

PENNSYLVANIA ATHLETIC OVERSIGHT COMMITTEE

ANNUAL REPORT

2012

**The Pennsylvania Athletic Oversight Committee Annual Report of PIAA
Continued Compliance with Act 91 of 2000 and Act 187 of 2002**

Oversight Committee Members

Representative Gene DiGirolamo, Chairman
Senator Joseph B. Scarnati III Representative Mike Reese
Senator Jane C. Orié* Representative Tony J. Payton, Jr.
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PENNSYLVANIA ATHLETIC OVERSIGHT COMMITTEE

2012 ANNUAL REPORT

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**PENNSYLVANIA ATHLETIC OVERSIGHT
COMMITTEE**

**EXECUTIVE SUMMARY
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2012**

I. EXECUTIVE SUMMARY

A. PENNSYLVANIA ATHLETIC OVERSIGHT COMMITTEE

On July 4, 2004, the General Assembly established the Pennsylvania Athletic Oversight Committee (PAOC) in response to the recommendations made by the previous Oversight Council before it disbanded in February 2004. The Council's Future Recommendations have been included in this report. The PAOC was charged with overseeing the continued compliance of the PIAA with Act 91 of 2000 (Appendix 4), of which a background is provided.

B. BACKGROUND

On November 22, 2000, then Governor Tom Ridge signed Act 91 of 2000 giving the Pennsylvania Interscholastic Athletics Oversight Council ("Council") the responsibility to review the progress of the Pennsylvania Interscholastic Athletic Association, Inc. ("PIAA") to comply with thirteen legislatively mandated reforms. The Act required the PIAA to enact specific reforms that were designed to improve the management of high school athletics in the Commonwealth. The Council was given a two-year period to oversee the efforts of the PIAA towards completion of these forms.

On November 26 and 25, 2002, House Bill 2644 unanimously passed the House of Representatives and the Senate, respectively. The bill became Act 187 of 2002. The bill extended the life of the Council for one year. It also added an additional requirement for the Council to evaluate the expansion of PIAA sanctioned athletic competitions or sports, including the addition of other athletic associations into PIAA sponsored championships. The rest of the requirements in Act 91 remain unchanged. The Council issued its final report on March 14, 2004, as mandated by Act 91.

Act 91 gave the Council the authority to have access to all books, papers, documents, and records of the PIAA. Act 91 also directed the Legislative Budget and Finance Committee ("LB&FC") to conduct a full financial and management review of the PIAA at the request of the Council. Two reports were completed by the LB&FC in December 2001 (C0020-0237) and November 2002 (C0307-0468) as marked and catalogued in the 2004 Final Report. An update on the remainder of the incomplete reforms was submitted to the Council on September 15, 2003, as noted in (Appendix 8) of the 2004 Final Report.

The Council's review focused on three areas: financial and management policies, eligibility appeals, and eligibility rules and transfers of students. Additionally, with the legislative changes in 2002, the Council also reviewed the expansion of PIAA sponsored sports and the addition of athletic associations into the PIAA. By law, the Council was charged with making recommendations, holding public hearings, and reviewing and monitoring the administrative reforms of the PIAA.

Before issuing its final report, the Council held a final meeting on February 24, 2004 at which time the Council voted aye that the PIAA, to the satisfaction of the Council, was in full compliance with the 13 mandated requirements and the Council disbanded, as provided for in Section 1603-A(g)(1) of Act 91 of 2000. Before the Council disbanded, it voted to include recommendations regarding the continued oversight of the PIAA.

C. COMPLETED REFORMS

This section of completed reforms contains a list of the mandated reforms from Act 91 of 2000 along with a brief historical synopsis of each one, which can be found in section IV, page 50 of the Final Report. The Appendix notations have been omitted and can also be viewed in the Final Report.

1. Open Meeting Policy. Adopt and adhere to policies governing the conduct of open meetings that conform with the requirements of 65 PA.C.S. Ch.7.

The Open Meeting Policy requirement in Act 91 was completed by a unanimous vote of the Oversight Council at their meeting on February 26, 2002. This standard provides for the PIAA to adopt and adhere to policies governing the conduct of meetings open to the public. This was one of the first issues addressed by the PIAA. While they reported that their meetings were always open to the public, the issue was their failure to not publicly announce these meetings.

On January 30, 1999, the PIAA Board of Directors adopted an Open Meeting Policy effective immediately. The Policy was changed to include notification of meetings in the PIAA Quarterly (formerly PIAA Newsletter), PIAA web site www.piaa.org, and postings in the PIAA calendar. The PIAA added a link to their web site to make the dates easily accessible. This policy change meets full compliance with the standards set forth in Act 91. The Oversight Council voted unanimously to approve this issue on February 26, 2002.

2. Merchandise Bidding Policy. Adopt and adhere to a policy establishing a competitive bidding process for the purchase of non-incident merchandise and services that conforms with the requirements of this act.

The Merchandise Bidding Policy was unanimously completed by the Council on November 19, 2002. Policy language changes have improved to insure that the process is fair and insures economic sensibility for the PIAA.

The bidding policy was amended to include items like trophies and printing in an effort to make the policy more inclusive. However, these policy changes did not go into effect until July 1, 2003. Since then, the Council has determined that the policies are being adhered to. The revised policies allow for fair bidding and better economic opportunities for the PIAA.

3. Site Selection Policy. Adopt and adhere to a policy establishing a competitive process for the selection of sites for championship competitions.

The Site Selection Policy for championship games is an issue that has seen considerable reform. Originally, the decision making of where championship games were to be held lied solely in the hands of the Executive Director of the PIAA. As of May 27, 1999, this was changed and now bids are received and opened in a public setting with the final decision made by the board of directors.

Given the above changes, the Oversight Council is satisfied with the PIAA progress towards this reform. In a unanimous decision on November 19, 2002, the Council approved this item as complete.

4. LB&FC Review. Agree to an annual financial and management review conducted by the Legislative Budget and Finance committee.

Another requirement of Act 91 is for the PIAA to agree to an annual financial and management review conducted by the LB&FC. The first review was completed and presented to the Committee on December 12, 2001. The LB&FC cited general cooperation with this requirement. A second review was completed on November 13, 2002.

In the 2001 LB&FC report, eleven recommendations for better accounting and managerial practices were cited. Policy language changes addressed several of the recommendations as cited in a letter from Mr. Blucas to Chairman Gerlach on February 8, 2002. In the LB&FC report of 2002, the eleven reforms were revisited and minimal progress was reported.

During the Council meeting of February 5, 2003, the Council expressed, to the PIAA, their continued concerns with LB&FC recommendations that remain unsatisfied. Several items remained of particular concern regarding cash payments to game managers and the lack of centralized accounting practices. As of the date the Council submitted their 2003 annual report, the PIAA and the Council were working towards compromise. At the same meeting, the Oversight Council distributed a handout detailing their position on the LB&FC recommendations.

On April 8, 2003 the committee on Financial and Management, met cooperatively with LB&FC and the PIAA to construct a plan of action toward compliance. At the Council meeting on May 13, 2003, the PIAA was asked for an update on the progress made thus far. The PIAA reported their Board of Directors would be voting on Citizens Bank and making changes concerning the disbursement of checks. The Council wanted these policies successfully changed and applied to districts as well as inter-district activities. At the May 13, 2003 meeting, the PIAA also reported progress towards concerns regarding unbudgeted expenses, and the use of relatives serving as personnel.

At the Council meeting on August 5, 2003, the PIAA was asked for another update on the progress they have made toward the LB&FC recommendations. The PIAA distributed the latest copy of updated policies effective July 2, 2003. The LB&FC was asked if they were satisfied with the changes and they indicated that they had just received them the same day but everything seemed in order. The Council asked the LB&FC to submit a letter to the Council stating that position.

In a letter dated September 15, 2003 entitled “An Assessment of PIAA Actions on Incomplete Reforms,” the LB&FC cited general satisfaction towards PIAA compliance with their eleven recommendations. They also note that their opinions are based on policy actions taken, not on implementations. They continue to question the status of the accounting manual previously promised by the PIAA. The letter was submitted to Representative Gene DiGirolamo at the request of the Oversight Council.

With receipt of the LB&FC letter, the Oversight Council is satisfied with the PIAA progress towards this reform. In a unanimous decision on October 28, 2003 the Council approved this item as complete.

5. Expansion of the Board of Directors. Ensure that the membership of its Board of Directors complies with the provisions of the act.

The Expansion of the Board of Directors is an issue that had moved towards partial compliance even before the Oversight Council convened for the first time. All required members were added on April 25, 2001, except two members representing parents. A vote by the membership did not add them since it would require a change to their constitution.

In an April 9, 2002 letter to the District Chairman, Walter Blucas, PIAA President, asked the member schools to pass an amendment allowing the inclusion of two parents as advisory members to the Board of Directors, making them full voting members in July 2003. This time the PIAA Board of Directors approved the constitutional amendment. Currently, two members have been added as advisory members allowing them to attend meetings of the Board of Directors and closed session executive meetings. They were automatically added as full voting members on July 1, 2003.

The Oversight Council was pleased with the progress of the PIAA to add parents to their Board of Directors. At their September 10, 2002 meeting, they unanimously voted that the PIAA is in compliance with this issue. Meanwhile, in the annual report of 2003 they cited continued oversight on this issue until it was implemented.

