



DELEGATE ASSEMBLY MEETING

Monday, October 19, 2015, 9am

Holiday Inn Wilsonville, Dogwood/Cottonwood Room

* = Action Item

AGENDA

1. PRELIMINARIES

- a. Call to Order – Andy Gardner, President
- b. Pledge of Allegiance – Don Grotting, Vice President
- c. Roll Call of Members – Tom Welter, Executive Director
- d. Preview of Agenda – Tom Welter, Executive Director
- e. * **Approval of April 13, 2015 Delegate Assembly Minutes**
- f. * **Approval of May 26, 2015 Delegate Assembly Electronic Ballot**
- g. * **Adoption of Parliamentary Authority**

2. STATE OF THE ASSOCIATION REPORT

- a. Opening Remarks
- b. Legal Update
- c. Financial Update
- d. Appeals Report
- e. Associate Membership Report
- f. Ejections Summary
- g. Association Goals for 2015-16
- h. Coaches Certification
- i. Catastrophic Injury Insurance
- j. Heads Up Football Update
- k. Sports Medicine Advisory Committee Update
- l. Title IX / Athletic Interest Surveys
- m. OSAA Foundation Report
- n. Corporate Sponsorship Update
- o. Sportsmanship Program
- p. Acknowledgements

3. DISCUSSION BY CAUCUS GROUPS

a. Collective vs. Cooperative Sponsorships of Individual Activities

Cooperative sponsorships in individual activities have been a point of contention in some areas of the state for many years. Other states allow for cooperative sponsorships in team activities and collective sponsorships in individual activities. Collective sponsorship attempts to increase the number of students who are participating in activities by making resources available for students that would not be available in their school because of a lack of numbers if collective sponsorship did not occur (e.g. facilities, coaching, etc.). However, students in a collective sponsorship would be required to compete as representatives of the school they attend in all regular season competitions, including district and state championships.

Are you in favor of the OSAA moving toward Collective Sponsorships in individual activities, rather than Cooperative Sponsorships? What feedback/concerns do you have about a potential policy change in this area?

b. OSAA-Sanctioned Activities

Members of the OSAA Staff are often approached by groups/supporters of activities that aren't currently sanctioned by the Association looking for direction on how to gain traction for their programs. These types of inquiries have increased over the past several years and conversations have taken place with member schools and the Executive Board regarding whether we, as an Association, are accommodating the interests of the students in our member schools, including whether we should potentially add to our list of sanctioned activities.

Is the current list of OSAA-sanctioned activities accommodating the interests of the students in our member schools? Should the OSAA survey member schools as to which activities the Association should consider sanctioning in the future?

c. Practice Model Board Policy

The Executive Board has modified the Practice Model policy a couple of times over the past two years. Changes for Fall sports have included restrictions on days with multiple practice sessions and length of practice restrictions (3 hours for a single practice and 5 hours in a day), plus full contact limitations in football. Changes to all seasons included that a student may not practice or participate in a contest for more than six consecutive days without a day of rest. Some schools have also inquired about why football requires a minimum number of days of practice prior to participation in a contest but other sports don't.

Are the changes to the Practice Model policy working for your school? Do you have suggestions to improve the policy? Should length of practice restrictions be considered for Winter and Spring as well? Should a minimum # of days of practice be required in sports other than football prior to participation in a contest? If so, how many days?

4. OLD BUSINESS

a. * Adoption of 2015-16 OSAA Handbook

b. * Officials Fee Review Committee Recommendations (attachment)

Proposed officials fees for 2016-2019

5. NEW BUSINESS

a. * Proposal to Amend Article 3.1.1. – Membership and Dues, Full Membership (attachment)

Adds Plan Books to the Regulations of the Association

b. * Proposal to Amend Article 3.3.2 – Membership and Dues, Dues (attachment)

Clarifies that member schools bringing an administrative or judicial challenge are responsible for the Association's attorney fees and costs incurred in defending such action

c. * Proposal to Amend Article 6.2.1 – Changes in Classification During a Four-Year Time Block (attachment)

Allows the Executive Board to change the league assignment of a school or schools if warranted due to a change of classification of another school

d. Proposal to Delete Rules 6.4 and 6.5 – Adding/Deleting a Championship Event in a Sport/Activity where one or more championship events are currently offered by the Association

