

- Board of Control Minutes - February 2004

Vice President Jim Sexton convened the special meeting of the Board of Control on Monday, February 16, 2004 at 8:40 a.m. All Board members were present except Lonnie Burgett, Paul Dotson, Cynthia Elliott, Sally Haeberle, and L.V. McGinty. Also present were Commissioner Brigid DeVries, Assistant Commissioners Larry Boucher, Julian Tackett and Roland Williams, Fundraising Consultant Ken Tippet and Office Manager Darlene Koszenski. Guests included KHSAA legal counsel, Phil Scott, Greenebaum Doll & McDonald; and Mike Dailey, Kentucky Department of Education liaison.

Gary Dearborn was called on for the invocation.

Mr. Sexton requested that the record show thirteen out of eighteen Board members were present, and that ten votes were needed to pass any eligibility motions.

The Board of Control then considered the following appeals in compliance with the KHSAA Due Pro-

cess Procedure:

Case #, Bylaw, H. O. Recommend
Board Motion, Board Second, Vote, Y/N/R, Status

792, 6, ELIGIBLE

Uphold (Saylor), Perkins, 10-3, Eligible*

802, 6, ELIGIBLE

Overturn (Dearborn), Deaton, 11-3,

Ineligible-A

816, 6(2), ELIGIBLE

Remand (Elliott), Parker, 14-0, Eligible-B

817, 6, EXCEPTIONS

Uphold (Saylor), Taylor, 11-3, Eligible

*Let the record show that Cynthia Elliott joined the meeting at 8:50 a.m.

(A) - Findings of Fact related to Case #802

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

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Conclusions of Law

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

1. Student's transfer is subject to Bylaw 6, Section 1 ("Bylaw 6") because they participated in varsity sports at sending school and transferred to receiving school.
2. Student's transfer does not meet a specific, enumerated exception to Bylaw 6.
3. There is insufficient evidence in the record to conclude that student's transfer merits a waiver of Bylaw 6 under the discretionary Due Process Procedure waiver provision. The record does not clearly illustrate the inability of the sending school to provide for his basic educational services or an appreciable change in academic circumstances during his time of enrollment at receiving School. Under these circumstances, strict application of Bylaw 6 is not unfair to the student and the circumstances creating the ineligibility are not clearly beyond the control of all the parties involved. Further, allowing a waiver under these

circumstances would have a depreciative value on future enforcement of Bylaw 6 and set an undesirable precedent.

(B) - Remand request related to Case #816

Remand the case back to the Hearing Officer for another hearing based on Bylaw 10, in addition to the issues surrounding Bylaw 6(2).

The date for the next special Board of Control meeting was reviewed. The Board will meet on Friday, March 26, 2004 at 8:30 a.m. CT, in conjunction with the Girls' State Basketball Tournament in Bowling Green, KY.

There being no further business to come before the Board, Eddie Saylor made a motion to adjourn. The motion was seconded by Chuck Broughton, and passed unanimously. The meeting adjourned at 9:50 a.m.

Paul Watson
Brigitte L. DeVries

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