To date, the Board of Directors has been successfully expanded and continues to operate with the parents as full voting members for several months. No further concerns with this issue have been raised during the continued oversight period.

6. Restitution Rule. Not require any member school entity to reimburse PIAA for legal fees and expenses incurred by PIAA or any of its personnel in defending a legal action authorized by a member school entity and brought against the PIAA or any of its personnel and take action to repeal any present rule or policy authorizing such reimbursement prior to the final report of the Pennsylvania Athletic Oversight Council.

The Restitution Rule was completed by a unanimous vote of the Oversight Council at their meeting on February 26, 2002. The Restitution Rule provided for the reimbursement of legal fees incurred by PIAA in defending legal actions against the Association. The rule allowed the PIAA to recover court costs and attorney's fees from member schools or student athletes in matters where the PIAA prevailed. The Restitution Rule was repealed by the PIAA on April 26, 2001. By PIAA's efforts to eliminate the Restitution Rule, the Oversight Council has voted they are in full compliance with this requirement of Act 91. The Oversight Council voted unanimously to put this issue to rest.

7. Evaluation System for Game Officials. Adopt an evaluation system for game officials at district, inter-district and championship competitions and utilize that evaluation system in the selection of individuals to officiate those contests.

The Oversight Council began discussions to adopt an evaluation system for game officials on February 26, 2002. Frances Pierce, the Oversight Council member representing officials, researched the concerns of the officials, as well as the member schools.

Ms. Pierce requested the system of evaluating game officials from each district and evaluated the procedure for assigning officials to playoff and championship games. It was determined by the Council that although there is a system in place, it was not properly communicated to principals, officials, athletic directors, and media personnel. The Council offered language for adoption by the PIAA to allow for better communication.

The language was adopted by the PIAA and appeared in the PIAA Quarterly indicating the change. The Oversight Council is pleased with the changes and voted for full compliance with this issue on February 5, 2003.

8. Conflicts of Interest. Adopt and adhere to a policy prohibiting conflicts of interest and setting forth rules of ethics to be followed by PIAA board members and employees.

The issue of Act 91 which deals with mandating the PIAA to adopt a policy prohibiting conflicts of interest and setting forth rules of ethics to be followed has been evaluated by the Oversight Council and, in part by the LB&FC. Areas of concern in their investigation were family members of game managers being

employed during games, employee reimbursements for travel in the absence of receipts, and volunteer gifts.

The concerns were addressed by the PIAA resulting in a change in policy language as reported in an April 19, 2002 letter to Chairman Gerlach. The new language requires persons who serve the PIAA in some capacity to do so “without influence or the appearance of influence by any other business or financial interest of such person.”

The Oversight Council is satisfied with the language changes as written and unanimously passed compliance with this issue on June 10, 2002.

9. In-House Counsel. Employ in-house counsel.

This issue was resisted by the PIAA until they submitted a draft job description with an estimated hire date in early to mid-summer 2002. At that time, there was concern about the proposed salary. It was brought to the Council’s attention that the position would employ one person on an as-needed, part-time basis, paying approximately twenty-five thousand dollars (\$25,000) annually.

From a financial perspective, there was a clear need to employ in-house counsel. The Oversight Council requested copies of all legal bills for a three-year period. After some resistance, the legal bills were obtained and a detailed analysis of a cost comparison was done. As an example, in the fiscal year 2000-01, the LB&FC found the total legal expenses paid by the PIAA were \$269,462, to the firms of McNees, Wallace and Nurick, Milliron Associates and Klett, Rooney Lieber and Schorling for legal fees.

This is just one example of the obvious financial need to employ in-house counsel. While it is not the desire of the Oversight Council to take away the PIAA’s constitutional right to employ out-of-house counsel, it became clear that employing in-house counsel would be financially prudent to cover the day-to-day activities of the PIAA. The legal billing request indicated the amount of time counsel was spending on activities such as reviewing PIAA newsletters and writing response letters. More than enough evidence was found to indicate in-house counsel would be cost effective.

At the Oversight Council meeting on November 19, 2002, Michael L. Solomon, Esq. was introduced to the Council as a new employee of the PIAA, fulfilling the standard to hire in-house counsel.

The issue of PIAA compliance with hiring in-house counsel was voted upon and unanimously passed on November 19, 2002. Although Act 91 does not specify the amount of hours required to comply with this standard, the Oversight Council wanted to be sure that the law’s intention, lowering PIAA legal fees, would be upheld by a part-time position.

On October 20, 2003, the PIAA submitted their financial statements for the year ending June 30, 2003. It has become apparent that the counsel position was competently filled and the financial benefits are obvious. The Council has assessed that the intention of Standard 9 is being upheld by the part-time hiring of in-house counsel.

10. Employee Evaluations. Evaluate the performance of its contracted employees to determine whether they have complied with the provisions of their contracts and to determine whether termination is appropriate for any PIAA employees who have violated the provisions of their contracts.

In April 1999, the Board adopted a specific policy providing for the formal evaluation of all PIAA employees and acquired new performance evaluation instruments. The PIAA Executive Committee reported that as of November 2001, all evaluations were current and documented.

Although it appeared the PIAA had made progress establishing a formal employee evaluation system, they would not comply with repeated requests for the completed employee evaluation forms during the LB&FC audit, citing employee confidentiality. The Oversight Council suggested they would be satisfied by a signed affidavit assuring the PIAA was performing the evaluations and they were effective and appropriate.

On June 10, 2002, Walter Blucas signed an affidavit in the presence of the Council officers, attesting to the performance of yearly PIAA employee evaluations. On the same day, the Oversight Council unanimously accepted this affidavit to comply in full with this provision of Act 91.

11. Media Access. Adopt no rules restricting media access to interscholastic athletic competitions or restricting the substance of any commentary offered by the media reporting of interscholastic athletic competitions.

There was concern that the media had been unfairly charged fees or denied access to conduct thorough reports. The Oversight Council suggested that policy language changes be adopted by the PIAA allowing working members of the media access to championships and PIAA sponsored events. In a letter from Mr. Cashman to Senator Gerlach, it was reported that a policy had been adopted by the PIAA Board of Directors.

This policy satisfied the concerns of the Council. On June 10, 2002, a unanimous vote by the Council accepted the policy language completing this requirement of Act 91.

12. Recruiting. Adopt rules intended to discourage its member school entities from recruiting student athletes.

On May 12, 2001, the PIAA amended the section of their by-laws dealing with recruiting to include procedural standards for district committees and for appeal hearings. Although the language did address penalties for schools involved in recruiting, it did not address sanctions for the coach employed by a PIAA member school found to be involved in recruiting. The Oversight Council suggested language that would also penalize coaches at their meeting on September 10, 2002.

The new language was adopted by the PIAA and appeared in the PIAA Quarterly indicating the change. It now states “Any person determined to have engaged in recruiting, either in whole or in part, for an athletic purpose shall be disqualified from coaching any athletic teams of PIAA members for a period of at least one year.” The Oversight Council is pleased with the changes and voted for full compliance with this issue on February 5, 2003.

13. Equal Rights Policy. Establish a policy, including a mechanism for enforcement, requiring that persons involved in interscholastic athletics be provided equality of opportunity and treatment without regard to race, sex, religion, national origin or ethnic background.

The issue of establishing an equal rights policy which relates to all facets of the PIAA including student-athletes, coaches, officials, athletic directors, principals, school employees and PIAA employees, has been established. On May 12, 2001, the Board of Directors adopted an equal opportunity and treatment policy.

Following an April 19, 2002 letter from Mr. Cashman to Senator Gerlach indicating the most recent updates to the policy, on June 10, 2002, the Oversight Council unanimously voted for acceptance of the policy and completion with this standard of Act 91.

D. OVERSIGHT COUNCIL’S FUTURE RECOMMENDATIONS

The former Oversight Council placed into their Final Report five recommendations for the PIAA, which the Council believed would assist the PIAA in administering high school athletics in Pennsylvania. The five recommendations can be found on page 59 of the final report and are as follows:

- Continue to adhere to Act 91 of 2000 and Act 187 of 2002.
- File an annual report to the Chairman and Minority Chairman of the Education Committee of the Senate, the Chairman and Minority Chairman of the Education Committee of the House of Representatives and the Secretary of Education.
- Include in the annual report their internal annual auditor’s report.

- Keep in place all policies and bylaws pertaining to the standards in Act 91. If any change occurs, an explanation and reasoning shall be included with the annual report.
- Continually evaluate PIAA procedures and practices and, where needed, adjust them to better serve the students of Pennsylvania.

**PENNSYLVANIA ATHLETIC OVERSIGHT
COMMITTEE**

**NARRATIVE
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II NARRATIVE

A. PENNSYLVANIA ATHLETIC OVERSIGHT COMMITTEE (PAOC)

The Pennsylvania Athletic Oversight Committee (“Committee”) was created by Act 70 of 2004 (Appendix 2) by the General Assembly as a legislative oversight committee to meet at least once a year for the purposes of reviewing the Pennsylvania Interscholastic Athletic Association’s (“Association”) continued compliance with Act 91 of 2000, responding to issues related to the activities of the Association and to issue an annual report of its findings to the presiding officers in both Chambers. This is the **Eighth** Annual Report of the Oversight Committee.

Section 1605-A of Act 70 provides that the Committee be comprised of six members; two appointed by the Speaker of the House of Representatives and one appointed by the Minority Leader of the House; and two appointed by the President pro tempore of the Senate and one appointed by the Minority Leader in the Senate.

