

DIAA Board of Directors' Meeting Minutes
Thursday, April 12, 2018– 9:00 a.m.
John W. Collette Education Resource Center

I. Opening

A. Call to Order

The meeting was called to order at 9:03 a. m. by Chairperson Dr. Bradley Layfield.

B. Roll Call

The following DIAA Board members were present: Stan Waterman, Dr. Matthew Donovan, Dr. Evelyn Edney, Ted Laws, Bruce Harris, Gary Cimaglia, Dr. Bradley Layfield, Robert Cilento, Robert Watson, Mike Hart, Mike Breeding, Vetra Evans-Gunter, Douglas Thompson, Leroy Mann, Jeremy Jeanne, and Dr. Bradley Bley. Thomas Neubauer, Executive Director, Laura Makransky, Deputy Attorney General, Michael Rodriguez, Associate Secretary of Education and DIAA staff Terre Taylor and Tina Bates were also in attendance. Susanne Williams, Dr. Kevin Fitzgerald and Dr. Mervin Daugherty were unable to attend.

C. Approval of Agenda

Mr. Laws made a motion to approve the agenda. The motion was seconded by Mr. Hart and carried unanimously, 14 – yes (Waterman, Donovan, Edney, Laws, Harris, Cimaglia, Layfield, Cilento, Watson, Hart, Breeding, Thompson, Bley, and Jeanne) and 0 – no.

D. Approval of Minutes of DIAA March 8, 2018 Board Meetings

Dr. Donovan made a motion to approve the March 8, 2018 minutes. The motion was seconded by Dr. Bley and carried by a vote of 14 – yes (Waterman, Donovan, Edney, Laws, Harris, Cimaglia, Layfield, Cilento, Watson, Hart, Breeding, Thompson, Bley, and Jeanne) and 0 – no.

E. DIAA Financial Report

Mr. Neubauer reported on the DIAA budget and commented that he just received the facility rental invoice for the DIAA Field Hockey Championship game held at Rullo Stadium and it was \$2,000.00 less than the estimate. Mr. Neubauer reported that it does not look like we will have to increase the spending limit for the fiscal year. Mr. Neubauer reported that we are \$26,290 to the good. Mr. Neubauer thanked the Athletic Directors for working with DIAA during the tournament games. Mr. Watson made a motion to approve the financial report. The motion was seconded by Mr. Jeanne and carried unanimously, 14 – yes (Waterman, Donovan, Edney, Laws, Harris, Cimaglia, Layfield, Cilento, Watson, Hart, Breeding, Thompson, Bley, and Jeanne) and 0 – no.

II. Public Comment

None.

III. Action Items

A. Approval of Tournament Sanctions

Mr. Neubauer reported that there are 16 sanctioned events before the Board for approval – Outdoor Track: Downingtown West Whippet (4/6/18), WCU Golden Ram Invitational (4/6/18), Arcadia Invitational (4/6-7/18), Colonial Relays (4/6-7/18), Largo Lions Invitational (4/7/18), Crimson Tide Invitational (4/7/18), Tower Hill Meet (4/10/18), 2018 Bullis Bulldog Invitational (4/14/18), Warrior Invitational (4/20/18), New York Relays (4/20-21/18), Clash of Baltimore (4/21/18), Penn Relays (4/26-28/18), Gator Track & Field Invitational (4/28/18), Tower Hill Meet (5/2/18), Hoka Henderson Invitational (5/4/18), TC Williams Invitational (5/5/18). Mr. Neubauer stated that to the best of his knowledge the 16 approved were in compliance with DIAA and NFHS regulations. In response to a question from a Board member Mr. Neubauer explained the process of approving sanctioned events from the National Federation. Mr. Neubauer stated that he first checks to see who the sponsor is, are they agreeing to abide by all National Federation rules, and then he reviews the invited schools and looks at their schedule. Mr. Watson made a motion to approve the sanctioned events. The motion was seconded by Mr. Hart and carried unanimously, 13 – yes (Waterman, Donovan, Edney, Laws, Harris, Layfield, Cilento, Watson, Hart, Breeding, Thompson, Bley, and Jeanne) and 0 – no.

