

DIAA Board of Directors' Meeting Minutes  
Thursday, December 13, 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 Terre Taylor.

B. Roll Call

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

C. Approval of Agenda

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

II. Public Comment

None

III. J Request to Purchase Wrestling Score Clocks

Mr. Charles presented a request to order five wrestling score clocks. Mr. Charles explained the previously allocated funding. He further explained that there were clocks ordered and paid for in 2011 but that the order was not delivered due to unavailability. Mr. Charles also explained that because the technology had changed since 2011, the old order will be cancelled and committed dollars applied to the new purchase of updated items. Mr. Charles reported that the updated clocks will be able to do live internet scoring, integrated tournament management, requires less staff and are state of the art clocks. Mr. Long made a motion to approve the request to allocate additional funding and purchase five clocks. The motion was seconded by Mr. Kobasa and carried unanimously.

B. Request for Waiver of 1009.2.4 by Archmere Academy for DIAA Case #2012-

12-1

Student and Student's mother and father, and David Oswinkle; athletic director at Archmere Academy were in attendance to present this request.

Student's parents requested a closed hearing. Ms. Leone 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 Mr. Thomas 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 11 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.

Dr. Walter made a motion to go into deliberation. The motion was seconded By Ms. Leone and carried unanimously. Dr. Fitzgerald made a motion to come out of deliberation. The motion was seconded by Dr. Walter and carried unanimously. Dr. Fitzgerald made a motion to come out of executive session. The motion was seconded by Mr. Kobasa and carried unanimously.

Mr. Long made a motion to accept the request based upon the information provided establishing a hardship. The motion was seconded by Mr. Thomas and carried by a vote of 12 – yes (Taylor, Coffing, Kobasa, Thomson, Leone, Hyland, Thomas, Love, Fitzgerald, Long, Eby, and Walter) and 0 – no.

C. Request for Waiver of 1009.2.4 by William Penn High School for DIAA Case #2012-12-2

Student and Student's mother, and a family friend were in attendance to present this request. Student's mother requested a closed hearing. A representative from the school did not appear. Mr. Thomas 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 Mr. Kobasa 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 13 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.

Mr. Long made a motion to go into deliberation. The motion was seconded by Mr. Kobasa and carried unanimously. Ms. Leone made a motion to come out of deliberation. The motion was seconded by Ms. Love and carried unanimously. Dr. Fitzgerald made a motion to come out of executive session. The motion was seconded by Ms. Love and carried unanimously.

Mr. Long made a motion to accept the request based upon the information provided the Student established a hardship. The motion was seconded by Mr. Thomas and carried by a vote of 13 – yes (Taylor, Coffing, Kobasa, Thomson, Leone, Hyland, Thomas, Love, Eliassen, Fitzgerald, Long, Eby, and Walter) and 0 – no.

D. Request for Waiver of 1009.2.4 by Mt. Pleasant High School for DIAA Case #2012-12-3

Student and Student's mother, and Iman Turner; Guidance Counselor at Mt. Pleasant High School were in attendance to present this request. Student's mother requested a closed hearing. Mr. Thomas 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 Mr. Eliassen 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 12 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.

Mr. Long made a motion to go into deliberation. The motion was seconded By Mr. Thomas and carried unanimously. Mr. Thomas made a motion to come out of deliberation. The motion was seconded by Mr. Hyland and carried unanimously. Ms. Love made a motion to come out of executive session. The motion was seconded by Mr. Eby and carried unanimously.

Ms. Leone made a motion to accept the request based upon the information provided proving a family medical hardship. The motion was seconded by Ms. Coffing and carried by a vote of 10 – yes (Taylor, Coffing, Thomson, Leone, Hyland, Thomas, Love, Fitzgerald, Long, and Walter) and 2 – no (Eliassen and Eby).