The following members are currently appointed to the Committee:

HOUSE

Representative Gene DiGirolamo
Representative Mike Reese
Representative Tony Payton, Jr.

SENATE

Senator Robert Robbins
Senator Jane Orie*
Senator Richard Kasunic

B. COMMITTEE MEETINGS OF 2012

On January 25, 2012, the Committee held its only meeting for the 2012 calendar year. At this meeting, the committee received testimony from the PIAA, the Pennsylvania Catholic Conference, Bible Baptist School and Esperanza Academy Charter High School regarding the proposed amendments to the Glossary section of the PIAA By-laws.

All testimony can be found in **Appendix 6**

CHAIRMAN’S NOTE:

The PIAA sent a follow-up letter, dated January 27, 2012 to the Oversight Committee to address a few items of interest contained in a letter/testimony submitted by the Pennsylvania Catholic Conference at the meeting. The PIAA letter can be found in Appendix 7.

Since the January 25th meeting, the committee has received several correspondences and when necessary, responded to the inquiries.

**PENNSYLVANIA ATHLETIC OVERSIGHT
COMMITTEE**

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III OVERSIGHT COMMITTEE'S FINAL ACTIONS FOR 2012

The meeting of January 25, 2012 was the final action taken by the Oversight Committee for the 2012 calendar year.

PENNSYLVANIA ATHLETIC OVERSIGHT COMMITTEE

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APPENDICES ANNUAL REPORT 2012

APPENDIX 1 PA Athletic Oversight Committee Operating Rules

Operating Rules of the Pennsylvania Athletic Oversight Committee (Adopted November 1, 2005)

- I.** Membership: The membership of the Pennsylvania Athletic Oversight Committee shall be comprised in accordance with the provisions of section 1605-A of the School Code of 1949 (Act 14 of 1949).
- II.** Officers:
 - A.** Election: The Committee shall elect as officers of the Committee a Chair and a Vice Chair. Election of officers shall be conducted at the first meeting held after January 30 of each odd-numbered year
 - B.** Terms of Office: The terms of office of the officers shall be for two years or their termination of service, whichever is less. Initial term of office for the officers shall expire on the December 1 of 2006. Successive terms of office shall expire on December 1 of each even-numbered year.
 - C.** How selected: The chair and vice chair shall be from different chambers, one from the Senate and one from the House.
 - D.** Duties: (1) Chair—The duties of the chair shall be to set meeting dates, establish an agenda, and notify members of the Committee of the meeting details and agenda. As presiding officer, the chair shall maintain good order at all meetings. The chair shall also see that a transcript of the proceedings of each meeting is prepared and distributed to the members of the Committee. In addition, the chair shall speak for the Committee and may contact individuals and organizations for information and arrange for hearings of the Committee. Furthermore, the chair shall, with the consent of the Committee, appoint such necessary staff as is needed to complete successfully the work of the Committee.
(2) Vice Chair—The duties of the vice chair are to fill the duties of the Chair in the absence of the Chair. In the event of a vacancy in the office of the Chair, the Vice Chair shall succeed to the office of the Chair. In the event of a vacancy in the office of the vice chair, the Committee shall, within thirty days of the vacancy, elect from among its members a new vice chair.
- III.** Meetings: The Committee shall meet at least once each calendar year for the purpose established in section 1605-A (c) of the School Code.
- IV.** Quorum: A majority of the members appointed to the Committee shall constitute a quorum. A quorum shall be required for the transaction of business, except that the Committee may take testimony and hold hearings without a quorum when no votes will be taken.
- V.** Voting: All matters of business before the Committee shall be decided by a majority vote of the Committee. Members of the committee may vote by proxy only after a quorum has been established by a majority of the members.

If a member reports to a scheduled committee meeting and advises the chairman and other members of a conflicting committee meeting or other legislative business which he or she must attend on the same day, the member is authorized to give the chairman his or her proxy in writing which shall be valid only for that day and which shall include written instructions for the exercise of such proxy by the chairman during the meeting.

- VI.** Parliamentary Authority: *Mason's manual of Legislative Procedures*, current edition, shall serve as the parliamentary authority for all business conducted by the Committee.
- VII.** Compliance with Applicable State Statutes: The Committee shall be subject to the provisions of Title 65 Pennsylvania Consolidated Statutes (65 PaCS), Chapter 7 (Open Meetings) as it relates to the official actions of the Committee.

Article IV was revised on October 7, 2008.

Article V was revised on October 3, 2006.

APPENDIX 2

ACT 70 of 2004

House Bill 564, which became Act 70, was approved by unanimous vote in both Chambers after being reported from the Conference Committee on July 4, 2004.

Section 1605-A. Pennsylvania Athletic Oversight Committee.--

(a) The Pennsylvania Athletic Oversight Committee is hereby established.

(b) The committee shall have six voting members who shall serve at the pleasure of the appointing authority and be appointed as follows:

(1) Three members of the Senate, of whom two shall be appointed by the President pro tempore of the Senate and one shall be appointed by the Minority Leader of the Senate. To the greatest extent possible, appointees should have some experience in interscholastic athletics or shall be parents of students involved in interscholastic athletics.

(2) Three members of the House of Representatives, of whom two shall be appointed by the Speaker of the House of Representatives and one shall be appointed by the Minority Leader of the House of Representatives. To the greatest extent possible, appointees should have some experience in interscholastic athletics or shall be parents of students involved in interscholastic athletics.

(3) A chairman and vice chairman shall be elected from among the members appointed under this subsection.

(c) The committee shall meet at least once each year for the purpose of reviewing the association's continued compliance with the criteria listed in section 1604-A(a) and (b) and responding to issues related to the activities of the association referred to the committee. The committee shall issue an annual report of its findings to the President pro tempore of the Senate and the Speaker of the House of Representatives.

APPENDIX 3

ACT 187 OF 2002

House Bill 2644, which became Act 187, was unanimously passed in the Senate on November 25, 2002 and in the House of Representatives on November 26, 2002.

November 22, 2000 (P.L.672, No.91), are amended to read:
Section 1603-A. Pennsylvania Athletic Oversight Council.--*
* *

(f) The duties and responsibilities of the council shall be as follows:

(1) To meet no less than four times a year at the call of the chair. All such meetings shall be conducted in accordance with the requirements of 65 Pa.C.S. Ch. 7 (relating to open meetings).

(2) To make recommendations concerning changes to the administration of interscholastic athletics to the association. The council shall make recommendations on issues, including, but not limited to:

(i) Appeals.

(ii) Athletic eligibility.

(iii) Transfers of students.

(iv) Expansion of PIAA-sanctioned athletic competitions or sports, including the addition of other athletic associations into PIAA-sponsored championships.

(3) To review and monitor the efforts of the association to meet the criteria listed in section 1604-A(a) and (b).

(4) To hold public hearings, subject to the requirements of 65 Pa.C.S. Ch. 7, on any issue concerning interscholastic athletics. These issues shall include, but not be limited to:

(i) Appeals.

(ii) Athletic eligibility.

(iii) Transfers of students.

(iv) Expansion of PIAA-sanctioned athletic competitions or sports, including the addition of other athletic associations into PIAA-sponsored championships.

(5) To have access to all books, papers, documents and records of the association in order to complete the annual report required under clause (6).

(6) To issue an annual report to the chairman and minority chairman of the Education Committee of the Senate, the chairman and minority chairman of the Education Committee of the House of Representatives and the president of the association summarizing:

(i) The council's meetings, public hearings and other action taken by the council.

(ii) The recommendations of the council made during the year and the association's response to each recommendation.

(iii) The efforts of the association to meet the criteria listed in section 1604-A(a) and (b).

(7) To issue a final report [two (2)] three (3) years after the Governor has made the final appointments to the council to the chairman and minority chairman of the Education Committee of the Senate and the chairman and minority chairman of the Education Committee of the House of Representatives and the president of the association summarizing all of the council's actions and recommendations over the previous [two (2)] three(3) years [and], the association's response to each and the final determination of the council under subsection (g).

(8) To elect a chairman and a vice chairman.

(9) To, at the council's discretion, request the committee to perform an audit on any phase of the association's compliance with the criteria listed in section 1604-A(a) or (b), as necessary for the purposes of completing its annual or final report.

APPENDIX 4

ACT 91 of 2000

ARTICLE XVI-A.

INTERSCHOLASTIC ATHLETICS ACCOUNTABILITY.

Section 1601-A. Scope.--This article deals with interscholastic athletics accountability.

Section 1602-A. Definitions.--The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Association." The Pennsylvania Interscholastic Athletic Association.

"Committee." The Legislative Budget and Finance Committee.

"Council." The Pennsylvania Athletic Oversight Council as established in section 1603-A.

"Interscholastic athletics." All athletic contests or competitions conducted between or among school entities situated in counties of the second class, second class A, third class, fourth class, fifth class, sixth class, seventh class and eighth class.

"Nonpublic school." A school, other than a public school within this Commonwealth, wherein a resident of this Commonwealth may legally fulfill the compulsory school attendance requirements of this act and Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).

"School entity." A public school, school district, nonpublic school or private school in this Commonwealth other than a private or nonpublic school which elects not to become a member of the association.

Section 1603-A. Pennsylvania Athletic Oversight Council.--(a) The Pennsylvania Athletic Oversight Council is established.

