

DIAA Board of Directors' Meeting Minutes
Thursday, March 13, 2014 – 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, Edna Cale, Craig Eliassen, Catherine Marvel, Bradley Layfield, Susan Coffing, Dr. Mark Holodick, Artie Uhlich, Willie Savage, Leroy Mann, Nils Marcune, Curtis Bedford, Dr. Kevin Fitzgerald, Ron Eby, and Dr. Robert Walter. Kevin Charles, Executive Director, and Paula Fontello, Deputy Attorney General, were also in attendance. Dave Thomas, Laura Leone, and Dr. Susan Haberstroh were unable to attend.

C. Approval of Agenda

Mr. Kobasa made a motion to approve the agenda with the deletion of Item III. D. The motion was seconded by Mr. Eby and carried unanimously.

D. Approval of Minutes of DIAA January 16, 2014 Board Meeting

Ms. Cale made a motion to approve the minutes of the January 16, 2014 Board meeting. The motion was seconded by Mr. Layfield and carried by a vote of 13 – yes (Taylor, Bedford, Kobasa, Cale, Eliassen, Marvel, Layfield, Coffing, Uhlich, Fitzgerald, Eby, Walter, and Mann) and 1 – Abstention (Holodick).

E. DIAA Financial Report

Mr. Charles provided updates on the reporting period of February 4, 2014 to March 11, 2014. Mr. Charles stated that the revenue to date was \$580,224.12 which was 73% of the projected revenue. Mr. Charles reported that income for the reporting period was \$120,515.82 which was primarily from winter tournaments. Mr. Charles explained that the expenditures to date are \$560,483.47 which was 70% of the projected expenditures. Mr. Charles reported that expenditures for this period were \$98,810.51. Mr. Charles reported that the expenditures were primarily from the winter tournament expense and salary and OEC's, scholarships, officials' dues, and sportsmanship awards. Mr. Charles reported that DIAA is in the black at this time which is good for this time of year. Mr. Layfield made a motion to accept the financial report. The motion was seconded by Dr. Walter and carried unanimously.

II. Public Comment

None

III. B. Proposed Revisions to DIAA Regulations

Mr. Charles explained that there were updated drafts of the proposals that were going to be reviewed.

DIAA 1009.2.7.3 - 8th Grade Participation at the High School Level

Ms. Taylor reviewed the vote from the last meeting on this regulation. Mr. Charles reviewed the draft proposal. Mr. Charles stated that how long a student had to be in the school prior to the eighth grade year was not included in the proposal. Mr. Charles advised the Board he added language that required the student to be in attendance for one full school year. After considerable discussion Ms. Cale made a motion to table this proposal. The motion was seconded by Ms. Coffing and carried unanimously.

DIAA Regulation 1008 & 1009.2.1 – Eligibility Age

Mr. Charles reviewed the rewritten proposal which creates an exception to the restrictions to the age requirement. Ms. Fontello explained that under the current regulation a waiver is limited by the language and a waiver of the age rule can only be granted for participation on an unofficial non-scoring basis, in non-contact, and non-collision sports. Ms. Fontello stated that the revised proposal is based on the previously provided from other states and adds an exception for a student to request a waiver on the basis of a disability when certain factors are established. Ms. Fontello reviewed that the language used from the other example are very restrictive and requires that the disability limits both physical and either intellectual or emotional capabilities. After some discussion Dr. Fitzgerald made a motion to amend the proposed language by deleting reference to “both physical and either intellectual or emotional capabilities” in 1008 & 1009.2.1.2.1.1. The motion was seconded by Mr. Mann and carried unanimously.

A. Approval of Tournament Sanctions

Mr. Charles reported that there are 39 events to be sanctioned which include 1 basketball, 6 indoor track and field, 27 outdoor track, 3 softball, 2 baseball and the blue gold game, which all appear to be in compliance with DIAA and NFHS regulations. Mr. Layfield made a motion to approve the sanction events. The motion was seconded by Ms. Marvel and carried unanimously.

I. Proposal to Support DE Special Olympics Unified Sports Position

Mr. Charles explained that Delaware Special Olympics receives grant money that will help fund a position that will promote unified sports and also run the unified track program. Mr. Charles further explained that the DE Special Olympics had reduced funding to a level that made it difficult to attract a qualified candidate. Mr. Charles proposed to the DIAA Board to consider giving Delaware Special Olympics \$3,500.00 to match their \$3,500.00 so that we can fund a position to facilitate begin to getting unified sports started in the schools. Mr. Charles stated that this proposal is for one year, subject to renewal based on progress. Dr. Walter made a motion to give \$3,500.00 to Delaware Special Olympics. The motion was seconded by Ms. Cale and carried unanimously.

