

## KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

**Topic:** Amendment to 702 KAR 7:065, Designation of Agent to Manage Middle and High School Interscholastic Athletics

**Date:** June 2023

**Action Requested:**  Review  Action/Consent  Action/Discussion

**Held In:**  Full Board  Curriculum, Instruction and Assessment  Operations

### SUMMARY OF ISSUE BEFORE THE BOARD:

To amend 702 KAR 7:065, Designation of Agent to Manage Middle and High School Interscholastic Athletics, to incorporate revisions recommended by the Kentucky High School Athletic Association (KHSAA) Board of Control, including amendments to the KHSAA Bylaws.

### COMMISSIONER'S RECOMMENDATION:

The Commissioner recommends approval of the amendments to 702 KAR 7:065 as set forth in the attached regulation, including amendments to documents incorporated by reference.

### APPLICABLE STATUTE OR REGULATION:

KRS 156.070; 702 KAR 7:065

### 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 KHSAA conduct a biennial review of its Constitution and Bylaws at both the high school and middle school level. This requirement was fulfilled during the 2021-2022 and 2022-2023 school years by the KHSAA Board of Control for the high school rules, and by the meetings of the KHSAA Middle School Advisory Committee for the rules at that level.

#### *Summary of Issue:*

The proposed change to the high school regulations that received the requisite 2/3 vote reflect items that were presented to the membership of the KHSAA at its September 22, 2022, Annual Meeting of high schools. Items considered at this Annual Meeting were submitted by the Board of Control as part of its annual Constitution and Bylaws review. They were further reviewed by the Board of Control before the development of the final agenda. At the 2022 annual meeting of the member high schools, 202 high schools were present; therefore, the proposal required 135 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 the 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 more than a century old organization.

In accordance with these procedures, the amendments to the KHSAA Bylaws for its high school members that are listed below were approved by the listed vote. 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 upcoming school year unless otherwise noted, and received the requisite vote of the Board of Control.

Proposal 2022-01 was proposed by the KHSAA Board of Control as part of the required annual review of all KHSAA Bylaws (702 KAR 7:065). The purpose of the proposal was to amend Bylaw 9 to remove the restrictions on basketball players who have previously both been in grade 9 and then subsequently entered a contest for a high school. The proposal received 179 Yes votes, 8 No votes, with 15 abstaining. This proposal was adopted by the Board of Control.

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

Substantive changes to the KHSAA Bylaws were made to incorporate recent action taken by Kentucky General Assembly during the 2022 and 2023 Regular Sessions.

SB145 (Acts Chapter 93) of the 2023 Regular Session of the Kentucky General Assembly restricts the athletic eligibility of students who transfer enrollment from a district of residence to a nonresident district after they have enrolled in grade nine and participated in varsity athletics at the former school. These new statutory provisions are now reflected in Bylaw 8 (Enrollment / Transfer of Non-Resident Student). The provisions of that legislation revised previous action by HB563 (Acts Chapter 167) of the 2021 Regular Session of the Kentucky General Assembly which went into effect July 1, 2022.

SB 6 (Acts Chapter 12) of the 2022 Regular Session of the Kentucky General Assembly restricts a school from granting a student athlete the right to use the school's intellectual property including trademarks, uniforms, and copyrights in the student's earning of compensation through name, image, and likeness ("NIL") activities. These new statutory provisions are reflected in Bylaws 10 (Amateur/Awards) and 16 (Recruitment).

SB 83 (Acts Chapter 198) of the 2022 Regular Session of the Kentucky General Assembly requires schools that participate in interscholastic athletics to designate all athletic teams, activities, and sports based upon the biological sex of the students eligible to participate and prohibit male students from participating in athletic teams, activities, and sports designated as "girls". These statutory provisions are reflected in Bylaw 15 (Requirement for Gender Based Competition).

Several changes in the KHSAA Board of Control and Officials Division Policies were also considered by the Board and Staff and have been updated accordingly. These changes include:

- Including A5 and B1 schools as potential member schools;
- Clarifying the failure to attend required meetings, file required reports, complete the

annual membership application, and damaging championship venues may result in fines for the member school;

- Amending the sanctioning threshold to start/maintain a sport from 50 schools/30 schools to 15%/10% of the total membership accordingly;
- Updating Sports Medicine Policies to recognize new legislation passed as a part of HB331 of the 2023 Regular Session of the Kentucky General Assembly related to AEDs and EAPs;
- Further updating Sports Medicine Policies to recognize new technology related to the detection of lightning;
- Update the Transgender/Cross Gender policies to reflect recent legislation passed in SB83 of the 2022 Regular Session of the Kentucky General Assembly;
- Recognize the addition of Lacrosse and Boys' Volleyball;
- Update policies to recognize recent legislation passed related to Name, Image, and Likeness ("NIL") in SB6 of the 2022 Regular Session of the Kentucky General Assembly;
- Removal of many of the COVID-19 policies, while also clarifying the procedures to follow in the event of a declared emergency;
- Amending the Prime Date requirement to recognize boys/girls doubleheaders as a Prime Date;
- Clarification of how the bylaws apply to sport activities;
- Elimination of Regional Investigative Committees;
- Clarification of Disqualification/Ejections related to coaches, non-players, and spectators;
- Amending post season media policies to enhance the student media experience;
- Clarification in the Alignment policy that travel and geographic concerns are sole basis of consideration to allow a school to "play up";
- Updating the Board of Control and Corporate ticket distribution policy;
- Relocating the Weight Management Policy to the Wrestling Competition Rules;
- Updating Officials Registration procedures to recognize the use of arbitersports.com platform, junior officials, new background checks, rules clinics, and the access to NFHS Network;
- Updating Conflict of Interest policies related to officials to include any school that the official has had a child graduate from in the previous 10 years;
- Recognition of the continued growth of the KHSAA Hall of Fame;
- The policy on severe weather/lightning has been amended to recognize recent technology developments in this area; and
- Further technical revisions to reformat or correct drafting errors.

Finally, the KHSAA is also designated to manage interscholastic athletics at the middle school level. The Middle School Advisory Committee is scheduled to meet throughout the year following the suspension of meetings during the COVID-19 emergency. The focus of these meetings continues to be the 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.

*Budget Impact:*

None.

#### **GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:**

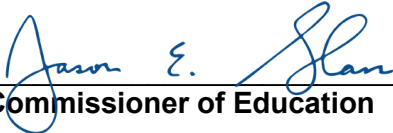
KHSAA Board of Control

KHSAA Annual Meeting Delegate Assembly  
Local Superintendents Advisory Council  
All consulted groups have concurred and approved the revisions.

**CONTACT PERSON(S):**

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**Commissioner of Education**

Category: <input type="checkbox"/> Educator Workforce Diversity <input type="checkbox"/> Portrait of a Graduate Partnerships <input type="checkbox"/> Racial Equity Commitment <input type="checkbox"/> Student-Centered Accountability System <input type="checkbox"/> Early Childhood <input checked="" type="checkbox"/> District Support
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