

DIAA Board of Directors' Meeting Minutes
Thursday, September 12, 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, Curtis Bedford, Gerald Kobasa, Joe Thomson, Edna Cale, Craig Eliassen, Laura Leone, Catherine Marvel, Bradley Layfield, Artie Uhlich, Dr. Kevin Fitzgerald, Dr. Mark Holodick, Ron Eby, Dr. Robert Walter, Leroy Mann, and Nils Marcune. Kevin Charles, Executive Director, and Paula Fontello, Deputy Attorney General, were also in attendance. Board members Dave Thomas, Susan Coffing, Willie Savage, 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 Dr. Fitzgerald and carried unanimously.

D. Approval of Minutes of DIAA August 8, 2013 Board Meeting

Ms. Leone made a motion to approve the minutes of the August 8, 2013 DIAA Board meeting. The motion was seconded by Mr. Layfield and carried unanimously.

E. DIAA Financial Report

Mr. Charles reported that the income for the period August 1 to September 5 was \$47,873 which was limited to income from the spring sports, officials dues, member dues, and corporate revenue. Mr. Charles then reported that the total expenses were \$56,475 which included expenses from the Student Leadership Conference, Board expenses (including past Board stipends), NFOA dues for officials, DIAA Scholarships, travel, and salary/OEC's. Mr. Charles reported that the deficit after one month is \$78,000 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 Ms. Leone and carried unanimously.

II. Public Comment

None

III. Action Items

A. Approval of Tournament Sanctions

Mr. Charles reported that there are 18 events to be considered for sanctioning. Mr. Charles reported that 14 are for cross country, 2 for basketball, 1 for baseball, and 1 track and field. Mr. Charles reported that all appear to comply with NFHS and DIAA regulations. Mr. Charles also stated that he was contacted by the Delaware Sports Commission about resurrecting the Slam Dunk to the Beach. Members of the Board asked about the decision to retain the name. Mr. Charles explained that he met with the DE Sports Commission and advised against using the same name because of the negative connotations. Mr. Kobasa commented that the former Slam Dunk to the Beach has hurt so many people, so many schools, so many organizations, and cost us the former Executive Director. Mr. Kobasa also commented that there are schools, officials, and businesses that are still owed money from the tournament. Mr. Kobasa said that the resurrecting the tournament is a great idea but should start out with a different name. Mr. Charles stated that he will call the commissioner and let him know the concerns of the Board. Mr. Eliassen made a motion to approve the sanction events. The motion was seconded by Ms. Cale and carried unanimously.

B. Request for Waiver of 1009.2.4 by Indian River HS for Case #2013-9-1

Student's mother ("Mother"), Student, and Todd Fuhrman; athletic director at Indian River High 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 14 voting members participating and present to consider this matter. (Kobasa & Uhlich recused) 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 and explained the reasons for the waiver request. Mother explained concerns with distance and increased travel necessity to interfere with Student's family and academic time and also parent's work commitments. Mother explained the areas that changed since Student first entered the sending school. Mother also explained the changes in Student and the impact on Student's health. Student also testified and explained the reasons for the waiver request and answered Board member questions. Mr. Fuhrman also provided testimony.

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

Dr. Holodick made a motion to support the waiver based on the evidence presented, Student met the burden and established a hardship tied directly to the changes in the circumstances and amount of time spent in travel to and from the school that is beyond the control of the student and her family. The motion was seconded by Mr. Bedford and carried by a vote of 11 – yes (Taylor, Bedford, Thomson, Cale, Leone, Marvel, Layfield, Holodick, Eby, Walter, Mann), 3 – no (Eliassen, Fitzgerald, and Marcune).

C. Interim Waivers by Executive Director

1. 1009.2.4 by Brandywine HS for DIAA Case # 2013-9-2

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. Cale 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. Dr. Holodick 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 October 10, 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. Thomson made a motion to go into deliberations. The motion was seconded by Mr. Layfield and carried unanimously. Dr. Fitzgerald made a motion to come out of deliberations. The motion was seconded by Mr. Eliassen and carried unanimously.

Mr. Marcune made a motion to come out of executive session. The motion was seconded by Dr. Fitzgerald 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 the 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. Fitzgerald and carried by a vote of 15 – yes (Taylor, Bedford, Kobasa, Thomson, Cale, Eliassen, Leone, Marvel, Layfield, Uhlich, Fitzgerald, Eby, Walter, Mann, and Marcune) and 1 – recusal (Holodick). Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for October 10, 2013 is no longer necessary and is cancelled.

