

DIAA Board of Directors' Meeting Minutes
Thursday, April 14, 2011 – 9:00 a.m.
John W. Collette Education Resource Center

I. Opening

A. Call to Order

The meeting was called to order at 9:10 a.m. by Gerald Kobasa, DIAA Chairperson.

B. Roll Call

The following DIAA Board members were present: Gerald Kobasa, Michael Wagner, Edna Cale, Craig Eliassen, Laura Leone, Harvey Hyland, Terre Taylor, Pam Love, Dr. Jeffrey Hawtof, Dr. Dianne Sole, Ron Eby, Susan Coffing and Woody Long. Paula Fontello, Deputy Attorney General, was also in attendance. Catherine Marvel, Dr. Mark Holodick, Curt Bedford, Eugene Montano and Dr. Amelia Hodges were unable to attend the meeting. Chairman Kobasa noted that Kevin Charles was unable to attend and that Thomas Neubauer would represent DIAA staff

C. Approval of Agenda

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

D. Approval of Minutes of March 17, 2011 Board of Directors' Meeting

Mr. Eliassen made a motion to approve the minutes of March 17, 2011 Board of Directors' meeting. The motion was seconded by Mr. Long and carried unanimously.

E. Financial Report

Mr. Neubauer reviewed the income and expenses and commented that the income to date was \$613,327.91 which is 85% of the projected total income. Mr. Neubauer advised that the income for the reporting period was \$181,564.00 is primarily from tournament income, fees, official's dues, member dues and corporate contracts. Mr. Neubauer advised that the year to date expenses were \$607,147.92 which is 84% of the projected expenditures. Mr. Neubauer stated that the expenses for the reporting period are \$91,919.00 which includes tournament expenses and salary and OEC's. Mr. Neubauer explained that the budget is \$6,179.99 in the black but that we still have bills for security and the University of Delaware. Dr. Hawtof made a motion to accept the financial report. The motion was seconded by Ms. Coffing and carried unanimously.

II. Public Comment

None.

III. Action Items

A. Approval of Tournament Sanctions

Mr. Neubauer presented the 20 tournament sanctions requests which included 13 outdoor track, 1 softball, 2 cross country and 4 basketball. Mr. Neubauer reviewed the requests and advised that all sanction requests were in compliance with DIAA and the NFHS requirements. Ms. Leone made a motion to approve the sanctions. The motion was seconded by Mr. Hyland and carried unanimously.

F. 1. Self-Report by Milford Middle School

Mr. Neubauer advised that Milford Middle School inadvertently used an ineligible player on March 23, 2011 and reported it to Smyrna Middle School and adjusted the score.

2. Self Report by Christiana High School

Mr. Neubauer advised that Christiana High School used an ineligible player in a varsity girls' soccer match and did forfeit the match to Delcastle.

Mr. Wagner made a motion to approve both self-reports. The motion was seconded by Ms. Coffing and carried unanimously.

E. Consideration of Interim Game Limits for 2011-12 & 2012-13 School Year

Mr. Neubauer advised that the interim game limits established by the Board in April 2009 were subject to review in two years. Action by the Board is necessary to be included as part of the frequently asked questions in Regulation 1008.4.3 and 1009.4.3. Mr. Neubauer advised that while the matter was discussed by the Board at a prior meeting in the fall of 2010 no vote was taken at that time. The matter requires approval by the Board. Ms. Fontello clarified that under the regulation the maximum game schedules and designated sports seasons are set by the Board of Directors and are subject to change. She also clarified that the Board generally reviews the game schedules limits and seasons every two years in conjunction with the two year scheduling pattern. Mr. Eliassen made a motion to approve the game limits as presented. The motion was seconded by Mr. Long and carried unanimously.

IV. Executive Director Report

B. Misc.

Mr. Neubauer reviewed a thank you note from the Arizona Athletic Association. Mr. Neubauer also reviewed the winter tournaments and commented on the attendance.

III. B. Request for Waiver of DIAA Reg. 1009.2.4 by Appoquinimink for A. D.

Student and student's mother were in attendance to present this request. Student's mother requested a closed hearing. A representative of the school did not attend. Ms. Cale recused herself. Mr. Wagner 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 Ms. Coffing 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 are 12 voting members present and participating to consider this 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. Coffing made a motion to go into deliberation. The motion was seconded by Dr. Sole and carried unanimously. Mr. Wagner made a motion to come out of deliberation. The motion was seconded by Dr. Hawtof and carried unanimously. Dr. Hawtof made a motion to come out of executive session. The motion was seconded by Mr. Wagner and carried unanimously. Ms. Coffing made a motion to grant the waiver based on the testimony and the hardship presented. The motion was seconded by Dr. Sole and carried unanimously.