Removes this rule with the intent of replacing it with an Executive Board Policy

e. Proposal to Amend Rule 8.6.5 – Transfers to a School with Affiliation

Expands exception where the student's school of representation doesn't change

- f. Proposal to Amend Rule 8.6.7 – Period of Ineligibility
Allows ineligible transfers to participate at the sub-varsity level
- g. Proposal to Add Article 6.6 – Collective Sponsorship
Creates Association policy regarding schools collectively offering individual sports
- h. * **Proposal to Delete Article 3.1.7 – Financial Assistance and Article 3.1.8 – Payment of Tuition (attachment)**
Deletes Association policy regarding need-based financial assistance and payment of tuition by a family member

6. **FUTURE MEETINGS AND INFORMATION**

Executive Board – Monday, December 7, 2015 / 9am / OSAA Office, Wilsonville
Executive Board – Monday, February 8, 2016 / 9am / OSAA Office, Wilsonville
Delegate Assembly – Monday, April 11, 2016 / 9am / Holiday Inn, Wilsonville
Executive Board – Monday, May 2, 2016 / 9am / OSAA Office, Wilsonville
Executive Board Summer Workshop – Monday-Wednesday, July 25-27, 2016 / Eagle Crest Resort



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April 9, 2015

TO: Officials Associations, Superintendents, Principals, and Athletic Directors

FROM: Brad Garrett, Assistant Executive Director

SUBJECT: OSAA Officials Fee Review Committee – April 6 Meeting Update

The Officials Fee Review Committee conducted their final public meeting on April 6, 2015 at the OSAA Office in Wilsonville. The constitutionally mandated purpose of this Committee is to make recommendations to the OSAA Delegate Assembly for adoption in October 2015. These recommendations will consider only items involving fees paid to individual officials, commissioners, or Local Associations. This includes game fees, mileage, per diem, check writing fees, commissioner fees, or any other type of service fee provided.

The Committee reviewed fifteen pieces of correspondence and heard testimony from nine individuals and then adjourned to a work session to begin development of a recommendation.

The Committee will recommend the following to the OSAA Delegate Assembly:

- The attached multi-year fee schedule for regular season officials, commissioners, and check writing. This proposed fee schedule will provide a 2.25% increase in 2016-17, 2.5% increase in 2017-18, and a 2.75% increase in 2018-19 for a total increase of 7.5% over the next three years. (Examples of estimated yearly officiating costs are included for several classification levels).
- A 3-person Basketball officiating fee schedule for all levels of play pending potential adoption by the OSAA Executive Board for regular season play. Officials working as a part of a 3-person crew will be paid 85% of the varsity rate at that classification level.
- Applying any percentage increase to regular season fees to the hourly rate established for individually bracketed wrestling tournaments.
- Maintaining the sub-varsity official's fee in all sports at 75% of the varsity rate.
- Maintaining the current pay rate differentials between sports
- Increasing the fee for the 4th official used during OSAA Soccer State Championships to ½ of the Championship fee.
- A revised game cancellation policy. It will now be required that schools notify Commissioners of any contest cancellation in Football, Soccer, Volleyball, Basketball, and Wrestling at least 6 hours prior to the scheduled start of a contest.

The OSAA staff will provide a Committee update, similar to this one, to all officials associations, superintendents, principals, and athletic directors following each meeting. The Committee roster, charge, and any additional committee information is available at <http://www.osaa.org/governance/committees>.

Written feedback should be mailed or emailed to the OSAA (at bradg@osaa.org). Any communication received by the OSAA will be shared with all committee and delegate assembly members for review and discussion.

No further meetings have been scheduled.

Proposed 2016-19 OSAA Officials Fee Schedule

(Revised 4/06/15)

