



Kentucky High School Athletic Association

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September 9, 2020

Kentucky Board of Education
Lu S. Young, Ed.D., Chair
300 Sower Boulevard
Frankfort, KY 40601

RE: Fall Interscholastic Athletics

Dear Dr. Young and Board of Education Members:

We are in receipt of your correspondence dated August 31, 2020, on behalf of the Kentucky Board of Education (KBE), regarding fall interscholastic athletics. In this correspondence, you made several requests for the Association to consider a variety of matters all related to the resumption of interscholastic athletics. Please note, the Kentucky High School Athletic Association (KHSAA) Board of Control (BOC) has a meeting scheduled on September 16 where it will formally review both your correspondence and this letter and potentially issue an additional response.

We will ensure that the entirety of your letter is reviewed at that time as well as this correspondence, and ask the Board to determine if any additional response should be considered. In the interim, there is a strong desire to ensure that you understand that we want to continue to work cooperatively with you and your Board in responding to your original inquiries. We will respond in whole and part to each notation within your letter although we hope you will agree that a vast majority, if not all, of these concerns, have already been addressed and have been communicated to our member schools in our Healthy at Sports documentation. As a part of this response, we will share the specific location of the information within that document that we feel best addresses these concerns.

As you know, the KHSAA is currently comprised of over 280-member schools including public and private schools across this great Commonwealth. Additionally, as you mention in your correspondence, the KHSAA has been the designated agent of the KBE for several decades through the authority vested in KRS 156.070 after being formed originally as a private, non-profit entity in 1917. You likely are also aware that the KHSAA receives no direct state funding for its operations from the General Assembly, the KBE, or the Kentucky Department of Education (KDE).

The KHSAA appreciates the continued confidence the KBE has shown as the KHSAA continues to pride itself on providing safe and meaningful participation opportunities in education-based athletics for over 75,000 student-athletes on an annual basis. As an organization that has provided its member schools and the student-athletes of the Commonwealth this service for well over 100 years, we believe we are uniquely qualified and well suited for this honorable task.

The BOC is made up of 18 individuals from across the state. The KBE has a direct hand in the composition of the BOC as it appoints four of these members. The remaining 14 are directly elected by, and active employees of, the member schools and school systems. This is critical as the result is a group of front-line educators, actively working in Kentucky school districts each day. The members are almost all career educators with their boots on the ground in Kentucky schools, directly connected

to their community, their local Board of Education and school system staff, and their entire student population. Currently, the elected BOC includes seven superintendents, four athletic directors, one principal, one counselor, and one instructional supervisor. For this year, four additional members were retained as advisory members, with voice but without vote, and those include two additional superintendents and a building principal. As of September 1, the former member of the Board who was a guidance counselor has retired and will assume an advisory member role this year, being replaced by an additional superintendent. The KBE appointed members include a retired superintendent, a retired educator, an active university faculty member who is a former K-12 educator, and a private business person with a long history in extra-curricular and co-curricular involvement. The result is a broad experience-based focus that is both student-centered and well aware of school community desires and considerations.

The BOC, and the Commissioner that the Board employs, take very seriously the responsibilities set out in the previously mentioned state regulation that gives the KHSAA autonomous control over the conduct of interscholastic athletics. The Commissioner and the staff he/she directs, work diligently every day on behalf of both the public common schools as well as the non-public schools who have chosen to join the Association, to emphasize the safety of the student participants as the foremost objective. This is the case in all sports and sport-activities and is especially critical in that they are considered to be at varying levels of risk of injury. This commitment was recently affirmed in media reports where the KHSAA is again ranked in the top of the country among its peer organizations by the Korey Stringer Institute in terms of documented safety measures for the care of those involved in interscholastic sports and activities.

Per the specifics of your letter, in several instances, we will point to the “Healthy at Sports, Stage 3 – Performance, Return to Competition: Considerations for Fall Sports” (Guidance Document) issued to the membership on August 26th that was also submitted to the Governor’s office and the Department for Public Health (KDPH). That document was also provided at that time to Interim Commissioner Kevin Brown as well as the appointed (KDE) liaison to the KHSAA, Associate Commissioner David Couch.

Following that submission, additional review was done with KDPH, the primary focus of which was additional clarification on the formal role of the local health departments, based on feedback from those local health departments. This type of collaboration, communication, and review has been continuous since the pandemic began. The KHSAA was informed of the acceptance of that revised document early during the week of August 31st. All suggested revisions were made and the revised Guidance Document re-issued to the membership early on September 3rd and posted on the KHSAA website at <https://bit.ly/3jYCJMi>. As with almost all guidance documents, the document can be revised as things change within the virus and other factors surrounding the pandemic.

