

President Saylor convened the meeting of the Board of Control on Thursday, January 13, 2000 at 11:00 a.m. All Board members were present except Lois Adams-Rodgers, Cynthia Elliott and Dale Stewart. Also present were Commissioner Louis Stout, Executive Assistant Commissioner Brigid DeVries, Assistant Commissioners Larry Boucher and Julian Tackett, Sports Information Director Butch Cope, Fundraising Consultant Ken Tippett and Office Manager Darlene Koszenski. Kevin Mason, representing the Department of Education, was also present.

Roland Williams was called on for the invocation.

Wendell Thomas made a motion, seconded by Gary Kidwell, to

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approve the minutes of the November 17, 1999, regular meeting. The motion passed unanimously.

Bill Beasley made a motion that all bills of the Association for the period November 1 – December 31, 1999 be approved. Kathy Johnston seconded the motion, which passed unanimously.

The next item on the agenda was consideration of the Hearing Officer's Recommendations (Cases in which the student was recommended to be eligible. Bill Beasley made a motion, seconded by Roland Williams, to accept the Hearing Officer's Recommendation on the following appeal: The motion passed 11-0 with two (Jim Sexton and Wendell Thomas) abstentions.

No.	Bylaw	Student	School	Findings
#480	6	Kelly Dillingham	Beth Haven HS (Western HS)	Eligible

Ken Cox made a motion, seconded by Gary Kidwell, to accept the Hearing Officer's Recommendation on the following appeal. The motion passed unanimously.

No.	Bylaw	Student	School	Findings
#481	6	Nathan Tackett	Betsy Layne HS (Allen Central HS)	Eligible

Bob Rogers made a motion, seconded by Wendell Thomas, to set aside the Hearing Officer's Recommendation on the following appeal. Following deliberations, by a vote of 13-0, the Board of Control ruled that the Recommended Order of the Hearing Officer in Appeal No. 482 be set aside.

No.	Bylaw	Student	School	Findings
#482	4	Gabe Stevens	Fort Knox HS	Ineligible

In accordance with Paragraph 14 of the KHSAA Due Process Procedures, the Board of Control makes the following Findings of Fact and Conclusions of Law in support of its decision to set aside the Hearing Officer's Recommended Order.

Findings of Fact

While the Board of Control concurs with the Hearing Officer's Findings of Fact issued on November 24, 1999, the Board further finds as follows:

- Gabe Stevens originally enrolled in the ninth grade in the 1995-1996 school year.
- The eight consecutive semesters of athletic eligibility under Bylaw 4 allowed students who originally enrolled in the ninth grade in 1995-1996 expired at the conclusion of the 1998-1999 school year.
- There is no evidence to support a finding that Gabe Stevens was physically unable to receive necessary educational services for each semester following his entry into ninth grade due to an injury or illness personal to himself.

Conclusions of Law

- KHSAA Bylaw 4, § (1)(b) provides, in relevant part:
No student enrolled in the fourth (4th) grade or in any grade through twelfth (12th) shall be eligible for interscholastic athletics for more than a total of one (1) year in each grade. Students repeating a grade for any reason are ineligible to participate in interscholastic athletics during the second year in that grade.
- KHSAA Bylaw 4, § (1)(b) serves the important purpose of encouraging students to stay on-track with their academic peer group so as to complete high school in the normal course of eight consecutive semesters. The KHSAA believes that it is necessary for its rules to support a policy that students should, if possible, complete high school in the normal course of eight semesters. This policy serves to

keep athletics in their proper perspective within the educational process and fully supports the proposition that our children must be students first and athletes second.

3. It is the conclusion of the Board of Control that discretionary waivers of Bylaw 4 are appropriate only under circumstances where, as a result of severe injury or illness, a student has been forced to withdraw from school for such a length of time that, as a matter of academic necessity, the student is required to repeat a grade. Only under such limited circumstances does the Board find that the strict application of Bylaw 4 to be "unfair" to a student within the meaning of Paragraph 4 of the KHSAA Due Process Procedures. By limiting the exercise of its discretionary waiver authority to such limited circumstances, the KHSAA's policy of encouraging students to complete high school in a timely manner is served. The Board, therefore, does not believe that granting of a waiver to Gabe Stevens would be an appropriate exercise of its discretion.

Final Order

Gabe Stevens is hereby declared ineligible to compete in interscholastic athletics at Fort Knox High School for the 1999-2000 school year. This order constitutes the Final Order of the KHSAA in Appeal No. 482. This Final Order is subject to judicial review in accordance with KRS Chapter 13B.

Roland Williams made a motion, seconded by Gary Dearborn to set aside the Hearing Officer's Recommendation on the following appeal. Following deliberations, by a vote of 13-0, the Board of Control ruled that the Recommended Order of the Hearing Officer in Appeal No. 488 be set aside.