D. Request for Waiver of DIAA Reg. 1009.4.1.1 by DIFCA & DFRC

Mark DelPercio; DFRC Athletics Chair, Anthony Glenn; Executive Director for DFRC, Mike Tkach; DIFCA Officer were in attendance to present this request. 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 are 13 voting members participating and present to consider this matter. Ms. Fontello also explained the hearing

procedures. The parties confirmed that they understood and wished to proceed. All persons participating in this hearing were sworn in. Ms. Fontello then reviewed all documents pertaining to this hearing and the documents were included in the record.

Mr. DelPercio advised that the DFRC was asking for a two year waiver of Regulation 1009.4.1.1 so that they can hold the DFRC Kickoff Classic football games on the first Thursday after Labor Day which is one day prior to the allowable start day. Mr. DelPercio also advised that the DFRC was also asking for a waiver of Regulation 1009.4.2.1 to allow the four teams participating in the kickoff classic to be able to practice one day early. Mr. Glenn advised that DFRC stands for Delaware Foundation Reaching Citizens with Intellectual disABILITIES and Mr. Tkach advised that DIFCA stands for Delaware Interscholastic Football Coaches Association. Mr. DelPercio stated that there would be a game played in northern Delaware and a game played in southern Delaware. Mr. DelPercio stated that the DFRC Kickoff Classic was approved last year and was a success. Mr. DelPercio stated that the teams selected for this year are Smyrna High School at Middletown High School and McKean at AI DuPont High School. Mr. DelPercio explained that the schools submit their school name if they are interested in participating. Mr. Tkach commented that he coached one of the teams in last year's classic and said that it really raised awareness for people with intellectual disabilities. Mr. DelPercio commented that all football coaches are in favor of this event. Mr. DelPercio commented that the DIFCA executive board selects the teams that participate.

Dr. Hawtof made a motion to go into deliberations. The motion was seconded by Ms. Coffing and carried unanimously. Mr. Wagner made a motion to come out of deliberations. The motion was seconded by Ms. Cale and carried unanimously.

Ms. Taylor questioned whether the players would be getting the required 21 days of practice. Mr. Neubauer explained that under the regulation, practice begins for all fall sports on August 15th and this set start date already builds in additional time beyond the 21 days. He further advised that the players would be getting 24 days of practice. Dr. Hawtof made a motion to approve the request for only the waiver to play the game one day early for school years 2011-12 and 2012-13 and to deny the request to start practice one day early. The motion was seconded by Mr. Eliassen and carried unanimously.

The Board recessed at 10:35 a.m. and reconvened at 10:45 a.m.

- C. 1. Interim Waiver Request for 1009.2.2 and 1009.2.4 by Archmere Academy for N.E.

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. Neubauer is still under oath. Mr. Wagner 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 Dr. Hawtof and carried unanimously. Ms. Love was not present during this hearing and there were 12 voting members present.

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 the modified hearing process and that there is a signed consent from the student's parent in this case in order to proceed under these modified procedures. Ms. Fontello advised that a full hearing is scheduled for the May 12, 2011 meeting should it be necessary. Ms. Fontello explained that Mr. Charles granted two interim waivers one allowing the student to participate and the second to allow the student and parent not to appear. It was confirmed for the record that in Mr. Charles absence, Mr. Neubauer would provide testimony. 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. Wagner made a motion to come out of executive session. The motion was seconded by Dr. Hawtof and carried unanimously. Mr. Wagner made a motion to grant the waiver and approve the three interim waivers granted by the Executive Director 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. Hawtof and carried unanimously. Ms. Fontello clarified that the waiver request is granted and the full hearing scheduled for May 12, 2011 is cancelled.

C. 2. Interim Waiver Requests of 1009.2.4 by Lake Forest High School for T.Y.

Mr. Wagner recused himself. 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. Long 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 Ms. Coffing and carried unanimously. It was confirmed for the record that in Mr. Charles absence, Mr. Neubauer would provide testimony. Ms. Love was not present during this hearing and there were 12 voting members present.

