

BOARD OF CONTROL MINUTES

The Board of Control of the Kentucky High School Athletic Association met at the Association Office in Lexington, Kentucky, on Wednesday, November 19, 1997. The meeting was called to order at 8:30 a.m. by President Ken Cox. All Board members were present. Also present were Commissioner Louis Stout, Exec. Asst. Brigid DeVries, Assistant Commissioners Larry Boucher and Julian Tackett, SID Butch Cope, Ken Tippett and Anne Wesley Mays. Mr. Kevin Mason was present representing the Kentucky Department of Education.

The Invocation was given by Roland Williams.

Bill Beasley made a motion to approve the minutes of the September 26, 1997, meeting. Tasso Harris seconded the motion which passed unanimously.

Kathy Johnston made a motion that all bills of the Association for the period September 1 - October 31, 1997 be approved. Cookie Henson seconded the motion which passed unanimously.

Bob Rogers made a motion, seconded by Bill Beasley, that the Hearing Officer's Recommendations be accepted on the following appeals heard September 18, 19 and October 21, 22 and 23.

No.	Bylaw	Student	School	Findings
#278	6	David Courtney	Lloyd Memorial HS	Eligible
#280	6	Michael Hines	North Bullitt HS	Eligible
#283	6	Sarah Burr	Paducah Tilghman HS	Eligible
#286	6	Fred Gray	Betsy Layne HS	Eligible
#294	6	Clayton Jessup	Hopkinsville HS	Eligible
#295	6	Rebecca M. Todd	DuPont Manual HS	Eligible
#298	6	David M. Ladnier	Woodford County HS	Eligible
#299	6	Hilary E. Bendon	St. Francis HS	Eligible
#303	6	Jeff Klotz	Doss HS	Eligible

Bill Beasley made a motion, seconded by Betsy Glover, to accept the Hearing Officer's Recommendation on the following appeal heard September 18th. The motion passed 14-0. Roland Williams abstained.

No.	Bylaw	Student	School	Findings
#275	6	Robert C. Taylor	Nelson County HS	Eligible

Stan Steidel then made a motion, seconded by Cookie Henson that the Hearing Officer's Recommendation be set aside on the appeal of Gary Alan Wallace, Butler County High School. The motion passed 9-6. In support of its decision, the Board found that the Commissioner initially ruled Gary Wallace ineligible to participate in interscholastic athletics at any school and concludes that the penalties imposed upon him were fair and just under the circumstances. As a Conclusion of Law, the Board of Control found that to allow this student to participate in interscholastic athletics would establish an undesirable precedent and would be a detriment of the Association's rules and regulations. The Board further orders that Gary Alan Wallace be declared ineligible to participate in as many games at Butler County High School during the 1997-98 school year as he participated in at Warren Central High School as an ineligible player during the 1996-97 school year.

Tasso Harris made a motion, seconded by Tom Bryant, that appeal #277 in the matter of William Harris, Lexington Catholic High School, be remanded back to the Commissioner for further investigation, and delay consideration of the Hearing Officer's recommendation until the January meeting. Therefore, William Harris remains eligible to participate in interscholastic athletics at Lexington Catholic High School until further notice.

Stan Steidel made a motion, seconded by Tasso Harris, that based on his medical record, Jeffrey Dinsmore, Bryan Station High School, appeal #284, be asked to return next year if he so desires to request an additional year of eligibility for the 1998-99 school year. The motion passed 14-0. Teresa Isaac abstained.

Roland Williams made a motion, seconded by Betsy Glover, to accept the Hearing Officer's Recommendation on the following appeal heard October 22nd. The motion passed unanimously.

No.	Bylaw	Student	School	Findings
#293B6		Alex Procter	Greenup County HS	Eligible

After a motion to accept the Hearing Officer's recommendation failed to pass in the appeal of Jonathan Carrier, Bowling Green High School, Tasso Harris made a motion to set aside the recommendation of the Hearing Officer. Stan Steidel seconded the motion which passed 12-2. Frank Cardwell abstained. In support of its decision, the Board found that there had been no bona fide change of residence by the parents and that the circumstances in this case did not warrant a waiver of Bylaw 6. As a Conclusion of Law, the Board of Control found that to allow this student to participate in interscholastic athletics would establish an undesirable precedent and would be a detriment of the Association's Bylaw 6, Transfer Rule. The Board further ordered that Jonathan Carrier remain ineligible to participate at Bowling Green High School for one (1) year following his enrollment which was August 15, 1997.

