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HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 457

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE DELAWARE
INTERSCHOLASTIC ATHLETIC ASSOCIATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 301, Title 14 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 301. Purpose and intent.

4 ~~(a) There is hereby established the Delaware Interscholastic Athletic Association. The Association is intended to~~
5 The purpose of the Delaware Interscholastic Athletic Association is to do all of the following:

6 (1) ~~preserve~~ Preserve and promote the educational significance of interscholastic ~~athletics; athletics.~~

7 (2) ~~ensure~~ Ensure that interscholastic sports ~~remains~~ remain compatible with the educational mission of the
8 member ~~schools; schools.~~

9 (3) ~~provide~~ Provide for fair competition ~~between member schools; among member schools.~~

10 (4) ~~promote~~ Promote sportsmanship and ethical ~~behavior; behavior.~~

11 (5) ~~establish~~ Establish and enforce standards of conduct for athletes, coaches, administrators, ~~officials and~~
12 ~~spectators; officials, and spectators.~~

13 (6) ~~protect~~ Protect the physical well-being of ~~athletes; and athletes.~~

14 (7) ~~promote~~ Promote healthy adolescent lifestyles.

15 ~~(b) To these ends, the~~ The General Assembly intends for the Delaware Interscholastic Athletic Association to work
16 in consultation and cooperation with the Department of Education toward full implementation of this chapter.

17 Section 2. Amend § 302, Title 14 of the Delaware Code by making deletions as shown by strike through and
18 insertions as shown by underline as follows:

19 § 302. Definitions.

20 ~~The following definitions apply to this chapter:~~ As used in this chapter:

21 (1) "Association" means the Delaware Interscholastic Athletic Association.

22 (2) "Board" means the Board of Directors of the Delaware Interscholastic Athletic Association.

(3) "Department" means the Delaware Department of Education.

(4) "Member school" means a full or associate member school of the Association.

(5) "Secretary" means the Secretary of the Delaware Department of Education.

(6) "State Board" means the State Board of Education.

Section 3. Amend § 303, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 303. ~~Rules and regulations~~ Regulations, policies, and procedures.

(a) ~~The Association shall be a unit of the Department of Education. The General Assembly intends for the Association to~~ The Board shall work in consultation and cooperation with the Department of Education in the development of rules and regulations relating to member school interscholastic athletics. ~~The Association and the Department of Education are authorized to~~ The Board and the Department may develop all necessary policies and procedures to implement the provisions of this chapter.

(b) ~~The Association, in consultation and cooperation with the Department, shall develop rules and regulations relating to secondary and middle school interscholastic athletics for schools in the State. Such regulations shall include the regulation of athletic programs of all public schools in the State and such nonpublic schools as may elect to become member or associate member schools as provided in regulations adopted pursuant to this chapter, eligibility of students to participate in interscholastic athletes, nonschool competitions, coaches and sports officials of interscholastic sports in the State, sanctioning of school team competitions, and other matters affecting interscholastic athletics in the State.~~

(1) The Board, in consultation and cooperation with the Department, shall develop regulations relating to secondary and middle school interscholastic athletics. The regulations must include at least all of the following:

a. Regulation of interscholastic athletic programs of each public school at the middle and high school levels.

b. Regulation of the interscholastic athletic program of each nonpublic school that elects to become a member school.

c. The manner in which a nonpublic school may elect to become a member school.

d. Eligibility requirements for a student to participate in interscholastic athletics.

e. Requirements for a student who participates in interscholastic athletics and nonschool competitions.

f. Requirements for a coach or sports official in interscholastic sports.

g. Sanctioning of school team competitions.

h. Other matters affecting interscholastic athletics.

~~(2) However, the Association shall~~ The Board may not approve any rule or a regulation that denies a student the right to simultaneously try out for, practice with, or participate in ~~games~~ a game on a team similar to the school team on which that student is a member, except that such member. The Board may, however, authorize dual membership and participation on a similar team shall be authorized only upon written consent by the parent, custodian or guardian of the student. Such written consent shall student's parent, custodian, or guardian. The written consent must clearly state the authority to participate on a particularly specified team of a designated organization or institution.

(c) ~~The Association~~ Board shall adopt ~~rules and regulations as to which the sports over which they have the~~ Association has jurisdiction.