B. Request by DIFCA for Heads Up Football Training Waiver of 1009.7.5.1

John Wilson; president of DIFCA, Dan Ritter; Athletic Director at Howard, and Mike Ryan; Athletic Director at Delaware Military Academy were in attendance to present this request. Mr. Wilson reported that this will be their eighth year running this DIFCA safety camp. Mr. Wilson commented that their goal is to make sure all coaches are trained in heads up tackling and blocking which is an online video sponsored by USA Football. Mr. Wilson also commented that there is also a mandatory safety training course at Smyrna High School on May 18, 2018 which is required by at least one coach from each school to attend in order to go over safety principles that have been instituted by USA Football. Mr. Wilson also stated that all coaches will be trained in heat and hydration along with the concussion course as well as CPR cardiac arrest. Mr. Wilson commented that the coaches may relay the principles and practices they have learned to their players and coaches in a five day camp. Mr. Wilson commented that this will not interfere with spring sport athletes. Mr. Ryan commented that if a spring sport athlete is participating in their season they are not allowed to participate in the safety camp. Mr.

Neubauer commented that this may not be used as spring ball. Mr. Neubauer reminded them that live action is not permitted at the DIFCA Safety First Football Camp. Mr. Wilson explained that USA Football will offer their services for free if it is mandated by the State Association. Mr. Wilson asked if the DIAA could mandate this.

Mr. Breeding made a motion to approve the request. The motion was seconded by Mr. Watson and carried by a vote of 14 – yes (Waterman, Donovan, Edney, Laws, Harris, Cimaglia, Layfield, Cilento, Watson, Hart, Breeding, Thompson, Bley, and Jeanne) and 0 – no.

C. Request to Waive 1009.2.1 by Indian River High School

Student, Student's mother, and Todd Fuhrmann, athletic director at Indian River High School were in attendance to present this request. The Board went into executive session for the purposes of discussing the contents of a pupil file, the disclosure of which would constitute an invasion of personal privacy.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. 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 the written documentation provided.

The Board went into deliberation. The Board came out of deliberation. The board went into deliberation and came out of deliberation and then came out of executive session.

Mr. Cimaglia made a motion to approve the waiver based on the testimony and evidence presented and the conditions for granting a waiver were established. The motion was seconded by Dr. Donovan and carried by a vote of 15 – yes (Waterman, Donovan, Edney, Laws, Harris, Cimaglia, Layfield, Cilento, Watson, Hart, Breeding, Evans-Gunter, Thompson, Bley, and Jeanne) and 0 – no.

V. Board Discussion

A. Status of Realignment Plans

Dr. Layfield reminded the Board that at the February Board meeting the Board decided that it was going to discuss this plan and take some sort of action. Ms. Taylor explained that a realignment committee was created to address the concerns of the member schools and game scheduling. Ms. Taylor commented that the committee is asking for a pilot program for the girls and boys basketball tournament. Ms. Taylor explained that they are asking for a pilot

program because there are a lot of questions regarding the realignment and the only way to answer those questions is to try it out. Ms. Taylor reviewed the survey comments and explained that there was a low response. Ms. Taylor commented that this survey was sent out to athletic directors, coaches, and some administrators. Mr. Neubauer explained that this pilot program is just being proposed at this time. Ms. Taylor reviewed the comments that she received from the survey and commented that the overall support at this time is 40 agree, 20, neutral, and 40 disagree.

Dr. Donovan commented that it appeals to him when he sees that his school teams have a chance to be competitive and feel good about themselves because this increases their academic performance and their social performance and we should keep in mind that we are doing this for the kids not for athletic budgets.

Ms. Taylor explained that there is some confusion about what the process is to initiate change and recommended that DIAA figure out what the process is, who is responsible for what and who provides input. Ms. Taylor commented that a lot of people expressed valid concerns and based on the survey she feels there is a desire for change.

In a response to a question from a Board member Ms. Taylor commented that a girls and a boys sport in the same season should be used to create less issues for the pilot program.

