

No. 121124

 IN THE SUPREME COURT OF ILLINOIS

BETTER GOVERNMENT ASSOCIATION,	)	Appeal from the Appellate
	)	Court, First District, No. 15-1356
)	
Plaintiff-Appellant,)	
)	
-vs-	)	There on appeal from the Circuit Court of
	)	Cook County, Chancery Division, Illinois
	)	No. 14 CH 12091
ILLINOIS HIGH SCHOOL ASSOCIATION;)	
CONSOLIDATED HIGH SCHOOL)	
DISTRICT 230,	)	Hon. Mary L. Mikva, Judge Presiding
)	
Defendants-Appellees.)	

 OPENING BRIEF FOR PLAINTIFF-APPELLANT
 BETTER GOVERNMENT ASSOCIATION

Matthew Topic – Attny. No. 6290922
 Joshua Burday – Attny. No. 6320376
 Counsel for Plaintiff-Appellant
 LOEVY & LOEVY
 311 N. Aberdeen, Third Floor
 Chicago, Illinois 60607
 (312) 243-5900
 matt@loevy.com
 joshb@loevy.com

***** Electronically Filed *****

121124

12/02/2016

Supreme Court Clerk

ORAL ARGUMENT REQUESTED

POINTS AND AUTHORITIES

	Page
NATURE OF THE ACTION.....	1
ISSUES PRESENTED.....	1
STANDARD OF REVIEW	1
<i>Kean v. Wal-Mart Stores, Inc.</i> , 235 Ill. 2d 351 (2009)....	1
JURISDICTION	1
STATUTES INVOLVED.....	1
5 ILCS 140/2(a)	1
5 ILCS 140/7(2)	2
STATEMENT OF FACTS.....	2
A. IHSA And Its Promotion And Regulation Of High School Competition	2
i. Prior IHSA Litigation History On Related Issues	2
<i>Griffin High School v. Illinois High School Ass’n</i> , 822 F.2d 671 (7th Cir. 1987).....	2
<i>Hood v. Illinois High School Ass’n</i> , 359 Ill. App. 3d 1065 (2005).....	2, 3
ii. IHSA’s Governing Documents.....	4
745 ILCS 54/1	9
105 ILCS 5/10-20.54(b).....	9
105 ILCS 5/10-20.54(c)....	9
105 ILCS 5/22-15(c).....	9
105 ILCS 5/22-24....	9
105 ILCS 5/27-1.....	9
105 ILCS 5/24-18.....	10

B. District 230.....	10
C. BGA’s FOIA Requests and IHSA’s and District 230’s Denials.....	10
D. Circuit Court Proceedings	10
E. Appellate Court Proceedings	11
<i>Better Government Ass’n v. Illinois High School Ass’n</i> , 2016 IL App (1st) 151356	11
LEGAL STANDARDS	11
A. Motions to Dismiss	11
<i>Marshall v. Burger King Corp.</i> , 222 Ill. 2d 422 (2006).....	11
<i>Yuretich v. Sole</i> , 259 Ill. App. 3d 311 (1994)	12
<i>Zedella v. Gibson</i> , 165 Ill. 2d 181 (1995).....	12
<i>Williams v. Manchester</i> , 228 Ill. 2d 404 (2008).....	12
<i>Wackrow v. Niemi</i> , 231 Ill. 2d 418 (2008).....	12
<i>Serafin v. Seith</i> , 284 Ill. App. 3d 577 (1996).....	12
<i>Springfield Heating And Air Conditioning, Inc. v. 3947-55 King Drive At Oakwood LLC</i> , 387 Ill. App. 3d 906 (2009)	12
<i>Epstein v. Chicago Bd. of Educ.</i> , 178 Ill. 2d 370 (1997)	12
<i>A.F.P. Enterprises, Inc. v. Crescent Pork, Inc.</i> , 243 Ill. App. 3d 905 (1993).....	12, 13
B. Evidentiary Admissions.....	13
<i>In re Marriage of O’Brien</i> , 247 Ill. App. 3d 745 (1993)	13
<i>Williams Nationalease, Ltd. v. Motter</i> , 271 Ill. App. 3d 594 (1995).....	13
<i>Anfinson Plastic Molding Co. v. Konen</i> , 68 Ill. App. 3d 355 (1979).....	13
<i>Bartsch v. Gordon N. Plumb, Inc.</i> , 138 Ill. App. 3d 188 (1985).....	13
<i>Abruzzo v. City of Park Ridge</i> , 2013 IL App (1st) 122360.....	13

C. FOIA.....	13
5 ILCS 140/1	13, 14
<i>Stern v. Wheaton–Warrenville Community Unit School District 200</i> , 233 Ill. 2d 396 (2009).....	14
<i>S. Illinoisan v. Illinois Dep't of Pub. Health</i> , 218 Ill. 2d 390 (2006).....	14
i. Subsidiary Body	14
5 ILCS 140/2(a).....	14
<i>Rockford Newspapers, Inc. v. N. Illinois Council on Alcoholism & Drug Dependence</i> , 64 Ill. App. 3d 94 (1978).....	14, 15
<i>Hopf v. Topcorp, Inc.</i> , 170 Ill. App. 3d 85 (1988).....	14, 15, 16
<i>Hopf v. Topcorp, Inc.</i> , 256 Ill. App. 3d 887 (1993).....	15
<i>O'Toole v. Chicago Zoological Society</i> , 2015 IL 118254.....	17
<i>Van Meter v. Darien Park Dist.</i> , 207 Ill. 2d 359 (2003).....	17
<i>Stern v. Wheaton–Warrenville Community Unit School District 200</i> , 233 Ill. 2d 396 (2009).....	17
<i>Lugar v. Edmondson Oil Co., Inc.</i> , 457 U.S. 922 (1982)	17, 18
ii. “Governmental Function”.....	18
5 ILCS 140/7(2).....	18
5 ILCS 140/1	18 - 19
<i>Stern v. Wheaton–Warrenville Community Unit School District 200</i> , 233 Ill. 2d 396 (2009).....	18
<i>Carroll v. Paddock</i> , 199 Ill. 2d 16 (2002).....	18
<i>City of Champaign v. Madigan</i> , 2013 IL App (4th) 120662.....	18, 19
ARGUMENT.....	19
A. The Need for Transparency When Government Delegates Its Functions to Facially Private Entities	19

F. Lopez-de-Sians, et al., 28 RAND J. of Econ. 447 (Autumn 1997)	19
K. Hogan, Protecting the Public in Public-Private Partnerships: Strategies for Ensuring Adaptability in Concession Contracts, 2014 Colum. Bus. L. Rev. 420 (2014)	20
J. Michaels, Privatization’s Pretensions, 77 U. Chi. L. Rev. 717 (2010)	20
Stephen Rushin, <i>The Regulation of Private Police</i> , 115 W. Va. L. Rev. 159 (2013)	21
David A. Sklansky, <i>The Private Police</i> , 46 UCLA L. Rev. 1165 (1998)	21
B. Overview of the Issues in this Appeal	21
5 ILCS 140/7(2)	22
<i>Sylvester v. Indus. Comm’n</i> , 197 Ill. 2d 225 (2001)	22
C. IHSA Performs State Action, And Therefore Is Also A Public Body Under FOIA	22
<i>Griffin High Sch. v. Illinois High School Ass’n</i> , 822 F.2d 671 (7th Cir. 1987)	22
<i>NCAA v. Tarkanian</i> , 488 U.S. 179 (1988)	22-23
<i>Brentwood Academy v. Tennessee Secondary School Athletic Ass’n</i> , 531 U.S. 288 (2001)	23
D. Education Is A Governmental Function, Which Triggers Section 7(2) And Also Weights Heavily In Favor Of Finding IHSA To Be A Subsidiary Public Body	23
Ill. Const. Art. X § 1	23
<i>Hadley v. Junior Coll. Dist. of Metro. Kansas City, Mo.</i> , 397 U.S. 50 (1970)	23
<i>Fumarolo v. Chicago Bd. of Educ.</i> , 142 Ill. 2d 54 (1990)	23
<i>Brentwood Academy v. Tennessee Secondary School Athletic Ass’n</i> , 531 U.S. 288 (2001)	24, 25
E. The Records Directly Relate To IHSA’s Governmental Function	25
F. The Remaining Subsidiary Body Factors Also Support Transparency	26
i. IHSA Is “Owned And Controlled” By Government... ..	26

