

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(15) and 303 (14 **Del.C.** §§122(b)(15) & 303)  
14 **DE Admin. Code** 1008

### PROPOSED

### PUBLIC NOTICE

#### 1008 DIAA Junior High and Middle School Interscholastic Athletics

#### A. TYPE OF REGULATORY ACTION REQUESTED

Repeal of Existing Regulation

#### B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 **Del.C.** §§122(b)(15) and 303, the Delaware Interscholastic Athletic Association ("DIAA"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), proposes to repeal subsection 2.3 of 14 **DE Admin. Code** 1008 DIAA Junior High and Middle School Interscholastic Athletics because it will be incorporated into a new regulation, 14 **DE Admin. Code** 1028 Student Athlete Eligibility: Enrollment and Attendance.

In accordance with 14 **Del.C.** §122(d), the Department is required to perform and issue a written educational impact analysis of any new proposed regulation and of any regulation that is proposed to be continued. Because this regulation is proposed to repeal a subsection only, the Department is not required to perform and issue a written educational impact analysis.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/delaware-education-laws-and-regulations/provide-public-comment/> by the close of business (4:30 p.m. EST) on or before May 2, 2024. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

#### 1008 DIAA Junior High and Middle School Interscholastic Athletics

#### 1.0 Definitions, National Federation of State High School Associations, Conferences, Contracts, and Equivalency Rules

##### 1.1 Definitions

The following words and terms, when used in this regulation, shall have the following meaning:

**"Administrative Head of School"** means the chief or head individual in charge of the school traditionally referred to or generally known as the principal or headmaster.

**"Attendance Zone"** means the geographical area set by law or the governing body of a public school that entitles a student to attend a certain public school.

**"Board"** means the Delaware Interscholastic Athletic Association Board of Directors established pursuant to 14 **Del.C.** Chapter 3.

**"Competition"** means an event, contest, Scrimmage, or Play Day in which students or school teams compete either to determine a winner or for practice purposes.

**"Department"** means the Delaware Department of Education.

**"Guardian"** or **"Legal Guardian"** means an individual who legally has responsibility for the care and management of the student during the student's minority. The relationship is a legal one and must be created by a court order signed by a judge, commissioner, or master of a court of competent jurisdiction.

**"Individualized Education Program"** or **"IEP"** means a written statement for a child with a disability as defined in 14 **DE Admin. Code** 922.

**"Legally in attendance"** means present at school as determined by a pre-established written policy adopted by the local school board or governing body of the school.

**"Member School"** means a full or associate member school of the DIAA.

**"Play Day"** means a preseason event involving a series of Scrimmages held during the legal practice period for that sport season involving multiple Member Schools.

**"Principal"** or **"Headmaster"** means the Administrative Head of School and includes but is not limited to Head of School, Administrator, Executive Director, or Charter Head.

**"Receiving School"** means the school a student transfers to after leaving their previous school.

**"Relative Caregiver"** means an adult who by blood, marriage or adoption is the child's great grandparent, grandparent, step grandparent, great aunt, aunt, step aunt, great uncle, uncle, step uncle, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, niece, nephew, first cousin or first cousin once removed but who does not have legal custody or legal guardianship of the student.

**"School day"** or **"School days"** means actual school attendance days during the regular academic school year including a partial day that students are in attendance at school for instructional purposes as adopted by the district or governing body of the school not to include weekends, holidays, summer school, etc.

**"Scrimmage"** means an informal competition between schools in which a final score is not kept, the time periods are permitted to be modified, the results of the competition are not reported to the media, the coaches are permitted to interrupt the play to provide instruction, and the competition is strictly for practice purposes.

**"Sending School"** means the school a student transfers from to go to a different school.

**"State Board"** means the State Board of Education pursuant to 14 Del.C. §104.

**"Student With a Disability"** means a "child with a disability" as that term is defined in 14 DE Admin. Code 922 or a qualified person with a disability under Section 504 of the Rehabilitation Act of 1973.

**"Superintendent"** means the chief school officer of a school district.

**"Transfer"** means the student has officially withdrawn from the sending school and has officially enrolled in the receiving school in accordance with the receiving school's established registration process.

## 1.2 National Federation of State High School Associations

1.2.1 DIAA is affiliated with the National Federation of State High School Associations (NFHS). The playing rules, codes of conduct, sanctions, and guidelines in the NFHS rules books are adopted except as modified by the Board.

1.2.1.1 The playing rules of the United States Tennis Association and the United States Golf Association are adopted for the sports of tennis and golf, respectively, except as modified by the Board.

1.2.1.2 In addition to the playing rules, codes of conduct, sanctions, and guidelines in the NFHS rules book, the playing rules of US Lacrosse are adopted for girls' lacrosse except as modified by the Board.

## 1.3 Conferences

1.3.1 Member Schools may establish voluntary conference organizations that may be composed of public and nonpublic schools. When established, a conference they must submit its proposed membership and its constitution and bylaws to the Board and be approved by the Board before the schools may enter into any contractual agreements.

1.3.1.1 All subsequent amendments to the constitution and bylaws of the conference must be compatible with all provisions of the DIAA Regulations; interpretations and rulings of the Executive Director, Sportsmanship Committee, and Board; state tournament regulations; and DIAA approved playing codes.

## 1.4 Contracts

1.4.1 Contracts between DIAA Member Schools and between DIAA Member Schools and full member schools of comparable state associations are encouraged but not required.

1.4.1.1 Conference master contracts are approved substitutes for individual contracts.

1.4.1.2 A signed individual contract or conference master contract shall be hand-delivered or mailed to the DIAA office. Without a signed individual contract or conference master contract that is delivered or postmarked prior to the date of the contest in question, a Member School has no right of appeal to the Executive Director or the Board as provided in subsection 1.4.4.

1.4.2 Contracts between DIAA Member Schools and nonmember or associate member schools of comparable state associations are required.

1.4.2.1 A copy of the signed contract must be either received by the Executive Director or postmarked prior to the contest for which the agreement was drawn up. Failure to file a signed contract as prescribed shall result in the DIAA Member School being assessed a \$50.00 fine.