As we address the points in your letter, I will either reference places in the Guidance Document or the next steps in the process as we move toward any necessary review or changes. First, I feel it only fair to point out, that the KHSAA is not the Atlantic Coast Conference or the Southeastern Conference. Those selective membership organizations have a different level of somewhat similarly structured institutions, an abundance of resources, financial and otherwise, and a captive audience of members who have chosen to abide by restrictions. There are also only slightly more than one dozen members of each group. When news accounts show that those levels of leagues are taking a step, it is easy for those on the outside to say, “simply do what they do.” However, the three key words in almost all of the Centers for Disease Control (CDC) documentation must be considered, “implementation should be guided by what is feasible, practical, acceptable, and tailored to the needs of each community.” Reality is much more complicated than simply mimicking what other non-like organizations are doing.

The KHSAA on the other hand, while technically being a voluntary organization, is for all practical purposes “the only game in town” in our Commonwealth related to interscholastic sports. Its

institutions are as varied as they are geographically isolated. They include public schools, non-public and private schools, state-run schools, and federally-run schools. The authority to manage the inner workings of these schools and their programs is generally vested in the local level in statute, regulation, and practice. Many of the KHSAA rules and regulations are created to ensure competitive equity, not designed to create an additional autocratic structure. By comparison, you simply have to look at the many fantastic steps taken by the KDE on behalf of the KBE during the pandemic. While a few would decry a lack of absolute pronouncements, KDE realizes that its structure is similar to that of the KHSAA, and making solid recommendations regarding the implementation of items during the pandemic is the only workable path to success. The KHSAA is in that same situation. It is with this local control premise at the forefront, while at the same time balancing safety and competitive equity concerns, that the KHSAA walks the fine line between autocratic regulation and cooperative association guidance.

With this difference in organizational structures in mind, the KHSAA has developed guidance designed to address these paradigms. It is recognized that there are those in the field who would rather there be more “direct orders” in many cases, as is the feedback that KDE has likely experienced during this pandemic. In this manner, blame could be transferred, a local conflict could be directed somewhere else, and some would think the local daily path would be made “easier”. This simply isn’t practical in an organization with more than 280-member schools that operate in a variety of manners, with different levels of offerings for activities, and certainly with differing levels of resources.

Specific to your list of items in which you have inquired about:

- 1. Develop guidance for school districts on the responsibility and authority to enforce the protocols set forth in the recent KSHAA guidance document. Specifically, this new guidance should address the consequences for failure to follow KHSAA guidance, including how sports programs will be suspended or penalized for their failure to follow the guidance and ensure the safety of student athletes. Just as the rules of play are uniform and enforceable, so should be the rules for the protection of student athletes in light of COVID-19.**

The compliance expectation and consequences for failure to comply with the relevant guidance are outlined in several places beginning with the Guidance Document itself. In the section titled “COMPLIANCE STANDARD AND EXPECTATIONS” the guidance reminds all member schools of their obligations to the KHSAA Constitution, Bylaws, Competition Rules, and ALL other policies and directives of the KHSAA Commissioner and BOC. This is an agreement each school enters on an annual basis when they apply to renew their membership in the KHSAA. A copy of that agreement can be found in the KHSAA Form GE01 (<https://khsaa.org/forms/ge01.pdf>).

Further, this section of the Guidance Document also specifically refers to Bylaw 27 (as adopted through 702 KAR 7:065), which permits the Association to assess a variety of penalties. These can include financial penalties, suspension of individuals, programs and schools, and a variety of other options for those that fail to adhere. Included in this listing, the suspension of contests would certainly permit the KHSAA to intervene in documented cases where the health and safety of the program are being compromised, including the protection of student-athletes.

Finally, further review of this point will continue to occur as the KHSAA Commissioner, BOC, and staff review ongoing developments daily.

2. **Anticipate and clarify how KHSAA guidance is likely to evolve and put forth clear and actionable guidance on how KHSAA will respond to a spike in cases at the school, district, regional, and/or statewide level. If that were to happen, what kind of timely and responsible action will KHSAA take to reduce risks to student athletes?**

The KHSAA, like KDE, will continue to work with both KDE and KDPH as more tools and metrics are developed as requested by schools. Without such metrics, and during a pandemic where information changes daily, the capability to “anticipate” is unrealistic and likely not a workable request.

