

21-1365

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

Selina Soule, a minor by Bianca Stanescu, her mother, Chelsea Mitchell, a minor, by Christina Mitchell, her mother, Alanna Smith, a minor, by Cheryl Radachowsky, her mother, Ashley Nicoletti, a minor, by Jennifer Nicoletti, her mother,
Plaintiffs-Appellants,

v.

Connecticut Association of Schools, Inc, DBA Connecticut Interscholastic Athletic Conference, Bloomfield Public Schools Board of Education, Cromwell Public Schools Board of Education, Glastonbury Public Schools Board of Education, Canton Public Schools Board of Education, Danbury Public Schools Board of Education,
Defendants-Appellees,

and

Andraya Yearwood, Thania Edwards on behalf of her daughter T.M., and Commission on Human Rights and Opportunities,
Intervenor Defendants-Appellees.

On Appeal from the United States District Court
for the District of Connecticut, No. 3:20-cv-00201 (RNC)

**BRIEF OF AMICI CURIAE
CONNECTICUT TRANSADVOCACY COALITION AND
PFLAG HARTFORD IN SUPPORT OF DEFENDANTS-APPELLEES AND
INTERVENORS-APPELLEES, SUPPORTING AFFIRMANCE**

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rules of Appellate Procedure 26.1 and 29(a)(4)(A), the undersigned counsel certifies that none of the amici curiae are nongovernmental entities with a parent corporation or a publicly held corporation that owns 10% or more of its stock.

/s/ Kevin M. Barry
Kevin M. Barry

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STATEMENT OF INTEREST OF AMICI CURIAE

Amicus curiae Connecticut TransAdvocacy Coalition is dedicated to making Connecticut a safe and tolerant place for transgender and gender non-conforming individuals. The mission of amicus curiae PFLAG Hartford is to build on a foundation of loving families united with LGBTQ people and allies who support one another, and to educate ourselves and our communities to speak up as advocates until all hearts and minds respect, value, and affirm LGBTQ people. Amici have a long history of advocating to protect the rights of transgender and gender non-conforming people in Connecticut, and they have a strong interest in ensuring that such people have the opportunity to participate in sports in a safe and supportive environment and to access the myriad benefits that sports provides.¹

¹ All parties have consented to the filing of this brief. No party or counsel for a party authored or paid for this brief in whole or in part, or funded the brief's preparation or submission. No one other than amici curiae or their counsel made a monetary contribution to the brief. The undersigned is deeply appreciative of the pro bono research and drafting assistance provided by members of the Civil Justice Clinic at Quinnipiac University School of Law and members of the Amicus Project at University of Connecticut School of Law. This brief does not purport to present either law school's institutional views, if any.

INTRODUCTION

The policy adopted by Defendant-Appellee Connecticut Interscholastic Athletic Conference (“CIAC”), which allows transgender² girls to compete on girls’ sports teams, and transgender boys to compete on boys’ sports teams, did not come about in isolation. For over two decades, the State of Connecticut has been at the forefront of protections for transgender people. Twenty years before the Supreme Court held that the term “sex” in Title VII encompassed gender identity discrimination,³ Connecticut’s Commission on Human Rights and Opportunities ruled as such with respect to Connecticut’s sex discrimination statutes.⁴ Then, in 2011, the Connecticut legislature strengthened and codified those protections, expressly prohibiting discrimination against transgender individuals in schools (and

² Transgender individuals are those whose sex assigned at birth differs from the sex with which they identify. *See Bostock v. Clayton County*, 140 S. Ct. 1731, 1741-42 (2020).

³ *See id.* at 1737.

⁴ *See Declaratory Ruling on Behalf of John/Jane Doe*, CONN. COMM’N ON HUMAN RTS. & OPPORTUNITIES (Nov. 9, 2000), <https://portal.ct.gov/CHRO/Education-and-Outreach/Public/CHRO-Declaratory-Ruling-on-behalf-of-JohnJane-Doe>. The Commission on Human Rights and Opportunities has continued to lead in protecting transgender people; in 2020, it issued a declaratory ruling that interpreted existing antidiscrimination laws to prohibit employers’ and insurers’ categorical denial of healthcare coverage for certain gender-affirming treatments. *Declaratory Ruling on Pet. Regarding Health Insurers’ Categorization of Certain Gender-Affirming Procedures as Cosmetic*, CONN. COMM’N HUMAN RTS. & OPPORTUNITIES (Apr. 15, 2020), <https://ctchro.files.wordpress.com/2020/04/declaratory-ruling.pdf>.

in other domains).⁵ Consistent with this law, the Connecticut Safe School Coalition released guidance in 2012 that advised schools to permit transgender students to “participate in sex-segregated athletic activities based on their gender identity.”⁶

The CIAC Board of Control’s (“CIAC”)⁷ adoption of a trans-inclusive policy in 2013 was in keeping with this proud tradition. Aside from a handful of instances of Connecticut athletic organizations supporting *greater* gender inclusiveness in sports,⁸ inclusive policies like CIAC’s were simply not a source of substantial public discussion; they were merely refinements to policies that had become outdated in light of legal, social, and medical developments. Into this settled landscape comes a test case from Arizona-based Alliance Defending Freedom, which argues that trans-

⁵ See Act Concerning Discrimination, 2011 Conn. Legis. Serv. P.A. 11-55 (H.B. 6599) (amending, *inter alia*, Conn. Gen. Stat. § 10-15c).

⁶ *Guidelines for Connecticut Schools to Comply with Gender Identity and Expression Non-Discrimination Laws*, CONN. SAFE SCHOOL COALITION (Oct. 4, 2012), http://www.ct.gov/shp/lib/shp/pdf/guidelines_for_schools_on_gender_identity_and_expression2012oct4.pdf.

⁷ The CIAC Board of Control, “comprised of fourteen voting and three non-voting members, meets monthly during the school year. The broadly representative CIAC Board reflects the diversity of Connecticut’s schools, with representatives from large, medium and small schools, urban and rural schools, public and parochial schools, and technical schools.” CIAC, *Governance*, http://ciacsports.com/site/?page_id=13.

⁸ See, e.g., Paul Doyle, *A Solid Grasp of Her Role*, HARTFORD COURANT (Feb. 28, 2009) (describing the successful athletic career of a Connecticut high school girl who competed in boys wrestling).

inclusive policies violate the rights of cisgender women under Title IX of the Education Amendments Act. This pernicious argument should be rejected.

Title IX does not prohibit state athletic associations like CIAC from promulgating trans-inclusive policies. As detailed below, CIAC's policy was a carefully crafted, well-reasoned response to the issue of transgender athletic participation, developed over the course of a five-year period, which ensures the inclusion of transgender athletes while maintaining opportunities for all women and girls to participate in sports in a safe and supportive environment.⁹

ARGUMENT

I. CIAC Made a Considered Decision to Refine Its Policy in 2013 to Ensure the Inclusion of Transgender Athletes.

CIAC's trans-inclusive policy was a carefully crafted, well-reasoned response to the issue of transgender athletic participation, developed over the course of a five-year period and informed by CIAC's mission of equitable participation in sports, the core values of athletic competition, consensus-based medical standards regarding transgender healthcare, the position of nearly all national and international athletic regulatory bodies, and fundamental fairness.

⁹ Amici agree with Appellees that the District Court correctly determined that doctrines of mootness and immunity bar Appellants' action. Should this Court reach the merits, Amici agree with Appellees that federal law requires—or, at the very least, permits—trans-inclusive policies.

A. The 2008 Policy

In the summer of 2007, at its annual meeting of state high school athletic associations' staffs and boards of directors, the National Federation of High School Sports (“NFHS”)¹⁰ recommended that state athletic associations adopt policies regarding the participation of transgender athletes in high school sports.¹¹ Heeding NFHS’s advice to “be proactive,” CIAC acted swiftly.¹²

On January 17, 2008, CIAC considered information provided by NFHS at the 2007 annual meeting, articles from the University of California at Santa Barbara, and a sample policy from the Washington Interscholastic Athletic Association (WIAA).¹³ The WIAA policy, the first of its kind in the country, required many transgender athletes to undergo hormone therapy, gender-affirming surgery—including genital surgery—and a two-year waiting period post-surgery, and also to obtain legal recognition of their gender from “all the proper governmental agencies,” in order to participate on athletic teams consistent with their gender identity.¹⁴ The

¹⁰ “The NFHS . . . is the national leader and advocate for high school athletics as well as fine and performing arts programs. . . . The NFHS writes playing rules for high school sports and provides guidance on a multitude of national issues.” See NFHS, *About Us*, <https://www.nfhs.org/who-we-are/aboutus>.

¹¹ Ex. A at A2; see NFHS, *Summer Meeting*, <https://www.nfhs.org/resources/conferences-meetings/summer-meeting>.

¹² Ex. A at A2.

¹³ *Id.*

¹⁴ Ex. B at B1-2. These requirements applied to postpubescent student athletes. The WIAA Policy required *prepubescent* student athletes to undergo “sex

policy was hastily drafted in the spring of 2007 in response to inquiries from four schools across the State of Washington that were seeking guidance on how to address athletic participation by transgender students.¹⁵ The WIAA policy “blended criteria set by the United States Olympic Committee and the NCAA,”¹⁶ neither of which had a trans-inclusive policy at that time.¹⁷

On February 4, 2008, CIAC continued its discussion of the participation of transgender student athletes and determined that the WIAA policy should be “adapted for Connecticut and presented at the March meeting.”¹⁸ On March 20, 2008, after two months of deliberations, CIAC promulgated its policy on transgender athletes (the “2008 Policy”), which mirrored the WIAA policy.¹⁹

Although inclusive in theory because it provided a path for transgender athletes to compete consistent with their gender identity, the 2008 Policy was largely

reassignment” but did not require surgery, hormone therapy, legal recognition of gender, or a two-year waiting period. *Id.*

¹⁵ Jayda Evans, *Ten Years On, WIAA’s Transgender Policy Keeps Conversation Going*, SEATTLE TIMES (Apr. 4, 2017), <https://www.seattletimes.com/sports/high-school/ten-years-on-wiaas-transgender-policy-keeps-conversation-going/>.

¹⁶ *Id.*

¹⁷ See Erin E. Buzuvis, *Including Transgender Athletes in Sex-Segregated Sport*, in *SEXUAL ORIENTATION AND GENDER IDENTITY IN SPORT: ESSAYS FROM ACTIVISTS, COACHES, AND SCHOLARS* 23, 26-27 (George B. Cunningham ed., 2012), <https://digitalcommons.law.wne.edu/cgi/viewcontent.cgi?article=1248&context=facschol> (discussing the International Olympic Committee’s 2003 transgender athlete policy requiring, *inter alia*, hormone therapy and surgery, and noting the absence of an NCAA transgender athlete policy until 2011).

¹⁸ Ex. A at A6.

¹⁹ Compare *id.* at A13, A17-18, with Ex. B at B1-2 (WIAA 2007-2008 Policy).

unworkable in practice because it effectively foreclosed the participation of many transgender athletes. Many transgender people do not undergo surgical interventions because such interventions are not medically indicated or are cost prohibitive.²⁰ Genital surgeries, in particular, are not recommended until the person reaches the age of majority—i.e., after many high school students have graduated.²¹ Furthermore, even assuming that a transgender athlete were hypothetically able to undergo surgical interventions while still in high school, there is virtually no way they could satisfy the 2008 Policy’s two-year waiting period prior to graduation.²² Additionally, the 2008 Policy’s requirement that transgender athletes obtain legal recognition of their gender from “all the proper governmental agencies. . . . (Driver’s

²⁰ Compare Ex. A at A17 (requiring genital surgery), with World Pro. Ass’n for Transgender Health, *Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People*, at 5, 33 (7th ed. 2012) [hereinafter WPATH Standards], https://www.wpath.org/media/cms/Documents/SOC%20v7/SOC%20V7_English2012.pdf (stating that “[t]reatment is individualized: What helps one person alleviate gender dysphoria might be very different from what helps another person. This process may or may not involve a change in gender expression or body modifications,” and that “[i]n many places around the world, access to health care for transsexual, transgender, and gender-nonconforming people is . . . limited by a lack of health insurance or other means to pay for needed care”).

²¹ Compare Ex. A at A17 (requiring genital surgery), with WPATH Standards, *supra* note 20, at 21 (“Genital surgery should not be carried out until . . . patients reach the legal age of majority to give consent for medical procedures in a given country . . .”).

²² See Ex. A at A18.

license, Voter Registration, etc.)” did not account for the often lengthy process of applying for and receiving the requisite government documentation.²³

B. The Interim Policy

On March 7, 2013, CIAC revisited the issue of athletic participation by transgender students and encouraged Board members to attend an upcoming legal workshop addressing the issue, conducted by the Connecticut Association of Schools and CIAC staff.²⁴ On March 28, 2013, three days after the workshop, CIAC rescinded the 2008 Policy and adopted a new policy (the “Interim Policy”) regarding the participation of transgender athletes, pending review by CIAC’s attorney.

The Interim Policy differed markedly from the 2008 Policy and mirrored a revised policy developed by the WIAA.²⁵ The WIAA had since changed its policy in response to concerns that its original policy was convoluted, effectively foreclosed participation by transgender athletes, and inaccurately assumed that all transgender people undergo surgery.²⁶ Consistent with consensus-based medical standards regarding transgender healthcare, CIAC’s Interim Policy eliminated the requirement

²³ *Id.*; see Nico Lang, *For Trans Americans, Changing Your Name Can Still Be a Matter of Life or Death*, QUARTZ (Mar. 31, 2016), <https://qz.com/651310/for-trans-americans-changing-your-name-can-still-be-a-matter-of-life-or-death/>.

²⁴ Ex. A at A20.

²⁵ Compare Ex. A at A26-27, with WIAA Official Handbook, 2011-2012, at 49-50, [http://www.wiaa.com/ConDocs/Con951/Handbook%20\(Web\).pdf](http://www.wiaa.com/ConDocs/Con951/Handbook%20(Web).pdf).

²⁶ See Evans, *supra* note 15.

that transgender athletes undergo hormone therapy and gender-affirming surgery.²⁷

The Interim Policy also eliminated the burdensome requirement that transgender athletes obtain legal recognition of their gender from government agencies.²⁸

In place of the 2008 Policy's outdated and unworkable requirements, the Interim Policy set forth a three-tiered process: (1) a transgender athlete would notify their school of their desire to compete consistent with their gender identity; (2) the student's school, after confirming that the request was bona fide, would convey the request in writing to CIAC's Eligibility Committee, which would approve or deny the request based on a review of documentation of the student's "consistent gender identification (e.g., affirmed written statements from student/parent/guardian and health care provider)" and other information furnished by the school; and, (3) if the request were denied by the Eligibility Committee initially and on appeal, the school could appeal the denial to the Executive Director of CIAC, who would convene a "Gender Review Committee" comprised of a minimum of three people, at least one of whom had to be either a "[p]hysician with experience in gender identity health care and the [WPATH] Standards of Care" or a "[p]sychiatrist, psychologist or licensed mental health professional familiar with the [WPATH] Standards of Care."²⁹ The remainder of the Committee would consist of a "[s]chool administrator

²⁷ Ex. A at A26-27.

²⁸ *Id.*

²⁹ *Id.* at A27.

from a non-appealing school,” a “CIAC staff member,” and/or an “advocate familiar with Gender Identity and Expression issues.”³⁰

According to CIAC, this three-tiered process furthered CIAC’s mission of providing athletes with an opportunity “to compete on a level playing field in a safe, competitive and friendly environment, free of discrimination,” and was consistent with “fundamental fairness, as well as most local, state and federal rules and regulations.”³¹

C. The 2013 Policy

The Interim Policy was subsequently sent to CIAC’s legal counsel.³² Based upon “considerable research and review of the law, new guidelines and policies of the NCAA and other state associations,” counsel “strongly advised” CIAC to adopt a different policy.³³ The recommended policy, which CIAC reviewed, discussed, and ultimately adopted on April 25, 2013 (the “2013 Policy”),³⁴ replaced the Interim Policy’s cumbersome three-tiered process with a streamlined two-step process that empowers school administrators—not CIAC—to decide whether a transgender

³⁰ *Id.*

³¹ *Id.* at A26.

