mr. Kobasa stated that Action Item III.I. was being added and that III. E. 1. is being removed. Mr. Eliassen made a motion to approve the agenda with the addendums. The motion was seconded by Mr. Hyland and carried unanimously.

D. Approval of Minutes of February 10, 2011 Board of Directors' Meeting

Ms. Leone made a motion to approve the minutes of February 10, 2011 Board of Directors' meeting. The motion was seconded by Mr. Eliassen and carried unanimously.

E. Financial Report

Mr. Charles reviewed the income and expenses for the reporting period of February 1, 2011 to March 9, 2011. Mr. Charles stated that the income to date is \$440,919.71 which is 61% of the projected revenue. Mr. Charles stated that the income for the reporting period is \$76,000.00. Mr. Charles advised that the year to date expenses were \$510,434.71 which is 71% of the projected amount. Mr. Charles stated that the expenses for the reporting period are \$87,000.00 which includes the estimated fee for the Bob Carpenter Center for basketball, salary and OEC's, tournament expenses, rules clinic expenses, and Board expenses. Mr. Charles explained that the budget is \$69,500.00 in the red for the year which puts the figures within the normal range at this time of year. Mr. Eliassen made a motion to accept the financial report. The motion was seconded by Mr. Dr. Hawtof and carried unanimously.

II. Public Comment

None.

III. Action Items

A. Approval of Tournament Sanctions

Mr. Charles presented the 16 tournament sanctions requests which included the baseball all-star game. Mr. Charles reviewed the requests and advised that all sanction requests were in compliance with DIAA and the NFHS requirements. Dr. Hawtof made a motion to approve the sanctions. The motion was seconded by Mr. Bedford and carried unanimously.

F. Request for Waiver of Regulation 1008.2.3.1 by Milford HS

Ms. Fontello advised that no one from the school would be present and that Mr. Charles was presenting this request. Mr. Charles was sworn in. Mr. Charles advised that this was the second year the Milford School District has requested a waiver of Regulation 1008.2.3. Mr. Charles reminded the Board that Milford School District has added a school, Milford Academy, that houses the eighth and ninth graders in one building and sits on the same campus as the high school. Mr. Charles commented that the Academy has its own principal and it is a separate unit. Mr. Charles advised that our regulations state that a student must represent the school that they attend in athletics. Mr. Charles stated that Milford School District has asked for a waiver to allow the ninth graders attending the Milford Academy to continue to play sports for the high school and the eighth graders to continue to play sports for the middle school. Mr. Charles advised that the Milford School District is asking for this to be approved for a two year period so that this will be effective through a scheduling cycle. Mr. Charles stated that the ultimate plan is to construct a new middle school and at that time the eighth graders will go back to the middle school and the high school would absorb the ninth graders. Dr. Hawtof made a motion to approve the waiver for two years as it is consistent with the previous waiver and the intent of our rule is not to stop situations such as this. The motion was seconded by Dr. Sole and carried unanimously. Mr. Montano and Mr. Wagner did not participate in this matter.

I. Request for Waiver of Reg. 1008.4.3.1 by Centreville School

Ms. Fontello clarified for the record no one from Centreville School will be in attendance and that the matter will be considered on Mr. Charles testimony. It was also clarified that Mr. Charles was still under oath.

Mr. Charles advised that Centreville School is a new member school that is forming a girls' lacrosse team this year. Mr. Charles stated that Centreville is a middle school that has 6th – 8th grade. Mr. Charles advised that there are very

few middle schools that have girls' lacrosse and that their schedules are already full. Mr. Charles explained that there is a question regarding a maximum game limit for middle school lacrosse. Mr. Charles explained that the high school limits have been adopted and that the DISC schools have been complying with the eleven game maximum game season. Centreville would like to schedule 4 or 5 games against some of these schools which could require a couple of the schools to play a third game in the week and to schedule a twelfth game. Questions were addressed regarding the specific waiver necessary. Ms. Fontello clarified that the regulations allow for the Board to set the number of competitions. Dr. Hawtof made a motion to permit DIAA member middle schools to play a 12th girls lacrosse game and schedule a 3rd game in a week provided the game is with Centreville. The motion was seconded by Dr. Holodick and carried unanimously. Mr. Montano and Mr. Wagner did not participate in this matter.