However, certainly, there could be feasibility in using such a tool as KDPH has described, both through Dr. Steven Stack and his Chief of Staff, Dr. Connie White, to have some automatic metrics developed for cancellation of games, reduction and resumption of activity or attendance, and like measures. In the most recent updates, such a tool is still being developed for availability. The timeline to develop such a tool helps illustrate the difficulty and complexity of the circumstances we all find ourselves. The guidance document (section entitled “IN AND OUT OF STATE CONTESTS”) does make a clear reference even before this new metric that recommends contest cancellation in those counties labeled as “RED” on the KDPH Incidence Map.

Until such tools are developed and finalized by KDPH, the best “metric” will continue to be to allow local decisions to be guided by local data, just as it is for current education decisions. The local decision-makers are in the best position to make these decisions given their local data that varies from community to community.

Again, further review of this point will continue to occur as the KHSAA Commissioner, BOC, and staff review ongoing developments.

3. **Provide immediate guidance to school districts and coaches on spectator attendance at practice and competition. For example, will spectators be permitted to attend events? If so, will the number of spectators be limited? What are the requirements for temperature checks, social distancing and mask wearing for spectators if they are permitted to attend? How should concessions operate, if at all? School districts need clear guidance on these topics if they are to begin fall sports on the timeline approved by the Board of Control.**

Restrictions in regards to spectator attendance will vary so much from school to school and even from facility to facility as there is an extremely wide variance in facilities across our Commonwealth. Because of this reality, the Guidance Document has specifically addressed attendance at events in the sections entitled “ATTENDANCE AT EVENTS” and “ATTENDANCE LIMITATIONS.”

A review will show that it will be critical that every school work in conjunction with their local health department as well as the KDPH. Nevertheless, the Guidance Document recommends that **if** attendance is allowed, the school start at 20% capacity (of maximum capacity) and increases from there as the season successfully progresses. Still, the Guidance Document does not recommend exceeding 40% at any point given the current circumstances.

The entry and exit of spectators, as well as the process for entry (including temperature checks, requirements for masks, and seating), are all contemplated and outlined in the Guidance Document in several sections including those entitled “SCREENING OF ALL ENTERING THE FACILITY FOR PRACTICE OR COMPETITION”, “SOCIAL DISTANCING”, “DETERMINING GAME DAY ESSENTIAL PERSONNEL”, “ATTENDANCE AT EVENTS”,

“ATTENDANCE LIMITATIONS”, “ATTENDANCE MAXIMUMS”, and “MASKS/FACE COVERINGS”. There are also other mentions of these items in additional relevant sections of the document.

We hope that it is abundantly clear that significant time and consideration went into the drafting and revising of the Guidance Document. As stated previously, the KHSAA Commissioner, BOC, and staff review ongoing developments daily to ascertain if any revisions are needed as we continue to learn more or as the circumstances continue to evolve.

4. Develop clear guidance to school districts and coaches on how to best provide resources and mental health supports to student athletes who are unable to play due to parent choice, COVID-19 quarantine, program suspension due to COVID-19 or other reasons.

The mental health of all students across the Commonwealth has been and continues to be a major concern to the KHSAA and the BOC. In fact, on several occasions throughout several recent meetings, the KHSAA Commissioner and the BOC have specifically recognized that our students are currently in the midst of not only a physiological health crisis but also a mental health crisis.

In recognizing this reality, the KHSAA has relied upon and continues to utilize expertise from professionals in those respective areas. An example includes recently concluded research from Dr. Tim McGuine from the University of Wisconsin on the impact of school closures and sports cancellations on the health (specifically including mental health) of student-athletes.

Another resource relied upon by the BOC includes the excellent guidance document produced by the Kentucky Department of Education and issued to the schools in May 2020 entitled, “COVID-19 Considerations for Reopening Schools Supporting Student and Staff Wellness”. The students involved in KHSAA sports and sport-activities are students first, and the education guidance in those instances and the impact of COVID-19 are not restricted to athletics.

As more information is developed that will help in this area, it will be referred with the schools through the great resources of KDE and echoed by the KHSAA for our member schools, including those that may not regularly receive KDE communication. Further review of this point can and will continue to occur as our Board of Control reviews ongoing developments.

5. Require that the risks of COVID-19 are disclosed to families and students in a manner that is easily understood, along with recommended steps for student “return to sports” following a COVID-19 diagnosis. These disclosures should clearly outline the return-to-play guidance and address medical testing concerns raised by Dr. Stack, e.g., cost and availability of pediatric cardiologists, echocardiograms, electrocardiograms and cardiac MRIs.