1.4.2.2 A Member School has no right of appeal to the Executive Director or the Board as provided in subsection 1.4.4 unless a signed individual contract is in place and is delivered or postmarked prior to the date of the contest in question.

1.4.3 Contracts shall be interchanged according to the following provisions:

- 1.4.3.1 Contracts on the accepted form shall be arranged by the competing schools for each season's interscholastic athletic contests.
- 1.4.3.2 Contracts shall be drawn up by the facility manager or other designated staff member of the home school of the earlier contest.
- 1.4.4 If a game is not played, it shall be considered a "no contest." Notwithstanding the above, if a signed individual contract or conference master contract was received in the DIAA office or postmarked prior to the contest in question and one of the participating schools breached the agreement, the non-breaching school may appeal for a forfeit to the Executive Director or the Board. If the Executive Director or Board finds a forfeit is appropriate, the no contest shall be replaced with the forfeit.
- 1.5 Equivalency Rules
  - 1.5.1 A full Member School shall not participate in a Scrimmage or contest with an in-State middle school that is not a member in good standing of DIAA.
  - 1.5.2 A full Member School shall not participate in a Scrimmage or contest with an associate or nonmember school of another state association unless the opposing school, as part of a written contract, certifies that its contestants are eligible under the rules of its home state association.
  - 1.5.3 An associate Member School shall not participate in a Scrimmage or contest with an in-State school that is not a member in good standing of DIAA unless the opposing school complies with the conditions specified in subsection 1.5.2. However, the opposing school shall be exempt from those rules which DIAA has waived for its associate Member School.
  - 1.5.4 Member Schools shall not participate in a practice, Scrimmage, or contest with a nonschool sponsored team.
  - 1.5.5 Member Schools shall not participate in a practice, Scrimmage, or contest with a non-middle school team.
  - 1.5.6 Member Schools shall not participate in a practice, Scrimmage, or contest with elementary, high school or college-aged students. This provision shall not apply to games played against the alumni or faculty of the school when the game is sponsored by school authorities.
  - 1.5.7 All schools participating in a Scrimmage must consider the event to be a Scrimmage and cannot count the results as part of their regular season results. Teams are limited to three Scrimmages or Play Days total on three competition dates each season.
  - 1.5.8 A school which participates in a game against an illegal opponent shall be required to forfeit the contest and be assessed a \$500.00 fine.

**11 DE Reg. 1639 (06/01/08)**

**15 DE Reg. 74 (07/01/11)**

**19 DE Reg. 743 (02/01/16)**

**22 DE Reg. 395 (11/01/18)**

**24 DE Reg. 539 (12/01/20)**

**26 DE Reg. 183 (09/01/22)**

## **2.0 Eligibility: No Student Shall Represent a School in an Interscholastic Scrimmage or Contest if the Student Does Not Meet the Following Requirements**

### **2.1 Eligibility, Grades and Age**

- 2.1.1 The junior high and middle school interscholastic program shall include grades 6 to 8, inclusive. No junior high or middle school student who has completed a season at the junior high or middle school level shall compete in the same sport at the senior high school level during the same school year. A junior high or middle school student who participates in a varsity or sub varsity game at the high school level shall be ineligible to participate at the junior high or middle school level in the same sport. This does not prohibit an eighth grade school student attending a school approved to play eighth grade students at the high school level from trying out for a varsity or sub varsity sport at the high school level.
  - 2.1.1.1 Eighth grade students who become 15 years of age on or after June 15 immediately preceding the school year in a school terminating in the eighth grade shall be eligible for all sports during the current school year provided all other eligibility requirements are met.
  - 2.1.1.2 Permission shall be granted for 15 year old eighth grade students in a school terminating in the eighth grade who are ineligible for junior high or middle school competition to participate in the district high school athletic program provided they meet all other eligibility requirements. In determining the age of a contestant, the birth date as entered on the birth record of the Bureau of Vital Statistics shall be required and shall be so certified on all eligibility lists.

2.1.2 Requests for waiver of the age requirement shall be considered only for participation on an unofficial, nonscoring basis in noncontact sports.

## 2.2 Eligibility, Residence

2.2.1 With the exception of boarding school students, a student must be living with the student's custodial parents, legal guardians, or Relative Caregiver in the Attendance Zone of the school which the student attends in order to be eligible for interscholastic athletics in that school. In cases of joint custody, the custodial parent shall be the parent with actual physical placement as determined by court action. In the case of shared placement or where residential placement has not been determined by a court, the parent or parents must commit to sending the student to a particular school for the year. Maintaining multiple residences in order to circumvent this requirement shall render the student ineligible.

2.2.1.1 A student who, pursuant to established school board policy or administrative procedure, remains in a school they have been attending after their legal residence changes to the Attendance Zone of a different school in the same school district, may exercise, prior to the first official student day of the subsequent academic year, a one time election to remain at their current school and thereby not lose athletic eligible. If a student chooses to remain at their current school and then transfers to the school in a new Attendance Zone on or after the first official student day of the subsequent academic year, the student shall be ineligible under subsection ~~2-4~~ 2.3.

2.2.1.2 A student who changes residence to a different Attendance Zone after the start of the last marking period and, pursuant to established school board policy or administrative procedure, is granted permission to continue attending their present school, the student shall retain their athletic eligibility in that school for the remainder of the school year provided all other eligibility requirements are met.

2.2.1.3 A student may be residing outside of the Attendance Zone of the school which they attend if the student is participating in the School District Enrollment Choice Program as authorized by 14 **Del.C.** Ch.4.

2.2.1.4 A student who is a nonresident of Delaware may be eligible if the student's custodial parent or legal guardian is employed full-time by a public school district in Delaware and the student attends school in the district in accordance with 14 **Del.C.** §607.

2.2.1.5 Notwithstanding subsection 2.2.1, a student shall be eligible at a public school if the student is enrolled in accordance with 14 **Del.C.** §202(f), the Relative Caregivers School Authorization.

2.2.1.5.1 An exception would be a student whose Relative Caregiver does not provide the documentation required by the Relative Caregiver School Authorization (proof of relation and proof of full time care) but is permitted to register on the basis of a petition for the transfer of guardianship. A student who registers on the basis of a petition for the transfer of guardianship is not eligible to scrimmage or compete until the Relative Caregiver has provided the aforementioned required documentation or has received a signed court order designating them as the student's legal guardian.

