



Kentucky High School Athletic Association

THE ATHLETE
April May

2003 — April Board Minutes

President Eddie Saylor convened the special meeting of the Board of Control on Monday, April 28, 2003 at 10:00 a.m. All Board members were present except Cynthia Elliott and Betsy Glover. Also present were Commissioner Brigid DeVries, Assistant Commissioner Larry Boucher, Assistant Commissioner Julian Tackett Assistant Commissioner Roland Williams, Director of Promotions and Media Relations Butch Cope, Fundraising Consultant Ken Tippett and Office Manager Darlene Koszenski. Guests included Michael Dailey, KDE liaison and Peggy Miller, KHSAA Legal Counsel.

Lonnie Burgett was called on for the invocation.

Mr. Saylor asked the record to show that fourteen Board members were present.

The next item on the agenda was consideration of the Hearing Officer's Recommendations (Cases in which the student was recommended to be eligible). Paul Dotson made a motion, seconded by L.V. McGinty, to uphold the Hearing Officer's Recommendation on the following appeal. The motion passed 9-4 with one (Sally Haeberle) recusal:

No., Bylaw, Student School, Findings #710 ,6, Kasi Mullins
Boyd County (East Carter), Eligible

Paul Dotson made a motion, seconded by Jerry Taylor, to uphold the Hearing Officer's Recommendation on the following appeal. The motion failed 8-6. Sally Haeberle made a motion, seconded by Gary Dearborn, to overturn the Hearing Officer's Recommendation on the following appeal. The motion failed 5-9. L.V. McGinty then made a motion, seconded by Lonnie Burgett, to uphold the Hearing Officer's Recommendation on the following appeal. The motion passed 9-5:

No., Bylaw, Student School, Findings #716, 6, Alice Moore
Boyle County (Middlesboro), Eligible

Kathy Johnston made a motion, seconded by Paul Dotson, to uphold the Hearing Officer's Recommendation on the following appeal. The motion failed 8-6. Jim Sexton made a motion to uphold the Hearing Officer's Recommendation conditional upon permanent custody, but after legal counsel from Peggy Miller, he withdrew the motion. Gary Dearborn then

made a motion, seconded by Paul Dotson, to remand the case back to the Hearing Officer for clarification on the time limit and current status of the temporary custodial order. The motion passed unanimously:

No., Bylaw, Student School, Findings #718, 6, Cailyn Hogan
Franklin-Simpson (Midway, TX), Eligible

Gary Dearborn made a motion, seconded by Robert Stewart, to overturn the Hearing Officer's Recommendation on the following appeal. The motion failed 8-5 with one (Chuck Broughton) recusal. Gary Dearborn made a motion, seconded by Sally Haeberle, to overturn the Hearing Officer's Recommendation on the following appeal, which they both withdrew. Paul Dotson then made a motion, seconded by Lonnie Burgett, to uphold the Hearing Officer's Recommendation on the following appeal. The motion passed 11-2 with one (Chuck Broughton) recusal:

No., Bylaw, Student School, Findings #723, 6, Ronald Harris, Jr.

Daviess County (S. Spencer, IN), Eligible
Jim Sexton made a motion, seconded by Sally Haeberle, to overturn the Hearing Officer's Recommendation on the following appeal. The motion passed 9-5:

No., Bylaw, Student School, Findings #724, 6, Jonathan Rippey
Bowling Green (Greenwood), Ineligible

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. Jonathan's transfer is subject to Bylaw 6, Section 1 ("Bylaw 6") because he participated in varsity sports at Greenwood High School and transferred to Bowling Green High School.

2. Jonathan's transfer does not meet a specific, enumerated exception to Bylaw 6.

3. Jonathan'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 him and the circumstances creating the ineligibility are not *clearly* beyond the control of all the parties involved. There is no other evidence in the record sufficient to support a waiver. Further, a waiver would be contrary to past

case situation rulings, have a depreciative value on future enforcement of Bylaw 6, and set an undesirable precedent.