G. Self Report by Caesar Rodney High School

Mr. Charles reviewed a letter from Caesar Rodney High School explaining that they hosted a game against Dover High School in boys basketball on Tuesday, December 8. Mr. Charles explained that during the course of the varsity game, Caesar Rodney played a player in 3 quarters who had played two quarters in the JV game which was played just before the varsity game. Mr. Charles explained that a player is allowed to participate in four quarters in a day and that this player participated in a 5th quarter which would make him ineligible. Mr. Charles stated that Caesar Rodney self-reported to DIAA and to Dover High School and forfeited the contest. Mr. Charles stated that he believes that this was an inadvertent act. Dr. Hawtof made a motion to approve the self-report. The motion was seconded by Mr. Eliassen and carried unanimously. Mr. Montano did not participate.

C. Request for Waiver of DIAA Reg. 1009.2.4 by St. Marks HS for V.G.

Prior to the hearing, Board member Terry Taylor recused herself from participation as a Board member in this matter. John and Patricia Gagnon; parents of the student; Student, and Terre Taylor, assistant principal at St. Marks High School were in attendance to present this request. Mother requested an open hearing. 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 12 voting members participating and present to consider this matter. Ms. Fontello also explained the hearing procedures. The parties confirmed that they understood and wished to proceed. All persons participating in this hearing were sworn in. Ms. Fontello then reviewed all documents pertaining to this hearing and the documents were included in the record. Ms. Taylor recused herself from this hearing.

Student explained that she transferred to St. Mark's High School from Christiana High School because the atmosphere at Christiana High School was very violent and a lot of fights and a lot of negativity. Student stated that it was not a good environment for her to learn. Student stated that she wanted to attend a school with a good education and environment. Student stated that St. Mark's High School was more welcoming and the classes were better and the school was a better opportunity for her. Ms. Gagnon stated that she wanted to transfer her daughter out of Christiana High School because of the fighting in the school and because the Student had things stolen from her. Ms. Gagnon stated that she called the counselor about the incident and was told there was nothing they could do. Ms. Gagnon commented that she thought the teachers were very good but the atmosphere was not. Ms. Gagnon commented that they looked at several schools and chose St. Mark's High School. Ms. Taylor commented that she just recently met Student. Ms. Taylor stated that she asked Student why she decided to transfer and Student told her she was very uncomfortable at Christiana High School. Ms. Taylor commented that Student has been making friends and has been practicing with the soccer team. Ms. Taylor stated that the school supports her request. Dr. Holodick made a motion to go into deliberation. The motion was seconded by Mr. Eliassen and carried unanimously. Dr. Sole made a motion to come out of deliberation. The motion was seconded by Mr. Wagner and carried unanimously. Dr. Holodick made a motion to deny the waiver request as it does not meet our standard of a hardship. The motion was seconded by Ms. Cale and carried by a vote of 11 – yes (Holodick, O'Neal, Kobasa, Wagner, Cale, Eliassen, Leone, Hyland, Sole, Love, Hawtof) 1 – abstain (Bedford). Mr. Montano arrived after the hearing began and did not participate in hearing.

- E. 1. Interim Waiver Request for 1009.2.4 by New Castle County Vo-Tech for G. M.

Mr. Charles advised that this item was pulled at the request of the applicant.

- E. 2. Interim Waiver Request for 1009.2.4 by Lake Forest HS for T.N.

Mr. Wagner and Dr. Sole recused themselves from this hearing. Ms. Fontello advised 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 privacy of the pupil file. Dr. Hawtof 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. O'Neal and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Fontello explained that this request is being

conducted under the modified hearing 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 advised that a full hearing is scheduled for the April 14, 2011 meeting should it be necessary. Ms. Fontello explained that Mr. Charles granted two interim waivers one allowing the student to participate and the second to allow the student and parent not to appear. It was confirmed for the record that Mr. Charles remained under oath. Mr. Wagner was also sworn in and gave testimony. The waiver packet and supporting documents, the letter sent to the parents from Mr. Charles, and the signed consent were made part of the record. Evidence was taken and deliberations were held.

Ms. Taylor 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 Ms. Cale and carried unanimously. Dr. Hawtof made a motion to come out of executive session. The motion was seconded by Ms. Leone and carried unanimously. Dr. Hawtof made a motion to grant the waiver and approve the two interim waivers granted by the Executive Director based on evidence presented the Student had met his burden of establishing a hardship and the information provided regarding the hardships that were beyond the control of the student. The motion was seconded by Mr. Montano and carried unanimously. Ms. Fontello clarified that the waiver request is granted and the full hearing scheduled for April 14 is cancelled.

The Board recessed at 10:35 a.m. and reconvened at 10:50 a.m.