	2015-16						
	<u>Football</u>	<u>Soccer</u>	<u>Volleyball</u>	<u>Basketball</u>	<u>Wrestling</u>	<u>Baseball</u>	<u>Softball</u>
6A-5A-4A Varsity	\$63.00	\$56.25	\$58.00	\$63.00	\$61.25	\$61.00	\$56.25
6A-5A-4A Sub-Varsity	\$47.25	\$42.25	\$43.50	\$47.25	\$46.00	\$45.75	\$42.25
3A-2A-1A Varsity	\$56.75	\$50.75	\$52.25	\$56.75	\$55.25	\$55.00	\$50.75
3A-2A-1A Sub-Varsity	\$42.75	\$38.25	\$39.50	\$42.75	\$41.75	\$41.50	\$38.25
6A-5A-4A Sub-Varsity Extended Contest	\$12.00		\$8.75	\$12.00			
3A-2A-1A Sub-Varsity Extended Contest	\$10.75		\$8.00	\$10.75			
	2016-17						
	<u>Football</u>	<u>Soccer</u>	<u>Volleyball</u>	<u>Basketball</u>	<u>Wrestling</u>	<u>Baseball</u>	<u>Softball</u>
6A-5A-4A Varsity	\$64.50	\$57.50	\$59.25	\$64.50	\$62.75	\$62.25	\$57.50
6A-5A-4A Sub-Varsity	\$48.50	\$43.25	\$44.50	\$48.50	\$47.00	\$46.75	\$43.25
3A-2A-1A Varsity	\$58.00	\$52.00	\$53.50	\$58.00	\$56.50	\$56.25	\$52.00
3A-2A-1A Sub-Varsity	\$43.75	\$39.25	\$40.50	\$43.75	\$42.75	\$42.50	\$39.25
6A-5A-4A Sub-Varsity Extended Contest	\$12.25		\$9.00	\$12.25			
3A-2A-1A Sub-Varsity Extended Contest	\$11.00		\$8.00	\$11.00			
	2017-18						
	<u>Football</u>	<u>Soccer</u>	<u>Volleyball</u>	<u>Basketball</u>	<u>Wrestling</u>	<u>Baseball</u>	<u>Softball</u>
6A-5A-4A Varsity	\$66.00	\$59.00	\$60.75	\$66.00	\$64.25	\$63.75	\$59.00
6A-5A-4A Sub-Varsity	\$49.50	\$44.25	\$45.50	\$49.50	\$48.25	\$47.75	\$44.25
3A-2A-1A Varsity	\$59.50	\$53.25	\$54.75	\$59.50	\$58.00	\$57.75	\$53.25
3A-2A-1A Sub-Varsity	\$45.00	\$40.25	\$41.25	\$45.00	\$43.75	\$43.50	\$40.25
6A-5A-4A Sub-Varsity Extended Contest	\$12.50		\$9.00	\$12.50			
3A-2A-1A Sub-Varsity Extended Contest	\$11.25		\$8.25	\$11.25			
	2018-19						
	<u>Football</u>	<u>Soccer</u>	<u>Volleyball</u>	<u>Basketball</u>	<u>Wrestling</u>	<u>Baseball</u>	<u>Softball</u>
6A-5A-4A Varsity	\$67.75	\$60.50	\$62.50	\$67.75	\$66.00	\$65.50	\$60.50
6A-5A-4A Sub-Varsity	\$50.75	\$45.50	\$47.00	\$50.75	\$49.50	\$49.25	\$45.50
3A-2A-1A Varsity	\$61.25	\$54.75	\$56.25	\$61.25	\$59.50	\$59.25	\$54.75
3A-2A-1A Sub-Varsity	\$46.25	\$41.25	\$42.50	\$46.25	\$45.00	\$44.75	\$41.25
6A-5A-4A Sub-Varsity Extended Contest	\$13.00		\$9.50	\$13.00			
3A-2A-1A Sub-Varsity Extended Contest	\$11.50		\$8.50	\$11.50			

Estimated Yearly Cost of Officials Fees

(All fees shown minus mileage costs above the \$5 per assignment minimum and tournament fees. Based on 2-person basketball crews)

	*2015-16	2016-17	2017-18	2018-19
2A/1A	\$15,286.00	\$15,608.00	\$15,933.50	\$16,313.00
4A/3A	\$25,405.75	\$25,937.50	\$26,462.00	\$27,094.50
6A/5A	\$34,580.25	\$35,586.00	\$36,304.50	\$37,182.25