<i>Brentwood Academy v. Tennessee Secondary School Athletic Ass’n</i> , 531 U.S. 288 (2001).....	26
ii. IHSA Does Not Exist Independent From Government Resolution.....	26
105 ILCS 5/10-20.54(b).....	26
105 ILCS 5/10-20.54(c)	26
105 ILCS 5/27-1	26
745 ILCS 54/1.....	26
iii. IHSA Receives Significant Financial Support From Government.....	27
<i>Brentwood Academy v. Tennessee Secondary School Athletic Ass’n</i> , 531 U.S. 288 (2001).....	27
G. Both Motions Were Procedurally Flawed	27
i. IHSA’s Section 2-619 Motion To Dismiss Was Improper For Multiple Reasons.....	27
<i>Reynolds v. Jimmy John’s Enterprises, LLC</i> , 2013 IL App (4th) 120139... ..	27
<i>Howle v. Aqua Illinois, Inc.</i> , 2012 IL App (4th) 120207... ..	27
<i>Winters v. Wangler</i> , 386 Ill. App. 3d 788 (2008)... ..	27
<i>Kedzie & 103rd Currency Exch., Inc. v. Hodge</i> , 156 Ill. 2d 112 (1993)	28
ii. District 230’s Section 2-615 Motion to Dismiss Failed To Treat The Well-Pled Allegations As True	28
<i>Fox v. Seiden</i> , 382 Ill. App. 3d 288 (2008).....	29
CONCLUSION	29
CERTIFICATE OF COMPLIANCE	30

I. NATURE OF THE ACTION

This is a Freedom of Information Act case seeking the production of records of the Illinois High School Association under two independent legal theories: (1) IHSA is a subsidiary public body as that term is used in FOIA; and (2) IHSA performs a governmental function for member public school districts under FOIA Section 7(2).

II. ISSUES PRESENTED

1. Whether an entity that is a state actor for civil rights purposes, has sought governmental tort immunity, and has said it is owned and controlled by government and performs public business, is a subsidiary public body under FOIA.

2. Whether the regulation and promotion of high school athletics and other competition is a governmental function.

III. STANDARD OF REVIEW

This Court reviews orders granting motions to dismiss under Sections 2-615 and 2-619 *de novo*. *Kean v. Wal-Mart Stores, Inc.*, 235 Ill. 2d 351, 361 (2009).

IV. JURISDICTION

This Court granted BGA's timely filed petition for leave to appeal. Jurisdiction is proper under Rule 315.

V. STATUTES INVOLVED

This case involves the following provisions of the Freedom of Information Act:

"Public body" means all legislative, executive, administrative, or advisory bodies of the State, *** school districts and *** any subsidiary bodies of any of the foregoing[.] 5 ILCS 140/2(a).

A public record that is not in the possession of a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body, and that directly relates to the governmental function and is not otherwise exempt under this Act, shall be considered a public record of the public body, for purposes of this Act. 5 ILCS 140/7(2).

VI. STATEMENT OF FACTS

A. IHSA And Its Promotion And Regulation Of High School Competition

i. Prior IHSA Litigation History On Related Issues

It was established decades ago that IHSA engages in state action for the purposes of civil rights liability. IHSA has admitted this to be true, and the Seventh Circuit has held it to be so. *Griffin High School v. Illinois High School Ass’n*, 822 F.2d 671, 674 (7th Cir. 1987) (“As a preliminary matter, we note that the presence of state action is not in dispute in this case. Public schools make up 85% of the IHSA’s membership, and although the IHSA is a purely voluntary association, the overwhelmingly public character of the IHSA membership is sufficient to confer state action for the purposes of § 1983.”).

In 2002, IHSA and its executive director were sued for defamation and negligence by the principal of an IHSA member school. *Hood v. Illinois High School Ass’n*, 359 Ill. App. 3d 1065 (2005); C00070. IHSA moved to dismiss, claiming the affirmative defense of immunity under the Local Governmental and Governmental Employees Tort Immunity Act (“Tort Immunity Act”). *Id.* To support its immunity claim, IHSA stated a number of facts about what IHSA does and its relationship with public schools. *See* Supplemental Record, Vol. I, C00127.¹ These include the following:

¹ The original record prepared by the circuit court inadvertently omitted several filings, requiring Plaintiff to file a Supplemental Record. Unless otherwise specified, all citations are to Volume I of the Supplemental Record (“Supp.R.VI”).

The IHSA's membership is comprised of public and private schools from around the State of Illinois. There are six hundred and thirty-nine (639) public high school member schools, and one hundred eighteen (118) private high school member schools. Stated differently, approximately 85% of the member schools are public high schools. C00137.

Not only is the IHSA governed by a Board of Directors comprised, overwhelmingly, of representatives of public schools, its overwhelmingly local public school membership "owns" the association and exercises its control over the organization by electing representatives, including directors, to operate the association, and by engaging in the legislative process through which the constitution, by-laws, rules and policies of the association are enacted. Clearly, local governmental control of the organization is pervasive. C00141.

Insofar as every resident of the State of Illinois is in a high school district, and the overwhelming majority of high school students in the state attend member schools, which themselves sponsor and organize athletic competition, there can be little doubt that the business of the association is public business. C00139.

As a non-profit organization, the purpose of the IHSA benefits the public in coordinating the efforts of individual school districts throughout the state. As such, the IHSA is an agency of the collective schools of the State[.] C00139-140.

[N]ot only do local governmental entities "own" the association, employees of the local entities control the IHSA's governing body. As 90% (or during the time period encompassed by Plaintiff's Complaint, 100%) of the IHSA's governing board is comprised of public high school principals, it is evident that the IHSA is enmeshed with and under the control of "local government[.]" C00141.

[T]he IHSA is a local governmental entity because that is indisputably the character of its membership. C00137.

The trial court in *Hood* agreed that IHSA "is tightly enmeshed with local governments" and that its operations are controlled by local school district members, and reasoned that while IHSA was not a "not-for-profit corporation," as a voluntary association it was the equivalent of one. C00124. The appellate court reversed the trial court for the simple reason that IHSA was not a "not-for-profit corporation," as the statute specifically required, and therefore could not qualify as a local public entity. C00124-125.

Finally, in 2010, the Attorney General Public Access Counselor declined to review formally the question of whether IHSA is a public body under FOIA, noting in a preliminary review that “IHSA is a private, not-for-profit organization and thus, does not fall within the definition of a ‘public body’[.]” R.V1, C00277. It does not appear, however, that the requester in that matter, or IHSA, made the PAC aware of IHSA’s by-laws and constitution (which are discussed in the next section of this brief), the state-actor ruling against IHSA, or the numerous facts claimed by IHSA in the *Hood* case. *Id.*

ii. IHSA’s Governing Documents

The purpose of IHSA is to provide leadership for the development, supervision and promotion of good sportsmanship in interscholastic competition and other activities. C00037; C00049. According to IHSA, participation in such interscholastic activities offers eligible students experiences in an educational setting that provide enrichment to the educational experience. *Id.* IHSA’s objectives include stressing the educational importance, cultural values, appreciations and skills involved in all interscholastic activities, to encourage economy in the time of the student and teacher personnel devoted to interscholastic activities, and to promote only those activities that enhance the accomplishment of desired educational goals. C00050. IHSA regulates the interscholastic activities in which its member schools engage. C00049.

According to its constitution, IHSA can require public schools to pay dues as a condition of membership. C00050. IHSA board members are nominated and selected by principals of member schools, which are overwhelmingly public schools. C00052-53. The IHSA board is required to conduct all of IHSA’s business and hire IHSA’s employees. C00053. The board is similarly required to determine all necessary IHSA expenditures. C00054. The board has complete authority, subject to the governing

documents, to organize and conduct statewide interscholastic activities that may or may not lead to state championships. *Id.* The board has final authority to decide all eligibility disputes. C00054-55. The board is responsible for levying entry fees and assessments for interscholastic competitions. C00056.

Schools that wish to participate in competitions with IHSA members must comply with IHSA rules. C00061. IHSA rules exclusively govern such competitions. *Id.* Member-school principals are responsible to IHSA for matters pertaining to both athletic and non-athletic activities at their schools and the conduct of their schools' teams. *Id.* Member schools may only form cooperative athletic teams or activity programs with the approval of IHSA. C00062. IHSA rules impose ethics and sportsmanship obligations on students, school staff, boards of education, spectators, and all other persons connected directly or indirectly with a member school. C00065.