(b) The council shall have seventeen voting members, appointed as follows:

(1) Two members of the Senate, of which one shall be appointed by the President pro tempore of the Senate and one shall be appointed by the Minority Leader of the Senate. To the greatest extent possible, appointees should have some experience in interscholastic athletics or shall be parents of students involved in interscholastic athletics.

(2) Two members of the House of Representatives, of which

one shall be appointed by the Speaker of the House of Representatives and one shall be appointed by the Minority Leader of the House of Representatives. To the greatest extent possible, appointees should have some experience in interscholastic athletics or shall be parents of students involved in interscholastic athletics.

(3) The Secretary of Education or a designee.

(4) Twelve members shall be appointed as follows:

(i) The following organizations shall each submit three nominations to the Governor, who shall then select two of the names submitted from each of the organizations to serve on the council. To the greatest extent possible, these appointments shall be representative of all of the Pennsylvania Interscholastic Athletic Association's athletic districts:

(A) The Pennsylvania Association of Secondary School Principals.

(B) The Pennsylvania Association of School Administrators.

(C) The Pennsylvania School Boards Association.

(D) The Pennsylvania State Athletic Directors Association.

(ii) The following organizations shall each submit two nominations to the Governor, who shall then select one of the names submitted from each of the organizations to serve on the council. To the greatest extent possible, these appointments shall be representative of all of the Pennsylvania Interscholastic Athletic Association's athletic districts:

(A) The Pennsylvania Congress of Parents and Teachers.

(B) The Pennsylvania Coaches Association.

(C) The Officials Council.

(iii) One member, as selected by the Governor, representing those nonpublic schools that are members of the association.

(5) At least one member appointed under paragraph (4) must be associated with women's athletics, including a coach of a women's athletics team or the parent of a participant in women's athletics.

(c) Terms are as follows:

(1) Members appointed by the Governor shall serve for the duration of the existence of the council.

(2) Legislative members appointed by the Senate and the House of Representatives shall serve at the pleasure of the appointing authority.

(d) Vacancies occurring on the council by death,

resignation, removal or any other reason shall be filled within thirty (30) days of the creation of the vacancy in the manner in which that position was originally filled. An individual appointed to fill a vacancy shall be appointed for the unexpired term of the member he succeeds.

(e) The members of the council shall receive no actual compensation for their services. However, all expenses reasonably necessary for the members of the council to perform their duties shall be paid by the Department of Education.

(f) The duties and responsibilities of the council shall be as follows:

(1) To meet no less than four times a year at the call of the chair. All such meetings shall be conducted in accordance with the requirements of 65 Pa.C.S. Ch. 7 (relating to open meetings).

(2) To make recommendations concerning changes to the administration of interscholastic athletics to the association. The council shall make recommendations on issues, including, but not limited to:

(i) Appeals.

(ii) Athletic eligibility.

(iii) Transfers of students.

(3) To review and monitor the efforts of the association to meet the criteria listed in section 1604-A(a) and (b).

(4) To hold public hearings, subject to the requirements of 65 Pa.C.S. Ch. 7, on any issue concerning interscholastic athletics. These issues shall include, but not be limited to:

(i) Appeals.

(ii) Athletic eligibility.

(iii) Transfers of students.

(5) To have access to all books, papers, documents and records of the association in order to complete the annual report required under clause (6).

(6) To issue an annual report to the chairman and minority chairman of the Education Committee of the Senate, the chairman and minority chairman of the Education Committee of the House of Representatives and the president of the association summarizing:

(i) The council's meetings, public hearings and other action taken by the council.

(ii) The recommendations of the council made during the year and the association's response to each recommendation.

(iii) The efforts of the association to meet the criteria

listed in section 1604-A(a) and (b).

(7) To issue a final report two (2) years after the Governor has made the final appointments to the council to the chairman and minority chairman of the Education Committee of the Senate and the chairman and minority chairman of the Education Committee of the House of Representatives and the president of the association summarizing all of the council's actions and recommendations over the previous two (2) years and the association's response to each.

(8) To elect a chairman and a vice chairman.

(9) To, at the council's discretion, request the committee to perform an audit on any phase of the association's compliance with the criteria listed in section 1604-A(a) or (b), as necessary for the purposes of completing its annual or final report.

(g) Expiration of council is as follows:

(1) If, by a majority vote, the council finds that the association has met the criteria listed in section 1604-A(a) and (b) to its satisfaction, the association shall continue to oversee the operation of interscholastic athletics in this Commonwealth, and the council shall expire. The council shall publish a notice of its expiration in the Pennsylvania Bulletin.

(2) If, by a majority vote, the council finds that the association has failed to meet the criteria listed in section 1604-A(a) and (b) to its satisfaction, the council shall, within one (1) year of its finding, submit a proposal for the selection of a new entity to oversee the operation of interscholastic athletics in this Commonwealth to the chairman and minority chairman of the Education Committee of the Senate and the chairman and the minority chairman of the Education Committee of the House of Representatives. Upon submission of the proposal, the council shall expire, and the council shall publish a notice of its expiration in the Pennsylvania Bulletin. The association shall be allowed to continue to oversee the operation of interscholastic athletics in this Commonwealth only until such time as a new entity is authorized to do so.

(h) Staff.--The Pennsylvania Department of Education shall provide support staff as needed to the council.

Section 1604-A. Council Recommendations and Standards.--(a) The association shall take all steps necessary to comply with the recommendations of the council, including recommendations

concerning appeals, athletic eligibility and transfers of students.

(b) The association shall take all steps necessary to comply with the following standards:

(1) Adopt and adhere to policies governing the conduct of open meetings that conform with the requirements of 65 Pa.C.S. Ch. 7 (relating to open meetings).

(2) Adopt and adhere to a policy establishing a competitive bidding process for the purchase of nonincidental merchandise and services that conforms with the requirements of this act.

(3) Adopt and adhere to a policy establishing a competitive process for the selection of sites for championship competitions.

(4) Agree to an annual financial and management review conducted by the committee.

(i) Such reviews shall indicate whether the association has:

(A) conformed with accepted accounting practices;

(B) conformed with all Federal and State statutes governing the administration of nonprofit organizations;

(C) conformed with accepted administrative and management practices; and

(D) contracted with employes who have fulfilled the duties for which they were contracted and act in the best interests of interscholastic athletics.

(ii) The committee shall report its findings from this review to the council, which shall make any appropriate recommendations to the association.

(5) Ensure that the membership of its board of directors includes the following who shall be full, voting members:

(i) One member representing school boards of directors who is an elected member of a school board of directors at the time of appointment.

(ii) One member representing athletic directors who is employed as an athletic director at the time of appointment.

(iii) One member representing coaches who is employed as a coach at the time of appointment.

(iv) One member representing officials who is an active official at the time of appointment.

(v) One member representing the Department of Education.

(vi) One member representing school administrators who is employed as a school administrator at the time of appointment.

(vii) One member representing women's athletics.

- (viii) One member representing nonpublic schools.
- (ix) Two members representing parents.
- (6) Not require any member school entity to reimburse the association for legal fees and expenses incurred by the association or any of its personnel in defending a legal action authorized by a member school entity and brought against the association or any of its personnel and take action to repeal any present rule or policy authorizing such reimbursement prior to the final report of the council.
- (7) Adopt an evaluation system for game officials at district, interdistrict and championship competitions and utilize that evaluation system in the selection of individuals to officiate those contests.
- (8) Adopt and adhere to a policy prohibiting conflicts of interest and setting forth rules of ethics to be followed by association board members and employes.
- (9) Employ in-house counsel.
- (10) Evaluate the performance of its contracted employes to determine whether they have complied with the provisions of their contracts and to determine whether termination is appropriate for any association employes who have violated the provisions of their contracts.
- (11) Adopt no rules restricting media access to interscholastic athletic competitions or restricting the substance of any commentary offered by media reporting of interscholastic athletic competitions.
- (12) Adopt rules intended to discourage its member school entities from recruiting student athletes, provided that:
 - (i) Such rules and any penalties levied for their breach shall be directed at the association's member schools and not at individual student athletes who may have been the subject of recruiting.
 - (ii) Any and all procedures established to gather evidence related to the enforcement of such rules shall place the burden of proof of the breach of such rules on the association and shall afford any member school entity due process rights in defending itself against the allegations, including a right to a hearing on the charges before the imposition of penalties.
 - (iii) The association is specifically prohibited from identifying individual student athletes as subjects or targets of such procedures.
- (13) Establish a policy, including a mechanism for

enforcement, requiring that persons involved in interscholastic athletics be provided equality of opportunity and treatment without regard to race, sex, religion, national origin or ethnic background.

APPENDIX 5 MEETING MINUTES

PA ATHLETIC OVERSIGHT COMMITTEE

MINUTES

Wednesday, January 25, 2012
Room 60 East Wing

Call to order by Chair Gene DiGirolamo.

ROLL CALL

The members appointed to the committee for the 2011-2012 session of the General Assembly are:

Representative Gene DiGirolamo	Present
Representative Mike Reese	Present
Representative Tony Payton, Jr.	Present
Senator Joseph Scarnati	Present
Senator Jane Orié	Present
Senator Richard Kasunic	Present

Also, in attendance were the following individuals, including staff:

Sean Harris, Executive Director of the Oversight Committee
Pamela Huss, Administrative Assistant for the Oversight Committee
Nathan Silcox, Senate Staff for Sen. Jane Orié

W. Rodney Stone, President of the PIAA Board of Directors
Brad Cashman, Executive Director of the PIAA
Raymond J. Wotkowski, Vice President of the PIAA
Jack P. Wabby, PIAA Treasurer
Michael Solomon, Esq., Director of Legal Affairs, PIAA
John Milliron, Esq., Milliron Associates, Legislative Counsel to the PIAA

Philip Murren, Counsel for the PA Catholic Conference (PCC)
Sean McAleer, Director of Education, PCC
Hal Griffith, PIAA Private School Representative
Ben Brous, Athletic Director, Esperanza Charter HS

OLD BUSINESS

None.