(d) ~~The Association~~ Board shall adopt ~~rules and regulations applicable to a member schools~~ school regarding the appropriate recognition and management of ~~a student athletes~~ athlete exhibiting signs or symptoms consistent with a concussion. ~~The rules and regulations shall include, but not be limited to, the following requirements which shall be effective no later than the 2012-2013 school year:~~ must require at least all of the following:

(1) Each student athlete and the athlete's parent or guardian shall annually sign and return a concussion information ~~sheet designed by the Association~~ sheet, that the Board designs, prior to the athlete initiating practice or competition.

(2) Each coach shall complete concussion training consistent with a timetable and curriculum ~~established by the Association.~~ that the Board establishes by regulation.

(3) A student athlete shall must be promptly removed from play if the athlete is suspected of sustaining a concussion or exhibits signs or symptoms of concussion until completion of assessment by a qualified healthcare professional or medical clearance.

(4) Written clearance for return to play after a concussion shall must be from a ~~qualified physician (Doctor of Medicine or Doctor of Osteopathic Medicine) only.~~ licensed physician, such as a doctor of medicine or doctor of osteopathic medicine.

(e) ~~The Association~~ Board shall adopt ~~rules and regulations applicable to a member schools~~ school regarding student athletes and awareness, recognition, and management of sudden cardiac ~~arrest which shall be effective no later than the 2015-2016 school year. The Association, either through rules and regulations or policy adopted pursuant thereto, at a minimum, shall:~~ arrest. The Board shall, through either regulation or policy adopted under regulation, do at least all of the following:

(1) Develop and make publicly available a sudden cardiac arrest information sheet that includes information regarding the nature and warning signs of sudden cardiac ~~arrest;~~ arrest.

(2) Prior to participating in practice or competition, require each student athlete and the athlete's parent or guardian sign and return a sudden cardiac arrest information sheet ~~designed by the Association;~~ that the Board designs.

(3) Require each student athlete to complete a heart history questionnaire as part of the preparticipation physical ~~examination;~~ examination.

(4) Hold a current cardiopulmonary resuscitation ("CPR") certification for ~~all~~ each school-appointed head coaches, ~~which includes~~ coach. ~~The certification must include~~ training on the use of an automated external defibrillator; ~~and~~ defibrillator.

(5) Present to ~~coaches and officials~~ each coach and official sudden cardiac arrest awareness information.

Section 4. Amend § 304, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 304. Other duties, ~~powers~~ powers, and authority.

(a) The Board ~~shall have such duties, powers~~ has the duties, powers, and authority ~~as may be necessary for the enforcement of this chapter and for the enforcement of the Department's rules and the regulations adopted under this chapter, which must include~~ chapter. Regulations under this chapter must do at least all of the following:

(1) ~~To establish~~ Establish annual membership fees.

(2) ~~To establish~~ Establish standing committees.

(3) ~~To determine~~ Determine the existence of ~~violations~~ a violation of the ~~rights and~~ regulations by ~~full and~~ associate a member schools school, athlete, coach, administrator, official, or spectator and penalize ~~violations a~~ violation by official reprimand, placement on probation, fine, ~~suspension~~ suspension, or other action as ~~deemed the~~ Board deems appropriate.

(4) ~~To investigate, conduct hearings and take action on alleged violations committed by schools, athletes, coaches, administrators, officials or spectators of the Department's rules and regulations made under this chapter.~~ Investigate, conduct a hearing on, and take action on an alleged violation of a regulation under this chapter that a member school, athlete, coach, administrator, official, or spectator commits.

(5) ~~To interpret~~ Interpret the Department's ~~rules and~~ regulations made ~~pursuant hereto,~~ under this section, and conduct hearings and take action on requests for a waiver of the ~~rules and~~ regulations.

(6) ~~To establish fees~~ Establish the fee for officiating ~~contests and competitions~~ a contest or competition.

Section 5. Amend § 305, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 305. ~~Composition of the Delaware Interscholastic Athletic Association~~ Board composition.

(a) The Board ~~shall consist of 19 voting members and 1 nonvoting member~~ consists of 22 voting members as follows:

(1) ~~Two~~ Three school district superintendents/assistant superintendents, who shall be residents of different counties. ~~superintendents or assistant superintendents. Each of these members must represent a school in a different county.~~

(2) Three representatives of school district boards of education, ~~who shall be residents of different counties.~~ education. Each of these members must represent a school in a different county.

(3) Three public school principals/assistant principals, ~~1 of which shall be from each county.~~ principals or assistant principals. Each of these members must represent a school in a different county.

(4) Two public school athletic directors/coaches, ~~who shall be residents of different counties.~~ directors or coaches. Each of these members must represent a school in a different county.

