2002—September Board of Control Meeting Minutes

President Eddie Saylor convened the regular meeting of the Board of Control on Thursday, September 26, 2002 at 3:30 p.m. All Board members were present except Cynthia Elliott, Betsy Glover, Sally Haebeler and L.V. McGinty. Also present were Commissioner Bridg Devries, Assistant Commissioner Larry Boucher, Julian Tackett and Roland Williams, Director of Promotions and Media Relations Butch Coppe, Fundraising Consultant Ken Tippet and Office Manager Darlene Koszenski. Ted Martin, Counsel for KHSAA was also present.

Lonnie Burgett was called on for the invocation.

Eddie Saylor introduced Robert Stewart and welcomed him to the Board of Control.

Paul Dotson made a motion, seconded by Chuck Broughton, to approve the minutes of the July 16, 2002 regular meeting. The motion passed unanimously.

Kathy Johnston made a motion, seconded by Gary Dearborn, to approve the minutes of the August 26, 2002 special meeting. The motion passed unanimously.

Lonnie Burgett made a motion, seconded by Kathy Johnston, that all bills of the Association for the period July 1, 2002 through August 31, 2002 be approved. The motion 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). Gary Dearborn made a motion, seconded by Paul Dotson, to reverse the Hearing Officer’s recommendation on the following appeal. The motion passed unanimously:

No., Bylaw, Student School, Findings #662, 4, Tyrone Hurt Western, Ineligible

After considering the written record, the KHSAA Board voted unanimously to REJECT the Hearing Officer’s recommended order and issued a revised order based on the following Findings of Fact and Conclusions of Law. Therefore, Tyrone is immediately and permanently INELIGIBLE to participate in interscholastic athletics at Western High School. In accordance with the KHSAA Due Process Procedure, the KHSAA Board makes the following Findings of Fact and Conclusions of Law.

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

Conclusions of Law
1. Tyrone is permanently ineligible under Bylaw 4, Section 1 (“Bylaw 4”) because he has exhausted his eight (8) semesters of eligibility as defined in Bylaw 4 and is in his fifth year of high school.
2. Tyrone is not entitled to a waiver of the application of Bylaw 4 because the record does not show that his right to basic education services was impacted due to illness or injury, which is the standard for waivers under Bylaw 4. A waiver would be contrary to past case situation rulings, have a depreciable value on future enforcement of Bylaw 4, and set an undesirable precedent.

Kathy Johnston made a motion, seconded by Jerry Taylor, to uphold the Hearing Officer’s recommendation on the following appeal. The motion failed 3-9. After discussion, Lonnie Burgett made a motion, seconded by Paul Dotson to reverse the Hearing Officer’s recommendation. The motion passed 9-3:

No., Bylaw, Student School, Findings #663, 6, Megan Davis Christian Academy- Louisville (South Oldham), Ineligible

After considering the record, the KHSAA Board voted 9-3 to REJECT the Hearing Officer’s recommended order and issued a revised order based on the following Findings of Fact and Conclusions of Law. Therefore, Megan is immediately INELIGIBLE to participate in interscholastic athletics at Christian Academy (Louisville) High School for one year following her enrollment. In accordance with the KHSAA Due Process Procedure, the KHSAA Board makes the following Findings of Fact and Conclusions.

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

Conclusions of Law
1. Megan’s transfer is subject to Bylaw 6, Section 1 (“Bylaw 6”) because she participated in varsity sports at South Oldham High School and transferred to Christian Academy (Louisville) High School.
2. Megan’s transfer does not meet a specific, enumerated exception to Bylaw 6.
3. Megan’s transfer does not merit a waiver of Bylaw 6 under the discretionary Due Process Procedure waiver provision because strict application of Bylaw 6 is not unfair to her and the circumstances creating the ineligibility are not clearly beyond the control of all parties involved. There is insufficient evidence to support a waiver.
4. Further, a waiver would be contrary to past case situation rulings, have a depreciable value on future enforcement of Bylaw 6, and set an undesirable precedent.

Jerry Taylor made a motion, seconded by Eddie Saylor to uphold the Hearing Officer’s recommendation on the following appeal. The motion failed 2-10. After discussion, Jeff Perkins made a motion, seconded by Steve Parker to reverse the Hearing Officer’s recommendation. The motion passed 10-2:

No., Bylaw, Student School, Findings #664, 6, Stefany Click Boyd County (Rose Hill Christian), Ineligible

After considering the record, the KHSAA Board voted 10-2 to REJECT the Hearing Officer’s recommended order and issued a revised order based on the following Findings of Fact and Conclusions of Law. Therefore, Stefany is immediately INELIGIBLE to participate in interscholastic athletics at Boyd County High School for one year following her enrollment. In accordance with the KHSAA Due Process Procedure, the KHSAA Board makes the following Findings of Fact and Conclusions.

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

Conclusions of Law
1. Stefany’s transfer is subject to Bylaw 6, Section 1 (“Bylaw 6”) because she participated in varsity sports at Rose Hill Christian High School and transferred to Boyd County High School.
2. Stefany’s transfer does not meet a specific, enumerated exception to Bylaw 6.
3. Stefany’s transfer does not merit a
waiver of Bylaw 8 under the discretionary
Due Process Procedure waiver provision
because strict application of Bylaw 6 is
not unfair to her and the circumstances
creating the ineligibility are not clearly
beyond the control of all the parties in-
olved. There is insufficient evidence to
support a waiver. Further, a waiver would
be contrary to past case ruling rulings,
have a depreciative value on future en-
forcement of Bylaw 6, and set an unde-
sirable precedent.