³² *Id.* at A29-30, A32.

³³ *Id.* at A32.

³⁴ *Id.* at A29-30, A32-33.

student can participate in a gender-specific sport consistent with their gender identity.³⁵

Under the 2013 Policy, when a transgender athlete notifies a school of their desire to compete consistent with their gender identity, the school must determine whether “the expression of the student’s gender identity is bona fide and not for the purpose of gaining an unfair advantage in competitive athletics,” based on “the gender identification of that student in current school records and daily life activities in the school and community at the time that sports eligibility is determined for a particular season.”³⁶ When a school submits a student roster to CIAC, “it is verifying that it has determined that the students listed on a gender specific sports team are entitled to participate on that team due to their gender identity.”³⁷ CIAC “shall defer” to the school’s determination.³⁸ The 2013 Policy’s authorization of school administrators to confirm the gender identity of students makes sense. Unlike CIAC, school administrators observe and interact with their students on a daily basis and, as CIAC has noted, are therefore “in the best position to identify and confirm that a

³⁵ *Id.* at A33, A40.

³⁶ *Id.* at A40.

³⁷ *Id.*

³⁸ *Id.*

student-athlete's gender is consistent with the student's gender identity at school and to place the student on the correct team roster."³⁹

The 2013 Policy also imposes several significant restrictions on athletes "to preclude the likelihood that a student will claim a particular gender identi[t]y for the purpose of gaining a perceived advantage in athletic competition."⁴⁰ Specifically, the Policy requires transgender athletes to come out publicly; athletes are not "permitted to participate in practices or to try out for gender specific sports teams that are different from their *publicly identified* gender identity at that time."⁴¹ Athletes "cannot try out simultaneously for CIAC sports teams of both genders," nor can they "transfer from one gender specific team to a team of a different gender during a sports season."⁴² Additionally, the Policy sets an expectation that, as a general matter, the determination of an athlete's gender identity "shall remain consistent for the remainder of the student's high school sports eligibility."⁴³

Like the Interim Policy that it replaced, the 2013 Policy also contains language underscoring the policy's consistency with CIAC's "commit[ment] to provid[ing] transgender student-athletes with equal opportunities to participate in CIAC athletic

³⁹ Letter from Kimberly M. Richey, Acting Assistant Secretary for Civil Rights, to Lori Mizerak, Assistant Corporation Counsel, City of Hartford, et al., at 9 n.16 (Aug. 31, 2020).

⁴⁰ Ex. A at A40.

⁴¹ *Id.* (emphasis added).

⁴² *Id.*

⁴³ *Id.*

programs consistent with their gender identity,” and with fundamental fairness and applicable state and federal law.⁴⁴

II. Schools and State Athletic Associations Like CIAC Have Many Good Reasons to Favor Trans-Inclusive Athletic Policies.

For schools and state athletic organizations making decisions about policies for transgender athletes, a host of considerations weigh in favor of a trans-inclusive policy like CIAC’s that allows transgender girls to compete on girls’ sports teams, and transgender boys to compete on boys’ sports teams.

First, trans-inclusive policies are consistent with the mission of state athletic associations—namely, providing all students with the opportunity to participate in sports in a safe and supportive environment and to access the myriad benefits that sports provides.⁴⁵ In addition to its obvious physical and mental health benefits,

⁴⁴ *Id.*

⁴⁵ *See, e.g.,* WIAA, *Gender Diverse Youth Sport Inclusivity Toolkit*, at 8 [hereinafter WIAA Toolkit], <http://wiaa.com/ConDocs/Con1914/Gender%20Diverse%20Toolkit.pdf> (stating that “core values” of state athletic association include “[r]ecognizing the value of and maximizing participation in extracurricular athletics for all students”); *see also* CIAC Handbook, 2020-2021, at 31, https://www.casciac.org/pdfs/ciachandbook_2021.pdf (“The purposes of the organization are: . . . [t]o supervise, direct and control interscholastic athletics in Connecticut so that they make the maximum contribution to the physical, mental, emotional, social and moral growth of member school participants . . . [and t]o offer a program of interscholastic athletics that will provide for equitable competition among schools. . . . [T]he CIAC . . . exists to assure quality experiences that reflect high ethical standards and expectations for fairness, equity and sportsmanship for all student-athletes and coaches.”). This commitment to

sports participation fosters academic achievement; helps athletes manage social pressures; teaches valuable social skills such as leadership, courage, communication, collaboration, discipline, and resilience; and provides the foundation for building emotional maturity and lasting friendships.⁴⁶ Trans-exclusive policies deprive transgender athletes of these benefits by effectively prohibiting their participation in sports.

Second, trans-inclusive policies are consistent with a core value underlying athletic competition—namely, sportsmanship. The “cultivation of gracious winners and losers, being a team player, [and] having a supportive and encouraging attitude towards [one]self and others” is fundamental to sports.⁴⁷ This value holds true regardless of athletes’ differences—be they racial, economic, geographic, cultural, political, or otherwise. On the field of play, all are entitled to respect. Trans-exclusive policies fly in the face of this bedrock principle by excluding transgender athletes from participation.

maximizing athletic participation at the high school level is informed by the reality that very few athletes go on to compete in sports after high school. *See* NFHS, *NCAA Recruiting Facts*, <https://www.nfhs.org/media/886012/recruiting-fact-sheet-web.pdf> (stating that only 6% of high school athletes (460,000 out of 7.4 million) play college sports, and only 2% of high school athletes earn athletic scholarships).

⁴⁶ *See, e.g.*, Pat Griffin & Helen J. Carroll, *On the Team: Equal Opportunity for Transgender Student Athletes*, at 6 (Oct. 4, 2010) [hereinafter *On the Team*], http://cdn1.sbnation.com/imported_assets/1473121/NCLR_trans_athlete_report.pdf; WIAA Toolkit, *supra* note 45, at 12.

⁴⁷ WIAA Toolkit, *supra* note 45, at 15; *see also* CIAC Handbook, *supra* note 45 (quoting CIAC purposes and mission).

Third, trans-inclusive policies are consistent with the internationally-recognized, consensus-based medical standards for the treatment of gender dysphoria, a serious medical condition that results from the incongruence between an individual's gender identity and birth-assigned sex.⁴⁸ Treatment for gender dysphoria is transition—the process through which a transgender person begins to live in congruence with their gender identity.⁴⁹ Each person's transition is distinct, but possible steps include social transition (i.e., living one's life fully in accordance with one's gender identity, including changes in name and pronoun usage, clothing, and grooming standards), hormone therapy, and/or gender-affirming surgeries.⁵⁰ In the context of gender-segregated athletics, social transition requires that transgender girls and women be able to publicly identify with and compete on girls' and women's teams.⁵¹ Barring a transgender athlete from socially transitioning—as trans-

⁴⁸ WPATH Standards, *supra* note 20, at 96; *see also* Am. Psychiatric Ass'n, *Diagnostic and Statistical Manual of Mental Disorders* 451–53 (5th ed. 2013) [hereinafter DSM-5].

⁴⁹ WPATH Standards, *supra* note 20, at 97.

⁵⁰ *Id.* at 9-10.

⁵¹ *See, e.g.*, WPATH & USPATH, *Statement on the Bills Barring Trans Girls from Sports* (Mar. 31, 2021), https://www.wpath.org/media/cms/Documents/Public%20Policies/2021/WPATH%20_%20USPATH%20Statement%20on%20the%20Bills%20Barring%20Trans%20Girls%20from%20Sports.pdf?_t=1617217300#:~:text=Trans%20Girls%20from%20Sports,-March%2031%2C%202021&text=The%20legislation%20not%20only%20bars,tes%20tosterone%20levels%2C%20and%20genetic%20makeup; Am. Med. Assoc., *AMA Fights to Protect Health Care for Transgender Patients* (Mar. 26, 2021), <https://www.ama-assn.org/print/pdf/node/66096>.

exclusive policies do—exacerbates gender dysphoria and can lead to a range of debilitating psychological symptoms such as anxiety, depression, and suicidality.⁵²

Fourth, trans-inclusive policies are consistent with the position of virtually every athletic regulatory body, including the NCAA, World Athletics, and the International Olympic Committee, as well as the International Tennis Federation, National Women’s Hockey League, National Women’s Soccer League, USA Cycling, USA Hockey, USA Gymnastics, USA Rowing, USA Sailing, USA Senior Softball, US Soccer Federation, USA Rugby, US Swimming, USA Track & Field, USA Triathlon, USA Ultimate, USA Volleyball, USA Weightlifting, and CrossFit.⁵³ By allowing transgender girls to compete on girls’ sports teams, and transgender boys to compete on boys’ sports teams, schools and state athletic associations are not blazing new trails; they are traveling a well-worn road.

Fifth, trans-inclusive policies are fundamentally fair and consistent with scientific realities. Policies conditioned on medical treatments such as surgery or other purportedly objective markers place athletic officials in the uncomfortable position of requesting private medical information from transgender students and

⁵² See DSM-5, *supra* note 48, at 454-55, 458.

⁵³ See, e.g., TransAthlete.com, *Policies*, <https://www.transathlete.com/policies> (compiling transgender athlete policies among national and international athletic associations and United States high schools and colleges); World Athletics, *International Federations Discuss Consensus on Establishing Rules for Transgender Athletes*, <https://worldathletics.org/news/press-release/international-federations-rules-transgender-a>; *infra* note 61 (discussing USA Rugby).

refereeing who is “male enough” or “female enough” to compete. This line of inquiry has a sordid past: For over fifty years, some female athletes—many of them Black, like the two individual defendants in this case⁵⁴—have been subjected to a variety of humiliating, unscientific practices requiring them to verify that they are, in fact, women.⁵⁵ Furthermore, attempting to categorize athletes based on external genitals, internal sex organs, chromosomes, and hormones is futile, given the rich diversity of naturally occurring characteristics that do not fit typical binary notions of female and male bodies—such as individuals with XY sex chromosomes who have genitalia labeled female.⁵⁶ Trans-inclusive policies avoid these invasive, humiliating, and misguided inquiries, and also avoid repeating the errors of the past.

Lastly, trans-inclusive policies are not “unfair” to cisgender athletes. Despite the fact that transgender athletes have publicly competed around the world for nearly

⁵⁴ See Dan Brechlin, *Connecticut High School Transgender Athletes “No Longer Want To Remain Silent” Following Title IX Complaint*, HARTFORD COURANT (June 20, 2019), <https://www.courant.com/sports/high-schools/hc-sp-transgender-policy-runners-respond-20190619-20190620-5x2c7s2f5jb6dnw2dwpftiw6ru-story.html>.

⁵⁵ See, e.g., Louis J. Elsas, et al., *Gender Verification of Female Athletes*, 2 GENET. IN MED. 247, 250 (July/Aug. 2000); Lindsay Parks Pieper, *They Qualified for the Olympics. Then They Had to Prove Their Sex*, WASH. POST (Feb. 22, 2018), <https://www.washingtonpost.com/news/made-by-history/wp/2018/02/22/first-they-qualified-for-the-olympics-then-they-had-to-prove-their-sex/>.

⁵⁶ See, e.g., Consortium on the Management of Disorders of Sex Development, *Clinical Guidelines for the Management of Disorders of Sex Development in Childhood, Methodology*, https://dsdguidelines.org/htdocs/clinical/methodology.html#table_dsds (recognizing approximately twenty intersex diagnoses).

a century (and likely longer),⁵⁷ they have not “taken over” or dominated any sport at any scale.⁵⁸ Indeed, CIAC’s own policy has been in place since 2013, and in the eight years of its existence there is no evidence that a “takeover” has occurred. The facts of this very case prove the point: Just days after filing suit, one of the plaintiffs beat her transgender competitor and won the state championship.⁵⁹ There is also no evidence to suggest that transgender athletes deprive their cisgender peers of

⁵⁷ See, e.g., Joanna Harper, *SPORTING GENDER: THE HISTORY, SCIENCE, AND STORIES OF TRANSGENDER AND INTERSEX ATHLETES* (Rowman & Littlefield, 2019); Vanessa Heggie, *Testing Sex and Gender in Sports; Reinventing, Reimagining and Reconstructing Histories*, 34 *ENDEAVOUR* 157 (2010), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3007680/>.

⁵⁸ See, e.g., Lauren Steele, *Chris Mosier on Making History as First Trans Member of Team USA*, *ROLLING STONE* (Aug. 2, 2016), <https://www.rollingstone.com/culture/culture-sports/chris-mosier-on-making-history-as-first-trans-member-of-team-usa-250971/> (“Currently, no trans athlete has dominated a sport on the national or international level.”); NCAA Off. Inclusion, *NCAA Inclusion of Transgender Student-Athletes*, at 7 (Aug. 2011) [hereinafter *NCAA Handbook*], https://ncaaorg.s3.amazonaws.com/inclusion/lgbtq/INC_TransgenderHandbook.pdf (stating that concern that transgender women competing on a women’s team will have an “unfair competitive advantage” is “unfounded”).

⁵⁹ *Teen Beats Transgender Competitor Amid Sports Participation Lawsuit*, *NBCCONNECTICUT.COM* (Feb. 14, 2020), <https://www.nbccconnecticut.com/news/local/teen-involved-in-lawsuit-to-block-transgender-athletes-beats-competitor-targeted-in-case/2223944/>; see also Defs.’ Mem. Law in Supp. Mot. Dismiss, at 10.

scholarships⁶⁰ or are more likely than cisgender athletes to cause injury to their opponents.⁶¹

Scientific evidence likewise does not support the notion that transgender women have a categorical advantage over cisgender female athletes.⁶² “Transgender women display a great deal of physical variation, just as there is a great deal of natural variation in physical size and ability among non-transgender women and

⁶⁰ Colleges consider a multitude of factors in awarding athletic scholarships in track and field, including whether an athlete excels in multiple events (e.g., a sprinter who is also a hurdler) or in specialty events (e.g., pole vaulting); whether an athlete can meet the academic requirements for admission; and whether an athlete has proactively reached out to the college with their times and grades and indicated an interest in its athletic program. *See* Next College Student Athlete, *Women’s College Track and Field Scholarship Standards*, <https://www.ncsasports.org/womens-track-and-field/scholarship-standards>. Indeed, in the case before this Court, the two individual defendants did not receive scholarships and are not competing in track and field in college; Plaintiff Chelsea Mitchell reportedly received an athletic scholarship from William & Mary. *See* Dawn Ennis, *Biden Justice Dept. Withdraws from Connecticut Federal Lawsuit Opposing Trans Student-Athletes*, OUTSPORTS.COM (Feb. 24, 2021), <https://www.outsports.com/2021/2/24/22298858/biden-justice-connecticut-trans-student-athletes-federal-lawsuit-adf-terry-miller-andraya-yearwood>.

⁶¹ *See* Joint Academic Letter to All Board Members at World Rugby and Member Unions (Aug. 31, 2020), https://cdn.vox-cdn.com/uploads/chorus_asset/file/21863142/World_Rugby_letter_re_transgender_guidelines_UPDATED.pdf (“[R]ecent systematic reviews of research, which have undergone peer-review, have found no evidence that trans women pose a safety risk to others.”); *cf.* USA Rugby, *Transgender Athletes and Participants*, <https://www.usa.rugby/transgender/> (trans-inclusive policy).

⁶² NCAA Handbook, *supra* note 58, at 8; *see also* Bethany A. Jones, et al., *Sport and Transgender People: A Systematic Review of the Literature Relating to Sport Participation and Competitive Sport Policies*, 47 SPORTS MED. 701, 701 (2017) (“[T]here is no direct or consistent research” suggesting an “athletic advantage” for transgender female athletes).

men.”⁶³ Not all transgender women “are unusually tall and have large bones and muscles. . . . A male-to-female transgender woman may be small and slight, even if she is not on hormone blockers or taking estrogen.”⁶⁴ Such variation is particularly prevalent among youth “who are still developing physically and who therefore display a significantly broader range of variation in size, strength, and skill than older youth and adults.”⁶⁵ Furthermore, “what counts as a competitive advantage may shift dramatically depending on the sport. What is an advantage in one context may be a disadvantage in another.”⁶⁶ Even assuming that being transgender confers some advantage in some contexts, so too does “access to skills-building opportunities at earlier ages, access to facilities and coaching, greater funding for programs and teams in certain privileged communities, chronological age, [and] birth order.”⁶⁷ There is no truly “level playing field.”