IHSA restricts the competitive activities of students at member schools to only those approved by IHSA. C00065-66. IHSA restricts schools from employing coaches that do not meet IHSA criteria. C00067. Member-school students may only engage in athletic activities during seasons authorized by IHSA, and IHSA regulates scrimmages, private lessons, use of school equipment, participation on all-star teams, and even transportation to the site of practice or competition. C00069-70. IHSA sets the standards that apply to physical examinations of students necessary to participate in athletics. C00072. IHSA regulates the use of dietary supplements. C00073.

Students at member schools who wish to participate in competitions that IHSA has organized must submit to IHSA's eligibility rules. C00074-103. These include rules regarding attendance, scholastic standing, residence transfer, age, recruiting, amateurism,

use of assumed names, independent team participation, coaching, all-star participation, misbehavior during contests, summer participation, open gym limitations, and others. *Id.*

Among many other rules and principles, the IHSA by-laws state:

Q. What is the “fundamental principle” underlying the residence by-laws? A. High school sports are best controlled and conducted fairly when students reside full time with their parents and attend high school in the district in which they reside with their parents. Departure from this basic premise requires circumstances which are within the parameters established within Article 1.460 of the IHSA Constitution, which do not conflict with the overall purpose and scope of the by-laws. C00079.

The student, who (a) is an orphan; (b) is a child of divorced, legally separated, or unmarried parents with respect to whom there has not been a change in custody ordered by a court of proper jurisdiction; or (c) is a ward of the state who transfers attendance from one high school to another high school, shall be subject to the eligibility provisions of Sections 3.043.1-3.043.3 as if the student resided with his/her parent(s), provided that following the transfer, the student continues to reside with the same family, foster family, group home or other unit or entity after the transfer as prior to and at the time of the transfer. *Id.*

Q. A school has a donor who wants to give funds to underwrite the tuition and fees of a needy student. It has a process for determining “need” which is objective and does not involve athletic or activity participation in any way. May the donor be permitted to meet, interview and endorse the selection of the needy student prior to the allocation of this financial aid? A. No. C00087.

Q. May a school permit incoming freshmen to participate in high school sponsored open gym programs during or outside the school year? A. Yes, provided the program is conducted in accordance with the open gym by-law. C00088.

Q. If a student participates in a road race sponsored by (1) a member school; (2) a local business; or (3) a private running club, may the student receive a T-shirt instead of a medal or trophy for winning or placing in the race? A. In all three of these instances the student may accept a T-shirt or other merchandise reward, if the fair market value of the award is less than \$75. C00089.

During the school season for a given sport, in a school which maintains a school team in that sport, a student shall not participate on any non-school team, nor as an individual unattached in non-school competition, in that given sport or in any competition that involves the skill of the sport in question. C00091.

Q. May a student who attends a school which does not maintain a school team in a given sport participate in practice sessions at a neighboring school which does maintain a school team in that sport? A. No. C00093.

[Students] shall have been enrolled and in attendance not later than the beginning of the eleventh school day of the semester. Exception may be considered only if written verification that delay in enrollment or attendance is caused by illness of the students or their immediate family or by other circumstances deemed acceptable by the Board of Directors which are submitted to the Executive Director for presentation to the Board of Directors. C00074.

[Students] shall not have any lapse of school connection during any given semester of greater than ten consecutive school days. Lapse of school connection for greater than ten consecutive school days shall render them ineligible for the remainder of the entire semester. Exceptions may be considered only if written verification that lapse in school connection is caused by illness of the students or their immediate family or by other circumstances deemed acceptable to the Board of Directors which are submitted to the Executive Director for presentation to the Board of Directors. *Id.*

Q. May a school count physical education classes toward academic eligibility requirements? A. Yes. Students may also receive credit for physical education waivers. C00076.

After the official start date of an IHSA sport season for the current school year, if a student changes attendance from that high school to another high school, the student shall be ineligible for the remainder of the school year in any sport in which he/she participated or was participating in a practice or interscholastic contest in the current school year at the school from which the transfer occurs[.] C00081.

Schools are not prohibited from conducting academic recruitment programs, programs which may include information concerning the school's extracurricular offerings. However, such recruitment programs must be designed to provide an overview of the academic and extracurricular programs offered by a school and are not to be used as a subterfuge for recruiting students for athletic purposes. C00085.

Q. If a family is moving into the area and has stopped by the athletic office because they are "shopping" for a school, may specifics about a particular sport be discussed? A. Yes, provided "specifics" includes only factual information and the family initiates the contact. However, the family must be directed to the administrative or admissions office. C00086.

Q. If a student-athlete who is selected by audition is paid \$250 to appear in a TV commercial for athletic equipment, is the student in violation of the amateur rules? A. No. (By-law 3.083) This is not a reward for participation in an athletic contest; rather, it is payment for specific services rendered. C00090.

Students may participate in a tryout for a non-school athletic team while a member of a high school team in the same sport, provided the tryout is exclusively a demonstration of skills with no practice or instruction involved. A student shall be considered to be a member of a school team when he/she engages in any team activity, including but not limited to tryouts, drills, physical practice sessions, team meetings, playing in a contest, etc., on or after the date specified in Bylaw 5.000 and its sub-sections. C00092.

Q. May a student who is a member of the school team in 12-inch fast pitch softball, play during the girls softball season for a slow pitch team in a recreation 12-inch slow pitch league? A. No. During the school season, a student shall not participate on any non-school team that involves the skill of the sport in question. C00093.

No student at a member school shall participate on an all-star team in basketball, football, soccer or volleyball during the student's high school career until completing their interscholastic athletic eligibility in that particular sport. A student may participate in no more than three (3) all-star contests in a sport. C00095.

Students participating in interscholastic athletic contests in violation of the By-laws, or other persons found to be in gross violation of the ethics of competition or the principles of good sportsmanship, may be barred by the Board of Directors from interscholastic contests. C00096.

Students may participate in a summer school class taught by a coach or other faculty member from their school and which offers instruction in interscholastic sports, provided the class is not restricted to students who have been certified eligible for participation in interscholastic athletics and the class is approved by the local Board of Education. *Id.*

In addition to these general requirements, IHSA imposes even more requirements specific to each of the various sports or other competitive activities. C00103-116. IHSA rules further provide that students deemed by IHSA to have been affected by undue influence to secure or retain their attendance at a member school shall be permanently ineligible for competition at that school. C00117. IHSA has the authority to impose both

specified and unspecified penalties against a student ejected from an event for unsportsmanlike conduct. *Id.*

In addition to the authorities contained in its governing documents, state law bestows a plethora of responsibilities and benefits on IHSA specifically:

Any association [elsewhere defined as IHSA specifically] which has as its purpose promoting, sponsoring, regulating, or in any manner providing for interscholastic athletics or any form of athletic competition among schools and students within this State is not liable for defamation, except for actual malice. 745 ILCS 54/1.

Each school board shall adopt a policy regarding student athlete concessions and head injuries that is in compliance with the protocols, policies, and by-laws of the Illinois High School Association. 105 ILCS 5/10-20.54(b).

The Illinois High School Association shall make available to all school districts, including elementary school districts, education materials, such as visual presentations and other written materials, that describe the nature and risk of concussions and head injuries. Each school district shall use education materials provided by the Illinois High School Association to educate coaches, student athletes, and parents and guardians of student athletes about the nature and risk of concussions and head injuries, including continuing play after a concussion or head injury. 105 ILCS 5/10-20.54(c).

The IHSA has the exclusive authority to promulgate a plan of [insurance] coverage necessary to ensure compliance with this Section. The IHSA shall provide a group policy providing the coverage necessary to comply with this Section. Public school districts and non-public schools may purchase the coverage necessary to comply with this Section by participating in the group policy. 105 ILCS 5/22-15(c).

To facilitate communication and coordination between the General Assembly and the Illinois High School Association on matters relative to the continuing development of interscholastic athletic and activity participation among secondary school students in Illinois, the Governor shall appoint, from the membership of the General Assembly, liaison representatives to meet with the Board of Directors of the Illinois High School Association at regular meetings of that Board. 105 ILCS 5/22-24.

Except as specifically stated in this Section, equal access to programs supported by school district funds and comparable programs will be defined in rules promulgated by the State Board of Education in consultation with the Illinois High School Association. 105 ILCS 5/27-1.