NEW BUSINESS

Sen. Jane Orie provided an opening statement concerning her Senate Bill 1389, which deals with attendance at private schools and expressed how important she believes her bill is to the private schools in the Commonwealth.

Chairman DiGirolamo recognized Rod Stone and invited him and the other testifiers to step forward and be seated at the table to provide testimony.

Mr. Stone began his testimony by addressing the proposed changes to the glossary section of the PIAA By-Laws and prefaced his remarks with a brief history on the inclusion of private schools into the PIAA membership. Mr. Stone provided the committee with the chronology of the proposal and informed the committee that at the request of the PAOC, the PIAA tabled the proposed amendment so the PAOC could review the amendment language.

Rep. Reese asked whether the PIAA reached out to the charter schools to which Mr. Stone replied that the private school representative was available and is a member of the board. Rep. Reese asked if there were any objections to the proposal. Mr. Stone replied that there was objection from the private school representative.

Sen. Orie inquired as to the representation of the private schools on the PIAA Board? Sen. Orie then asked if the PIAA had a position on HB 1938, to which Brad Cashman stated that the PIAA is neutral on the bill.

Rep. Payton clarified that the District 12 Chairman represents public schools not private schools and that charter schools are public as well.

Chairman DiGirolamo asked Mr. Stone if there is any problem. He also asked why the proposed definitions? Mr. Stone replied that there were essentially two problems. One, the PIAA needs to have clarifying definitions because there are many different types of schools. Second, there are concerns as to competition between different schools. Chairman DiGirolamo suggested that the PIAA define the terms as they are in the school code. The Transfer Rule change proposal was discussed. Mr. Stone stated that the proposal was based on recent transfer hearings that were held and that the Transfer Rule proposal was somewhat similar to the one that was proposed once before.

Sean McAleer and Phil Murren of the Pennsylvania Catholic Conference testified about the possible segregation between public and private schools and stated that the proposed definition changes could take the matter in the opposite direction from what the legislature did in

1972. Mr. Murren discussed the proportional representation concept and how there could be a possible of conflict because the language would effectively establish a permanent minority status on the board subject to the will of the majority. As to the Transfer Rule, Mr. Murren stated the PCC believed the rule could be problematic by not allowing a student- athlete a chance to appear before a District Committee for eligibility due to a post-9th grade transfer.

Rep. Reese asked what affect would a change in the definitions have long-term, to which Mr. McAleer replied that it would have an effect through classification changes forcing schools to play up and kids will get hurt.

Sen. Orié discussed the championship numbers between public and private schools and Chair DiGirolamo mentioned the percentage breakdown between public and private schools. Mr. Stone clarified that the percentages do not give a full picture on a sport-by-sport basis.

Mr. Stone clarified that the PIAA has no control over leagues. Reiterated that there were no proposals being offered and that the definition change is the only thing being proposed and he stressed that the “strategic planning committee meetings are open.

Mr. John Milliron strongly expressed to the committee his disappointment with some of the comments being made about secrecy taking place regarding the PIAA.

Mr. Harris asked Mr. Stone if the proposed Transfer Rule change was similar to the one proposed a couple years ago, to which Mr. Stone replied that it was somewhat similar and that it was on a first reading and the decision on the Transfer Rule will hinge on where the burden of proof rests.

Sen. Orié clarified her concern about transparency and PIAA executive sessions and ensuring that all interested parties are adequately notified of proposed changes.

NEXT MEETING

A meeting date was not established.

APPENDIX 6 MEETING TESTIMONY

INTRODUCTORY STATEMENT OF MR. STONE

GOOD MORNING! THANK YOU FOR INVITING ME TO PROVIDE YOU WITH INFORMATION REGARDING THE PROPOSED AMENDMENTS TO THE GLOSSARY SECTION OF THE PIAA BY-LAWS. I AM HAPPY TO RESPOND TO ANY QUESTIONS THAT YOU MAY HAVE BUT, IF YOU DO NOT OBJECT, I THOUGHT THAT IT WOULD BE APPROPRIATE TO PROVIDE YOU WITH SOME BACKGROUND AND CONTEXT ON THE MATTER.

AS MOST OF YOU ARE PROBABLY ALREADY AWARE, FOR MUCH OF ITS HISTORY, PIAA WAS AN ORGANIZATION CONSISTING SOLELY OF PUBLIC SCHOOL MEMBERS. IN OCTOBER 1972, THE GENERAL ASSEMBLY ADOPTED LEGISLATION REQUIRING THAT PIAA ACCEPT PRIVATE SCHOOLS INTO ITS MEMBERSHIP.

BECAUSE PRIVATE SCHOOLS ROUTINELY DRAW FROM A MUCH BROADER GEOGRAPHIC AREA THAN PUBLIC SCHOOLS, THE ADDITION OF THESE SCHOOLS REQUIRED CONSIDERABLE EFFORT TO DEVELOP POLICIES AND APPROACHES TO BOUNDARIES FOR SUCH SCHOOLS.

IN RECENT YEARS, THE PROLIFERATION OF CHARTER SCHOOL MEMBERS OF PIAA HAS ADDED A NEW DIMENSION TO THE DISCUSSION. WITH THE

EXCEPTION OF THE BOUNDARY OF THE COMMONWEALTH OF PENNSYLVANIA, THESE SCHOOLS OFTEN HAVE NO LIMITATIONS OF ANY KIND. BY ILLUSTRATION, AT A RECENT ELIGIBILITY HEARING, WE LEARNED THAT ONE PARTICULAR CHARTER SCHOOL CURRENTLY HAS STUDENTS ENROLLED FROM SEVENTEEN DIFFERENT PUBLIC SCHOOL DISTRICTS AND FEELS FREE TO RECRUIT FROM EVEN MORE PUBLIC SCHOOL DISTRICTS. WE ANTICIPATE A CONTINUED GROWTH IN THE NUMBER OF CHARTER SCHOOL MEMBERS.

IN DISCUSSING WHETHER AND, IF SO, HOW TO ADDRESS THE BOUNDARIES ISSUE GENERATED BY THESE CHANGES, A PROBLEM THAT HAS BEEN IDENTIFIED IS A LACK OF CONSENSUS ON WHAT IS MEANT BY VARIOUS TERMS BEING BANDIED ABOUT. CONSEQUENTLY, FOR PIAA PURPOSES – AND ONLY FOR PIAA PURPOSES – WE HAVE UNDERTAKEN TO DEFINE CERTAIN TERMS. THE PROPOSED DEFINITIONS ARE ATTACHED TO THESE REMARKS. THEY MAY OR MAY NOT BE CONSISTENT WITH THOSE USED BY OTHER ORGANIZATIONS OR ENTITIES. THEY DO, HOWEVER, ATTEMPT TO MEET PIAA'S NEEDS.

THE PROPOSED DEFINED TERMS WERE FIRST PRESENTED TO THE BOARD OF DIRECTORS FOR CONSIDERATION AT ITS JULY 21, 2011 MEETING. BY A VOTE OF 27-2, THE DEFINITIONS WERE APPROVED ON A FIRST READING BASIS.

ON OCTOBER 6, 2011, THE TERMS WERE CONSIDERED ON A SECOND READING BASIS AND WERE APPROVED BY A VOTE OF 28-2. THE TERMS WERE PLACED ON THE AGENDA FOR A THIRD AND FINAL READING AT THE DECEMBER 16, 2011 MEETING OF THE BOARD OF DIRECTORS.

ON DECEMBER 16, AT THE REQUEST OF CHAIRMAN DIGIROLAMO, THE BOARD OF DIRECTORS AGREED TO TABLE THE MATTER UNTIL THE NEXT MEETING OF

THE BOARD, WHICH IS SCHEDULED FOR THURSDAY, JANUARY 26 AND FRIDAY, JANUARY 27, 2012, SO THAT THIS COMMITTEE COULD CONSIDER THE PROPOSED CHANGES.

I SHOULD NOTE, HOWEVER, THAT PRIOR TO THE CHAIRMAN'S REQUEST, AND WITH THE EXCEPTION OF THE PRIVATE SCHOOLS' STEERING COMMITTEE, PIAA HAD NOT RECEIVED FROM ANY PARTY ANY WRITTEN OBJECTIONS TO THE PROPOSED CHANGES. MOREOVER AND AS PREVIOUSLY NOTED, THE TERMS WERE OVERWHELMINGLY SUPPORTED BY THE BOARD OF DIRECTORS, A CONSIDERABLE NUMBER OF WHOM ARE EMPLOYED AT PRIVATE SCHOOLS.

YOU WILL NOTE THAT THE PROPOSED CHANGES ARE TO EIGHT TERMS. TWO OF THE CHANGES MERELY REMOVE THE TERM "INDEPENDENT PUBLIC" FROM THAT OF CHARTER AND CYBER-CHARTER SCHOOLS. TO THE BEST OF OUR KNOWLEDGE, THERE HAS BEEN NO CONCERN EXPRESSED ABOUT THESE TWO CHANGES.