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 Paul Dotson, to uphold the Hearing Officer's Recommendation on the following appeal. The motion passed 13-0 with one (Jim Sexton) recusal:

No., Bylaw, Student School, Findings #717, 6, David Cornwell, Jr.
Western (Eastern), Ineligible

Kathy Johnston made a motion, seconded by Lonnie Burgett, to uphold the Hearing Officer's Recommendation on the following appeal. The motion passed unanimously:

No., Bylaw, Student School, Findings #719, 6, Michelle Kurland
South Oldham (Kentucky Country Day), Ineligible

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

No., Bylaw, Student School, Findings #720, 6, Stephen Lyster
Woodford County (Lexington Catholic), Ineligible

Kathy Johnston made a motion, seconded by Sally Haeberle, to uphold the Hearing Officer's Recommendation on the following appeal. Gary Dearborn made a motion, seconded by Robert Stewart, to amend the motion to add: "The Board shall take into consideration the 9/23/02 enrollment date at Jefferson County High School ("JCHS") because Blake was required to attend JCHS upon entering the Jefferson County public school system and JCHS does not offer any varsity interscholastic athletics. The period of ineligibility will expire one year from that date. Therefore, Blake Mann remains ineligible to participate in interscholastic athletics at Eastern High School until September 23, 2003". The motion to amend passed 12-1 with one (Jim Sexton) recusal. The main motion passed 13-0 with one (Jim Sexton) recusal:

No., Bylaw, Student School, Findings #721, 6, W. Blake Mann

2003 April Board Minutes

Eastern (Trinity-Louisville), Ineligible
 Jeff Perkins made a motion, seconded by Paul Dotson, to uphold the Hearing Officer's Recommendation on the following appeal. The motion passed unanimously:
 No., Bylaw, Student School, Findings #722, 6, Ryne Johnson
 Whitesburg (Fleming-Neon), Ineligible
 The next item on the agenda was consideration of the Hearing Officer's Recommendations (Cases in which the student was recommended to be eligible or ineligible and exceptions were filed). Gary Dearborn made a motion, seconded by Paul Dotson, to uphold the Hearing Officer's Recommendation on the following appeal. It was noted for the record that the Finding of Fact letter should read "Newport Central Catholic", not "Newport". The motion passed 13-1:
 No., Bylaw, Student School, Findings #714, 6, Nathaniel Dirkes
 Campbell County
 (Newport Central Catholic), Ineligible
 Gary Dearborn made a motion, seconded by Paul Dotson, to overturn the

Hearing Officer's Recommendation on the following appeal. The motion passed 13-1:
 No., Bylaw, Student School, Findings #715, 6, David Pennington
 Tates Creek (Lexington Catholic), Ineligible
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. David's transfer is subject to Bylaw 6, Section 1 ("Bylaw 6") because he participated in varsity sports at Lexington Christian Academy and transferred to Tates Creek High School.
 2. David's transfer does not meet a specific, enumerated exception to Bylaw 6.
 3. Contrary to the Hearing Officer's conclusion, the facts of David's transfer do 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 him and the circumstances creating the ineligibility are not *clearly* beyond the control of all the

parties involved. There is no other evidence in the record sufficient to support a waiver. Further, a waiver would be contrary to past case situation rulings, have a depreciative value on future enforcement of Bylaw 6, and set an undesirable precedent.
 4. There is no clear indication that Lexington Christian Academy refused to or could not provide the psychologist suggested interactions for Pennington.
 5. The record does not demonstrate that Pennington had no choice other than to transfer and the Board therefore rejects the recommended order.
 Mr. Dearborn asked that Board attendance at regular and special meetings be a topic for discussion at the May meeting.
 There being no further business to come before the Board, Kathy Johnston made a motion to adjourn. The motion was seconded by Robert Stewart, and passed unanimously. The meeting adjourned at 11:45 a.m.

2003

Eddie Taylor
Bill DeVries