

**BOARD OF CONTROL
SPECIAL CALLED
MEETING**

**MARCH 6, 2006
KHSAA OFFICE
LEXINGTON, KY**

AGENDA MATERIAL

- ✓ Mike Fields - Lex. Herald-Leader
- ✓ Bill Hill - SAYRIS
- ✓ DENNIS DAUGHERTY - St Henry H.S.
- ✓ LEISA SPEER - ARCHDIOCESE OF LOUISVILLE
- ✓ Pat Carney - Paducah, St. Mary
- ✓ Jodell Gray - Portland Christian School
- ✓ Harold STABLES - OBERNSBORO Catholic HS.
- ✓ Rob Mullen - TRINITY (Louisville)
- ✓ Wilton Scott - Summit Inlyer



GESS MATTINGLY & ATCHISON, P.S.C.

A TRADITION of EXCELLENCE

March 3, 2006

VIA FACSIMILE: 293-5999

Members
Board of Control
Kentucky High School
Athletic Association

Re: Report on KHSAA Public/Non-Public School Second Task Force Meeting

By letter dated February 2, 2006, the Kentucky Board of Education ("KBE") directed the Kentucky High School Athletic Association ("KHSAA") to "reconvene the Task Force immediately for the purpose of coming to consensus on solutions for Proposal 3 and Proposal 20 issues that will go to the KHSAA Board of Control for consideration prior to the April 11-12 KBE meeting." Additionally, KBE's Chair, Keith Travis, stated that "[a]ll parties involved in the Task Force should be charged with the responsibility of submitting alternative solutions prior to any convening of the group and with actively participating in the discussions." Finally, Mr. Travis directed that "[t]he Board of Control and then the KHSAA membership, via a referendum, should act on the recommendations from the Task Force before the KHSAA meets with KBE at the April 11-12 meeting" when "[a] final review of these matters will be made by the KBE at the April meeting."

KHSAA Commissioner Brigid DeVries reconvened the Task Force to carry out the KBE's directive. I was again engaged to act as a facilitator at the meeting. On February 22, 2006, I facilitated the second meeting of the Task Force at the KHSAA's Offices in Lexington, Kentucky. The meeting was open to the public. This is my report of the meeting.

Rather than divide the Task Force into two groups, i.e., representative of the public schools and representatives of the non-public schools, all members of the Task Force met as one large group, although on a few occasions each group caucused separately to discuss an issue. There was open and frank discussion of the issues before the Task Force.

I am pleased to report that the Task Force reached consensus on the following proposals: (1) "Revised Financial Aid Proposal," attached hereto as Exhibit 1, and (2) "Below Grade Nine Proposal," attached hereto as Exhibit 2. Regrettably, complete consensus was not reached on the "Territory Proposal," but I am able to report that considerable agreement was reached on many parts of the Territory Proposal, e.g., the

Natalie S. Wilam
C. Timothy Cone
Joseph H. Miller
William W. Allen
Guy M. Graves
Walter R. Morris, Jr.
John T. Hamilton
Linda W. Covington
Jeffrey R. Walker
Elizabeth S. Hughes
Stephen B. Stolz
William A. Bausch
Lori B. Shelburne
Samuel G. Carver
Huston B. Combs
Nora A. Rollman

William B. Gess
(1986-1988)
John G. Atchison, Jr.
(1924-2002)

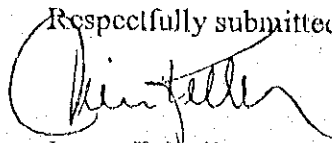
Special Counsel:
Eric E. Keller

Of Counsel:
Jack E. Mattingly
William R. Hilliard, Jr.
Charles G. Wylie

period of ineligibility that the Task Force was unable to reach a consensus on at the January meeting of the Task Force. The Territory Proposal preferred by the public school members is titled, "Territory Proposal - Affiliated Schools - 3/1/2006" and attached hereto as Exhibit 3, and the Territory Proposal preferred by the nonpublic school members is titled "Territory Proposal - 20 Mile Rule - 3/1/2006" and attached hereto as Exhibit 4. In my opinion, the Board of Control or the KHSAA membership, via a referendum, will have to resolve this remaining issue since it does not appear likely that the two groups will further compromise their positions on the Territory Proposal.

Please advise if I can be of service in the future in facilitating any meeting attempting to resolve any other matter.

Respectfully submitted,



James E. Keller

Enclosures

cc: Brigid L. DeVries, KHSAA Commissioner
Gene Wilhoit, Commissioner of Education
Michael Dalley
Kevin Noland
Phillip D. Scott
Theodore R. Martin



KENTUCKY LEGISLATURE

HB138

WWW Version

The hyperlink to a bill draft that precedes a summary contains the most recent version (Introduced/GA/Enacted) of the bill. If the session has ended, the hyperlink contains the latest version of the bill at the time of sine die adjournment. Note that the summary pertains to the bill as introduced, which is often different from the most recent version.

Includes opposite chamber sponsors where requested by primary sponsors of substantially similar bills in both chambers and jointly approved by the Committee on Committees of both chambers. Opposite chamber sponsors are represented in italics.

HB 138 (BR 243) - D. Pasley, H. Moberly Jr, M. Weaver

AN ACT relating to school attendance.

