

DIAA Board of Directors' Meeting Minutes
Thursday, February 9, 2012 – 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. Mr. Kobasa introduced a new Board medical member Dr. Robert Walter.

B. Roll Call

The following DIAA Board members were present: Gerald Kobasa, Terre Taylor, Curtis Bedford, Joe Thomson, Craig Eliassen, Laura Leone, Catherine Marvel, Harvey Hyland, Dave Thomas, Susan Coffing, Pam Love, Dr. Kevin Fitzgerald, Woody Long, Dr. Mark Holodick, Ron Eby, Dr. Robert Walter, and Dr. Amelia Hodges. Kevin Charles; Executive Director, and Paula Fontello, Deputy Attorney General, were also in attendance. Dr. Rene Knight-Peguero and Edna Cale were unable to attend the meeting.

C. Approval of Agenda

Mr. Kobasa commented that there was an amendment to the agenda and that Item III. D. was being removed from the agenda and Item III. I. DAAD Proposal to Fund Athletic Directors Continuing Education was added to the agenda. Mr. Eby made a motion to approve the amended agenda. The motion was seconded by Mr. Long and carried unanimously.

D. Approval of Minutes of January 19, 2012 Board of Directors' Meeting

Mr. Thomson made a motion to approve the minutes of January 19, 2012 Board of Directors' meeting. The motion was seconded by Dr. Holodick and carried unanimously.

E. Financial Report

Mr. Charles presented the financial report for the period of January 13, 2012 through February 2, 2012. Mr. Charles advised that the income for the reporting period was \$6,000 and the overall income is \$379,984. Mr. Charles stated that the income was from tournament revenue and member dues. Mr. Charles stated that the expenses to date \$378,500.00 and for the reporting period are \$27,600.00. Mr. Charles stated that the income and expenditures are about 52% of the projected budget. Mr. Charles stated that the expenses are from tournament expenses, officials' dues, and salary and OEC's. Mr. Charles reported that the balance for the year is \$1,500.00 and the contingency is \$554,970.00 for the year. Dr. Fitzgerald made a motion to accept the financial report. The motion was seconded by Ms. Leone and carried unanimously.

II. Public Comment

Mr. Steve Speed was in attendance to present public comment. Mr. Speed explained to the Board that he was planning on presenting a waiver for his daughter who is a senior at Campus Community. Mr. Speed explained that because the school is planning on closing the enrollment is down and the school may not be able to field a viable girls soccer team in the spring. Mr. Speed explained that his daughter is taking classes at Wesley College and only goes to Campus Community for the required classes and that other schools would not allow her to do this. Mr. Speed stated that he will be applying for a waiver to allow his daughter to play soccer at another public school while enrolled at Campus Community and just wanted to give the Board advanced notice.

III. Action Items

A. Approval of Tournament Sanctions

Mr. Charles presented the 20 tournament sanction requests' which include 2 basketball, 11 spring track, 7 indoor track. Mr. Charles reviewed the requests and advised that to the best of his knowledge the sanction requests were in compliance with DIAA and the NFHS requirements. Mr. Eby made a motion to approve the sanctions. The motion was seconded by Mr. Bedford and carried unanimously.

H. 2012-13 DIAA Board Meeting Schedule

Mr. Charles reviewed the 2012-13 Board meeting schedule and explained that the Board generally meets the second Thursday of the month and that the Board is required by law to meet every month. Mr. Charles stated that the Annual meeting will be the third Thursday of January but the rest of the meetings would be on the second Thursday of each month. Mr. Eliassen made a motion to approve the 2012-13 Board meeting dates. The motion was seconded by Mr. Long and carried unanimously.