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

#### 1. 1009.2.7 by Cape Henlopen High School for DIAA – 2012-12-4

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. 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. Harvey 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 January 17, 2013 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 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. Thomas made a motion to go into deliberation. The motion was seconded by Mr. Eliassen and carried unanimously. Ms. Coffing made a motion to come out of deliberation. The motion was seconded by Mr. Hyland and carried unanimously. Mr. Thomas made a motion to come out of executive session. The motion was seconded by Ms. Coffing 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 hardships that were beyond the control of the student.

The motion was seconded by Dr. Walter and carried by a vote of 11 – yes (Taylor, Thomson, Eliassen, Leone, Hyland, Thomas, Coffing, Love, Long, Eby, and Walter) and 0 – no. Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for January 17, 2013 is cancelled.

2. 1009.2.4 by Dover High School, DIAA-2012—12-5

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. Hyland 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. Leone 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 January 17, 2013 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 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. Love made a motion to go into deliberation. The motion was seconded by Mr. Eliassen and carried unanimously. Mr. Eliassen made a motion to come out of deliberation. The motion was seconded by Dr. Walter and carried unanimously. Ms. Coffing made a motion to come out of executive session. The motion was seconded by Ms. Leone and carried unanimously.

Mr. Eby 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 Mr. Eliassen and carried by a vote of 10 – yes (Taylor, Thomson, Eliassen, Leone, Hyland, Coffing,

Love, Long, Eby, Walter) and one abstention (Thomas). Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for January 17, 2013 is cancelled.

F. Proposal to Create Division I and Division II in Boys' & Girls' Soccer

Mr. Charles explained that Bob Bussiere; chair of the Boys' State Soccer Committee, would be presenting this request. Mr. Charles explained that Mr. Busiere received a proposal from a coach asking to create two divisions in soccer. Mr. Charles explained that we currently have two divisions in football, wrestling, track, and cross country. Mr. Charles also explained that the boys' and girls' soccer committees met and decided they wanted to jointly move forward with this proposal. Mr. Charles stated that there are 48 schools that participate in soccer. Mr. Busiere explained that he did a survey with the boys' and girls' soccer coaches, athletic directors, and soccer officials. Mr. Busiere reported that the results were very strong in favor of a Division I/Division II split. In response to a Board members question, Mr. Busiere clarified that students and families were not surveyed. Mr. Busiere explained that the Committee came up with a proposal of an 8 team tournament for Division I and a 12 team tournament for Division II. Mr. Busiere stated that there would be approximately 18 teams in Division I that would be eligible to play and approximately 29 teams in Division II. After discussion Mr. Long made a motion to accept this proposal to change boys and girls soccer to have a Division I and Division II on a two year trial period and revisit in 2014. The motion was seconded by Ms. Leone and carried by a vote of 9 – yes(Thomson, Eliassen, Leone, Hyland, Thomas, Love, Long, Eby, and Walter) and 2 – no (Taylor and Coffing).

I. D. Approval of Minutes of DIAA November 8, 2012 Board Meeting

Mr. Eby made a motion to approve the minutes of the November 8, 2012 Board meeting. The motion was seconded by Mr. Thomas and carried unanimously.

E. DIAA Financial Report

Mr. Charles provided updates on the reporting period of October 24 to December 5, 2012. Mr. Charles stated that the revenue to date was \$265,548.00 which was 37% of the projected revenue. Mr. Charles reported that income for the reporting period was \$147,000 which was primarily from fall tournaments. Mr. Charles explained that the expenditures to date are \$276,231 which was 38% of the projected expenditures. Mr. Charles reported that expenditures for this period were \$78,500. Mr. Charles reported that the expenditures were primarily from the fall tournament expense, salary and OEC's, and the Sportsmanship Awards. Mr. Charles reported that DIAA is in the red at this time \$7,500.00 which is normal for this time of year. Mr. Eliassen made a motion to accept the financial report. The motion was

seconded by Ms. Leone and carried unanimously.

### III. A. Approval of Tournament Sanctions

Mr. Charles reported that there are 37 sanction events which include 11 basketball, 18 indoor track, 8 wrestling which all appear to be in compliance with DIAA and NFHS regulations. Mr. Charles commented that there are also two all-star events which make a total of 39 events. Ms. Love made a motion to approve the sanction events. The motion was seconded by Ms. Coffing and carried unanimously.