*2015-16 is the final year of the current schedule

Proposed Tournament Fees

Volleyball Tournaments	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>				
<u>6A/5A/4A Tournament Fees</u>								
Varsity Single Tournament Set	\$14.50	\$14.81	\$15.19	\$15.63				
Sub-Varsity Single Tournament Set	\$12.40	\$12.68	\$12.97	\$13.40				
<u>3A/2A/1A Tournament Fees</u>								
Varsity Single Tournament Set	\$13.06	\$13.38	\$13.69	\$14.06				
Sub-Varsity Single Tournament Set	\$9.91	\$10.17	\$10.35	\$10.67				
<u>Wrestling Tournaments</u>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>				
<u>Dual Meet Formats</u>								
6A-5A-4A Varsity	\$61.25	\$62.75	\$64.25	\$66.00				
6A-5A-4A Sub-Varsity	\$46.00	\$47.00	\$48.25	\$49.50				
3A-2A-1A Varsity	\$55.25	\$56.50	\$58.00	\$59.50				
3A-2A-1A Sub-Varsity	\$41.75	\$42.75	\$43.75	\$45.00				
Weigh-in/Skin Check Fee	\$10.00	\$10.00	\$10.00	\$10.00				
<u>Individual Bracket Formats (per hour)</u>								
All Classifications - Varsity	\$24.00	\$24.50	\$25.00	\$25.75				
All Classifications - Sub-Varsity	\$20.00	\$20.50	\$21.00	\$21.50				
Weigh-in/Skin Check Fee - Varsity	\$24.00	\$24.50	\$25.00	\$25.75				
Weigh-in/Skin Check Fee - Sub-Varsity	\$20.00	\$20.50	\$21.00	\$21.50				
Tournament Fee Notes:								
1) An Administrative Fee of 5% of total tournament game fees (no mileage) may be assessed. Administrative Fees are combined Commissioner and Check Writing Fees.								
2) Fee listed covers changes to scheduled tournament - no additional fees may be assessed.								

Proposed 3-person Basketball Officiating Fees
 *Pending adoption of 3-person crews for regular season play

	2015-16				
6A-5A-4A Varsity	\$53.50				
6A-5A-4A Sub-Varsity	\$40.25				
3A-2A-1A Varsity	\$48.25				
3A-2A-1A Sub-Varsity	\$36.25				
	2016-17				
6A-5A-4A Varsity	\$54.75				
6A-5A-4A Sub-Varsity	\$41.25				
3A-2A-1A Varsity	\$49.25				
3A-2A-1A Sub-Varsity	\$37.25				
	2017-18				
6A-5A-4A Varsity	\$56.00				
6A-5A-4A Sub-Varsity	\$42.00				
3A-2A-1A Varsity	\$50.50				
3A-2A-1A Sub-Varsity	\$38.25				
	2018-19				
6A-5A-4A Varsity	\$57.50				
6A-5A-4A Sub-Varsity	\$43.25				
3A-2A-1A Varsity	\$52.00				
3A-2A-1A Sub-Varsity	\$39.25				

Proposed OSAA Game Fee Cancellation Policy

(Revised 4/06/15)

Football, Soccer, Volleyball, Basketball, Wrestling

- 1) If a commissioner is notified at least 6 hours prior to the scheduled start of the contest officials shall be paid no game fee, travel allowance, or per diem.
- 2) If a commissioner was not notified by a school that a contest date was changed or cancelled at least 6 hours prior to the scheduled start of that contest the officials shall be paid a full game fee plus all per diem and travel allowances.
- 3) If a commissioner is not notified and officials are present to work a contest that was cancelled for reasons outside of the host schools control, not limited to, power failures or hazardous road conditions, the officials shall be paid $\frac{1}{2}$ game fee plus all per diem and travel allowances.
- 4) If a commissioner is not notified and the contest begins but is terminated due to factors outside of the host schools control, not limited to, power failures or hazardous road conditions, the officials shall be paid the full game fee plus all per diem and travel allowances.

Baseball and Softball

- 1) If a commissioner is notified at least 6 hours prior to the scheduled start of the contest officials shall be paid no game fee, travel allowance, or per diem.
- 2) If a commissioner was not notified by a school that a contest date was changed or cancelled at least 6 hours prior to the scheduled start of that contest, and weather is not the reason for the change or cancellation, the officials shall be paid a full game fee plus all per diem and travel allowances.
- 3) If the game is rained out after the officials arrive at the site but before the game starts the official shall be paid $\frac{1}{2}$ game fees, all per diem and travel allowances.
- 4) If the game is rained out but before sufficient innings are played to constitute a complete game the officials shall be paid $\frac{1}{2}$ game fee, all per diem and travel allowances.