Equal access to programs supported from school district funds and comparable programs will be defined in rules promulgated by the State Board of Education in consultation with the Illinois High School Association. 105 ILCS 5/24-18.

B. District 230

District 230 is an IHSA member school. C00005. A District 230 official serves on the IHSA board. *Id.* IHSA performs its various functions on behalf of District 230 and other member schools. C00010.

C. BGA's FOIA Requests And IHSA's And District 230's Denials

On June 5, 2014, BGA requested the following information from IHSA under FOIA: "[1.] Any and all IHSA contracts for accounting, legal, sponsorship and public relations/crisis communications services for the 2012-13 and 2013-14 fiscal years. This should include, but not be limited to, the IHSA's contracts with Home Team Marketing and Striegel Knobloch & Co. [2.] Any and all IHSA sponsorship contracts/agreements covering the 2012-13 and 2013-14 fiscal years. This should include, but not be limited to, contracts/agreements with Nike, Gatorade and Country Financial. [3.] Any and all licensed vendor applications . . . for companies licensed in the 2013-14 fiscal year." C00149. IHSA denied BGA's request, stating: "We are a Bloomington based non-profit (501 c 3) that is not subject to FOIA." C00150.

On July 2, 2014, BGA requested under FOIA Section 7(2) from District 230 the IHSA records that IHSA refused to produce. C00151. In response to BGA's request, District 230 stated that it had no responsive records. C00152. C00153. District 230 did not seek any records from IHSA. C00154.

D. Circuit Court Proceedings

The circuit court granted IHSA's motion to dismiss under Section 2-619 and granted District 230's motion to dismiss under Section 2-615. In its ruling on IHSA's

motion, the circuit court disregarded IHSA's factual assertions in the *Hood* case because it determined the statements were "not facts." Supp.R.VIII, 41:1-12, 64:19-22. The court also held that education is not a sufficiently governmental function for FOIA to apply. Supp.R.VIII, 65:6-17, 93:22-98:5.

E. Appellate Court Proceedings

The First District affirmed the circuit court. It set forth a narrow test for "governmental function" that applies only to functions that a public body is legally required to perform, while excluding the vast number of discretionary functions that public bodies can and do perform for the benefit of the general public. *Better Government Ass'n v. Illinois High School Ass'n*, 2016 IL App (1st) 151356 at ¶ 26. Applying that construction of the law to the facts of this case, the First District found that organizing and regulating high school athletics and other competitions on behalf of the vast majority of public and private schools in this state was not a governmental function or related to public business because schools were not legally required to offer any such opportunities to their students. *Id.* at ¶ 46. The First District also declined to consider the factual admissions made by IHSA in the *Hood* case and found, as a result, that the subsidiary body factors favored IHSA. *Id.* at ¶ 34.

VII. LEGAL STANDARDS

A. Motions to Dismiss

A circuit court may dismiss a complaint under Section 2-615 only when it is apparent that no set of facts can be proved that will entitle a plaintiff to relief. *E.g.*, *Marshall v. Burger King Corp.*, 222 Ill. 2d 422, 429 (2006). Where the relevant facts are solely within a defendant's knowledge, "a complaint which is as complete as the nature

of the case allows is sufficient,” and discovery should be permitted. *Yuretich v. Sole*, 259 Ill. App. 3d 311, 313 (1994) (reversing order granting motion to dismiss).

A motion to dismiss under Section 2-619 is permitted only if the pleadings, depositions, and affidavits demonstrate that an affirmative matter, about which there is no genuine issue of material fact, defeats the plaintiff’s claim. *E.g., Zedella v. Gibson*, 165 Ill. 2d 181, 185 (1995). A Section 2-619 motion to dismiss is “a drastic means of disposing of litigation and, therefore, should be allowed only where the right of the moving party is clear and free from doubt.” *Williams v. Manchester*, 228 Ill. 2d 404, 417 (2008). The movant must admit the plaintiff’s well-pled allegations and all reasonable inferences from those allegations. *Wackrow v. Niemi*, 231 Ill. 2d 418, 422 (2008). The affirmative matter must “be something more than evidence offered to refute a well-pleaded fact in the complaint as such well-pleaded facts must be taken as true.” *Serafin v. Seith*, 284 Ill. App. 3d 577, 583 (1996). The motion must be denied where there is a genuine issue of material fact. *E.g., Springfield Heating And Air Conditioning, Inc. v. 3947-55 King Drive At Oakwood LLC*, 387 Ill. App. 3d 906, 909 (2009).

All evidence and pleadings must be taken in the light most favorable to the non-movant. *E.g., Wackrow*, 231 Ill. 2d at 422. A plaintiff may rely not only on counter-affidavits, but also other evidence, to controvert a defendant’s Section 2-619 affidavit. *Epstein v. Chicago Bd. of Educ.*, 178 Ill. 2d 370, 383 (1997). If it cannot be determined with reasonable certainty that the alleged defense exists, the motion should be denied. *A.F.P. Enterprises, Inc. v. Crescent Pork, Inc.*, 243 Ill. App. 3d 905, 912 (1993). In deciding a 2-619 motion, “a trial court cannot determine disputed factual issues solely

upon affidavits and counteraffidavits.” *Id.* If there are factual disputes, “the parties must be afforded the opportunity to have an evidentiary hearing.” *Id.*

B. Evidentiary Admissions

A statement by a party, even if it does not qualify as a judicial admission subject to estoppel, is an evidentiary admission. *In re Marriage of O’Brien*, 247 Ill. App. 3d 745, 749 (1993). Unlike judicial admissions, evidentiary admissions may be controverted, but are nonetheless admissible evidence. *Williams Nationalease, Ltd. v. Motter*, 271 Ill. App. 3d 594, 617 (1995). Statements made by or on behalf of a party in other court proceedings may constitute evidentiary admissions. *Anfinsen Plastic Molding Co. v. Konen*, 68 Ill. App. 3d 355, 361 (1979). This is true even as to unverified admissions, pleadings that have been amended, abandoned, or withdrawn, and descriptions of facts in legal briefs. *Bartsch v. Gordon N. Plumb, Inc.*, 138 Ill. App. 3d 188, 197 (1985); *Abruzzo v. City of Park Ridge*, 2013 IL App (1st) 122360, ¶¶ 43, 49-50.

C. FOIA

The General Assembly has made clear that the purpose of FOIA is transparency and accountability:

Pursuant to the fundamental philosophy of the American constitutional form of government, it is declared to be the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of this Act. Such access is necessary to enable the people to fulfill their duties of discussing public issues fully and freely, making informed political judgments and monitoring government to ensure that it is being conducted in the public interest.

The General Assembly hereby declares that it is the public policy of the State of Illinois that access by all persons to public records promotes the transparency and accountability of public bodies at all levels of government. It is a fundamental obligation of government to operate openly and provide public records as expeditiously and efficiently as possible in compliance with this Act.

5 ILCS 140/1. When determining whether information may be kept from the public, courts must interpret the FOIA statute in light of its transparency objectives:

Restraints on access to information, to the extent permitted by this Act, are limited exceptions to the principle that the people of this State have a right to full disclosure of information relating to the decisions, policies, procedures, rules, standards, and other aspects of government activity that affect the conduct of government and the lives of any or all of the people. The provisions of this Act shall be construed in accordance with this principle. This Act shall be construed to require disclosure of requested information as expediently and efficiently as possible and adherence to the deadlines established in this Act.

Id. This requires courts to apply a “liberal construction” in favor of disclosure. *Stern v. Wheaton–Warrenville Community Unit School District 200*, 233 Ill. 2d 396, 405 (2009). Exceptions to disclosure must be “read narrowly.” *S. Illinoisan v. Illinois Dep’t of Pub. Health*, 218 Ill. 2d 390, 416 (2006). While FOIA may traditionally apply to entities like state agencies, municipalities, school districts, and other such entities commonly acknowledged to be governmental, the General Assembly has provided two mechanisms for the public to access information of other entities.

i. “Subsidiary Body”

The definition of “public body” includes “subsidiary bodies.” 5 ILCS 140/2(a). The mere fact that an entity is a “private” entity, such as a not-for-profit corporation, does not preclude a finding that it is a subsidiary body subject to FOIA. *Rockford Newspapers, Inc. v. N. Illinois Council on Alcoholism & Drug Dependence*, 64 Ill. App. 3d 94, 95-96 (1978). While case law on subsidiary bodies is limited and there is no decision yet from this Court, the appellate courts who have decided the issue to date have considered four factors in deciding whether an entity is a subsidiary body under FOIA.²

² Some of these decisions involve the Open Meetings Act, but the question of who is a public body generally or subsidiary body specifically is considered in the same manner in each statute. *Hopf v. Topcorp, Inc.*, 170 Ill. App. 3d 85, 91 (1988).

