

DIAA Board of Directors' Meeting Minutes  
Thursday October 13, 2016 – 9:00 a.m.  
Collette Building

I. Opening

A. Call to Order

The meeting was called to order at 9:00 a.m. by Chairperson Dr. Bradley Layfield.

B. Roll Call

The following DIAA Board members were present: Stan Waterman, Matt Donovan, Susanne Williams, Dr. Evelyn Edney, Ted Laws, Craig Eliassen, Gary Cimaglia, Dr. Bradley Layfield, Robert Cilento, Robert Watson, Mike Hart, Dr. Kevin Fitzgerald, Mike Breeding, Dr. Mark Holodick, Vetra Evans-Gunter, Douglas Thompson, Leroy Mann, Dr. Bradley Bley, and Jeremy Jeanne. Thomas Neubauer; Executive Director, Laura Makransky; Deputy Attorney General, and DIAA staff Terre Taylor; Coordinator of Interscholastic Events and Tina Bates were also in attendance. Dr. Amelia Hodges was unable to attend.

C. Approval of Agenda

Dr. Layfield reported that there was an addendum to the agenda adding Items III. A. and B. as well as Item IV. O for Middletown HS. Dr. Layfield also reported that items IV. F., and G. were removed from the agenda. Mr. Hart made a motion to approve the amended agenda and the addendum to the agenda. The motion was seconded by Mr. Watson and carried unanimously.

E. Approval of Minutes of DIAA September 8, 2016 Board Meeting

Mr. Breeding made a motion to approve the minutes of the September 8, 2016 Board meeting. The motion was seconded by Ms. Williams and carried unanimously.

F. DIAA Financial Report

Mr. Neubauer reported that the income for the month was \$47, 535 largely from member dues. Mr. Neubauer reported that the expenses were \$81,796 which included salary and benefits. The contingency fund balance is currently \$828,383. Mr. Hart made a motion to approve the financial report. The motion was seconded by Dr. Donovan and carried unanimously.

II. Public Comment

None

III. Discussion

A. Special Meeting

Dr. Layfield commented that if by chance the Board was not able to complete

today's agenda two dates, October 27 or October 28 have been set aside in case it is needed. Mr. Watson made a motion to accept the two dates as possible DIAA Board meeting dates. The motion was seconded by Mr. Eliassen and carried unanimously.

#### B. Potential Litigation

Mr. Laws made a motion to go into executive session to discuss potential litigation. The motion was seconded by Mr. Cimaglia and carried unanimously. Mr. Laws made a motion to come out of executive session. The motion was seconded by Mr. Cilento and carried unanimously.

### IV. Action Items

#### A. Approval of Tournament Sanctions

Mr. Neubauer reported that there were 27 sanctioned events and that 26 of them needed to be approved which included 6 cross country, 4 wrestling, 5 basketball, 1 soccer, 9 indoor track and 1 outdoor track.. Mr. Neubauer stated that one of the events had no Delaware schools participating but all the others to the best of his knowledge were in compliance with DIAA and NFHS regulations. Mr. Eliassen made a motion to approve the sanction events. The motion was seconded by Mr. Laws and carried unanimously.

#### B. Request to Waive 1009.2.7 by Cape Henlopen HS for DIAA 2016-10-1

Student and Student's mother and Vivian Bush; Principal at The Sussex Consortium were in attendance to present this request. Mr. Cilento recused himself prior to the hearing. Mr. Breeding made a motion to go into executive session for the purposes of discussing the request, including the content of the pupil file. The motion was seconded by Dr. Donovan and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Dr. Layfield explained that DIAA is a 20 member Board and has 19 voting members. Dr. Layfield further explained that the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Dr. Layfield explained that there was less than a full Board present and there were 18 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. Evans-Gunter made a motion to go into deliberation. The motion was

seconded by Mr. Jeanne and carried unanimously. Dr. Holodick made a motion to come out of deliberation. The motion was seconded by Mr. Cimaglia and carried unanimously. Mr. Hart 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 grant Student's request based on the fact that the student experienced challenges that were beyond the student's control such that it did not allow him to participate in the sport for which the student sought a waiver during the student's ninth and tenth grade years. The motion was seconded by Mr. Laws and carried unanimously.