Proposal to amend Article 3.1.1. – Membership and Dues, Full Membership

(Action Item)

QUESTION: *Should the Delegate Assembly amend Article 3.1.1. – Membership and Dues, Full Membership to add Plan Books to the Regulations of the Association?*

RATIONALE: The seasonal Plan Books occasionally contain important information that doesn't appear in the OSAA Handbook. Adding the Plan Books to the Regulations clarifies that schools must abide by information contained therein.

RULE CHANGE SPONSORED BY: OSAA Legal Counsel / Executive Board

NEXT STEP IF PASSED: Effective August 1, 2017 unless otherwise stated in the motion.

POSSIBLE RULE CHANGES:

KEY: Add
Delete

Article 3.1.1. – Membership and Dues, Full Membership

Subscribe to the Articles, Rules, Executive Board Policies, Executive Board Interpretations, Participation Limitations, Sports Seasons, **Plan Books**, and Officials Fees (collectively, the Regulations) of the Association.

Proposal to amend Article 3.3.2. – Membership and Dues, Dues

(Action Item)

QUESTION: *Should the Delegate Assembly amend Article 3.3.2. – Membership and Dues, Dues to clarify that member schools bringing an administrative or judicial challenge are responsible for the Association’s attorney fees and costs incurred in defending such action?*

RATIONALE: During the staff’s annual review with legal counsel, it was determined that current language in this area was limited to determinations by the Executive Board or Eligibility Appeals Board. Amending the language to include any Regulations or Rules of the Association protects the Association regardless of who made the final determination.

RULE CHANGE SPONSORED BY: OSAA Legal Counsel / Executive Board

NEXT STEP IF PASSED: Effective August 1, 2017 unless otherwise stated in the motion.

POSSIBLE RULE CHANGES:

<p>KEY: Add</p> <p>Delete</p>

Article 3.3.2. – Membership and Dues, Dues

If a member brings an administrative or judicial challenge to ***any Regulations or Rules of the Association and/or*** a final determination of the Executive Board or the Eligibility Appeals Board, the member shall be assessed a ***membership*** surcharge ~~in the next year of membership~~ equal to the Association’s attorney fees and costs actually incurred in defending such action, whether at the administrative or trial court level or on appeal or discretionary review.

Proposal to amend Article 6.2.1. – Changes in Classification During
a Four-Year Time Block
(Action Item)

QUESTION: *Should the Delegate Assembly amend Article 6.2.1. – Changes in Classification During a Four-Year Time Block to allow the Executive Board to change the league assignment of a school or schools if warranted due to a change of classification of another school?*

RATIONALE: Current language in the OSAA Handbook only allows an up/down change in classification during a four-year time block. Amending this language to allow for a lateral change during a four-year time block, at the sole discretion of the Executive Board, potentially provides additional options when making these decisions.

RULE CHANGE SPONSORED BY: OSAA Executive Board

NEXT STEP IF PASSED: Effective August 1, 2017 unless otherwise stated in the motion.

POSSIBLE RULE CHANGES:

<p>KEY: Add Delete</p>

Article 6.2.1. – Changes in Classification During a Four-Year Time Block

The Executive Board may make what it considers a necessary change or changes in classification either up or down during a four-year time block. ***In addition, the Executive Board may, in its sole discretion, change the league assignment of a school or schools if such change is warranted because of a change of classification of another school.***

Proposal to delete Article 3.1.7. – Financial Assistance and
Article 3.1.8. – Payment of Tuition
(Action Item)

QUESTION: *Should the Delegate Assembly delete Article 3.1.7. – Financial Assistance and Article 3.1.8 – Payment of Tuition?*

RATIONALE: See attached letter.

RULE CHANGE SPONSORED BY: Group of OSAA Member Private Schools (see attached letter)

NEXT STEP IF PASSED: Effective August 1, 2017 unless otherwise stated in the motion.

POSSIBLE RULE CHANGES:

KEY: Add
Delete

3.1.7. EFFECTIVE AUGUST 1, 2016 – *Assure that no financial assistance will be provided on the basis of a student's potential or participation in OSAA-sanctioned activities. Need-based financial assistance will be based on an evaluation of information provided from an outside agency approved by the Executive Director.*

3.1.8. EFFECTIVE AUGUST 1, 2016 – *Verify that if tuition is charged, it must be paid by the student's parent or other family member. If the student's parent or other family member secures a loan for payment of the student's tuition, it must remain an obligation of the student's parent or other family member to repay the principal and interest in full.*

Definition of Parent and Family Member. For the purposes of this article, "parent" means the student's custodial parent, non-custodial parent, foster parent or parent-in-law. For purposes of this article, "family member" means spouse, brothers and sisters, aunts and uncles, or grandparents.