Furthermore, concerns about cisgender people exploiting trans-inclusive policies to masquerade in bad faith as a member of another gender are purely speculative. Decades of “gender verification testing” by the International Olympic Committee and other sports organizations (a practice abandoned in the 1960s as “demeaning” and “[un]dignified”) did not uncover a single instance of “gender

⁶³ NCAA Handbook, *supra* note 58, at 7.

⁶⁴ *On the Team*, *supra* note 46, at 15.

⁶⁵ *Id.* at 16.

⁶⁶ NCAA Handbook, *supra* note 58, at 32 n.4.

⁶⁷ WIAA Toolkit, *supra* note 45, at 17.

fraud.”⁶⁸ Even assuming that such fraud is a real concern, there are simple, noninvasive methods of guarding against it, such as CIAC’s policy of considering whether and to what degree a student athlete has identified as transgender outside the domain of sports.⁶⁹

CONCLUSION

For the foregoing reasons, amici curiae Connecticut TransAdvocacy Coalition and PFLAG Hartford respectfully urge this Court to affirm the District Court’s judgment.

Respectfully submitted,

CONNECTICUT TRANSADVOCACY
COALITION AND PFLAG HARTFORD

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Dated: October 14, 2021

⁶⁸ See, e.g., Buzuvis, *supra* note 17, at 26; NCAA Handbook, *supra* note 58, at 8; Elsas et al., *supra* note 55, at 250.

⁶⁹ See Ex. A at A40.

EXHIBIT A

CIAC Board of Control Minutes, 1/17/2008, 2/14/2008, 3/20/2008, 5/8/2008,
3/7/2013, 3/28/2013, 4/25/2013

CIAC BOARD OF CONTROL MINUTES

January 17, 2008

Present: William Barney, George Synnott, Matt Dunbar, Daniel Sullivan, Paul Stringer, James Wenker, Steve Wysowski, Karissa Niehoff, Thomas Neagle, Paul Newton, Joseph Bacewicz, Ann Pratson, Jackie Sullivan, Chip Dorwin, Charles Sharos, Beth Sarnacki, Fred Balsamo, Joe Tonelli, Mike Savage, Paul Hoey, Karen Packtor, Matt Fischer, Dave Maloney, Robert Lehr, Ann Malafronte and George Ford.

Sub-committee work:

Members of the Board worked in sub-groups prior to the start of the CIAC Board of Control meeting to identify the rules and regulations that specific constituent groups would be held accountable for knowing. The sub-committees identified expectations for the following constituents:

- Coaches
- Athletic Directors
- Student-Athletes
- Parents
- School Administrators
- Teacher/guidance

A list of those expectations identified for each group will be compiled for the February meeting. Discussion on how to best inform/educate each group will also be discussed.

1.0 ACTION ITEMS

1.1 Minutes – December 12, 2007 – Motion to approve – Steve Wysowski, second Tom Neagle – Approved

1.2 Treasurer’s Report – Motion to approve – George Synnott, second Matt Dunbar – Approved

The checking account balance as of December 2007 was \$607,216.42 as compared to December 2006 balance of \$323,080.43. CAS Reserve account as of December 2007 \$750,862.00 (December 2006 - \$543,079.00). The Foundation account balance at the end of December 2007 \$957,245.00 (December 2006 - \$633,468.00). The CAS Insurance account December 2007 (26,909.16).

Item 1 - CAS checking account – CAS Hurricane Relief Fund – check #155139 dated May 17, 2007 in the amount of \$340,000 issued to Cameron Parish School Board, Cameron, LA, stopped payment - check never cashed. Money is presently in operating account.

Item 3 - CAS Reserve account – \$200,000 transferred from CAS-CIAC checking account to CAS Reserve account.

Item 4 - The Foundation Fund account – \$300,000 transferred from CAS Foundation Fund checking account.

2.0 CONSULTANT REPORTS

2.1 CAS – No report

2.2 CAPSS – No report

2.3 CABA – No report

2.4 Sports Medicine – No report

2.5 CAAD – Chip Dorwin reported on the recent NIAAA Conference, the upcoming CAAD State Conference in March, recipients of CAAD annual awards were announced and that CAAD is conducting a survey of its members to identify the role and duties of the athletic director. CAAD further reported that 50% of the athletic directors in the state have less than five years experience and 80% less than ten years experience.

- 2.6 CHSCA – Beth Sarnacki, reported on the upcoming February meeting and the annual CHSCA Merit Award
- 2.7 School/College – No report
- 2.8 SDE – No report
- 2.9 Officials – Joe Tonelli reported on the issue of social security numbers being required of officials and concerns with identity theft. He will be sending a letter to schools on the concerns that will be similar to what the Commissioner of Education recently sent to schools.

George Ford, a member of the officials advisory committee, reported on the winter and spring rules interpretation meetings, attendance of Connecticut officials at the NFHS rules meetings in all sports and the need to review and reaffirm the recognition standards for officials groups.

3.0 COMMITTEE REPORTS

- 3.1 Eligibility Committee – No report – No appeals
- 3.2 Eligibility Review Board – No report – No hearings

4.0 DISCUSSION ITEMS

- 4.1 Wheelchair Athletes – Participation in track and field championships – The Board reviewed material provided by staff on wheelchair athletes and their participation in championship events. The Pennsylvania policy was discussed and the Board asked that this matter be referred to the track committee for review and the drafting of appropriate regulations. The Board further requests that other sports committees draft regulations for disabled athletes – such as the use of carts in golf – so that the participation of disabled athletes, where appropriate, is discussed by each sports committee.

- 4.2 Transgender / Transsexual Athletes – The Board reviewed information provided by staff from the National Federation summer meeting on transgender / transsexual student-athletes and where do they play. It has been recommended state associations be pro-active on the issue and have policy in place in the event the question is raised. The Board also had articles from UCSB on the topic. Included in the legal overview was a sample draft policy being considered by the Washington Interscholastic Athletic Association (WIAA).

The Board of Control discussed the information provided and asked that more information be obtained from the WIAA and brought back for the February meeting of the Board.

- 4.3 Proposal to Reorganize the CIAC Board of Control to allow for greater representation from leagues – Chairman Barney presented a concept to the Board for reorganization to assure that all leagues are represented on the Board of Control. He provided a possible reorganization for discussion purposes. After considerable discussion the proposal in the format presented raised several issues, however, the Board was amenable to the concept and it was suggested the nomination committee seek representation from all leagues when filling positions. Additionally, the Board could consider expanding the number of Board members to assure all leagues or areas of the state are represented. Staff will prepare possible modifications of the present structure at the February meeting.
- 4.4 Eligibility Regulations – At the December meeting of the Board, members identified several eligibility regulations they wanted to review starting with the January meeting.
 - Scholastic Incompletes – the Board reviewed and discussed the present by-law and concluded the present language was adequate and decided to leave it as presently written.
 - Twelve Week Attendance Requirement – The Board reviewed and discussed the intent of the 12 week rule and how it is applied. After discussion the Board concluded the rule was relevant and the rule should be maintained as written.

- Violation of Rules of Eligibility due to the error of an adult – the Board asked that this item be tabled until a future meeting after the sub-committee recommendations on what CIAC rules and regulations each constituent group would be accountable for knowing.

- 4.5 Use of enrollment in grades 9-12 for classification in all CIAC Sports – The Board discussed using enrollments in grades 9-12 for placement in tournaments since 10-12 schools no longer exist in Connecticut. The Board discussed the positive aspects of such a change and will entertain a proposal at the February 14, 2008 meeting. The Board also reviewed comparative data 9-12, 10-12 from the October 1, 2007 enrollment reports submitted by schools to see how classifications may change.
- 4.6 Request for endorsement for Automated External Defibrillators in all High Schools – The Board reviewed correspondence and literature the Pontbriant family who lost their son to sudden heart failure this past year. They are campaigning to have AED's in all schools and are seeking CIAC Board endorsement. The Board asked to know more about AED's before endorsing and requested that a member (MD) from the Sports Medicine committee address the Board on this issue. Staff will contact Dr. Biondino and ask him to discuss this topic with the Board in February or March.

5.0 FUTURE AGENDA ITEMS

Mr. Barney briefly discussed items to be discussed at the next meeting of the Board.

6.0 STAFF REPORTS

- 6.1 Matt Fischer – Discussed allowing coaches access to enter track results and entries if a school so wishes to have the coach do so.
- 6.2 Joe Tonelli – No report
- 6.3 Bob Lehr – Reported on the schools presently conducting an athletic program evaluation.
- 6.4 Dave Maloney – No report
- 6.5 Paul Hoey – No report
- 6.6 Mike Savage – Reported on the recent NFHS winter meeting and that, for the most part, most state associations are not being challenged through the courts or state legislature.

Reported the workman's comp insurance issue

Reported on discussions with CPTV/WFSB on a long-term contract to cover football, boys/girls basketball.

Reported it appears that fall tournament revenues are down and costs are up.

CIAC BOARD OF CONTROL MINUTES

February 14, 2008

Present: William Barney, William Chaffin, George Synnott, Robert Hale, Matt Dunbar, James Wenker, Steve Wysowski, Thomas Neagle, Paul Newton, Joseph Bacewicz, Jeff Mathieu, Jackie Sullivan, Kirk Murad, Paul Mengold, Charlie Sharos, Beth Sarnacki, Robert Cecchini, Michael Almeida, Bob Deasy, Bob Lehr, Dave Maloney, Karen Packtor, Matt Fischer, Fred Balsamo, Joe Tonelli, Mike Savage.

ACTION ITEMS

- 1.1 Minutes – January 17, 2008 – Motion to approve - Steve Wysowski; second Paul Newton – approved
- 1.2 Treasurer’s Report – Motion to approve - Robert Hale; second George Synnott – approved

We had a balance of \$533,761.23 at the end of January 2008 / balance January 2007 \$201,561.30. The CAS reserve account had a balance of \$730,727.00 at the end of January 2008 (balance was \$546,939.00 at the end of January 2007). The Foundation account at the end of January 2008 had a balance of \$909,198.00 (balance January 2007 \$640,678.00). The insurance account had a balance of \$26,054.90 at the end of January 2008.

Item 1 CAS check account – CAS Hurricane Relief Fund – Check #155139 dated May 17, 2007 in the amount of \$340,000.00 issued to Cameron Parish School Board, Cameron, LA, stopped payment, check never cashed. Money is presently in operating account.

Item 3 CAS reserve account - \$200,000.00 transferred from CAS-CIAC checking account to CAS reserve account.

Item 4 the foundation fund account - \$300,000.00 transferred from CAS Foundation Fund checking account.

- 1.3 Violation – Use of an Academically Ineligible Player – Rockville High School Girls Basketball – The Board reviewed correspondence from the school self-reporting the violation. Motion to fine Rockville High School \$300 (\$100 per violation as per CIAC regulations) – motion Steve Wysowski, second Joe Bacewicz – approved with one abstention.
- 1.4 Coaches Representatives on CIAC Sports Committees – The CIAC staff has been working with the Connecticut High School Coaches Association (CHSCA) to finalize the procedures for replacing coaches on sports committees that is in accordance with the CIAC by-law, 3.0 Article IV, Organization, Section E. Committees (sports) 2. The CHSCA is requesting that all sports committees have one additional member assigned – an ex officio member - non-voting – for purpose of continuity. The ex officio member would generally be someone whose term would be up and this would allow the person to continue to serve but not to exceed eight consecutive years.

Motion to approve a change in the by-laws to allow an ex officio member in all sports committees effective July 1, 2008 – Motion George Synnott, second Steve Wysowski – approved. Note the by-law change will be presented at the March meeting.

- 1.5 CPTV - WFSB - CIAC Agreement – Mike Savage provided the Board with the details of the agreement with Connecticut Sports Network to televise the boys and girls basketball finals. After discussion the Board voted to endorse the agreement.

2.0 CONSULTANT REPORTS

- 2.1 CAS – Mike Rafferty – No report

- 2.2 CAPSS – Joe Castagnola – No report
- 2.3 CABA – Eileen Baker – No report
- 2.4 Sports Medicine – Mr. Hoey reported that Dr. Biondino will be at the next Board of Control meeting to discuss defibrillators at events.
- 2.5 CAAD – Chip Dorwin / Paul Mengold – Reported on the upcoming CAAD conference in March.
- 2.6 CHSCA – Beth Sarnacki – Reported on a new award in the Memory of Rob Szymaszek, the scholarship committee and the National Coach of the Year program
- 2.7 School/College – No report
- 2.8 SDE – No report
- 2.9 Officials – Mike Almeida, president of the state softball officials, reported on his recent trip to the NFHS rule interpretation meeting for softball.

3.0 COMMITTEE REPORTS

- 3.1 Eligibility Committee – Chair Paul Newton reported the committee reviewed one hardship request and moved the matter forward to the Eligibility Review Board.
- 3.2 Eligibility Review Board – No report
- 3.3 Unified Sports™ – Bob Deasy briefly addressed the Board on Unified Sports™ and the efforts of the staff to increase the number of schools involved. He then shared a ten minute DVD that was developed with grant money to feature Unified Sports™. The DVD will be given to every school in Connecticut and is being considered for national use.

4.0 DISCUSSION ITEMS

- 4.1 Proposal to Reorganize the CIAC Board of Control – At the January meeting Chair Barney presented a proposal, in concept, to reorganize the Board to allow for representation from all leagues. Staff presented the Board with options to accomplish such a proposal. The Board discussed the various options and the consensus was to leave the composition of the Board as is and work through the nominating committee to consider league representation when filling vacancies.
- 4.2 Eligibility Regulations – The Board reviewed three regulations – 90 day attendance requirement for student transferring from a non-member school, 30-day wait period, and student-athletes playing and practicing on an outside team. The Board discussed each in detail and concluded that all served a useful purpose in the effective operation of CIAC and served member schools well. Consequently no changes were recommended by the Board.
- 4.3 Proposal to Use 9-12 Enrollment for the Purpose of Establishing Tournament Divisions – The Board continued discussion from their January meeting on moving from 10-12 enrollment for tournament to 9-12 since 10-12 schools no longer exist in Connecticut and the reporting of enrollment 9-12 is clear to the public. The Board reviewed enrollment data and listing of schools and discussed the impact of the change, especially on urban schools. The Board concluded the use of enrollment 9-12 was the most accurate reflection of the schools. Motion to use enrollment 9-12 starting with the 2008-09 tournaments - Jeff Mathieu, second Paul Newton – approved.

- 4.4 Review and Discussion – Sub-committee Work – What Specific Constituent Groups Should Know and Be Accountable For Knowing – Each sub-committee reported on their work and what CIAC rules/regulations/procedures each group should know and be accountable for knowing. Discussion ensued on how best to educate each group through both CIAC-sponsored programs and school presentations. The Board will continue to discuss this work at future meetings.
- 4.5 Transgender / Transsexual Athletes – The Board continued discussion from their January meeting and reviewed a sample policy from the Washington Interscholastic Athletic Association. The Board reviewed the policy and requested it be adapted for Connecticut and presented at the March meeting.
- 4.6 Basketball at the Ct. Sun Arena – Mike Savage reported to the Board on discussions CIAC is having with the Ct. Sun on the possible use of their arena for championships in boys and girls basketball. The discussions are preliminary, however, the need for advance planning and for having a contingency plan in place in the event UConn is not available is becoming critical. Staff is seeking permission from the Board to move forward and to begin discussion with superintendents and others to garner support. Members of the Board from east of the Connecticut River indicated that most superintendents and boards of education have softened their position on the use of the Sun's facilities for school-sponsored programs. The Board further suggested staff ask the Sun for a listing of all school and youth events presently held at their facilities. The Board by consensus approved staff moving forward with discussion with the Connecticut Sun.

