

DIAA Board of Directors' Meeting Minutes
Thursday, December 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, Dave Thomas, Artie Uhlich, Dr. Kevin Fitzgerald, Susan Coffing, and Ron Eby. Kevin Charles, Executive Director, and Paula Fontello, Deputy Attorney General, were also in attendance. Board members Willie Savage, Leroy Mann, Nils Marcune, Dr. Mark Holodick, Dr. Robert Walter, 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 Mr. Layfield and carried unanimously.

V. Other

Matt Robinson, Slam Dunk to the Beach

Matt Robinson, Chair of the Delaware Sports Commission and David Arthur, Executive Director of the Delaware Sports Commission provided an update on the new Slam Dunk to the Beach to the Board of Directors.

I. D. Approval of Minutes of DIAA November 14, 2013 Board Meeting

Mr. Eby made a motion to approve the minutes of the November 14, 2013 DIAA Board meeting. The motion was seconded by Ms. Cale and carried unanimously.

E. DIAA Financial Report

Mr. Charles reported that the total income to date is \$367,977 which is 46% of the projected revenue. Mr. Charles reported that for the period November 1 to December 4 the total income was \$210,459 which was from tournament income, officials' dues, corporate revenue, and member dues. Mr. Charles then reported that the total expenses to date were \$323,856 which is 41% of the projected expenditures and for the period \$85,720 which included expenses from the miscellaneous tournament expenses, sportsmanship awards, liability insurance, office, officials dues, salary and OEC's and some travel.

Mr. Charles reported that we are in the black earlier in this fiscal year than normal. Mr. Charles stated that there is a detailed report available for Board members upon request. Mr. Kobasa made a motion to accept the financial report. The motion was seconded by Mr. Layfield and carried unanimously.

II. Public Comment

None

III. Action Items

A. Approval of Tournament Sanctions

Mr. Charles reported that there are 24 requests for tournament sanctions that based on his review were in compliance with the governing standards for approval. Mr. Charles explained that there were 10 indoor track and field, 5 wrestling, 1 outdoor track field, and 8 basketball tournaments for approval. Mr. Charles explained that based on his review all 24 requests appear to be in compliance with NFHS and DIAA requirements. Mr. Eby made a motion to approve the requests for sanction as presented. The motion was seconded by Mr. Layfield and carried unanimously.

B. Request for Waiver of 1009.2.4 by Lake Forest HS for DIAA 2013-12-1

Student and Student's mother were in attendance to present this request. Student's mother requested a closed hearing. Fred Johnson; athletic director at Lake Forest High School was also in attendance. Mr. Layfield made a motion to go into executive session at the parent's request 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 were 14 voting members present and participating to consider the 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.

Ms. Leone made a motion to go into deliberation. The motion was seconded by Mr. Thomas and carried unanimously. Mr. Eliassen made a motion to come

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

Mr. Layfield made a motion to deny Student's waiver request due to Student failed to meet their burden of proof and establish a hardship. The motion was seconded by Mr. Eby and carried by a vote of 11 – yes (Taylor, Bedford, Thomson, Eliassen, Leone, Layfield, Thomas, Coffing, Uhlich, Fitzgerald, Eby) and 3 – no (Kobasa, Cale, and Marvel).

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

C. Request for Waiver of 1009.2.4 by Seaford HS for DIAA 2013-12-2

Student, Student's guardian and God-mother were in attendance to present this request. Student's guardian requested a closed hearing. Drew Aldinger; athletic director at Seaford High School was also in attendance. Mr. Eby made a motion to go into executive session at the guardian's request 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. Mr. Kobasa and Mr. Thomson recused themselves from prior to the beginning of 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 were 12 voting members present and participating to consider the 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. Coffing and carried unanimously. Ms. Marvel made a motion to come out of deliberation. The motion was seconded by Ms. Cale and carried unanimously. Ms. Coffing made a motion to come out of executive session. The motion was seconded by Mr. Layfield and carried unanimously.

Ms. Coffing made a motion to grant the waiver request based on the evidence presented the Student has met their burden and established a hardship given in testimony. The motion was seconded by Mr. Thomas and carried by a vote of 8 – yes (Taylor, Bedford, Cale, Marvel, Thomas, Coffing, Uhlich, and Fitzgerald) and 4 – no (Eliassen, Leone, Layfield, and Eby).

IV. Executive Director's Report

- B. Misc - Mr. Charles reviewed the agenda of the last DIAA Sports Medicine Advisory Committee meeting and reviewed significant items on the agenda.

III. D. Interim Waivers by Executive Director

1. 1009.2.4 by Brandywine HS for DIAA Case # 2013-23-3

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 for the purpose of protecting the privacy of the pupil file. Dr. Fitzgerald made a motion to go into executive session for the purpose of protecting the privacy of the pupil file as an exception to FOIA. The motion was seconded by Ms. Coffing 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 January 16, 2014 meeting should it be necessary. Ms. Fontello explained that Mr. Charles granted two interim waivers one allowing the student to immediately be eligible 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 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. Bedford and carried unanimously. Ms. Cale made a motion to come out of deliberations. The motion was seconded by Mr. Bedford 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. 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 Mr. Eby and carried by a vote of 11 – yes (Bedford, Kobasa, Cale, Eliassen, Leone, Marvel, Thomas, Coffing, Uhlich, Fitzgerald, and Eby) and 3- no (Taylor, Thomson, and Layfield). Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for January 16, 2014 is no longer necessary and is cancelled.

E. Consideration of Policy on Transgender Participation

Mr. Charles explained that DIAA does not have a specific policy on transgendered athletes and that a member school had contacted him requesting guidance. Mr. Charles commented on the policies that the Wisconsin Interscholastic Athletic Association and the NCAA has adopted. Ms. Fontello advised that the draft policy had not received legal review and recommended that the Board not act upon the policy until the review was completed. Mr. Kobasa made a motion to table this Board action. The motion was seconded by Ms. Cale and carried unanimously.

IV. A. Legal

Ms. Fontello reported that DIAA had received notice regarding a Title IX complaint regarding girls soccer being played in the spring. She reported, that she had not conducted a review of the document, however, a quick review indicated that the Department of Education Title IX Coordinator found that the complaint did not establish a violation of the Title IX.

B. Misc.

Mr. Charles commented that the number of transfers from Layton Prep due to dropping basketball prompted himself and Mr. Neubauer to look at the regulation and wording. There was considerable confusion over the meaning of the term “dropping their athletic program” and the term is not specifically defined in the DIAA regulations. After reviewing the circumstances and the impact of the different interpretations and implementations on students, consulting with the DIAA legal counsel, Mr. Charles decided to liberally construe the regulation to the benefit of the students until a clarification could be made. Therefore, until such time as the Board takes action adopting a different interpretation or proceeds with regulation amendments, the term “dropping their athletic program” will be interpreted to include “dropping a single sports program.”

Mr. Charles reported on the fall sports tournaments and shared that the attendance for all fall sports had increased over 2012-13.

V. Other

VI. Public Comment

None

VII. Adjournment

December 12, 2013 DIAA Board of Directors Meeting

Mr. Eby made a motion to adjourn at 12:20 p.m. The motion was seconded by Mr. Eliassen and carried unanimously.

Tina Hurley