

DIAA Board of Directors' Meeting Minutes
Thursday, April 10, 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. Introduction of New Board Members

New Board members were introduced and welcomed.

C. Roll Call

The following DIAA Board members were present: Terre Taylor, Curtis Bedford, Susanne Williams, Evelyn Edney, Craig Eliassen, Laura Leone, Gary Cimaglia, Bradley Layfield, Robert Cilento, Susan Coffing, Mike Hart, Dr. Kevin Fitzgerald, Dr. Mark Holodick, Ron Eby, Dr. Robert Walter, and Leroy Mann. Kevin Charles, Executive Director, and Paula Fontello, Deputy Attorney General, were also in attendance. Edna Cale, Willie Savage, Nils Marcune, and Dr. Susan Haberstroh were unable to attend.

D. Approval of Agenda

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

E. Approval of Minutes of DIAA March 13, 2014 Board Meeting

Mr. Eby made a motion to approve the minutes of the March 13, 2014 Board meeting. The motion was seconded by Mr. Eliassen and unanimously.

F. DIAA Financial Report

Mr. Charles provided updates on the reporting period of March 11, 2014 to April 3, 2014. Mr. Charles stated that the revenue to date was \$721,261.00 which was 91% of the projected revenue. Mr. Charles reported that income for the reporting period was \$141,187 which was primarily from winter tournaments. Mr. Charles explained that the expenditures to date are \$605,440 which was 76% of the projected expenditures. Mr. Charles reported that expenditures for this period were \$44,956. Mr. Charles reported that the expenditures were primarily from the winter tournament expense, salary and OEC's. Mr. Charles reported that revenue exceeds expenditures by \$115,821.78. Mr. Charles commented that he sent a request to DOE to raise the spending limit for DIAA but has not yet made the final DOE budget requests. Mr. Layfield made a motion to accept the financial report. The

motion was seconded by Mr. Hart and carried unanimously.

II. Public Comment

None

III. A. Approval of Tournament Sanctions

Mr. Charles reported that there are 11 events to be sanctioned including 1 softball and 10 outdoor track. All appear to be in compliance with DIAA and NFHS regulations. Mr. Eby made a motion to approve the sanction events. The motion was seconded by Dr. Walter and carried unanimously.

B. Proposed Revisions to DIAA Regulations

Mr. Charles explained that we are beyond the date to change the regulations in time to be in effect for the 2014-15 school year and do not have the final draft language for the Board to consider. Mr. Eliassen made a motion to table the proposed regulation changes until the May 8, 2014 meeting. The motion was seconded by Mr. Hart and carried unanimously.

C. Request to Waive 1009.2.4 by Sussex Technical HS for DIAA-2014-4-1

Student and Student's parents were in attendance to present this request. Student's father requested a closed hearing. Nick Pegelow, athletic director at Sussex Technical High School was also in attendance. Mr. Layfield recused himself from this hearing. Mr. Bedford 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. Cimaglia 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.

While in executive session, the hearing proceeded and evidence was taken and deliberations were held. Dr. Walter made a motion to go into deliberation. The motion was seconded by Mr. Eby and carried unanimously. Mr. Eliassen made

a motion to come out of deliberation. The motion was seconded by Dr. Walter and carried unanimously. Ms. Leone made a motion to come out of executive session. The motion was seconded by Dr. Walter and carried unanimously.

Mr. Eby made a motion to deny Student's request Student failed to meet his burden and establish a hardship. The motion was seconded by Mr. Hart and carried by a vote of 11 – yes (Taylor, Bedford, Edney, Eliassen, Leone, Cimaglia, Coffing, Hart, Fitzgerald, Eby, and Walter) and 3 – no (Williams, Cilento, and Mann).

The Board recessed from 10:45 a.m. and reconvened at 11:00 a.m.

D. Request to Waive 1009.2.4 by Mt. Pleasant HS for DIAA-2014-4-2

Student and Iman Turner; counselor at Mt. Pleasant HS were in attendance to present this request. Student is 18 years of age and requested a closed hearing. Ms. Taylor and Dr. Holodick recused themselves from this hearing. Mr. Hart 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. Eby 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.

While in executive session, the hearing proceeded and evidence was taken and deliberations were held. Mr. Eby made a motion to go into deliberation. The motion was seconded by Mr. Mann and carried unanimously. Mr. Cilento made a motion to come out of deliberation. The motion was seconded by Mr. Eliassen and carried unanimously. Dr. Walter made a motion to come out of executive session. The motion was seconded by Mr. Cilento and carried unanimously.

