

DIAA Board of Directors' Meeting Minutes  
Thursday, November 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 9:00 a.m. by Chairperson Terre Taylor.

B. Roll Call

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

C. Approval of Agenda

Dr. Bradley Layfield made a motion to approve the agenda. The motion was seconded by Mr. Eby and carried unanimously.

D. Approval of Minutes of DIAA October 9, 2014 Board Meeting

Mr. Cimaglia made a motion to approve the minutes of the October 9, 2014 Board meeting. The motion was seconded by Ms. Coffing and carried unanimously.

E. DIAA Financial Report

Mr. Charles reported that as of November 12 the revenue received so far for this year was \$158,784 which was mostly from fall tournament revenue. Mr. Charles reported that the expenses to date were \$231,989 which was mostly from the salary and OEC's, publications, NFHS dues, and scholarship awards. Mr. Charles reported that the deficit at this time is \$73,205 which is expected for this time of year. Mr. Hart made a motion to approve the financial report. The motion was seconded by Mr. Cilento and carried unanimously.

II. Public Comment

None

III. A. Approval of Tournament Sanctions

Mr. Charles reported that there are 29 events to be sanctioned including 1 cross country, 5 basketball, 7 wrestling, 13 indoor track and field, 2 outdoor track and field, and 1 swimming. Based on the information provided, 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. Eby and carried unanimously.

B. Request by Dover HS for Waiver of 1009.2.4 for DIAA 2014-11-1

Student, and Student's mother were in attendance to present this request. Student's mother requested a closed hearing. Ms. Edney 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 privacy of 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 was less than a full Board present and there were only 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.

Ms. Cale made a motion to go into deliberation. The motion was seconded by Mr. Cilento and carried unanimously. Mr. Cilento made a motion to come out of deliberation. The motion was seconded by Ms. Leone and carried unanimously. Mr. Cilento made a motion to come out of executive session. The motion was seconded by Dr. Layfield and carried unanimously.

Mr. Hart made a motion to grant Student's request based on the evidence presented Student met the burden of establishing a hardship and the information provided regarding the hardships established that the circumstances were beyond the election, creation, or control of the student, family, and school. The motion was seconded by Ms. Cale and carried by a vote of 11 – yes (Taylor, Bedford, Williams, Eliassen, Cale, Leone, Cimaglia, Cilento, Coffing, Eby, and Hart) and 1 – no (Layfield).

H. Request by Newark Charter to Waive 1006.2.4.6 & 7 for Affected Schools

Ms. Fontello noted for the record that this is a non-eligibility waiver request and was being held in open session. Kevin Kelly, athletic director at Newark Charter, Steve Sinko; coach at Newark Charter, and Lisa Ueltzhoffer; principal at Newark Charter were in attendance to present this request. Mr. Charles reported that he granted an interim waiver to allow limited individual participation at the cross country meet. He further explained that Newark Charter School was asking for a waiver of 1006.2.4 with a rationale that as a previous member as a middle school they felt that they shouldn't be considered a new school and not held to the requirements in 1006.2.4 and were asking for relief from the rule that requires a member school to be a member for two full years and sponsor an eleventh grade class before participating in state tournaments. Mr. Charles gave some background of this rule and stated that regulation 1006.2.4 was added in 2011 and that a member school must meet all requirements before permitted to participate in state tournaments. Mr. Charles further stated that there were four schools affected by this rule with Newark Charter being one where the schools opened as a high school and did not meet all the requirements in 1006.2.4. Mr. Charles stated that one of the concerns was with health and safety when a school with just ninth and tenth grades compete with teams that had ninth through twelfth grades. Mr. Charles stated that he granted an interim waiver of the regulation to allow individuals to compete in cross country but has not done so with team sports. Mr. Charles clarified that the interim waiver is also before the Board for approval.

Mr. Kelly testified regarding the waiver requested. He clarified that the waiver request is limited to allow individual participation to participate in other sports which included swimming, golf, tennis, indoor track and field and outdoor track and field where there are no JV options.

Mr. Cimaglia 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. Williams and carried unanimously.

Mr. Hart made a motion to approve the interim waiver and extend the waiver of the requirement that a school sponsor an eleventh grade for individual completion in swimming, golf, tennis, indoor track, outdoor track for this year and then send to the rules and regulations committee to review. The waiver is a general waiver for the 2014-2015 school year only. Mr. Eliassen seconded and carried by a vote of 14 – yes and 0 – no.

The Board recessed at 10:45 a.m. and reconvened at 10:50 a.m.

III. C. Interim Waiver by Executive Director

1. 1009.2.4 by Mt. Pleasant for DIAA – 2014-11-2

Ms. Fontello clarified for the record that this matter is being considered under modified procedures with the consent of the parent. Ms. Fontello explained that this request is being conducted under a modified hearing process and that 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 December 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 and winter athletics while predicting that the other items on the agenda would take up considerable time. It was clarified that the parent 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. Eby and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. 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 go into deliberation. The motion was seconded by Ms. Coffing and carried unanimously. Mr. Cilento made a motion to come out of deliberation. The motion was seconded by Ms. Cale and carried unanimously. Mr. Hart made a motion to come out of executive session. The motion was seconded by Dr. Layfield 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 established that the circumstances were beyond the election, creation, or control of the student, family, and school. The motion was seconded by Ms. Edney and carried unanimously. Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for December 11, 2014 is no longer necessary and is

cancelled.