2.2.1.6 Notwithstanding subsection 2.2.1, a student who is homeless as defined in the McKinney-Vento Education for Homeless Children and Youths Act, 42 U.S.C. §11434a(2) shall be eligible to participate at the public school in which the student is enrolled.

2.2.1.7 For purposes of eligibility, a student who is placed within the custody of the Department of Services for Children, Youth and Their Families (DSCYF) is eligible to participate in interscholastic athletics immediately at the school the student attends.

## 2.3 ~~Eligibility, Enrollment and Attendance~~

~~2.3.1 A student must be legally enrolled in the junior high or middle school which they represent in order to participate in a practice, scrimmage, or contest.~~

~~2.3.2 Students with disabilities who are placed in special schools or programs.~~

~~2.3.2.1 Definitions:~~

~~“**Campus**” means a contiguous land area containing one or more school buildings.~~

~~“**Special School or Program**” means a school or program approved by the Department with the approval of the State Board to serve students with disabilities but does not include alternative schools.~~

~~2.3.2.2 A student with a disability who is placed in a special school or program administered by a school district or charter school which sponsors junior high or middle school interscholastic athletics shall be eligible to participate in interscholastic athletics as follows:~~

~~2.3.2.2.1 If the special school or program sponsors the interscholastic sport in question, the student shall be eligible to participate only at the school or program.~~

- 2.3.2.2.2 If the special school or program does not sponsor the interscholastic sport in question and the student is served in a regular junior high or middle school for all or part of the school day, the student shall be eligible only at that regular junior high or middle school.
- 2.3.2.2.3 If the special school or program does not sponsor the interscholastic sport in question, and the student is served exclusively in the special school or program, and the special school or program is located on the campus of a regular junior high or middle school, the student shall be eligible only at the regular junior high or middle school on the same campus.
- 2.3.2.2.4 If the special school or program does not sponsor the interscholastic sport in question, and the student is served exclusively in the special school or program, and the special school or program is not located on the campus of a regular junior high or middle school the student shall be eligible only at the regular junior high or middle school designated to serve the special school's or program's students.

2.3.2.2.4.1 School districts or charter schools which administer special schools or programs and have multiple middle schools or junior high schools shall decide which of its regular middle schools or junior high schools shall be designated to serve special school or program students in these circumstances.

2.3.3 Enrollment Requirements for the School District Enrollment Choice Program:

- 2.3.3.1 Pursuant to 14 ~~Del.C.~~ §407(a)(2), a student who is enrolled in a traditional public, vocational, or charter school outside of the student's feeder pattern through the School District Enrollment Choice Program shall remain enrolled in the school for a minimum of two years. A waiver request is not required and the student is not ineligible under this subsection if one of the exceptions as provided in 14 ~~Del.C.~~ §407(a)(2) applies or the student's enrollment in the school is terminated as provided in 14 ~~Del.C.~~ §407. Even if a waiver request is not required and the student is not ineligible under this subsection, a waiver request may be required and the student may be ineligible under subsection 2.4 of this regulation.
- 2.3.3.2 Pursuant to 14 ~~Del.C.~~ §506(d), a student who is in their first year of attendance at a charter school shall remain enrolled in the charter school for a minimum of one year. A waiver request is not required and the student is not ineligible under this subsection if good cause exists as provided in 14 ~~Del.C.~~ §506(d).
- 2.3.4 A student may not participate in a practice, scrimmage, or contest during the time a suspension, either in school or out of school, is in effect or during the time they are assigned to an alternative school for disciplinary reasons.
- 2.3.5 A student must be legally in attendance at school in order to participate in a practice, scrimmage, or contest except when excused by proper school authorities in accordance with pre-established written school policy.
  - 2.3.5.1 A student who is not legally in attendance at school due to illness or injury shall not be permitted to participate in a practice, scrimmage, or contest on that day.
- 2.3.6 A Student who fails to complete a semester or absence for one or more semesters for reasons other than personal illness or injury shall be ineligible for 90 school days from the student's reentry to school.
- 2.3.7 An ineligible student who practices in violation of subsections 2.3.1 through 2.3.6 shall, when the student regains their eligibility, be prohibited from practicing, scrimmaging or competing for an equivalent number of days.

2.4 2.3 Eligibility, Transfers

2.4.1 2.3.1 Purpose Purpose.

2.4.1.1 The intent of the Junior High and Middle School Transfer Rule is to deter students from transferring schools for athletic purposes, to help discourage recruitment, and to reduce the opportunity for undue influence to be exerted by persons who seek to benefit from a student's athletic talent. DIAA recognizes that, because of the number of transfers that occur each year, it is difficult to carry out that intent if an individualized determination is required for all students who transfer schools. The exceptions in subsection 2.4.3 2.3.3 of this regulation involve circumstances in which establishing a hardship for eligibility purposes is not required; strict enforcement of the rule will not serve to accomplish the purpose of the rule; the spirit of the rule will not be offended or compromised; the principle of educational balance over athletics will not be offended or compromised; and there is no safety risk to teammates or competitors.

2.4.2 2.3.2 Junior High and Middle School Transfer Rule Rule.

2.4.2.1 Unless one of the exceptions found in subsection 2.4.3 2.3.3 of this regulation applies, a student who has previously participated in interscholastic athletics that transfers to a DIAA Member School

shall be ineligible in all sports for a period of 90 school days commencing with the first day of official attendance in the Receiving School.

~~2.4.3~~ 2.3.3 Exceptions to the Junior High and Middle School Transfer Rule

~~2.4.3.1~~ 2.3.3.1 A student, the student's family, and the student's Receiving School are not required to submit a waiver request and establish the conditions for granting a waiver set forth in 14 **DE Admin. Code** 1020, including hardship, and the period of ineligibility shall not apply if the student meets one of the following exceptions and the student's Transfer was not for athletic advantage as provided in subsection ~~2.4.5~~ 2.3.5 of this regulation:

~~2.4.3.1.4~~ 2.3.3.1.1 McKinney-Vento Act (Homeless Students) - The period of ineligibility shall not apply if the Transfer is the result of the student becoming homeless as defined in the McKinney-Vento Education for Homeless Children and Youths Act, 42 U.S.C. §11434a(2).