No.	Bylaw	Student	School	Findings
#488	6(2)	Stefan Handler	West Jessamine HS	Ineligible

In accordance with Paragraph 14 of the KHSAA Due Process Procedures, the Board of Control makes the following Findings of Fact and Conclusions of Law in support of its decision to set aside the Hearing Officer's Recommended Order:

Findings of Fact

- Stefan Handler is enrolled in West Jessamine High School for his senior year.
- In 1997, Stefan received a visa to travel to the United States which was good for five years.
- Stefan spent his sophomore year of eligibility attending high school in Arizona and returned to Austria, his native country, for his junior year.
- After returning to his native country following his year as a student in the United States, Stefan met an individual named Vince Bingham, an alumnus of the Jessamine County Schools, who was playing basketball in Vienna, Austria.
- Bingham had documented conversations with the basketball coach at West Jessamine High School about Stefan's desires to attend school in the United States.
- Following Bingham's conversations, Stefan contacted the school in the spring of 1999 and requested information in order to enroll at West Jessamine.
- Stefan was advised by West Jessamine administrative personnel that in order to satisfy the KHSAA eligibility rules, he would have to come through an approved program for foreign exchange study.
- The KHSAA has adopted the NASSP/CSIET Advisory list of exchange programs as a determinant for eligibility, as this group requires the random placement of these students and not the selective placement of a student within a specific school. As noted above, Stefan's conversations with Bingham and his subsequent contacts with West Jessamine school representatives establish that the proposed placement was not "random".
- As this student was not placed in the United States and in West Jessamine High School by an approved agency, and in fact, the request for agency listing was not until after the decision to attend West Jessamine, this student must come for eligibility within Section 2 of the KHSAA Due Process Procedure.

Conclusion of Law

- The body of law which the Board of Control is required to consider in reaching conclusions of law are the Bylaws of the Kentucky High School Athletic Association and a Kentucky High School

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Athletic Association due process procedure. These are found in the Kentucky High School Athletic Association handbook. Among the relevant portions of the Bylaws and the due process procedure are the following:

Bylaw 6. Transfer Rule

Sec. 2. Non Domestic Students

(a) Any foreign student (non US resident) shall be ineligible for interscholastic athletics for one school year from the date of enrollment in a Kentucky school. The Commissioner may waive the period of ineligibility if the following conditions are met:

The assignment is through a foreign exchange program approved by the National Association of Secondary School Principals, through its "Advisory List of International Educational Travel and Exchange Programs";

The State Assigning Agency for the approved foreign exchange program is registered and approved with the KHSAA and the Kentucky Board of Education;

The State Assigning Agency for the approved foreign exchange program assigns students in compliance with KHSAA and Kentucky Board of Education Regulations, and certifies compliance with such;

Application for waiver is submitted in sufficient time for the Commissioner to review and rule on such on or before the first day of practice in each sport as provided for in Bylaw 25, Limitation of Seasons;

The student, Principal or Designated Representative of the member school and a representative of the placement agency shall sign and attest to certification that the athlete complies with the eligibility rules of the KHSAA and shall not be eligible under any circumstances for more than one year of athletic participation.

(b) Any student having made election to do such and having been granted a one year waiver under subsection (a) above, shall not be eligible, under any circumstances, for more than one (1) school year while enrolled in grades 9-12 in Kentucky.

2. Foreign Students Not Coming through NASSP Approved Programs Any foreign student not being placed in a Kentucky school by a NASSP approved exchange agency may request eligibility directly through this appeals process in accordance with Bylaw 6, wherein the appropriate body (committee, board or hearing officer) can determine the legitimacy of the transfer and the conditions for exceptions. Any student having made the election to do such and having been granted a one year waiver of the normal period of ineligibility shall not be eligible, under any circumstances, for more than one (1) school year while in Kentucky.

2. Due Process Procedure Q/A 4 - Is there a Philosophical Statement to guide appeals heard by the Hearing Officer and/or the Board of Control? Yes. The Constitution and Bylaws of the KHSAA were developed and approved by the member schools of the Association and represent the direction the schools desire in governing high school athletics. The Hearing Officer and Board of Control shall be empowered to conduct eligibility hearings and determine the eligibility status of a student. These individuals shall be directed to determine if strict application of the rule is unfair to the student-athlete and the circumstances creating the ineligibility are clearly beyond the control of the parties involved. In those cases, a waiver of the rule may be granted. In addition, the Hearing Officer may direct the Commissioner to study revisions in the applicable rules. Participation in interscholastic athletics is a privilege for students who are in compliance with the Constitution and Bylaws of the KHSAA.

3. Bylaw 6, Section 2 requires that any foreign student, to be eligible to participate in interscholastic athletics, must be assigned through a foreign exchange program approved by the National Association of Secondary School Principals through an advisory list. Though Worldwide International Student Exchange is an approved program on that list, SUPERTRAMP is not.

