

# ***RECOMMENDATIONS***

**May 4, 2021 Delaware Interscholastic Athletic Association**



Joint Legislative Oversight  
& Sunset Committee

The following are Delaware Interscholastic Athletic Association (“DIAA”) initial draft recommendations for the Joint Legislative Oversight & Sunset Committee (“JLOSC” or “Committee”). JLOSC staff drafted these recommendations after completion of research, analysis, and following observations made during the presentation meeting. These recommendations are not final until adopted by JLOSC. JLOSC will review and discuss recommendations at a public meeting, where the Committee is free to modify, reject, or create brand new recommendations.

The Committee is statutorily authorized to recommend 1 or more of the following:

- Continuation of the entity as is.
- Termination of the entity.
- Termination of any program within the entity.
- Consolidation, merger, or transfer of the entity or the entity’s functions to another entity.
- Termination of the entity unless certain conditions are met or modifications are made, by legislation or otherwise within a specified time period.
- Budget appropriation limits for the entity.
- Legislation which the Committee considers necessary to carry out its decision to continue or terminate the entity.

Under §10213(a), Title 29, the Committee must first determine whether there is a genuine public need for an agency under review. To meet this requirement, the Committee may select to continue or terminate the entity under review.

## **Adopted Recommendation 1: Continue or Terminate**

Option 1: The Delaware Interscholastic Athletic Association shall continue, subject to any further recommendations that JLOSC adopts.

~~–OR–~~

~~Option 2: The Delaware Interscholastic Athletic Association is terminated, and the Committee will sponsor legislation to implement this recommendation.~~

## **Adopted Recommendation 2: General Statutory Updates & Technical Corrections**

JLOSC will sponsor a bill to make technical corrections to DIAA’s entire governing statute, Chapter 3, Title 14.<sup>1</sup>

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<sup>1</sup> The Committee’s legislative attorney will draft any legislation resulting from approved recommendations, unless otherwise noted.

### **Adopted Recommendation 3: Out-of-Season Coaching**

JLOSC will sponsor legislation amending Chapter 3, Title 14 clarifying that interscholastic coaches who privately coach out-of-season are not in violation of the State Employees', Officers', and Officials' Code of Conduct so long as the criteria DIAA promulgates through regulations are met.

Option 1: The DIAA Board shall consider changes to section 6.8.3 ("Nonschool Recreation and Club Programs and Competitions") of the current proposed Regulation 1009 DIAA High School Interscholastic Athletics within three months following the effective date of this legislation.

~~Option 2: In the event the current proposed Regulation 1009 DIAA High School Interscholastic Athletics is not promulgated, JLOSC will sponsor legislation within six months clarifying that DIAA member school coaches cannot be prohibited from coaching out-of-season, under to the following conditions:~~

- ~~a. A coach will neither require nor coerce a DIAA student athlete to participate in any out-of-season activities.~~
- ~~b. A DIAA student athlete will not be rewarded or penalized in any way due to their participation or nonparticipation in out-of-season activities.~~
- ~~c. A coach's DIAA student athletes will not constitute more than 50% of said coach's out-of-season team or program.~~
- ~~d. A coach's private lesson, individualized session, and organized league opportunities must be available to all student athletes.~~
- ~~e. DIAA member school names, uniforms, and funds will not be used by coaches and student athletes participating in out-of-season programming.~~
- ~~f. Violations and subsequent fees and disciplinary action will be investigated and regulated by DIAA.~~

### **Adopted Recommendation 4: Strategic Plan**

DIAA shall engage the necessary units within the Delaware Department of Education to establish a strategic planning process with a focus on:

- a. Student athlete development.
- b. Equity among student athlete opportunities.
- c. Communication and marketing.
- d. Community engagement.
- e. Board, committee member, and staff training program with a goal of improving time management and streamlining operations.
- f. Other areas deemed appropriate.

### **Adopted Recommendation 5: Expired Terms**

DIAA shall request quarterly updates from the Governor's office as it addresses the current number of expired terms.