2. 1009.2.4 by Newark High School for DIAA – 2014-11-3

Ms. Fontello advised that this matter is being considered under modified procedures with the consent of the parent. Mr. Bedford recused himself from this hearing. Ms. Fontello explained that this request is being conducted under a modified hearing process and that 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 December 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 and winter athletics while predicting that the other items on the agenda would take up considerable time. Mr. Hart 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. Mann and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. 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. Hart made a motion to come out of executive session. The motion was seconded by Mr. Cilento and carried unanimously.

Dr. Layfield 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 established that the circumstances were beyond the election, creation, or control of the student, family, and school. The motion was seconded by Mr. Cilento and carried unanimously. Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for December 11, 2014 is no longer necessary and is cancelled.

3. 1009.2.4 by Delmarva Christian for DIAA – 2014-11-4

Ms. Fontello advised that this matter is being considered under modified

procedures with the consent of the parent. Ms. Fontello explained that this request is being conducted under a modified hearing process and that 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 December 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. Mr. Bedford 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. 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.

Dr. Edney made a motion to come out of executive session. The motion was seconded by Ms. Leone 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 established that the circumstances were beyond the election, creation, or control of the student, family, and school. The motion was seconded by Mr. Cilento and carried unanimously. Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for December 11, 2014 is no longer necessary and is cancelled.

E. Consideration of Extension of Waiver for All Member Schools on International Students

Mr. Charles gave a brief explanation of international students and the difference between J1 and F1 Visas. Mr. Charles reminded the Board of the waiver given previously for international students for the school years 2012-2013 and 2013-2014 and was asking that it be extended for the 2014-2015 school year. Some discussion ensued regarding restrictions on international students. Mr. Charles further clarified that based on his research and

information gathered that he is recommending that the current two year waiting period under the past waiver and the proposed regulation amendment should be reduced to one year. Ms. Fontello clarified that the pending regulations have not been finalized and if the Board wants the past waiver to continue for the 2014-2015 school year while the previously approved regulation changes are pending that the waiver would need to be extended.

Mr. Hart made a motion to go into deliberation. The motion was seconded by Mr. Eliassen and carried unanimously. Ms. Cale made a motion to come out of deliberation. The motion was seconded by Ms. Coffing and carried unanimously.

Mr. Hart made a motion to modify the 2-year time period down to 1 year and extend the waiver to the 2014-2015 school year. The motion was seconded by Mr. Eliassen and carried unanimously.

D. Consideration of DIAA Policy or Unmanned Aircraft Systems

Mr. Charles reported on the use of unmanned aircraft systems and reported that it will be posted in the general information section of the tournament manuals that these types of systems will not be permitted at any DIAA state tournament events. Mr. Charles stated that the use is banned due to safety issues to the competitors and spectators until the FAA has a policy in place.

F. Self-Report by Delmar High School

This item was tabled.

G. Self-Report by Delaware Military Academy

Mr. Charles explained that he received a self-report from Delaware Military Academy where their girls' volleyball team participated in a volleyball tournament which was not listed on their schedule. Mr. Charles reported that after a joint investigation with Delaware Military Academy administration and DIAA the following penalties were assessed: a letter of reprimand was sent to the coach; the coach was suspended from all team activity for 12 days, which included three games; the coach was placed on probation for 1 year; and the coach was suspended for the first and second rounds of the volleyball tournament. In addition, the school was fined \$100.00 for participating in an unsanctioned tournament. The coach did not appeal and the action is before the Board for approval. Mr. Eby made a motion to approve the self-report and the actions taken. The motion was seconded by Ms. Coffing and carried unanimously.

IV. Executive Director Report

A. Legal Report

There were no legal updates at this time.

B. 1. Contract to Review Regulations

Mr. Charles reported the status on the consultant's contract.

2. Response to Inquiry by St. Andrews

Mr. Charles reviewed a letter he received from St. Andrew's School regarding a basketball player.

3. Report on Sub-Committee on Conferences

Ms. Taylor updated the Board on the actions of the sub-committee to date.

4. Media

Mr. Charles shared various articles with the Board.

5. Letters

Mr. Charles advised the Board that he had received a letter from Bobby Jacobs soliciting funds.

6. Update on Fall Tournaments

Mr. Charles provided the Board with a brief update on fall sport state tournaments to date.

V. Other

VI. Public Comment

None.

VII. Adjournment

Ms. Cale made a motion to adjourn at 12:15 p.m. The motion was seconded by Ms. Williams and carried unanimously.

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Tina Hurley



November 13, 2014 DIAA Board of Directors Meeting