First, courts have considered the amount of financial support of the entity from the government. *Id.* at 96-97; *Hopf v. Topcorp, Inc.*, 170 Ill. App. 3d 85, 91 (1988) (*Hopf I*). This factor has been given only minimal weight, however, and so even an entity with little or no governmental financial support could still qualify as a subsidiary body. *Id.*

Second, courts have considered whether the entity has a legal existence independent of government resolution. *Rockford Newspapers*, 64 Ill. App. 3d at 95-96; *Hopf I*, 170 Ill. App. 3d at 91. When considering this question, the election of members of the entity's board of directors by government officials weighs in favor of finding the entity to be a subsidiary body. *Rockford Newspapers*, 64 Ill. App. 3d at 95-96. The mere fact that the entity is legally separate from government does not preclude a finding that the entity is a subsidiary body: if the entity was a formal part of government, there would likely be no need for the subsidiary body analysis in the first place.

Third, courts have considered the nature of the functions performed by the entity. *Hopf v. Topcorp, Inc.*, 256 Ill. App. 3d 887, 892 (1993) (*Hopf II*); *Rockford Newspapers*, 64 Ill. App. at 96-97. A distinction has been made between the performance of a governmental function and general services that have only a tangential connection to a governmental function. *Rockford Newspapers*, 64 Ill. App. 3d at 97. A distinction has also been made between proprietary and governmental functions. *Hopf I*, 170 Ill. App. 3d at 92. BGA addresses this factor in additional detail under the "governmental function" provision in FOIA Section 7(2).

Finally, courts have considered the degree of governmental control over the entity. *Rockford Newspapers*, 64 Ill. App. 3d at 95-96; *Hopf I*, 170 Ill. App. 3d at 91-92. When the government exercises day-to-day supervision, the entity is more likely to be

considered a subsidiary body than if the government provides only general supervision. *Hopf I*, 170 Ill. App. 3d at 91-92. It has been said that supervision is of a general nature when it is “intended only to protect the investments made [by government] and to see that the venture becomes self-sustaining.” *Id.* at 92-93. In other words, when government supervision occurs solely for the purpose of protecting the government’s interests, this factor supports a finding that the entity is not a public body; when government supervision is more extensive and occurs for the benefit of the entity itself, this factor supports a finding that the entity is a public body.

These factors are a good start, but are too restrictive and should not be made exclusive. For example, *Hopf I* included a well-reasoned dissent by Justice Pincham that would have found the facially private entities responsible for purchasing and managing land as part of a joint venture between government and a private entity a subsidiary body under FOIA. 170 Ill. App. 3d at 93. The dissent looked to the Tax Increment Allocation Redevelopment Act and concluded that it declared the “eradication of blighted areas” to be “essential to the public interest.” *Id.* at 94. It also looked to the agreement between the parties, which stated that the purpose was to “promote several public purposes,” including improving the city’s tax base, providing jobs, and encouraging the development of new business. *Id.* at 95. Finally, it placed primacy on the need for transparency in a democratic society, even when governing occurs through private entities, noting that the “painful and bitter but profitable lessons learned from secrecy in governmental affairs in the Watergate, the Iran-Contra and the Greylord contemporary debacles should not be forgotten or ignored.” *Id.* at 105.

This Court may also be inclined to look to interpretations of the phrase “any not-for-profit corporation organized for the purpose of conducting public business” in the Tort Immunity Act. *E.g. O’Toole v. Chicago Zoological Society*, 2015 IL 118254. That case law sets forth a similar test focused largely on governmental control. *Id.* at ¶ 19. It must be noted, however, that immunities must be narrowly interpreted, as opposed to the provisions of FOIA, which must be liberally construed in favor of transparency. *Compare Van Meter v. Darien Park Dist.*, 207 Ill. 2d 359, 368 (2003) *with Stern v. Wheaton–Warrenville Community Unit School District 200*, 233 Ill. 2d 396, 405 (2009). Thus, an entity that qualifies for tort immunity should be considered a public body under FOIA, but even if an entity is not conducting public business under the Tort Immunity Act, it may still qualify as a public body under FOIA.

In addition, the subsidiary body test should remain flexible to account for other situations. Courts should also consider, for example, the extent to which the entity has sought and obtained the protection of immunity statutes of the sort typically reserved for governmental entities. After all, an entity that seeks to enjoy the benefits of being treated like government should also abide by the requirements of FOIA. Similarly, an entity found to have engaged in state action under civil rights laws should ordinarily qualify as a public body as well. *See IHSA App. Ct. Br.* at 19-20 (relying on state-actor cases). Other cases may warrant additional considerations that should not be foreclosed. *Cf.* 1 Nahmod, *Civil Rights & Civil Liberties Litigation: The Law of Section 1983* § 2:4 (“There are no hard and fast rules for determining the presence of state action. Indeed, the Supreme Court has emphasized repeatedly that the state action inquiry must be made on a case-by-case basis.”); *Lugar v. Edmondson Oil Co., Inc.*, 457 U.S. 922, 939 (1982)

(“The Court suggested that that ‘something more’ which would convert the private party into a state actor might vary with the circumstances of the case. This was simply a recognition that the Court has articulated a number of different factors or tests in different contexts[.] Whether these different tests are actually different in operation or simply different ways of characterizing the necessarily fact-bound inquiry that confronts the Court in such a situation need not be resolved here.”).

ii. “Governmental Function”

FOIA also applies when a public body “has contracted to perform a governmental function on behalf of a public body.” 5 ILCS 140/7(2). A record that “directly relates to the governmental function and is not otherwise exempt” is considered a “public record of the public body” who contracted for the performance of the governmental function. *Id.* The statute does not define “governmental function,” but the statutory purpose of FOIA requires that the term be given a liberal construction in favor of disclosure. 5 ILCS 140/1; *Stern v. Wheaton–Warrenville Community Unit School District 200*, 233 Ill. 2d 396, 405 (2009).

As District 230 itself argued to the First District, “governmental function” has been defined by Black’s Law Dictionary as “a government agency’s conduct that is expressly or impliedly mandated or authorized by constitution, statute, or other law and that is carried out for the benefit of the general public.” Dist. 230 App. Ct. Br. at 8. In *Carroll v. Paddock*, in the more narrowly defined context of tort immunity, this Court defined “public business” as “[b]elonging to the people at large, not limited or restricted to any particular class of the community.” 199 Ill. 2d 16, 26 (2002). In the FOIA context, the Fourth District has defined the similar term “public business” as “pertain[ing] to ‘business or community interests as opposed to private affairs.’” *City of*

Champaign v. Madigan, 2013 IL App (4th) 120662, ¶ 31 (quoting Merriam-Webster's Collegiate Dictionary).

Taking all this into account, this Court should hold that “governmental function” includes at least the following: (1) functions that the unit of government is required to conduct; and (2) discretionary functions that benefit the general public or relate to community interests. This is consistent with the purpose of the FOIA statute: when the government delegates its legal obligations or actions that are supposed to be for the benefit of the general public, it is essential that the people know whether those contractors are acting in the public interest so that, if not, the people may hold them and the government responsible. 5 ILCS 140/1 (“The General Assembly hereby declares that it is the public policy of the State of Illinois that access by all persons to public records promotes the transparency and accountability of public bodies at all levels of government.”).

VIII. ARGUMENT

A. The Need For Transparency When Government Delegates Its Functions To Facially Private Entities

Over the past few decades, things as fundamental as access to water, libraries, public transit, fire protection, prisons, and even policing have been privatized. *E.g.*, F. Lopez-de-Sians, et al., 28 RAND J. of Econ. 447, 448 (Autumn 1997). As described in more detail in the brief of proposed *amici*, our state has recently created several facially private entities to perform functions like managing statewide economic development. The question before this Court is not whether privatization is good or bad. Rather, the question is whether transparency under FOIA will be protected in the process.