D. Request for Waiver of DIAA Reg. 1009.2.4 by Middletown HS for K.C.

Ralph Casseus; father of the student; Student, and Joe Lahutsky; athletic director at Middletown High School were in attendance to present this request. Father requested an open hearing. 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. Ms. Fontello also explained the hearing procedures. The parties confirmed that they understood and wished to proceed. All persons participating in this hearing were sworn in. Ms. Fontello then reviewed all documents pertaining to this hearing and the documents were included in the record.

Mr. Casseus explained to the Board that he transferred his daughter to Middletown High School because it was closer to their home. Mr. Casseus testified and explained the reasons for the waiver request. He testified that the primary reason for Student's transfer was out of safety concerns. He explained

that his wife's work schedule has changed and she was no longer able to provide Student's transportation. He explained that while his daughter attended Delcastle she had to walk in the dark to catch her bus at 6:15 a.m. and her practice would end at 5:00 p.m. each day and she would have to walk home after dark from where the bus dropped her off. Mr. Casseus stated that he worked at night and was not able to pick her up. Mr. Casseus explained that by the time she arrived home and had dinner and did her homework it was 11:00 p.m. before she was able to get to bed. Mr. Casseus advised that he also felt that she was not able to get the appropriate amount of sleep. Mr. Casseus testified about Student's behavior while at Delcastle. Mr. Casseus explained that now that she is attending Middletown she doesn't have to get up as early and gets home and in bed a lot earlier than while at Delcastle. Mr. Casseus stated that he made the change for his daughters safety. Student testified regarding her transfer and her attendance at Delcastle. Mr. Lahutsky explained that when he first met with Mr. Casseus and the Student he explained the transfer rule to them and stated that the Student may not be eligible and explained that Mr. Casseus told him that his daughter's safety was most important and that they still wanted to transfer. Mr. Lahutsky commented that he does not feel that this transfer is for athletic advantage but that the Student just wants to participate. Mr. Lahutsky confirmed that Middletown High School is Student's feeder school. Mr. Casseus stated that his wife could not pick his daughter up after practice because of her work schedule. Student stated that she had a rough start at Middletown but that her grades are good now. Student also stated that she wanted to stay at Delcastle but agreed with her father to transfer for safety reasons.

Dr. Hawtof made a motion to go into deliberation. The motion was seconded by Dr. Sole and carried unanimously. Dr. Sole made a motion to come out of deliberation. The motion was seconded by Mr. Hyland and carried unanimously. Dr. Hawtof made a motion to approve the waiver based on the testimony given and the definite hardship specific to the Student. The motion was seconded by Ms. Cale and carried by a vote of 11 – yes (Hawtof, Holodick, O'Neal, Kobasa, Wagner, Bedford, Cale, Leone, Hyland, Sole, Love), and 3 – no (Montano, Eliassen, and Taylor)

E. 3. Interim Waiver Requests of 1009.2.4 by Appoquinimink for A. D.

Ms. Fontello advised 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 privacy of the pupil file. Dr. Holodick 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 Dr. Hawtof and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the

Board held deliberations. Ms. Fontello explained that this request is being conducted under the modified hearing 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 advised that a full hearing is scheduled for the April 14, 2011 meeting should it be necessary. Ms. Fontello explained that Mr. Charles granted two interim waivers one allowing the student to participate and the second to allow the student and parent not to appear. It was confirmed for the record that Mr. Charles remained under oath. The waiver packet and supporting documents, the letter sent to the parents from Mr. Charles, and the signed consent were made part of the record. Evidence was taken and deliberations were held.

Dr. Hawtof made a motion to go into deliberations. The motion was seconded by Ms. Taylor and carried unanimously. Mr. Wagner made a motion to come out of deliberations. The motion was seconded by Dr. Hawtof and carried unanimously. Dr. Hawtof made a motion to go to open session. The motion was seconded by Mr. Montano and carried unanimously. Mr. Montano made a motion to go into executive session. The motion was seconded by Mr. Hyland and carried unanimously. Mr. Montano made a motion to go into deliberation. The motion was seconded by Mr. Eliassen and carried unanimously. Dr. Hawtof made a motion to come out of deliberation. The motion was seconded by Mr. Hyland and carried unanimously. Dr. Hawtof made a motion to come out of executive session. The motion was seconded by Mr. Montano and carried unanimously.

Dr. Hawtof made a motion for a full hearing to occur with the Student and Parents in attendance. The motion was seconded by Mr. Eliassen and carried unanimously.

