

DIAA Board of Directors' Meeting Minutes
Thursday, August 8, 2013 – 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, Gerald Kobasa, Joe Thomson, Artie Uhlich, Willie Savage, Bradley Layfield, Craig Eliassen, Laura Leone, Catherine Marvel, Susan Coffing, Ron Eby, Dr. Robert Walter, Nils Marcune, and Leroy Mann. Kevin Charles, Executive Director, and Paula Fontello, Deputy Attorney General, were also in attendance. Board members Dr. Mark Holodick, Curt Bedford, Edna Cale, Dr. Kevin Fitzgerald, and Dr. Susan Haberstroh were unable to attend.

C. Approval of Agenda

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

D. Approval of Minutes of DIAA June 13, 2013 and July 11, 2013 Board Meeting

Mr. Eby made a motion to approve the minutes of the June 13, 2013 and July 11, 2013 DIAA Board meetings. The motion was seconded by Mr. Kobasa and carried unanimously.

E. DIAA Financial Report

Mr. Charles reported that the income for the period July 1 to present was \$10,915.00 which was limited to income from the spring sports and a NFHS giveback. Mr. Charles then reported that the total expenses were \$80,392.00 which were expenses from the spring tournaments, the catastrophic liability insurance, and salary/OEC's. Mr. Charles reported that the deficit after one month is \$69,477.00 which is typical for this time of year. Mr. Charles stated that there is a detailed report available for Board members upon request. Mr. Layfield made a motion to accept the financial report. The motion was seconded by Mr. Kobasa and carried unanimously.

II. Public Comment

None

III. Action Items

A. Approval of Tournament Sanctions

Mr. Charles reported that there are 15 events to be considered for sanctioning. Mr. Charles reported that 10 are for cross country, 2 for field hockey, 1 for swimming, 1 wrestling and 1 for basketball. Mr. Charles reported that all appear to comply with NFHS and DIAA regulations. Dr. Walter made a motion to approve the sanction events. The motion was seconded by Mr. Eby and carried unanimously.

B. Consideration of RLCA International Student Policy

Mr. Sam Osbourn; Dean of Academics and Dominick Vonvetti; athletic director at Red Lion Christian Academy were in attendance to present this request. Mr. Charles explained that this request by Red Lion Christian Academy was to approve their international student program and also raised a question regarding middle school students. Mr. Charles gave some background and explained what the international student programs were to the new Board members. Mr. Charles stated that in February the Board granted a one year blanket waiver of the regulation 1009.2.8 for all member schools for international student programs if schools met certain criteria. To qualify for the temporary waiver, the school must forward an international student program to the executive director for approval. Mr. Charles stated that he received a program for approval from Red Lion that included F1 middle schools students. Mr. Charles explained that the Board did not consider middle school students when they waived regulation 1009.2.8. Mr. Charles explained further that our high school regulation has an eligibility section devoted to exchange and international students but that the middle school section does not. Ms. Fontello clarified and explained that the high school regulation has a specific provision that allows international or exchange students to participate under certain circumstances. Ms. Fontello further explained that a blanket waiver was granted to all schools to allow for individual school based international student programs that are not approved by CSJET program after review and approval by the Executive Director. Ms. Fontello further clarified that there is no provision for international students in the middle school regulations. All parties present for this request were sworn in.

Mr. Osbourn explained that their school has been accepting J1 exchange students for many years and have become interested in accepting F1 students. Mr. Osbourn further explained that after the waiver was made for the high school exchange students to be able to participate in sports the middle school exchange students became interested as well. Mr. Charles confirmed that he has not yet approved the foreign exchange program regarding the high school student but that he would be completing that action after the meeting. After considerable discussion the consensus of the Board was to refer this issue regarding middle school students to the DIAA Rules and Regulations committee. Ms. Coffing made a motion to refer the issue regarding participation by international middle school students to the rules and regulations committee. The motion was seconded by Dr. Walter and carried by a vote of 12 – yes (Taylor, Kobasa, Leone, Marvel, Layfield, Coffing, Uhlich, Savage, Eby, Walter, Mann, Marcune), 1 – no (Eliassen).

C. Request for Waiver of 1009.2.4 by St. Marks for DIAA Case #2013-8-1

Student and Student's mother, sister and Matt Smith; athletic director at St. Marks High School were in attendance to present this request. Student's mother requested a closed hearing. Mr. Eby 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. Layfield and carried unanimously. Ms. Leone and Ms. Taylor recused themselves from this hearing.

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. Thomson made a motion to go into deliberation. The motion was seconded by Mr. Mann and carried unanimously. Mr. Layfield made a motion to come out of deliberation. The motion was seconded by Dr. Walter and carried unanimously. Mr. Eby made a motion to come out of executive session. The motion was seconded by Mr. Eliassen and carried unanimously.