Without guarantees of transparency, “[p]rivatization of facilities and services decreases both accountability and transparency.” *E.g.*, K. Hogan, Protecting the Public in Public-Private Partnerships: Strategies for Ensuring Adaptability in Concession Contracts, 2014 Colum. Bus. L. Rev. 420, 432–33 (2014).

When governments are responsible for providing services to their citizens, they must consider the public interest at all times. If they do not do so and the quality of the service suffers, citizens can hold public officials accountable for their actions by voting them out of office. When services are privatized, however, this accountability disappears. Private partners are accountable only to the terms of the concession agreement that they signed and not to any greater notion of public interest. Privatization also decreases transparency. Governmental transparency is normally achieved by publishing the regulations and procedures that guide government action. The public can easily access information regarding proposed or actual government action, allowing for meaningful public participation in the workings of a democratic government. Privatization transfers decision-making power over service delivery and facility operations to the private sector, which operates out of public view, thus decreasing transparency.

Id.

A lack of transparency when governmental functions are privatized not only reduces accountability, but can have a fundamental impact (without any informed public input) on substantive policies:

For decades, policymakers have been privatizing government responsibilities for the customary, and ostensibly exclusive, objective of providing the public with the same goods and services more efficiently. It is becoming increasingly apparent that these policymakers are also doing something different: they are using that purportedly technocratic process to substantively alter the very policies they are supposed to be neutrally administering. And, it is working: these privatization ‘workarounds’ can directly change the content of public education, health, and social welfare programs, the outcome of regulatory enforcement and rulemaking proceedings, and the trajectory of police and national security operations.

J. Michaels, Privatization’s Pretensions, 77 U. Chi. L. Rev. 717, 717 (2010).

While there are many socially important areas that have been or in the future may be privatized, policing is one especially sensitive example. As the events of the last year

in the City of Chicago have made clear, transparency into policing and potential misconduct by officers is essential to monitoring the police and ensuring just policing. Unfortunately, under the First District's ruling in this case, municipalities who want to avoid public scrutiny of their police departments could potentially privatize them and argue that transparency no longer applies.

This is not a far-fetched possibility. Since the late 1960s, private security firms have grown rapidly.³ They were once viewed with suspicion and distrust, but “over the last two decades, governments have come to accept and even encourage private police as a necessary tool for crime prevention and the protection of property.”⁴ Some perform services and functions normally conducted by sworn police officers.⁵ The University of Chicago Police Department, a “private” police force employed by the university with full police powers, patrols a six square mile area that includes 65,000 residents, of which 50,000 are not students.⁶

It is against this background that this Court addresses the interpretation of two important provisions of FOIA meant to protect transparency when governmental functions are performed by facially private entities.

B. Overview Of The Issues In This Appeal

There are two independent reasons that BGA should prevail in this case. First, IHSA is a subsidiary body under FOIA. Second, IHSA performs a governmental

³ Malcolm K. Sparrow, *Managing the Boundary Between Public and Private Policing*, New Perspectives In Policing Bulletin (Sept. 2014), <https://www.ncjrs.gov/pdffiles1/nij/247182.pdf> (last accessed November 30, 2016).

⁴ Stephen Rushin, *The Regulation of Private Police*, 115 W. Va. L. Rev. 159, 162 (2013).

⁵ David A. Sklansky, *The Private Police*, 46 UCLA L. Rev. 1165, 1177 (1998).

⁶ Hannah K. Gold, *Why Does A Campus Police Department Have Jurisdiction Over 65,000 Chicago Residents?*, Vice News (Nov. 12, 2014), <http://www.vice.com/read/why-does-a-campus-police-department-have-jurisdiction-over-65000-chicago-residents-1112> (last accessed on November 30, 2016).

function under Section 7(2) of FOIA. These issues share a commonality: whether the function performed by IHSA is governmental.

If a function is governmental, then so long as the records directly relate to that function, Section 7(2) applies. 5 ILCS 140/7(2). In addition, the determination that an entity performs a governmental function is a factor, among others, that weighs heavily (and, in some cases, potentially dispositively) in favor of finding that the entity is a subsidiary body as well. Because Section 7(2) was added to FOIA well after the subsidiary body decisions were issued, Section 7(2) necessarily applies more broadly than the multi-factor subsidiary body test. *See Sylvester v. Indus. Comm’n*, 197 Ill. 2d 225, 232 (2001) (“Our primary goal, to which all other rules are subordinate, is to ascertain and give effect to the intention of the legislature. We determine this intent by reading the statute as a whole and considering all relevant parts. We must construe the statute so that each word, clause, and sentence, if possible, is given a reasonable meaning and not rendered superfluous, avoiding an interpretation which would render any portion of the statute meaningless or void.”).

Before turning to the question of whether IHSA performs a governmental function, however, a key threshold argument should first be considered.

C. IHSA Performs State Action, And Therefore Is Also A Public Body Under FOIA

As discussed above, the Seventh Circuit has found that IHSA performs state action for civil rights purposes. *Griffin High School v. Illinois High School Ass’n*, 822 F.2d 671, 674 (7th Cir. 1987). IHSA itself asked the First District in this case to rely on the U.S. Supreme Court’s state-actor civil-rights decision in *NCAA v. Tarkanian* to find that IHSA should not be a public body under Illinois FOIA. IHSA App. Resp. Br. at 19-

20. According to IHSA, it is no different from NCAA, and since a Florida appellate court noted that NCAA records “are not generally subject to public disclosure,” neither should IHSA be subject to Illinois FOIA. *Id.* Because there is no dispute that IHSA is a state actor, however, by IHSA’s own logic, it should be subject to Illinois FOIA.

While this Court need not re-evaluate the settled question of whether IHSA is a state actor, IHSA clearly is one. As noted in the *Tarkanian* decision relied on by IHSA, in which the NCAA was found not to be a state actor, “[t]he situation would, of course, be different if the membership consisted entirely of institutions located within the same State, many of them public institutions created by the same sovereign.” 488 U.S. 179, 193 n.13 (1988). That is indisputably the case as to IHSA. And the Supreme Court has since held that Tennessee’s version of IHSA was a state actor and noted that with the exception of the circuit it was in the process of reversing, “every Court of Appeals to consider a statewide athletic association like the one here has found it a state actor.” *Brentwood Academy v. Tennessee Secondary School Athletic Ass’n*, 531 U.S. 288, 304 (2001).

D. Education Is A Governmental Function, Which Triggers Section 7(2) And Also Weighs Heavily In Favor Of Finding IHSA To Be A Subsidiary Public Body

The Illinois Constitution states that “[a] fundamental goal of the People of the State is the educational development of all persons to the limits of their capacities.” Ill. Const. Art. X § 1. Both this Court and the United States Supreme Court have held that education is a governmental function. *Hadley v. Junior Coll. Dist. of Metro. Kansas City, Mo.*, 397 U.S. 50, 56 (1970); *Fumarolo v. Chicago Bd. of Educ.*, 142 Ill. 2d 54, 91, 116 (1990).

As IHSA's own documents make clear, there is not, and cannot be, any dispute that IHSA performs an educational function and that its very mission is to enhance the educational experience. C00037. "The IHSA governs the equitable participation in interscholastic athletics and activities that enrich the educational experience. *** Participation in such interscholastic activities offers eligible students experiences **in an educational setting** which provide enrichment to the educational experience." *Id.* (emphasis added). This is consistent with the goal set forth in our state Constitution, which seeks not merely the bare minimum amount of education, but "the educational development of all persons to the limits of their capacities." *See also* Illinois High School Association, About the IHSA ("Opportunity for boys and girls to represent their school and community as they participate in interscholastic activities is a privilege unique to young people in American education. Why? Because educators across the USA believe that participation in interscholastic activities offers students significant lifetime learning experiences that cannot be duplicated in any other instructional setting."), *available at* <http://www.ihsa.org/AbouttheIHSA/MissionStatementBeliefs.aspx> (last accessed Nov. 29, 2016).

Similarly, as noted by the United States Supreme Court in finding Tennessee's high school association to be a state actor for civil rights purposes:

Interscholastic athletics obviously play an **integral part** in the public education of Tennessee, where nearly every public high school spends money on competitions among schools. Since a pickup system of interscholastic games would not do, these public teams **need** some mechanism to produce rules and regulate competition. The mechanism is an organization overwhelmingly composed of public school officials who select representatives (all of them public officials at the time in question here), who in turn adopt and enforce the rules that make the system work. Thus, by giving these jobs to the Association, the 290 public schools of Tennessee belonging to it can sensibly be seen as exercising their own authority to meet their own **responsibilities**.