Amend KRS 159.150 establish that the attendance record of a student is cumulative during a school year; require that when a student transfers to a new school, his or her attendance records from the previous school shall be used in the determination of the student's status as a truant; amend KRS 159.170 to require a school district to notify and provide student information to the Kentucky Department of Education when a student withdraws from or enrolls in a school in its district; require the Kentucky Department of Education to forward information including attendance records to a school district receiving a transfer student; require the Kentucky Board of Education to promulgate administrative regulations to establish the information to be provided and the manner of its transmission.

HB 138 - AMENDMENTS

HCS - Retain original provisions, except delete the requirement that the Kentucky Board of Education promulgate administrative regulations.

HFA (1, C. Meade) - Amend KRS 159.150 to remove being tardy without valid excuse three or more times from the definition of a truant.

HFA (2, C. Meade) - Amend KRS 159.150 to remove being tardy without valid excuse three or more times from the definition of truant; define a student who is habitually tardy as a truant; allow a local board of education to adopt a policy that defines tardiness and habitual tardiness and establish interventions for each when they are without valid excuse.

SCA (1, K. Winters) - Permit a local district to define habitual tardiness and establish tiered interventions for students who are tardy without valid excuse.

SCA (2, D. Williams) - Amend KRS 156.070 to permit a student to play a sport in a contiguous district if the sport is not offered in his or her district.

SCA (3/Title, D. Williams) - Make title amendment.

(Prefiled by the sponsor(s).)

Jan 3-introduced in House; to Education (H)
Jan 23-posted in committee
Jan 25-reported favorably, 1st reading, to Calendar with Committee Substitute
Jan 26-2nd reading, to Rules; floor amendment (1) filed to Committee Substitute
Jan 30-posted for passage in the Regular Orders of the Day for Tuesday, January
31, 2006
Feb 9-floor amendment (2) filed to Committee Substitute
Feb 10-3rd reading, passed 90-0 with Committee Substitute, floor amendment (2)
Feb 13-received in Senate
Feb 15-to Education (S)
Mar 2-reported favorably, 1st reading, to Calendar with committee amendments (1)
(2) and (3-title)
Mar 3-2nd reading, to Rules

Vote History

[Kentucky Legislature Home Page](#) | [Record Front Page](#)

Bylaw 7. Financial Aid (new)**Sec. 1) Definitions as used in this bylaw**

- a) Tuition– means the amount of necessary fees, costs and other charges to attend a member school as determined by that member school's published scale of charges. The tuition at the member school shall be the same for all students in like situation irrespective of participation in athletics and shall not include room and board expenses.
- b) Classification of schools - means the classification of the member schools as defined by the Kentucky Department of Education. The six current classifications are: (1) A1- District operated general program or multi-program schools; (2) D1 – Kentucky Department of Education operated schools (Blind and Deaf); (3) F1- Federal Dependent Schools; (4) J1- Roman Catholic schools; (5) M1- Other Religious schools and (6) R1-Private non-church related schools.
- c) Public schools– means the member schools receiving funding from the Kentucky Department of Education or comparable federal sources. Public schools shall include the member schools which are classified as A1, D1 or F1.
- d) Non-Public Schools – means the member schools not receiving funding from the Kentucky Department of Education or comparable federal sources. Those schools shall include the member school which are classified as J1, M1 and R1.
- e) Non-Public School Zone – means the zones to which each non-public school is assigned. The four current non-public school zones are Covington, Lexington, Louisville and Owensboro. These non-public school zones shall be comprised of the counties contained in the geographic alignment related to the archdiocese of the same name.
- f) Non-Public School Governing Board– means the entity having oversight over the member school. For purposes of this bylaw, the "governing board" of a non-public school shall be determined by the school type. For J1 schools, the "governing board" shall be the archdiocese and geographic references shall be the counties included in the non-public school zone of the school. For the R1 and M1 schools, the "governing board" shall be as defined by the governance structure of the institution.
- g) Immediate Family– means the student and the student's father, mother, brother, sister, husband, wife, aunt, uncle, grandparent or step-parent.
- h) Financial Aid– means any and all aid given to a student which reduces tuition, including, but not limited to, awards, reductions and waivers.
- i) Need-Based Aid– means the amount of financial aid that an independent financial analysis of the student's financial aid application demonstrates that the student needs to pay tuition to attend a member school, provided such analysis is performed by an agency approved by the Board of Control.
- j) Merit aid– means financial aid awards given by the member school based solely on academic/test performance which are available to the entire student body through a competitive application process and that the selection of the recipient(s) is based on published objective criteria which may not include athletic achievement or ability.
- k) Merit aid Test – means the academic assessment or placement test approved by the Board of Control prior to its administration.
- l) Merit aid Test Date – means be the single date submitted by each member school for the administration of the Merit aid Test.
- m) Financial Records– means the records related to any financial aid analysis of the student including but not limited to, immediate family's records of the method and sources for all tuition payments.

