

DIAA Board of Directors' Meeting Minutes  
Thursday, November 8, 2012 – 9:00 a.m.  
John W. Collette Education Resource Center

I. Opening

A. Call to Order

The meeting was called to order at 9:05 a.m. by Terre Taylor.

B. Roll Call

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

C. Approval of Agenda

Dr. Holodick made a motion to approve the agenda with the addendum. The motion was seconded by Mr. Eby and carried unanimously.

D. Approval of Minutes of DIAA October 11, 2012 Board Meeting

Mr. Eliassen made a motion to approve the minutes of the October 11, 2012 Board meeting. The motion was seconded by Mr. Long and carried unanimously.

E. DIAA Financial Report

Mr. Charles provided updates on the reporting period of October 3, 2012 through October 24, 2012. Mr. Charles stated that the revenue to date was \$121,636.00 which was 17% of the projected revenue. Mr. Charles reported that income for the reporting period was \$18,400.0 which was primarily from member dues and tournament fees. Mr. Charles explained that the expenditures to date \$197,679.00 which was 27% of the projected expenditures. Mr. Charles reported that for this period were \$24,154.30. Mr. Charles reported that the expenditures were primarily from the salary and OEC and publications. Mr. Charles reported that DIAA is in the red at this time \$76, 043.94 which is normal for this time of year. Ms. Cale made a motion to accept the financial report. The motion was seconded by Ms. Coffing and carried unanimously.

II. Public Comment

None

III. A Approval of Tournament Sanctions

Mr. Charles presented the 44 total sanction requests with three cross country, one volleyball, four basketball, sixteen indoor track and field, fourteen wrestling, three outdoor track and field, one softball, and two baseball. Mr. Charles also stated that this included the Beast of the East wrestling tournament. Based on the information presented all the approved requests are in compliance with DIAA and NFHS rules and regulations. Mr. Eby made a motion to approve the items presented. The motion was seconded by Mr. Long and carried unanimously.

I. Proposal by DIAA SWC to Amend Junior High Wrestling Periods

Mr. Charles explained that this is part two of a request from the SWC. Part one dealt with amending the weight classes for middle schools. Mr. Charles explained that the current length of wrestling periods for middle school wrestling is one minute for each period. Mr. Charles explained that the wrestling committee found that the periods are too short and wants to increase the amount of wrestling time. Mr. Charles reported that high school wrestling has two minute periods. Mr. Charles stated that the proposal is to make the first period one minute, the second period 1 ½ minutes, and the third period to 1 ½ minutes. Mr. Charles explained that this adds a minute to the match. Mr. Charles advised that middle school coaches, wrestling officials, and the Wrestling Committee were all surveyed and approved the proposal. Mr. Eby made a motion to grant the proposal to change the middle school wrestling periods as stated. The motion was seconded by Mr. Kobasa and carried unanimously.

IV. Executive Director Report

B. Misc.

Mr. Charles reported that the Secretary of Education has verified the enrollment numbers for public schools. The split between Division I and Division II this year will be Glasgow HS as the smallest Division I school in flight A and the smallest Henlopen Conference School is Polytech. Mr. Charles stated that this means that Polytech HS and Milford HS change where Polytech will move from the south to the north and Milford will move from the north to the south and the Blue Hen Conference will remain the same.

Mr. Charles also reported that he visited with the Blue Hen Conference and the Henlopen Conference regarding the international student and the Blue Hen athletic directors were in support of the program which would allow the international students to have two years of sub-varsity eligibility immediately

and move in to varsity and state tournament eligibility after that. The Henlopen Conference was more mixed but they do not have many private schools. Mr. Charles stated that both Conferences voted in favor of the program.

Mr. Charles shared a letter he received from US Lacrosse which expressed their position that they discourage specialization in one sport.

### III. B. Appeal of Suspension by DIAA Executive Director for DIAA Case 2012-11-1

Cherelle Dennis was in attendance to present her appeal. 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 approve a waiver motion. Ms. Fontello explained that there are 15 voting members participating and present to consider this matter. Ms. Fontello also explained the hearing procedures. The party confirmed that she 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.