Dear Members of the Delegate Assembly,

We write as a group of athletic directors, principals, and educators from OSAA member private schools. We became aware in May of 2015 that the Delegate Assembly passed two new rules at its April 2015 meeting: Rule 3.1.7 and Rule 3.1.8. As soon as we understood the impact of Rules 3.1.7 and 3.1.8, we immediately contacted the OSAA. On May 11, 2015, we met together as a group of nearly thirty schools to express our concerns with Executive Director Tom Welter, Tony Guevara, and Pete Weber. We understand that because these rules are a part of the OSAA constitution, they can only be amended by the Delegate Assembly.

We appreciate the Board's quick and appropriate response to our May 29, 2015 letter asking that the implementation of Rule 3.1.8 be delayed at least until August 1, 2016. Now, in anticipation of the Delegate Assembly's October 2015 meeting, we believe it is important that you understand the reason for our opposition to Rules 3.1.7 and 3.1.8, and we ask that the rules be revoked or at the very least amended.

As you know, Rules 3.1.7 and 3.1.8 require that OSAA members base need-based financial aid on "an evaluation of information provided from an outside agency approved by the Executive Director" and that each student's tuition be paid only by that student's parent or immediate family member. Failure to follow these rules makes a school ineligible for membership. These rules are untenable for the following reasons:

- 1. The rules are a solution in search of a problem.** OSAA rules already prohibit recruiting and financial aid based on athletic ability. OSAA rules already require self-reporting and allow third party reporting where any violation of recruiting is suspected. Under these new rules, private schools will be considered guilty until they spend additional funds (which would otherwise be used to help students) to hire a third party to prove their innocence. The Assembly's rationale does not cite any legitimate basis for these rules. Its only basis is some perceived lack of transparency.

This much is clear: there is no evidence that our small private schools have been engaging in any sort of athletic recruiting. While some of our schools have had a modicum of athletic success, most of our schools have never won a state championship. City Christian School, for example, has won a total of two championships in its more than 40 years of existence.

Whatever problem the Assembly was attempting to fix does not exist in small private school environment, and these rules do nothing but harm small schools and create an impossible choice between educating students and pulling out of the OSAA.

- 2. Rule 3.1.7 places an unreasonable financial burden on small schools.** Most of our schools run on a shoestring budget. Under Rule 3.1.7 funds that are now used to provide tuition assistance to students will have to be used for third party verification. While this cost may seem inconsequential to larger schools, many of our smaller schools will feel this budget increase or shift keenly. One school in particular has expressed that Rule 3.1.7 will force a choice between helping more students attend

the school and remaining eligible for membership in the OSAA. In this situation, the choice for this school would be clear: pull out of the OSAA. Surely forcing such a choice is not within the mission statement of the OSAA which prioritizes “the educational experiences of high school students.” The larger private schools may be able to absorb these costs, but our schools cannot.

- 3. Rule 3.1.8 discriminates against low-income students whose families cannot afford tuition.** When asked at the May 11, 2015 what the purpose of Rule 3.1.8 is, Executive Director Tom Weltner stated that the purpose of the rule was to root out “boosters” paying for athlete education. The small private schools we represent cannot even comprehend the term “booster.” We do not have “boosters.” We know the rules about recruiting, and we follow them. What we do have are students whose parents and friends think it is important for them to get a private education, and in some instances, a religious education. Often these students’ families cannot afford the cost of private education, so the students sometimes raise money to pay for their own tuition or have a generous friend or neighbor who helps make private education possible for them. Under Rule 3.1.8, this would make the school ineligible for membership in the OSAA.

One athletic director shared this anecdote at the May 11, 2015 meeting: A student in his school lives in a low-income neighborhood and was headed for trouble. A caring neighbor took an interest in the student and offered to pay for his private education – something neither he nor his family could ever afford. He started at a small private school and played basketball and soccer without much success. Last year he found his niche on the track team and has blossomed both in school and on the field. Under Rule 3.1.8, if the school continued to allow this neighbor to pay the student’s tuition, it would be ineligible for membership in the OSAA. If the school complied with Rule 3.1.8, the student would no longer be able to attend because his family could never afford to send him, even with financial aid. Surely such a result is not what the OSAA intends, but it is exactly what Rule 3.1.8 demands.

