

MINUTES OF THE BOARD MEETING

JULY 10-11, 2006

President Gary Dearborn convened the regular meeting of the Board of Control on Tuesday, July 11, 2006 at 9:30 a.m. All Board members were present except Paul Dotson, Paula Goodin, Jeff Schlosser and Bob Schneider. Also present were Commissioner Brigid DeVries, Assistant Commissioners Larry Boucher, Julian Tackett and Roland Williams, Director of Promotions and Media Relations Butch Cope and Office Manager Darlene Koszenski. KHSAA legal counsel, Ted Martin and C. Ray Hall, *Courier-Journal* reporter, were also present.

Gary Dearborn provided a moment of reflection, followed by the Pledge of Allegiance led by Commissioner DeVries.

President Dearborn asked the record to show that fourteen out of seventeen Board members were present, and that nine votes were needed to pass any eligibility motions.

Ozz Jackson made a motion, seconded by Steve Parker, to accept Paul Dotson's letter of resignation from the Board of Control. Commissioner DeVries was asked to write him a thank you letter for his years of service. The motion passed unanimously. Commissioner DeVries will begin the process of filling the vacancy through the regular election process outlined in the Constitution.

Donna Wear made a motion, seconded by Chuck Broughton, to approve the minutes of the May 22-23, 2006 regular meeting. The motion passed 13-0 with one abstention (Lea Prewitt).

Jeff Perkins made a motion, seconded by Steve Parker, to go into Executive Session to discuss pending litigation. The motion passed unanimously. Lonnie Burgett made a motion, seconded by L.V. McGinty to come out of Executive Session. The motion passed unanimously. No action was taken during the Executive Session.

The Board of Control then considered the following appeals in compliance with the KHSAA Due Process Procedure:

Case #	Bylaw	H. O. Recommend	Board Motion	Board Second	Vote	Status
#1035	6	Eligible	Overturn (Burgett)	Parker	10-4	Ineligible-A
#1040	6	Eligible (Remand for more information)	Uphold (McGinty)	Parker	14-0	Eligible
#1044	6	Eligible	Uphold (Perkins)	Burgett	14-0	Eligible
#1045	6	Ineligible	Uphold (Parker)	Wear	13-1	Ineligible
#1046	6	Ineligible	Uphold (McGinty)	Broughton	14-0	Ineligible
#1047	6	Ineligible	Overturn (Jackson)	Donhoff	14-0	Eligible-B
#1048	4	Ineligible	Uphold (McGinty)	Broughton	14-0	Ineligible
#1043	6	Ineligible (Exceptions)	Uphold (Burgett)	Parker	14-0	Ineligible
	33	Wolfe County written appeal	Uphold (McGinty)	Parker	13-1	Penalty Upheld

A-Findings of Fact-Case #1035

The Board incorporates by reference the Findings of Fact as contained in the Hearing Officer's Recommended Order. The Board reaches Different Conclusions of Law, however, from those same Findings of Fact.

Conclusions of Law

Based on the whole record, the Board concludes that the application of the period of ineligibility contained in Bylaw 6 should not be waived for the following reasons:

1. The student's transfer is subject to Bylaw 6 because he participated in varsity sports at the sending school after enrolling in grade nine and then transferred to the receiving school.
2. As concluded by the Hearing Officer, the student's transfer does not satisfy any enumerated exception to Bylaw 6.
3. The Due Process Procedure provides for a discretionary waiver if strict application of the applicable Bylaw is unfair *and* the circumstances creating the ineligibility are clearly beyond the control of all the parties involved. The evidence provided does not support a conclusion that the strict application of Bylaw 6 is unfair to the student and the circumstances resulting in the student's transfer were clearly beyond the control of all the parties involved. The only ground on which the Hearing Officer recommended a waiver of Bylaw 6 is that "the student is an undersized football player who competed in just one game for six minutes." These are not the type of circumstances that justify a waiver under the Due Process Procedure. A waiver under these circumstances would set an undesirable precedent and have an adverse impact on future enforcement of Bylaw 6.
4. Further, the record shows that the transfer was at least partially motivated by athletic reasons. The student's father testified he was concerned about the alleged treatment of the athletes by the sending school's football coaching staff. In a letter dated April 13, 2006, the student's father also complained that the football program has had a "severe lack of coaches, high turnover of players and coaches, as well as a shortage of equipment and facilities." In this same letter, the student's father stated that "[t]here is very little leadership, player development, or foundation being built" at the sending school. One of the primary purposes of Bylaw 6 is to prevent and deter transfers for athletic reasons. As such, Bylaw 6 provides that a waiver of the period of ineligibility will not be granted if the transfer is motivated in whole or part by athletics. Because this student's transfer was motivated in part by athletics, a waiver is inappropriate.

