

KENTUCKY DEPARTMENT OF EDUCATION
STAFF NOTE

Review Item:

702 KAR 7:065, Designation of Agent to Manage Middle and High School Interscholastic Athletics and Revisions in Kentucky High School Athletic Association Bylaws (KHSAA) (Second Reading)

Rationale:

To bring forward 702 KAR 7:065 for final approval of the proposed changes that are recommended by KHSAA's membership and Board of Control.

Applicable Statute or Regulation:

KRS 156.070
702 KAR 7:065
KHSAA Bylaws

History/Background:

Existing Policy. 702 KAR 7:065 (included as attachment "A") designates the KHSAA as the entity to manage middle and high school interscholastic athletics.

This regulation also requires that the Association conduct a biennial review of its Constitution and Bylaws at both the high school and middle school level, and such was done during the 2015-2016 school years by the KHSAA Board of Control for the high school rules, and by the required two meetings of the KHSAA Middle School Advisory Committee for the rules at that level.

Summary: The proposed changes to the high school regulations that received the requisite 2/3 vote (included as attachment "B") reflect items that were presented to the membership of the Association at its September 14, 2016 Annual Meeting of high schools. Items considered at this Annual Meeting are submitted both by the Board of Control as part of its annual Constitution and Bylaws review, and by the member high schools, and are reviewed by the Board of Control prior to the development of the final agenda. At the 2016 annual meeting of the member high schools, 219 high schools were present; therefore, all proposals required 146 affirmative votes for passage. In accordance with the KHSAA Constitution and Policies and Procedures as well as the requirements of 702 KAR 7:065, any amendment receiving the requisite vote of the membership is to be considered by the Board of Control and a recommendation made to the Kentucky Board of Education for further action.

During that annual meeting, significant discussion was held by the membership as to the future of interscholastic athletics. National trends were reviewed and the school representatives participated in spirited discussions about the balance between adapting to the students of today and meeting their needs, and preserving the sound traditions of competition. This meeting will likely continue to shape the future of this 100-year old organization.

It should also be noted that the Board of Control, as part of its required bylaw and policy review, responded to many concerns expressed by individual member school representatives and authored several proposals designed to address those concerns. Many of these desired changes that had been expressed to the Board required the "tightening" of existing rules relative to both transfers and undue influence on those transfers, or additional and extensive involvement by the member school representatives in attempting to enforce more rigid restrictions and interpretations. Interestingly, the rules that would have created tighter rules and required more membership involvement, in many cases failed to get the necessary vote for passage. Such was noted by the Board members as they charted the course for continued review as required by 702 KAR 7:065.

In accordance with these procedures, the amendments to the KHSAA Bylaws for its high school members that were listed below were approved by the listed votes. These amendments will be considered by the Local Superintendents Advisory Council at its upcoming meetings, and have been considered by the Board of Control (BOC) of the KHSAA for implementation during the 2017-18 school year, unless otherwise noted, and received the requisite vote of the Board of Control.

Proposal	Author	Purpose	Vote	BOC
2016-1	Proposed by the KHSAA Board of Control as part of the required annual review of all KHSAA Bylaws (702 KAR 7:065)	Amend the Constitution to allow the assembled Board of Control to remove a member for cause but only under specific circumstances where the action of the Board member was contrary to KHSAA rules, regulations or adopted Board of Control policies. <i>Rationale: In the event a member acts contrary to the obligations of the membership (participates in rules violations, engaging in contact detrimental to the Association, etc.) the seated Board could vote to remove (2/3 vote required with appeal process).</i> <i>Impact: Regulatory</i>	214 Yes, 2 No, 0 Abstain, 3 Present	Adopted by the Board of Control
2016-2	Proposed by the KHSAA Board of Control as part of the required annual review of all KHSAA Bylaws (702 KAR 7:065)	Amend the Constitution to clarify that in the event a Board member is expected to have multiple absences that would place him/her out of compliance with the attendance requirement, any absences would be required to be submitted, and approved in advance. <i>Rationale: In the event a Board member is expected to be unable to meet the required threshold of meeting attendance, excused absences must be done in advance of violating the threshold. This would also ensure compliance with all applicable state and federal regulations.</i> <i>Impact: Regulatory</i>	214 Yes, 2 No, 0 Abstain, 3 Present	Adopted by the Board of Control
2016-3	Proposed by the KHSAA Board of Control as part of the required annual review of all KHSAA Bylaws (702 KAR 7:065)	Amend the Constitution to clarify that beginning with those members elected to a first term for the 2018-2019 school year, that the seated members of the Board of Control are full-time employees of the member school or school district. <i>Rationale: Ensure that the elected Board members are actively involved in day-to-day affairs of the member schools.</i> <i>Impact: Regulatory</i>	199 Yes, 17 No, 0 Abstain, 3 Present	Adopted by the Board of Control
2016-4	Proposed by the KHSAA Board of Control as part of the required annual review of all	Amend Bylaw 4 and Bylaw 6 to require that students enrolling in a member school be current with any and all obligations (including financial) to the former school to be eligible in the first year. <i>Rationale: Students should not be able to</i>	150 Yes, 66 No, 0 Abstain, 3 Present	Adopted by the Board of Control