C. Request to Waive 1009.2.4 by William Penn HS for DIAA 2016-10-2

Student's father was in attendance to present this request. Mr. Laws and Dr. Holodick recused themselves prior to this hearing. Mr. Mann made a motion to go into executive session for the purposes of discussing the request, including the content of the pupil file. The motion was seconded by Mr. Cilento and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Dr. Layfield explained that DIAA is a 20 member Board and has 19 voting members. Dr. Layfield further explained that the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Dr. Layfield explained that there was less than a full Board present and there were 17 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. Jeanne made a motion to go into deliberation. The motion was seconded by Mr. Cimaglia and carried unanimously. Mr. Jeanne made a motion to come out of deliberation. The motion was seconded by Dr. Donovan and carried unanimously. Mr. Watson made a motion to come out of executive session. The motion was seconded by Mr. Mann and carried unanimously.

Mr. Hart made a motion to deny Student's request based on the lack of evidence of a hardship. The motion was seconded by Mr. Breeding and carried by a vote of 16- yes (Waterman, Donovan, Williams, Edney, Eliassen, Cimaglia, Layfield, Cilento, Watson, Hart, Breeding, Evans-Gunter, Thompson, Mann, Bley, and Jeanne), 0 – no, and 1 – abstention (Fitzgerald).

D. Request to Waive 1009.2.4 by Smyrna HS for DIAA 2016-10-3

Student, Student's mother, and Bill Schultz; athletic director from Smyrna High School were in attendance to present this request. Ms. Evans-Gunter and Mr. Hart recused themselves prior to this hearing. Mr. Breeding made a motion to go into executive session for the purpose of discussing the request, including the content of the pupil file. The motion was seconded by Dr. Edney and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Dr. Layfield explained that DIAA is a 20 member Board and has 19 voting members. Dr. Layfield further explained that the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Dr. Layfield explained that there was less than a full Board present and there were 17 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. Jeanne made a motion to go into deliberation. The motion was seconded by Mr. Cilento and carried unanimously. Dr. Fitzgerald made a motion to come out of deliberation. The motion was seconded by Mr. Cimaglia and carried unanimously. Mr. Cilento made a motion to come out of executive session. The motion was seconded by Mr. Watson and carried unanimously.

Dr. Fitzgerald made a motion to grant Student's request based on the evidence of a hardship presented. The motion was seconded by Mr. Watson and carried by a vote of 17- yes (Waterman, Donovan, Williams, Edney, Laws, Eliassen, Cimaglia, Layfield, Cilento, Watson, Breeding, Evans-Gunter, Thompson, Mann, Bley, Fitzgerald, and Jeanne), 0 – no.

E. Request to Waive 1009.2.4 by Polytech HS for DIAA 2016-10-4

Student's father was in attendance to present this request. Mr. Hart made a motion to go into executive session for the purposes of discussing the request, including the content of the pupil file. 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. Dr. Layfield explained that DIAA is a 20 member Board and has 19 voting members. Dr. Layfield further explained that the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Dr. Layfield explained that there were 19 voting members present and participating to consider the matter. 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. Laws made a motion to go into deliberation. The motion was seconded by Dr. Donovan and carried unanimously. Mr. Cimaglia made a motion to come out of deliberation. The motion was seconded by Mr. Laws and carried unanimously. Mr. Cilento made a motion to come out of executive session. The motion was seconded by Mr. Laws and carried unanimously.

Mr. Jeanne made a motion to grant Student's request based on the evidence of a hardship presented. The motion was seconded by Mr. Laws and carried by a vote of 18- yes (Waterman, Donovan, Williams, Edney, Laws, Eliassen, Cimaglia, Cilento, Watson, Hart, Holodick, Breeding, Evans-Gunter, Thompson, Mann, Bley, Fitzgerald, and Jeanne), 1 – no (Layfield).