Sec. 2) Non-Permissible Financial Aid

A student is ineligible to participate in interscholastic athletics if the student:

- i) Receives financial aid beyond the limits defined in Section 1(i) except for Merit aid allowed under this bylaw, and waivers of tuition for non-domestic students ruled eligible under Bylaw 6, Section 2 (Foreign Exchange);
- ii) Receives Merit aid based on an unapproved merit aid test;
- iii) Receives Merit aid based on a Merit aid test not administered on the Merit aid test date;
- iv) Receives Merit aid greater than twenty-five percent (25%) of the tuition at the member school;
- v) Receives Merit aid from a member school that has already given Merit aid to the greater of five (5) percent of its student body or five students;

REVISED FINANCIAL AID PROPOSAL - March 6, 2006

- vi) Receives financial aid that is not available to the entire student body by published objective criteria;
- vii) Receives financial aid from a funding source that is not under the custody and control of the member school and/or its governing board;
- viii) Accepts any financial aid other than the permitted need-based aid or merit aid detailed above from a member school, any other entity governed by that member school's governing board or any representatives of the member school;
- ix) Accepts any financial aid that is indirectly or directly related to athletic achievement or ability;
- x) Has any part of the financial obligation to the member school paid directly or indirectly by individuals outside of the student's immediate family;
- xi) Does not agree to complete disclosure of financial records as defined in this bylaw upon request of the KHSAA and its officials, employees and agents.

Sec. 3) Financial Aid Restrictions and Reporting

All member schools shall annually report detailed financial aid information to the KHSAA including, but not limited to:

- i) Tuition schedule and/or other fees applicable to the student body at the member school;
- ii) The merit aid test being utilized by the school and the date of test administration; and
- iii) A detailed listing of the amount of financial aid awarded by the member school including but not limited to:
 - 1) The need-based aid each student-athlete is eligible to receive based on the report of the approved independent agency;
 - 2) The merit aid given to each student and the qualifying score used to make the determination;
 - 3) The amount of need-based aid awarded to each student; and
 - 4) A specific listing of the sports in which each student participates.

NOTE:

The parenthetical Case Situation would remain which identifies the six approved agencies, which would not be codified into the rules to allow for review by the Board, but would be printed in the interpretations.

CS - Which independent agencies have been approved by the Board of Control to perform the need-based aid analysis?

The Board of Control has approved the following agencies to perform the need-based aid analysis - Financial Aid Independent Review (Rosemount, MN), Family Financial Needs Assessment (Hernando, MS), Private School Aid Service (Lakewood, OH), School and Student Service for Financial Aid (Princeton, NJ) Tuition Aid Data Services (St. Paul, MN), and FACTS Grant in Aid Agency (Lincoln, NE).

The use of any unapproved agency renders the student ineligible under Bylaw 7. A member school may petition the Board of Control to approve independent agencies.

CS - What merit aid tests have been approved by the Board of Control to determine the amount of merit aid a student may receive?

The Board of Control has approved the following merit aid tests to determine the amount of merit aid a student may receive - High School Placement Test (Scholastic Testing Service, Inc, Bensenville, IL and Earth City, MO.,

The use of any unapproved merit aid test renders the student ineligible under Bylaw 7. A member school may petition the Board of Control to approve other merit aid tests.

CS - For purposes of Section 2(a)(v), how does the member school determine which students are counted against the limit?

Determinations of which students count against the limit in Section 2(a)(v) are based chronologically on the date of the award of merit aid.

Effective Date and Implementation Issues: Could be effective immediately. Reporting requirements could be implemented effective with 2006-2007.

Rationale – This proposal is designed to lessen the “Open Season” on rising 9th graders. In many areas, when students have played varsity while being enrolled below grade nine and have had some success, there is nearly a college level “recruiting” season on them upon 8th grade graduation. This change would clarify that if they play at any level at a KHSAA member school while enrolled below grade nine, they will enroll in that member school or lose a year of ineligibility. This returns the basic premise of the Transfer Rule to its pre 1982 form when the rule applied anytime a student had represented a member school, but is a bit more stringent in that it applies to all levels of play.

Bylaw 6. Transfer Rule

Sec. 1) Domestic Students

Any student who has been enrolled in grades nine (9) through twelve (12) and has participated in any varsity game in any sport at any school following enrollment in grade nine (9) who transfers schools shall be ineligible for interscholastic athletics at any level in any sport for one year from the date of enrollment in the new school. Any student who has participated in a contest at any level in any sport representing a member school while being enrolled below grade nine (9) and who then enrolls at a different member school (grade nine or above) shall be ineligible for interscholastic athletics at any level in any sport for the first year of enrollment, and ineligible to participate in interscholastic athletics at the varsity level in any sport during the second year of enrollment at a member school.

The Commissioner has discretion [but is not required] to waive the period of ineligibility set forth above if one of the following exceptions has been met. Determinations of whether a student shall be granted a waiver pursuant to this rule shall be based on the circumstances existing as of the date of enrollment at the new school. The KHSAA shall not recognize as grounds for a waiver of the period of ineligibility an argument that the educational needs of the transferring students would be better served through a transfer.

f) **NON ATHLETIC PARTICIPATION FOR AN ENTIRE SCHOOL YEAR** - In the event that the transferring student did not participate in an interscholastic contest at any level in any sport while enrolled in grades nine through twelve at the sending school during the entire academic school year immediately preceding the change in schools.

THIS PROPOSAL MAKES NO OTHER CHANGES IN THE DOCUMENTED EXCEPTIONS FOR A WAIVER OF THE PERIOD OF INELIGIBILITY (LETTERED a-e and g-h in the 2005-2006 Handbook).

The minor change in (f) is necessary due to potential conflict with the newly adopted provision.

