

DIAA Board of Directors' Meeting Minutes
Thursday, August 14, 2014 – 9:00 a.m.
John W. Collette Education Resource Center

I. Opening

A. Call to Order

The meeting was called to order at 9:00 a.m. by Chairperson Terre Taylor.

B. Roll Call

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

C. Approval of Agenda

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

D. Approval of Minutes of DIAA July 10, 2014 Board Meeting

Mr. Eby made a motion to approve the minutes of the July 10, 2014 Board meeting. The motion was seconded by Ms. Cale and carried unanimously.

E. DIAA Financial Report

Mr. Charles stated that there is no financial report this month because DIAA has converted over from the system used for many years to the state system. We are currently unable to print reports but hope to have them for September.

II. Public Comment

None

III. A. Approval of Tournament Sanctions

Mr. Charles reported that there are 10 events to be sanctioned including 9 cross country and 1 basketball. All appear to be in compliance with DIAA and NFHS regulations. Mr. Hart made a motion to approve the sanction events. The motion was seconded by Mr. Cilento and carried unanimously.

B. Request by St. Andrews for Relief from Various Eligibility Requirements

David Williams, counsel for St. Andrews, Daniel Roach; Head of School, and Louisa Zendt; Director of Admissions were in attendance to present this request. All parties including Kevin Charles; Executive Director for DIAA, were sworn in. Mr. Roach stated that St. Andrew's School values the long standing relationship with DIAA. Mr. Roach explained that as a boarding school they were having trouble complying with all of the DIAA regulations. Mr. Roach stated that St. Andrew's School competes with other boarding schools for students and those boarding schools do not have the same restrictions. This places St. Andrew's School at a competitive disadvantage. Mr. Roach stated that they were asking for immediate full eligibility for transfer students and international students. Ms. Zendt commented that the students want the opportunity to be able to play sports when they come to St. Andrew's School. Mr. Williams stated that he felt the students attending a boarding school are changing their residence and should be considered under the residency rule. After considerable discussion the Board felt that there needs to be further research on this issue and no action was taken.

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

C. Request to Waive 1009.2.4 by St. Thomas More for DIAA 2014 – 8-1

Student, Student's mother and Julie Shively; Principal at St. Thomas More were in attendance to present this request. Student's mother requested a closed hearing. Mr. Eby recused himself from this hearing. Mr. Cilento made a motion to go into executive session at the mother's request for the purposes of protecting the privacy of 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 was less than a full Board present and there were only 11 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. Marcune made a motion to go into deliberation.

The motion was seconded by Ms. Williams and carried unanimously. Mr. Cimaglia made a motion to come out of deliberation. The motion was seconded by Ms. Cale and carried unanimously. Mr. Cilento made a motion to come out of executive session. The motion was seconded by Mr. Hart and carried unanimously.

Mr. Cimaglia made a motion to deny Student's request based on Student's failure to meet the burden of proof due to the lack of evidence presented for a hardship. The motion was seconded by Mr. Hart and carried by a vote of 11 – yes (Taylor, Williams, Edney, Cale, Eliassen, Leone, Cimaglia, Cilento, Coffing, Hart, and Marcune).

D. Interim Waivers by the Executive Director

1. 1009.2.4 by Middletown HS for DIAA 2014-8-2

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. Mr. Cimaglia made a motion to go into executive session at the parent's request 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 September 11, 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 fall 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 from past proceedings today. 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 come out of executive session. The motion was seconded by Mr. Hart 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. The evidence presented by the Student met the burden of establishing a hardship and the information provided regarding the hardships were beyond the control of the student, family, and school. The motion was seconded by Mr. Eby and carried unanimously. Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for September 11, 2014 is no longer necessary and is cancelled.

2. 1009.2.7 by Polytech HS for DIAA 2014-8-3

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. Mr. Eby made a motion to go into executive session at the parent's request 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 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 11, 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 fall 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 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. Marcune made a motion to go into deliberation. The motion was seconded by Ms. Leone and carried unanimously. Mr. Cilento made a motion to come out of deliberation. The motion was seconded by Ms. Cale and carried unanimously. Ms. Leone made a motion to come out of executive session. The motion was seconded by Mr. Hart and carried unanimously.