Proposal	Author	Purpose	Vote	BOC
	KHSAA Bylaws (702 KAR 7:065)	<i>leave a specific school owing tuition, books, fees, or having other obligations and be automatically eligible to participate in a voluntary privilege activity upon enrollment. Would be subject to due process provisions and subject to one-year period of ineligibility.</i> <i>Impact: Regulatory</i>		
2016-6	Proposed by the KHSAA Board of Control as part of the required annual review of all KHSAA Bylaws (702 KAR 7:065)	Amend Bylaws 6, 7 and 8 to delineate that the period of ineligibility for transfer and other penalties shall speak specifically only to the varsity level. Decisions with regards to non-varsity competition would be at the discretion of the member school. <i>Rationale: With the continued perception by both the legislature and the judiciary of more students being impacted by multiple restrictions and a desire for tighter enforcement, this proposal would stipulate that the period of ineligibility for transfer students would apply only to the varsity level. This change would allow for enrollment and at the school discretion, non-varsity competition, but would not allow for varsity competition. It is felt that this addresses school administrators' desires to keep kids involved but also address the advantage students get by transferring to participate in championship play. Reviewers should remember that the students being penalized at the varsity level are losing one-fourth of their high school eligibility, a serious penalty with or without the loss of any other privilege. The student qualifying for ineligibility has played at the varsity level and therefore the penalty would be at the varsity level.</i> <i>Impact: Regulatory</i>	170 Yes, 46 No, 0 Abstain, 3 Present	Adopted by the Board of Control
2016-8	Proposed by the KHSAA Board of Control as part of the required annual review of all KHSAA Bylaws (702 KAR 7:065)	Amend Bylaw 9 to allow student-athletes with a prior participation history in basketball to participate in single-day exposure events. <i>Rationale: Based upon multiple parental requests, there are many individuals that desire to attend these opportunities to be exposed. While the value of the events is debatable, this change would allow for the parents and athlete to make this choice while still prohibiting regular, continuous league or event play.</i> <i>Impact: Regulatory</i>	206 Yes, 10 No, 0 Abstain, 3 Present	Adopted by the Board of Control

Proposal	Author	Purpose	Vote	BOC
2016-9	Proposed by the KHSAA Board of Control as part of the required annual review of all KHSAA Bylaws (702 KAR 7:065)	Amend Bylaw 11 to remove outmoded language with merit test limitations and establish a window of time in which a tuition paying student must remain current to be able to participate in interscholastic athletics. <i>Rationale: The financial aid restriction rule, which has been litigated and supported in Federal Court, is in need of minor modernization steps. First, the provision limiting merit aid to the lower of five students or five percent of the student body is no longer needed as the merit aid test listing and its rigidity has replaced any ratios verification. In addition, the original proposal overlooked the need to ensure that institutions were requiring students to be current in their obligations in order to be eligible, and this addition remedies that oversight.</i> <i>Impact: Regulatory</i>	175 Yes, 36 No, 5 Abstain, 3 Present	Adopted by the Board of Control
2016-10	Proposed by the KHSAA Board of Control as part of the required annual review of all KHSAA Bylaws (702 KAR 7:065)	Amend Bylaw 22 to remove the restrictions on playing only member schools when competing against out-of-state teams in baseball, basketball, field hockey, football, soccer, softball and volleyball, both when played in state and when played out-of-state. <i>Rationale: These restrictions were originally put in place as a means of ensuring quality of opponents, etc. However, in recent years, issues with out-of-state tournaments and events, along with the individual choices of the membership, seem to make this requirement terribly outdated. This would make decisions as far as regular season opponent choice left up to the local school. By returning the choice to the local school but removing the statewide restrictions, insurance provisions remain in place regardless of school choice.</i> <i>Impact: Regulatory</i>	186 Yes, 30 No, 0 Abstain, 3 Present	Adopted by the Board of Control
2016-12	Proposed by the KHSAA Board of Control as part of the required annual review of all KHSAA Bylaws (702 KAR 7:065)	Amend Bylaw 27 to define School Exclusion as a Ruling Officer/Commissioner option for penalty. <i>Rationale: Through the Due Process Procedure, a student without previous participation history (not subject to Bylaw 6) may be deemed to be ineligible at a specific member school due to previous influence, violations of Bylaw 16, or a determination of Athletic Advantage within</i>	182 Yes, 31 No, 3 Abstain, 3 Present	Adopted by the Board of Control