Brentwood Academy, 531 U.S. at 299 (emphasis added).

Nearly every public high school in the state is an IHSA member, and any high school that wants to participate in interscholastic competition must join IHSA or else it will have few or no schools against which it can compete. C00137. IHSA's own governing documents acknowledge the importance that parents and communities place on school-sponsored athletics, and thus the essential nature of high school athletics to our education system, because those documents set forth rigorous rules governing both student residency and the ability of schools to recruit student athletes. C00079, C00081, C00085-87. The notion that school districts could simply eliminate high school sports or decline to participate in any sports governed by IHSA does not reflect reality. There is a reason that these sports and other competitions are school sponsored.

IHSA promotes and regulates all aspects of competitions under its purview, and its actions are expressly intended to enrich the educational experience in an educational setting. Its rules and bylaws extend deeply and pervasively, and it sets or helps to set safety protocols and equal access rules for all high schools, even those that are not IHSA members. Simply put, according to IHSA itself, "there can be little doubt that the business of the association is public business." C00139. IHSA performs a governmental function.

E. The Records Directly Relate To IHSA's Governmental Function

Under Section 7(2), the requested vendor contracts, sponsorship agreements, and other records relate to IHSA's governmental function. IHSA is not a for-profit contractor that also performs work for non-government clients. The sole and entire purpose of IHSA's activities is to regulate and promote high school athletics and other competitions

for the benefit of the general public. C00049. Thus, the records directly relate to IHSA's governmental function.

F. The Remaining Subsidiary Body Factors Also Support Transparency

i. IHSA Is "Owned And Controlled" By Government

According to IHSA itself, "its overwhelmingly local public school membership 'owns' the association and exercises its control over the organization[.]" C00141. Approximately 85% of IHSA's members are public high schools, and this overwhelmingly local public school membership controls IHSA through the election of representatives and engagement in its legislative process. C00137, C00141. "Clearly, local governmental control of the organization is pervasive." C00141. As a result, this factor strongly weighs in favor of transparency. *See also Brentwood Academy*, 531 U.S. at 296-300.

ii. IHSA Does Not Exist Independent From Government Resolution

IHSA regulates and promotes high school athletics and other competition for public schools who, by their own governmental acts, have delegated their authority to IHSA. C00142. ("By associating as the IHSA, the schools of the State of Illinois have merely contracted to work together in a certain manner to oversee athletic and other activities."). In addition, the General Assembly has granted, by statute, a number of important regulatory and advisory functions to IHSA, as well as immunity for certain types of lawsuits related to IHSA's work. 105 ILCS 5/10-20.54(b), (c) (concussion policies); 105 ILCS 5/27-1 (equal access rules); 745 ILCS 54/1 (immunity). Thus, this factor also supports transparency.

iii. IHSA Receives Significant Financial Support From Government

Finally, IHSA earns revenue largely from the efforts of public school students in events held at public facilities. C00050; C00056. The Supreme Court has persuasively made clear that this qualifies as financial support. *See Brentwood Academy*, 531 U.S. at 299 (“The Association thus exercises the authority of the predominantly public schools to charge for admission to their games; the Association does not receive this money from the schools, but enjoys the schools’ moneymaking capacity as its own.”). IHSA also has the power to assess dues to its members, which are predominantly public schools, to fund IHSA’s activities directly. C00050; C00056.

All of these factors, as well as the fact that IHSA is a state actor under civil rights laws and has argued for governmental tort immunity, support the conclusion that IHSA, who is responsible for regulating and promoting high school athletics and other forms of competition at nearly every public high school in this state, is subject to the state’s transparency laws.

G. Both Motions Were Procedurally Flawed

While this appeal can be resolved on the substantive merits, both motions were procedurally flawed and should be reversed on these additional bases.

i. IHSA’s Section 2-619 Motion To Dismiss Was Improper For Multiple Reasons

IHSA’s motion is more accurately characterized as an answer which did nothing but claim that BGA’s pleadings are “not true.” *See Reynolds v. Jimmy John’s Enterprises, LLC*, 2013 IL App (4th) 120139, ¶ 35; *Howle v. Aqua Illinois, Inc.*, 2012 IL App (4th) 120207, ¶ 36; *Winters v. Wangler*, 386 Ill. App. 3d 788 (2008). The entirety of

IHSA's motion was devoted to denying allegations relevant to the subsidiary body factors. R.VI, C00143; Supp.R.VIII, 29:20-29:22.

Even if IHSA's motion did more than merely deny the allegations in the Complaint, however, it failed to do so properly. Under Rule 2-619, the affirmative matter must be supported by affidavit. Yet the affidavit submitted by IHSA addressed only the "separate existence" and "government support" factors, saying nothing of any significance about the remaining factors and failing to respond to the substantial and detailed allegations that IHSA is owned and controlled by local government and performs public business. R.VI, C00154-156. Therefore, the motion lacked adequate affidavit support and should have been denied. *See Kedzie & 103rd Currency Exch., Inc. v. Hodge*, 156 Ill. 2d 112, 116 (1993) ("By presenting adequate affidavits supporting the asserted defense [citation omitted], the defendant satisfies the initial burden of going forward on the motion.").

Even if IHSA's motion did more than deny the allegations in the Complaint and even if it did so based on an adequate affidavit, BGA still more than adequately raised material fact issues under the subsidiary body test. As discussed in detail above, BGA has offered significant evidence on each of the subsidiary body factors.

ii. District 230's Section 2-615 Motion to Dismiss Failed To Treat The Well-Pled Allegations As True

In the Complaint, BGA alleged that IHSA "performs a governmental function, including control of all aspects of high school competition for the vast majority of Illinois high schools." C00005 at ¶ 3. BGA also pled that IHSA is "an agency of the collective schools of the state" and that IHSA is the result of schools acting collectively through IHSA, such that IHSA's governmental function is performed on behalf of member

schools. C00008 at ¶¶ 34, 35. These allegations were more than adequate to survive District 230's motion to dismiss. *See Fox v. Seiden*, 382 Ill. App. 3d 288, 294 (2008).

IX. CONCLUSION

For these reasons, BGA respectfully asks that the Court reverse the circuit court and ensure the robust transparency for privatized governmental functions that the General Assembly has set forth in the FOIA statute.

RESPECTFULLY SUBMITTED,

/s/ Matthew Topic
Matthew Topic
Attorneys for Plaintiff/Appellant

Matthew Topic
Joshua Hart Burday
LOEVY & LOEVY
311 N. Aberdeen, Third Floor
Chicago, IL 60607
(312) 243-5900
matt@loevy.com

X. CERTIFICATION OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 29 pages.

/s/ Matthew Topic

Matthew Topic
Attorneys for Plaintiff/Appellant

Matthew Topic
Joshua Hart Burday
LOEVY & LOEVY
311 N. Aberdeen, Third Floor
Chicago, IL 60607
(312) 243-5900
matt@loevy.com

No. 121124

IN THE SUPREME COURT OF ILLINOIS

BETTER GOVERNMENT ASSOCIATION,	)	Appeal from the Appellate
	)	Court, First District, No. 15-1356
)	
Plaintiff-Appellant,)	
)	
-vs-	)	There on appeal from the Circuit Court of
	)	Cook County, Chancery Division, Illinois
	)	No. 14 CH 12091
)	
ILLINOIS HIGH SCHOOL ASSOCIATION;)	
CONSOLIDATED HIGH SCHOOL)	
DISTRICT 230,	)	Hon. Mary L. Mikva, Judge Presiding
)	
Defendants-Appellees.)	