5.0 FUTURE AGENDA ITEMS

- 5.1 AED at Athletic Events – Dr. Biondino will be at the March 20, 2008 meeting to review this topic.
- 5.2 Spring Football – The football committee at the request of the Board of Control is reviewing spring football and will suggest possible options to the board for consideration at either the March or April meeting.
- 5.3 By-laws Changes – Will be reviewed at the March meeting of the Board

6.0 STAFF REPORTS

- 6.1 Matt Fischer – Reported that for the first time indoor track entries were entered during the season by track coaches, with clearance from the AD, as the athlete qualified. The process worked very well and resulted in fewer errors. Consideration will be given to expanding this option to other individual sports – swimming, gymnastics, etc.
- 6.2 Joe Tonelli – Reported on the indoor track meets and the upcoming hockey tournament.
- 6.3 Robert Lehr – Reported on the schools involved in the Athletic Program Evaluation and directed the board to the list of schools in their packet.
- 6.4 Dave Maloney – Reported on meetings he is having with each league in the state to promote both athletic and non-athletic student activities. He further reported on the upcoming cheerleading and dance competitions and the girls basketball tournament.
- 6.5 Paul Hoey – Reported on the co-chairs and steering committee for the scholar-athlete banquet and several of the items found in the information section of the packet.
- 6.6 Mike Savage – Reported on the continuing issue with the workman's comp policy for CAS-CIAC and the rising costs of our tournament expenses.

CIAC BOARD OF CONTROL MINUTES

March 20, 2008

Present: William Barney, George Synnott, Robert Hale, James Wenker, Steve Wysowski, Thomas Neagle, Paul Newton, Joseph Bacewicz, Jeff Mathieu, Jackie Sullivan, Kirk Murad, Chip Dorwin, Charles Sharos, Robert Cecchini, Fred Balsamo, Joe Tonelli, Barry Fowler, Karen Packtor, Matt Fischer, Paul Hoey and Mike Savage.

1.0 ACTION ITEMS

1.1 Minutes -- February 14, 2008 -- Motion to approve - George Synnott, second Steve Wysowski -- approved

1.2 Treasurer's Report -- Motion to accept -- Robert Hale, second Steve Wysowski -- approved

In the checking account at the end of February 2008 there was a balance of \$579,464.88 -- balance at the end of February 2007 was \$196,808.99. Actual balance \$239,464.88. The CAS reserve account had a balance of \$718,771.00 at the end of February 2008 -- balance at the end of February 2007 was \$546,430.00. The foundation account had a balance of \$891,575.00 at the end of February 2008 -- balance at the end of February 2007 was \$636,455.00. CAS foundation checking account (3/13/08) \$131,588.00. Total \$1,023,345.00. The CAS insurance account had a balance of \$24,997.34 at the end of February 2008.

Item 1 - CAS checking account -- CAS Hurricane Relief Fund check #155139, dated May 17, 2007 in the amount of \$340,000.00 issued to Cameron Parish School Board, Cameron, LA never cashed -- stopped payment. Money is presently in operating account.

1.3 Violation -- Sacred Heart High School -- Playing/practicing with an outside team during the season - boys basketball -- Motion to fine Sacred Heart High School \$100 for use of an ineligible player - Paul Newton, second Kirk Murad -- approved.

1.4 Violation -- Ellis Tech. High School -- Use of an academically ineligible player -- girls basketball -- Motion to fine Ellis Tech. \$100 for use of an academically ineligible player - Steve Wysowski, second George Synnott -- approved.

1.5 Violation -- Newington High School -- Coaching out-of-season -- golf -- Motion to fine Newington High School \$250 for violation of the out-of-season coaching regulations - Paul Newton, second Steve Wysowski -- approved.

1.6 Request for Interpretation - West Haven High School -- The CIAC Board was asked to determine if a Unified Sports™ program equated to a varsity sports program for selection as a candidate for the scholar-athlete award. The Board discussed the nature of a Unified Sports™ program as compared to a CIAC-sponsored varsity sport. It was noted that athletes who participate in a non-CIAC sponsored sport such as crew cannot use that sport for a scholar-athlete nomination. The Board concluded that Unified Sports™ are not varsity sports.

Motion: Unified Sports™ programs are not varsity sports for selection in the scholar-athlete program - Steve Wysowski, second Kirk Murad -- approved.

Discussion continued on if Unified Sports™ should be added. Motion -- Robert Hale to add Unified Sports™ as a varsity sports program for the scholar-athlete program -- second Paul Newton. After considerable discussion the motion failed -- 3 yes / 4 no.

The Board chair requested a sub-committee be formed to evaluate the present criteria for the scholar-athlete award and to make recommendations to the Board for possible changes.

2.0 CONSULTANT REPORTS

- 2.1 CAS -- No report
- 2.2 CAPSS - No report
- 2.3 CABA -- No report
- 2.4 Sports Medicine -- Joe Tonelli reported on the Sports Medicine Committee meeting he attended last evening and the discussion on data collection in sports related injuries, especially concussions, and the increase in injuries for cheerleaders. The committee also discussed their concern with the increasing number of injuries in youth sports when young athlete's specialize and injuries occur through over use.
- 2.5 CAAD -- Chip Dorwin reported on the upcoming conference on March 27-28.
- 2.6 CHSCA -- No report
- 2.7 School/College -- No report
- 2.8 SDE -- No report
- 2.9 Officials -- Joe Tonelli introduced Barry Fowler, a football official, who spoke on the value of the games being on TV and how the replay is being used as a teaching tool for officials. Barry also expressed the need to attract new, younger officials and how the media can be of assistance with this effort.

3.0 COMMITTEE REPORTS

- 3.1 Eligibility Committee -- Paul Newton reported the committee reviewed two requests -- both were denied and one will be moved forward to the Eligibility Review Board.
- 3.2 Eligibility Review Board -- Paul Newton reported one hearing was held last month and an exception for hardship was granted.
- 3.3 Sports Medicine -- Dr. Biondino -- Use of Automated External Defibrillators (AEDs) at school events. Dr. Biondino, a member of the State Medical Society Sports Medicine Committee, addressed the Board on the use of AED's -- He cautioned the Board that the clinical data available is not conclusive that the availability of an AED will result in saving a life any more than CPR. The cost effectiveness of AED's will be an issue for school districts. Dr. Biondino recommends that all school districts have a well defined and practical medical emergency action plan and that appropriate personnel be trained in its implementation. If schools have the financial ability to have AED's on site that would be great but they should not supplant the action plan and the use of CPR in sudden cardiac arrest. If AED's were mandated or referred by legislative action he believes that schools may face liability issues if the device is not available or not used in an incident.

The Board took Dr. Biondino's report and recommendations under advisement and concurred that schools should have a medical emergency action plan in place.

4.0 DISCUSSION ITEMS

- 4.1 Review and Approval -- Proposed by-law changes -- The Board of Control reviewed language changes that had been discussed at previous meetings. The six by-law changes were approved by the Board and are attached to these minutes. The by-law changes will be presented to the membership at the annual meeting for approval.
- 4.2 CAS Budget Proposal and CIAC Sports Audit Reports -- tabled to the next meeting of the Board in April.

- 4.3 Spring Football -- The Board was provided a report from the Football Committee as requested by the Board on spring football and any suggested alternatives the committee may have for changes in the present format. The football committee, and especially the coaches on the committee, believe that spring football as it is now constituted must remain in place. However, the committee did note that no student-athlete would or should be expected to participate in spring football if it conflicts with end-of-year school events or that practices not be held during exams. The recommendation is that spring football practice remain in place. By consensus the Board accepted the report of the committee and spring football will remain in place.

After accepting the report, CIAC staff proposed an alternative to spring football for schools who believe the conflicts in the spring render the present program less than effective for their program. The staff proposed allowing a school to make a choice to conduct spring football as scheduled or to add five additional days to the start of the season. Schools would need to declare which option they would choose by January 30 of each year. This option would be offered with the understanding that spring football as scheduled would remain for those schools who wish to continue in the spring.

After considerable discussion the Board asked for input from the athletic directors at the CAAD conference and to report back at the April meeting of the Board.

5.0 FUTURE AGENDA ITEMS

- 5.1 CAS Proposed Budget 2008-09; CIAC Sports Audit Report
- 5.2 Spring Football

6.0 STAFF REPORTS

Matt Fischer -- No report
Joe Tonelli -- No report

Robert Lehr -- Reported on the recent Athletic Program Evaluation visit to Simsbury High School

Dave Maloney -- Paul Hoey reported on Dave's behalf about the great success of the cheerleading and dance competitions and the girls basketball tournament.

Paul Hoey -- Briefly reported on the overall success of the winter tournaments.

Mike Savage -- Reported on the continuing issues with workman's comp and briefly discussed budget and expense report.

CIAC BY-LAW CHANGES

Article VII – Tournaments, Meets and Games - Section E.1.

Present language:

After the enrollments as of October 1 for the current school year are received and tabulated by the Executive Director the sport committees shall determine the tournament or championship meet divisions for the following school year.

New language:

After the **9-12** enrollments as of October 1 for the current school year are received and tabulated by the Executive Director the sport committees shall determine the tournament or championship meet divisions for the following school year.

Article XI – Cooperative Team Sponsorship - #6

Present language:

The combined boy or girl enrollments in grades 10, 11 and 12 of the schools involved in the cooperative team will be used to determine the classification of the cooperative for the participation in CIAC tournaments.

New language:

The combined boy or girl enrollment in grades **9**, 10, 11 and 12 of the schools involved in the cooperative team will be used to determine the classification of the cooperative for the participation in CIAC tournaments.

Rationale: Enrollment 10-12 was instituted when many Connecticut secondary schools were constituted 7-8-9 and 10-11-12. All Connecticut high schools are now 9-12. The reporting and use of 9-12 enrollment will be an accurate reflection of the students attending each school and it will add clarity for schools and the public regarding tournament classifications.

Article XII – Out-of-Season Play – 2.0 During the School Year - Out-of-Season Including the Summer – Definitions for 2.1.b. - 1. A Bona Fide Paid Employee

Present:

A Bona Fide Paid Employee – Is an employee who receives at least \$600 in salary for coaching service and can produce an IRS W-2 form or 1099 form which documents \$600 or more in salary received from the employer.

New Language:

A Bona Fide paid Employee – Is an employee who receives at least **\$2,000 in salary** for coaching service and can produce an IRS W-2 form or 1099 form which documents **\$2,000** or more in salary received from the employer.

Rationale: The increase to a minimum of \$2,000 reflects the present working environment and serves to limit the manipulation of the out-of-season coaching regulations.

(Two week back-out period prior to the start of any season with any student with remaining eligibility – Robert Hale, second Steve Wysowski – Failed– 1 yes / 6 no)

Article IV -- Organization -- Section E. -- Committees (Sports) -- 2.**Present language:**

Each committee having to do with state tournaments or meets shall include one or more athletic directors and/or coaches. Voting members of committees shall be appointed by the CIAC Board of Control executive committee and shall consist of administrators of CAS member schools and one delegate per sport tournament division classification as recommended by the Connecticut High School Coaches Association. * There will be a limit of two terms of two years each for each coach representative. Rotation of terms shall be staggered, where possible, for the purpose of maintaining continuity of purpose.

All coach consultants to CIAC sports committees must serve a specific tournament function such as a tournament director, assistant tournament director, coordinator of officials or other role that serves a particular tournament responsibility.

* **New language:** (To be added to present language)

Each sports committee will be allowed to appoint one additional non-voting member as recommended by the CHSCA whose term may not exceed eight continuous years of service on a single sports committee.

Rationale: The Connecticut High School Coaches Association requested that the CIAC board give consideration to allowing one additional coach representative to serve on each CIAC sports committee as a non-voting ex officio** representative. The representative would not exceed eight continuous years of service on a single committee.

The request is made for the following reasons: (1) It will provide greater continuity at the CHSCA executive committee level. (2) It reinstates a practice of long-standing which was halted last year for the purpose of complying with CIAC by-laws. (3) It will add one more coach representative to committee deliberations.

** This position is usually filled by a coach representative who has served a full term (4 years) on a CIAC sports committee as a voting member and then transitions to an ex officio, non-voting position. (Historically, this position has been called "ex officio" even though it is an inappropriate application of the term.)

Article IX -- Rules of Eligibility -- Section IV -- General Procedures -- F.**Present language:**

Girls may participate on boys teams. Girls may participate on either a girls team or a boys team in the same sport, but not both, within a time period of one school year. However, a member school has discretion to exclude girls from boys teams when it can demonstrate that its overall sports program does not limit athletic opportunities for girls.

*Girls who participate on boys teams may enter either the boys or the girls state tournament, but not both. Boys may not participate on girls teams.

*** New language:**

Girls who participate on boys teams, because the school does not offer a girls program in that sport, may enter either the boys or girls tournament, but not both. Girls who choose to participate on a boys team when the school offers a girls team in that sport, may only enter the boys tournament. Boys may not play on girls teams.

Rationale: Present CIAC rules allow a girl to participate on boys teams even when an equivalent girls program exists in a school and permits the athlete to make a choice in which post season tournament they will participate. The CIAC Board believes if a female student-athlete chooses to play on a boys team in the regular season they should be required to play in the boys tournament. This change levels the playing field and does not give an advantage to a female athlete who has competed against boys all season to compete against girls in the post season.

CIAC Code of Eligibility -- Rule IV -- General Procedures - G**Present language:**

On the eve of a tournament when there is not sufficient time for normal administrative procedures if a question of student or team ineligibility arises the Executive Director of CAS, in consultation with the CIAC Eligibility Committee and the Chairman of the tournament in question, will make an appropriate ad hoc decision in consideration of the best interests of the tournament as a whole.

Proposed language:

On the eve of or during a tournament event, when there is not sufficient time to follow normal administrative procedures regarding student or team ineligibility, or when any other issue arises that will interrupt normal tournament procedures, the executive director of CIAC (or his/her designee) in consultation with the CIAC chairperson, eligibility committee chairperson, and the chairperson of the tournament committee in question will make an appropriate ad hoc decision in consideration of the best interests of the tournament as a whole.

Rationale: The CIAC staff has felt strongly for some time now that the existing language in the Code of Eligibility which gives license to a representative committee to take action on behalf of the Board of Control when it is not possible for full board involvement needs to be improved upon for the following reasons:

- Greater range of authority for situations other than student eligibility issues is needed. Most last minute decisions involve situations specific to *clarification or interpretation of tournament regulations or conditions resulting from tournament operations that require immediate, decisive action.*

(Motion to approve George Synnott, second Steve Wysowski – approved)

CAS CONSTITUTION CHANGES**CAS Constitution -- Article IV -- Organization -- Section C -- The Board of Directors of the Connecticut Association of Schools -- 1. Composition - a. iii.****Present language:**

One representative from each of the three classes of high schools that comprise the high school membership: large, medium and small. These classes shall be determined by the board of directors of the Connecticut Association of Schools based on the total enrollment of Grades 10-12, as of October 1 in the even numbered years. Each class will consist of approximately one-third (1/3) of the institutional member schools so determined. Such representatives shall be principals of institutional member schools.

New language:

One representative from each of the three classes of high schools that comprise the high school membership: large, medium and small. These classes shall be determined by the board of directors of the Connecticut Association of Schools based on the total enrollment of Grades **9-12 based upon the schools reported enrollment of October 1 of the previous school year.** Each class will consist of approximately one-third (1/3) of the institutional member schools so determined. Such representatives shall be principals of institutional member schools.

Rationale: Enrollment 10-12 was instituted when many Connecticut secondary schools were constituted 7-8-9 and 10-11-12. All Connecticut high schools are now 9-12. The reporting and use of enrollment 9-12 will be an accurate reflection of the students attending each school and it will add clarity for schools and the public regarding tournament classification.

(Note: Present Board or committee members whose school classification changes will be permitted to complete their term of office under their school's old classification.)

Re: Transgender participation - New By-law

Date: March 20, 2008

Below is new by-law language addressing transgender student-athletes. This proposed language will be added to CIAC By-law IX - Rules of Eligibility. The language of the proposed by-law was adapted from the Washington State Athletic Association that was reviewed at the last Board of Control meeting.