B-Findings of Fact-Case #1047

The KHSAA Board incorporates by reference the Findings of Fact in the Hearing Officer's recommended order.

Conclusions of Law

Based on the entire record, the KHSAA Board concludes as follows:

1. The student's transfer is subject to Bylaw 6, Section 1 because he participated in varsity sports at the sending school and transferred to the receiving school.
2. The student is entitled to a waiver of Bylaw 6 under the exception contained at Bylaw 6(f).

Bob Stewart made a motion, seconded by Jeff Perkins, to approve all Association bills from May 1, 2006 through June 23, 2006. The motion passed unanimously.

Donna Wear made a motion, seconded by Lonnie Burgett, to accept the goals for Commissioner DeVries' along with a method for review of those goals. The motion passed unanimously.

Jeff Perkins made a motion, seconded by L.V. McGinty, to approve pursuing investigative assistance on a contractual basis. The motion passed unanimously.

President Dearborn then directed the Board's attention to the items under the "Reports" section of the agenda.

1. The transfers from May 1, 2006 through June 30, 2006 were reviewed.
2. Monday, August 21, 2006 was confirmed as the date for the next special BOC meeting to consider appeals, and have the Constitution & Bylaws and Football Committees meet.
3. Thursday and Friday, September 14-15, 2006 were confirmed as the dates for the next regular BOC meeting.
4. The Basketball Radio Network Settlement Report was reviewed.
5. The year end Fines and Penalties Report was reviewed.
6. Lea Wise Prewitt was congratulated on being appointed by the Kentucky Board of Education as the newest State-at-Large member of the KHSAA BOC.
7. Ray Steiner with Phoenix Presentation will present a museum update at the August meeting.
8. Various correspondence was reviewed:
 - a. Eminence re: Basketball Participation
 - b. Holy Cross (Covington) re: Slow Pitch Softball
 - c. Scott Smalley re: Sportmanship & Penalties for Rough Play

President Dearborn then asked the Board to make the following motions:

1. Donna Wear made a motion, seconded by Ozz Jackson, to approve the 2006-2007 event ticket prices. The motion passed unanimously.
2. Ozz Jackson made a motion, seconded by Bob Stewart, to accept the Baseball Semi-State Report. The motion passed unanimously.
3. Lonnie Burgett made a motion, seconded by Donna Wear, to approve the status report of staff action regarding Christian Fellowship from the May meeting regarding district basketball play. The motion passed unanimously.
4. After a lengthy discussion, Dave Weedman made a motion, seconded by Jerry Keepers, to accept Lexington Catholic High School's Policies & Procedures Manual with additional changes to be made, including Steve Parker's suggestions at the May meeting, and Commissioner DeVries' suggestions from her June 9, 2006 letter. The motion passed unanimously. Commissioner DeVries will write them a letter to have the revised manual ready for re-review at the August 21, 2006 BOC meeting.
5. Lonnie Burgett made a motion, seconded by Chuck Broughton, to approve the 2006-2007 budget. The motion passed 13-0 with one abstention (Lea Prewitt).

Ozz Jackson made a motion, seconded by Mike Barren, to approve the **Member Services Committee** report presented by Chairperson Jeff Perkins. The motion passed unanimously. The following items were discussed, with no action taken:

1. Catastrophic insurance policy limitation revisions.
2. Award levels for state play.
3. Current status of archery participation.
4. Procedure for adding sports.
5. Applications for membership for 2006-2007, along with written correspondence from Ken Trivette regarding baseline membership qualifications.