Effective Date and Implementation Issues: Could be effective immediately. Would require minor revision to participation list report to ensure compliance monitoring. Would have to address the issue of schools arbitrarily inserting students into contests to “lock them in” to particular schools. In addition, would have to work with all school constituencies to ensure education or parents to this rule as it could impact decisions to allow them to play on a high school team while enrolled below grade nine.

Bylaw 4. Enrollment

Sec. 1) Athletic Territory and Feeder Pattern Requirement

- a) Purpose of this Bylaw - this Bylaw establishes an athletic territory and feeder pattern for each member school of the KHSAA.
- b) Definitions for this Bylaw
 - i) Classification of Schools – means the classification of the member schools as defined by the Kentucky Department of Education. The six current classifications are: [1] A1 - District operated general program or multi-program schools; [2] D1 – Kentucky Department of Education operated schools [Blind and Deaf]; [3] F1 - Federal Dependent Schools; [4] J1 - Roman Catholic schools; [5] M1 - Other Religious schools; and [6] R1 -Private non-church related schools.
 - ii) Public Schools – means the schools receiving funding from the Kentucky Department of Education or comparable federal sources. Public schools shall include the members schools which are classified as A1, D1 or F1.
 - iii) Non-Public Schools – means the schools not receiving funding from the Kentucky Department of Education or comparable federal sources. Non-public schools shall include the member schools which are classified as J1, M1 and R1.
 - iv) Bonafide Residence - means the primary residence of the student and his/her custodial parents.
 - v) Non-Public School Zone – means the zones assigned to each non-public school. The four current non-public school zones are Covington, Lexington, Louisville and Owensboro. These non-public school zones shall include the counties contained in the geographic alignment related to the archdiocese of the same name.
 - vi) Public School Governing Board – means the entity having oversight over the public member school. For purposes of this Bylaw, the “governing board” of a public school shall be the local board of education.
 - vii) Non-Public School Governing Board – means the entity having oversight over the non-public member school. For purposes of this Bylaw, the “governing board” of a non-public school shall be determined by the school type. For J1 schools, the “governing board” shall be the archdiocese and geographic references shall be the counties included in the non-public school zone of the school. For R1 and M1 schools, the “governing board” shall be as defined by the governance structure of the institution.
 - viii) Affiliated School – means the junior high/middle school that is governed by the same governing board as the member school and that enrolls students in any format to include grades seven (7) and/or eight (8).
 - ix) Terminal Public School – means a public school that is located in Kentucky which terminates after grade seven (7) or eight (8) and is neither an affiliated school to any member school nor meets the requirements of a non-resident student agreement per KRS 157.350(4).
 - x) Terminal Non-Public School – means either a non-public school that is located in Kentucky which terminates after grade seven (7) or eight (8) and is not an affiliated school to any member school or a non-public school that is located in Kentucky which terminates after grade seven (7) or eight (8) and is not an affiliated school to any member school within the same county.
 - xi) Public School Feeder Pattern – means all affiliated public school(s) for a public member school as defined by the public school governing board. The public school governing board may include any or all of the public affiliated schools under its jurisdiction in the public school feeder pattern and may expand the public school feeder pattern to include any or all of the public affiliated schools within the area subject to an approved non-resident student agreement per KRS 157.350(4) or other students attending the public school within the approved policies of the Kentucky Department of Education.
 - xii) Non-Public School Feeder Pattern – means all affiliated non-public schools for a non-public member school. For non-public schools with an average enrollment of more than 300 students in grades nine (9) through twelve (12) during the previous two years, the non-public school feeder pattern shall be the non-public affiliated schools under the auspices of the non-public school governing board and the students who have attended those affiliated schools in both grades seven (7) and eight (8). For non-public schools with an average enrollment of 300 or less students in grades nine through twelve during the previous two years, the non-public school feeder pattern shall be the residences within a 20-mile radius drawn from main entrance to the non-public school and any affiliated school outside of this radius.
 - xiii) Public Feeder School – means any affiliated public school within the public school feeder pattern for a particular public member school.

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TERRITORY PROPOSAL – AFFILIATED SCHOOLS- 3/6/06