C. Request to Waive 1008.2.3 by William Henry Middle School for DIAA-2014-3-1

Parents of the student, and Student were in attendance to present this request. Student's Parent's requested an open hearing. A representative from the school was not in attendance. 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 16 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.

Student testified that she is a 6th grader at William Henry Middle School. Student reviewed her placement, attendance, and grades. Student testified about her soccer program outside of the school and explained her desires and reasons that she would like the opportunity to participate in soccer at school. Student stated that she is asking for a waiver to try out for the Central Middle School girls' soccer team. Student explained that currently at her school she cannot play soccer as a 6th grader while many other schools allow their 6th graders to play. Student stated that she wants the same opportunity as other 6th graders in surrounding districts. Student stated that she is asking to be able to play in her home district and at the school she will attend next year since her current school does not offer girls' soccer. Student also stated that no other student would be misplaced because they do not make cuts.

Father testified and explained the reasons for the waiver request. He further explained that he was asking that the Board give his daughter an opportunity

play alongside her other team mates. Father also explained that there would be no unfair advantage if the Board granted this request.

Mr. Charles testified and explained that there are 32 middle schools in the public school systems. Only Capital and Smyrna structure middle school so that 6th grade is not under the same administrative unit as 7th & 8th grade. Mr. Charles explained that Capital School District sends their 5th and 6th graders to William Henry Middle School and their 7th and 8th graders to Central Middle School. Mr. Charles stated that Smyrna School District does the same and that all other schools are set up so that it is either a 5th through 8th grades or 6th through 8th grades. Mr. Charles further explained that in the school where the 6th grade is part of that school the school can elect to pull their 6th graders up and participate on the middle school team. Mr. Charles stated that the core regulation here is that in order to represent a school in athletics the student must be enrolled in that school and taking all core subjects at that school. Mr. Charles stated that one option is that Capital could realign itself and restructure to a 6th through 8th grade configuration. Mr. Charles that he spoke to the district about this but they stated this would require them to build another elementary school.

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

Mr. Charles explained that the Board may want to consider a blanket waiver because under the regulations the student needs to establish a hardship unique to this student and under the circumstances presented it would appear that the hardship is for every 6th grader at this school.

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

After considerable discussion, Mr. Eliassen made a motion to grant a blanket waiver to the Capital School District to allow the Capital School District the option the WHMS 6th grade students may participate in sports at Central Middle School provided that the Capital School District submits in writing the request and their acknowledgement understanding the Smyrna School District has not requested a waiver for their students and may not be a partner right now. The motion was seconded by Mr. Kobasa. After discussion, it was clarified that the current motion does not address the Student individually; however if the Board were to pass the blanket waiver the student would be eligible subject to Capital School District submitting the letter and the Board may not need to reach a conclusion on the individual waiver if the Student chose to withdraw her request. The motion carried unanimously.

Ms. Fontello addressed the Student's parents and clarified that the Board has taken action that would impact the Student's eligibility. Ms. Fontello further explained under this blanket waiver the student would be eligible to participate but it is conditioned upon Capital School District submitting this request in writing. Ms.

Fontello stated should Capital School District fail to do so the Student would then be ineligible. Father inquired into the timeline. Ms. Fontello confirmed that the Board did not set a specific time requirement in the motion and that the Executive Director would follow up with the school district. Father advised that in light of the Board's action parents withdrew Student's waiver request.

E. Request to Waive 1009.2.4 by Newark HS for DIAA-2014-3-3

Student and Student's mother were in attendance to present this request. Student's mother requested a closed hearing. Steve Bastianelli, athletic director at Newark High School was also in attendance. Mr. Bedford recused himself from this hearing. 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 Ms. Cale 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 15 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.

While in executive session, the hearing proceeded and evidence was taken and deliberations were held. Mr. Layfield made a motion to go into deliberation. The motion was seconded by Mr. Savage and carried unanimously. Mr. Marcune made a motion to come out of deliberation. The motion was seconded by Ms. Cale and carried unanimously. Ms. Marvel 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 deny Student's request Student failed to meet his burden and establish a hardship. The motion was seconded by Ms. Marvel and carried by a vote of 14 – yes (Taylor, Kobasa, Eliassen, Marvel, Layfield, Uhlich, Fitzgerald, Savage, Holodick, Eby, Walter, Mann, and Marcune) and 1 – no (Coffing).

F. Request to Waive 1009.2.4 by A. I. DuPont HS for DIAA – 2014-3-4

Student and Student's mother were in attendance to present this request. Student's mother requested a closed hearing. There was no school

representative present. Ms. Taylor recused herself from this hearing. Mr. Eby 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. Marcune 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.