After Ms. Dennis consented to the order of presentations, Mr. Charles provided background information on this appeal. Mr. Charles explained the self-report by Appoquinimink High School that was presented at the August 2012 Board Meeting. Mr. Charles stated that Appoquinimink did an investigation and the Student no longer attends that school due to her residence outside the district and the school ultimately suspended the two coaches from coaching in their school for one year. Mr. Charles stated that based on the schools investigation and self-report he suspended the athlete from participating and the head coach, and the assistant coach from coaching at any DIAA member school for one year.

Ms. Dennis testified and explained the reasons for her appeal. She explained that she was not asking the DIAA to overrule Appoquinimink High School's decision but she was just asking to be permitted to coach at another high school this year. Ms. Dennis reviewed her conversation that she had with administration during the interview and also testified regarding concerns that she was told were brought to the administration's attention regarding another student. Ms. Dennis testified that the student never told her directly that she had a house outside of the district. Ms. Dennis asserted that her suspension should be overturned because the source of the information came from within Appoquinimink High School.

Mr. Charles clarified for the Board the circumstance that lead the school district to discover the student was ineligible.

Mr. Poehlmann, Appoquinimink High School's assistant principal testified that he oversees athletics at the school. Mr. Poehlmann indicated that Ms. Dennis never came to him about a player and the administration had no idea that the Student did not live in the district. Mr. Poehlmann reviewed the investigations with both coaches.

Ms. Fisher testified on behalf of Ms. Dennis. Ms. Fisher explained that she is a parent of a freshman and that Ms. Dennis was very good to her daughter when she had to have surgery. Ms. Fisher stated that the Coach really cares about the players and is very involved. Ms. Fisher stated that Ms. Dennis is an honest and caring person and that it is an injustice to take her away from the players and the suspension is too harsh.

Dr. Walter made a motion to go into deliberations. The motion was seconded by Mr. Kobasa and carried unanimously. Dr. Knight made a motion to come out of deliberations. The motion was seconded by Mr. Eliassen and carried unanimously. The Board determined that they wanted to hear from additional witnesses and the hearing continued.

Mr. Fallis, Appoquinimink School District Human Resources Director testified regarding the school's investigation. Mr. Fallis explained that he became involved in the investigation after an initial report was made to Mr. Charles. Ms. Dennis cross-examined Mr. Fallis and provided additional testimony.

Ms. Dennis expressed concern with whom to report the information to because of past incidents where she believed reports were swept under the carpet

Dr. Knight made a motion to go into deliberation. The motion was seconded by Ms. Coffing and carried unanimously. Ms. Coffing made a motion to come out of deliberation. The motion was seconded by Dr. Holodick and carried unanimously.

Ms. Coffing made a motion to deny the appeal and approve Ms. Dennis' one year suspension in all sports. The motion was seconded by Mr. Eby and carried by a vote of 11 – yes (Taylor, Bedford, Kobasa, Leone, Coffing, Knight, Love, Long, Holodick, Eby, and Walter), 2 – no (Eliassen and Marvel), and 1 – abstention (Thomson).

#### IV. Executive Director Report

##### B. Misc.

Mr. Charles reviewed a news article done by the Delaware Wave on DIAA's Concussion protocol.

### III. C. Self-Report by Appoquinimink High School, Actions by Executive Director

Mr. Charles explained that he received a self-report from Appoquinimink School District that they used an ineligible athlete for a period of three seasons. Mr. Charles further explained the district's investigation and stated that as a result of the violation the school district self-reported and forfeited all victories during that three-year period. The student was unenrolled from the high school. Mr. Charles reported that in addition to the school's actions he also made the student ineligible to participate at any member school for the 2012-2013 school year. Mr. Charles commented that the head coach was suspended by the school and he also suspended the head coach from coaching at any DIAA member school and he also placed the head coach on conditional probation for one year. Mr. Charles testified that the assistant coach was also suspended for one year. Mr. Eliassen made a motion to approve the actions taken by the Executive Director. The motion was seconded by Mr. Kobasa and carried by a vote of 14 - yes (Taylor, Bedford, Kobasa, Thomson, Eliassen, Leone, Marvel, Coffing, Knight, Love, Long, Holodick, Eby, and Walter) and 1 - recused (Cale).

