

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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DISTRICT OF COLUMBIA STATE ATHLETIC ASSOCIATION

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DISTRICT OF COLUMBIA STATE ATHLETIC COMMISSION

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SUMMER MEETING

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TUESDAY

JUNE 18, 2019

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The DC State Athletic Commission met in Room 622, 1050 First Street, NE,  
Washington, D.C., at 6:13 p.m., Terrence Lynch, Acting Chairperson, presiding.

PRESENT

TERRENCE LYNCH, Acting Chairperson

DWAYNE FOSTER, Commissioner

DWIGHT FRANKLIN, Commissioner

MICHAEL HUNTER, Commissioner

BENJAMIN WATKINS, Commissioner

KEVIN WILLS, Commissioner

ALSO PRESENT

CLARK RAY, Executive Director, DCSAA

MICHAEL ANITON, General Counsel, DCSAA

JUSTIN DOUDS, DCPS

MICHAEL BRYANT, DCPS

LEWIS HOLLINS, DCSAA

KENNY OWENS, DCSAA

EVELYN LIGHTFOOT, Compliance Specialist

MORGAN FRAZIER, Legal Intern, DCSAA

BROOKE PRIESTAS, Legal Intern, DCSAA

CALL TO ORDER: Commissioner Lynch, Acting Chairperson, called the meeting to order at 6:13 p.m. Acting Chair Lynch remarked that Chairperson Overstreet-Gonzales was not present due to her health, and that he had accepted, per her assignment, the chairmanship, which was approved by acclamation of the Commission. The Acting Chair requested those present to keep the Chairperson in their thoughts and prayers.

ASCERTAINMENT OF QUORUM: The Acting Chair determined that there was a quorum.

APPROVAL OF MINUTES FROM DECEMBER 18, 2018, AND APRIL 23, 2019 MEETING: The Acting Chair entertained a motion to approve the Minutes of the December 18, 2018 Winter Meeting of the Commission. Upon a motion duly seconded the Minutes of the Winter Meeting were unanimously approved.

The Minutes of the April 23, 2019 Spring Meeting could not be approved because the Meeting had not been called to order for want of a quorum. However, the meeting minutes prepared, insofar as the meeting had been noticed, were accepted by the Commission with acknowledgment of the ascertainment of no quorum.

CALENDAR FOR 2019-2020 SCHOOL YEAR: The Acting Chair requested the Commission to set a calendar for the 2019-2020 School Year. Director Ray proffered the following dates occurring on Tuesday evenings at 6:00 p.m.: September 17, 2019 for Fall Meeting; December 17, 2019 for Winter Meeting; April 21, 2020 for Spring Meeting; and June 16, 2020 for Summer Meeting. Upon a motion duly seconded, the aforementioned calendar dates were unanimously approved.

The Acting Chair delivered remarks of appreciation regarding the Chairperson's achievements to date.

DIRECTOR'S UPDATE: Director Clark Ray gave the report.

In personnel updates, since the DCSAA had become independent it has been able to facilitate its own personnel authority, and has therefore been able to place its staff members into their correct classification. Additionally, the DCSAA has been able to change the following personnel titles: Kenny Owens, Associate Director of Sports and Activities as of June 9, 2019; Wes Aniton, Esq., General Counsel to assume legal oversight of Title IX program; Shelby Swann, to return to DCSAA as a support contractor in the Title IX program; Evelyn Lightfoot, Compliance Specialist as of June 24, 2019. The Acting Chair congratulated Ms. Lightfoot on her appointment.

Second, the Director updated the Commission on the status of the DCSAA rulemaking and proposed edits and clarifications. The DCSAA staff had proposed edits and clarifications to the Athletic Rules via a process which commenced in 2017/2018 when

DCSAA became an independent agency, albeit housed under the District of Columbia Office of the State Superintendent of Education, Health and Wellness Division. Under this organization, the DCSAA's budget and reporting structure continued to reside with OSSE, wherefore the Mayor delegated rulemaking authority respecting DCSAA programs to OSSE.