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 the modified hearing process and that there is a signed consent from the student's parent in this case in order to proceed under these modified procedures. Ms. Fontello advised that a full hearing is scheduled for the May 12, 2011 meeting should it be necessary. Ms. Fontello explained that Mr. Charles granted two interim waivers one allowing the student to participate and the second to allow the student and parent not to appear. It was confirmed for the record that Mr. Neubauer remained under oath and Mr. Wagner was sworn in. 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. Hawtof made a motion to go into deliberations. The motion was seconded by Mr. Hyland and carried unanimously. Mr. Long made a motion to come out of deliberations. The motion was seconded by Ms. Leone and carried unanimously. Dr. Hawtof made a motion to go to open session. The motion was seconded by Ms. Cale and carried unanimously.

Ms. Taylor made a motion to grant the waiver and approve the two interim waivers granted by the Executive Director based on evidence presented the Student had met his burden of establishing a transportation hardship and the information provided regarding the hardships that were beyond the control of the student. The motion was seconded by Ms. Cale and carried unanimously (11-0). Ms. Fontello clarified that the waiver request is granted and the full hearing scheduled for May 12, 2011 is cancelled.

G. Consideration of Amendments to DIAA Handbook

In Mr. Charles' absence, Ms. Fontello reviewed the proposed amendments to the regulations and the latest edits. Ms. Fontello reminded the Board of the voting requirements and stated that 10 votes are required to approve any regulatory amendment. Ms. Fontello explained the amendment and publication process and stated that if the proposed amendments are approved the packet would be forwarded to the register of regulations on April 15, 2011.

1006

1006.2. – Ms. Fontello reviewed the changes and highlighted several areas. She explained that language was added regarding membership and to clarify membership requirements. Ms. Fontello also stated that a change was made to clarify that the enrollment figures are made on the September 30th count.

1006.2.4 – This section was amended to add requirements for participation in state championships.

1006.4.0 – Responsibilities of the executive director. Amendments were made in this section and incorporates a procedure for when the executive director is unavailable due to a conflict of interest or otherwise. The section clarifies that the executive director may delegate authority and refer issues to subordinates, special committees or otherwise.

1006.5.0 – This section includes minor changes regarding what an administrative head of school's responsibilities and makes it clear that the administrative head of school and is responsible for all interscholastic athletics including ensuring that practices are conducted in a manner which will minimize the health and safety risk to students. This also requires that the DIAA be notified of any delegation of authority.

1006.7 – Language changes were made to clarify that the Executive Director may impose immediate penalties and that additional penalties above the automatic penalties noted in the regulations can be imposed.

1006.7.2 – changes made to reporting protests and complaints and refers to appropriate procedure sections.

1006.8.0 – A change was included regarding referring matters to the superintendent, governing body or their equivalent when a complaint involves the actual head of school.

1006.8.1.2 – Changes section to a notice provision requesting permission where it currently mandates getting permission from the school to interview a student and also recognizes that a parent may also give consent.

1006.9.2. – Changes were made to this section regarding waiver requests and required documentation. The section now clarifies that there has to be a letter from the school requesting the waiver and either supporting or not supporting the waiver request. The changes also require that any documentation specified in the particular rule has to be provided. New language also references the transfer rule and requires documentation of an official withdraw and enrollment.

Dr. Hawtof made a motion to accept all changes. The motion was seconded by Ms. Cale and carried unanimously 13 – 0.

1007 – Sportsmanship

Ms. Fontello reviewed the document and summarized the proposed changes

She explained that provision was added to each section of the responsibilities regarding bullying, hazing and taunting. The new language mandated that schools develop policies discouraging acts of bullying, hazing, and taunting and that coaches enforce the policies. It also requires that coaches, participants, and spectators comply with the policies and refrain from participating in or encouraging acts of bullying, hazing, or taunting.

1007.2. – Amends language to address the need for the Executive Director to handle

some matters in an expedited procedure and mandates that if there are contact ejections or altercations involving students or coaches the incident must be reported to the executive director within 24 hours

1007.2.1.3 – The amendment recognizes that the Administrative Head of School may have delegated another individual to deal with violations..

1007.2.3.1.1 – This amendment incorporated an FAQ to the regulations which requires a student or coach to be out of sight and sound when serving a suspension.

1007.2.3.1.5 – Language was added incorporating current DIAA policy regarding appeals of contests suspensions based on a game ejection. The Board discussed the different options and determined that based on the time sensitivity of the matters and the need for a quick and final resolution, appeals of contest suspensions will be delegated to the Executive Director and that the Executive Director's decision to uphold or rescind the suspension (or the Sportsmanship Committee if referred) will be final and not subject to appeal. The Board also determined that all game suspensions based on a game ejection will be included including the suspension in 2.3.1.1.1.