Kathy Johnston made a motion, seconded by Tasso Harris, to accept the Hearing Officer's Recommendation on the following appeal heard October 23rd. The motion passed unanimously.

No.	Bylaw	Student	School	Findings
#301	6	Louis J. Woodard	Hopkinsville HS	Eligible

Kathy Johnston then made a motion, seconded by Bill Beasley, that staff investigate further a statement made by Mrs. Woodard regarding her son's losing his scholarship at the sending school if he could not play basketball. The motion passed unanimously.

Tasso Harris made a motion, seconded by Bill Beasley, that the Hearing Officer's Recommendations be accepted on the following appeals heard September 18, 19 and October 21-23.

No.	Bylaw	Student	School	Findings
#271	6	Justin Hutchinson	Fairview HS	Ineligible
#273	6	Ian Belknap	South Oldham HS	Ineligible
#281	6(2)	Ermal Gjergli	Christian Fellowship	Ineligible
#285	6	Jonathan Cline	Scott County	Ineligible
#290	4	Terry P. Lipscomb	Bryan Station HS	Ineligible
#291	6	Carolyn Twehues	Grant County	Ineligible
#292	6	Mead Ferris, III	Kentucky Ctry. Day	Ineligible
#293A	6	Levi Procter	Greenup County HS	Ineligible
#297	3	Earl Hayes Raglin	Harlan HS	Ineligible
#300	6	James M. Formanek, Jr.	Eastern	Ineligible

Bob Rogers made a motion, seconded by Bill Beasley, to accept the Hearing Officer's Recommendation on the following appeal heard September 18th. The motion passed 14-0. Roland Williams abstained.

No.	Bylaw	Student	School	Findings
#274	6	Tyrece Q. Crowe	Bethlehem HS	Ineligible

Kathy Johnston made a motion, seconded by Roland Williams, to accept the Hearing Officer's Recommendation on the following appeal heard October 21st. The motion passed 14-0. Eddie Saylor abstained.

No.	Bylaw	Student	School	Findings
#287	4	Kenneth E. Stoner	Bell County HS	Ineligible

Betsy Glover made a motion, seconded by Eddie Saylor, that appeal #289 in the matter of Brandon Tincher, Breathitt County High School, be remanded back to the Commissioner for further investigation since it was reported that there has been a bona fide change of residence, and therefore delay consideration of the Hearing Officer's Recommendation until verification is made. Therefore, Brandon Tincher remains ineligible to participate in interscholastic athletics at Breathitt County High School until further notice.

Tasso Harris made a motion, seconded by Wendell Thomas, to accept the Hearing Officer's Recommendation on the following appeal heard October 23rd. The motion passed 14-0. Cookie Henson abstained.

No.	Bylaw	Student	School	Findings
#302	6	Fred & Timothy Felner	Clay County HS	Ineligible

BOARD OF CONTROL MINUTES

President Cox announced the resignation of Board member Darrell Treece, and that the Board would consider a replacement at a later time during the meeting.

Bob Rogers made a motion, seconded by Wendell Thomas, to accept the Hearing Officer's Recommendation on the following appeal heard September 19th. The motion passed 14-0.

No.	Bylaw	Student	School	Findings
#282	3	David Coyle	Madison Central HS	Ineligible

Upon the Commissioner's recommendation after further investigation requested by the Board, Bill Beasley made a motion, seconded by Stan Steidel, to accept the Hearing Officer's Report on the following appeal heard August 20th. The motion passed unanimously.

No.	Bylaw	Student	School	Findings
#269	6	Grant Stiff	Lex. Catholic HS	Eligible

Mr. Stout advised the Board that Bethlehem High School withdrew their appeal scheduled to be heard today. He reported that the Hearing Officer will hear their appeal of Bylaw 10, Recruitment, in December and the Board will hear their appeal of Bylaw 30 in January if warranted.