Dr. Walter made a motion to approve the request based on the evidence presented student had met her burden and established a hardship outside the control of the Student based on the circumstances and situations that were presented by Student. The motion was seconded by Mr. Eby and carried by a vote of 11 – yes (Kobasa, Thomson, Eliassen, Layfield, Uhlich, Savage, Eby, Walter, Mann, Marcune, and Marvel) and 1 – no (Coffing).

D. Request for Waiver of 1009.2.4 by Polytech for DIAA Case #2013-8-2

Student and Student's father, Lenny Richardson; assistant principal at Polytech, and Barry Fillman; assistant principal at Polytech were in attendance to present this request. Student's father requested a closed hearing. Dr. Walter 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. Mann and carried unanimously. Mr. Kobasa and Mr. Thomson recused themselves from this hearing.

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. Layfield made a motion to go into deliberation. The motion was seconded by Ms. Leone and carried unanimously. Mr. Marcune made a motion to come out of deliberation. The motion was seconded by Ms. Marvel and carried unanimously. Mr. Eliassen made a motion to come out of executive session. The motion was seconded by Ms. Marvel and carried unanimously.

Mr. Layfield made a motion to approve the request based on the evidence presented student established a hardship and unforeseen events beyond the election and control of the Student based on the circumstances and situations that were presented by Student and Student's father. The motion was seconded by Mr. Layfield and carried by a vote of 9 – yes (Eliassen, Leone, Marvel, Layfield, Coffing, Uhlich, Savage, Mann, and Marcune) and 3 – no (Walter, Eby, and Taylor).

E. Request for Waiver of 1009.2.4 by Sussex Central for DIAA Case #2013-8-3

Student and Student's parents, and Bradley Layfield; assistant principal at Sussex Central High School were in attendance to present this request. Student's parents requested a closed hearing. Mr. Eby 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. Mr. Layfield recused himself from this hearing and was appearing with the family on behalf of the Sussex Central for this hearing.

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.

Dr. Walter made a motion to go into deliberation. The motion was seconded by Mr. Mann and carried unanimously. Mr. Thomson made a motion to come out of deliberation. The motion was seconded by Mr. Mann and carried unanimously. Mr. Eby made a motion to come out of executive session. The motion was seconded by Mr. Savage and carried unanimously.

Dr. Walter made a motion to approve the waiver request based on the evidence presented the student met their burden to establish a hardship outside the control of the Student based on the circumstances and situations that were presented by Student. The motion was seconded by Ms. Marvel and carried by a vote of 11 – yes (Kobasa, Thomson, Eliassen, Leone, Marvel, Coffing, Uhlich, Savage, Walter, Mann, and Marcune) and 2 – no (Taylor and Eby).

F. Interim Waivers by Executive Director

1. 1009.2.4 by Wilmington Christian for DIAA Case # 2013-8-4

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. Kobasa 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. Eliassen and carried unanimously. Mr. Thomson recused himself from this hearing.

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 a modified hearing process and that the student's parents sent in a signed consent in order to proceed under these modified procedures and also requested a closed proceeding. Ms. Fontello advised that a full hearing is scheduled for the September 12, 2013 meeting should it be necessary. Ms. Fontello explained that Mr. Charles granted two interim waivers one allowing the student to participate and the second regarding the mandatory appearance provision to allow the student and parent not to appear 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 go into deliberations. The motion was seconded by Ms. Marvel and carried unanimously. Ms. Marvel made a motion to come out of deliberations. The motion was seconded by Mr. Eliassen and carried unanimously.

Mr. Kobasa made a motion to come out of executive session. The motion was seconded by Mr. Eby 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 her burden of establishing a hardship and the information provided regarding the hardships that were beyond the control of the student. The motion was seconded by Mr. Eby and carried by a vote of 11 – yes (Kobasa, Taylor, Eliassen, Leone, Marvel, Layfield, Uhlich, Savage, Eby, Walter, and Mann) and 1 – no (Coffing). Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for September 12, 2013 is no longer necessary and is cancelled.

2. 1009.2.4 by Wilmington Christian for DIAA Case #2013-8-5

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. 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. Layfield and carried unanimously. Mr. Thomson recused himself from this hearing.

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 a modified hearing process and student's parents sent in a signed consent in order to proceed under these modified procedures and requesting a closed hearing. Ms. Fontello advised that a full hearing is scheduled for the September 12, 2013 meeting should it be necessary. Ms. Fontello explained that Mr. Charles granted two interim waivers one allowing the student to immediately participate and the second regarding the mandatory appearance provision to allow the student and parent not to appear today. It was confirmed for the record that Mr. Charles remained under oath from past proceedings. 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 go into deliberations. The motion was seconded by Ms. Coffing and carried unanimously. Mr. Kobasa made a motion to come out of deliberations. The motion was seconded by Mr. Eliassen and carried unanimously.

Mr. Kobasa made a motion to come out of executive session. The motion was seconded by Mr. Eby 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 her burden of establishing a hardship and the information provided regarding the hardships

that were beyond the control of the student. The motion was seconded by Mr. Eliassen and carried by a vote of 12 – yes (Taylor, Kobasa, Eliassen, Leone, Marvel, Layfield, Coffing, Uhlich, Savage, Eby, Walter, and Mann). Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for September 12, 2013 is no longer necessary and is cancelled.