OF THE REMAINING SIX CHANGES, FOUR ARE NEW TERMS AND TWO ARE REVISIONS TO EXISTING ONES. ALL FOUR OF THE NEW TERMS RELATE TO PUBLIC SCHOOLS AND PUBLIC SCHOOL DISTRICTS, WHICH HAD NOT PREVIOUSLY BEEN DEFINED. OF THOSE, WE DO NOT BELIEVE THAT THE PROPOSED DEFINITIONS OF A PUBLIC SCHOOL AND A PUBLIC SCHOOL DISTRICT ARE OBJECTED TO BY ANY PARTY.

TWO OF THE REMAINING FOUR DEFINITIONS RELATE TO REVISIONS OF THE DEFINITIONS OF PRIVATE SCHOOLS AND PRIVATE SCHOOL DISTRICTS. YOU WILL NOTE THAT THE NEW DEFINITION OF A PRIVATE SCHOOL, AS WITH THE PRIOR ONE, SPEAKS IN THE NEGATIVE. HOWEVER, RATHER THAN DEFINING

PRIVATE SCHOOLS AS SIMPLY BEING NON-PUBLIC ONES, WE SPECIFY THE OTHER CATEGORIES OF PUBLIC SCHOOLS. SIMILARLY, WE DEFINE A PRIVATE SCHOOL'S DISTRICT AS BEING THE SCHOOL AND STUDENTS ENROLLED AT ITS FEEDER SCHOOLS. WE, AGAIN, DO NOT BELIEVE THAT THE PROPOSED REVISIONS ARE PARTICULARLY CONTROVERSIAL

THE FINAL TWO DEFINITIONS ARE THOSE OF BOUNDARY AND NON-BOUNDARY SCHOOLS. BOUNDARY SCHOOLS ARE DEFINED AS ALL PUBLIC SCHOOLS AND NON-BOUNDARY SCHOOLS ARE DEFINED AS ALL OTHER SCHOOLS. THE PURPOSE FOR DOING SO IS TO CREATE A CATEGORY CONSISTING OF THOSE SCHOOLS – INCLUDING CHARTER SCHOOLS - WHICH IN THIS RESPECT ARE COMPARABLE TO PRIVATE SCHOOLS IN THAT THEY DRAW STUDENTS FROM MULTIPLE PUBLIC SCHOOL DISTRICTS.

WE UNDERSTAND THAT THERE MAY BE OBJECTIONS FROM CERTAIN PARTIES BECAUSE SOME NON-BOUNDARY SCHOOLS, PARTICULARLY IN THE CITY OF PHILADELPHIA, MAY OPERATE IN A MANNER MORE ANALOGOUS TO BOUNDARY SCHOOLS THAN DO SOME PUBLIC SCHOOLS IN THE CITY. WE BELIEVE THAT, TO THE EXTENT THAT THESE DISTINCTIONS EXIST, THEY CAN BE ADDRESSED IF AND WHEN THE DEFINITIONS ARE TO BE APPLIED IN A PARTICULAR CONTEXT.

ALONG THESE LINES, IT SHOULD BE NOTED THAT THE DEFINITIONS DO NOTHING OTHER THAN TO DEFINE. THEY DO NOT REQUIRE OR PROHIBIT ANYTHING. SIMILARLY, IF OBJECTIONS TO THEM ARE TENDERED BECAUSE OF A FEAR THAT THE BOARD OF DIRECTORS COULD TAKE SOME ACTION IN THE FUTURE UTILIZING THEM, IT SHOULD BE RECOGNIZED THAT, IF THE BOARD WERE SO INCLINED, IT COULD TAKE ANY SUCH ACTION REGARDLESS OF

WHETHER THESE DEFINITIONS ARE ADOPTED. WHAT THESE TERMS DO IS AT LEAST DEFINE THE PARAMETERS OF WHAT IS BEING DISCUSSED WHEN WE AT PIAA USE CERTAIN TERMS.

I AGAIN THANK YOU FOR ALLOWING ME TO TESTIFY AND WILL ANSWER ANY QUESTIONS THAT YOU MAY HAVE.

GLOSSARY

* * *

BOUNDARY SCHOOL: All Public Schools.

CHARTER SCHOOL: ~~An independent public school,~~ which is organized as a non-profit corporation, established and operated under a charter from a local School Board.

CYBER CHARTER SCHOOL: ~~An independent public school,~~ which is organized as a non-profit corporation, established and operated under a charter from the Department of Education, in which the school uses technology to provide a significant portion of its curriculum and to deliver a significant portion of instruction to its students through the Internet or other electronic means.

NON-BOUNDARY SCHOOL: All schools that are not Public Schools.

PRIVATE SCHOOL: ~~A nonpublic school that is not an Alternative School, a Charter School, a Cyber Charter School, a Magnet School, a Public School, or a Technology School.~~

~~PRIVATE SCHOOL'S SCHOOL DISTRICT:~~ ~~A Each Private School, including each Private senior high School's and its Feeder Schools, shall have its own "school district". Regardless of the location of its Feeder Schools, the geographic boundaries of the Private senior high School's "school district" shall be considered the boundaries of the public school district in which it is geographically located. The Private School's school district and the public school district are separate school districts.~~

PUBLIC SCHOOL: A school, which is owned and funded by a Public School District and governed by a School Board.

PUBLIC SCHOOL DISTRICT: An entity created pursuant to the Pennsylvania Public School Code, which is charged with the responsibility of public education and which is authorized to assess taxes on properties located within its geographic boundaries.

PENNSYLVANIA CATHOLIC CONFERENCE

223 North Street • Box 2835 • Harrisburg, PA 17105 • (717) 238-9613 • FAX (717) 238-1473

January 25, 2012

**The Honorable Gene DiGirolamo
Chairman
Pennsylvania Athletic Oversight Committee
49 East Wing
P.O. Box 20218
Harrisburg, PA 17120**

Dear Chairman DiGirolamo,

As the Director of Education for the Pennsylvania Catholic Conference (PCC), I represent over 530 Catholic schools, attended by roughly 153,000 Catholic school students. I would like to take this opportunity to thank you and the other members of the Pennsylvania Athletic Oversight Committee (PAOC) for conducting this important hearing.

To build upon what PCC has already submitted in a letter and what Mr. Murren, PCC's legal counsel, will address, I would like to offer a few brief comments regarding our concerns with the proposed PIAA boundary/non-boundary school definition.

The PIAA constitution mentions that all member schools are to be treated uniformly. In addition, in the early 1970s when the General Assembly amended the Pennsylvania School Code to grant nonpublic schools full membership in the PIAA, it did so with the intention that all PIAA member schools were to be treated fairly and equally.

The PIAA is delegated authority by the Commonwealth of Pennsylvania to regulate interscholastic athletics so students can participate in those programs on a fair and equitable basis, thus producing important educational benefits. The PIAA boundary definition proposal is not fair or equitable. It is an intentional effort by a majority faction (public school districts) to accord disparate and discriminatory treatment to a sub-class of student-athletes in their opportunities to compete for interscholastic championships. Why are the PIAA Administration and Board now trying to segregate its member schools?

Moreover, the proposal itself is based on faulty premises. By law, all public school districts are permitted to accept students who reside in other districts, provided they pay a tuition. In addition, many larger districts have some form of open enrollment policy for their resident students, so that a student is not absolutely obligated to attend the school closest to her/his home.

For the last year, the PIAA has not been completely forthright with the public about its activity on these controversial items. Instead of putting controversial items on the regular PIAA agenda that is sent to PAOC members and interested parties, controversial items are now being placed on the PIAA Strategic Planning Committee's agenda. Thereafter, the matters are put before the board with little or no prior notice as part of a report by the Strategic Planning Committee. This gives the unseemly appearance that the PIAA public school faction is attempting to shield its real agenda from the other PIAA Board members and nonpublic member schools.

In the past, decisions made by the Strategic Planning Committee were discussed at the open PIAA Board meeting. If action was required, a motion would put the item on the next PIAA Board meeting agenda for first reading. This has been proven to be the fairest way to discuss new PIAA proposals coming out of a committee, because it is the only way other PIAA Board members can address the item with their individual constituencies before being asked to vote on an issue.

Schools have been members of the PIAA for forty years, for the most part in harmony with their public school counterparts. In that time we have always maintained a respectful and professional relationship. In the past if there was a disagreement, nonpublic schools met with the PIAA Administration and Executive Board to resolve any differences of opinion. In those meetings we always acknowledged that any new amendments must address all PIAA member schools as one body. We strongly believe that public and nonpublic schools in the PIAA jointly create a high school athletic atmosphere second to none in the United States.

Once again, I thank the PAOC committee for addressing this most important issue regarding nonpublic schools. We urge PAOC members to ask the PIAA Administration and Board to abandon its effort to adopt a boundary school definition that can only be but a prelude to the imposition of a discriminatory classification structure that is transparently intended to disadvantage nonpublic schools.



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Testimony before the Pennsylvania Athletic Oversight Committee January 25, 2012

Good morning. Thank you for the opportunity to discuss these issues with you today. I will not take much of your time as my presentation is brief.