Article IX - Rules of Eligibility and Control for Boys and Girls High School Athletics in Connecticut - B.

B. Transgender Participation

CIAC rules and regulations allow transgender student-athlete participation under the following conditions:

1. A student-athlete will compete in the gender of their birth certificate unless they have undergone sex reassignment.
2. A student-athlete who has undergone sex reassignment is eligible to compete in the reassigned gender when:
 - a. The student-athlete has undergone sex reassignment before puberty, OR
 - b. The student who has undergone sex reassignment after puberty under all the following conditions:
 - Surgical anatomical changes have been completed, including external genitalia changes and gonadectomy.
 - All legal recognition of the sex reassignment has been conferred with all the proper governmental agencies. (Driver's license, Voter Registration, etc.)
 - Hormonal therapy appropriate for the assigned sex has been administered in a verifiable manner and for sufficient length of time to minimize gender-related advantages in sports competition.
 - Athletic eligibility in the reassigned gender can begin no sooner than two years after all surgical and anatomical changes have been completed.
 - A student-athlete seeking participation as a result of sex reassignment can access the CIAC eligibility appeal process.

(Motion Robert Hale, second George Synnott – approved)

See Change #6 on pages 4-5

THE CONNECTICUT ASSOCIATION OF SCHOOLS
The Fifty-Sixth Annual Meeting
May 8, 2008

CHANGES TO THE CIAC BYLAWS
(adopted by the CIAC membership on May 8, 2008)

**CHANGE #1: Article VII – Tournaments, Meets and Games - Section E.1. AND
Article XI – Cooperative Team Sponsorship - #6**

Explanation of change: To use a school's 9-12 boy-girl combined enrollment figure (rather than the 10-12 enrollment figure) to determine CIAC tournament divisions (e.g., Class LL, L, MM, etc.).

ARTICLE VII, SECTION E.1.

Existing Language:

After the enrollments as of October 1 for the current school year are received and tabulated by the Executive Director the sport committees shall determine the tournament or championship meet divisions for the following school year.

Proposed Language (changes in bold italics):

After the ***9-12*** enrollments as of October 1 for the current school year are received and tabulated by the Executive Director the sport committees shall determine the tournament or championship meet divisions for the following school year.

ARTICLE XI – COOPERATIVE TEAM SPONSORSHIP - #6

Existing Language:

The combined boy or girl enrollments in grades 10, 11 and 12 of the schools involved in the cooperative team will be used to determine the classification of the cooperative for the participation in CIAC tournaments.

Proposed Language (changes in bold italics):

The combined boy or girl enrollment in grades ***9***, 10, 11 and 12 of the schools involved in the cooperative team will be used to determine the classification of the cooperative for the participation in CIAC tournaments.

RATIONALE: Using 10-12 enrollment to determine tournament divisions was instituted when many Connecticut secondary schools were constituted 7-8-9 and 10-11-12. All Connecticut high schools are now 9-12. The reporting and use of 9-12 enrollment will be a more accurate reflection of the number of students attending each school and will add clarity for schools and the public regarding tournament classifications.

CHANGE #2: ARTICLE XII (OUT-OF-SEASON PLAY)

Explanation of change: To revise the salary threshold that determines whether or not an individual is a “bona fide paid employee” for the purposes of the Out-of-Season Regulation.

**Article XII – Section 2.0 During the School Year - Out-of-Season Including the Summer –
Definitions for Exceptions to 2.1.b. - 1. A Bona Fide Paid Employee**

Existing Language:

A Bona Fide Paid Employee – Is an employee who receives at least \$600 in salary for coaching service and can produce an IRS W-2 form or 1099 form which documents \$600 or more in salary received from the employer.

Proposed Language (changes in bold italics):

A Bona Fide paid Employee – Is an employee who receives at least **\$2,000** in salary for coaching service and can produce an IRS W-2 form or 1099 form which documents **\$2,000** or more in salary received from the employer.

RATIONALE: The increase to a minimum salary of \$2,000 more accurately reflects the current pay scale and serves to limit the manipulation of the out-of-season coaching regulations.

CHANGE #3: Article IV (ORGANIZATION), Section E (Committees), #2

Explanation of change: To allow one additional non-voting CHSCA representative to serve on each CIAC sports committee.

Existing Language:

Each committee having to do with state tournaments or meets shall include one or more athletic directors and/or coaches. Voting members of committees shall be appointed by the CIAC Board of Control executive committee and shall consist of administrators of CAS member schools and one delegate per sport tournament division classification as recommended by the Connecticut High School Coaches Association. There will be a limit of two terms of two years each for each coach representative. Rotation of terms shall be staggered, where possible, for the purpose of maintaining continuity of purpose.

All coach consultants to CIAC sports committees must serve a specific tournament function such as a tournament director, assistant tournament director, coordinator of officials or other role that serves a particular tournament responsibility.

Proposed Language (to be added to existing language):

Each sports committee will be allowed to appoint one additional non-voting member as recommended by the CHSCA whose term may not exceed eight continuous years of service on a single sports committee.

RATIONALE: This change is being proposed in deference to the Connecticut High School Coaches Association which request that one additional coach representative be allowed to serve on each CIAC sports committee as a non-voting member. The request was made for the following reasons: (1) it would provide greater continuity at the CHSCA executive committee level; (2) it would re-institute a practice of long-standing which was halted last year for the purpose of complying with CIAC by-laws; and, (3) it would add one more coach representative to committee deliberations.

CHANGE #4: ARTICLE IX (RULES OF ELIGIBILITY), Section IV (General Procedures)

Explanation of change: To require a female athlete who participates on a boys' sports team during the regular season to compete in the boys' tournament for that sport even if a girls' tournament is offered simultaneously.

Section IV -- General Procedures -- F.

Existing Language:

Girls may participate on boys teams. Girls may participate on either a girls team or a boys team in the same sport, but not both, within a time period of one school year. However, a member school has discretion to exclude girls from boys teams when it can demonstrate that its overall sports program does not limit athletic opportunities for girls.

*Girls who participate on boys teams may enter either the boys or the girls state tournament, but not both. Boys may not participate on girls teams.

Proposed Language (*changes in bold italics*):

Girls may participate on boys teams. Girls may participate on either a girls team or a boys team in the same sport, but not both, within a time period of one school year. However, a member school has discretion to exclude girls from boys teams when it can demonstrate that its overall sports program does not limit athletic opportunities for girls.

* Girls who participate on boys' teams, ***because the school does not offer a girls program in that sport,*** may enter either the boys' or girls' tournament, but not both. ***Girls who choose to participate on a boys' team when the school offers a girls' team in that sport, may only enter the boys' tournament.*** Boys may not play on girls teams.

RATIONALE: Present CIAC rules allow a girl to participate on a boys' team even when an equivalent girls' program exists in a school and gives the athlete the option to participate in either the boys' or girls' post-season tournament. The CIAC Board believes if a female student-athlete chooses to play on a boys' team in the regular season she should be required to play in the boys' tournament. This change levels the playing field and does not give an advantage to a female athlete who has competed against boys all season were she to compete against girls in the post-season.

CHANGE #5: ARTICLE IX (RULES OF ELIGIBILITY), Section IV (General Procedures)

Explanation of change: To clarify the decision-making procedures that will be followed when an unexpected situation arises at a tournament which necessitates an immediate ad hoc decision.

CIAC Code of Eligibility -- Rule IV -- General Procedures - G

Existing Language:

On the eve of a tournament when there is not sufficient time for normal administrative procedures if a question of student or team ineligibility arises the Executive Director of CAS, in consultation with the CIAC Eligibility Committee and the Chairman of the tournament in question, will make an appropriate ad hoc decision in consideration of the best interests of the tournament as a whole.

Proposed language (changes in bold italics):

On the eve of *or during a tournament event*, when there is not sufficient time *to follow* normal administrative procedures *regarding* student or team ineligibility, *or when any other issue arises that will interrupt normal tournament procedures*, the executive director of *CIAC (or his/her designee)* in consultation with the *CIAC chairperson*, eligibility committee chairperson, and the chairperson of the tournament *committee* in question will make an appropriate ad hoc decision in consideration of the best interests of the tournament as a whole.

RATIONALE: The CIAC staff has felt strongly for some time now that the existing language in the Code of Eligibility which gives license to a representative committee to take action on behalf of the CIAC Board of Control when it is not possible for full board involvement needs to be improved upon. Most last-minute decisions involve situations which require clarification or interpretation of tournament regulations or conditions resulting from tournament operations and require immediate, decisive action. A greater range of decision-making authority is needed for these types of situations.

CHANGE #6: ARTICLE IX (RULES OF ELIGIBILITY), Section IV (General Procedures)

Explanation of change: To adopt a policy regarding the eligibility of transgender athletes to participate in interscholastic athletic programs.

Article IX - Rules of Eligibility and Control for Boys and Girls High School Athletics in Connecticut - B.

(ALL NEW LANGUAGE)

B. Transgender Participation

CIAC rules and regulations allow transgender student-athlete participation under the following conditions:

1. A student-athlete will compete in the gender of their birth certificate unless they have undergone sex reassignment.
2. A student-athlete who has undergone sex reassignment is eligible to compete in the reassigned gender when:
 - The student-athlete has undergone sex reassignment before puberty, OR
 - The student who has undergone sex reassignment after puberty under all the following conditions:
 - Surgical anatomical changes have been completed, including external genitalia changes and gonadectomy.

- All legal recognition of the sex reassignment has been conferred with all the proper governmental agencies. (Driver's license, Voter Registration, etc.)
- Hormonal therapy appropriate for the assigned sex has been administered in a verifiable manner and for sufficient length of time to minimize gender-related advantages in sports competition.
- Athletic eligibility in the reassigned gender can begin no sooner than two years after all surgical and anatomical changes have been completed.
- A student-athlete seeking participation as a result of sex reassignment can access the CIAC eligibility appeal process.

RATIONALE: While the eligibility of transgendered students has not yet been a “live” issue in Connecticut, the CIAC Board felt that it should be pro-active and have a policy in place for any future eventualities.

See pages 2 & 3

CIAC BOARD OF CONTROL MINUTES

March 7, 2013

Present: Anthony Azzara, Fred Balsamo, Joel Cookson, Joseph Erardi, Matt Fischer, Stephanie Ford, Carrie Graham, Robert Hale, Jr., Paul Hoey, Robert Lehr, Karissa Niehoff, Charles Sharos, Beth Smith, Daniel Sullivan, Joe Tonelli, Robert Tremaglio, Thomas Trojjan, James Wenker, Margaret Williamson, Steve Wysowski

1.0 ACTION ITEMS

1.1 Review and Approval – CIAC Board of Control Minutes – January 17, 2013 – After review and discussion the minutes were approved as presented. Motion to approve D. Sullivan / second S. Wysowski

1.2 Treasurer’s Report – Dr. Wysowski presented the treasurer’s report in Paul Newton’s absence.

The CAS checking and money market accounts had a combined balance of \$197,967 at 2/28/13 compared to \$25,734 at 2/28/12. The CAS reserve accounts totaled \$1,259,450 at 2/28/13 compared to \$1,175,170 at 2/29/12. The foundation investment account had a balance of \$1,288,712 at 2/28/13 compared to a balance of \$1,204,143 at 2/29/12. The combined balance of the foundation checking and money market accounts was \$291,907 at 2/28/13 compared to \$395,960 at 2/28/12. There is \$193,500 of outstanding invoices to be collected at 2/28/13 and an additional \$74K still to be invoiced on the current year sponsorship contracts.

Motion to approve – S. Wysowski / second M. Williamson / approved.

1.3 Request from a Member School Principal to Appeal a Decision of the CIAC Board of Control – The Board reviewed a letter from Dr. Victor Black the principal of Warren Harding High School appealing the decision of the Board to fine Harding \$500 for the use of an ineligible player in five varsity basketball games. The Board took the action at the January 17, 2013 meeting.

After discussion the Board voted to allow the appeal and instructed staff to schedule a hearing at a future meeting of the Board.

Motion: To hear the appeal of Warren Harding High School – S. Wysowski / second – D. Sullivan / approved.

1.4 Adoption of the Korey Stringer Institute’s Recommendations – Heat Acclimatization Guidelines for Football – This agenda item was carried over from the last meeting of the Board to allow input from the Football Committee and CAAD prior to the Board action. Both the CAAD Executive Committee and the Football Committee have reviewed the guidelines and recommend their adoption. The Football Committee further recommended the guidelines also apply where appropriate to spring football.

Dr. Thomas Trojjan, M.D., reviewed the guidelines with the Board and answered any questions. It was pointed out the guidelines, at present, are only for football and it was the consensus of the Board that guidelines also need to be developed for other sports where heat is a factor – soccer, cross country, field hockey, etc.

Motion: To approve the Korey Stringer institute Guidelines for Heat Acclimatization for football and spring football – S. Wysowski / second – M. Williamson / approved.

1.5 Proposed Change in CIAC By-law – Article XI – Cooperative Team Sponsorship – Individual Sport Participation Limits – The Cooperative Team Committee is proposing that schools applying for a

cooperative team may use anticipated participation numbers using athletes in grades 9-12 or 10-11 with lower limits. This proposal replicates what was approved for football two years ago. Robert hale reviewed the proposal with the Board and the reduction in limits if ninth graders are not included in the count. He further reported the committee intends to eliminate the 9-12 limits after three years to assure accurate numbers if athletes are based upon the eligibility list for those applying for renewal. After discussion the Board voted to approve the bylaw changes as presented and to move them forward to the Annual Meeting. The change will effect cooperative team applications for the fall of 2013 and beyond.

Motion to approve the bylaw changes as presented – B. Azzara / second – S. Wysowski / approved.

2.0 DISCUSSION ITEMS

2.1 Review – Fall Financial Report – The financial report for fall sports was reviewed in detail. The report shows income for all sports was off by (\$37,543) from the previous year with football showing the largest drop. On the expense side the report shows an increase in expenses of (\$2,730) from 2011-12. Overall CIAC fall sports experienced a net loss of (\$40,273).

2.2 Thomas Neagle, Chairperson of the Committee, Mr. George Hall, Tournament Director and Joe Tonelli, CIAC liaison to the committee were on hand to present their proposal to the Board.

Dr. Neagle addressed the underlying issues the ice hockey committee is facing – decline in the number of teams, the need for three divisions based upon the level of competitive play and to help maintain the sport of ice hockey in the present economic environment.

The committee is proposing the qualification standard in ice hockey be lower than a 40% win record in any division that has less than sixteen qualifiers. This would allow full tournament brackets without byes. The teams with the next highest winning percentage in the division will qualify if the field is less than sixteen. The committee is requesting a two-year trial for ice hockey only.

After considerable review and discussion the Board voted to approve a two-year trial for ice hockey when teams can qualify for the tournament with less than a 40% win record.

Motion to approve the proposal as presented – S. Wysowski / second – M. Williamson / motion approved.

NOTE: Board members Shugrue and Misenti had filed written responses to the proposal – both were not in favor.

2.3 United States Department of Education – Office of Civil Rights – Participation of Students with Disabilities in Extra Curricular Activities – The Board was provided a copy of a document from the US Department of Education and the Office of Civil Rights regarding participation of students with disabilities in school activities and athletics. The requirements for school programs and athletes can have a significant impact on present practice. CAS-CIAC will be offering a legal workshop on this topic on Monday, March 25, 2013 from 4:00 – 6:00 p.m. at CAS-CIAC. The legal workshop will also include the requirements for transgender student participation in athletics. Board members were urged to attend.

2.4 Review of the CIAC Network, PlayOn Sports and Programming for the Winter Championships – Joel Cookson, Matt Fischer and Stephanie Ford reviewed our present partnership with PlayOn, CPTV Sports and MSG Varsity. The number of contest/games covered has increased dramatically in the past year and seven of the eight games in the basketball championships will be televised live. The group reviewed details of the partnership and reported very favorably on all three groups. The Board was provided a promotional flyer for their review.