B. RLCA membership Request - Recommendations by RLCA AdHoc Committee

Ken Howard was in attendance and was sworn in. Ms. Taylor reported that the AdHoc Committee met on January 30, 2012. The Committee reviewed RLCA's request to return to full DIAA membership. Ms. Taylor reviewed the Committee report and recommendations. The committee reviewed the RLCA Associate Membership decision and reviewed the current DIAA regulations. During the Committee's review, Mr. Howard presented a list of the students that participated in football and basketball at the high school. Mr. Howard confirmed that RLCA was no longer affiliated with Flash Training and that no RLCA students are receiving athletically based scholarships or any FOCAS funds. After lengthy discussions the committee recommended that RLCA be permitted to return as a full member school for the 2012-13 school year with conditions as contemplated in their original associate membership request. The Committee recommended that the conditions include that the football and basketball teams would be ineligible to participate in the state tournaments for a minimum of one year or until all athletic scholarship or FOCUS funded students are not on the RLCA roster. It was explained that the Committee's recommendation was

that RLCA be permitted to play other DIAA member schools in football and basketball and athletes that participate in football and basketball would be permitted to play other sports. The Committee was concerned with the transfer rule and how this would apply to students that were left. The Committee was advised that 38 students have left RLCA. It was also noted that the Committee had some concerns with middle school students and requested a list of those students for future reference. The Committee was concerned regarding the application of rule 1009.2.4.4.3.8 which is a transfer as a result of a sending school closing or dropping their athletic program and how it applied to this situation. The Committee believed that this exception did not apply to the circumstances and that more conditions may need to be placed on this regulation.

Mr. Howard testified regarding RLCA's membership request. He explained that as far as the middle school football and basketball who received any financial assistance, there are only two students still in the school. Mr. Charles reminded the Board that middle school students were not included in the exceptions of associate membership. Mr. Charles asked Mr. Howard to give an update on the Flash training. Mr. Howard testified that Flash was completely finished at RLCA and has vacated the premises. In response to a Board member's question regarding information sent to the Board and the lights on the football field at RLCA and if they will still be using them. Mr. Howard testified that little league plays their games on RLCA's lighted baseball fields. Mr. Howard advised that RLCA is very cautious to not create a conflict with their neighbors, however, they do plan to use the lights.

Mr. Howard confirmed that becoming a full member RLCA would no longer be seeking to waive the regulations waived as an associate member. Mr. Charles asked if RLCA was still seeking to play the basketball season beyond the winter season. Mr. Howard responded that the school would like to play past the end of the DIAA basketball season. Ms. Fontello clarified the conditions of the associate member status for the Board members. Ms. Fontello reviewed all the conditions. It was confirmed that all athletic scholarships and FOCUS funds have been discontinued. In response to a question regarding the status of the students who were admitted into the school and no longer have the financial assistance is RLCA allowing the students to remain until the end of the year. Mr. Howard testified that RLCA has allowed the students to remain and will not remove them for non-payment of tuition. He stated that it was only three students. It was clarified that the 5th year eligibility would remain in effect for this school year. Mr. Howard explained that it was just for basketball this year and would be discontinued after the 2011-12 school year. Mr. Howard confirmed that the extended practice season and spring practice would be discontinued. The maximum game schedules concerning basketball were reviewed. Ms. Fontello reviewed the remaining conditions of the RLCA associate membership. Mr. Howard confirmed that as full members, RLCA would be in full compliance with all DIAA regulations and the terms of the associate membership agreement are no longer necessary. It was clarified that the request is to discontinue the associate member status and return to full membership for the 2012-2013 school year. It was also clarified that the 5th years eligibility rule remained in effect for basketball this year and RLCA would be allowed to continue with the current basketball schedule and complete the basketball season. Mr. Howard confirmed that there are no FOCUS funds being used at the school now.

Mr. Thomson made a motion to go into deliberation. The motion was seconded by Mr. Bedford and carried unanimously. Mr. Eliassen made a motion to go back to public session. The motion was seconded by Ms. Coffing and carried unanimously.

Dr. Fitzgerald made a motion to grant RLCA's request to return to full membership beginning with the 2012-2013 school year with the conditions recommend by the AdHoc Committee. The motion was seconded by Mr. Eliassen and carried by a vote of 15 – yes (Fitzgerald, Holodick, Eby, Walter, Kobasa, Taylor, Bedford, Thomson, Eliassen, Leone, Marvel, Hyland, Thomas, Coffing, Love) and 1 – no (Long).