### III. D. Request for Waiver of 1009.2.4 By Woodbridge High School, DIAA – 2012-11-2

Student and Student's mother, and Scott Bleile; athletic director at Woodbridge High School were in attendance to present this request. Student's mother requested a closed hearing. Mr. Bedford 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. Leone 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 present and participating to consider this matter. The parties confirmed that they understood and wished to proceed with less than the full Board present. All persons participating in this hearing were sworn in. All the documentation was made part of the record and in addition to the testimony given the Board considered and relied upon the written documentation provided. Testimony was also received from John Demby, Principal Sussex Technical High School.

Dr. Walter made a motion to go into deliberation. The motion was seconded by Ms. Leone and carried unanimously. Mr. Bedford made a motion to come

out of deliberation. The motion was seconded by Mr. Long and carried unanimously.

Dr. Holodick made a motion to go into deliberation. The motion was seconded by Mr. Eliassen and carried unanimously. Ms. Marvel made a motion to come out of deliberation. The motion was seconded by Dr. Knight and carried unanimously.

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

Mr. Long made a motion to approve the request based on the information presented which established a hardship. The motion was seconded by Ms. Marvel and carried by a vote of 14 – yes (Taylor, Bedford, Kobasa, Cale, Eliassen, Leone, Marvel, Knight, Love, Long, Holodick, Walter, Coffing, and Eby) and 0 – no

III. E. Request for Waiver of 1009.2.4 by Caesar Rodney High School, DIAA 2012-11-3

Father of the student (“Father”), and Student were in attendance to present this request. A representative from the school did not attend. Student’s 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 13 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 with less than the full Board present. 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.

Father testified regarding reasons for the Student’s transfer. Father explained that the family moved to Rehoboth Beach in March and the Student transferred to Cape Henlopen High School. Father testified regarding the family’s concerns. Father explained that there were concerns with the school climate and environment and the family decided it was best for Student to transfer back to Caesar Rodney High School.

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

Dr. Holodick made a motion to deny the request based on the lack of evidence

and Student's failure to establish a hardship according to DIAA Rules and Regulations. The motion was seconded by Mr. Eliassen and carried by a vote of 12 – yes (Taylor, Bedford, Kobasa, Cale, Eliassen, Leone, Coffing, Love, Long, Holodick, Eby, and Walter) and 1 – no (Marvel).

III F. Request for Waiver of 1009.2.4 by Wilmington Christian School, DIAA 2012-11-4

Mother of the student ("Mother"), Student, and Joe Thomson; representative from Wilmington Christian School were in attendance to present this request. Student's 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 with less than the full Board present. 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.

Mother testified regarding the reasons for her son's transfer. Mother explained that she is a single parent and that last year her son was struggling with academics and athletics and was dealing with family issues and financial issues. Mother testified regarding the actions she took with the school and the changes made and Student's academic improvement. Mother then testified that her son later got distracted again and she spoke to the coaches about resigning and the coaches supported her son and his resignation. Mother explained that her son got involved in an out of school basketball team and learned that there were private schools that her son could attend. Mother explained that her son attended the schools in his feeder pattern because she was not aware of the other options and found a better environment for her son.

Student explained the difficulty he was having at school and with a family member's illness. Student also explained that he knew he had to get his grades up so he listened to his mother and quit basketball. Student further explained that after being on the travel basketball team he realized that he needs to go to college and he needed to make some changes to get there. Student explained that he transferred to Wilmington Christian School and that he is very happy there. Student stated that he left the basketball team because of his grades other circumstances. Mother added that prior to Student's transfer to Wilmington Christian School she also looked at Sanford School.

Mr. Eby made a motion to go into deliberation. The motion was seconded by Mr. Eliassen and carried unanimously. Dr. Holodick made a motion to come

out of deliberation. The motion was seconded by Mr. Eliassen and carried unanimously.