3.0 CONSULTANT REPORTS

- 3.1 CAS – No report
- 3.2 CAPSS – No report
- 3.3 CABE – No report
- 3.4 Sports Medicine – No report

- 3.5 CATA – Carrie Graham – Discussed upcoming legislation regarding athletic trainers and the scheduled public hearings.
- 3.6 CAAD – Brian Fell / Fred Balsamo – Fred reported on the upcoming CAAD Conference and the PSA’s developed by NIAAA that have been made available to schools.
- 3.7 CHSCA – Charlie Sharos reported on the progress of the scholarship committee. The committee has reviewed 166 applications and has narrowed the field to 30. The finalists will be chosen from this group.
- 3.8 Officials – Lev Torgerson – A member of the Advisory Committee and ice hockey official thanked the Board for allowing officials to be involved.

4.0 COMMITTEE REPORTS

- 4.1 Eligibility Committee – Dan Sullivan, Chair of the Committee, reported three cases were reviewed today. Two were approved and one denied.
- 4.2 Eligibility Review Board – Dan Sullivan reported the ERB had three hearings in February – one was approved and two were denied.

5.0 FUTURE AGENDA ITEMS

- 5.1 Seasons Limitations – Number of Games in Spring Sports
- 5.2 Success in Tournament vs Multiplier for Tournament Placement
- 5.3 Guidelines for Double Session Practices
- 5.4 Transgender Bylaws
- 5.5 CIAC Rules Regarding Use of Booster Club Funds
- 5.6 Out-of-Season Coaching Rules – Camps
- 5.7 CIAC Transfer Rules – Hardship – Burden of Proof

6.0 STAFF REPORTS

- 6.1 Matt Fischer / Joel Cookson – No report
- 6.2 Robert Lehr – No report
- 6.3 Joe Tonelli – No report
- 6.4 Stephanie Ford – No report
- 6.5 Paul Hoey – Reviewed in detail the information items in the packet and several bills that could have an impact on CIAC.
- 6.6 Karissa Niehoff – Reviewed additional legislation and testimony presented on several bills on behalf of CAS-CIAC

See pages 2 & 5-6

CIAC BOARD OF CONTROL MINUTES

March 28, 2013

Present: Anthony Azzara, Eric Baim, Fred Balsamo, Joel Cookson, Brian Fell, Matt Fischer, Robert Hale, Jr., Paul Hoey, Robert Lehr, Paul Mengold, Rick Misenti, Kirk Murad, Paul Newton, Karissa Niehoff, Mike Pitruzzello, Charles Sharos, Beth Smith, Daniel Sullivan, Joe Tonelli, Robert Tremaglio, Jim Wenker.

1.0 ACTION ITEMS

1.1 Minutes – March 7, 2013 – Motion to approve – D. Sullivan / second Eric Baim / approved.

1.2 Treasurer's Report – The CAS checking and money market accounts had a combined balance of \$197,967 at 2/28/13 compared to \$25,734 at 2/28/12. The CAS Reserve accounts totaled \$1,259,450 at 2/28/13 compared to \$1,175,170 at 2/29/12. The Foundation Investment account had a balance of \$1,288,712 at 2/28/13 compared to a balance of \$1,204,143 at 2/29/12. The combined balance of the Foundation checking and money market accounts was \$291,907 at 2/28/13 compared to \$395,960 at 2/28/12. There is \$193,500 of outstanding invoices to be collected on 2/28/13 and an additional \$74K still to be invoiced on the current year sponsorship contracts.

Motion to approve – Paul Newton / second Dan Sullivan / approved

1.3 Request from the Capital Region Education Council (CREC) – The Capital Region Education Council (CREC) will be implementing a sports program at all five of its high schools and is requesting the CIAC Board of Control approve a phase-in plan that allows students the opportunity to continue to participate in athletics at their “home school” during the phase-in period. Mr. Ken Parciak, the Athletic Director for CREC was on hand to present the proposal and answer questions from the Board of Control. Specifically, CREC is proposing the following:

- CREC be granted a waiver to allow students graduating prior to July 1, 2017 the opportunity to play at their “home school” while a full athletic program is phased in.
- CREC will be conducting a sub-varsity club sport program in 2013-14 and 2014-15.
- CREC will implement a varsity program in the 2015-16 school year.
- All students after July 1, 2017 will only play for the school they attend.
- During the phase-in if a student elects to participate in a CREC school program they can no longer return to their “home school” to play.
- During the phase-in CREC will follow all CIAC rules and regulations.
- CREC be assessed dues equivalent to CAS dues for the 2013-14 and 2014-15 school years.

The Board discussed the merits of the proposal and concerns were raised over the ability of magnet schools to possibly recruit athletes and the phase-in may enable such action. The Board also expressed concern with the reduction in dues considering they would enjoy full benefits of membership.

After considerable discussion and deliberation a motion was made to approve the proposal as presented.

Motion to approve the CREC proposal as presented – Dan Sullivan / second Beth Smith / Motion failed 5-3.

Further discussion ensued on the dues structure and a new motion was presented.

Motion to approve the phase-in proposal presented by CRED but the dues for the five schools would be ½ of CIAC member school dues for the first two years and full dues from the third year on – Motion Dan Sullivan / second Beth Smith – Motion approved 7 yes / 1 abstention

1.4 Proposed By-law changes – See attached document

The Board reviewed in detail three proposed by-law changes:

1. Article III – Membership Section A. – Language was added to membership that clarifies that member schools must participate in all CIAC sponsored sports offered by their school as a condition of membership.
2. Article VII – Tournaments, Meets and Games – Section B-3. – Language added to the exceptions under Sunday Play to allow schools in all sports to use Sundays after 12:30 p.m. for make-up games upon mutual agreement of both schools.
3. Article IX – Section B – Transgender Participation – The entire bylaw was rewritten to comply with Connecticut Public Act 11-55 which prohibits discrimination on the basis of gender identity or expression.

After review and discussion and minor editing the Board voted to approve the changes as presented. Motion to approve the three bylaw changes as amended – Rick Misenti / second James Wenker / Approved

1.5 Request from a member school for a review of the CIAC Soccer Committee decision to place the school on probation for exceeding thirteen (13) red/yellow cards during the 2012 season – Newington High School – The principal, athletic director and soccer coach of Newington High School were on hand to request the CIAC Board of Control overturn the decision of the Boys Soccer Committee to place the Newington High School soccer program on probation for the 2013 season believing the Soccer Committee has exceeded its authority and Newington High School as not offered proper due process. The program was placed on probation for accumulating 13 red and/or yellow cards during the 2012 season which by rule placed the team on probation. The school was asked to appear before the Soccer Committee and present an action plan for improvement. The school believed the purpose of the meeting was also to discuss the probationary status and to present their case why probation was not necessary. Additionally, the school believes only the CIAC Board of Control should have the authority to place teams on probation.

The Board discussed the request in detail and noted the Soccer Committee, as well as the Ice Hockey Committee, have placed teams on probation over the years. The policy is clearly stated in the CIAC Handbook and tournament documents. The Board reviewed data on the average number of cards issued and the number of teams placed on probation. They noted the average number of cards was 4.4 per school and five schools have been placed on probation for the 2013 season out of 174 schools. The Board further discussed the concerns with taking away the authority of the committee and its attempt to maintain sportsmanship and accountability for the rules of the sports.

Motion to uphold the decision of the Soccer Committee in this matter – Butch Azzara / second Beth Smith / Approved.

2.0 DISCUSSION ITEMS

2.1 Winter Tournaments

- Robert Lehr – Wrestling, Boys Swimming and Diving, Bowling
 - Joe Tonelli – Boys/Girls Indoor Track, Ice Hockey
 - Paul Hoey – Boys/Girls Basketball
 - Dave Maloney – Cheerleading, Dance
- Tabled and moved to the April meeting.

3.0 CONSULTANT REPORTS

- 3.1 CAS – Fran Kennedy -- No report
- 3.2 CAPSS – Joseph Erardi – No report
- 3.3 CABA – No report
- 3.4 Sports Medicine – Thomas Trojjan – No report
- 3.5 CATA – Carrie Graham – No report
- 3.6 CAAD – Brian Fell reported on the recent CAAD Conference
- 3.7 CHSCA – Mike Pitruzzello reported on the upcoming Hall of Fame dinner in May
- 3.8 Officials – No report

4.0 ELIGIBILITY COMMITTEE

- 4.1 Eligibility Committee – The committee reviewed the cases today – approved 1 / denied 1 and took no action on the third.
- 4.2 Eligibility Review Board – Reviewed two cases at their last meeting – approved 1 / denied 1

5.0 FUTURE AGENDA ITEMS

- 5.1 Seasons Limitations – Number of Games in Spring Sports
- 5.2 Success in Tournament vs Multiplier for Tournament Placement
- 5.3 CIAC Rules Regarding Use of Booster Club Funds
- 5.4 CIAC Transfer Rules – Hardship – Burden of Proof

6.0 STAFF REPORTS

There were no reports due to the lateness of the meeting.

CONNECTICUT INTERSCHOLASTIC ATHLETIC CONFERENCE
30 Realty Drive, Cheshire, Connecticut 06410

To: CIAC Board of Control
From: Paul Hoey, Associate Executive Director
Re: **Proposed Bylaw Changes**
Date: March 28, 2013

1) **Membership**

The following changes are proposed to be added to CIAC Bylaws Article III – Membership – Section A.

Article III – Membership – Section A.

Section A. Any general member of the Connecticut Association of Schools, Inc. as defined in Article III, Section A.1. of the CAS Constitution shall, upon approval of additional application and payment of additional dues and assessments levied by the Association for such purposes, be admitted into membership in the Connecticut Interscholastic Athletic Conference, Inc. (CIAC).

***Add:** CIAC member school must participate in all CIAC-sponsored sports that are offered by the member school. Failure to comply may result in action by the CIAC Board of Control including termination of membership or appropriate action as determined by the Board.*

Rationale: At present no specific language exists in CIAC by-laws or regulation that as a condition of membership a school must participate in all CIAC-sponsored sports that the member school offers. This language protects the Association from schools picking and choosing in which CIAC sports it wishes to participate. It has been a long-standing expectation that a school will be a member in all sports and this language clarifies the expectation.

2) **Make-Up Games on Sunday**

CIAC staff is proposing that the Board of Control consider amending CIAC bylaw Article VII – Tournaments, Meets and Games – Section B.#3

Article VII – Tournaments, Meets and Games – Section B. CIAC Member Schools MAY NOT Participate in Any of the Following Tournaments, Meets and Games:

3. Tournaments, meets and games played on Sundays, either home or away, **EXCEPT** that the CIAC Board of Control, upon request from a sport committee, may grant permission on a case-by-case basis to pre-schedule the final game of a state tournament when the site necessary to conduct the championship is only available on a Sunday. This exception is limited to the final game only in a sport championship and is not extended to any regular season game, league tournament or event nor any other student activity. *Further, the Board approves the use of Sundays after 12:30 p.m. to be used for make-up games in all sports upon the mutual agreement of both schools.*

Rationale: Due to the very unusual weather patterns we have been experiencing, we have been allowing the use of Sundays for make-up games as we near the end of a season. In order to complete their schedule schools play an inordinate number of make-up games in a short period of time in addition to their scheduled games. Allowing the use of Sunday allows the rescheduling of make-up games in a more prudent manner.

3) **Transgender Participation**

Attached is an update of the CIAC bylaw regarding the participation of transgender students in CIAC-sponsored athletics. This new language totally replaces the present language.

Article IX – Section B. – Transgender Participation (Present language)

CIAC rules and regulations allow transgender student-athlete participation under the following conditions:

1. A student-athlete will compete in the gender of their birth certificate unless they have undergone sex reassignment.
2. A student-athlete who has undergone sex reassignment is eligible to compete in the reassigned gender when:
 - The student-athlete has undergone sex reassignment before puberty, OR
 - The student who has undergone sex reassignment after puberty under all of the following conditions:
 - Surgical anatomical changes have been completed, including external genitalia changes and gonadectomy.
 - All legal recognition of the sex reassignment has been conferred with all the proper governmental agencies. (Driver's license, voter registration, etc.)
 - Hormonal therapy appropriate for the assigned sex has been administered in a verifiable manner and for sufficient length of time to minimize gender-related advantages in sports competition.
 - Athletic eligibility in the reassigned gender can begin no sooner than two years after all surgical and anatomical changes have been completed.
 - A student-athlete seeking participation as a result of sex reassignment can access the CIAC eligibility appeal process.

New Language

Article IX, Section B. Transgender Participation

Philosophy of Gender Identity Participation: The CIAC allows participation for all students regardless of their gender identity or expression. The purpose of this policy is to designate a set of criteria in which student-athletes are able to compete on a level playing field in a safe, competitive and friendly environment, free of discrimination. Fundamental fairness, as well as most local, state and federal rules and regulations, requires schools to provide intersex and transgender student-athletes with equal opportunities to participate in athletics. This policy creates a framework in which this participation may occur in a safe and healthy manner that is fair to all competitors.

Gender Identity Participation: All students should have the opportunity to participate in CIAC activities in a manner that is consistent with their gender identity, irrespective of the gender listed on a student's records. Should any questions arise as to whether a student's request to participate in a sex-segregated activity consistent with his or her gender identity is bona fide, a student may seek review of his or her eligibility for participation by working through the procedure set forth below. Once the student has been granted eligibility to participate in the sport consistent with his/her gender identity, the eligibility is granted for the duration of the student's participation and does not need to be renewed every sports season or school year. All discussion and documentation will be kept confidential, and the proceedings will be sealed unless the student and family make a specific request.

- 1) **Notice to the School:** The student and/or parents shall contact the school administrator or athletic director indicating that the student has a gender identity different than the gender listed on the student's school registration records, and that the student desires to participate in activities in a manner consistent with his/her gender identity.
- 2) **Notice to the CIAC and First Level of Appeal:** The school administrator, once they have determined the request is bona fide, shall contact the CIAC Eligibility Committee in writing requesting the individual be allowed to participate in CIAC-sponsored sports consistent with his/her gender identity. The school should supply the Eligibility Committee the following documentation.

- a) Current transcript and school registration information
- b) Documentation of student's consistent gender identification (e.g., affirmed written statements from student/parent/guardian and health care provider)
- c) Any other pertinent documentation or information

The Eligibility Committee will render a decision based upon the documents submitted by the school and/or family. If favorable the student will be declared eligible providing he/she is otherwise eligible. If the Eligibility Committee denies the request the school / parent / student have a right to appeal the decision.

- 3) **Second Level of Appeal:** The school administration wishing to appeal the Eligibility Committee's decision shall file notice with the Executive Director of CIAC on or before the tenth (10th) school business day following the date of receipt of the written decision of the Eligibility Committee. The school will be scheduled for an appeal hearing before a review committee specifically established to hear gender identity appeals. Written notice of the time and place of the hearing shall be delivered to the appealing school principal no later than five (5) school business days of prior to the date of the hearing. The CIAC shall schedule a hearing as expeditiously as possible, but prior to the first full interscholastic contest that is the subject of the petition, or within a reasonable time thereafter in cases of emergency, including, but not limited to, any unforeseeable late student enrollment. The Gender Review Committee will be comprised of a minimum of three of the following persons one of whom must be from the physician or mental health profession category:

- a) Physician with experience in gender identity health care and the World Professional Association for Transgender Health (WPATH) Standards of Care.
- b) Psychiatrist, psychologist or licensed mental health professional familiar with the World Professional Association for Transgender health (WPATH) Standards of Care.
- c) School administrator from a non-appealing school
- d) CIAC staff member
- e) Advocate familiar with Gender Identity and Expression issues

The school and/or family may bring any additional information to the hearing not already supplied to the Eligibility Committee in support of the request.

When there is confirmation of a student's consistent gender identity, the eligibility committee / CIAC Executive Director will affirm the student's eligibility to participate in CIAC activities consistent with the student's gender identification. The CIAC will facilitate the provision of resources and training for a member school seeking assistance regarding gender identity.

*CIAC acknowledges the Washington Interscholastic Activities Association for the development of this policy

Rationale: The updated language is necessary to remain in compliance with Connecticut Public Act 11-55 which prohibits discrimination on the basis of gender identity or expression.