Several Board member expressed their concern of the lack of people that did not complete the survey.

Ms. Taylor reviewed the proposed realignment with the Board.

Mr. Watson made a motion to resubmit the survey to all athletic directors that did not respond with a cover letter that the Board is requesting their input so that the Board can make an informed decision in May with reminders being sent to the principals, school chiefs, leadership of DAAD, the leadership of the Delaware Interscholastic Basketball Coaches Association and the boys and girls basketball committees that the survey went out and this is their opportunity to lend their opinion. The motion was seconded by Mr. Jeanne and carried by a vote of 16 – yes (Waterman, Donovan, Edney, Laws, Harris, Cimaglia, Layfield, Cilento, Watson, Hart, Breeding, Evans-Gunter, Thompson, Mann, Bley, and Jeanne) and 0 – no.

H. Request From DAAD

Dr. Layfield commented that this request was for the Board not to discontinue

the DIAA Officials Committee's ability to negotiate officials' fees. Bill Schultz, DIAA Officials Committee Chair and Jack Holloway, member at large for the DAAD Board of Directors were in attendance to present this request. Mr. Holloway explained that to him the DIAA Board is the leading force for the DIAA Member Schools. Mr. Holloway explained that DAAD has only been in existence since 2007 and has been able to keep running with the help from the DIAA Board of directors. Mr. Holloway gave a detailed history of DIAA and the process for changing regulations.

Mr. Holloway then explained the development of the Officials' Committee and explained how all officials are paid equally. Mr. Holloway explained that he feels this would not have happened without the help from DIAA. Mr. Holloway stated that the athletic directors voted unanimously to not take the responsibility of the officials contracts. Mr. Holloway commented that he feels the agreements that are in place today with the officials associations will go back to the way it was done in the past with no equality. Mr. Holloway commented that the DIAA officials committee has protected the officials numerous times. Mr. Holloway explained a situation where the lacrosse officials association tried to raise the officiating fees by 25% but it was not allowed to happen because DIAA would not allow it. Mr. Holloway asked that the Board not reverse 51 years of history.

Mr. Schultz commented that DAAD is not prepared to negotiate the officials contracts. Mr. Schultz commented that in the DIAA Regulation 8.2 it states that it is the responsibility of DIAA to evaluate officials and set game fees, determine the number of officials needed for games and assigning games.

Mr. Laws asked why this was being brought up. Mr. Neubauer explained a situation in the past where the past executive director signed an officials contract and a charter school closed and left debt to an officials association and since the executive director signed the contract the officials association came to DIAA for the payment and Mr. Neubauer reported this is why the attorney recommended not signing the contract. Mr. Neubauer further explained that the money was found and paid to the officials association and DIAA did not have to pay it. Mr. Neubauer commented that he decided that he would not sign this contract unless it is for state tournaments.

Mr. Neubauer explained that he agrees with Mr. Holloway and explained how he organized the Delaware Interscholastic Officials Committee. Mr. Neubauer commented that DIAA officially recognized DIOC in 2005 as the voice of officials. Mr. Neubauer explained that the DIOC and the DIAA Board worked together to standardize the agreement with officials. Mr. Neubauer asked what role can the DIAA Board assist the member schools in getting a contract that stays true to the principles that Mr. Holloway spoke about.

Mr. Laws asked if it was possible to go into a contract arrangement just to set the rates. Mr. Neubauer asked at what level can the Board set rates and set standards and have it worded that the responsibility for services and finances are of the individual school. Mr. Holloway explained that that was already in the contract.

Ms. Makransky reminded the Board that in January this Board proposed legislative change to Delaware Code Title 14 Chapter 3 which would allow the Board to set fees for officiating interscholastic contests and competitions through regulation. Ms. Makransky explained that until the change goes through, the Board does not have the authority to negotiate officials' fees and doing so would open the Board up to liability. Ms. Makransky explained that the Delaware Code trumps the DIAA regulations.

Mr. Holloway reiterated that DAAD does not have the capability to negotiate these contracts nor do they want to.