The next items on the Agenda were deNovo Hearings approved by President Cox. The Board voted to hold all hearings in Closed Session, returning to Open Session to call for motions.

J.C. Fleming, Model High School, Appeal before the Hearing Officer, September 18, 1997. The Board of Control, having heard the testimony and having considered the entire record, makes the following findings of fact, conclusions of law and recommended order.

FINDINGS OF FACT

1. After one semester being enrolled at Model High School during the 1995 school year, J.C. transferred to Madison Central High School where he completed his ninth and tenth grade years. He participated in Varsity sports while attending Madison Central High School.

2. J.C. Fleming transferred back to Model High School in August of 1997, at the beginning of his Junior year without a bona fide change of residence.

3. His rationale for enrollment at Madison Central High School was so that he could meet more people; however, he found that he liked the smaller school better because it was his feeling that while at Madison Central things were more hectic which caused difficulty for him to concentrate.

4. J.C.'s mother, Russie Jones, insisted that he transfer back to Model. Russie needed him to help transport her other children since he had obtained a driver's license.

5. The motivating reasons for the transfer to Model was family tradition, need for J.C. to be in a position to help his mother, and the belief of J. C.'s mother that Model offered classes which would better prepare him for college.

CONCLUSIONS OF LAW

Bylaw 6, Transfer Rule, in substance, states that any student who changes schools after enrolling in grade 9 and after participating in a varsity contest in any sport, shall be ineligible for one year from the date of enrollment unless there has been a bona fide change of residence or another outlined exception outlined in Bylaw 6 is shown. The Board may also grant a waiver if it is shown that strict application of Bylaw 6 would be unfair to the student if the circumstances creating the ineligibility are clearly beyond his control.

The determination of whether the strict application of the rule is unfair to the student must be made in light of the salutary purpose of the rule. The rule protects the integrity of interscholastic athletics for the benefit of all students. Exceptions made for less than the most compelling reasons will serve to weaken the rule to the detriment of all students. It is the conclusion of the Board of Control that the strict application of Bylaw 6 would not be unfair to J. C. Fleming.

Following deliberations, the recommended order was made by a vote of 14-1 that J. C. Fleming remain ineligible at Model High School for a period of one year from the June 23, 1997.

Justin Bryant, Shelby Valley HS, Appeal before the Hearing Officer, September 19, 1997. Following deliberations, Tasso Harris made a motion, seconded by Roland Williams, that the Board accept the recommendation of the Hearing Officer and adopt his findings and conclusions of law. Based on the new evidence presented, the Board found that the custody exception applied only upon the actual death of the parents; that Bylaw 6 does not recognize a limited legal guardianship and that there was no bona fide change of residence as described in Bylaw 6. The motion passed unanimously. The recommended order was adopted as a final order and Justin Bryant remains ineligible at Shelby Valley High School for a period of one year from July 17, 1997.

Jason Tackett, Shelby Valley HS, Appeal before the Hearing Officer, September 19, 1997. Following deliberations, Frank Cardwell made a motion to uphold the ruling of the Commissioner. Wendell Thomas seconded the motion which passed unanimously. The Board of Control set forth the following findings of fact and conclusions of law.

1. Bylaw 3 is intended to treat all students fairly and equally. The bylaw encourages athletes to complete four years of high school in a timely manner. In this regard, the bylaw provides a degree of protection by preventing over-age students from competing against others who may be less mature.

2. The bylaw also reduces the opportunity to hold back students for athletic purposes attending high school and to obtain an education with participation in athletics being secondary.

3. While the bylaw tends to create equal competition with established age limitations, it also decreases the opportunity for one team to have several "older" students competing against younger opponents with younger athletes. There are great maturity differences between students ages 14, 15, and 16, as compared with 19-year old students. Thus, the bylaw tends to reduce the opportunity for mismatches in competition.

4. The bylaw also reduces the opportunity of an older student who would normally be out of school to take the position of a younger student who is progressing through school at a normal rate.