L. Request to use Eighth Graders at the High School Level 1009.2.7.3

Mr. Neubauer reported that as required by DIAA Regulation 1009.2.7.3. he received letters seeking permission to allow eighth grade student athletes the opportunity to participate on their schools high school athletic teams from Ursuline Academy and Caravel Academy.

Mr. Hart made a motion to approve the requests. The motion was seconded by Mr. Breeding and carried by a vote of 18 – yes (Waterman, Donovan, Williams, Edney, Laws, Eliassen, Cimaglia, Layfield, Cilento, Hart, Fitzgerald, Breeding, Holodick, Evans-Gunter, Thompson, Mann, Bley, and Jeanne) and 1 – abstention (Watson).

N. Self-Report by Dover HS

Mr. Neubauer reported on a self-report by Dover High School where an ineligible player was used in their boys' soccer game on September 27, 2016. Mr. Neubauer commented that the student was ineligible because he was not in school for the mandatory amount of time. Mr. Neubauer reported that the game was forfeited. Mr. Cilento made a motion to accept the penalty given by the school. The motion was seconded by Mr. Waterman and carried unanimously.

V. Executive Director Report

B. Misc.

Mr. Neubauer reported that Dr. Fitzgerald, Ms. Taylor, Ms. Makransky and himself attended the NFHS Section 2 meeting. Mr. Neubauer stated that the information taken away from the sessions was very informative and also took away a plan for handling the tournament financial reports.

Mr. Neubauer reported on a Special Olympics sponsored Student Leadership Conference day that will involve all member school and are hoping for 250 students to be involved.

IV. H. Request to Waive 1009.2.4.7 by First State Military Academy for DIAA 2016-10-7

Dr. Layfield reminded the Board that this request was tabled at the September 8, 2016 meeting. Dr. Fitzgerald made a motion that this request be moved from the table. The motion was seconded by Mr. Laws and carried unanimously. Student, Student's mother, and Arles Wood; athletic director from First State Military Academy were in attendance to present this request. Mr. Laws made a motion to go into executive session for the purposes of discussing the content of a pupil file, the disclosure of which would constitute an invasion of personal privacy. The motion was seconded by Mr. Watson and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Dr. Layfield explained that DIAA is a 20 member Board and has 19 voting members. Dr. Layfield further explained that the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Dr. Layfield explained that there was less than a full Board present and there were 19 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. Laws 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. Hart and carried unanimously. Mr. Jeanne made a motion to come out of executive session. The motion was seconded by Dr. Donovan and carried unanimously.

Mr. Laws made a motion to deny Student's request due to the Board's inability to waive 1009.2.7. pursuant to 14 Del. C. § 410 The motion was seconded by Mr. Hart and carried by a vote of 16 – yes ( Waterman, Donovan, Williams, Edney, Laws, Eliassen, Layfield, Cilento, Watson, Hart, Fitzgerald, Breeding, Holodick, Evans-Gunter, Mann, and Jeanne), 1 – no (Bley), and 2 – abstentions (Cimaglia and Thompson).

I. Request to Waive 1009.2.4.7 by Appoquinimink HS for DIAA 2016-10-8

Student and Student's father were in attendance to present this request. Dr. Holodick made a motion to go into executive session at the parent's request for the purposes of discussing the request, including the content of the pupil file. The motion was seconded by Mr. Watson and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Dr. Layfield explained that DIAA is a 20 member Board and has 19 voting members. Dr. Layfield further explained that

the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Dr. Layfield explained that there was less than a full Board present and there were 18 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. Holodick made a motion to go into deliberation. The motion was seconded by Mr. Hart and carried unanimously. Mr. Jeanne made a motion to come out of deliberation. The motion was seconded by Mr. Watson and carried unanimously. Mr. Laws made a motion to come out of executive session. The motion was seconded by Mr. Mann and carried unanimously.

Mr. Hart made a motion to deny the request on the basis the Board does not have the authority to waive 1009.2.7 pursuant to 14 Del. C. § 410 even though a hardship may exist. The motion was seconded by Mr. Laws and carried by a vote of 13- yes (Waterman, Williams, Laws, Eliassen, Layfield, Cilento, Watson, Hart, Breeding, Holodick, Mann, Bley, and Jeanne), 1 – no (Thompson), and 4 – abstentions (Evans-Gunter, Donovan, Cimaglia, and Fitzgerald).