~~2.4.3.1.2~~ 2.3.3.1.2 Transfer Because of Administrative Assignment - The period of ineligibility shall not apply if the Transfer is within a school district and is approved by the district's Superintendent pursuant to established school board policy or administrative procedure. This subsection shall not apply if the student is enrolled in a traditional public, vocational, or charter school through the School District Enrollment Choice Program and transfers to the student's feeder pattern school within the district unless the student satisfies the conditions stipulated in subsections ~~2.4.3.1.9.1~~ 2.3.3.1.9.1 through ~~2.4.3.1.9.4~~ 2.3.3.1.9.4. For the purpose of this subsection, a student's feeder pattern consists of the public schools in which the student would normally be enrolled based on the student's place of residence. This subsection shall also not apply if the student is enrolled in a traditional public, vocational, or charter school through the School District Enrollment Choice Program and transfers to a different traditional public, vocational, or charter school within the district through the program.

~~2.4.3.1.3~~ 2.3.3.1.3 No previous interscholastic athletic participation - A student who has not previously participated in interscholastic athletics, is released by a proper school authority from a Sending School, has completed the registration process at the Receiving School, and is pursuing an approved course of study shall be eligible immediately upon registration provided the student meets all other DIAA eligibility requirements.

~~2.4.3.1.4~~ 2.3.3.1.4 Transfer Due to Court Action - A student may transfer without loss of athletic eligibility if the Transfer is caused by court action, court action being an order from a court of law affecting legally committed students. In the case of a transfer of guardianship or custody, the Transfer shall be the result of a court order signed by a judge, commissioner, or master of a court of competent jurisdiction. A petition for the transfer of guardianship or custody, an affidavit (except as permitted by subsection ~~2.4.3.1.5~~ 2.3.3.1.5 of this regulation), or a notarized statement signed by the affected parties shall not be sufficient to render the student eligible to participate in interscholastic athletics.

~~2.4.3.1.4.1~~ 2.3.3.1.4.1 Sole, Joint, or Shared Custody - In cases of sole, joint, or shared custody once a primary residence is established, a change in the student's primary residence without court action renders the student ineligible unless one of the other exceptions in subsection ~~2.4.3~~ 2.3.3 of this regulation applies.

~~2.4.3.1.4.2~~ 2.3.3.1.4.2 DSCYF Custody - For the purposes of eligibility, a student placed within DSCYF custody is eligible to participate in interscholastic athletics immediately at the school the student attends.

~~2.4.3.1.5~~ 2.3.3.1.5 Transfer Based Upon Relative Caregivers School Authorization - A student may Transfer without loss of athletic eligibility if the transfer is based upon the submission of a Caregivers School Authorization in accordance with 14 **Del.C.** §202(f).

~~2.4.3.1.5.1~~ An exception would be a student whose caregiver does not provide the documentation required by the Relative Caregivers School Authorization (including proof of relationship and proof of full time care) but is permitted to register on the basis of a petition for the transfer of guardianship. A student who registers on the basis of a petition for the transfer of guardianship is not eligible to scrimmage or compete until the caregiver has provided a custody or guardianship petition to the receiving school in accordance with 14 **Del.C.** §202(f)(1).

~~2.4.3.1.6~~ 2.3.3.1.6 Transfer Due to Change of Residence - The Transfer is the result of a change in residence by the custodial parents, legal guardians, or Relative Caregiver to the Attendance Zone of a public school that student was not attending. If, as a result of the change of residence, the student could now enroll in a different public school, the student may make a one-time election and select any school including a private school. A change in residence has occurred when all occupancy of the previous residence has ended and a new legal residence

has been established. Maintaining dual residency for purposes of athletic eligibility shall render the student ineligible.

2.4.3.1.7 2.3.3.1.7 Transfer under Unsafe School Choice Policy - A student may transfer without loss of athletic eligibility if the student attends a persistently dangerous school or is the victim of a violent felony while in or on the grounds of a school in which the student is enrolled and the student opts to transfer to a safe school in the same school district in accordance with 14 **DE Admin. Code** 608 Unsafe School Choice Option Policy.

2.4.3.1.8 2.3.3.1.8 Transfers with Fewer Than 90 Days Left in Academic Year - If a student transfers with fewer than ninety (90) school days left in the academic year, the student shall be ineligible for the remainder of the school year but shall be eligible beginning with the subsequent fall sports season provided the student is in compliance with all other eligibility requirements.

2.4.3.1.9 2.3.3.1.9 Transfers after the Close of an Academic Year and Prior to the Start of a New Academic Year - The period of ineligibility shall not apply if the Transfer is after the close of the Sending School's academic year and prior to the first official student day of the Receiving School's academic year provided:

2.4.3.1.9.1 2.3.3.1.9.1 The student has completed the registration process at the Receiving School prior to the first official student day of the academic year. The first official student day shall be defined as the first day on which students in any grade in that school are required to be in attendance.

2.4.3.1.9.2 2.3.3.1.9.2 The student has not attended class, excluding summer school, or participated in a scrimmage or contest at the Sending School since the close of the previous academic year.

2.4.3.1.9.3 2.3.3.1.9.3 The student's legal residence is located in the Attendance Zone of the Receiving School.

2.4.3.1.9.4 2.3.3.1.9.4 All other DIAA eligibility requirements have been met.

2.4.4 2.3.4 Transfer Because of a Financial Hardship. If a waiver of the Junior High and Middle School Transfer Rule is requested due to a financial hardship, the parents, legal guardians, or Relative Caregiver is responsible for providing documentation to the Board to support the request.

2.4.4.1 2.3.4.1 Documentation for Financial Hardship: Documentation for financial hardship shall include:

2.4.4.1.1 2.3.4.1.1 Proof of extreme financial hardship caused by significant and unexpected reduction in income or increase in expenses; and

2.4.4.1.2 2.3.4.1.2 A statement from the Principals or Headmasters of both the Sending and Receiving Schools that the student is not transferring for athletic advantage as that term is used in subsection 2.4.5 2.3.5 of this regulation.