Dr. Fitzgerald made a motion to go into deliberation. The motion was seconded by Mr. Savage and carried unanimously. Ms. Cale made a motion to come out of deliberation. The motion was seconded by Dr. Fitzgerald and carried unanimously. Ms. Coffing made a motion to come out of executive session. The motion was seconded by Ms. Cale 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. The motion was seconded by Mr. Marcune and carried unanimously.

H. Interim Waivers by Executive Director

1. 1009.2.4 by Dickinson HS for DIAA 2014-3-6

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. 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 Dr. Walter 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 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 April 10, 2014 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. Ms. Fontello further explained that Mr. Charles granted the interim waivers and modified the procedures in an attempt to accommodate the waiver requests for winter and spring athletics while predicting that the other items on the agenda would take up considerable time. 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. Eliassen made a motion to come out of executive session. The motion was seconded by Mr. Savage and carried unanimously.

Mr. Eby made a motion to approve the two interim waivers granted by the Executive Director and grant the Student's waiver 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 unanimously. Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for April 10, 2014 is no longer necessary and is cancelled.

IV. Executive Director Report

A. Legal Report

Ms. Fontello reported on status of the Title IX complaint. Ms. Fontello also reported that DIAA has been named in a lawsuit filed on behalf of an attendee at the 2011 football championship game held at Delaware State University.

B. Misc.

Update on Board Appointments

Mr. Charles reported that he has been in contact with the Governor's office with regards to appointments and reappointments and have begun the process. Mr. Charles reviewed the appointments and reappointments.

Proposal by DAAD Regarding Protocol for Handbook and Manual Changes

Mr. Charles explained that DAAD is asking for a more consistent process for making changes to regulations and tournament manuals. Mr. Charles stated that the DAAD is initiating an annual meeting in April and is asking DIAA to bring proposals to change regulations to the April meeting so there is more

time to evaluate proposals.

Proposal by DIFCA Regarding Football Practice Protocol

Mr. Charles stated that he met with DIFCA and reported that football is under attack mostly because of the nature of the sport and the increased risk of concussion and heat related illness. Mr. Charles stated that DIAA has adopted policies that address these areas very well. Mr. Charles stated that the trend across the country is to limit the amount of contact in collision sport like football. Mr. Charles stated that the DIFCA is proposing to lengthen the time period for acclimatization from 3 to 5 days and are also proposing to restrict two a day practices to every other day. Mr. Charles stated that they are also proposing to have seven days of practice before a player can have a scrimmage and a limit of 90 minutes of contact per week outside of games. Mr. Charles stated that DIFCA would also like to have five additional days of practice in order to accommodate the increased acclimatization period and to spend more time on teaching safe tackling techniques. Mr. Charles stated that he suggested that this group take these proposals to the DAAD meeting in April.

G. Request to Waive 1009.2.7 by Cape Henlopen HS for DIAA – 2014-3-6

Student and Student's mother, Jeff Evans; teacher/coach at Cape Henlopen High School, Janet Maul Martin; assistant principal at Cape Henlopen High School, Bob Cilento; athletic director at Cape Henlopen High School, Dr. Joel Simon; guidance counselor at Cape Henlopen High School, intern Lisa Hayes; Cape Henlopen High School, William Waters; Pastor, were in attendance to present this request. Student requested a closed hearing. Mr. Kobasa 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.

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.

Dr. Fitzgerald made a motion to go into deliberation. The motion was seconded by Dr. Walter and carried unanimously. Mr. Eby made a motion to

come out of deliberation. The motion was seconded by Mr. Savage and carried unanimously. Mr. Eby 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 request based on the evidence presented and the Student has met their burden and established a hardship. The motion was seconded by Dr. Holodick and carried by a vote of 11- yes (Bedford, Kobasa, Cale, Eliassen, Coffing, Uhlich, Fitzgerald, Savage, Holodick, Walter, and Mann) and 3 – no (Taylor, Layfield, and Eby).

IV. Executive Director Report

B. Misc.

Winter Tournament Update

Mr. Charles reviewed the winter sports and stated that the indoor track tournament held at Landover went well and had 528 in attendance. Mr. Charles reported that the wrestling tournaments went well but that the attendance was down for the semifinal round but the other rounds were comparable to last year. Mr. Charles stated that swimming and diving attendance was down because the University reduced the capacity and could not sell as many tickets. Mr. Charles commented on a diving protest that occurred. Mr. Charles stated that basketball went very well and sold out for the boys quarter, semi, and final rounds.

V. Other

VI. Public Comment

None.

VII. Adjournment

Mr. Layfield made a motion to adjourn at 2:30 p.m. The motion was seconded by Ms. Cle and carried unanimously.

Tina Hurley