(5) ~~Two~~ Three nonpublic school representatives, ~~of which 1 shall be a secondary school administrator and 1 shall either be a secondary school athletic director or coach.~~ comprised as follows:

a. One representative must be a secondary school administrator.

b. One representative must be a secondary school athletic director or coach.

c. One representative must be a head of school or its equivalent.

(6) ~~One Department of Education representative, which may be the Secretary of Education or the Secretary's designee, who shall be the nonvoting member.~~ The Secretary or the Secretary's designee.

(7) One physician licensed by the Delaware Board of Medical Practices and knowledgeable about sports medicine.

(8) Six public members, ~~of which 2 shall be from each county. The public members shall be residents of Delaware for a minimum of 3 years and shall be knowledgeable about athletics, but shall not be employees of any member school or have a material financial interest in providing goods or services to the Association or any member school.~~ members, comprised as follows:

a. Each county must be represented by 2 members who reside in that county.

b. One member must be a parent of a current or recent student athlete from a member school.

b. Each member must be a Delaware resident for at least 3 years.

140 c. Each member must be knowledgeable about athletics.

141 d. A member may not be an employee of a member school.

142 e. A member may not have a material financial interest in providing goods or services to the Association
143 or a member school.

144 ~~(b) Voting board members shall be appointed by the Governor with the advice and consent of the Senate. The~~
145 ~~Governor shall take into consideration geographic representation, knowledge of athletics in general, and an interest in high~~
146 ~~school athletics in deciding whether or not to appoint a nominee. The Governor shall appoint each member under~~
147 ~~paragraphs (a)(1), (2), (3), (4), (5), (7) and (8) of this section with the advice and consent of the Senate. The Governor shall~~
148 ~~consider knowledge of athletics in general and interest in interscholastic athletics in deciding whether to appoint a nominee.~~

149 ~~(c)(1) All members of the Board, with the exception of the Secretary of Education or the Secretary's designee,~~
150 ~~who shall be a permanent member, and the licensed physician, who shall serve at the pleasure of the Governor shall be~~
151 ~~appointed for a 3-year term, provided, however, that the Governor may appoint members to terms less than 3 years if~~
152 ~~necessary to ensure that the Board members' terms remain appropriately staggered. The Governor shall strive to assure that,~~
153 ~~the terms of the members of the Board are staggered so that the terms of no more than 7 members shall expire in any given~~
154 ~~year. Board members shall be paid \$100 per meeting. A member appointed under paragraphs (a)(1), (2), (3), (4), (5), and~~
155 ~~(8) of this section serves a 3-year term and may not serve more than 3 terms or a total of 9 years. The terms may be~~
156 ~~consecutive or nonconsecutive.~~

157 (2) The member serving under paragraph (a)(7) of this section has no limit to the number of years per term or
158 number of terms that the member serves, except that the member serves at the Governor's pleasure.

159 ~~(d) A member of the Board shall serve until that member's successor is appointed~~ serves until a replacement is
160 appointed under the same process as the member's appointment. A member appointed to fill a vacancy ~~shall serve~~ serves
161 for the remainder of the term of the member whom that member replaces.

162 ~~(e) A person who has never served on the Board may be appointed to the Board 2 consecutive times, but no such~~
163 ~~person shall thereafter be eligible for 2 consecutive appointments. No person who has been twice appointed to the Board or~~
164 ~~who has served on the Board for 6 years within any 9-year period shall again be appointed to the Board until an interim~~
165 ~~period of at least 1 term has expired since such person last served. [Transferred to § 305(c), Title 14.]~~

166 ~~(f) Any~~ An act or vote by a person an individual appointed in violation ~~of subsection (e)~~ of this section ~~shall be is~~
167 ~~invalid. An amendment or revision of this chapter is not sufficient cause for any~~ an appointment or attempted appointment
168 ~~in violation of subsection (e) of this section unless such~~ the amendment or revision amends this section to permit ~~such an~~
169 the appointment or attempted appointment.

(g) ~~No~~ A school district or nonpublic school ~~shall~~ may not have more than 1 member on the Board.

(h)(1) ~~A member who fails to attend 3 consecutive meetings, unless excused for good cause by a majority of the members of the Board, or fails to attend at least half of all regular business meetings of the Board during any calendar year or who ceases to be a resident of the county in which such member resided when appointed to the Board shall automatically upon such occurrence be deemed to have resigned from office, and a replacement shall be appointed. The Governor may remove a member for gross inefficiency, misfeasance, nonfeasance, or malfeasance in office.~~

(2) The Governor may consider a member who is in neglect of duty in office or ceases to meet a county representation or residency requirement to have resigned and may accept the member's resignation.

a. A member is deemed in neglect of duty if the member is absent from 3 consecutive, regular Board meetings or attends less than 50% of Board meetings in a calendar year, unless a majority of the Board excuses the member good cause.

b. A member ceases to meet a residency requirement if the member is no longer a resident of the county in which the member resided when appointed to the Board and the residency was a requirement of the appointment.