This has been a continual emphasis point for the KHSAA as it has worked with its medical partners on the Kentucky Medical Association (KMA) Committee on the Medical Aspects of Sports. This work led to the acceptance of a document developed by that group that has been included in the Guidance Document. This document provides a detailed flow-chart that medical providers (and the impacted families) can rely upon that includes guidance on COVID-19 medical evaluations and return to activity protocol.

This same group has also created a “stepwise” gradual and progressive return to physical exertion protocol and “Return to Play” form for students following a positive diagnosis. These tools will aid schools, families, and medical professionals as they address these issues.

These documents and tools, as approved by KDPH, include important references for all those involved in sports. The medical information regarding this protocol (and recently approved form for providers) is part of the Guidance Document but can be viewed separately at <https://bit.ly/3buquKZ>.

Additional documents, articles, and resources are also included in the Guidance Document in the “REFERENCES LINKS AND SOURCES” section that continue to educate and inform everyone about the current circumstances, including risks and best practices related to COVID-19. As would be expected, the KHSAA Commissioner and BOC will continue to review ongoing developments and supplement these resources as circumstances dictate.

6. Take steps, including but not limited to instructing KHSAA to work with KDE and the Department for Public Health, to develop model COVID-19 testing protocols for student athletes and coaches that could be replicated across the state.

Our board continues to review all areas regarding COVID-19 that are reasonable and practical regarding all efforts to contain and eliminate this virus. While professional leagues, as well as well funded collegiate conferences, have testing protocols that get discussed by the media, the KHSAA, without additional legislative or Executive Branch authority, cannot reasonably be expected to mandate testing.

In fact, the National Federation of High Schools Associations (NFHS) Sports Medicine Advisory Committee (SMAC), made up of some of the most preeminent medical professionals from around the country (including a Kentucky representative) has not recommended routine testing of asymptomatic students at this time. This was again reiterated in their August update to state associations. Further, at this point, no such statewide mandated program exists for the high school level in our country that is not mandated by Executive Order or at least did not as of the last discussion of these issues this week with peer organizations. Even Ohio, which started with a testing protocol in certain areas and sports, has rescinded that order, attributed to the CDC guidance that “Implementation should be guided by what is feasible, practical, acceptable, and tailored to the needs of each community.”

Nevertheless, we have all seen the “flattening” of the curve on one if not two occasions in Kentucky, and the role testing played in that seeming success. To that end, the KHSAA will continue to gather information and determine if there is a feasible sample or model that can be attempted by our member schools. We will also continue to monitor any issues, including local acceptance, of other models for testing being attempted at the interscholastic level in the Commonwealth.

7. Adopt a regular reporting schedule, not less than bi-weekly, for the Board of Control and the KBE/KDE to receive written reports from the KHSAA that summarize COVID-related issues KHSAA is dealing with (by sport, district, and school) and how concerns are addressed as they arise.

Working in collaboration with a variety of stakeholders, we will continue to evaluate the best methods for tracking data. We can then consider whether our organization feels compelled to report to specific entities or is better to be able to keep things more regular in reporting. It would appear more feasible to create a public-facing report that could be viewed at any point in time. However, this is easily something that in collaboration with the Governor's office (including any necessary authority for reporting), KPHD, KDE, and others, could result in a useful tool. It is likely also important that we don't try to issue duplicate mandates to other required reporting that is done via local health departments and potentially create conflicting data or results.

In closing, these issues and many more matters related to COVID-19 are on the agenda for our Board of Control at its upcoming meeting, including the planned resumption of practice in additional sports. We will continue, as we have since early March when the issues first came to the forefront with this pandemic, to consult with every possible resource to ensure a safe and responsible return to competition. This will include the 51 state associations facing the same issues, the NFHS and its Sports Medicine Committee, KMA, and its committee on the Medical Aspects of Sports, KDPH, KDE/KBE, and any other group or individual with expertise that helps our member schools in these focus areas.

It is our sincere hope that you and the rest of the KBE see the diligence and steps the KHSAA and the BOC have taken as we all look for a safe, responsible, and healthy return to competition. As previously mentioned, the KHSAA and the BOC will update you as to future developments as well as any meaningful action taken at the upcoming meeting. In the interim, should you have any questions or concerns, please feel free to contact me.

Sincerely and on behalf of the KHSAA Board of Control,

Julian Tackett
Commissioner

xc: Darrell Billings, President, Board of Control
KHSAA Board of Control Members
Butch Cope, Associate Commissioner of the KHSAA
Kevin Brown, Interim Commissioner, Kentucky Department of Education
Dr. Jason Glass, Commissioner Designee, Kentucky Department of Education
Jennifer Fraker, KBE Executive Director