IV. J. Request to Waive 1009.2.1.1 by Mt. Pleasant HS for DIAA 2016-10-9

Student, Student's mother, Elizabeth Booth; attorney representing Student, Robin Howton; AVID Coordinator and teacher at Mt. Pleasant High School, and Keith Neff; athletic director at Mt. Pleasant High School were in attendance to present this request. Dr. Holodick recused himself prior to the hearing and was not present. Mr. Breeding made a motion to go into executive session for the purposes of discussing the request, including the content of the pupil file. 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. Dr. Layfield explained that DIAA is a 20 member Board and has 19 voting members. Dr. Layfield further explained that the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Dr. Layfield explained that there was less than a full Board present and there were 17 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. Jeanne made a motion to go into deliberation. The motion was seconded by Mr. Watson and carried unanimously. Mr. Jeanne made a motion to come out of deliberation. The motion was seconded by Dr. Donovan and carried unanimously. Mr. Hart made a motion to go back into deliberation. The motion was seconded by Mr. Jeanne and carried unanimously. Mr. Eliassen made a motion to come out of deliberation. The motion was seconded by Mr. Watson and carried unanimously. Mr. Laws made a motion to come out of executive session. The motion was seconded by Ms. Williams and carried unanimously.

Mr. Eliassen made a motion to grant a waiver of 1009.2.1.1 as record showed the student has a disability, the student was excluded from participation by reason of that disability, and the student is otherwise qualified to participate. The motion was seconded by Mr. Watson and carried by a vote of 15- yes (Waterman, Donovan, Williams, Eliassen, Cimaglia, Layfield, Cilento, Watson, Hart, Fitzgerald, Breeding, Evans-Gunter, Thompson, Mann, and Jeanne), 2 – no (Laws and Bley).

O. Request to Waive 1009.2.4 by Middletown HS for DIAA 2016-10-15

Student, Student's father and Dr. Matt Donovan; principal at Middletown High School were in attendance to present this request. Dr. Donovan recused himself from this hearing. Dr. Fitzgerald made a motion to go into executive session for the purposes of discussing the request, including the content of the pupil file. 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. Dr. Layfield explained that DIAA is a 20 member Board and has 19 voting members. Dr. Layfield further explained that the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Dr. Layfield explained that there was less than a full Board present and there were 10 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. Breeding and carried unanimously. Dr. Fitzgerald made a motion to come out of deliberation. The motion was seconded by Mr. Breeding and carried unanimously. Mr. Hart made a motion to come out of executive session. The motion was seconded by Mr. Watson and carried unanimously.

Mr. Cimaglia made a motion to grant the request based on the hardship of the



students desired course of study not available at the sending school that is available at the receiving school. The motion was seconded by Mr. Watson and carried by a vote of 10- yes (Williams, Cimaglia, Layfield, Watson, Hart, Fitzgerald, Breeding, Evans-Gunter, Thompson, and Bley).

M. Request of DAAD Grant

Mr. Wagner, president for DAAD was in attendance to present this request. Mr. Wagner stated that the DAAD was requesting an increase in the grant of \$3,000.00 and explained that the courses for the athletic directors has increased. Mr. Neubauer commented that he was cautious because the grant keeps increasing and the budget was set at \$16,500. Mr. Wagner explained that there are more athletic directors taking the courses and that they are considering raising the dues.

Dr. Fitzgerald made a motion to approve the request. The motion was seconded by Ms. Williams and carried by a vote of 10 – yes (Evans-Gunter, Williams, Thompson, Donovan, Fitzgerald, Cimaglia, Bley, Layfield, Watson, and Breeding) and 1 abstention (Hart).