Section 6. Amend § 306, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 306. Quorum and voting.

(a) ~~A majority of the voting members of the Board shall constitute a quorum. A quorum must be present to pass any motion or resolution. No motion, resolution or other act of the Association to adopt or amend the Association's budget or rules and regulations may be adopted without agreement of the majority of the voting members of the Board. All other motions, resolutions or acts of the Association shall require a simple majority of the voting members present in order to pass. The number of Board members who must be present in order to have a quorum and conduct business is the majority of appointed members. A vacancy on the Board is not counted to determine whether quorum is met.~~

(b) An affirmative vote of a majority of Board members is required to approve an act of the Board. A vacancy on the Board is not counted for approval of an act of the Board.

Section 7. Amend § 307, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 307. ~~Chairperson~~ Chair; administration.

(a) The Board shall elect annually from its members a ~~Chairperson, Vice Chairperson and such other officers as it may deem necessary~~ chair, vice-chair, and, as the Board deems necessary, other officers. In the event of a vacancy in 1 of

the officers, ~~a replacement shall be elected at the next Board~~ the Board shall elect a replacement at its next meeting or a meeting called for that purpose.

(b) ~~The Association Board shall select for hire an Executive Director to work in collaboration with the Department of Education Department.~~ The Executive Director ~~shall be~~ is an employee of the Department and ~~receive~~ receives compensation commensurate with the Department salary scale at the education associate level.

(c) ~~There shall be a secretary who is employed by the Department of Education, and who shall serve as staff for the Association and the Department of Education.~~ The Department shall provide an administrative assistant or equivalent to staff the Association. The ~~secretary~~ administrative assistant shall receive compensation commensurate with the Department salary scales and ~~shall~~ be evaluated according to Department policies and procedures. The ~~Secretary of Education shall employ other such employees~~ Department shall provide other staff to the Association as provided in the budget.

(d) The Executive Director ~~shall~~ must become a bona fide resident of the State within 6 months following the Executive Director's date of hire.

Section 8. Amend § 308, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 308. Meetings of the ~~Association Board~~.

(a) ~~The Association Board shall hold regularly scheduled meetings at least once a~~ per month and at ~~such~~ other times as the ~~Chairperson~~ chair deems necessary or at the request of a majority of the Board members.

(b) The Board shall meet at ~~such~~ a place within the State as it may ~~from time to time~~ determine. The place for each meeting ~~shall~~ must be determined prior to giving notice of ~~such~~ the meeting.

(c) ~~Notice of all meetings of the Board shall be given in the manner prescribed by law~~ each Board meeting must meet the requirements of Chapter 100 of Title 29.

(d) ~~Board meetings and hearings shall be open to the public in accordance with the provisions of Each Board meeting and hearing must be open to the public under Chapter 100 of Title 29.~~

(e)(1) ~~Minutes of all meetings shall be recorded~~ each Board meeting must meet the requirements of Chapter 100 of Title 29 and the Association shall maintain copies ~~shall be maintained by the Association at the offices of the Department of Education Department.~~

(2) ~~At any a hearing in which evidence is presented, a record must be made from which a verbatim transcript can be prepared shall be made and the prepared expense of preparing any transcript shall be incurred by the~~ The person requesting the transcript incurs the expense of preparing the transcript.

(f) ~~Board decisions in cases involving requests for waivers will be released in writing within 20 days from the date of hearing.~~ [Transferred to § 312, Title 14.]

Section 9. Amend § 309, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 309. Secretary; powers and duties.

The Association ~~shall be~~ is a unit of the Department ~~of Education.~~ Department. The Secretary ~~of Education~~ shall promulgate ~~any rules and regulations necessary to the establishing of the Association as such a unit~~ establish the Association as a unit of the Department.

Section 10. Amend § 310, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 310. ~~Payment~~ The “Interscholastic Athletic Fund.” payment of expenses; deposits of receipt.

(a) ~~A special fund is hereby created and shall be known as the “Secondary Interscholastic Athletic Fund.”~~ The expenses of the Association ~~shall be~~ are paid from ~~this special fund.~~ Any appropriations made to the Department by the General Assembly for the Association shall be the Interscholastic Athletic Fund, a special fund created to fund this chapter. An appropriation that the General Assembly makes to the Department for the Association must be allocated to this fund. This fund is interest bearing.