- xiv) Non-Public Feeder School – means any affiliated non-public school within the non-public school feeder pattern for a particular non-public member school.
- xv) Public School Athletic Territory – means any and all residences located within the district boundaries for the public school as defined by the public school governing board or that meet the requirements of a non-resident student agreement per KRS 157.350(4).
- xvi) Non-Public School Athletic Territory – means any and all residences located within the boundaries of the non-public school feeder pattern, and the students enrolled in the member school or a defined feeder school within the properly established and reported non-public school feeder pattern.
- c) Feeder Pattern Establishment
- i) Each member school shall have a feeder pattern defined by this Bylaw. This feeder pattern, including a list of applicable affiliated feeder schools, shall be reported to the KHSAA on an annual basis in the manner requested by the Commissioner.
- d) Eligibility
- i) Below Grade Nine (9) Students – a student below grade nine (9) is eligible to participate in interscholastic athletics at a member school if:
- 1) the student's bonafide residence is within the member school's athletic territory;
- 2) the student attends the feeder school for the member school; and
- 3) the student's participation is not in conflict with other restrictions.
- ii) Students Grades Nine (9) Through Twelve (12) – a student enrolled in any grade nine (9) through twelve (12) at a member school is ineligible to participate in interscholastic athletics at any level in any sport for one year from date of enrollment at the member school and ineligible to participate in interscholastic athletics at the varsity level in any sport during the second year of enrollment at the member school if:
- 1) the student's bonafide residence is outside of the member school's athletic territory; or
- 2) the student did not attend grades seven (7) and eight (8) at a feeder school for the member school.
- iii) Exceptions
- 1) Terminal Schools – provided the student is eligible under all other Bylaws, a student who attended and is promoted from grade eight (8) by a terminal public school or terminal non-public school is eligible to participate in interscholastic athletics at any public school located within the county of the student's bonafide residence or any non-public school located within the non-public school zone of the student's bonafide residence.
- 2) Promotion from Affiliated School - provided the student is eligible under all other Bylaws, a student who attended and is promoted from grade eight (8) by an affiliated feeder school is eligible to participate in interscholastic athletics at a member school irrespective of residence location.
- 3) The Commissioner has discretion (but is not required) to waive the period of ineligibility contained in this Bylaw under the exceptions contained in Bylaw 6, Section 1 but subject to the limitations contained therein.
- 4) D1 and F1 schools - this Bylaw shall not apply to students enrolled at D1 or F1 schools.
- iv) Member School Petition Process – a member school may petition the Board of Control to expand/reduce/define/clarify the member school's feeder pattern and/or athletic territory.
- v) Compliance Responsibility – each member school is responsible for verifying that all student-athletes at the member school are in compliance with this Bylaw and shall maintain supporting documentation subject to disclosure to the KHSAA upon request.

REMAINDER OF BYLAW 4 REMAINS AS PRINTED WITH SECTIONS RENUMBERED

NOTE:

The parenthetical Case Situation would remain which identifies the six approved agencies, which would not be codified into the rules to allow for review by the Board, but would be printed in the interpretations.

CS – What is the governing Board of a non-public school?

For the purposes of Bylaw 4, the governing board is the Diocesan Superintendent's office for any member schools who are classified as J1 by the Kentucky Department of Education, and the governing board designated by the member school for the schools who are classified as R1 or M1.

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TERRITORY PROPOSAL - AFFILIATED SCHOOLS- 3/6/06

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Effective Date and Implementation Issues: Could be effective immediately with exception of currently participating students. Additional option of implementation after a four year period.

Bylaw 4. Enrollment**Sec. 1) Athletic Territory and Feeder Pattern Requirement**

- a) Purpose of this Bylaw - this Bylaw establishes an athletic territory and feeder pattern for each member school of the KHSAA.
- b) Definitions for this Bylaw
 - i) Classification of Schools - means the classification of the member schools as defined by the Kentucky Department of Education. The six current classifications are: [1] A1 - District operated general program or multi-program schools; [2] D1 - Kentucky Department of Education operated schools (Blind and Deaf); [3] F1 - Federal Dependent Schools; [4] J1 - Roman Catholic schools; [5] M1 - Other Religious schools; and [6] R1 -Private non-church related schools.
 - ii) Public Schools - means the schools receiving funding from the Kentucky Department of Education or comparable federal sources. Public schools shall include the members schools which are classified as A1, D1 or F1.
 - iii) Non-Public Schools - means the schools not receiving funding from the Kentucky Department of Education or comparable federal sources. Non-public schools shall include the member schools which are classified as J1, M1 and R1.
 - iv) Bonafide Residence - means the primary residence of the student and his/her custodial parents.
 - v) Non-Public School Zone - means the zones assigned to each non-public school. The four current non-public school zones are Covington, Lexington, Louisville and Owensboro. These non-public school zones shall include the counties contained in the geographic alignment related to the archdiocese of the same name.
 - vi) Public School Governing Board - means the entity having oversight over the public member school. For purposes of this Bylaw, the "governing board" of a public school shall be the local board of education.
 - vii) Non-Public School Governing Board - means the entity having oversight over the non-public member school. For purposes of this Bylaw, the "governing board" of a non-public school shall be determined by the school type. For J1 schools, the "governing board" shall be the archdiocese and geographic references shall be the counties included in the non-public school zone of the school. For R1 and M1 schools, the "governing board" shall be as defined by the governance structure of the institution.
 - viii) Affiliated School - means the junior high/middle school that is governed by the same governing board as the member school and that enrolls students in any format to include grades seven [7] and/or eight [8].
 - ix) Terminal Public School - means a public school that is located in Kentucky which terminates after grade seven [7] or eight [8] and is neither an affiliated school to any member school nor meets the requirements of a non-resident student agreement per KRS 157.350[4].
 - x) Terminal Non-Public School - means either a non-public school that is located in Kentucky which terminates after grade seven [7] or eight [8] and is not an affiliated school to any member school or a non-public school that is located in Kentucky which terminates after grade seven [7] or eight [8] and is not an affiliated school to any member school within the same county.
 - xi) Public School Feeder Pattern - means all affiliated public school[s] for a public member school as defined by the public school governing board. The public school governing board may include any or all of the public affiliated schools under its jurisdiction in the public school feeder pattern and may expand the public school feeder pattern to include any or all of the public affiliated schools within the area subject to an approved non-resident student agreement per KRS 157.350[4] or other students attending the public school within the approved policies of the Kentucky Department of Education.
 - xii) Non-Public School Feeder Pattern - means all affiliated non-public schools for a non-public member school. The non-public school feeder pattern shall be the residences within a 20-mile radius drawn from main entrance to the non-public school and any affiliated school outside of this radius.
 - xiii) Public Feeder School - means any affiliated public school within the public school feeder pattern for a particular public member school.
 - xiv) Non-Public Feeder School - means any affiliated non-public school within the non-public school feeder pattern for a particular non-public member school.
 - xv) Public School Athletic Territory - means any and all residences located within the district boundaries for the public school as defined by the public school governing board or that meet the requirements of a non-resident student agreement per KRS 157.350[4].