I. Consideration of Community Involvement Project by Newark High School

Ms. Fontello confirmed for the record that Mr. Charles remains under oath from past hearings. Ms. Fontello also noted for the record that the action item is a request for waiver on a non-eligibility rule by a school and the school's presence is not mandatory. A representative of the school did not attend the hearing and the waiver was considered based on the written request submitted and Mr. Charles' testimony. Mr. Charles explained that this request was submitted by Newark High School Principal, Curtis Bedford regarding a partnership with the Newark High School soccer boosters club, the soccer team, and the City of Newark Parks and Recreation. Mr. Charles explained that at the international level of soccer it is standard practice that when players are introduced at the beginning of the game the players will parade onto the field with a youth soccer player. Mr. Charles explained that DIAA's regulations include a section on undue influence which is supported by a series of FAQ's. Mr. Charles further explained and the request and advised that the Newark Soccer boosters are asking to be allowed to partner with the City of Newark parks and recreation and be able to bring 7 and 8 year olds on to the field with the high school soccer players before the start of the game. Mr. Charles reviewed some of the FAQ's and expressed concern that the request to cater to youth sport organizations may create some level of undue influence. Ms. Fontello clarified that the FAQ's are the interpretations of the regulations. Ms. Fontello reviewed regulation 1009.10.1 with the Board.

Dr. Walter made a motion to go into deliberations. The motion was seconded by Mr. Mann and carried unanimously. Deliberations were held. Mr. Savage made a motion to come out of deliberations. The motion was seconded by Mr. Mann and carried unanimously.

Dr. Walter made a motion to deny the request for failure to meet the burden to establish that special circumstances warrant a waiver and also refer the issue raised by the waiver request to the Rules and Regulation Committee for further review of the questions raised. The motion was seconded by Mr. Mann and carried by a vote of 11 – yes (Taylor, Kobasa, Thomson, Eliassen, Marvel, Layfield, Uhlich, Savage, Eby, Walter, and Mann) and 1 – no (Coffing).

G. Approval of 2013-14 DIAA Budget

Mr. Charles reviewed the 2013-14 proposed budget. Mr. Charles stated that this is the third review and that he delayed the final because he wanted to make certain the NFHS Network was confirmed because that added \$35,000 in revenue to the budget. Mr. Charles stated that it was passed and could now complete the 2013-14 budget. Mr. Charles reported that the income and expenses were \$796,300.00 Mr. Charles

also stated that the General Assembly has set a spending limit for \$775,000.00 for DIAA. Mr. Charles stated that he does not believe that DIAA will exceed the \$775,000 but that the revenues may exceed the spending authority. Mr. Charles stated he has put in a request to increase DIAA spending authority to \$850,000.00. Mr. Thomson made a motion to approve the 2013-14 budget. The motion was seconded by Mr. Savage and carried unanimously.

H. Request by DVOA to adopt Volleyball Rules Modifications

Mr. Neubauer reported that the NFHS rules require that the home teams supply all officials for the sport of volleyball. Mr. Neubauer explained that the Delaware Volleyball Officials Association is asking the Board to modify this to keep the Delaware tradition where the home team supply one line judge and the visiting team also supply one line judge. Mr. Neubauer stated that this has been the precedent in Delaware and asking the Board to approve. Mr. Charles stated for clarification that the NFHS does allow for state modification of this rule and that is what the volleyball officials association is asking the Board to approve. Mr. Thomson made a motion to approve the request. The motion was seconded by Mr. Eby and carried unanimously.

IV. Executive Director's Report

- A. Legal - Ms. Fontello stated that she had nothing to report at this time.
- B. Mr. Charles reviewed the Senate Concurrent Resolution #30 which is recognizing sudden cardiac arrest. Mr. Charles reported that this is asking DIAA to initiate some education and awareness activities intended to educate student and parents of the dangers of sudden cardiac arrest. Mr. Charles reported that there will be information provided at the rules clinics for coaches and officials. Mr. Charles also reported that they are going to begin promoting a program called "Anyone Can Save a Life" and also a form that has been developed to add to the DIAA PPE for students and parents informing them about sudden cardiac arrest. Mr. Charles explained the importance of this form and making students and parents aware.

Mr. Charles reported on the Student Leadership Conference and stated that it was a great success.

Mr. Charles stated that he received a letter thanking DIAA for including children with intellectual disabilities in the state track meet.

- C. Mr. Neubauer reported that there were 17 sportsmanship winners. Mr. Neubauer stated that Smyrna High School and Gunning Bedford Middle School won for the first time. Mr. Neubauer stated that each winner will receive a stipend and a banner for the school.

V. Other

VI. Public Comment

None

VII. Adjournment

Mr. Layfield made a motion to adjourn at 3:55 p.m. The motion was seconded by Mr. Eliassen and carried unanimously.

Tina Hurley