4. The student athlete sought enrollment at a specific school prior to applying for admission in any approved foreign exchange program. Further, his subsequent admission was not based on the random placement process required of the organization.

5. The Board of Control has adopted an objective standard with

regard to non domestic students participating in interscholastic athletics in the Commonwealth. The law permits the adoption of an objective standard because it is reasonable to utilize that method of controlling recruitment and abuse of association rules to gain an athletic advantage. In order that there be a method for waiver of that standard, a due process proceeding has been adopted by the Association that permits the Board of Control to recommend waiver of a bylaw under circumstances that would be unjust to a student athlete as a result of circumstances beyond his control. The Board of Control concludes that is not the case here.

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Final Order

Stefan Handler is hereby declared ineligible to compete in interscholastic athletics at West Jessamine High School. This order constitutes the Final Order of the KHSAA in Appeal No. 488. The KHSAA shall undertake any further inquiry necessary to determine whether improper contacts may have occurred which may give rise to further action. This Final Order is subject to judicial review in accordance with KRS Chapter 13B.

Bob Rogers made a motion, seconded by Ken Cox to accept the Hearing Officer's Recommendation on the following appeal. The motion passed 11-2:

No.	Bylaw Student	School	Findings
#489 6	Sean Linville	Berea HS (Madison Southern)	Eligible

Bob Rogers made a motion, seconded by Jim Sexton to accept the Hearing Officer's Recommendation on the following appeal. The motion passed 9-4:

No.	Bylaw Student	School	Findings
#490 6	Sarah E. Hughes	Wayne County HS (Monticello HS)	Eligible

The next item on the agenda was consideration of the Hearing Officer's Recommendations (Cases in which the student was recommended to be ineligible): Kathy Johnston made a motion, seconded by Wendell Thomas, to uphold the Hearing Officer's Recommendation on the following appeal. The motion passed unanimously:

No.	Bylaw Student	School	Findings
#479 6	Brooks Ewing	Taylor County HS (Campbellsville HS)	Ineligible

Ken Cox made a motion, seconded by Gary Dearborn, to uphold the Hearing Officer's Recommendation on the following appeal. The motion passed 12-0 with one (Betsy Glover) abstention:

No.	Bylaw Student	School	Findings
#483 6	Rachel Lynne Decker	Frederick Fraize (Hancock County HS)	Ineligible

Bob Rogers made a motion, seconded by Roland Williams, to uphold the Hearing Officer's Recommendation on the following appeal. The motion passed unanimously:

No.	Bylaw Student	School	Findings
#484 6(2)	David Badillo-Hernandez	McCreary Central HS	Ineligible

Betsy Glover made a motion, seconded by Cookie Henson, to uphold the Hearing Officer's Recommendation on the following appeal. The motion passed 12-0 with one (Ken Cox) abstention:

No.	Bylaw Student	School	Findings
#486 6	Danielle Eversole	Bryan Station HS (Garrard County HS)	Ineligible

Betsy Glover made a motion, seconded by Gary Dearborn, to uphold the Hearing Officer's Recommendation on the following appeal. The motion passed 12-0 with one (Ken Cox) abstention:

No.	Bylaw Student	School	Findings
#487 6	Derrick Tompkins	Millersburg Military Academy (Lafayette HS)	Ineligible

The next item on the agenda was consideration of the Hearing Officer's Recommendations (Cases in which exceptions were filed). Following deliberations, Bob Rogers made a motion, seconded by Jerry Taylor, to uphold the Hearing Officer's Recommendation on the

following appeal. The motion passed 12-0 with one (Gary Kidwell) abstention:

No.	Bylaw	Student	School	Findings
#485	6	Matt Ingram	Russell HS (Fairview HS)	Ineligible

President Saylor, Executive Committee Chairperson, made the following motions for the Board's approval:

1. Adopt Rawlings as the official ball for all sports. The motion was seconded by Betsy Glover and passed 12-1. Jim Sexton opposed.

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2. Approve the buy-out of the contract with the Kentucky Fair & Exposition Center in Louisville, KY for the State Football finals. The motion was seconded by Bob Rogers and passed 12-1.
3. Deny Hardin County a waiver of Bylaw 25, for early play in baseball and softball. The motion was seconded by Kathy Johnston and passed 12-0 with one (Jerry Taylor) abstention.
4. Increase from 12 to 16 officials in post season basketball play. The motion was seconded by Betsy Glover and passed unanimously.
5. Allow the 16 basketball officials rooms to be paid for by the KHSAA during the finals, because the event is more than 3 days long. The motion was seconded by Ken Cox and passed unanimously.