- 4. The rules are targeted at private schools and disparately impact students whose parents send them to private schools.** While it is true that open enrollment provides some opportunity for tuition-paying public school students, it is illegal for public schools to award need-based scholarships, so Rule 3.1.7 could not possibly apply to public schools. Even Tom Welter stated in our May 11, 2015 meeting that “public schools were not a main concern” when these rules were written. Clearly Mr. Welter was correct considering that the Assembly’s own rationale mentions *only* private schools. The OSAA is targeting private (mostly religious) schools. Under rule 3.1.7, a student at a private school may be prohibited from participation but the same standard would not apply to a student in a public school. This unfairly and arbitrarily singles out private school students. The OSAA itself has stated its belief that “no school, team, or individual should be treated as any more or less than another.” By adopting Rules 3.1.7 and 3.1.8, the OSAA has defied its own goals and singled out private schools for punishment without even a shred of evidence pointing to wrongdoing.

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- 5. The rules are arbitrary and nebulous without further guidance.** In the May 11, 2015 meeting, we asked specific questions regarding how Rules 3.1.7 and 3.1.8 would apply to different plausible scenarios. Tony Guevara gave vague answers, and Tom Welter even stated that if an athletic director contacted him personally about a situation, he would make a personal decision about whether to waive the application of Rules 3.1.7 and 3.1.8. Without any instruction on what the word “verify” in Rule 3.1.8 means or what the word “assure” means in Rule 3.1.7 or even any standards guiding the Executive Director’s approval or disapproval of an outside agency as required by Rule 3.1.7, the rules are arbitrary and capricious and impossible to apply fairly. By the Executive Director’s own statements, he has the power to apply the rules as he deems appropriate without any guidance by the Assembly at all.
- 6. The rules do not consider the best interest of the student athlete.** The mission of the OSAA is “to serve the member schools by providing leadership and state coordination for the conduct of interscholastic activities, which will enrich the educational experiences of high school students. The OSAA will work to promote the interschool activities that provide equitable participation opportunities, positive recognition and learning experiences to students, while enhancing the achievement of educational goals.” Rules 3.1.7 and 3.1.8 work exactly the opposite purpose of this mission statement by singling out private school students and forcing private schools to choose between educating students and being a part of OSAA.

In our schools, the majority of our students play some variety of varsity sports. Our schools are small enough that we have to include almost every student to just be able to field a team. To disqualify certain students because of their parents’ financial condition would be unfair to those students and the rest of the school. These rules make athletics less about teambuilding and student development and more about politics and bureaucracy. The rules and their application to our schools make us believe that the OSAA has lost touch with the heart of the program: the student.

- 7. Rules 3.1.7 and 3.1.8 contribute to the public perception that the OSAA has replaced the important of students with the importance of regulations.** On May 2, 2015, Steve Duin wrote a column in the Oregonian in which he along with other OSAA members pointed out the OSAA’s elevation of “the competition” over the good of the students. One official from Sprague High School was quoted saying that “We have arrived at a point with OSAA now where the good of the student is almost completely subservient to the advancement of the competition.” Another official from Cleveland High School states that “The [OSAA] is inflexible to the point where it is damaging the students they are supposed to be heralding.”

These opinions mirror our own view of Rules 3.1.7 and 3.1.8. As explained above these rules do not fix any problem in small private schools because the problems they purport to fix do not exist. Instead, they create barriers to student participation. Implementation of these rules only furthers the public perception that the OSAA has turned into a bureaucracy more interested in the competition and its own regulations

than the best interest of the students it was formed to serve. We have long-standing relationships with many league sponsors, and OSAA's implementing Rules 3.1.7 and 3.1.8 in their current form will no doubt result in a breach in the relationship between those sponsors/endorsements and the OSAA.

- 8. Rule 3.1.7 likely constitutes a violation of ORS 659.850.** ORS 659.850 prohibits any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation when that differing treatment is based on religion. This rule applies to the OSAA through ORS 659.850(2) and Oregon case law. *See Nakashima v. Or. State Bd. Of Educ.*, 344 Or 497 (2008).

Rule 3.1.7 requires that need-based financial assistance must be evaluated by a third-party organization. ORS 339.128 prohibits public schools from determining tuition amounts based on a student's income level. Therefore, Rule 3.1.7 could not possibly apply to public non-religious schools. Rule 3.1.7, then, disparately impacts private religious schools in violation of ORS 659.850 because it only applies to non-public school, the vast majority of which are religious.