As the Private School's Representative for the PIAA I represent all of the private schools in the state. I am also representing the silent majority. The majority of private schools who are never in the spot light, who are never in the state tournaments. There are private schools with male enrollments in the state of Pennsylvania with over 800 students and there are private schools that have less than 25 males in their high school. I am completely convinced that we are not addressing this issue in the proper manner. I understand we are here today to discuss definitions. Each of us here wants what is best for the student athletes of the state of Pennsylvania. My friends on the PIAA board are convinced that the way to solve a perceived inequity between private and public schools is to establish separate classifications, and that apparently starts by establishing definitions. Accepting these definitions will be an extreme injustice to most of the private schools in the state.

To state that every private school has an advantage over the public schools is wrong. You never see schools like The Christian School of York, or Meadowbrook Christian in Milton, or Johnstown Christian in state or district championship games. These are small schools, schools with often a male enrollment of not more than 60-70 boys in the high school. In fact, of the 138 private schools in the state that have declared for basketball, approximately one half of those schools have male enrollments of under one hundred students. These are the same schools who charge tuition, who have inadequate facilities, and who in many cases have religious qualifications for acceptance. My school, for example has a policy that for a student to be accepted into the high school, at least one parent must be a born again Christian. Believe me, with stipulations like this, my school does not have a recruiting advantage. In fact, boundaries are established just by these acceptance criteria. In District 3 alone there are currently 24 A schools. 19 of these A schools are private schools with male enrollment declarations of under 100 boys. 14 of the schools have male enrollments under 50 boys. In these financial times, many of these schools are struggling just to stay open. Of these 19 schools, the overwhelming majority of them have never appeared in a district championship basketball game, and several have appeared just once. And I am talking about the district level, not the state. These are the schools that will be thrust into the same classification as Pittsburg Central Catholic or Allentown Central Catholic, or Father Judge high school in Philadelphia.

There is no equity in that kind of scenario. It actually creates a real and true injustice, not just a perceived injustice, to the students in those schools.

The bottom line is this, establishing definitions as the first step in establishing separate classes is simply a step in the wrong direction. If there is a problem, then the problem should be solved in a way that would deal with the schools that are causing the problem, both public and private. This discussion comes up because of the percentage of private schools that are consistently in the state championships. Yet no one says a word when the same public schools are in the same championships on a regular basis. If we want to fix the situation, let's treat everyone fairly. I am asking that each school, public and private be treated in the same way. If we think we need to change the system, then let's change the system that treats everyone the same. Dividing the state based on boundary/non-boundary does not create a fair situation for many schools. This should not be a boundary/non-boundary issue.

Thank you very much for your time and your concern for this issue.

**Harold A. "Hal" Griffiths
Secondary Co-Principal, Bible Baptist School
PIAA Board of Directors, Private Schools Representative**

ESPERANZA ACADEMY

CHARTER HIGH SCHOOL

Pennsylvania Athletic Oversight Committee

Testimony of Ben Brous
Director of Athletics, Esperanza Academy Charter School
January 25, 2012

Honorable Members of the Oversight Committee:

It is with great sadness and bewilderment that I and the entire charter school community come to you. It is our understanding that the Board of Directors intend to vote on verbiage that would severely and adversely affect all charter schools be they brick and mortar or cyber. The amendment to change Charter School's identity from a public institution to a non public institution, according to Act 22 (The charter school law), appears to be both unlawful and out of the jurisdiction of PIAA Directors. The charter school law specifically states "A charter school is an independent public school established and operated under a charter from the local board of school directors. Charter schools must be established as public nonprofit, nonsectarian entities by teachers, parents, institutions of higher education or museums." According to this clear and unambiguous definition, the Board would be stepping out of its bounds in attempting to redefine charters as anything other than a public institution or otherwise known as a "BOUNDARY SCHOOL".

Perhaps what is more troublesome to comprehend is why the PIAA Board would go to such great lengths to adopt or amend by-laws that would treat some public schools different than others. Why would the Board choose to consider Philadelphia Public Schools "BOUNDARY SCHOOLS" and charter schools as "NON-BOUNDARY SCHOOLS" when both institutions have an identical admissions policy? According to the Philadelphia School District's directory of high school admissions for 2012, "Neighborhood High Schools — These (25) high schools have open admission to students who attend a grade eight school that is within the feeder pattern. Students from outside of the feeder pattern may apply. However, admission is based upon space availability and selection is made by computerized lottery." This Philadelphia admissions policy is identical to a charter school's admissions policy which doesn't grant charter schools an advantage over any Philadelphia Public School or any other public school in the Commonwealth.

Now that we have established, according to Act 22, that Charter Schools are in fact public schools and are entitled to all that is afforded to any other public school, couple with the fact that admissions into a charter school is identical to that of a Philadelphia Public School, why would the PIAA want to embark on creating an unnecessary system that discriminates against children living on the same street desiring a fare and appropriate education? If we are truly concerned about educating our children and assuring they are given the best regardless of what public school they choose to attend, why then would we place unnecessary constraints on a system that currently adequately facilitates all public schools athletic needs?

It is our recommendation that the PIAA Board strongly reconsiders redefining charter school's identity and therefore allows charter schools to have equal access to all that the PIAA offers all its public schools.

Thank you for taking the time to consider my testimony. I'm more than happy to answer any questions you may have.

PIAA PUBLIC VS. PRIVATE SCHOOL TEAM CHAMPIONSHIPS BY SPORT SINCE 1972

All co-championship as counted as whole championships for this listing

SPORT	Public	<u>Pct. Won by Public</u>	Private	<u>Pct. won by private</u>
Baseball	79	94.9%	5	6.0%
Basketball, boys	97	67.4%	47	32.6%
Basketball, girls	64	48.1%	69	51.9%
Cross-country, boys	66	85.7%	11	14.3%
Cross-country, girls	66	94.3%	4	5.7%
Field hockey	59	89.4%	7	10.6%
Football	75	85.2%	13	14.8%
Golf, boys	3	75.0%	1	25.0%
Golf, girls	0	0.0%	4	100.0%
Gymnastics		Data not available		
Lacrosse, boys	4	75.0%	1	25.0%
Lacrosse, girls	2	100.0%	0	0.0%
Soccer, girls fall	22	68.7%	10	31.3%
Soccer, girls spring	23	95.8%	1	4.2%
Soccer, boys	68	86.1%	11	13.9%
Softball	83	96.5%	3	3.5%
Swimming and diving, boys	48	94.1%	3	5.9%
Swimming and diving, girls	41	80.4%	10	19.6%
Tennis, girls	19	95.0%	1	5.0%
Track and field, boys	61	80.3%	15	19.7%
Track and field, girls	50	72.5%	19	27.5%
Volleyball, boys	63	21.8	14	18.2%
Volleyball, girls	43	100.0%	0	0.0%
Wrestling, Team (duals)	24	100.0%	0	0.0%
Wrestling, Team (individuals)	70	95.9%	3	4.1%
TOTALS:	1,143	81.7%	256	18.3%

Total Championships during period: 1,402

Total Championships won by Privates Schools: 256

Percentage of Private Schools as PIAA Members: 19.7%

public schools in sporting events. Although seemingly unfair, the underlying issue in the "public vs. non-public" debate has been the dominance of non-public schools in sports championships.

"Generally speaking in Indiana, in our team sports, while private schools make up about 14 percent of our membership, they are winning approximately 40 percent of the team state championships," said Bobby Cox, executive director of the Indiana High School Athletic Association (IHSAA)



The Ohio High School Athletic Association (OHSAA) also is experiencing dominance by non-public schools in certain sports. Currently, state championships are being claimed by non-public schools at a rate of 70 percent in wrestling, 63 percent in volleyball, 50 percent in girls soccer and baseball, 47 percent in football and 45 percent in boys soccer.



"Sixteen percent of our state-sponsored schools are non-public," said Dan Ross, OHSAA commissioner. "When 16 percent is winning 70 percent [of state titles] in any sport, there's a problem."

Another daunting issue in this debate is that of recruitment of student-athletes by non-public schools.

"Our state association works very closely with schools on these issues," Mezzanotte said. "All of our private and parochial schools conduct preseason meetings with all coaches, parents and athletes to explain and discuss our recruiting rules. In most cases, private and parochial coaches found in violation of our recruiting rules will be terminated. However, regardless of our efforts and the efforts of our private and parochial schools, the public has the perception that athletes are 'recruited' and are given scholarships."



that future proposals will find their way to the IHSAA staff, a competition committee and ultimately to our Board of Directors for consideration at its annual meeting."

The IHSAA is not alone.

"We have formed a public/non-public committee that meets in the fall and spring each year," said Lance Taylor, executive director of the Arkansas Activities Association. "It is made up of 10 public school administrators and 10 non-public school administrators. They communicate together and come up with solutions to any problems. The committee has worked very well for our state and has developed good solutions to the problems we have been facing."



In Wisconsin, all schools have realigned under the Wisconsin Interscholastic Athletic Association (WIAA). For a number of years, all private schools had their own governing association.

"The vast majority of concerns we receive about private schools 'winning too much' come from the general public —not from our member schools," said Dave Anderson, executive director of the WIAA. "In fact, our members have gone on record indicating they do not wish to see one segment of our membership treated differently than [all other members]."



In January of 2010, in response to concerns about non-public schools dominating at the state-tournament level, the OHSAA created the Competitive Balance Committee.

"We have a committee, made up of both non-public and public schools from across the state, that has worked very hard and continues to work very hard in trying to weigh the options; hear the feedback from coaches, schools and the community; and create systems that can [make the issue] better," Ross said.