If the sole focus were on the student's hardship, the same rationale would apply to allow 20 or even 21-year old students to participate in interscholastic athletics. It should also be noted that the nature of the rule is such that there must be a positive and unequivocal cut-off date in order to avoid uncertainty. Thus, while a student born on July 31st is only one day older than a student born on August 1st, the August 1st deadline must be enforced.

5. When these factors are applied to the present appeal, we must conclude that waiver of the age rule would not be appropriate.

The order was made final and Jason Gene Tackett remains ineligible at Shelby Valley High School.

Allison Golden, St. Mary HS, Appeal before the Hearing Officer, September 18, 1997. Following deliberations, Bob Rogers made a motion, seconded by Tom Bryant, that the recommendation of the Hearing Officer be overturned. The motion passed 14-1.

The Board of Control made the following findings of fact and conclusions of law pursuant to Section 14 of the KHSAA Due Process Procedures.

1. Allison Rhea Golden enrolled at Lone Oak High School in August 1996, to begin her ninth grade year. She played in varsity games of basketball.

2. Allison transferred to St. Mary High School July 15, 1997, where she is in the 10th grade. There was no change of residence.

3. Allison became emotionally upset by certain conditions at Lone Oak High School, such as various disciplinary problems, foul language used by other students and lack of respect for teachers shown by many students. The most compelling reason for the transfer, not previously presented to the Hearing Officer, was repeated incidents of sexual harassment suffered by Allison on the school bus and at school. These things combined to cause profound emotional distress that could only have been relieved by transfer.

BOARD OF CONTROL MINUTES

4. It was the conclusion of the Board of Control that the evidence submitted by Allison is sufficient to support a waiver of the period of ineligibility and that strict application of Bylaw 6 would be unfair to Allison. The circumstances which created the ineligibility was beyond the control of the parties involved.

Next, the Board held an Administrative Hearing requested by David White, a registered softball official, who appealed the penalties levied against him. Following a lengthy presentation by Mr. White, and deliberations by the Board, Teresa Isaac made a motion, seconded by Bill Beasley, to uphold the recommendations of Asst. Comm. Larry Boucher, Supervisor of Officials. The motion passed unanimously. Therefore, the penalties levied against Mr. White, remain in place.

Teresa Isaac then made a motion, seconded by Bill Beasley, that the Commissioner contact the 2nd Region Softball Tournament Manager and instruct him/her to provide security for tournament officials. The motion passed 13-1. Bob Rogers abstained.

President Cox then presented the names of two candidates who requested to fill the term of Board member Darrell Treece. Roland Williams made a motion that John Roberts, Henry County Schools, be appointed to fill the term of office for Mr. Treece. Teresa Isaac seconded the motion, which passed 13-2.

Roland Williams, Chairperson of the Spring Sports Committee, presented the following items for the Board's approval. Fast Pitch Softball State Tournament Sites: - 1) - Mr. Williams made a motion, seconded by Teresa Isaac, that Jeffersonton be awarded the tournament for 1998 and that Mr. Boucher work out a satisfactory tournament schedule. The motion passed. 2) - Mr. Williams then made a motion, seconded by Betsy Glover, that Owensboro Catholic be awarded the tournament for 1999. The motion passed.

Kathy Johnston, Chairperson of the Fall Sports Committee, presented the following item for the Board's consideration and subsequent approval: Soccer Realignment. Ms. Johnston made a motion, seconded by Stan Steidel, that staff send a survey to the schools for their input with a request that they respond within three weeks, enabling the Board to consider the realignment at its January meeting. The motion passed.

Frank Cardwell, Chairperson of the Football Committee, presented the following item: A request from Mercer County High School to withdraw from football competition for the 1998 season and to re-enter the district in 1999 upon realignment. Mr. Cardwell made a motion, seconded by Eddie Saylor, that the Board deny their request and ask that they follow the Tournament Rules. The motion passed. Mr. Tackett stated that the Football Advisory Committee had considered several issues, and recommended that the Tournament Rules not be changed to accommodate these particular issues.