H. Consideration of Draft amendments to DIAA Regulations – 1006, 1007, 1008, and 1009 and the DIAA Handbook

1006

Mr. Charles explained where we were in the process of having the proposed changes to the DIAA Regulations. The Board discussed and reviewed the changes to the regulations. The Board discussed numerous areas of the regulations including the following:

1006.2.1 – Full Member Schools

1006.2.4 – Participation in state tournaments

1006.4 – Responsibilities of the Executive Director

1006.4.4 – Authorizes the Executive Director to delegate authority.

1006.5.2.1.5 – Requires schools to conduct practices and contests in a safe manner.

1006.5.2.1.7 – Allows the coach to serve as faculty manager if no other member of the school is present.

1006.7.1.1.1 – Authorizes the Executive Director or DIAA Board to impose additional penalties necessary to ensure proper conduct of contest.

1006.7.2.2 – This addition was to clarify the rule regarding complaints.

1006.8.1.1.1 – Amends Board investigative procedure.

1006.9.2.2.2. – This regulation list the items that should be included in a waiver request.

1007

Mr. Charles stated that there were not a lot of changes to this section of the regulations but that they did add in the responsibility of the school to develop a policy to refrain from participating in or encouraging the acts of bullying, hazing, and taunting.

1007.2.1.2.1 – Procedure of investigating an ejection or altercations involving students or coaches.

1007.2.3.1 – A coach or player to be present at any game involving their sport and the school while serving a suspension.

1008/1009

2.4.1 – Definition of the first year of eligibility – The consensus of the Board was that the first day of school shall be the same for fall sport and all other student athletes.

2.4.4 – The Board reviewed 2.4.4 exceptions including a revised definition of transfers for athletic advantage. A definition of change in residence, a new exception for students that are accepted after the first day of school, a new exception for students that did not participate in a sport in the previous year, and a new exception for students transferring because the sending school closed. The Board also discussed the deletion of the academic exception for transfer due to change of course of study.

4.0 – The Board discussed the revisions to the first three days of football practice.

4.1 Sports Seasons – Mr. Charles advised that the first three days of football practice will be for conditioning only and non contact activities. Contact drills are prohibited until the fourth day.

4.2 – The Board discussed a new definition for practice sessions. Mr. Charles advised that this would eliminate three practices where there is physical activity in one day. Ms. Fontello clarified that you the rule only permits two practices a day on a non school day and on a school day the rule limits schools one practice per day.

2.4.4.3.1 – Discussion on the exception for a change of residence to a new public school attendance zone – transfer to any school in their district as long as the transfer or move is not for athletic advantage. Discussion ensued and the consensus was to remove the limitations regarding leaving the sending school's attendance zone and to also expand the exception to include any new school including a private school.

Ms. Fontello advised that she will work with the Executive Director on the regulations and get the draft as close to what will be going to the Registrar of Regulations for publication. The draft will also be sent to the member schools so that the membership has the option to attend the April Board meeting and comment on the proposed regulations. Ms. Fontello also advised that consistent with the DIAA regulations and the law, the member schools are also able to make public comment within the publication comment period.

III. B Request for Waiver of DIAA Reg. 1009.2.6 by Pencader for T. H.

Mr. Kobasa advised that by 2:15 p.m. Action Item III. B. has not appeared for their waiver hearing. The Board considers that applicant and the school's non-appearance as voluntarily withdrawing the request.

IV. Executive Director Report

A. Legal

Ms. Fontello updated the Board on the status of the appeal for M. M. She advised that the consideration date for the matter has passed and that the State Board's hearing officer's Proposed decision should be forthcoming.

Ms. Fontello updated the Board regarding a new appeal from N. V. that will go to the State Board. She advised that a hearing officer was appointed.

Ms. Fontello updated the Board regarding the matter still pending in the Court of Chancery. Ms. Fontello advised that there was an outstanding issue regarding whether the matter is moot. Ms. Fontello explained that because the section in question regarding the change or course of study in the transfer rule is being deleted that the matter will be moot. She further advised that both sides requested that the Court allow additional time before completing any briefing and update the Court after the regulations changes have been finalized.

B. Misc.

Mr. Charles gave a brief report on the winter state championship tournaments.

March 17, 2011 DIAA Board of Directors Meeting

V. Other

VI. Public Comment

VII. Adjournment

Ms. Taylor made a motion for the Board to adjourn at 2:20 p.m. The motion was seconded by Mr. Wagner and carried unanimously.

Tina Hurley