Last May, the committee produced a proposal to change how schools are assigned to divisions, but the proposal was voted down by a margin of 332-303.

In most cases, state associations facing this "problem" have rules in place to halt such activity before it ever begins.

"Transferring primarily for athletic reasons and undue influence is covered by rule in the IHSAA bylaws," Cox said. "On occasion, the association has been able to secure credible testimony pertaining to acts of undue influence being used to persuade a student to change schools."

However, according to the MSHSAA, there are more than just recruiting problems on the horizon.

"In Missouri, there are three separate concerns I hear from schools," Urhahn said. "It depends upon where the school is located. The schools in St. Louis have concerns about recruiting and parents getting together when their children are young to pick a school to attend. The Kansas City schools are concerned about the students coming from out of state to compete against Missouri kids. Finally, the out-state schools are concerned about kids who live in their community attending a non-public school in a neighboring community and having to compete against a student they view as their kid."

To combat these problems, many state associations have formed committees to help alleviate the pressure of the "public vs. non-public" debate.

"The IHSAA has, over several years, maintained a public/private competition committee," Cox said. "Occasionally, a coaches association in our state or a member school principal will submit a proposal to amend our bylaws regarding this topic. My current sense is

"We had a referendum voted on for the classifications between non-public and public schools, [but] it did not pass," Ross said. "What the referendum was meant to do is put different weight on various factors of classifications — socioeconomic, boundaries and tradition — to equalize divisions."

Recently, there have been discussions by some OHSAA member schools to file a petition to have separate tournaments for public and non-public schools. However, a petition would need to be signed by 75 principals, including a minimum of five principals within each of the six OHSAA athletic districts, and would need to be voted upon before being approved. In both 1978 and 1993, a vote to separate public and non-public schools failed overwhelmingly.

Texas and Georgia have recently made changes to their stances on the "public vs. non-public" issue. The Texas Senate voted to allow private schools to join the University Interscholastic League in all sports except for football and basketball, and the Georgia High School Association expanded from five divisions to six beginning with the 2012-13 school year. The change came in light of Georgia's Class A championships being dominated by non-public schools, which have won 26 of the 28 state championships (outside of football, wrestling and boys track) since the start of the 2008 school year.

"The mere fact that private schools may admit certain students and deny other students into their institutions creates an advantage for the private school that the public school does not enjoy," Cox

said. "In Indiana, approximately 70 percent of private school students participate in extracurricular activities while approximately 30 percent of public school students choose to participate. That imbalance in and of itself creates a disparity."

This year, a record seven of the 10 schools that played in the Indiana State Finals over Thanksgiving weekend were non-public schools. While some state associations are just beginning to become proactive in the debate on fairness, others have been "fighting the fight" for many years.

"[Twelve years ago] the MSHSAA-member schools voted in a multiplier to be applied to non-public schools to try to level the playing field," Urhahn said. "Five years ago, another petition was submitted to establish separate championships, but that failed. Because of that petition, the MSHSAA Board of Directors established an ad hoc committee to look at the issues. From that committee came recommendations to address the public/non-public issue. One item that is still in place is the formation of a standing committee to address public/non-public issues. The committee feels the need for additional and open communication is a necessity."

Along with the MSHSAA, the Tennessee Secondary School Athletic Association (TSSAA) implemented a multiplier about 13 years ago, while also deciding to divide its championships into two divisions. The divisions are split on "need-based financial aid."

"If you ask some of the public school people, they are still not satisfied by the split," TSSAA Executive Director Bernard Childress said. "Since the multiplier has come into effect, many smaller schools have been placed in a higher classification. There are complaints from private schools that the multiplier is too high, and that they are not able to compete with the enrollment. However, the Board is planning to take a look at the multiplier, and whether or not it is too high. Some schools are in two classes higher than they would be, and the Board wants it to be less than one class. Other than that, the Board is satisfied with the way we do [things] now."

Cox believes that change is imminent.

"I believe in the next 5-10 years, we may see some sort of 'competition clause' that would place premiums on winning certain levels of IHSAA tournaments and that factor being applied to the classification of the school in a particular team sport," Cox said.

Ross said the OHSAA has kept public and non-public schools together, "as most schools believe that staying together will keep [the OHSAA] strong," but concurs with Cox that there will be changes.

"There probably needs to be some modification in how students come into private schools and public schools," he said. "Do I believe that there will be some modifications? Yes, this is a journey that we will be on and be on it for awhile. We just want to make it fair for everybody."

"We just want to make it fair for everybody."



So what does the future hold for the "public vs. non-public" debate? There may be as many problems as solutions.

"There is no simple solution or crystal ball available to predict the future of this issue," Mezzanotte said. "The economy has an effect on not only private and parochial schools, but on our public schools and their ability to provide an adequate athletic program. Can our private and parochial schools maintain the quality of education that is being sought by our public schools, and vice versa?"

Urhahn agrees.

"It is my belief that the difference between public and non-public schools many times is not simply how the school is identified, but the parental involvement and socioeconomic support of the students attending each institution," Urhahn said. "If we look at all schools — public and non-public — that have success in all sports, it is my belief the opportunities presented to the students because of location (metropolitan area) and financial resources available have a significant impact on athletic success. There is nothing that schools can do to change those opportunities for all students in the state.

"That being said, I do not believe that if you do not have opportunity or resources, a school cannot be successful. We are educational-based athletics, and hard work, discipline, commitment to team and skill can overcome any perceived advantage of socioeconomic resource. Also, we must get beyond the fact that just because you do not win a championship, does not mean the year was a failure. We must remember that sports teach life lessons, and there is always an opportunity for us to learn for those lessons."

"As long as the majority feel like the championships are being won by a small amount of schools, it will be an issue that will continue to be discussed," Childress said. "Every state has the problem. I've been [with the TSSAA] for 18 years, and [the debate] hasn't gone away. We always discuss the issue, and it continues to be discussed. I don't think that anyone has come up with a national answer for this. You just have to do what is best, and what works for your state. The question is, 'how do we level the playing field?' Until we come to that conclusion, [the debate] will always be there."

"It will be an issue that is always present," Urhahn said. "There will never be a time that people will not be passionate about their local high school team, and their desire to win a high school championship." 0

Shane Monaghan is an intern in the NFHS Publications/Communications and Events Departments. Monaghan is a graduate of Ball State (Indiana) University, where he specialized in sports administration.

APPENDIX 7 PIAA Follow-Up Letter – February 27, 2012

February 27, 2012

Representative Gene DiGirolamo, Chair
Pennsylvania Athletic Oversight Committee
49 East Wing
P.O. Box 202018
Harrisburg, PA 17120-2018

Senator Jane Clare Orie, Vice Chair
Pennsylvania Athletic Oversight Committee
362 Main Capitol
P.O. Box 203040
Harrisburg, PA 17120

Dear Representative DiGirolamo and Senator Orie:

As President of the Pennsylvania Interscholastic Athletic Association, Inc. ("PIAA"), I appreciated the opportunity to address the Pennsylvania Athletic Oversight Committee at its meeting of Wednesday, January 25, 2012. I hope that the information conveyed was of use to the Committee.

At that meeting, the Pennsylvania Catholic Conference ("PCC") submitted a letter setting forth its position as to the proposed GLOSSARY terms under consideration by the PIAA Board of Directors. The PCC certainly has the right to express its views and we can agree to disagree about whether its objections are meritorious. As promised at that meeting, the Board of Directors has deferred its third reading on those terms until its meeting of Thursday, March 22 and Friday, March 23, 2012. In the interim, should the Department of Education present its definition of the terms "boundary schools" and "non-boundary schools," we will certainly present those for Board consideration.

I did want to note one strong objection to what we believe to be simply a counterfactual statement set forth in the PCC's letter to the Committee. In that letter, the PCC states that "The PIAA is delegated authority by the Commonwealth of Pennsylvania to regulate interscholastic athletics"

As I believe you and the Committee are already aware, PIAA is a non-profit corporation created by member schools in December of 1913. It was not created by legislative enactment nor has it ever been delegated any powers or authority by the Pennsylvania General Assembly. Membership in PIAA is voluntary and PIAA is not funded by either

state or federal tax dollars. PIAA is no different than the National Forensics League (which governs high school speech and debate competition), the Pennsylvania Bar Association (which governs high school mock trial competition), or the Quiz Bowl (sponsored by the Partnership for Academic Competition Excellence). PIAA may be different in the sense that people may have more of an interest in high school sports than band and academic competitions, but that interest does not make it any more subject to legislative interference in its internal operations than any other organization which schools may choose to join.

If you would like to further discuss the matter, please contact me at your convenience. Sincerely,

W. Rodney Stone
President of PIAA

WRS/dta

cc: PIAA Board of Directors
Alan R. Boynton, Jr., Esq., PIAA Legal Counsel
Mark E. Byers, PIAA Assistant Executive Director
Bradley R. Cashman, PIAA Executive Director
Honorable Richard A. Kasunic, Senate of Pennsylvania
Dr. Robert A. Lombardi, PIAA Associate
Executive Director Melissa N. Mertz, PIAA
Assistant Executive Director
John P. Milliron, Esq., PIAA Legislative Counsel
Honorable Tony J. Payton, Jr., PA House of
Representatives Honorable Michael P. Reese, PA
House of Representatives Honorable Joseph B.
Scarnati, III, Senate of Pennsylvania Michael L.
Solomon, Esq., PIAA Director of Legal Affairs