xvi) Non-Public School Athletic Territory – means any and all residences located within the boundaries of the non-public school feeder pattern, and the students enrolled in the member school or a defined feeder school within the properly established and reported non-public school feeder pattern.

c) Feeder Pattern Establishment

i) Each member school shall have a feeder pattern defined by this Bylaw. This feeder pattern, including a list of applicable affiliated feeder schools, shall be reported to the KHSAA on an annual basis in the manner requested by the Commissioner.

d) Eligibility

i) Below Grade Nine (9) Students – a student below grade nine (9) is eligible to participate in interscholastic athletics at a member school if:

1) the student's bonafide residence is within the member school's athletic territory;

2) the student attends the feeder school for the member school; and

3) the student's participation is not in conflict with other restrictions.

ii) Students Grades Nine (9) Through Twelve (12) – a student enrolled in any grade nine (9) through twelve (12) at a member school is ineligible to participate in interscholastic athletics at any level in any sport for one year from date of enrollment at the member school and ineligible to participate in interscholastic athletics at the varsity level in any sport during the second year of enrollment at the member school if the student's bonafide residence is outside of the member school's athletic territory.

iii) Exceptions

1) Terminal Schools – provided the student is eligible under all other Bylaws, a student who attended and is promoted from grade eight (8) by a terminal public school or terminal non-public school is eligible to participate in interscholastic athletics at any public school located within the county of the student's bonafide residence or any non-public school located within the non-public school zone of the student's bonafide residence.

2) Promotion from Affiliated School– provided the student is eligible under all other Bylaws, a student who attended and is promoted from grade eight (8) by an affiliated feeder school is eligible to participate in interscholastic athletics at a member school irrespective of residence location.

3) The Commissioner has discretion (but is not required) to waive the period of ineligibility contained in this Bylaw under the exceptions contained in Bylaw 6, Section 1 but subject to the limitations contained therein.

4) D1 and F1 schools - this Bylaw shall not apply to students enrolled at D1 or F1 schools.

iv) Member School Petition Process – a member school may petition the Board of Control to expand/reduce/define/clarify the member school's feeder pattern and/or athletic territory.

v) Compliance Responsibility – each member school is responsible for verifying that all student-athletes at the member school are in compliance with this Bylaw and shall maintain supporting documentation subject to disclosure to the KHSAA upon request.

REMAINDER OF BYLAW 4 REMAINS AS PRINTED WITH SECTIONS RENUMBERED

NOTE:

The parenthetical Case Situation would remain which identifies the six approved agencies, which would not be codified into the rules to allow for review by the Board, but would be printed in the interpretations.

CS – What is the governing Board of a non-public school?

For the purposes of Bylaw 4, the governing board is the Diocesan Superintendent's office for any member schools who are classified as J1 by the Kentucky Department of Education, and the governing board designated by the member school for the schools who are classified as R1 or M1.

Effective Date and Implementation Issues: Could be effective immediately with exception of currently participating students. Additional option of implementation after a four year period.

Bylaw 4. Enrollment**Sec. 1) Residence Requirement**

Pupils in grades one [1] through twelve [12] may play on the high school team if such pupils and the custodial family have the family's primary bonafide residence in the Commonwealth of Kentucky and such participation is not in conflict with restrictions contained elsewhere in this or other bylaws.

A bonafide residence is defined as the student and his/her custodial parents residing in a Kentucky school district's defined attendance area.

A student is ineligible to participate in interscholastic athletics at any level [grades 9-12] if the student or his/her parents maintain a permanent residence outside the Commonwealth of Kentucky.

This provision shall not apply to students enrolled at D1 (Kentucky Board of Education managed) or F1 (Federally managed) schools. This provision shall also not apply to students enrolling in a KHSAA member school who have continually attended since initial enrollment in grade seven [7], a school under the same local Board of Education as the KHSAA member school.

REMAINDER OF BYLAW 4 REMAINS AS PRINTED IN 2005-2006 HANDBOOK

Return-Path: <lspeer@archlou.org>
From: Leisa Speer <lspeer@archlou.org>
To: "'jtackett@khsaa.org'" <jtackett@khsaa.org>,
 "'bdevries@khsaa.org'"
 <bdevries@khsaa.org>
Cc: "Ed Schoenbaechler (E-mail)" <elschoen@hallrender.com>
Subject: Proposal Language for 3/6 Board of Control Meeting
Date: Thu, 2 Mar 2006 17:05:00 -0500

Good afternoon! Thanks for sending us the proposal language from the February 22, 2006 Public/Non-Public School Task Force meeting. We have met and spoken with several non-public school representatives in the last week, and here is our content for submission to the Board of Control for its meeting on Monday, March 6.