2. 1009.2.4 by William Penn HS for DIAA Case #2013-9-3

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. 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 Mr. Thomson 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 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 October 10, 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. Thomson made a motion to go into deliberations. The motion was seconded by Mr. Layfield and carried unanimously. Dr. Fitzgerald made a motion to come out of deliberations. The motion was seconded by Mr. Mr. Bedford and carried unanimously.

Mr. Kobasa made a motion to come out of executive session. The motion was seconded by Dr. Fitzgerald and carried unanimously. Mr. Thomson 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 the 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. Fitzgerald and carried by a vote of 14 – yes (Bedford,

Kobasa, Thomson, Eliassen, Leone, Marvel, Layfield, Uhlich, Fitzgerald, Holodick, Eby, Walter, Mann, and Marcune), and 2 – no (Taylor and Cale). Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for October 10, 2013 is no longer necessary and is cancelled.

3. 1009.2.4 by Mt. Pleasant HS for DIAA Case #2013-9-4

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. 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 Ms. Cale and carried unanimously. Dr. Holodick 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 October 10, 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.

Dr. Fitzgerald made a motion to come out of executive session. The motion was seconded by Mr. Bedford 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 the 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. Mann and carried by a vote of 15– yes (Taylor, Bedford, Kobasa, Thomson, Cale, Eliassen, Leone, Marvel, Layfield, Uhlich, Fitzgerald, Eby, Walter, Mann, and Marcune) and 0 - no. Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for October 10, 2013 is no longer necessary and is cancelled.

4. 1009.2.4 by AI DuPont HS for DIAA Case # 2013-9-5

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. 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. Cale 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 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 October 10, 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.

Dr. Fitzgerald made a motion to go into deliberations. The motion was seconded by Mr. Eliassen and carried unanimously. Dr. Fitzgerald made a motion to come out of deliberations. The motion was seconded by Ms. Cale and carried unanimously.

Dr. Fitzgerald made a motion to come out of executive session. The motion was seconded by Ms. Cale and carried unanimously. Dr. Fitzgerald made a motion to table this in order to get more information from Salesianum. The motion was seconded by Dr. Walter and carried unanimously.

5. This item was removed from the agenda.

The Board recessed at 11:30 a.m. and reconvened at 11:45 a.m.

6. 1009.2.4 by RLCA for DIAA Case #2013-9-7

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. 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. Cale and carried unanimously. Dr. Holodick 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 October 10, 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. Thomson made a motion to go into deliberations. The motion was seconded by Mr. Kobasa and carried unanimously. Mr. Eby made a motion to come out of deliberations. The motion was seconded by Mr. Kobasa and carried unanimously. Mr. Eby made a motion to come out of executive session. The motion was seconded by Mr. Kobasa and carried unanimously. Mr. Thomson 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. Kobasa and carried by a vote of 16 – yes (Taylor, Bedford, Kobasa, Thomson, Cale, Eliassen, Leone, Marvel, Layfield, Uhlich, Fitzgerald, Eby, Walter, Mann, Holodick, and Marcune) and 0 - no. Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for October 10, 2013 is no longer necessary and is cancelled.

III. C. 4. 1009.2.4 by A.I. DuPont HS for DIAA Case# 2013-9-5

Dr. Fitzgerald made a motion to remove this item from the table. The motion was seconded by Mr. Eliassen and carried unanimously. Ms. Fontello reported that DIAA received an email from Mike Hart; the athletic director at Salesianum with a letter from the Head of School. Dr. Fitzgerald made a motion to go into executive session. The motion was seconded by Mr. Kobasa and carried unanimously. Dr. Fitzgerald made a motion to come out of executive session. The motion was seconded by Ms. Cale and carried unanimously. Dr. Fitzgerald made a motion to grant the waiver request and approve the two interim waivers of the executive director based on the evidence submitted the Student established a hardship. The motion was seconded by Ms. Cale and carried unanimously 16 – yes (Taylor, Bedford, Kobasa, Thomson, Cale, Eliassen, Leone, Marvel, Layfield, Uhlich, Fitzgerald, Eby, Walter, Mann, Holodick, and Marcune) and 0 - no. The hearing scheduled for October 10, 2013 is no longer necessary and is cancelled.