2.4.5 2.3.5 Transfers for Athletic Advantage - The exceptions listed in subsection 2.4.3 2.3.3 of this regulation shall not apply if the Transfer was for athletic advantage. If the student transfers for athletic advantage, the student may still request a waiver of the transfer rule. A transfer for athletic advantage includes but is not limited to any transfer where the primary reason for the student's transfer was for any of the following:

2.4.5.1 2.3.5.1 To seek a superior team;

2.4.5.2 2.3.5.2 To seek a team more compatible with the student's abilities;

2.4.5.3 2.3.5.3 Dissatisfaction with the student's position or playing time;

2.4.5.4 2.3.5.4 The student follows the coach to another school to which the coach has transferred;

2.4.5.5 2.3.5.5 Dissatisfaction with the philosophy, policies, methods, or actions of a coach or administrator pertaining to interscholastic athletics;

2.4.5.6 2.3.5.6 To avoid disciplinary action imposed by another state athletic association; or

2.4.5.7 2.3.5.7 To avoid disciplinary action imposed by the Sending School related to or affecting interscholastic athletic participation.

2.4.6 2.3.6 Transfers under the School District Enrollment Choice Program (14 **Del.C.** Ch. 4)

2.4.6.1 2.3.6.1 If a student is enrolled in a public or private school and transfers to a traditional public, vocational, or charter school outside of the student's feeder pattern through the School District Enrollment Choice Program, the student shall be eligible immediately provided the Transfer occurs after the close of the Sending School's academic year and prior to the first official student day of the Receiving School's academic year and the student meets all other eligibility requirements.

2.4.6.2 2.3.6.2 If a student is enrolled in a traditional public, vocational, or charter school outside of the student's feeder pattern through the School District Enrollment Choice Program and transfers to a different traditional public, vocational, or charter school outside of the student's feeder pattern

through the program, the student shall be ineligible to participate in interscholastic athletics during the student's first year of attendance at the Receiving School.

~~2.4.6.2.1~~ 2.3.6.2.1A waiver request is not required and the period of ineligibility under subsection ~~2.4.2~~ 2.3.2 shall not apply if the student meets all other eligibility requirements and:

~~2.4.6.2.1.1~~ 2.3.6.2.1.1One of the exceptions to the Junior High and Middle School Transfer Rule as provided in subsection ~~2.4.3~~ 2.3.3 applies; or

~~2.4.6.2.1.2~~ 2.3.6.2.1.2The student wishes to participate in an interscholastic sport that was not offered at the Sending School.

~~2.4.6.3~~ 2.3.6.3If a student is enrolled in a traditional public, vocational, or charter school outside of the student's feeder pattern through the School District Enrollment Choice Program and transfers to a private or public school, the student shall be immediately eligible provided the Transfer occurs after the close of the Sending School's academic year and the student meets all other eligibility requirements.

~~2.4.6.4~~ 2.3.6.4For the purpose of this subsection, a student's feeder pattern consists of the public schools in which the student would normally be enrolled based on the student's place of residence.

## ~~2.5~~ 2.4 Eligibility, Amateur Status

~~2.5.1~~ 2.4.1A student may not participate in an interscholastic sport unless they are considered an amateur in that sport. A student forfeits their amateur status if they do any of the following:

~~2.5.1.1~~ 2.4.1.1Knowingly plays on or against a professional team which is defined as a team having one or more members who have received or are receiving directly or indirectly monetary consideration for their athletic services.

~~2.5.1.2~~ 2.4.1.2Signs a professional contract, accepts reimbursement for expenses to attend a professional tryout, or receives financial assistance in any form from a professional sports organization.

~~2.5.1.3~~ 2.4.1.3Enters competition under an assumed name. The surname and given name used by any player in the first game of interscholastic competition shall be used during the remainder of the student's interscholastic career. Any change in spelling or use of another name shall be regarded as an attempt to evade this rule unless the change has been properly certified by the player to the Principal or Headmaster of the school.

~~2.5.1.4~~ 2.4.1.4Receives remuneration of any kind or accepts reimbursement for expenses in excess of the actual and necessary costs of transportation, meals, and lodging for participating in a team or individual competition or an instructional camp or clinic. Reimbursement for the aforementioned expenses is permitted only if all of the participants receive the same benefit.

~~2.5.1.5~~ 2.4.1.5Receives cash or a cash equivalent (savings bond, certificate of deposit, etc.), merchandise (except as permitted by subsection 4.1.4) or a merchandise discount (except for discount arranged by school for part of team uniform) a reduction or waiver of fees, a gift certificate, or other valuable consideration as a result of their participation in an organized competition or instructional camp or clinic. Accepting an event program or a complimentary item (T shirt, hat, equipment bag, etc.) that is inscribed with a reference to the event, has an aggregate retail value of no more than \$150.00, and is provided to all of the participants, shall not jeopardize the student's amateur status.

~~2.5.1.6~~ 2.4.1.6Sells or pawns awards received.

~~2.5.1.7~~ 2.4.1.7Uses their athletic status to promote or endorse a commercial product or service on the internet; in a newsprint, radio, or television advertisement or any other form of media; or personal appearance.

~~2.5.2~~ 2.4.2Accepting compensation for teaching lessons, coaching, or officiating shall not jeopardize their amateur status.

~~2.5.3~~ 2.4.3A student who forfeits their amateur status under the provisions of this rule is ineligible to participate at the interscholastic level in the sport in which the violation occurred. They may be reinstated after a period of up to 180 school days provided that during the suspension, they comply with all of the provisions of this rule. The suspension shall date from the time of the last offense.

## ~~2.6~~ 2.5 Eligibility, Passing Work

~~2.6.1~~ 2.5.1The intent of the Passing Work Rule is to promote educational standards, underscore the educational values of participating in interscholastic athletics, encourage appropriate academic performance, and allow the use of interscholastic participation as a motivator for improved classroom performance.