Territory Proposal--20-Mile Rule

Attached please find the non-public school territory proposal that we want presented to the Board of Control on March 6.

Below Grade Nine Proposal

We strongly believe that the "Below Grade Nine" Proposal should be consistent with the current Transfer Rule, and we advocate that the following changes be incorporated and/or presented to the Board of Control at its March 6 meeting.

- * Line 14 Insert "varsity" before "contest."
- * Line 17 End the sentence after "enrollment," and not impose a second year of "no varsity" athletic participation.

Financial Aid Proposal

Here are the revisions we recommend.

- * Line 30 Change "Merit Aid" to "Merit Award" and Delete "Financial Aid"
- * Line 37 Eliminate the single date requirement for the administration of the merit aid. On February 22, several non-public schools articulated that the academic placement/entrance tests that they administer may be scheduled throughout the year.
- * Lines 62-63 A question. There are community groups that sponsor merit awards/contests (Good Citizenship Essay, Future Farmers, Art/Poster, Engineering Award, etc.) open to all students with pre-determined, objective criteria not related to athletics that may offer nominal cash awards, savings bonds, etc. that may be applied to high school tuition costs. These community groups are beyond the "custody and control" of the schools. If a student wins an essay contest, receives a \$100 savings bond to be applied to high school tuition, is that a violation of this section, and would that student be ineligible to participate in athletics?

Thanks again for all of your help! If you have any questions or need anything else, please let me know. Thanks!

<<nonpublicterritory3-2-06.doc>>

Leisa
Leisa Speer
Superintendent of Schools
Archdiocese of Louisville
1935 Lewiston Drive
Louisville, KY 40216

**NON-PUBLIC SCHOOLS ALTERNATIVE
TERRITORY PROPOSAL
March 2, 2006**

Proposed by

Rationale – This proposal attempts to respond to calls from public school members to “level the playing field” in terms of the available student-athletes for all schools, by establishing a defined athletic territory for all non-public schools above a minimum enrollment.

Bylaw 4. Enrollment

Sec. 1) Athletic Territory Requirement

a) Definitions

- i) Schools not receiving funding from the Kentucky Department of Education or comparable federal sources, for the purposes of this regulation, are defined as “non-public” schools. Those schools shall include the members of the KHSAA who are classified as J1, M1 and R1 by the Kentucky Department of Education.
- ii) Bona fide residence - A “bona fide residence” as used in this regulation is the primary residence of the student and his/her custodial parent[s].

b) Athletic Territory Establishment

- i) The athletic territory for each non-public member school [as defined in this bylaw] that has a two-year average enrollment of 300 or fewer students [doubling actual enrollment for boys-only or girls-only schools] shall be without limitation, unless otherwise defined by the governing board of the school.
- ii) The athletic territory for each non-public member school [as defined in this bylaw] that has a two-year average enrollment of more than 300 students [doubling actual enrollment for boys-only or girls-only schools] is a 20 mile radius from the main entrance to the school. Areas outside Kentucky but within the 20 mile radius shall be considered within the athletic territory. Such territorial restriction shall not apply to those junior high/middle schools under the same governing body as the non-public member school. Such athletic territory may be further restricted [reduced] by the governing board of the school.
- iii) For the purpose of this regulation, if any portion of a U.S. Postal Service Zip Code Area is within the 20 mile radius used to establish the athletic territory, then that entire US Postal Service Zip Code Area shall be included and shall be used to define the outer boundaries of the athletic territory. Areas outside the Commonwealth of Kentucky that are within the 25 mile radius shall be included in the athletic territory for that non-public member school.

c) Residence and Athletic Territory Eligibility

**NON-PUBLIC SCHOOLS ALTERNATIVE
TERRITORY PROPOSAL**

March 2, 2006

A student enrolled in grades nine [9] through twelve [12] at a non-public member school is ineligible to participate in interscholastic athletics at any level in any sport for the first year of enrollment if the student's bona fide residence is outside of the non-public member school's athletic territory, unless:

- i) The student's mother, father, grandmother, grandfather, sister or brother has previously attended the school; or
- ii) The non-public member school is the closest school to the student's bona fide residence that meets the student's religious formation needs, as determined by the student and his/her parents. Such requirements may include, but are not limited to, single-sex schools, specific religious denomination, or specific doctrinal matters.

*REMAINDER OF BYLAW 4 REMAINS AS PRINTED
WITH SECTIONS RENUMBERED*

Comments: The definitions of "non-public school" and "bona fide residence" are those currently contained in KHSAA regulations. Those schools with an average enrollment of 300 or fewer students (doubled for single sex schools) do not have a defined boundary for the purpose of determining athletic eligibility. Due to their smaller size, these schools have demonstrated a limited ability to compete for a state championship, thus making a limited boundary both unnecessary and unreasonably intrusive on their missions and governance.

Larger non-public schools—those with more than 300 students (doubled for single sex schools)—will have a boundary for determining athletic eligibility of 20 miles from the school. The athletic territory also includes any junior high or middle school under the same non-public school governing board, e.g., Catholic diocese, even if located outside the 20 mile radius. Zip Code areas are used in order to establish with certainty the outside limits of the radius. Students who do not live within the defined boundary may attend the nearest appropriate faith-based school and be eligible for athletics. This exception recognizes the constitutionally-protected right of students to attend a faith-based school of their choice, and to be free from governmental entanglements in the exercise of religious-based choices. The other exception is for students who have a family member who attended the non-public school. Permitting such "legacies" to attend a school of special significance to them poses no risk of inappropriate recruitment.