D. Proposal by SWC to Waive 1009.3.2

Mr. Charles explained that this is a request from the State Wrestling Committee for a blanket waiver of DIAA Regulation 1009.3.2 which has to do with wrestling weight

certification and dates by which a two pound growth allowance can be added. Mr. Charles gave a brief history of this rule and stated that the NFHS rules require that every state have a body composition program which tests students in a hydrated state to determine what their minimum weight would be at 7% body fat for males and 12% for females. Mr. Charles stated that Delaware does have such a program. Mr. Charles explained that each state has their own date by which each wrestler must certify and subsequently get the two pound growth allowance. Mr. Charles stated that the Committee would like to have the two pound growth allowance be effective December 26 so that we can be consistent with surrounding states. Mr. Charles explained that the Committee is also asking to move the last date of certification to be the last date of competition in February so that students can take more time to get down to their base weight. Mr. Charles explained that the coaches are in support of this request. Mr. Eliassen made a motion to support the waiver for this year and to send this to the Rules and Regulations committee in order to make this official. The motion was seconded by Mr. Eby and carried unanimously.

E. Self-Report by Dover High School

Mr. Charles explained that this is a self-report by Dover High School. Mr. Charles further explained that DIAA has a regulation that limits the first three days of football practice to helmet only, second and third day helmet and pads and then after that they can wear full gear and engage in full contact. Mr. Charles stated that on the first day Dover High School went full pads and contact. Mr. Charles explained that Dover has a new coach who came from Baltimore. Mr. Charles stated that they did not go full contact but were in full gear. Mr. Charles reported that the school self-reported. Mr. Charles explained the penalties assessed: a written reprimand for the head coach; a reduction of one day of contact; practice; and a fine of \$200.00, and the matter will be referred to the Sportsmanship Committee. Mr. Charles stated that he also received a letter of apology from the principal. Some Board members asked if the new coach was unaware of the rules and if the athletic director was aware of the rules. Mr. Charles explained that this is discussed at the rules clinic. Another Board member asked if Maryland has the same rules with regards to football and the practice limitations. Mr. Charles stated that every state has a similar rule and that Maryland has a five day conditioning in rule. Mr. Kobasa made a motion to accept the self-report and the fine given by the Executive Director. The motion was seconded by Mr. Mann and carried unanimously.

IV. Executive Director's Report

- A. Legal - Ms. Fontello had nothing to report at this time.
- B. Mr. Charles reported on the Sudden Cardiac Arrest legislation and stated that the sponsoring senator has called a meeting to discuss potential sudden cardiac arrest legislation. Mr. Charles stated that his position is that he believes it is unnecessary. Mr. Charles stated that he will also be meeting with the Superintendents to discuss emergency action plans in October.

Mr. Charles reported that he has identified an out-of-state facility for the state indoor track meet and expects costs to increase significantly to hold this tournament. Mr. Charles stated that he is going to consult with member schools and bring the issue to

the Board in October for a decision.

Mr. Charles stated that the state wrestling committee has been evaluating our current process for body composition testing. Central site testing is very time consuming for everyone involved. Mr. Charles stated that they are trying to move to training assessors for the schools to hire so that it can be done at the school level. Mr. Charles stated that this would make it easier on the schools, students and committee.

Mr. Charles commented on a speaker speaking to youth coaches on how they can help return sports back to kids. Mr. Charles stated that he supports this topic. Mr. Charles stated that he was asked to sponsor him jointly for \$250.00. A Board member asked how we determine which speakers we endorse. After some discussion there were no objections to sponsoring this speaker.

Mr. Charles informed the Board that Christiana and Glasgow High Schools are not sponsoring field hockey this year.

Mr. Charles shared an article written by Don Keister regarding the "911 Good Samaritan Law".

Dr. Walter asked about 8th graders playing up and stated that he has great concern about this regulation. Mr. Charles stated that the Rules and Regulations Committee has looked at this and has proposed to restrict 8th graders to participation at the sub-varsity level if they play up.

A Board member also commented on issues of sportsmanship and the interactions with officials and the availability of officials. Ms. Cale expressed concerns that all participants are role models for the students and suggested that DIAA make sure to communicate and reinforce this concept and ensure that officials present best behaviors in front of the students.

Another Board member commented on undue influence and the regulations.

Another Board member inquired about the impact on schools that choose not to participate in indoor track and whether that school will still be allowed to practice.

- V. Other
- VI. Public Comment
- None
- VII. Adjournment

Dr. Fitzgerald made a motion to adjourn at 1:00 p.m. The motion was seconded by Mr. Layfield and carried unanimously.

Tina Hurley