Many of the schools represented in this letter are small religious church affiliate schools whose religious convictions lead them to be independent in their financial decision-making and disallow government participation in such matters. Because of this, these schools and their students will be denied the right to participate in OSAA sports.

The Oregon Supreme Court has held that a policy which has a discriminatory effect, although neutral on its face, is illegal unless the policy is "demonstrably related or correlated to important elements of a program or activity, given what the program or activity exists to accomplish." *Nakashima*, 344 Or at 440. Put another way, the legality of a policy depends on "whether a practice or policy that disparately impacts a protected group is reasonably necessary to a program's or activity's successful operation or the achievement of its essential objectives." *Id.* In this case, the rationale for Rule 3.1.7 is to "bring increased consistency and transparency to a process that is perceived to currently lack both." There is no actual problem, only a perception of a problem. Therefore, without further evidence of a problem, Rule 3.1.7 could not possibly be "necessary" to the successful operation of the OSAA. Instead it is an unreasonable and unmerited rule directed at rooting out an imaginary problem. Such a rationale would not survive legal scrutiny.

- 9. The Assembly did not consider small private schools in adopting these rules.** The Assembly appears to have created these rules to target large private schools. As stated earlier, we represent small private schools that are not consistently winning state championships or dominating our leagues. Athletics is important to our schools and our students, and we know and follow the rules against recruiting. There is simply no evidence at all to even support a perception that small private schools are recruiting. To be sure, if there were evidence of improper athletic recruiting, the current rules would provide adequate safeguards and punishments. Rules 3.1.7 and

3.1.8 are ill-advised, unnecessary, discriminatory, and punitive toward schools and students who have done nothing wrong.

Without question, small private schools are underrepresented on the Executive Board and at the Delegate Assembly. Out of 43 Assembly members, four represent private schools. Out of thirteen Executive Board members, only one represents a private school, and that one private school is in a 3A league. This inevitably leaves small private schools feeling that the OSAA leadership does not adequately consider their interests when making decisions that directly affect them. Although we make an effort to review the agendas and minutes from the Delegate Assembly meetings, most, if not all, of our athletic directors do not function solely as such, and our schools do not have the funding to support an athletic director staff. Most athletic directors are volunteers who also teach full time or serve the school in some other way.

We do make sincere efforts to read, understand, and timely respond to the Delegate Assembly's actions, but Rules 3.1.7 and 3.1.8 slipped through the cracks. We were not made aware of these proposed rules and their potential impact on our schools by our league representatives or any other Association representative. Of course we understand that we have technical notice of the proposed rules through the emailed agendas and minutes; however, somehow we all overlooked proposed rules 3.1.7 and 3.1.8 until after they were passed at the April 13, 2015 meeting. We sincerely regret this oversight, but it seems likely to continue when our cause is so severely underrepresented in OSAA actions and the Delegate Assembly appears to give little to no thought to how its rules will impact the day to day operation of small private schools. Our schools are being penalized, unnecessarily burdened, and discriminated against by a larger majority who can outvote us every single time.

We hope that the Delegate Assembly and the Executive Board will work with us to change this disproportionate representation and provide a more effective voice to small private schools.

For all of these reasons, we respectfully request that the Delegate Assembly reconsider Rules 3.1.7 and 3.1.8 at the October 2015 meeting. As written, these rules will work a serious financial harm to our schools and very likely could force many of us to have to withdraw from the league. This is not what we want, and we are sure this is not what the OSAA wants. We hope that with this letter we will begin a conversation that leads back to fulfilling the mission statement of the OSAA for all schools, public and private, large and small.

Sincerely,

Ken Block, Horizon Christian School (Hood River)
Noel Schaak, Canyonville Christian Academy
Ed Mason, City Christian Schools
Melissa E Phillips, Central Christian School
Kevin Rex, Faith Bible Christian School
Dave Wakefield, Damascus Christian School

Don Wonsley, Hosanna Christian
Bill Smethurst, Horizon Christian High School
Ernie Stone, New Hope Christian High School
Ann H. Campbell, Rogue Valley Adventist Academy
Nicole Raymond, Portland Waldorf School
Sharon Box, Open Door Christian Academy