Mr. Eby made a motion to deny the request because Student did not meet his burden to establish a hardship. The motion was seconded by Mr. Long and carried by a vote of 12 – yes (Taylor, Bedford, Kobasa, Cale, Eliassen, Leone, Marvel, Coffing, Long, Holodick, Eby, and Walter) and 0 – no. Ms. Love abstained.

### III J. Request by Dover HS for Forfeit vs. St. Peters, NJ

Michael Thomas; superintendent, Evelyn Edney; principal, Jeff Savage; athletic director, and Dave Williams; attorney for Dover High School were in attendance to present this request. 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 approve a motion or request. Ms. Fontello explained that there are 13 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 with less than the full Board present. Mr. Savage was sworn in. Ms. Fontello then reviewed all documents pertaining to this hearing and the documents were included in the record.

Mr. Williams thanked the Board for adding this request to the agenda. Mr. Savage explained that due to unforeseen circumstances during hurricane Sandy a football game against St. Peters Preparatory School in New Jersey was unable to be played. Mr. Savage explained that he was here to advocate for the student athletes and coaches. Mr. Savage further explained that because the game was not played it was considered a no contest and that Dover High School will fall short of making the DIAA Football Tournament. Mr. Savage offered to move the date but was informed by the St. Peters athletic director their team was unable to participate under any circumstances because their school equipment was under two feet of water. Mr. Savage also attempted to find another school to play that weekend to no avail.

Mr. Charles explained how the Football Committee selects the teams for the tournament. Mr. Charles also explained the language in the contract that was signed between Dover High School and St. Peters.

Mr. Long made a motion to go into deliberation. The motion was seconded by Mr. Bedford and carried unanimously. Mr. Kobasa made a motion to come out of deliberation. The motion was seconded by Mr. Eliassen and carried unanimously.

The Board asked additional questions regarding the contract language. Mr. Savage also provided additional testimony. Mr. Charles also clarified that he had attempted to contact St. Peter's School but was not able to speak to anyone. Additionally it was clarified that the regulation only permitted a school to request a forfeit in lieu of a "no contest" when the other school breached the contract. It was also clarified that if the Board found a breach of contract occurred that the Board could then consider if it was appropriate to grant forfeiture in lieu of a "no-contest" under the circumstances presented. Mr. Savage also clarified DHS' contact with St. Peters..

Ms. Leone made a motion to go into deliberation. The motion was seconded by Ms. Coffing and carried unanimously.

Mr. Long made a motion to deny Dover High School's request for a forfeiture of the unplayed game scheduled with St. Peters Preparatory School in lieu of a "no contest". The motion was seconded by Ms. Coffing and carried by a vote of 13 – yes (Taylor, Bedford, Kobasa, Cale, Eliassen, Leone, Marvel, Coffing, Love, Long, Holodick, Eby, and Walter), 0 – no, and 1 – abstention (Thomson)

### III. G. Interim Waivers by Executive Director

#### 1. 1009.2.4 by Newark for DIAA – 2012-115

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 recused himself from this hearing. Mr. Eby 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. Kobasa 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 modified hearing procedures with the consent of the parents 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 December 13, 2012 meeting should it be necessary. Ms. Fontello explained that Mr. Charles deviated from the normal procedures due to a lengthy agenda with a matter that was anticipated to take up a great deal of time and in an attempt to accommodate the larger number of waiver requests received for fall and winter sport athletes. Ms. Fontello

explained that Mr. Charles granted two interim waivers one allowing the student to be immediately eligible to participate and the second to allow the student and parent not to appear for the hearing today. 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. Kobasa made a motion to come out of executive session. The motion was seconded by Ms. Coffing and carried unanimously. Mr. Kobasa 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 financial hardship and the information provided regarding the hardships that were beyond the control of the student. The motion was seconded by Ms. Cale and carried by a vote of 11 – yes (Eby, Cale, Walter, Coffing, Holodick, Long, Kobasa, Leone, Love, Eliassen, and Marvel) 1 – abstain (Thomson) Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for December 13, 2012 is cancelled.