~~2.6.2~~ 2.5.2In order to be eligible for participation in interscholastic athletic contests and scrimmages, a student must pursue a regular course of study or its equivalent as approved by the local governing body, and must be passing at least four full-year courses. Two of those courses must be in the areas of English, Mathematics, Science, World Language or Social Studies.

~~2.6.2.4~~ A student who is receiving special education services and is precluded from meeting the aforementioned academic requirements due to modifications in the grading procedure or course of study, shall be adjudged eligible by the Principal or Headmaster if the student is making satisfactory progress in accordance with the requirements of their Individualized Education Program (IEP).

~~2.6.3~~ 2.5.3A student whose work in any regular marking period does not meet the above standards shall be ineligible to participate in an interscholastic athletic contest or scrimmage for the next marking period.

~~2.6.3.1~~ 2.5.3.1In the case of a conflict between the marking period grade and the final grade, the final grade shall determine eligibility.

~~2.6.3.2~~ 2.5.3.2The final accumulation of passed coursework shall determine eligibility for the first marking period of the following school year. When a student makes up a failure or earns the required passing grades during the summer, the student shall become eligible provided the student successfully completed the course work prior to the first official student day of the school year.

~~2.6.3.3~~ 2.5.3.3Written verification of the successful completion of a correspondence course must be received before a student shall regain eligibility.

~~2.6.4~~ 2.5.4A student forfeits or regains eligibility, in accordance with the provisions of this rule, on the day when marking period grades are issued or published. The calendar used to establish when marking period grades are issued or published must be established by the governing body of the school prior to the start of the school year.

~~2.6.5~~ 2.5.5Local school boards and nonpublic schools may establish more stringent requirements for academic eligibility than the minimum standards herein prescribed.

## ~~2.7~~ 2.6 Eligibility, Years of Participation

~~2.7.1~~ 2.6.1The intent of the Years of Participation Rule is to promote timely progress toward graduation by discouraging students from delaying or interrupting their junior high or middle school education; to disallow students to enroll for one semester each school year to increase athletic ability and skill; to promote equality of competition; to diminish risks stemming from unequal competition; and to place emphasis on the academic mission of the school. In addition, the intent of the rule is to help prevent redshirting; to avoid exploitation by coaches who might otherwise seek to obtain transfers or to delay a student's normal progress through school; and to prevent displacement of younger student-athletes by older student-athletes who wish to unfairly prolong their junior high or middle school careers.

### ~~2.7.2~~ 2.6.2Years of Participation Rule

~~2.7.2.1~~ 2.6.2.1Students enrolled in a grade below the sixth grade shall not be permitted to practice, scrimmage, or compete on junior high or middle school interscholastic teams.

#### ~~2.7.2.2~~ 2.6.2.2Schools Which Allow Students in Grades 6, 7, and 8 to Participate

~~2.7.2.2.1~~ 2.6.2.2.1Participation in interscholastic athletics on the part of a sixth grade student shall be at the discretion of the student's school.

~~2.7.2.2.1.1~~ 2.6.2.2.1.1Sixth grade students shall not be permitted to participate in football unless the conference develops a classification system that is approved by the Board.

~~2.7.2.2.1.2~~ 2.6.2.2.1.2If a student attends a school that competes in football but has not developed a Board approved classification system, the student shall have four consecutive semesters of eligibility (two consecutive opportunities) to play football from the first time the student enters the seventh grade.

~~2.7.2.2.2~~ 2.6.2.2.2No student shall represent a school in an interscholastic athletic contest or scrimmage after six consecutive semesters from the date of the student's first entrance into the sixth grade in schools which permit students in grades 6, 7 and 8 to participate in interscholastic athletics unless a waiver is granted.

~~2.7.2.2.3~~ 2.6.2.2.3No student shall have more than three opportunities to participate in a fall sport or combination of fall sports, in a winter sport or combination of winter sports, or in a spring sport or combination of spring sports.

#### ~~2.7.2.3~~ 2.6.2.3Schools Which Allow Students in Grades 7 and 8 to Participate

~~2.7.2.3.1~~ 2.6.2.3.1No student shall represent a school in an interscholastic athletic contest or scrimmage after two consecutive school years from the date of the student's first entrance into the seventh grade in schools which restrict participation in interscholastic athletics to students in grades 7 and 8 unless a waiver is granted.

~~2.7.2.3.2~~ 2.6.2.3.2No student shall have more than two opportunities to participate in a fall sport or combination of fall sports, in a winter sport or combination of winter sports, or in a spring sport or combination of spring sports.

~~2.7.2.4~~ 2.6.2.4 Participation shall be defined as taking part in a school sponsored practice, scrimmage, or contest on or after the first allowable date for practice in that sport.

~~2.7.2.5~~ 2.6.2.5 In the event that a student transfers between the types of schools described in subsections ~~2.7.2.2~~ 2.6.2.2 and ~~2.7.2.3~~ 2.6.2.3, the student shall not represent a school in interscholastic contests or scrimmages after six consecutive semesters from the date of student's first entrance into sixth grade unless a waiver is granted.

### ~~2.7.3~~ 2.6.3 Waiver of the Years of Participation Rule

~~2.7.3.1~~ 2.6.3.1 "**Hardship**" shall be defined as extenuating circumstances peculiar to the student athlete caused by unforeseen events beyond the election, control, or creation of the student athlete, the student's family, and the student's school which (1) deprive the student of all or part of one of the student's opportunities to participate in a particular sports season; (2) preclude the student from completing the academic requirements for graduation within the normal period of eligibility; and (3) deprive the student of all or part of one of the student's opportunities to participate in a particular sport. The waiver provision is intended to restore eligibility that has been lost as a result of a hardship situation. Injury, illness, or accidents, which cause a student to fail to meet the basic requirements, are possible causes for a hardship consideration.

~~2.7.3.1.1~~ 2.6.3.1.1 A waiver shall not be granted under this subsection where DIAA finds that the student was academically eligible pursuant to DIAA's minimum passing work standards but was ineligible to participate under more stringent locally adopted academic standards and where the local school board has adopted its own waiver or exemption policy.