CIAC BOARD OF CONTROL MINUTES

April 25, 2013

Present: Fred Balsamo, Robert Cecchini, Joel Cookson, Brian Fell, Matt Fischer, Stephanie Ford, Robert Hale, Jr., Paul Hoey, Robert Lehr, Paul Mengold, Brian Mignault, Rick Misenti, Kirk Murad, Paul Newton, Karissa Niehoff, Steve Patrina, Mike Pitruzzello, Sheila Riffle, Charles Sharos, Greg Shugrue, Joe Tonelli, Robert Tremaglio, Jim Wenker, Margaret Williamson.

1.0 ACTION ITEMS

- 1.1 Review and Approval – CIAC Board of Control Minutes – March 28, 2013 – Motion to approve – Jim Wenker / second Greg Shugrue / approved.
- 1.2 Treasurer's Report – The CAS checking and money market accounts had a combined balance of \$601,074 on 3/31/13 compared to \$592,409 on 3/31/12. The CAS reserve accounts totaled \$1,576,849 on 3/31/13 compared to \$1,482,829 on 3/31/12. The foundation investment account had a balance of \$1,304,332 on 3/31/13 compared to a balance of \$1,210,920 on 3/31/12. The combined balance of the foundation checking and money market accounts was \$295,551 on 3/31/13 compared to \$411,980 on 3/31/13. There is \$186,000 of outstanding invoices to be collected as of 3/31/13 and an additional \$74K still to be invoiced on the current year sponsorship contracts.
- 1.3 Request to Allow Sunday Participation in a Christmas Holiday Tournament – Newington High School – Newington High requested permission to enter a Christmas Holiday Ice Hockey Tournament in New Hampshire at which some games will be played on Sunday due to a change in schedule at the ice hockey rink changing the start date from Thursday to Friday.

The Board discussed the proposal in detail and concern was expressed regarding allowing pre-scheduling of regular season games on a Sunday and this would open the door for many other events. Further discussion ensued that the event was during non-school time and consideration should be given to such events.

Motion to approve the request to allow the Newington High School ice hockey team to play on Sunday in a holiday ice hockey tournament – P. Newton / second – Rick Misenti – 6 yes, 1 no, 1 abstention – motion carried.

- 1.4 Proposed Bylaw Changes -- The first would permit unattached athletes to participate in events up to a maximum of three (3) days an increase of one day from the present regulation. The rationale for change – previous language prohibited student-athletes from entering competitions that were more than two days in length, and only one of those days could have been a school day. Elite level student-athletes would have been forced to choose between competing in a high level competition or with their high school team. By extending the permissible number of days of competition to three, student-athletes would be able to compete in an event that is important to them while still maintaining eligibility on their high school team.

The second proposed change impacts the in-season rules for individuals in select sports to miss a scheduled school event to participate as an unattached individual when permission to do so is granted by the school administration. The rationale for change -- This proposed revision gives the school administration the authority to determine whether or not a student-athlete would be permitted to compete in a non-school contest as an “unattached” competitor during the regular season. Language would remain in place regarding procedures for CIAC tournaments – i.e. only the Board of Control would be able to permit a student-athlete to compete in an outside competition as an “unattached” competitor during the CIAC tournament season.

- 1.5 Request for a Review of CIAC Board of Control Decision to Fine Warren Harding High School \$500 for the Use of an Ineligible Player in Five Varsity Basketball Games – Dr. Victor Black , the principal of Harding, petitioned the Board to review its decision to fine the school \$500 for the use of an ineligible

player in five varsity basketball games. The standard fine is \$100 per incident up to a maximum of \$500. The Board agreed to conduct a review and invited Dr. Black to the April meeting of the Board. Dr. Black did not attend the meeting and in his place the athletic director, Chris Johnson, addressed the Board of Control and explained the use of an ineligible player was an error in guidance with the records. As soon as the violation came to light he reported the violation to CIAC. Further he explained the process now in place to assure all athletes are eligible. He is a first-year AD.

The Board discussed the request and noted the absence of the principal and his lack of support for a new AD. The Board was sensitive to the issues presented and were appreciative of the efforts the AD has made to rectify communication issues with his coaches and guidance. The Board, however, was not inclined to forgive the assessed fine as it has consistently followed its regulation in all such matters.

Motion to deny the request – Paul Newton / second Kirk Murad – 5 yes / 1 no – motion carried.

- 1.6 Request for a Waiver of CIAC bylaw, Article IX – Rules of Eligibility, Section II. Student Eligibility A. – Charter, Magnet, Regional Cooperative, Interdistrict Satellite School – Wilbur Cross High School, New Haven, is requesting a waiver of CIAC bylaws to allow a student from Wallingford who attends the Metropolitan Business Academy (MBA), a magnet school in New Haven without an athletic program, to participate in sports at Wilbur Cross in lieu of returning to his “home school” as allowed by CIAC bylaws.

Present: Joseph Canzanella, Director of Athletics, New Haven Public Schools, Ms. Allison Matura, Mother of the Student

From the Board: Robert Hale*, Brian Mignault, Rick Misenti*, Kirk Murad, Paul Newton*, Stephen Patrino, Sheila Riffle*, Greg Shugrue*, Robert Tremaglio, James Wenker*, Margaret Williamson*
*Voting members

Staff: Karissa Niehoff, Paul Hoey, Joseph Tonelli, Robert Lehr, Matt Fischer, A. Littlefield, Attorney of the Board

Ms. Matura addressed the CIAC Board of Control and delineated all the reasons why she believed the Board should grant a waiver for her son. Reasons included the need for her son to attend school in a smaller learning community, the academic needs of her son since he is a 504 student, family concerns with transportation issues, the belief he would miss considerable school time to return to his “home school” to play among others. Ms. Matura had submitted documents in support of the request, such as copies of his April 24 updated 504 Plan and a letter from her son’s doctor. These documents were reviewed with the Board but copies were withheld due to confidentiality concerns expressed by Ms. Matura.

Mr. Canzanella reported the student was removed from the Wilbur Cross baseball team both this year and last year because he was not a New Haven student and if he wished to play he needed to return to his “home school”. The New Haven School District, however, did express support for the requested waiver.

After considerable review and discussion of the information presented by the school and/or family, the Board voted to deny the request for a waiver believing the information presented did not substantiate a need for a waiver at this time. Further, the Board concluded the present bylaw is fair and equitable and consistently applied to all students who attend a public school of choice without an athletic program.

Motion to deny – P. Newton / second – G. Shugrue / Motion approved unanimously

- 1.7 Proposed Bylaw Change – Transgender Participation Policy – The Board of Control had previously approved a draft of a new transgender participation policy pending review by the Board’s attorney. After considerable review and research, Attorney Linda Yoder of Shipman and Goodwin proposed a revision of the draft that will be in compliance with Connecticut’s anti-discrimination laws and empowers school

administrators to make the determination if a transgender student can participate in a “gender specific” sport that is other than their birth sex.

After review and discussion the Board voted to adopt the policy as written by Attorney Yoder (see attached). Motion to approve the policy as presented – P. Newton / second J. Wenker – approved.

2.0 DISCUSSION ITEMS

- 2.1 Report on Winter Tournaments – Staff reported on each of the winter tournaments noting that all went well. No incidents were reported at any venue and attendance was good at most events. It was reported that boys and girls basketball will be held on Saturday and Sunday next year due to the facility not being available on Friday evening.
- 2.2 Proposed CAS-CIAC Budget 2013-14 – Dr. Niehoff reviewed the proposed budget with the Board. The Board was provided with budget worksheets showing revenue projections and comparisons to previous years. The budget did not delineate anticipated expenses but they are expected to remain about the same as last year.
- 2.3 Report from the Board Sub-Committee – Use of Success in Tournaments vs a Multiplier for Placement – the Board reviewed the following report of the sub-committee:

As the Board is aware, CIAC received letters from two member school principals requesting a review of the procedure used to place schools of choice in the basketball tournament. The principals of both schools believe the procedure is inequitable because the multiplier of enrollment is not applied to all schools of choice, specifically the vocational technical high schools. The Board concurred with their position and consequently formed a sub-committee of the Board and charged the committee with the responsibility of designing a process that would be fair and equitable for all schools and could be utilized by other sports committees if so desired.

The sub-committee recommends the following be endorsed by the CIAC Board of Control and become effective for the 2013-14 season(s):

1. The sub-committee believes that a success in tournament factor for schools that draw from outside of their school district boundaries* is far more equitable than use of a multiplier.

*Charter, Magnet, Vocational Technical, Vocational Agricultural**, Inter-district Magnet, Parochial, Project Choice Programs**

**When more than 25 students (gender specific) participate in the program from out-of-district.

2. The success in tournament factor will not impact any school that does not draw from outside of their school district boundaries.
3. Use of the procedure will be optional for any team sport committees. Committees who do utilize the procedure will determine which success factor will be used. For example, the procedure will look at success over the past three years in all cases, but a committee may opt to use teams that have reached the quarter-finals or above two of the last three years or use semi-finals or above only for the past three years.
4. A sports committee utilizing the factor would first place teams in divisions by enrollment, then would apply the success factor and re-balance the divisions. Schools that have reached the success factor established by the committee two of the past three years would move up one division, three of the past three years two divisions. No school would move more than two divisions initially. If a school continues to have success in a tournament they would continue to move up. If their success in tournament drops they would be moved down in division.

5. Project Choice Schools (suburban schools) that accept students from urban areas and vocational agricultural schools that have more than 25 males or 25 females enrolled from outside the district will be included as a school where the success in tournament factor would apply.
6. October 1 enrollment data will be used and will be verified by the school choice office at the State Department of Education.
7. The success in tournament factor procedures be evaluated annually to assure it is meeting its expected purpose.

The committee firmly believes the proposed procedures address the equity issues brought forth and is a process that can be used by any sport committee. We recommend the CIAC Board endorse the procedures for implementation in the 2013-14 season(s).

Committee members:	Robert “Jiggs” Cecchini	David Maloney	Paul Hoey
	Margaret Williamson	Dan Sullivan	Sheila Riffle
	Dave Schulz	Mike Pitruzzello	

The Board discussed the recommendation in detail and all questions were answered by staff or members of the sub-committee. Motion to approve the use of success in tournaments by any team sport committee starting with the 2013-14 season(s) – Kirk Murad / second R. Misenti / approved.

3.0 CONSULTANT REPORTS

3.1 – 3.5 CAS, CAPSS, CABE, Sports Medicine, CATA – No reports

3.7 CHSCA – Mike Pitruzzello reported on the upcoming coach of the year banquet and that Paul Hoey would be receiving the Joseph J. Fontana Distinguished Service Award at the dinner.

3.8 Officials – No report

4.0 COMMITTEE REPORTS

4.1 Sullivan reported the committee reviewed one requested waiver and tabled the matter pending additional information. The committee further discussed two other pending cases.

4.2 Eligibility Review Board – The Eligibility Review Board had one hearing in March at which a waiver was granted to the eight semester rule due to a medical hardship.

5.0 FUTURE AGENDA ITEMS

The following will be carried over to the 2013-14 school year.

5.1 Season Limitations – Number of Games in Spring Sports and Adjustments to the Season

5.2 CIAC Rules Regarding the Use of Booster Club Funds

5.3 Out-of-Season Coaching Rules – Camps

5.4 CIAC Transfer Rules – Hardship – Burden of Proof

6.0 STAFF REPORTS

No reports

To: CIAC Board of Control
From: Paul Hoey, Associate Executive Director, CIAC
Re: **Transgender Participation Policy**
Date: April 25, 2013

At the March 28, 2013 CIAC Board of Control meeting, the Board approved changes in the transgender policy. The policy was subsequently sent to the Board's Attorney Linda Yoder of Shipman and Goodwin for review. Attorney Yoder did considerable research and review of the law, new guidelines and policies of the NCAA and other state associations. Dr. Niehoff and myself had an extensive phone conference with Attorney Yoder and she strongly advised we consider going in a different direction from the policy approved by the Board in March.

Attached is Attorney Yoder's draft policy for the Board's consideration. Staff recommends the Board follow the advice of counsel and approve the policy.

DRAFT POLICY – 4/24/13

APPROVED BY CIAC BOARD OF CONTROL – 4/25/13

Article IX, Section B. Transgender Participation (page 54)

The CIAC is committed to provide transgender student-athletes with equal opportunities to participate in CIAC athletic programs consistent with their gender identity. Hence, this policy addresses eligibility determinations for students who have a gender identity that is different from the gender listed on their official birth certificates. The CIAC has concluded that it would be fundamentally unjust and contrary to applicable state and federal law to preclude a student from participation on a gender specific sports team that is consistent with the public gender identity of that student for all other purposes. Therefore, for purposes of sports participation, the CIAC shall defer to the determination of the student and his or her local school regarding gender identification. In this regard, the school district shall determine a student's eligibility to participate in a CIAC gender specific sports team based on the gender identification of that student in current school records and daily life activities in the school and community at the time that sports eligibility is determined for a particular season. Accordingly, when a school district submits a roster to the CIAC it is verifying that it has determined that the students listed on a gender specific sports team are entitled to participate on that team due to their gender identity and that the school district has determined that the expression of the student's gender identity is bona fide and not for the purpose of gaining an unfair advantage in competitive athletics. Students who wish to participate on a CIAC gender specific sports team that is different from the gender identity listed on the student's current school records are advised to address the gender identification issue with the local school district well in advance of the deadline for athletic eligibility determinations for a current sports season. Students should not be permitted to participate in practices or to try out for gender specific sports teams that are different from their publicly identified gender identity at that time or to try out simultaneously for CIAC sports teams of both genders. Nothing in this policy shall be read to entitle a student to selection to any particular team or to permit a student to transfer from one gender specific team to a team of a different gender during a sports season. In addition, the CIAC shall expect that as a general matter, after the issue of gender identity has been addressed by the student and the school district, the determination shall remain consistent for the remainder of the student's high school sports eligibility. The CIAC has concluded that this criteria is sufficient to preclude the likelihood that a student will claim a particular gender identify for the purpose of gaining a perceived advantage in athletic competition.

See Change #7 on page 7

THE CONNECTICUT ASSOCIATION OF SCHOOLS

The Sixty-First Annual Meeting

May 9, 2013

CHANGES TO THE CIAC BYLAWS

(Adopted by the CIAC membership on May 9, 2013)

CHANGE #1: ARTICLE III (Membership) / SECTION A.

Explanation of Change: The proposed change prevents member schools from picking and choosing the CIAC sports in which they wish to participate.

Proposed language (additions in ***bold italics***):

Article III – Membership – Section A.

Section A. Any general member of the Connecticut Association of Schools, Inc. as defined in Article III, Section A.1. of the CAS Constitution shall, upon approval of additional application and payment of additional dues and assessments levied by the Association for such purposes, be admitted into membership in the Connecticut Interscholastic Athletic Conference, Inc. (CIAC).

CIAC member school must participate in all CIAC-sponsored sports that are offered by the member school. Failure to comply may result in action by the CIAC Board of Control including termination of membership or appropriate action as determined by the Board.

Rationale for change: At present, no specific language exists in the CIAC by-laws or regulations that stipulates that, as a condition of membership, a school must participate in all CIAC-sponsored sports that the member school offers. This language protects the association from schools picking and choosing the CIAC sports in which it wishes to participate. It has been a long-standing expectation that a school will be a member in all sports and this language clarifies that expectation.

CHANGE #2: ARTICLE VII (Tournaments, Meets and Games) / SECTION B.3

Explanation of Change: The proposed change identifies make-up games as an allowable exception to the rule prohibiting athletic contests on Sundays

Proposed language (changes in *bold italics*)

ARTICLE VII (Tournaments, Meets and Games) – Section B.3

Proposed language (additions in *bold italics*):

Section B. CIAC Member Schools MAY NOT Participate in Any of the Following Tournaments, Meets and Games:

3. Tournaments, meets and games played on Sundays, either home or away, **EXCEPT** that the CIAC Board of Control, upon request from a sport committee, may grant permission on a case-by-case basis to pre-schedule the final game of a state tournament when the site necessary to conduct the championship is only available on a Sunday. This exception is limited to the final game only in a sport championship and is not extended to any regular season game, league tournament or event nor any other student activity. ***Further, the Board approves the use of Sundays after 12:30 p.m. for make-up games in all sports upon the mutual agreement of both schools.***

Rationale for change: Due to the very unusual weather patterns we have been experiencing, we have been allowing the use of Sundays for make-up games as we near the end of a season. In order to complete their schedule, schools play an inordinate number of make-up games in a short period of time in addition to their scheduled games. Having Sundays as an available option allows the rescheduling of make-up games in a more prudent manner.