President Saylor, Executive Committee Chairperson, then asked the record to show that:

1. Staff and support staff were recognized for a fine job conducting the annual meeting, especially regarding Title IX material preparation and distribution. This year the most delegates ever attended - 234.
2. An update was given regarding Title IX Audit visits. Fifteen schools have already been visited.

Bob Rogers, Chairperson, Audit and Finance Committee, made the following motions for the Board's approval:

1. Approve the budget status report as of December 31, 1999. The motion was seconded by Roland Williams, and passed unanimously.
2. Amend the FY2000 budget by \$30,000 for Computer/Hardware (\$7K), Security System (\$12K), and Title IX Expenses (\$11K). The motion was seconded by Bill Beasley and passed 12-1. Jim Sexton opposed.

Bob Rogers, Chairperson, Constitution and Bylaws Committee, made the following motions for the Board's approval:

1. Submit the results of the Delegate Assembly vote to the Board of Education for approval on our three proposals that passed, involving Bylaw 4, 9 and 25. The motion was seconded by Betsy Glover and passed unanimously.
2. Bylaw 5 - Raise academic standards only if the Dept. of Education raises the minimum graduation requirement. If State Board desires, a proposal could be submitted at next year's Delegate Assembly. The motion was seconded by Bill Beasley, and passed unanimously.

Bob Rogers, Constitution and Bylaws Committee, then asked the record to show that:

1. Bylaw 4 needs to be clarified regarding which athletes can dress for competition. Football, soccer and wrestling athletes can't be in varsity uniform if they are below the 9th grade.
2. "Cumulative" needs to be added to Bylaw 5 - Continual Progress, and will be used as the interpretation until officially amended.
3. The Due Process Procedure should be changed so that only principals can officially appeal a decision. Commissioner Stout will research the legality of this with Danny Reeves.

Kathy Johnston, Chairperson, Individual Sports Committee, made the following motions for the Board's approval:

1. Align track and cross country into 6 regions each, with 16 entrants to the state track meet in each event. After some discussion Cookie Henson seconded the motion and it passed 9-4. Jim Sexton made a motion to table the decision. It was seconded by Roland Williams and failed 6-7. The alignments will be finalized later based on this year's enrollment numbers.

Gary Kidwell, Chairperson, Football Committee, made the following recommendations for the Board's approval:

1. Deny Allen Central's request to return to district. A motion was made by Betsy Glover, seconded by Cookie Henson, and passed unanimously.
2. Allow Allen Central to play 8-man football for one year because the tournament rules changed after they withdrew from football. A motion was made by Gary Kidwell, seconded by Betsy Glover, and passed 12-1. Cookie Henson opposed.
3. Repeal Q/A #9 - Football camp after practice starts, currently does not count against two allowed scrimmages. A motion was made by Betsy Glover, seconded by Kathy Johnston, and passed unanimously.

Ad Hoc Officials Assignment Committee Chairperson, Ken Cox, asked Assistant Commissioner Larry Boucher to update the board regarding 3-person officiating. No motions were made. His update covered the Basketball Committee report, as well.

Ad Hoc Evaluation Instrument Committee Chairperson, Wendell Thomas, gave a progress report on a standardized instrument for Commissioner/Staff evaluation. A form has been selected, but needs more work done. Four to six goals will be established, some will be ongoing. The final version will be presented at the May Board meeting, to be ready for use in July. Mr. Thomas noted that Bill Beasley and Roland Williams were also members of this committee.

Mr. Saylor called the Board's attention to miscellaneous items listed for their information only. 1) Set date for Special Board Meeting in February to consider December appeals; 2) Review dates for next regular Board of Control Meeting, March 23-24, 2000; 3) Miscellaneous Board and staff items.

The board decided to rule on December and January appeals at the March meeting.

The Officials Award Banquet is scheduled in the KHSAA Museum on March 18, 2000. All Board of Control members are invited to attend.

The draw for both Sweet 16® State Basketball Tournaments will be held at 12:30 p.m. (est) on January 28, 2000. It will be broadcast live on WKYT-TV Channel 27 in Lexington, and available to all television stations via satellite, free of charge.

The High School Sports Show is no longer being broadcast in Louisville. There are some sponsor problems that Tim Francis from Host will be addressing.

The Board Meeting notebooks are very helpful.

Dale Stewart was unable to attend the board meeting because of tornado damage in Owensboro.

Lois Adams-Rodgers is assuming the role of Interim Dept. Commissioner at the Department of Education from February 1, 2000 through June 30, 2000. Her ability to serve as a Board member will be clarified soon.

There being no further business to come before the Board, Roland Williams made a motion to adjourn. The motion was seconded by Bill Beasley, and passed unanimously. The meeting adjourned at 2:00 p.m.



Ballard and Scott County starters are introduced in the pre-game ceremonies during last year's Boys' State Championship contest.