### G. Request for Membership by Odessa Charter School

Mr. Charles explained that Odessa Charter School is a public charter school and is required by law to become a member of DIAA if they plan to participate in interscholastic athletics. Mr. Charles presented a letter from the school which describes their school, their focus and their projected enrollments. Mr. Eby made a motion to approve the request. The Motion was seconded by Mr. Eliassen and carried unanimously. Membership is effective when all the provisions of the regulations are met including paying dues.

### H. Self-Report by Dover Central Middle School

Mr. Charles explained that he had received a self-report from Dover Central Middle School (hereinafter "DCMS"). Mr. Thomas, assistant principal at Dover Central Middle School, explained that the school used an ineligible football player during the past season. He explained that after the two schools played each other, the DCMS athletic director received an email from the athletic director of Smyrna Middle School questioning the eligibility of one of their athletes. Mr. Thomas stated that this student started 7<sup>th</sup> grade in Christina School District and half way through the school year transferred to Smyrna Middle School and was retained as a 7<sup>th</sup> grader and then withdrew and transferred to Capital School District. He explained that DCSM was not aware the Student had repeated a grade. Mr. Thomas stated that the student participated during his eighth grade year which he would have been ineligible to do so. Mr. Thomas reported that their school is in the process of letting all the schools know and are forfeiting all necessary games. Mr. Long made a motion to accept the self-report. The motion was seconded by Ms. Leone and carried unanimously.

### I. Red Clay School District/Central School Status

Mr. Charles reported the Red Clay District was requesting a waiver to allow their middle schools to schedule an extra basketball game against the Central School. He explained that the Central School is a school where students have

behavioral challenges. A representative of the District did not appear. Mr. Charles explained that the Red Clay School District has trouble with scheduling games as well as having officials cover the game. Mr. Charles explained that in order to resolve this issue, he had approved an interim waiver for the Red Clay middle schools to play one extra basketball game as long as that game was against Central School. Mr. Charles explained that this is similar to what is done for Ferris. Mr. Eby made a motion to approve the interim waiver for the 2012-2013 school year provided game is against Central School. The motion was seconded by Mr. Eliassen and carried unanimously.

#### IV. Executive Director Report

##### A. Legal Report

Ms. Fontello reported that she has received the hearing officer's proposed decision from the appeal that was pending from the November meeting. Ms. Fontello stated that the hearing officer is recommending the State Board of Education affirm DIAA's decision. The SBE has placed the matter on the agenda of the December 20, 2012 meeting.

#### IV. Executive Director Report

##### B. Misc.

Mr. Charles shared communication he received from the Blue White all star game and explained that the DIAA soccer tournament was moved because of weather to the same date as their all star game which in turn made them cancel their game.

Mr. Charles then reported that he met with the school nurses and reviewed several of the health initiatives that we have initiated in the past couple of years. Mr. Charles stated that he did commit to the nurses that he would buy them a NFHS Sports Medicine Handbook.

Mr. Charles reviewed the 2011 Spring Baseball Tournament Report and stated that the baseball chair Mike Hart does a great job.

Mr. Charles then reviewed the 2012 Fall Football Tournament Report and stated that the tournament went well and congratulated Bill Legge on a fine job.

Mr. Charles then explained a request he received from Mr. Firestone regarding legislation on sudden cardiac arrest awareness.

Mr. Charles reported on a radio interview regarding which included discussion



about overuse injuries. Mr. Charles commented that in researching for the interview he discovered reports that the percentage of “Tommy John” surgeries performed on minors increased from 0% in 1984 to 18% in 2000 to 31% in 2010. A coordinated effort to control pitch counts may be necessary to slow the steady use in adolescent arm injuries.

Mr. Charles reported on an appeal of an ejection he received from Caesar Rodney High School.

V. Other

VI. Public Comment

None.

VII. Adjournment

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

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Tina Hurley