2. 1009.2.6 by Moyer Academy, DIAA-2012—11-6

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. Leone 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. Bedford 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 modified hearing procedures with the consent of the parents 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 December 13, 2012 meeting should it be necessary. Ms. Fontello explained that Mr. Charles deviated from the normal procedures due to a lengthy agenda with a matter that was anticipated to take up a great deal of time and in an attempt to accommodate the larger number of waiver requests received for fall and winter sport athletes. Ms. Fontello explained that Mr. Charles granted two interim waivers one allowing the student to be immediately eligible to participate and the second to allow the student and parent not to appear for the hearing today. 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. Cale made a motion to come out of executive session. The motion was seconded by Mr. Kobasa and carried unanimously. Mr. Kobasa 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 Ms. Love and carried by a vote of 11 – yes (Eby, Cale, Walter, Coffing, Holodick, Long, Kobasa, Leone, Love, Eliassen, and Marvel) 1 – abstain (Thomson) Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for December 13, 2012 is cancelled.

3. 1009.2.6 by Moyer Academy, DIAA – 201211-7

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. Leone 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. Bedford 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 modified hearing procedures with the consent of the parents 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 December 13, 2012 meeting should it be necessary. Ms. Fontello explained that Mr. Charles deviated from the normal procedures due to a lengthy agenda with a matter that was anticipated to take up a great deal of time and in an attempt to accommodate the larger number of waiver requests received for fall and winter sport athletes. Ms. Fontello explained that Mr. Charles granted two interim waivers one allowing the student to be immediately eligible to participate and the second to allow the student and parent not to appear for the hearing today. 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. Cale made a motion to come out of executive session. The motion was seconded by Mr. Kobasa and carried unanimously. Mr. Kobasa 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 Ms. Love and carried by a vote of 11 – yes (Eby, Cale, Walter, Coffing, Holodick, Long, Kobasa, Leone, Love, Eliassen, and Marvel) 1 – abstain (Thomson) Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for December 13, 2012 is cancelled.

4. 1009.2.6 by Moyer Academy, DIAA – 201211-8

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. Leone 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. Bedford 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 modified hearing procedures with the consent of the parents 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 December 13, 2012 meeting should it be necessary. Ms. Fontello explained that Mr. Charles deviated from the normal procedures due to a lengthy agenda with a matter that was anticipated to take up a great deal of time and in an attempt to accommodate the larger number of waiver requests received for fall and winter sport athletes. Ms. Fontello explained that Mr. Charles granted two interim waivers one allowing the student to be immediately eligible to participate and the second to allow the student and parent not to appear for the hearing today. 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. Cale made a motion to come out of executive session. The motion was seconded by Mr. Kobasa and carried unanimously. Mr. Kobasa 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 Ms. Love and carried by a vote of 11 – yes (Eby, Cale, Walter, Coffing, Holodick, Long, Kobasa, Leone, Love, Eliassen, and Marvel) 1 – abstain (Thomson) Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for December 13, 2012 is cancelled.

5. 1009.2.6 by Moyer Academy, DIAA – 201211-9

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. Leone 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. Bedford 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 modified hearing procedures with the consent of the parents 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 December 13, 2012 meeting should it be necessary. Ms. Fontello explained that Mr. Charles deviated from the normal procedures due to a lengthy agenda with a matter that was anticipated to take up a great deal of time and in an attempt to accommodate the larger number of waiver requests received for fall and winter sport athletes. Ms. Fontello explained that Mr. Charles granted two interim waivers one allowing the student to be immediately eligible to participate and the second to allow the student and parent not to appear for the hearing today. 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. Cale made a motion to come out of executive session. The motion was seconded by Mr. Kobasa and carried unanimously. Mr. Kobasa 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 Ms. Love and carried by a vote of 11 – yes (Eby, Cale, Walter, Coffing, Holodick, Long, Kobasa, Leone, Love, Eliassen, and Marvel) 1 – abstain (Thomson) Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for December 13, 2012 is cancelled.

7. 1009.2.6 by Moyer Academy, DIAA – 201211-11

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.