Mr. Howard thanked the Board for their support throughout this issue.

Mr. Kobasa commented on a new school which is a cyber school and stated that the Board may want to look at this in the future. Mr. Charles stated that this was a concern that was discussed at the AdHoc meeting. Mr. Charles stated that it is his understanding that this Cyber School has been created and the students are going to school there and it is based in Maryland. Mr. Charles stated that the committee was concerned that if this school is unsuccessful the students can transfer to any school and be immediately eligible. Ms. Fontello reminded the Board that the exceptions of the transfer rule are not automatic and would not apply if the transfer is for athletic advantage as defined in the regulation. Discussion ensued regarding regulations and the possibility of modifying the regulations. Dr. Fitzgerald suggested that the issues discussed be referred to the Rules and Regulations Committee.

The Board recessed at 10:20 a.m. and reconvened at 10:30 a.m.

C. Request for Waiver of 1009.2.4 by St. Elizabeth HS for R. B.

Richard C. Barbor; father of the student (“Father”) and Student were in attendance to present this request. Student 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 16 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. Additional documents were also added to the record as the matter proceeded.

Student explained the reasons for the waiver request. He testified that he is a senior at St. Elizabeth and at the conclusion of his sophomore year, after he was in a car accident and transportation issues arose, his parents decided to transfer him to his local public school. He explained that it was a long drive to St. Elizabeth each way from his home of more than 45 minutes each way. Student stated that he played varsity lacrosse at the sending school. Student

stated that he had attended Catholic school since kindergarten and missed the environment at St. Elizabeth. He further explained that when the transportation issues were resolved, his family decided to transfer their children back to St. Elizabeth.

Father thanked the Board for their time and explained that they made a difficult decision to transfer Richard to his local public school in Maryland due to transportation concerns and the long drive to St. Elizabeth. Father stated that with perfect conditions and no traffic the drive is 45 minutes one way. Father stated that Student had a car accident that year and caused a lot of anxiety. Father stated that the public school was only 10 minutes from their house. Father stated that they were concerned with a number of things at the new school including the block scheduling and that it was a difficult transition. Father stated that when the transportation concerns were addressed they decided to let Student finish school at St. Elizabeth and did not realize the transfer would have an effect on Student's participating in sports. Father stated that the transfer was not for athletic reasons. Father stated that they were requesting a waiver to allow Student to participate in lacrosse.

Student further testified about his experience and explained that it was taking a toll on him being in a public school as the environment was very different. Student stated that his sister also transferred to their home school and is now back at St. Elizabeth. It was clarified that Student's sister now has her drivers license and they can now split driving duties.

Mr. Long made a motion to go into deliberation. The motion was seconded by Mr. Eby and carried unanimously. Mr. Thomson made a motion to come out of deliberation. The motion was seconded by Ms. Leone and carried unanimously.

Mr. Eliassen made a motion to approve the waiver request and permit Student to participate in Boys' Lacrosse this spring. The motion was seconded by Dr. Walter and carried by a vote of 13 – yes (Eliassen, Leone, Marvel, Hyland, Thomas, Love, Fitzgerald, Holodick, Eby, Walter, Kobasa, Taylor, Bedford, and Thomson) and 3 no- (Coffing, Long, Eby).

III. E. Interim Waiver Requests

1. 1009.2.4 by Smyrna HS for A. M.

Ms. Taylor and Mr. Eby 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. Fitzgerald 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.

Taylor 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 March 15, 2012 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 today. Mr. Charles granted the interim waivers and proposed modifying the hearing procedures due to the large number of items for the February agenda and the number of waiver requests received in an attempt to accommodate the spring and winter sport athletes. 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.

Ms. Marvel made a motion to come out of executive session. The motion was seconded by Mr. Harvey and carried unanimously.

Dr. Fitzgerald 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 medical hardships that were beyond the control of the student. The motion was seconded by Ms. Marvel and carried unanimously. Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for March 15 is cancelled.