### **Adopted Recommendation 6: Term Limits**

JLOSC will sponsor legislation amending Chapter 3, Title 14 establishing term limits for DIAA Board members of no more than three, consecutive or non-consecutive, 3-year terms for a total of 9 years.

### **Adopted Recommendation 7: Board Composition**

Amend Chapter 3, Title 14, to address removal of a board member at any time for gross inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance and change DIAA's Board composition as follows:

- a. Add a third school district superintendent/assistant superintendent, creating an equitable representation among counties.
- b. Add a third nonpublic school representative, who shall be a Head of School.
- c. Of the 6 public members, 1 shall be a current or recent parent of a student athlete from a member school.
- d. The Department of Education representative shall be a voting member.

### **Adopted Recommendation 8: Board Meetings**

DIAA shall restructure Board meetings as follows:

- a. When possible, limit the number of executive sessions to 1 per meeting or schedule a separate executive session meeting.<sup>2</sup>
- b. Establish a standing public comment period that occurs at the beginning of the meeting prior to a vote on any action item and scheduled executive session.
- c. Explore the creation of an Executive Committee, made up of current Board members with appropriate representation, to conduct initial waiver hearings.

Analyst's Note: Holding individual executive sessions for each applicable agenda item is not a requirement of 29 Del. C. § 10004 (FOIA). Because FOIA does not require individual executive sessions, the Board could save time by addressing all executive session matters in one session.

### **Adopted Recommendation 9: Standing Committees**

DIAA shall make the following changes to the standing committee structure:

- a. Update the committee membership information to include more specific standards relating to size, applicable stakeholder representation, subject matter expertise, and public accessibility.
- b. Create a more transparent selection process for committee membership including public notification and access to current vacancy information and application documentation.
- c. Ensure all membership information and committee decisions are easily accessible on the DIAA website.
- d. Adopt a specific disciplinary process should a violation of regulations occur.

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<sup>2</sup> A separate executive session meeting has been utilized by several public bodies, including the [Board of Medical Licensure and Discipline](#).

#### **Adopted Recommendation 10: DIAA Staff**

DIAA shall develop a new staff position to submit to the Department of Education and Joint Finance Committee that will allow the Association to:

- a. Ensure compliance among member schools.
- b. Increase communication with student athletes and their guardians.
- c. Create equitable waiver and transfer policies through education and increased communication.
- d. Conduct investigations in a timelier manner.

#### **Adopted Recommendation 11: Update and Enforce Fee Structure**

The DIAA Board shall assess the current fee structure, make necessary changes, and adopt a mechanism for enforcement in the event of violations.

#### **Adopted Recommendation 12: Enabling Language Regarding Revenue and Insurance**

Amend Chapter 3, Title 14 to allow DIAA the ability to pursue the following:

- a. Sponsorship opportunities and other non-tournament related revenue streams.
- b. Purchase of general liability insurance as it relates to the rental of non-State venues for DIAA sponsored events.

~~Option: Purchase of student accident insurance as it relates to the protection of student athletes during DIAA sponsored events.~~

#### **Adopted Recommendation 13: Website Updates**

DIAA shall restructure and update its website as follows:

- a. Summaries of all promulgated regulations and other DIAA policies.
- b. Standing committee information, including but not limited to, committee authority, current membership, current vacancies, meeting notices, and adopted decisions and recommendations to the Board.
- c. Sport-specific pages featuring FAQs, policy documents, and tournament manuals.
- d. Easily accessible information on the waiver and transfer processes.

#### **Adopted Recommendation 14: Follow Up Reporting**

DIAA shall submit three status reports to the JLOSC on the implementation process of the adopted recommendations on or before the following dates:

- a. July 31, 2021
- b. October 31, 2021
- c. January 31, 2022

#### **Adopted Recommendation 15: Release from Review or Hold Over**

~~Option 1: DIAA is released from review upon enactment of JLOSC-sponsored legislation and submission of the status reports.~~

~~—OR—~~

Option 2: DIAA is held over and shall report to the Committee in January 2022.