Donna Wear, Chairperson, **Constitution & Bylaws Committee**, asked the Board to approve the following motions:

1. Approve second reading to KHSAA/Board proposal regarding Bylaw 4 – Revise definition of "full-time" to match the definition of Bylaw 5. The motion was seconded by Lonnie Burgett, and passed unanimously.

2. Approve second reading to KHSAA/Board proposal regarding Bylaw 10 – Remove Provisions Restricting Recruiting of Enrolled Students. The motion was seconded by Chuck Broughton, and passed unanimously.
3. Approve second reading to KHSAA/Board proposal regarding Bylaw 25 – Counting of Games Revision to Baseball. The motion was seconded by Jerry Keepers, and passed unanimously.
4. Approve second reading to KHSAA/Board proposal regarding Revision of Cheer Limit to Clearly Contain NFHS Stunt Limitations. The motion was seconded by Lonnie Burgett, and passed unanimously.
5. Approve second reading to KHSAA/Board proposal regarding Bylaw 29 – Revise to Require Officials at Swimming. The motion was seconded by Jeff Perkins, and passed unanimously.
6. Approve second reading to KHSAA/Board proposal regarding the Constitution – Revise Minimum Number of Yearly Meetings from Six to Four. The motion was seconded by Lonnie Burgett, and passed unanimously.
7. Approve second reading to KHSAA/Board proposal regarding the Constitution – Deadline for Amendments (May 1) and clarification of Amendments from the Floor. The motion was seconded by Chuck Broughton, and passed unanimously.
8. Move Proposal 3 to include the penalty of one year of ineligibility forward as a Board authored proposal for the October, 2006 Delegate Assembly. The motion was seconded by Chuck Broughton, and passed unanimously.
9. Approve first reading to KHSAA/Board proposal regarding Bylaw 25 – Counting of Games Revision to Softball. The motion was seconded by Ozz Jackson, and passed unanimously.
10. Draft a proposal for the August meeting to prohibit participation by ineligible athletes during non-KHSAA jurisdictional time at team exclusive activities. The motion was seconded by Dave Weedman, and passed 13-1. Staff was asked to present the positive and negative impact of enforcing this rule.

Ms. Wear then asked the record to show that the following items were discussed with no action taken:

1. First reading on spring practice revision. (Board determined they will not author this proposal).
2. First reading on track limit of seasons. (Board determined they will not author this proposal).
3. Classification of varsity vs. non-varsity
4. Applicability of non-KHSAA Rules to Bylaw 33.
5. Applicability of fines to selected offenses of KHSAA rules.

Mike Barren, substituting for **Football Committee** Chairperson Bob Schneider, asked the record to show that:

1. Long-term rotation of playoff games was discussed, with no action to be taken until adoption of the alignment.

Mr. Barren then asked the Board to approve the following motion:

1. Submit a draft of the 6 Class Football Alignment to member school Principals and Athletic Directors, which would also allow playing up to any level. The motion as seconded by L.V. McGinty, and passed unanimously.

President Dearborn then referred to the Miscellaneous Items. The NFHS Summer Meeting report update will be presented at the August BOC meeting.

The July, 2007 Summer Board of Control be held at Kentucky Dam Village, possibly on a Thursday and Friday.

Sites for the 2007 Swimming and Track State Finals will be discussed at the August meeting.

Members of Board of Control Class of 2009 will be eligible to attend the 2007 NFHS Summer Meeting.

The Board requested that Bylaw 4 again be communicated to non-high school personnel, to minimize any confusion or problems once the student is enrolled in high school.

Lonnie Burgett made a motion, seconded by Ozz Jackson, to approve the 2006-2007 school membership applications. The motion passed unanimously.

A Board of Control Orientation was held on Monday morning. All Board members were present except Paula Goodin, L.V. McGinty, Jeff Schlosser and Bob Schneider. An agenda, detailing the topics discussed, was directed to be attached to these minutes as part of the official record.

There being no further business to come before the Board, Ozz Jackson made a motion to adjourn. The motion was seconded by Mike Barren, and passed unanimously. The meeting adjourned at 1:10 p.m., July 11, 2006.

President Gary Dearborn *Gary Dearborn* Date *Jan. 10, 2007*

Commissioner Brigid L. DeVries *Brigid L. DeVries* Date *Jan. 10, 2007*