Dr. Layfield explained that the Board could entertain a motion to not support what is currently in place on the advice of legal counsel knowing that if something happened we would be liable because we are not supported by legal in the Deputy Attorney Generals office or we could entertain a motion to continue with the contract that is currently in place even though we do not have the authority according to our legal counsel and if the Board votes that way if something happens we would be liable because we would not be supported by the deputy attorney general. Dr. Layfield asked the Board if they want to move forward with what they explained knowing that there is a small chance that DIAA would be liable going against our counsel's advice or do we follow to the letter of the law because code trumps regulations.

Ms. Taylor reminded that when the Board confirmed the committee charges the Board took the ability to negotiate a contract away from the Officials Committee so the Officials Committee is asking for that power back to them.

Ms. Makransky explained that if the Board wanted to change the charge to include the authority to negotiate contracts on behalf of member schools, this would be against her legal advice because the Board does not have the statutory authority to negotiate contracts on behalf of member schools.

Mr. Cimaglia commented that notwithstanding legal counsel's thoughts on this he felt the liability part of this is far less than what would happen if we lose the bargaining ability with the officials committee.

Mr. Rodriguez commented that the Board's role should be to preserve the integrity of what the Board stands for and pursue the avenues that we do have to pursue the changes that are necessary and if that is the case shouldn't we

pursue the processes that are in place to protect the integrity of the Board and to protect what it is that the Board stands for as opposed to putting the Board at risk.

Mr. Laws made a motion to let the DIOC and the Officials Committee continue with negotiating contracts that has been in place against advice of legal counsel and pursue vigorously the legislative change to make sure the Board is covered in code and not just regulations and that the Board revisit this in July should no legislative change happen. The motion was seconded by Mr. Watson.

Ms. Taylor explained that the DIOC and the Officials Association are two separate organizations. Ms. Taylor further explained that the DIOC is who the DIAA Board has recognized as being the official voice of the officials all together and the Officials Committee is the standing committee of this Board who has been given the authority to negotiate with the DIOC to create the contract and understands that the motion would give both back what they have had all along while pursuing legislative revisions.

Ms. Makransky reminded the Board that this is against her advice because the Board does not have that authority. Ms. Makransky recommended holding off on making a change to the officials charge until the Board figures out what is going with the proposed legislative change.

The motion carried by a vote of 14 – yes (Waterman, Donovan, Edney, Laws, Harris, Cimaglia, Layfield, Cilento, Watson, Hart, Breeding, Evans-Gunter, Mann, and Jeanne) and 0 – no.

The Board recessed at 12:20 p.m. and reconvened at 12:30 p.m.

D. Request to Change Regulation by Home School Parent

Dr. Layfield explained that this was a request from Irvin Smith to change regulation about home schooling. Dr. Layfield reminded the Board that another individual came and gave public comment to the Board in February regarding home school participation. He reviewed what documents were included with the agenda. Dr. Layfield commented that there was not a lot of support with this but there is a request to change regulation. Dr. Layfield commented that there are many things in Title 14 that preclude DIAA from making a change without going further. Dr. Layfield suggested drafting a letter stating that the DIAA Board has discussed this and other regulations and items in Title 14 Delaware Code would have to be changed before the Board could even entertain whether or not it is in support or not in support of this and we advise them to contact their legislator.

Mr. Laws made a motion to send a letter that a legislative change would be needed and suggesting this person contact their legislator. The motion was seconded by Dr. Edney and carried by a vote of 14 – yes (Waterman, Donovan, Edney, Laws, Harris, Cimaglia, Layfield, Cilento, Watson, Hart, Breeding, Evans-Gunter, Mann, and Jeanne) and 0 – no.

E. Review Changes to Regulation 1007.2.3

Dr. Layfield commented that there were very few changes to the Sportsmanship regulations from the March meeting and commented that he reviewed the changes and feels it does follow what the Board discussed.

Mr. Jeanne made a motion to approve the changes as presented. The motion was seconded by Mr. Hart and carried by a vote of 14 – yes (Waterman, Donovan, Edney, Laws, Harris, Cimaglia, Layfield, Cilento, Watson, Hart, Breeding, Evans-Gunter, Mann, and Jeanne) and 0 – no.