~~2.7.3.1.2~~ 2.6.3.1.2 A clear and direct causal relationship must exist between the alleged hardship condition and the failure of the student to complete the academic requirements for promotion within the normal period of eligibility and the loss of all or part of one of the student's opportunities to participate in a particular sports season.

~~2.7.3.1.3~~ 2.6.3.1.3 The burden of proof rests with the student in conjunction with the waiver process as described in 14 **DE Admin. Code** 1020. Claims of extended illness, debilitating injury, emotional stress, etc. must be accompanied by appropriate documentation. Evidence must be submitted to verify that the student or their parents, legal guardians, or Relative Caregiver sought assistance to ameliorate the effects of the hardship condition.

## ~~2.8~~ 2.7 Student Eligibility Report Forms

~~2.8.1~~ 2.7.1 Member schools shall use eligibility forms approved by the Executive Director. A copy of the original eligibility report and subsequent addenda must be either received by the Executive Director or postmarked prior to the first contest for which the students listed are eligible. Failure to file an eligibility report as prescribed shall result in a \$50.00 fine against the school.

~~2.8.1.1~~ 2.7.2 In the case of a student who met all DIAA eligibility requirements but was omitted from the eligibility report due to administrative or clerical error, the student shall be adjudged eligible and the school assessed a \$25.00 fine.

## ~~2.9~~ 2.8 Use of an Ineligible Athlete:

~~2.9.1~~ 2.8.1 If a school uses an ineligible athlete, the administrative head or their designee shall notify the opposing school or event sponsor, in the case of a tournament or meet, and the Executive Director in writing of the violation and the forfeiture of the appropriate games, matches or points won.

~~2.9.2~~ 2.8.2 The deliberate or inadvertent use of an ineligible athlete in the sports of soccer, football, volleyball, field hockey, basketball, baseball, softball, and lacrosse shall require the offending school to forfeit the contests in which the ineligible athlete participated.

~~2.9.2.1~~ 2.8.2.1 If the infraction occurs during a tournament, the offending school shall be replaced by its most recently defeated opponent. Teams eliminated prior to the most recently defeated opponent shall not be allowed to reenter the tournament. Team and individual awards shall be returned to the event sponsor and team and individual records and performances shall be nullified.

~~2.9.2.2~~ 2.8.2.2 The offending school may appeal to the DIAA Board of Directors for a waiver of the forfeiture penalty. If the forfeiture penalty is waived, the offending school shall be reprimanded and fined a minimum of \$200.00 but no more than \$1,000.00 and referred to the DIAA Sportsmanship Committee for consideration of further action unless the athlete or their parents or legal guardians knowingly withheld information or provided false information that caused them to be eligible for interscholastic competition. The burden of proof, in both cases, rests entirely with the offending school. A forfeit shall constitute a loss for the offending school and a win for its opponent for purposes of standings. A forfeit shall be automatic and not subject to refusal by the offending school's opponent.

~~2.9.3~~ 2.8.3 The deliberate or inadvertent use of an ineligible athlete in the sports of cross country, wrestling, swimming, track, golf, and tennis shall require the offending school to forfeit the matches won and points earned by the ineligible athlete or by a relay team of which they were a member. The points contributed by an ineligible athlete to their team score shall be deleted and the contest score as well as any affected placements will be adjusted according to the rules of that sport.

~~2.9.3.1~~ 2.8.3.1 If the infraction occurs during a tournament, the ineligible athlete shall be replaced by the athlete's most recently defeated opponent or next highest finisher. Contestants eliminated prior to the most recently defeated opponent shall not be allowed to reenter the tournament.

~~2.9.3.2~~ 2.8.3.2 Individual awards earned by the ineligible athlete and team awards, if necessary because of adjustments in the standings, shall be returned to the event sponsor. Individual records and performances by the ineligible athlete shall be nullified.

~~2.9.4~~ 2.8.4 If an ineligible athlete participates in interscholastic competition contrary to DIAA rules but in accordance with a temporary restraining order or injunction against their school or DIAA, and the injunction is subsequently vacated, stayed, or reversed, or the courts determine that injunctive relief is not or was not justified, or the injunction expires without further judicial determination, the penalties as stipulated in subsections ~~2.9.4~~ 2.8.1 and ~~2.9.2~~ 2.8.2 shall be imposed.

~~2.9.5~~ 2.8.5 The intentional use of an ineligible athlete by a Member school or repeated indifference to its responsibility to determine the eligibility of its athletes will subject the school to additional penalties which may include suspension for the number of days up to the length of the school year from the date the charge is substantiated.

~~2.9.6~~ 2.8.6 If a coach knowingly withholds information or provides false information that causes an athlete to be eligible for interscholastic competition, the coach shall be suspended from coaching in any sport at any DIAA Member School for up to the number of days up to the length of the school year from the date the charge is substantiated.

~~2.9.7~~ 2.8.7 If an athlete or their parents, legal guardians, or Relative Caregiver knowingly withholds information or provides false information that causes the athlete to be eligible for interscholastic competition, the athlete shall be suspended from participation in any sport at any DIAA Member School for up to the number of days up to the length of the school year from the date the charge is substantiated.

#### ~~2.10~~ 2.9 Determination of Student Eligibility and the Appeal Procedures

~~2.10.1~~ 2.9.1 Determining student athletic eligibility is the responsibility of each member school's administration. Member schools shall maintain records verifying athletic eligibility. Upon the Executive Director's request, the member school shall provide all information verifying eligibility.

~~2.10.2~~ 2.9.2 In cases of uncertainty or disagreement, the eligibility of a student shall be determined by the Executive Director. Any request from a member school regarding an eligibility determination shall be in writing and contain the school's eligibility determination and all information used to reach the determination. When necessary within the Executive Director's discretion, the Executive Director may also make eligibility determinations without an official request from the member school. If the Executive Director determines that the student is ineligible, the school and the student shall be notified and the student suspended immediately from participation in interscholastic athletics.

~~2.10.3~~ 2.9.3 The school and the student shall be informed that the decision of the Executive Director may be appealed to the DIAA Board of Directors.

~~2.10.4~~ 2.9.4 Decisions of the Board to affirm, modify, or reverse the eligibility rulings of the Executive Director may be appealed to the State Board.