In February of 2019, the DCSAA appointed Wes Aniton to General Counsel of the Association, enabling him to confer with the Executive Office of the Mayor on behalf of DCSAA as an independent agency. As a result the Mayor issued an order superseding her previous order, delegating rulemaking authority to the Director of the DCSAA, with the caveat that such rules be approved by the Deputy Mayor for Education (DME). The Director and Staff met throughout the month of April with the Deputy Mayor and the Chancellor of DCPS to discuss both policy and visioning for the Association. At that time the Association proffered a proposed set of rules which was sent to the DME and the OAG for legal sufficiency. OAG determined legal sufficiency and DCPS proffered comments to the rules, whereupon the DCSAA General Counsel commenced negotiations on behalf of the Association with Taneka Miller, Esq., an attorney in the DME's office. A second set of redlined rules was issued under the DME's advisement to completely separate from OSSE by repealing and replacing Chapter 27 of Title 5 (Education), Subtitle A (Office of the State Superintendent of Education) of the District of Columbia Municipal Regulations (DCMR), substituting instead Chapter 1, of Title 5, Subtitle F (District of Columbia State Athletic Association), DCMR. Finally, the Director presented a clean copy of the instant proposed rules to the Commission. The Acting Chair delivered comments of appreciation for the extensive due diligence put forth in negotiating the proposed rules with all respective parties.

Commissioner Foster delivered remarks regarding the transparency of the process undertaken to move the proposed rules into the form approved by the Commission in October of 2018; however, he went on to say that the instant proposed rulemaking as finalized between the DCSAA, OAG, and the DME's Office lacked the same degree of public hearing, and questioned the participation of DCSAA members school other than DCPS in the process which has resulted in the instant proposed rulemaking. General Counsel Aniton described the next steps in the rulemaking process, which include official approval to publish the Notice of Proposed Rulemaking (NOPR) in the DC Register followed by another 30-day comment period. Director Ray remarked that while the Commission did vote to approve the rules in the form so proffered in October, the Commission was not delegated with rulemaking authority by the Mayor's Order. Per the Order, rulemaking authority ultimately rests with the Director of the DCSAA provided that there has been sign-off by the DME. Previously, following Commission approval, OSSE, as promulgator of the rules, opted to insert language deemed by it to be necessary into the rules. The instant rules were released in late May whereupon the

Director presented such rules to all DCSAA stakeholders. In return the DCSAA received comment from one LEA out of the 48 LEAs.

Commissioner Foster challenged the posture of the rulemaking process in light of the lack of comment from stakeholders. Director Ray mentioned that even at the present time the rules were still open for public comment. The Acting Chair requested the Commissioners to each reach out to their respective networks and urge all stakeholders to comment going forward with the NOPR. Commissioner Franklin and Director Ray discussed the use of listservs in use by the DCSAA. Commissioner Foster continued to express concern about participation. Commissioner Willis provided commentary regarding the inclusion of all student populations in the negotiation of the rules and suggested the Commission move on the approval of the rules as proposed and to recommend them to the Mayor's Office for public notice.

The matter was opened to discussion and Commissioner Foster raised concerns respecting the following portions of the notice of proposed rulemaking: Section 103.8, request for supporting documentation for certification of eligibility from LEA and member schools; Section 104.4, eligibility requirements for age, semester, and grade of student athletes concerning intentional repetition of grades in order to participate in state athletics and its implications for graduation rate and NCAA eligibility; Section 109.2 and 109.3, waiver of student eligibility language regarding the letter of support being removed; Section 110, regarding complaints and challenges arising under DCSAA handbook; Section 111.10, related to player participation during consideration of eligibility; 113.1 and 113.2, adding "more stringent" language relating to member school and LEA regulations and policies; Section 102.3, relating to member school participation under subsection (g); and 104.3, regarding the removal of the 20-day requirement. Commissioner Hunter raised a question regarding DCSAA access to the OSSE's school directory under 103.4. All questions were addressed and would be taken into consideration by the DCSAA General Counsel. Upon a motion duly seconded, the Commission voted to recommend the proposed rules to the Mayor.

Lastly, Director Ray delivered remarks upon the NSAA/NFHS Nike/Adidas High School Tournament taking place at Murray on June 21, 22, and 23, 2019.

ADJOURNMENT: On a motion duly seconded the Commission voted to adjourn the Summer Meeting at 7:48 p.m. The Fall Meeting date will be September 17, 2019.