F. Review Changes to Regulation 1006.3.0

Dr. Layfield explained that this regulation involves the committee membership. Discussion ensued on the membership of committees and if the terms should be staggered. Dr. Layfield reviewed the changes to include changing 3.2.2.6 to add the word staggered in front of three-year terms.

Mr. Cimaglia made a motion to approve the changes as presented with the one additional change. The motion was seconded by Mr. Jeanne and carried by a vote of 14 – yes (Waterman, Donovan, Edney, Laws, Harris, Cimaglia, Layfield, Cilento, Watson, Hart, Breeding, Evans-Gunter, Mann, and Jeanne) and 0 – no.

G. Request to Fund 2018 NFHS SLC

Mr. Neubauer reported that the NFHS is hosting their annual student leadership conference in Indianapolis on July 23 – 25, 2018. Mr. Neubauer explained that he was asking the Board for funding for two adults and six students from Delaware to attend the NFHS Student Leadership Conference. Mr. Neubauer stated that the request is for \$2500.00 to cover expenses to send the two adults and six student delegates. Mr. Neubauer explained that DIAA has run an individual student leadership conference for 15 years. Mr. Neubauer explained that the National Federation pays for the students costs other than transportation and pays for materials and registration for adult leaders but not housing or transportation. Mr. Neubauer commented that the proposal is for funding for two adults and six student delegates. Mr. Hart made a motion to approve the request. The motion was seconded by Mr. Watson and carried by a vote of 14 – yes (Waterman, Donovan, Edney, Laws,

Harris, Cimaglia, Layfield, Cilento, Watson, Hart, Breeding, Evans-Gunter, Mann, and Jeanne) and 0 – no.

IV. Response from DWOA

Dr. Layfield reported that the Delaware Wrestling Officials Association responded to the Board's request to investigate Heather Moyer's written complaint concerning Michael Jordan. The Board reviewed and discussed the DWOA's response.

Mr. Breeding made a motion to send a letter to Ms. Moyer that forwards the DWOA's response to the Board and that her complaint concerning Mr. Jordan is closed. The motion was seconded by Mr. Harris and carried by a vote of 14 – yes (Waterman, Donovan, Edney, Laws, Harris, Cimaglia, Layfield, Cilento, Watson, Hart, Breeding, Evans-Gunter, Mann, and Jeanne) and 0 – no.

V. Board Discussion

B. Hall of Fame Update

The Board did not discuss the DIAA Hall of Fame. The item will be placed on a future agenda.

C. Two-Year Enrollment Requirement for School Choice

Ms. Makransky explained that Regulations 1008 and 1009 reference a release. In addition, Ms. Makransky noted that the regulations do not reference all of the exceptions to the statutory requirement that a student who enrolls in a school through Delaware's School Choice Program do so for a minimum of two years. Dr. Layfield asked the Board to take some time to review the regulations and bring back to another meeting.

VI. Legal

Ms. Makransky reminded the Board members that there is a decision from the Delaware Superior Court that holds it is improper for an administrative agency to base its decision on information outside of the record without notice, including information obtained through the agency's own independent research, such as an Internet search.

VII. Executive Director Report

Mr. Neubauer reported that there is a nominee to replace Susanne Williams position. Mr. Neubauer also reported that the Governors' office would like to hold over those whose term is expiring until January. Mr. Neubauer suggested the Board members contact the Governors Director for Boards and Commissions if their term is expiring and they would like to extend it.

VIII. Other Items for Discussion

Dr. Layfield commented on a Violent Intruder Preparedness and Response (VIPR) training he attended and recommended the training for athletic directors.

IX. Public Comment

None

X. Adjournment

Mr. Laws made a motion to adjourn at 1:15 p.m. The motion was seconded by Dr. Edney and carried unanimously, 13 – yes (Donovan, Laws, Harris, Cimaglia, Layfield, Cile nto, Hart, Fitzgerald, Breeding, Evans-Gunter, Mann, and Jeanne) and 0 no.

Tina Bates