(b) The Association ~~shall be authorized to~~ may receive state appropriations, federal moneys, membership dues, tournament revenues, fees, fines, official dues, merchandising and licensing revenue, ~~and interest~~ interest, and event, professional development, and scholarship sponsorships.

(c) The Association ~~is authorized to~~ may establish special fund accounts ~~for the purposes of tracking revenue, and these account shall~~ to track revenue. A special fund account must be interest bearing and may not subject to reversion. The Association is exempt from the state bid law.

(d) The Association ~~shall~~ may not operate ~~any accounts~~ an account outside of the state accounting ~~system and the fund shall be interest bearing.~~ system.

(e) ~~Funds shall~~ The Interscholastic Athletic Fund or a special fund account under this section must be utilized to support the activities and operations of Delaware interscholastic athletics and may include the purchase of general liability insurance as it relates to the rental of non-state-owned venues for sponsored events, including tournaments.

(f) ~~During the fiscal year, the~~ The expenditure of funds from the ~~Delaware~~ Interscholastic Athletic Fund ~~will~~ must be in accordance with the Division of Accounting budget and accounting procedures.

Section 11. Amend § 311, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 311. Annual report.

The ~~Association Board~~, in consultation and cooperation with the Department of ~~Education~~ Department, shall ~~make~~ submit an annual report to the ~~Governor and the General Assembly~~ Governor, the General Assembly, and the Director and Librarian of the Division of Research of Legislative Council on or before January 31 ~~in~~ each year.

Section 12. Amend § 312, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 312. ~~Appeals of decisions by the Association~~ Board decision and appeal; State Board duties.

~~The Association shall decide on all controversies involving the rules and regulations, including any waiver thereof, adopted pursuant to this chapter, and any waiver of the ineligibility in § 410(a) of this title. Any party to such a controversy may appeal to the state Board by setting forth such grievance in a petition which shall be served upon the Executive Director of the Association by certified or registered mail within 30 days after receiving notice of the decision. The state Board shall provide by rules and regulations for adequate procedures for the hearing of any such appeal and shall decide the controversy. All such appeals shall be on the record, and the state Board shall overturn the Association's decision only if it decides that the Association's decision was not supported by substantial evidence or was arbitrary or capricious. The decision of the state Board shall be final and not subject to further appeal.~~

(a) The Board shall decide on each controversy involving a regulation under this chapter, including a waiver of the regulations promulgated under this chapter, or a waiver of the ineligibility under § 410(a) of this title.

(b) The Board shall issue in writing its decision in a controversy involving a waiver within 20 days from the date of hearing.

(c) A party to a controversy may appeal the Board's decision to the State Board by doing all of the following:

(1) Stating the party's grievance in a petition.

(2) Ensure that the petition is served on the Association's executive director by certified or registered mail within 30 days after receiving notice of the decision.

(d) The State Board shall do all of the following:

(1) Rule on each appeal under this section.

(2) Provide through regulation adequate procedures for a hearing on an appeal under this section.

(3) Overturn the Board's decision only if the State Board finds that the Board's decision was not supported by substantial evidence or was arbitrary or capricious.

SYNOPSIS

This Act is a result of the Joint Legislative Oversight and Sunset Committee's ("JLOSC") review of the Delaware Interscholastic Athletic Association ("DIAA"). As part of JLOSC's review of DIAA, JLOSC recommended the following updates to the DIAA statute, which this Act fulfills:

- Establish term limits for certain DIAA Board members of no more than 3, 3-year terms for a total of 9 years.
- Add language to address the removal of a board member for gross inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance.
- Change DIAA Board member composition to add a third school district superintendent or assistant superintendent to create equitable representation among all 3 counties in this State; add a third nonpublic school representative; ensure that 1 of the 6 public members is a parent of a current or recent student athlete from a member school; and make the Department of Education member a voting member.
- Clarify quorum and number of votes required to approve an act of the DIAA Board.
- Authorize DIAA to pursue sponsorship opportunities and other non-tournament related revenue streams, and the purchase of general liability insurance relating to the rental of non-State venues for DIAA-sponsored events.
- Clarify when a member's county of residence is a qualification versus the county in which the school the member is representing is a qualification.
- Make technical corrections throughout DIAA's statute, to conform existing law to the standards of the Delaware Legislative Drafting Manual. Among the technical corrections is correction of references to the "state Board" when the references are intended to use the defined term "State Board" for the State Board of Education.