Bob Stewart made a motion, seconded
by Jerry Taylor, to remand Case #668
back to the Hearing Officer for a time line
and further clarification of the student's
residence(s). The motion passed 8-3 with
one (Jim Sexton) recusal:
No., Bylaw, Student
School, Findings
#668, 6, Monzell Rushin
Eastern (Moore), Eligible

The next item on the agenda was
consideration of the Hearing Officer's Rec-
ommendations (Cases in which the stud-
ent was recommended to be ineligible).
Paul Dotson made a motion, seconded
by Steve Parker, to uphold the Hearing
Officer's recommendation on the follow-
ing appeal. The motion passed 11-0 with
one (Ken Hunt) recusal:
No., Bylaw, Student
School, Findings
#661, 6 & 7, Lee Speaks
Garrard County (Lincoln County), Ineligible

Kathy Johnston made a motion, sec-
onded by Lonnie Burgett, to uphold the
Hearing Officer's recommendation on the
following appeal. The motion passed
unanimously:
No., Bylaw, Student
School, Findings
#665, 6, Alexander Smith
Christian Academy-Louisville
(Highview Baptist), Ineligible

Kathy Johnston made a motion, sec-
onded by Chuck Broughton, to uphold the
Hearing Officer's recommendation on the
following appeal. The motion passed
unanimously:

1. Roland Williams presented an update
   on the status of the Coaching Education
   Program.
2. Larry Boucher discussed a letter sent
to schools regarding use of unlicensed of-
   ficials and stricter fines.
3. Paul Dotson, Football Committee
   Chairperson, asked the record to show
   that no action was taken on the length of
   the alignment. He then asked the Board
to approve the following motions:
   1. Approve the Class A football alignment
      with the following change: Move Somer-
      set to Region 4, District 7. The motion
      was seconded by Lonnie Burgett, and
      passed unanimously.
   2. Approve the Class AA football alignment
      as presented. The motion was seconded
      by Bob Stewart, and passed unanimously.
   3. Accept the Class AAA football alignment
      as presented. The motion was seconded
      by Chuck Broughton, and passed uni-
      mously.
4. Approve the Class AAAA football align-
   ment with the following changes: Move
   Southern from Region 2, District 4 to Re-
   gion 3, District 5; Move Atherton from Re-
   gion 3, District 5 to Region 2, District 4.
   The motion was seconded by Jeff Perkins,
   and passed unanimously.
5. Inform districts that have already met
   for scheduling purposes to allow new
teams coming into their district the oppor-
tunity to be involved in the scheduling pro-
cess with other district teams. The motion
was seconded by Steve Parker, and
passed unanimously.

Gary Dearborn, Team Sports Commit-
tee Chairperson, asked the Board to ap-
prove the following motion:
1. Honor Trigg County's request to move
   from District 8 to District 5 in Baseball.
The motion was seconded by Lonnie Burgett,
and passed unanimously.

Jim Sexton, Constitution and Bylaws
Committee Chairperson, asked the Board
to approve the following motions:
1. Accept the terminology changes regard-
   ing "board rep/designated rep" wording in
   the handbook. The motion was seconded
   by Jeff Perkins, and passed unanimously.
2. Seek an Attorney General's opinion on
exact procedures for the nomination and
voting process for new private school
Board members. Determine if it is consti-
tutional for only private schools to nomi-
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nate and vote for their own Board mem-
ber. The motion was seconded by Jerry
Taylor, and passed unanimously.

3. Study the foreign student exchange
process. The motion was seconded by
Chuck Broughton, and passed unani-
mously.

4. Take no action regarding Cheerleading.
The motion was seconded by Kathy
Johnston, and passed unanimously.

Mr. Saylor then called the Board's at-
tention to miscellaneous items listed for
their information only. 1) Set date for Spe-
cial Board Meeting in October to consider
September appeals; 2) Review dates for
the next regular Board of Control Meet-
ing, November 19-20, 2002 in Lexing-
ton, KY; 3) Miscellaneous Board and staff
items.

It was decided that a Special Board
Meeting to consider September appeals
was necessary, and will be held on Mon-
day, October 28th at 8:30 a.m. at the

KHSAA office.

There being no further business to
come before the Board, Gary Dearborn
made a motion to adjourn. The motion was
seconded by Kathy Johnston, and passed unani-
mously. The meeting adjourned at
5:00 p.m.

Softball Meeting (Cont’d)

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softball officials.

There was a discussion on how to
count games during the regular season.
The committee expressed a preference to
establish a total number of games regard-
less of the number of tournaments a team
may have played. It may be easier to say
that the team can participate in a total of
36 games rather than "x" numbers of tour-
naments.

The committee discussed the possibil-
ity of experiminating with the NFHS desig-
nated player rule experimentation. Some
coaches had played with the designated
player environment, but there was no per-
suasion of the committee for this year.

The committee discussed the illegality
of certain bats. There is still some confu-
sion as to how umpires are to rule on cer-
tain bats that may now have the ASA Cer-
tification Mark, but still be illegal. Mr.
Boucher and Mr. Williams will provide all
softball supervisors with all information on
bats that are legal and illegal before the
season starts. The ASA & NFHS illegal
bat information has been posted on the
KHSAA website. Coaches and commit-
tee members were asked to inform the
schools in their geographic area about the
information prior to the schools purchase
of bats. Legal and illegal information can
be obtained or sought through the KHSAA
website.

There being no further discussion the
committee adjourned at 12:50 p.m.

Eddie Bougher
Brig J. DeVries

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