2. 1009.2.4 by Middletown HS for M. B.

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. Mr. Bedford 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. Taylor 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 March 15, 2012 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 today. Mr. Charles granted the interim waivers and proposed modifying the hearing procedures due to the large number of items for the February agenda and the number of waiver requests received in an attempt to accommodate the spring and winter sport athletes. 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. Holodick made a motion to come out of executive session. The motion was seconded by Mr. Harvey and carried unanimously.

Mr. Long 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 personal hardships that were beyond the control of the student. The motion was seconded by Ms. Marvel and carried unanimously. Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for March 15 is cancelled.

3. 1009.2.4 by Newark HS for M. P.

Ms. Taylor and Mr. Bedford 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. Ms. Love 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. Coffing 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 March 15, 2012 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 today. Mr. Charles granted the interim waivers and proposed modifying the hearing procedures due to the large number of items for the February agenda and the number of waiver requests received in an attempt to accommodate the spring and winter sport athletes. 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.

Mr. Thomson made a motion to come out of executive session. The motion was seconded by Dr. Fitzgerald and carried unanimously.

Ms. Marvel 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 financial hardships that were beyond the control of the student. The motion was seconded by Mr. Long and carried unanimously. Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for March 15 is cancelled.

F. Request for Waiver of 1009.2.2.1 & 1009.2.8.2 by Wilm Christian for International Students

Doug Haas, Principal for Wilmington Christian; and Kim Connell, admissions assistant and the international student coordinator were in attendance to present this request. Ms. Love recused herself from this hearing. Ms. Fontello clarified that the information presented to the Board include twelve individual waiver packets for the 12 students and no specific student records had been included. Ms. Fontello advised that since there is no student information the hearing would be 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.

Mr. Haas clarified that there are actually 14 international students and not 12. Mr. Haas stated that Wilmington Christian School recently started planning to make their school a little more worldly diverse and began the process of applying to the Federal Government to be an I20 school. Mr. Haas stated that the school currently has 7 students from China and 7 students from Korea. Mr. Haas commented that the world diversity is good for the students. Mr. Haas stated that the parents do pay full tuition and also compensate the host family. Mr. Haas explained that the students must know English. He also explained that the goal for these students is to attend an American university. Mr. Haas stated he wants the students to be able to play sports to be enriched in every way.

Mr. Charles suggested that it would be helpful to hear more about the agency and how the students get into the school. Ms. Connell stated that the first year they started working with AHLI – American Home Life International and this agency works directly with the host family. Ms. Connell stated that they also work with ACES – American Cultural Exchange Services. Mr. Charles asked if the agencies

were CSIET members. Ms. Connell did not know if the agencies were members of CSIET. Mr. Charles explained that DIAA is a full member of CSIET and the process that CSIET uses. Mr. Charles stated that these students are on different visas. Mr. Charles stated that he believed that a foreign exchange student can only stay at a host school for one year. International students can only stay at a public school one year but private schools can have the students for four years. Mr. Charles commented that the concern of international students was discussed at the 2012 NFHS Winter meeting and how difficult it is to regulate. Mr. Charles explained that the DIAA regulations state that international students participating in programs not listed on the CSIET list shall be required to provide evidence that the program is a bonafide educational exchange program. Mr. Charles stated that perhaps there is a way to recognize those two agencies so that a waiver will not be necessary. Mr. Charles also stated that a similar request may be coming from the DISC schools. Ms. Connell commented that the enrollment is not athletically motivated and their school does not know if the student participates in athletics until they get to the school.

Mr. Long made a motion to go into deliberation. The motion was seconded by Ms. Leone and carried unanimously. Mr. Long made a motion to come out of deliberation. The motion was seconded by Ms. Coffing and carried unanimously.

Mr. Haas clarified his request by stating that he is asking that the students be allowed to participate until the Board can review the regulations. Mr. Charles stated that the regulations state that the students could practice but not participate in a contest. Mr. Kobasa commented that there is sufficient time to gather information needed to make an informed decision before the first date of competition for spring sports.