Bob Rogers, Chairperson of the Constitution & Bylaws Committee advised the Board of the proposals which the Committee recommends be submitted to the Delegate Assembly. They are as follows: 1) Move Bylaw 29 from the Bylaws to the Constitution; 2) Repeal Bylaw 36; 3) Eliminate from the KHSAA Constitution the now defunct Kentucky Girls Sports Association; 4) Amend the KHSAA Constitution to establish the effective date of all amendments which have been approved by referendum or the Annual Meeting; 5) Amend Bylaw 28 to clarify the need for sports physicals; 6) Amend Bylaw 30 to further clarify penalty options; 7) Amend Bylaw 8 to clarify the restrictions contained therein; 8) Amend Bylaws 4, 6 and 11 to remove the references to the words "evident injustice" from these regulations; 9) Amend Bylaw 10 to more clearly make enforcement of violations applicable to the appropriate parties within the school. Bob Rogers made a motion, seconded by Stan Steidel, that these proposals be presented to the Delegate Assembly. The motion passed.

Bob Rogers then made a motion, seconded by Stan Steidel, that the Board amend the Due Process Procedure, Sec. 4 & 5, by striking out Bylaw 3. Age. The motion passed unanimously.

Stan Steidel, Chairperson of the Executive Committee, was called on for their report which included several items. Roland Williams called for Executive Session to discussion personnel. Kathy Johnston seconded the motion, which passed. Tasso Harris then made a motion to return to Open Session, Roland Williams seconded the motion, which passed. 1) Tom Bryant made a motion that Commissioner Stout be given a four-year contract beginning July 1, 1998. Wendell Thomas seconded the motion which passed unanimously by a roll call vote. 2) A progress report was given on revision in Policy Board Structure with no action taken. 3) A revised structure of the Hall of Fame selection process will be considered in January. 4) Tasso Harris made a motion, seconded by Wendell Thomas, that the Board approve the expenditure of \$35,000.00 from the designated funds restricted to museum development to accept the proposal of Phoenix Presentation to develop a museum model. The motion passed. 5) Stan Steidel made a motion, seconded by Tom Bryant, that the Board direct staff to request a representative of the auditing firm and retained legal counsel to appear before the Committee to present options and recommendations regarding a foundation and governance in regard to the museum and its development. The motion passed. 6) Stan Steidel made a motion that the Board direct staff to accept proposals from prospective companies to conduct a study into the feasibility of raising the additional funds necessary to develop and complete the museum project. Kathy Johnston seconded the motion which passed. The Board also went on record to support the development of the museum if no general funds were used. Mr. Tackett noted that final recommendations to the Board concerning the audit and how staff will address them was contained in the KDE Staff Notes.

Bill Beasley made a motion, seconded by Frank Cardwell, that the Board adopt the Strategic Plans and Goals as presented with editorial changes. The motion passed.

Mr. Tackett advised the Board that the timetable for alignment changes has not been refined and will be presented to the Board in January.

**NEXT BOARD OF CONTROL MEETING
THURS., JAN. 22, 1998
KHSAA OFFICE, LEXINGTON**

Commissioner Stout then requested that the Board consider a revision in the penalties levied against Whitesburg High School. Following a discussion and upon the recommendation of the Commissioner, Eddie Saylor made a motion to accept the revisions. Betsy Glover seconded the motion which passed unanimously.

Commissioner Stout then presented a request from Pangaea, Inc., asking that four high schools basketball teams be allowed to travel to Russia to participate in an exchange program. After discussion, Frank Cardwell made a motion, seconded by Cookie Henson, that the Limitations of Seasons be waived pending receipt of requests to participate from each of the schools. The motion passed.

The following reports were filed with no action taken: Gambling policy to be placed in the KHSAA handbook; Transfer Rulings from July 1 to October 31; Board of Control meeting schedule for 1997-98; Financial Report, July 1 to October 31; Legislative Proposals effecting the KHSAA; Progress report on Spirit Study; Boys' Basketball Tournament specs for the years 2000-2003. Regional Basketball Tournament Sites; Master Rotation of Board of Control members; KDE Staff Note.

Other items of discussion included the Agenda for the Annual Meeting which is being finalized; Board of Control blazers; considering a joint boys and girls basketball Tournament format; consideration of providing Ex-board members with a ticket to the Boys' Basketball Tournament with an option to purchase one additional ticket.

There being no further business, the meeting was adjourned at 4:40 p.m.