CHANGE #3: ARTICLE VII (Tournaments, Meets and Games) / SECTION A.4

Explanation of Change: The proposed change increases (from 2 to 3) the number of days in which an “unattached” athlete can participate in outside competitions during the regular season.

Proposed language (changes in *bold italics*)

ARTICLE VII (Tournaments, Meets and Games) – Section A.4

Proposed language (additions in *bold italics*):

Section A. CIAC member schools MAY ENTER the following Tournaments, Meets and Games
When:

4. Member schools permit athletes to participate “unattached” and where selection for participation is based on performance of an individual, and when such competition is limited to ~~two calendar days of which only one is on a school day~~ **a maximum of three (3) days**.

Rationale for change: Previous language prohibited student-athletes from entering competitions that were more than two days in length, and only one of those days could have been a school day. Elite level student-athletes would have been forced to choose between competing in a high level competition or with their high school team. By extending the permissible number of days of competition to three, student-athletes would be able to compete in an event that is important to them while still maintaining eligibility on their high school team.

CHANGE #4: Article XII (In-Season / Out-of-Season Rules) / SECTION 1.1.a (In season rules)

Explanation of Change: The proposed changes empowers the school administration to determine whether or not a student-athlete would be permitted to compete in a non-school contest as an “unattached” competitor.

Proposed language (changes in *bold italics*)

Article XII – In Season / Out-of-Season Rules – 1.1 Individual and Team sports – Select Sports (Only)

6. Athletes will not miss any CIAC-sponsored tournament contest for which he/she is eligible unless excused by the CIAC Board of Control. It is the philosophy of the conference that student-athletes owe loyalty to their school and team. ***During the regular season, the school administration will make the determination as to whether a student-athlete may be excused from a contest to attend an event as an “unattached” competitor.***

Rationale for change: As a corollary to change #3, this proposed revision gives the school administration the authority to determine whether or not a student-athlete would be permitted to compete in a non-school contest as an “unattached” competitor during the regular season. Language would remain in place regarding procedures for CIAC tournaments - i.e. only the Board of Control would be able to permit a student-athlete to compete in an outside competition as an “unattached” competitor during the CIAC tournament season.

CHANGE #5: ARTICLE XI (Cooperative Team Sponsorship) / Sections I-3

Explanation of Change: The proposed change allows allow more than three schools to form a cooperative team in any sport.

Proposed language (additions in ***bold italics***):

ARTICLE XI – COOPERATIVE TEAM SPONSORSHIP

The CIAC Board of Control shall have the authority to approve the formation of cooperative athletic teams of two, ~~but no more than three~~ ***or more*** member high schools under the following conditions:

1. The determination of the proper set of circumstances which will allow ***multiple two or three*** ~~(but not more than three)~~ schools to form a cooperative team will depend significantly on the issue of competitor displacement. When the CIAC believes that a cooperative arrangement will cause an unreasonable displacement of potential competitors from one of the schools, the request to form a cooperative will be denied. Schools having sufficient numbers of competitors are advised not to request the formation of a cooperative team in that sport. It is only when two, ~~but no more than three~~ ***or more*** schools are experiencing difficulty in obtaining the desired number of competitors to form a team that the request for a cooperative team should be initiated. Cooperative teams may not be formed for financial reasons.
2. Cooperative teams will not be permitted to add ~~a third~~ ***teams*** if the total number of players on the existing co-op team exceeds the maximum determined limit in each sport. Co-op programs exist until they have finished the phase-out period of if the agreement between the schools involved ceased for at least one full season.
3. ~~Three~~ ***Multiple*** team cooperative programs cannot exceed two (2) times the maximum determined limit in each sport.

Rationale for change: The requested change, to allow more than three schools to form a cooperative team, was precipitated by an issue in ice hockey; however, it will apply to all team sports. A cooperative team can consist of more than three teams as long as no one team exceeds the maximum number of allowed participants and no combination of players exceeds two times the maximum allowed. Allowing more schools to join a cooperative program, as long as the maximum numbers are not exceeded, meets the original intent of the cooperative team program – to allow as many students to participate in a sport a school would not otherwise be able to offer.

CHANGE #6: ARTICLE XI (Cooperative Team Sponsorship) / Individual Sports Participation Limits

Explanation of Change: The proposed change allows schools to use either their grades 9-12 or grades 10-12 enrollment when they apply or re-apply for a cooperative team.

Proposed language (additions in *bold italics*):

ARTICLE XI – COOPERATIVE TEAM SPONSORSHIP

Individual Sport Participation Limits

<u>Fall Sports</u> (9-12)/(10-12)	<u>Winter Sports</u> (9-12)/(10-12)	<u>Spring Sports</u> (9-12)/(10-12)
Cross Country 5 / 4	Basketball 8 / 6	Baseball 14 / 10
Field Hockey 16 / 11	Gymnastics 3 / 2	Golf 4 / 3
Football 32 / 25	Ice Hockey 15 / 10	Lacrosse 16 / 11
Soccer 16 / 11	B. Swimming 14 / 10	Outdoor Track ... 14 / 10
G. Swimming 14 / 10	Indoor Track 10 / 7	Softball 14 / 10
G. Volleyball 10 / 7	Wrestling 13 / 9	Tennis 7 / 5
		B. Volleyball 10 / 7

Rationale for change: The option to use either grade 9-12 or grade 10-12 enrollment was allowed in the sport of football three years ago and we are now proposing that the option be applied to all sports. It is the intention of the Cooperative Team Committee to recommend, after a three-year period, that only 10-12 enrollments be used. This will allow the committee to base its decisions to grant cooperative status on accurate enrollment data based upon the eligibility list submitted by the school(s). The formula used to establish appropriate participation figures based upon 10-12 enrollments is as follows:

<u>Current limit based on 9-12 enrollment</u>	<u>Reduction (allowing for elimination of freshmen)</u>
15-16	-5
13-14	-4
10-12	-3
7-9	-2
2-5	-1

CHANGE #7: ARTICLE IX (Rules of Eligibility) / SECTION B (Transgender Participation)

Explanation of Change: The proposed language will replace the existing language governing the eligibility of transgender students to participate in interscholastic athletics.

The language below will replace the existing language of Article IX, Section B in its entirety:

The CIAC is committed to providing transgender student-athletes with equal opportunities to participate in CIAC athletic programs consistent with their gender identity. Hence, this policy addresses eligibility determinations for students who have a gender identity that is different from the gender listed on their official birth certificates. The CIAC has concluded that it would be fundamentally unjust and contrary to applicable state and federal law to preclude a student from participation on a gender specific sports team that is consistent with the public gender identity of that student for all other purposes. Therefore, for purposes of sports participation, the CIAC shall defer to the determination of the student and his or her local school regarding gender identification. In this regard, the school district shall determine a student's eligibility to participate in a CIAC gender specific sports team based on the gender identification of that student in current school records and daily life activities in the school and community at the time that sports eligibility is determined for a particular season. Accordingly, when a school district submits a roster to the CIAC, it is verifying that it has determined that the students listed on a gender specific sports team are entitled to participate on that team due to their gender identity and that the school district has determined that the expression of the student's gender identity is bona fide and not for the purpose of gaining an unfair advantage in competitive athletics. Students who wish to participate on a CIAC gender specific sports team that is different from the gender identity listed on the students' current school records are advised to address the gender identification issue with the local school district well in advance of the deadline for athletic eligibility determinations for a current sports season. Students should not be permitted to participate in practices or to try out for gender specific sports teams that are different from their publicly identified gender identity at that time or to try out simultaneously for CIAC sports teams of both genders. Nothing in this policy shall be read to entitle a student to selection to any particular team or to permit a student to transfer from one gender specific team to a team of a different gender during a sports season. In addition, the CIAC shall expect that, as a general matter, after the issue of gender identity has been addressed by the student and the school district, the determination shall remain consistent for the remainder of the student's high school sports eligibility. The CIAC has concluded that this criteria is sufficient to preclude the likelihood that a student will claim a particular gender identify for the purpose of gaining a perceived advantage in athletic competition.

Rationale for change: Given the recently released guidelines from the CT Safe Schools Coalition concerning compliance with Connecticut's non-discrimination law, Public Act No.11-55, the board felt it was appropriate to update its regulation regarding transgender students. The new language was drafted in collaboration with an attorney following extensive legal research and review.

EXHIBIT B

WIAA Handbook, 2007-2008 § 18.15.0

- 18.13.3 To resume participation following an illness and/or injury serious enough to require medical care, a participating student must present to the school officials a written release from a physician licensed to perform physical examinations **as listed in 18.13.1** and/or a dentist as applicable.
- 18.13.4 The physical examination shall be valid for twenty-four (24) consecutive months to the date unless otherwise limited by local school district policy **or when the physician indicates the physical is only good for less than twenty-four (24) consecutive month..**
- 18.13.5 For each subsequent twenty-four month period the student shall furnish a statement or physical examination form signed by a medical authority licensed to perform a physical examination that provides clearance for continued athletic participation.

18.14.0 SEASON LIMITATIONS - After entering or being eligible to enter the seventh grade students shall have six (6) consecutive years of interscholastic eligibility. If the seventh or eighth grade is repeated, and such repetition is based upon documented academic **deficiencies** by the school principal, the repeated year shall not count against the student's six (6) interscholastic competitive years. Home school students are required to provide documentation of academic deficiency to be verified by the school principal.

After entering or being eligible to enter the ninth grade, a student shall have four (4) consecutive years of interscholastic eligibility.

For the purpose of this rule, consecutive shall mean starting on a designated date and continuing without delay or interruption for four (4) consecutive years. For the purpose of interpreting this rule, interscholastic eligibility exists for a maximum of six (6) years after entering or being eligible to enter the seventh grade and four (4) consecutive academic years after entering or being eligible to enter the ninth grade, and as long as the total years of eligibility (grades 7-12) do not exceed six (6) years. Application of this rule shall not be determined by years of participation in individual sports or sport seasons.

- 18.14.1 Students who do not attend school or who fail to, or are deemed ineligible to participate shall forfeit their eligibility during that period and shall not be provided any additional period of eligibility except as may be provided through the appeal process in Article 19. If additional eligibility is granted as provided through Article 19, under no circumstances will eligibility be extended longer than one (1) additional year beyond the fourth consecutive year of high school (grades 9-12.)
- 18.14.2 Students repeating the eighth grade at the middle level or ninth grade at the junior high level may participate in the senior high school of the same school district provided the principals of both schools involved agree. In such case, the middle level school principal shall provide certification of the student's scholastic eligibility to the high school principal.
- 18.14.3 Additional eligibility shall not be granted if the student has had six (6) years of interscholastic eligibility after entering or being eligible to enter the seventh grade or four (4) consecutive years of interscholastic eligibility after entering or being eligible to enter the ninth grade.

18.15.0 TRANSGENDER PARTICIPATION - WIAA rules and regulations do not prohibit transgender student-athlete participation

- 18.15.1 A student-athlete will compete in the gender of their birth certificate unless they have undergone sex reassignment.
- 18.15.2 A student-athlete who has undergone sex reassignment is eligible to compete in the reassigned gender when:
 - A. The student-athlete has undergone sex reassignment before puberty, OR
 - B. The student who has undergone sex reassignment after puberty under all the following conditions:
- 18.15.3 Surgical anatomical changes have been completed, including external genitalia changes and gonadectomy.
- 18.15.4 All legal recognition of the sex reassignment has been conferred with all the proper governmental agencies. (Driver's License, Voter Registration, etc.)
- 18.15.5 Hormonal therapy appropriate for the assigned sex has been administered in a verifiable manner and for sufficient length of time to minimize gender-related advantages in sports competition.
- 18.15.6 Athletic eligibility in the reassigned gender can begin no sooner than two years after all surgical and anatomical changes have been completed.

18.15.7 A student-athlete seeking participation as a result of sex reassignment can access the WIAA eligibility appeal process.

18.16.0 FIFTH GRADE PARTICIPATION – If the total enrollment of the seventh and eighth grades in a middle school is not over forty (40) when the enrollment count is taken to determine the high school classification, the fifth grade students of the school may be permitted to participate on seventh and eighth grade volleyball, basketball and track teams for the next two (2) years. If the total enrollment of seventh and eighth grade students in a middle school is greater than forty (40) when the enrollment count was taken, but drops below forty (40) during the first two (2) weeks of any sports season, the fifth grade students of the school may be permitted to participate on seventh and eighth grade volleyball, basketball and track teams during that specific sports season.

18.16.1 This participation does not count against the student's middle level eligibility.

18.16.2 When a fifth grade student has participated in one such contest he/she is no longer eligible for that sport at the elementary level.

18.17.0 SIXTH GRADE PARTICIPATION- If the total enrollment of the seventh and eighth grades in a middle school is not over sixty (60) when the enrollment count is taken to determine the high school classification, the sixth grade students of the school may be permitted to participate on all seventh and eighth grade teams except tackle football for the next two (2) years. If the total enrollment of seventh and eighth grade students in a middle school is greater than sixty (60) when the enrollment count was taken, but drops below sixty (60) during the first two (2) weeks of any sports season, the sixth grade students of the school may be permitted to participate on all seventh and eighth grade teams except tackle football during that specific sports season.

18.17.1 This participation does not count against the student's middle level eligibility.

18.17.2 When a sixth grade student has participated in one such contest, he/she is no longer eligible for that sport at the elementary school level.

18.18.0 JOINING SEVENTH AND EIGHTH GRADERS WITH NINTH GRADE - A school district which operates with an organization pattern other than a 6-3-3 may **with league approval** join the seventh and eighth graders from member schools with high school ninth graders for middle level competition in any one or all sports seasons. If there is more than one high school operating within the school district, each high school will serve the students of their attendance area.

18.18.1 Eighth graders may practice with the high school if a sport is not offered by the middle school, as long as the number of weeks does not exceed the season limitation for middle level in that sport. The local school board must assume all responsibility for the middle level students practicing with high school students.

18.19.0 EIGHTH GRADE PARTICIPATION - A **1B** high school may use eighth grade students from a WIAA member middle school/junior high to salvage viable varsity high school teams or if no middle level program is offered in that sport during the same season.

18.19.1 This participation does not count against the student's high school eligibility.

18.19.2 Once a student has competed on the middle level school team, the student is ineligible for that school district's high school team in that sport during that school year.

18.19.3 Once an eighth grade student has participated in one high school contest, he/she is no longer eligible for that sport at the middle school level except when the season schedule in basketball does not allow equal opportunities for boys and girls.

18.19.4 The high school season limitation rule applies to eighth graders playing on a high school team.

18.19.5 Eighth graders may practice with the high school teams during the time period that the seasons run concurrently.

18.20.0 NINTH GRADE SQUAD - Ninth graders may be declared on the WIAA membership form EITHER in the middle level program OR the high school program, on a sport by sport basis, regardless of the building in which the ninth graders are actually located. An established ninth grade program can exist in only one building.

18.20.1 A high school that has a squad of players consisting solely of ninth grade students must conduct its competition either under middle level school playing rules or under high school playing rules, depending upon whether it is playing a middle level team or a high school team.

18.20.2 A squad that consists of students from several grades (9th, 10th, 11th and 12th) will compete under high school playing regulations.

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the type-volume limitations of Fed. R. App. P. 32(a)(7)(B) and Local R. App. P. 32-1(a)(4) because it contains 4,696 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f); and with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in Times 14 point font.

/s/ Kevin M. Barry
Kevin M. Barry

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of October 2021, a true and accurate copy of the foregoing was filed electronically with the Court of Appeals for the Second Circuit via the Court's CM/ECF system. Notice of this filing was sent by email to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Kevin M. Barry
Kevin M. Barry