Dr. Fitzgerald made a motion to table this request until the March meeting pending more information regarding international students. The motion was seconded by Mr. Eliassen and carried unanimously.

Recessed at 12:00 noon for lunch and reconvened at 12:15 p.m.

G. Request by St. Marks to Remain Division I

Matt Smith, athletic director at St. Marks High School was in attendance to present this request. Mr. Smith explained that he was requesting a waiver for St. Marks to remain a Division I school. He stated that their current population is at 1078 which is below 1203, the cut off for Division I. Mr. Smith commented that the decrease in enrollment was likely due to demographics and the economy. Mr. Smith explained that in the spirit of competitiveness and fairness his school would like to remain a Division I school.

Mr. Long made a motion to accept the request to stay a Division I school in all

sports for a two year cycle to include the 2012-12 and 2013-14 school year. The motion was seconded by Mr. Thomson and carried unanimously.

I. DAAD Proposal to Fund Athletic Directors Continuing Education

Mr. Thomson recused himself from voting in this matter and presented the request. Mr. Thomson explained that the Delaware Association of Athletic Directors applied for a leadership/training grant from the National Interscholastic Association of Athletic Administrators. DAAD is requesting DIAA match the grant by guaranteeing a maximum of \$10,000.00 in funds. The funds will be held and controlled by DIAA for leadership training courses. Mr. Charles noted DIAA's educational mission and that it is beneficial to interscholastic athletics to educate DIAA member school athletic directors. Mr. Charles also clarified that the request represents a \$3,000.00 increase in that there is already \$7,000.00 allocated in the current budget for NIAAA courses.

Dr. Fitzgerald made a motion to approve the DAADS request for \$10,000.00 to fund the training courses. The motion was seconded by Mr. Eby and carried unanimously.

IV. Executive Director Report

A. Legal

Ms. Fontello updated the Board on the appeals pending before the State Board of Education. Ms. Fontello advised that the State Board considered one of the appeals at their last meeting and the SBE adopted the hearing officer's proposed decision and upheld the DIAA decision. Ms. Fontello further advised that two appeals are still pending.

B. Misc.

Mr. Charles reviewed the Board appointments and asked Board members eligible and wishing to be reappointed to send a letter of interest to the Governor. Mr. Charles stated that the New Castle Public member is still vacant.

Mr. Charles informed the Board that he was contacted by Bernard Muir, the athletic director at the University of Delaware stating that they want as many Delaware high school events as possible and that they are willing to waive or reduce the rental charge for using the facility. Mr. Charles stated he will be meeting with Mr. Muir at the end of March.

Mr. Charles reported on an email from Bob Cilento, athletic director at Cape Henlopen that a student that received a waiver from the DIAA Board was

selected for the USA Women's Junior National under 17 in field hockey Touring team.

Mr. Charles reported that Christy Boyd the Appoquinimink High School athletic director is resigning.

Mr. Charles stated that Campus Community has about 200 students still in the school and the school has advised that they anticipate fielding spring sports teams in boys' lacrosse and girls' soccer.

Mr. Charles reviewed a letter he received from the Governor's advisory council for exceptional citizens who commented on the DIAA physical form.

Mr. Charles commented on documents from the State of New Jersey on Glucagon and caring for students with diabetes.

Mr. Charles reported on communication he received from Frank Vettori who is a long time wrestling advocate which included data collected from two major wrestling tournaments in Delaware with regards to participation in new NFHS weight classes. Mr. Charles explained that the NFHS changed the weight classes effective with the 2011-12 season which was somewhat controversial. Delaware voted against the proposed change but it passed on a 26-21 vote which took a weight class out of the middle and put it at the higher end.

It was noted that there was a report of an injury at a DIAA event and a claim from the injured person was referred to the insurance carrier.

V. Other

VI. Public Comment

None.

VII. Adjournment

Dr. Holodick made a motion to adjourn at 1:20 p.m. The motion was seconded by Mr. Thomas and carried unanimously.

Tina Hurley