Mr. Cilento made a motion to approve the two interim waivers granted by the Executive Director and grant the Student's waiver. The evidence presented by the Student met the burden of establishing a hardship and the information

provided regarding the hardships were beyond the control of the student, family, and school. The motion was seconded by Ms. Coffing and carried unanimously. Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for September 11, 2014 is no longer necessary and is cancelled.

3. 1009.2.4 by Dover HS for DIAA 2014-8-4

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. Ms. Leone made a motion to go into executive session at the parent's request 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 September 11, 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 fall 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 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.

Ms. Coffing made a motion to go into deliberation. The motion was seconded by Ms. Williams and carried unanimously. Mr. Cimaglia made a motion to come out of deliberation. The motion was seconded by Ms. Williams and carried unanimously. Mr. Eby 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. The evidence presented by the Student met the burden of establishing a hardship and the information provided regarding the hardships were beyond the control of the student, family, and school. The motion was seconded by Mr. Eby and carried

unanimously. Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for September 11, 2014 is no longer necessary and is cancelled.

4. 1009.2.4 by Cape Henlopen HS for DIAA 2014-8-4 and
5. 1009.2.4 by Cape Henlopen HS for DIAA 2014-8-5

Ms. Fontello advised that these matters were being considered together due to the evidence being submitted being virtually identical and that the full hearings if necessary would also most likely be combined. Ms. Fontello further advised that the matters were 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. Cilento recused himself from this hearing. Mr. Eby made a motion to go into executive session at the parent's request 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 these requests are being conducted under a modified hearing process and that the students' 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 11, 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 students 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 fall 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 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.

Ms. Coffing made a motion to go into deliberation. The motion was seconded by Mr. Eby and carried unanimously. Mr. Hart 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 Ms. Leone and carried unanimously.

Mr. Eby made a motion to approve for both requests the two interim waivers granted by the Executive Director and grant the Student's waiver. The evidence presented by the Student met the burden of establishing a hardship

and the information provided regarding the hardships were beyond the control of the student, family, and school. The motion was seconded by Mr. Eliassen and carried unanimously. Ms. Fontello noted for the record that the waiver requests are granted and the full hearings scheduled for September 11, 2014 are no longer necessary and are cancelled.

E. Request by Colonial and Brandywine Middle Schools for Alternate Wrestling Season

Ms. Fontello clarified for the records that the request is for a non-eligibility rule waiver and that the regulations allow for a school to attend if requested, however, the schools did not do so here. As permitted by the regulations, there is not a mandatory appearance and the Board may consider the matter based on the written record submitted and Mr. Charles's testimony. It was noted for the record that remained under oath from past proceedings. Mr. Charles stated that the two districts were asking to conduct their wrestling seasons at a different time. Mr. Charles stated that the districts were asking to allow their middle schools to participate in wrestling from October 1, 2014 through December 22, 2014 to better utilize their gym facilities. Mr. Charles stated that this request has been made for many years and only involved middle schools. Mr. Eby made a motion to grant the request. The motion was seconded by Mr. Hart and carried unanimously.

F. Request by Girls Lacrosse Committee to Expand Tournament

Mr. Charles explained that the girls lacrosse committee was proposing to expand the state tournament field from 8 to 10 teams in 2015. Mr. Charles stated that there are 31 teams participating at the varsity level now and the committee determined that the number of teams would support an increase. Mr. Charles reported that the committee received unanimous support from the athletic directors and the high school coaches. Mr. Eliassen made a motion to approve the request. The motion was seconded by Ms. Cale and carried unanimously.

IV. Executive Director Report

A. Legal Report

Ms. Fontello reported that she had no legal matters to discuss at this point.

B. Misc.

Mr. Charles reported on House Bill No. 359 and stated that athletic trainers

can now administer first aide to athletes which would enable the athletic trainers to administer emergency medications including asthma, anaphylaxes, and glucagon.

Mr. Charles reported on the girls lacrosse state tournament report.

Mr. Charles reported on the DIAA Student Leadership Conference held in Lewes, DE and stated that it was a huge success and that the students attended a Special Olympics camp.

Mr. Neubauer reported on the DAAD Academy and stated that 11 new athletic directors attended. In addition, NIAAA leadership courses designed for athletic directors were also offered to senior athletic directors. Eight DIAA member athletic directors sat for their CMA on the third day of the academy.

V. Other

VI. Public Comment

None.

VII. Adjournment

Ms. Cale made a motion to adjourn at 1:00 p.m. The motion was seconded by Ms. Williams and carried unanimously.

Tina Hurley