Also, we have proposed a penalty of one year "at any level in any sport" to be consistent with the current transfer penalty.

**NON-PUBLIC SCHOOLS ALTERNATIVE
TERRITORY PROPOSAL
March 2, 2006**

Most importantly, we object to any effort to establish a "feeder pattern" that would restrict the ability of parents to choose the best academic environment for their child whether public or non-public. If participation in athletics is a worthy goal—as we believe it is—then we should not place arbitrary restrictions on such participation based merely upon where the child attended middle school. For example, we know that within the Archdiocese of Louisville alone this year 500 Catholic school eighth-graders will choose to enter a local public school while 300 public school students will enter a Catholic high school. Any proposal that would make athletic participation unavailable to these students is inconsistent with our mission and with the appropriate educational formation of all students and is unacceptable. That is why this proposal makes no effort to restrict the athletic eligibility of students entering public schools from non-public schools.

The non-public schools continue to oppose territorial restrictions on participation by student-athletes. Proponents of territorial restrictions have failed to demonstrate any correlation between real or perceived athletic "recruiting" abuses and the absence of geographical boundaries for attendance at non-public schools. In addition, many public schools currently have students in attendance who live more than twenty (20) miles from the school. Most importantly, there are circumstances where remote attendance at faith-based non-public schools is directly attributable to the absence of schools providing equivalent religious and educational opportunities located closer to the student's home, having nothing whatsoever to do with participation in athletics. It continues to be the position of non-public schools that regulation in this area, where the Constitutional rights of parents and students are clearly implicated, and where no legitimate governmental interest has been demonstrated, presents serious concerns.

This proposal also reflects that the "recruiting" concerns being raised by public schools are based on the perception of non-public school athletic dominance. Since the smaller non-public schools must attract students to fulfill their missions (and, in many instances, to survive), and since those schools do not typically compete for athletic championships, they should be excluded from the rule. If certain schools violate the rules, the solution is enforcement, not proscriptive regulation of all small schools. The restrictions on the smaller non-public schools would not in any manner address those concerns, and could only harm those schools and the students and families who attend and support them.

Date: Fri, 03 Mar 2006 15:50:30 -0500
 From: BDEVRIES (Brigid DeVries)
 To: JTACKETT
 Reply-to: bdevries@khsaa.org
 Subject: fw: RE: cc: KHSAA Task Force Proposals
 Learn-Receipt-To: BDEVRIES (Brigid DeVries)
 Disposition-Notification-To: BDEVRIES (Brigid DeVries)
 Re-Sent-By: BDEVRIES (Brigid DeVries)

From: Yet another angle. Add this one into the mix. Could be part of the final answer.

-----Original Message-----

Date: Fri, 3 Mar 2006 13:59:11 -0500
 From: "Silberman, Stu (FCPS)" <SSILBERMAN@Fayette.k12.ky.us>
 To: "bdevries@khsaa.org" <bdevries@khsaa.org>
 Subject: RE: cc: KHSAA Task Force Proposals

Brigid, I like the language, with one exception, in the below 9 portion of this but feel it only would work if it combined with the feeder pattern proposal. The one exception is that this would limit participation at the varsity level only if I am reading this correctly. I think it still needs to be 1 and 1 as per what was agreed to among the task force. To change that now would be a serious problem. I really can't think of a better compromise as long as it stays 1 and 1 and with feeder patterns. I would also want to be sure that KHSAA monitored below 9 participation. Hope this helps.

From: Brigid DeVries [mailto:bdevries@khsaa.org]
 Sent: Thursday, March 02, 2006 9:55 AM
 To: stu@fcps.net
 Subject: fw: cc: KHSAA Task Force Proposals

Hello Stu:

It was great to chat with you last night. Enclosed please find the drafts that we sent to the Task Force members who were designated to review the language from the last committee meeting. Take a look at #3 and suggest some wording that gets at the athletics side of things. Thanks.

-----Original Message-----

Date: Wed, 01 Mar 2006 17:09:54 -0500
 From: JTACKETT (Julian Tackett)
 To: blakehaselton@aol.com, dbrown@warren.k12.ky.us, eschoenbaechler@hallrender.com, jkeller@gmalaw.com, ...
 Cc: BCOPE, BDEVRIES, JTACKETT, KTIPPETT, LBOUCHER, pds@gdm.com, trm@gdm.com
 Reply-to: jtackett@khsaa.org
 Subject: cc: KHSAA Task Force Proposals

O: Dale Brown
 Blake Haselton
 Rob Mullen
 Ed Schoenbaechler
 Wilson Sears
 Leisa Speer

Re: Task Force Proposals

We find attached what we show in our notes as the agreed proposals from the Task Force Meeting. I am sure Justice Keller will have a complete wrap-up in his report to the Board of Control, but we wanted you all to review the wording before we share it with them. As we told you, this is on the "fast track", so if you could review and get comments by close of business tomorrow (Thursday), we can then get them out to our Board of Control on Friday as they prepare for the

about:blank

3/6/2006