Proposal	Author	Purpose	Vote	BOC
		<i>the transfer rule. The student would be ineligible upon enrollment at a school where no documentation of such advantage exists.</i> <i>Impact: Regulatory</i>		

Subsequent to the Annual Meeting of the membership, and acting on the lengthy discussion surrounding one of the proposals at the Annual Meeting that did not receive the requisite vote, the Board revised one of its original proposals. The intent of the Board’s discussion was to respond to membership feedback about excesses in out-of-season play while maintaining school choice in specific situations. The off-season play not only was documented as leading to burnout (both coaches and athletes), but was a large factor in many transfers for perceived athletic advantage.

The revised proposal was re-submitted to the membership in the form of a two-part referendum (included as Attachment “C”) to address the issues identified by member schools as well as rectify issues in the proposals submitted to the membership. A referendum is an addition detailed in the KHSAA Constitution for amending the KHSAA Bylaws by a vote of the member schools. The vote of the schools on those two issues met the requisite standard of a two-thirds vote of those submitted, and the Board of Control recommends approval to the Kentucky Board of Education as detailed below.

Proposal	Author	Purpose	Vote	BOC
2016-Referendum 1	Proposed by the KHSAA Board of Control as part of the required annual review of all KHSAA Bylaws (702 KAR 7:065)	Amend Bylaw 23 to specify allowable activities during the school year outside of the limitation of seasons and preclude mandatory activity for students. <i>Rationale: The overwhelming feedback from the schools both at the Annual meeting and afterward was an approval of closing down the restrictions on open gym as a means of addressing perceived (or real) issues with recruiting (undue influence) and transfers for athletic advantage following participation in such activities. The rationale is straight forward and intended to address concerns many member schools have addressed to Board of Control members during the last year or more regarding these sessions.</i> <i>Impact: Regulatory</i>	120 Yes, 26 No, 0 Abstain, 0 Present	Adopted by the Board of Control
2016-Referendum 2	Proposed by the KHSAA Board of Control as part of the required annual review of all KHSAA Bylaws (702 KAR 7:065)	Amend Bylaw 24 to specify allowable activities during the summer outside of the school year and Dead Period and preclude mandatory activity for students. <i>Rationale: The overwhelming feedback from the schools both at the Annual meeting and afterward was an approval of closing down the restrictions on open gym as a means of addressing perceived (or real) issues with recruiting (undue influence) and transfers for athletic advantage following participation in such activities. The</i>	114 Yes, 29 No, 0 Abstain, 0 Present	Adopted by the Board of Control

Proposal	Author	Purpose	Vote	BOC
		<i>rationale is straight forward and intended to address concerns many member schools have addressed to Board of Control members during the last year or more regarding these sessions.</i> <i>Impact: Regulatory</i>		

The KHSAA is currently revising its necessary bylaws and policies required due to the passage of HB520 during the 2017 legislative session of the Kentucky General Assembly. Necessary amendments have been included into the documents incorporated by reference.

The KHSAA is also designated to manage interscholastic athletics at the middle school level. The Middle School Advisory Committee held two meetings as required by regulation, on February 16, 2017 and May 4, 2017. The focus of those meetings was health and safety for middle school athletes, and further items and requests for amendments will be brought forward to the Kentucky Board of Education at a future date.

The staff of the KHSAA certifies that the Board of Control has taken action on the recommended items as documented by the minutes of Board of Control meetings.

Budget Impact: There is no fiscal impact to the Kentucky Department of Education’s budget.

Groups Consulted and Brief Summary of Responses:

KHSAA Board of Control
KHSAA Annual Meeting Delegate Assembly
Local Superintendents Advisory Council

All affected groups have concurred and approved the revisions.

Contact Person:

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Recommending Contact Person

Commissioner of Education

Date:

August 2017