K. In the Matter of Interim Waiver Request:

1. 1009.2.4 by Red Lion Christian Academy for DIAA 2016-10-10

Dr. Layfield advised that this matter is being considered under modified procedures with the consent of the parent. Dr. Donovan made a motion to go into executive session for the purpose of discussing the request, including the content of the pupil file. The motion was seconded by Dr. Fitzgerald and carried unanimously.

The Board reconvened the matter, which was heard on during the Board's September 8, 2016 meeting. While in executive session, the hearing proceeded, additional evidence was taken, and the Board held deliberations on the entire record.

Dr. Fitzgerald made a motion to go into deliberations. The motion was seconded by Mr. Watson and carried unanimously. Mr. Watson made a motion to come out of deliberations. The motion was seconded by Dr. Donovan and carried unanimously. Mr. Cimaglia made a motion to come out of executive session. The motion was seconded by Ms. Williams and carried unanimously.

Dr. Fitzgerald made a motion to grant the Student's waiver request. The motion was seconded by Mr. Breeding and carried by a vote of 10 – yes (Evans-Gunter, Williams, Thompson, Donovan, Fitzgerald, Cimaglia, Layfield, Watson, Breeding, and Bley) and 0 – no.

3. 1009.2.4 by First State Military Academy for DIAA 2016-10-12
4. 10009.2.4 by First State Military Academy for DIAA 2016-10-13
5. 1009.2.4 by Archmere Academy for DIAA 2016-10-14

Dr. Layfield advised that these matters are being considered under modified procedures with the consent of the students' parents. Dr. Bley made a motion to go into executive session for the purpose of discussing the request, including the content of the pupil file. The motion was seconded by Mr. Cimaglia and carried unanimously.

While in executive session, the hearings proceeded, evidence was taken, and the Board held deliberations.

Dr. Fitzgerald made a motion to go into deliberations for discussion on DIAA 2016-10-12. The motion was seconded by Mr. Watson and carried unanimously. Dr. Fitzgerald made a motion to come out of deliberations. The motion was seconded by Ms. Evans-Gunter and carried unanimously.

Mr. Cimaglia made a motion to go into deliberations for discussion on DIAA 2016-10-13. The motion was seconded by Dr. Donovan and carried unanimously. Dr. Donovan made a motion to come out of deliberations. The motion was seconded by Ms. Williams and carried unanimously.

Dr. Donovan made a motion to go into deliberations for discussion on DIAA 2016-10-14. The motion was seconded by Mr. Cimaglia and carried unanimously. Dr. Donovan made a motion to come out of deliberations. The motion was seconded by Mr. Watson and carried unanimously.

Mr. Cimaglia made a motion to come out of executive session. The motion was seconded by Ms. Evans-Gunter and carried unanimously.

Ms. Williams made a motion on DIAA-2016-10-12 to approve the two interim waivers granted by the Executive Director and grant the Student's waiver. The motion was seconded by Ms. Evans-Gunter and carried by a vote of 10 – yes (Evans-Gunter, Williams, Thompson, Donovan, Fitzgerald, Cimaglia, Bley, Watson, Breeding, Layfield) and 0 – no.

Ms. Williams made a motion on DIAA-2016-10-13 to approve the two interim waivers granted by the Executive Director and grant the Student's waiver request. The motion was seconded by Dr. Bley and carried by a vote of 10 – yes (Evans-Gunter, Williams, Thompson, Donovan, Fitzgerald, Cimaglia, Layfield, Watson, Breeding, and Bley) and 0 – no.

Mr. Cimaglia made a motion on DIAA-2016-10-14 to approve the two interim waivers granted by the Executive Director and grant the Student's waiver

request. The motion was seconded by Ms. Williams and carried by a vote of 10 – yes (Evans-Gunter, Williams, Thompson, Donovan, Fitzgerald, Cimaglia, Layfield, Watson, Breeding, and Bley) and 0 – no.

VI. Other

Mr. Thompson commented that he believes ECA is not closed and that the school just elected not to participate

VII. Public Comment

None.

VIII. Adjournment

Mr. Cimaglia made a motion to adjourn at 4:28 p.m. The motion was seconded by Dr. Bley and carried unanimously.

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Tina Bates