**9 DE Reg. 1954 (06/01/06)**

**11 DE Reg. 1639 (06/01/08)**

**15 DE Reg. 74 (07/01/11)**

**19 DE Reg. 743 (02/01/16)**

**22 DE Reg. 60 (07/01/18)**

**22 DE Reg. 395 (11/01/18)**

**22 DE Reg. 765 (03/01/19)**

**24 DE Reg. 539 (12/01/20)**

**26 DE Reg. 183 (09/01/22)**

### **3.0 All Star Contests**

All Star Contests: Junior high and middle school students shall not participate in an all-star event until they have completed their high school eligibility in that sport.

**11 DE Reg. 1639 (06/01/08)**

**15 DE Reg. 74 (07/01/11)**  
**19 DE Reg. 743 (02/01/16)**  
**24 DE Reg. 539 (12/01/20)**  
**26 DE Reg. 183 (09/01/22)**

#### **4.0 Awards**

##### **4.1 Awards**

- 4.1.1 Member Schools and support groups affiliated with Member Schools, such as an alumni association or booster club, shall be allowed to present recognition awards for team and individual accomplishments. The awards, including artwork and lettering, shall require the approval of the Administrative Head of School and their value shall be mostly symbolic, not more than \$500.00. Member Schools and support groups affiliated with Member Schools are also permitted to sponsor banquets.
- 4.1.2 A nonprofit group such as a coaches' association, booster club that is not affiliated with a Member School, or community service organization shall be allowed to present recognition awards for team and individual accomplishments with the approval of the Administrative Head of School. Nonprofit groups shall also be permitted to sponsor banquets.
- 4.1.3 Commercial organizations shall be allowed to present recognition awards for team and individual accomplishments with the approval of the Administrative Head of School.
- 4.1.4 Permissible awards include trophies, plaques, medals, letters, certificates, photographs, and similar items. Jackets, sweaters, shirts, watches, rings, charms, and similar items if properly inscribed with a reference to the team or individual athletic accomplishment are also acceptable. The awards shall have symbolic value only. Awards with utilitarian value are prohibited. The aggregate retail value of the award shall not exceed \$500.00 per team or per individual.

**11 DE Reg. 1639 (06/01/08)**  
**19 DE Reg. 743 (02/01/16)**  
**24 DE Reg. 539 (12/01/20)**  
**26 DE Reg. 183 (09/01/22)**

#### **5.0 Use of Influence for Athletic Purposes**

##### **5.1 Definition: The use of influence for athletic purposes shall include, but not be limited to, the following:**

- 5.1.1 Offer of money, room, board, clothing, transportation, or other valuable consideration to a prospective athlete or their parents, legal guardians, or a Relative Caregiver.
- 5.1.2 Offer of waiver or reduction of tuition or financial aid if based, even partially, on athletic considerations. Non-school affiliated scholarship or financial aid programs which are primarily restricted to students of one school if the aid is based, even partially, on athletic considerations.
- 5.1.3 Preference in job assignments or offer of compensation for work performed in excess of what is customarily paid for such services.
- 5.1.4 Offer of special privileges not accorded to other students.
- 5.1.5 Offer of financial assistance including free or reduced rent, payment of moving expenses, etc., to induce a prospective athlete or their parents, legal guardians, or Relative Caregiver to change residence.

##### **5.2 Illegal Contact with Students, Student's Parents, Legal Guardians, or a Relative Caregiver**

- 5.2.1 A school employee or Board approved volunteer may not initiate contact or request that a booster club member, alumnus, or player initiate contact with a student enrolled in another school or their parents, legal guardians, or a Relative Caregiver in order to persuade the student to enroll in a particular school for athletic purposes. Illegal contact shall include, but not be limited to, letters, questionnaires or brochures, telephone calls, and home visits or personal contact at athletic contests.
- 5.2.2 If a coach or athletic director is contacted by a prospective athlete or their parents, legal guardians, or Relative Caregiver, the former must refer the individual to the Principal or Headmaster or school personnel responsible for admissions.

##### **5.3 Permitted Activities**

###### **5.3.1 A school employee or Board approved volunteer may do the following:**

- 5.3.1.1 Discuss the athletic program with a prospective student or their parents, legal guardians, or Relative Caregiver during an open house or approved visit initiated by the parents, legal guardians, or Relative Caregiver.
- 5.3.1.2 Provide information concerning sports offered, facilities, conference affiliation, and general athletic policies. However, they are not permitted to state or imply in any way that their athletic program is

superior to that of another school or that it would be more beneficial or advantageous for the prospective student to participate in athletics at their school.

5.3.1.3 Conduct an informational presentation at a feeder school.

5.4 School Choice

5.4.1 If the number of applicants under the School District Enrollment Choice Program exceeds the number of available student openings, the selection criteria established by the district shall not include athletic considerations.

5.5 Penalties

5.5.1 The use of influence or illegal contact including but not limited to violations of subsections 5.1 and 5.2 by a person employed by or representing a Member school including members of alumni associations, booster groups, and similar organizations to persuade, induce, or facilitate the enrollment of a student in that school for athletic purposes may render the student ineligible for up to one full school year from the date the charge is substantiated. In addition, the offending school may be placed on probation, as determined by the Board, and the offending employee, if a coach, may be suspended for up to one full school year from the date the charge is substantiated.

**7 DE Reg. 1692 (06/01/04)**

**9 DE Reg. 124 (07/01/05)**

**9 DE Reg. 1954 (06/01/06)**

**11 DE Reg. 1639 (06/01/08)**

**14 DE Reg. 1184 (05/01/11)**

**15 DE Reg. 74 (07/01/11)**

**19 DE Reg. 743 (02/01/16)**

**21 DE Reg. 717 (03/01/18)**

**22 DE Reg. 60 (07/01/18)**

**22 DE Reg. 395 (11/01/18)**

**22 DE Reg. 765 (03/01/19)**

**23 DE Reg. 122 (08/01/19)**

**24 DE Reg. 539 (12/01/20)**

**26 DE Reg. 183 (09/01/22)**

**27 DE Reg. 738 (04/01/24) (Prop.)**