1007.2.4.1 –Language was added to specify that decisions of Executive Director or Sportsmanship Committee to uphold or rescind suspensions resulting from game ejections may not be appealed further.

Dr. Hawtof made a motion to approve amendments. The motion was seconded by Mr. Eby and carried unanimously (13-0).

1008 and 1009

Ms. Fontello explained that most of the changes in 1008 and 1009 are identical. Both sections were addressed simultaneously.

1008/1009.1.3.4 – Clarifies how the appeal process and requirements when a game contract has been breached.

1008/1009.1.4 – Clarifies what a scrimmage is and what is permitted during a scrimmage.

1008/1009.1.5 – New definition for “attendance zone”.

1008/1009.2.2 – Clarifies shared placement and cases without custody orders.

1008.2.4 and 1009.2.4– Changes to the transfer rule. Revisions were made for consistency with language changes in 1009.2.4. It was noted that not all the changes in 1009 were incorporated in 1008 in that the transfer rule in 1008 is different and still allows for free transfer over the summer. Additional exceptions were added in 1009 only. The changes extend the limitations regarding transfers for athletic advantage to all exceptions and add new exceptions where the Board consistently granted waiver requests.

1008/1009.2.4.2.4 – Changes were made to recognize a broader exception and incorporates revisions to the legal change of residence rule to include when parents move and the student has a new public school available to them, the student can now decide to go to any school including a private or non public school.

1008.2.4.2.6.1 and 1009 – Exception for the homeless student . This section was amended to include additional clarification regarding the term athletic advantage so the term is consistent throughout the regulations.

1008/1009.2.4.3. - Deletes the exception regarding a transfer because of a change in the program of study program of study

1008/1009.2.4.5 – Extends the limitations of transfers for athletic advantage and incorporates additional examples of athletic advantage

1008/1009.2.10 - Clarifies the process for determinations of athletic eligibility and make clear that school makes initial determination of athletic eligibility. If a dispute arises or upon request, the school must turn over all information regarding the determination.

1008/1009.3.1.5 – This section was rewritten to address concussion protocol adopted in summer of 2010 and to allow the Board to update the protocol as necessary.

1008/1009.3.3 – This section added qualified health care provider and defined the term.

Sports season

1009/1008.4.1.1 – changes to football practice

1009/108.4.2.1 – This section was amended the definition of practice to incorporate player safety restrictions recommended by Sports Medicine Advisory Committee.

1008/1009.4.2.2 – This section revised to make clear restrictions for practices on a school day

1008.4.3.5 – This section was amended to incorporate a definition of a week in the middle school

1008/1009.6.4 – This section was amended to incorporate FAQ to regulations which limits participation in open gym to that school's students.

1008/1009.6.5.1.7 – This section was amended to incorporate FAQ to regulation limiting conditioning programs to participants of that school.

1008/1009.7.5.2.3 – There was discussion regarding this section and the intent of the change and a previous PIC decision. It was determined that the section not be amended at this time.

Dr. Hawtof made a motion to approve the amendments with the change to undelete 1008/1009 7.5.2.3 and move new language in 1008/1009.7.5.2.3 to 1008/1009.7.5.2.5 and renumber section as needed. The motion was seconded by Mr. Eliassen and carried unanimously 12 -0.

IV. Executive Director Report

A. Legal

Ms. Fontello updated the Board on the status on pending appeals and explained that there was oral argument on one case and still waiting on the hearing officer's proposed decisions.

V. Other

The Board had a general discussion regarding bullying in the schools and any reporting requirements. There were also discussions surrounding ways to use the information to generate awareness and as a learning tool. The general consensus of the Board was that they would like to generate notice to the member schools when DIAA receives evidence regarding bullying in a particular school and send a copy of the correspondence to the Secretary of Education or the School Climate section. The Board also discussed the changes to the regulations regarding the requirement that each member school develop, implement, and enforce policies for their interscholastic programs to discourage acts of bullying, hazing, and taunting. It was discussed that the notice could be two fold, first as a courtesy advise the school that information was presented regarding bullying occurring in their school and second to remind the member schools of their obligations under the DIAA regulations.

VI. Public Comment

VII. Adjournment

Dr. Hawtof made a motion for the Board to adjourn at 12:10 p.m. The motion was seconded by Ms. Cale and carried unanimously.

Tina Hurley