Ms. Coffing 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 Mr. Cilento and carried by a vote of 10- yes (Bedford, Williams, Edney, Leone, Cilento, Coffing, Hart, Fitzgerald, Walter,

and Mann) and 4 – no (Eliassen, Cimaglia, Layfield, and Eby).

E. Interim Waivers by Executive Director

1. 1009.2.4 by Milford HS for DIAA 2014-4-11

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. Cimaglia 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 May 8, 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. Layfield made a motion to come out of executive session. The motion was seconded by Mr. Eliassen and carried unanimously.

Mr. Layfield 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. Mann and carried unanimously. Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for May 8, 2014 is no longer necessary and is cancelled.

2. 1009.2.4 by St. Thomas More for DIAA 2014-4-12

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.

Hart 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.

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 May 8, 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. Hart 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 Mr. Cimaglia and carried unanimously.

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

Mr. Hart 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 Dr. Walter and carried unanimously. Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for May 8, 2014 is no longer necessary and is cancelled.

3. 1009.2.4 by Sanford School for DIAA 2014-4-13

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. Layfield 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. Eby 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 May 8, 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. Eby made a motion to come out of executive session. The motion was seconded by Ms. Williams and carried unanimously.

Dr. Holodick 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 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 Mr. Eliassen and carried unanimously. Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for May 8, 2014 is no longer necessary and is cancelled.

4. 1009.2.4 by Concord HS for DIAA 2014-4-14

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. Mann 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. Eby 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 May 8, 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. Hart made a motion to come out of executive session. The motion was seconded by Dr. Walter and carried unanimously.

Mr. Layfield 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 by a vote of 14 – yes (Taylor, Bedford, Williams, Edney, Eliassen, Leone, Cimaglia, Layfield, Cilento, Hart, Fitzgerald, Eby, Walter, and Mann) and 1 – abstention (Holodick). Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for May 8, 2014 is no longer necessary and is cancelled.

5. 1009.2.4 by Glasgow HS for DIAA 2014-4-15

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. Bedford recused himself from this hearing and was sworn in. 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. Hart 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 May 8, 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. Cilento made a motion to go into deliberation. The motion was seconded by Ms. Williams and carried unanimously. Dr. Walter made a motion to come out of deliberation. The motion was seconded by Mr. Eby and carried unanimously.

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

Mr. Layfield 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 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 Mr. Hart and failed by a vote of 8 – no (Taylor, Williams, Edney, Leone, Cimaglia, Fitzgerald, Eby, and Walter) and 6 – yes (Eliassen, Layfield, Cilento, Hart, Holodick, and Mann). Ms. Fontello noted for the record that the waiver request failed and the full hearing will remain scheduled for May 8, 2014.

6. 1009.7.5 by Middletown for NFL High School Player Development

Mr. Charles stated that this was a non-eligibility issue. Mr. Charles explained that the NFL High School player development program was asking for a waiver of 1009.7.5.1 because the event would be held prior to the last spring sport tournament event. Mr. Charles reminded the Board that they approved this last year at the February meeting. Mr. Charles also explained that the program director wants coaches to be able to work with students outside of the football season. Mr. Eby made a motion to approve the request. The motion was seconded by Ms. Williams and carried unanimously.

F. Request for membership ASPIRA Academy

Mr. Charles explained that ASPIRA Academy is a K-8 dual language school and would like to compete at the middle school level. Mr. Charles commented that the school will sponsor boys and girls soccer, field hockey, boys and girls basketball, volleyball, and cheerleading.

Ms. Leone made a motion to approve the request. The motion was seconded by Mr. Eby and carried unanimously.

IV. Executive Director Report

A. Legal Report

Ms. Fontello reported that she had no legal matters at this time.

B. Misc.

Mr. Charles updated the Board on the draft sudden cardiac arrest legislation.

Mr. Charles updated the Board on Board appointments.

Mr. Charles shared with the Board a report on the volume of Delaware based subscriptions sold to the NFHS Network.

Mr. Charles reminded the Board that two recommendations for DIAA came out of the 2013 statewide Concussion Summit. The first was a recommendation to require physicians to have formal training in order to be able to clear a student to RTL or RTP. The second was to mandate the use of the Acute Concussion Evaluation and RTP form. The Board shared their concern regarding both recommendations.

V. Other

VI. Public Comment

None.

VII. Adjournment

Dr. Fitzgerald made a motion to adjourn at 1:10 p.m. The motion was seconded by Ms. Leone and carried unanimously.

Tina Hurley