Leone 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. Bedford 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 modified hearing procedures with the consent of the parents 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 December 13, 2012 meeting should it be necessary. Ms. Fontello explained that Mr. Charles deviated from the normal procedures due to a lengthy agenda with a matter that was anticipated to take up a great deal of time and in an attempt to accommodate the larger number of waiver requests received for fall and winter sport athletes. Ms. Fontello explained that Mr. Charles granted two interim waivers one allowing the student to be immediately eligible to participate and the second to allow the student and parent not to appear for the hearing today. 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. Cale made a motion to come out of executive session. The motion was seconded by Mr. Kobasa and carried unanimously. Mr. Kobasa 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 Ms. Love and carried by a vote of 11 – yes (Eby, Cale, Walter, Coffing, Holodick, Long, Kobasa, Leone, Love, Eliassen, and Marvel) 1 – abstain (Thomson) Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for December 13, 2012 is cancelled.

8. 1009.2.6 by Moyer Academy, DIAA – 201211-12

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. Leone 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. Bedford 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 modified hearing procedures with the consent of the parents 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 December 13, 2012 meeting should it be necessary. Ms. Fontello explained that Mr. Charles deviated from the normal procedures due to a lengthy agenda with a matter that was anticipated to take up a great deal of time and in an attempt to accommodate the larger number of waiver requests received for fall and winter sport athletes. Ms. Fontello explained that Mr. Charles granted two interim waivers one allowing the student to be immediately eligible to participate and the second to allow the student and parent not to appear for the hearing today. 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. Cale made a motion to come out of executive session. The motion was seconded by Mr. Kobasa and carried unanimously. Mr. Kobasa 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 Ms. Love and carried by a vote of 11 – yes (Eby, Cale, Walter, Coffing, Holodick, Long, Kobasa, Leone, Love, Eliassen, and Marvel) 1 – abstain (Thomson) Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for December 13, 2012 is cancelled.

10. 1009.2.6 by Moyer Academy, DIAA – 201211-14

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. Leone 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. Bedford 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 modified hearing procedures with the consent of the parents 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 December 13, 2012 meeting should it be necessary. Ms. Fontello explained that Mr. Charles deviated from the normal procedures due to a lengthy agenda with a matter that was anticipated to take

up a great deal of time and in an attempt to accommodate the larger number of waiver requests received for fall and winter sport athletes. Ms. Fontello explained that Mr. Charles granted two interim waivers one allowing the student to be immediately eligible to participate and the second to allow the student and parent not to appear for the hearing today. 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. Cale made a motion to come out of executive session. The motion was seconded by Mr. Kobasa and carried unanimously. Mr. Kobasa 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 Ms. Love and carried by a vote of 11 – yes (Eby, Cale, Walter, Coffing, Holodick, Long, Kobasa, Leone, Love, Eliassen, and Marvel) 1 – abstain (Thomson) Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for December 13, 2012 is cancelled.

### III. H. Request for Waiver 1008.4.3 by Pike Creek Christian School

Mr. Charles testified regarding the waiver request. A representative from the school did not appear and the Board considered the waiver request based on the written record and Mr. Charles' testimony. Mr. Charles explained that Pike Creek has run a basketball tournament for the past twelve years and over the years it has expanded and the school is requesting a waiver of 1009.4.3.1 regarding the one game per day restriction and the two games per week restriction to accommodate the expansion of more teams participating in the tournament. Pike Creek indicated that the games will be played over the President's day weekend and most participating schools are closed on the following Monday for the holiday. Mr. Charles also stated that Pike Creek indicated that the semifinals, the finals, and the third place games will be played on Saturday and to do so half of the teams will need to play two games on Saturday. Mr. Charles explained the two elements of the regulations impacted by the request. Mr. Charles also explained that Pike Creek is running the tournament in a two day format. Mr. Charles commented that there is some concern regarding middle school tournaments and generating numerous tournaments and requests and that DIAA may consider amending the requirements in the future to permit similar tournaments limited to one per year.

Mr. Eby made a motion to approve the waiver request and accept Pike Creek's

request for this year only. The motion was seconded by Mr. Eliassen and carried unanimously.

IV. Executive Director Report

A. Legal Report

None.

V. Other

VI. Public Comment

None.

VII. Adjournment

Mr. Bedford made a motion to adjourn at 3:00 p.m. The motion was seconded by Mr. Long and carried unanimously.

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Tina Hurley