SEPARATE APPENDIX

TO OPENING BRIEF FOR
PLAINTIFF-APPELLANT
BETTER GOVERNMENT ASSOCIATION

******* Electronically Filed *******

121124

12/02/2016

Supreme Court Clerk

Matthew Topic (#6290922)
Joshua Burday (#6320376)
Counsel for Appellant
LOEVY & LOEVY
311 N. Aberdeen, Third Fl.
Chicago, IL 60607

TABLE OF CONTENTS

Plaintiff's Complaint and Exhibits, filed on July 23, 2015.....	A-2
April 13, 2015 Order Granting Defendant Illinois High School Association's 2-619 Motion to Dismiss	A-153
April 13, 2015 Order Granting Defendant Consolidated High School District 230's 2-615 Motion to Dismiss.....	A-154
Plaintiff's Notice of Appeal, filed on May 11, 2015	A-155
Appellate Court Opinion in <i>Better Government Ass'n v. Illinois High School Ass'n</i> , 2016 IL App (1st) 151356, entered on June 24, 2016	A-157
Defendant-Appellee Illinois High School Association's Response Brief and Argument, filed on November 6, 2015... ..	A-176
Defendant-Appellee Consolidated High School District 230's Response Brief and Argument, filed on November 6, 2015... ..	A-214
Index to Record on Appeal	A-237

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

BETTER GOVERNMENT ASSOCIATION,)
)
Plaintiff,)
)
v.)
)
ILLINOIS HIGH SCHOOL ASSOCIATION;)
CONSOLIDATED HIGH SCHOOL)
DISTRICT 230,)
)
Defendants.)

2014CH12091
CALENDAR/ROOM 06
TIME 00:00
General Chancery

COMPLAINT

NOW COMES Plaintiff, BETTER GOVERNMENT ASSOCIATION, by its undersigned attorneys, LOEVY & LOEVY, and brings this Freedom of Information Act suit asking the Court to declare that Defendant ILLINOIS HIGH SCHOOL ASSOCIATION ("IHSA") is a public body under the Freedom of Information Act, to declare that IHSA performs a governmental function on behalf of its member schools, including CONSOLIDATED HIGH SCHOOL DISTRICT 230 ("DISTRICT 230"), and to order IHSA and DISTRICT 230 to produce IHSA records requested by BGA. In support of its Complaint, BETTER GOVERNMENT ASSOCIATION alleges:

INTRODUCTION

1. It is the public policy of the State of Illinois that access to public records promotes transparency and accountability at all levels of government and is crucial to democracy.
2. The records of facially "private" entities that perform a governmental function are subject to disclosure under FOIA.

3. Because Defendant ILLINOIS HIGH SCHOOL ASSOCIATION performs a governmental function, including control of all aspects of high school competition for the vast majority of Illinois high schools, is overwhelmingly controlled by public high schools, and has argued in prior litigation that it enjoys governmental legal immunities based on factual representations that are dispositive to the question here, IHSA is a public body under FOIA.

4. In addition, under FOIA Section 7(2), IHSA performs a governmental function for member public high schools, including DISTRICT 230, and therefore, the records of IHSA related to that function are legally considered records of DISTRICT 230 subject to disclosure under FOIA.

PARTIES AND VENUE

5. Plaintiff BETTER GOVERNMENT ASSOCIATION ("BGA") is a nonpartisan, Illinois non-profit corporation, whose mission is to educate the public about waste, inefficiencies, and corruption in government by acting as a watchdog agency uncovering and exposing this type of activity; to promote respect for the law; and to support public officials in the rightful performance of their duties. BGA was founded in 1923 to protect the integrity of the political process in Chicago.

6. Defendant ILLINOIS HIGH SCHOOL ASSOCIATION ("IHSA") is a public body located in McLean County, Illinois.

7. Defendant DISTRICT 230 is a public body located in Cook County, Illinois. A District 230 official serves on the IHSA board.

8. Because this action may be brought against DISTRICT 230 in this county, and because both defendants are joined in good faith for the purpose of obtaining judgments against them, venue is proper as to both defendants under 735 ILCS 5/2-101 ("Except as otherwise

provided in this Act, every action must be commenced (1) in the county of residence of any defendant who is joined in good faith and with probable cause for the purpose of obtaining a judgment against him or her and not solely for the purpose of fixing venue in that county, or (2) in the county in which the transaction or some part thereof occurred out of which the cause of action arose.”).

ILLINOIS HIGH SCHOOL ASSOCIATION FACTUAL BACKGROUND

9. IHSA supervises and controls interscholastic activities for the vast majority of Illinois high schools.

10. IHSA generates millions of dollars in annual revenue from events involving predominantly public schools. (Exhibit A)

11. IHSA’s executive director earns over \$200,000 per year in compensation, and a number of other employees earn over \$100,000 per year.

12. The vast majority of Illinois high schools are members of IHSA.

13. IHSA governs in detail the eligibility of member schools and student participants for interscholastic competition. (Exhibit B)

14. IHSA has the authority to bar individuals from coaching at member schools.

15. IHSA has the authority to bar students from participating in athletic events.

16. IHSA governs the qualifications of athletic coaches for member schools.

17. IHSA governs when member schools may organize their teams, scrimmage, or participate in interscholastic sport.

18. IHSA governs whether a member school may participate in interscholastic activities while teachers are on strike.

19. IHSA governs the details of physical examination of student athletes, including what licenses are required for the professionals conducting such examinations.

20. IHSA governs the use of performance enhancing drugs and nutritional supplements.

21. IHSA governs recruiting processes at member schools.

22. IHSA governs what form of awards student participants may receive.

23. IHSA governs whether student participants may compete against professionals, appear as models, accept expense reimbursement, engage in athletic fundraisers, compete as “all stars,” attend coaching schools, and myriad other aspects of student competition and training.

24. IHSA governs the extent to which schools may open their facilities for recreational activities to students or other persons who reside in or outside their district.

25. IHSA governs the extent to which cheerleading and other such “spirit” activities are allowed at member events.

26. In 2003, IHSA was sued for negligence and defamation by Frank Hood. *See Hood v. Ill. High School Assoc.*, 359 Ill.App.3d 1065 (2d Dist. 2005) (Exhibit C); IHSA Appellate Brief (Exhibit D)¹.

27. In response to the suit, IHSA moved to dismiss the complaint claiming the affirmative defense of immunity under the Local Government and Governmental Employees Tort Immunity Act (“Immunity Act”).

28. IHSA argued that it is a “local public entity” and “fits squarely within the definition of a local public entity” and therefore immune from suit based on “the character and association of its membership.”

¹ The notations in Exhibit D were contained in the copy obtained by BGA from the Illinois Appellate Court.

29. IHSA also argued that it was “organized for the purpose of conducting public business.”

30. IHSA further argued that it is a “state actor” and that “the overwhelmingly public character of the IHSA membership is sufficient to confer state action” under the federal due process clause.

31. IHSA stressed that public schools made up around 85% of IHSA’s membership, noting “the pervasive involvement of local governmental entities in the organization.”

32. IHSA still further argued: “Clearly, the United States Supreme Court believes that the IHSA, as an association of members located within the same state (most of which are public institutions created by the state) is a public entity.”

33. In describing the nature of its function as “conducting public business,” IHSA argued immunity applies to “entities created by local entities to carry out public business, a description which clearly fits IHSA.”

34. IHSA also argued: “Insofar as every resident of the State of Illinois is in a high school district, and the overwhelming majority of high school students in the state attend member schools . . . there can be little doubt that the business of the association is public business.”

35. IHSA further contended that “IHSA is an agency of the collective schools of the State, which are predominantly local governmental units,” and claimed that “the immunity that individual school districts enjoy should not be eviscerated simply because the immune entities chose to act collectively.”

36. IHSA still further argued that it “clearly” met the test set forth in the Illinois Supreme Court’s *Carroll* decision: “A not-for-profit organization involved in public business

will be deemed a governmental entity if it is 'tightly enmeshed with government either through direct governmental ownership or operational control by a unit of local government.'" IHSA argued that "not only do local governmental entities 'own' [IHSA], employees of the local entities control the IHSA's governing body."

37. IHSA's director similarly claimed that he was a "public employee" and therefore immune based on a provision of the Immunity Act, stating "a public employee serving in a position involving the determination of policy or the exercise of discretion is not liable for an injury resulting from his act or omission in determining policy when acting in the exercise of such discretion even though abused."

38. While the appellate court did not reach the relevant substance of IHSA's claim, instead deciding against IHSA on other grounds, IHSA is held to the litany of factual statements made in *Hood* that make clear IHSA is a public body under FOIA.

BGA'S FOIA REQUEST TO IHSA AND IHSA'S DENIAL

39. On June 5, 2014, BGA requested the following information from IHSA under FOIA: "[1.] Any and all IHSA contracts for accounting, legal, sponsorship and public relations/crisis communications services for the 2012-13 and 2013-14 fiscal years. This should include, but not be limited to, the IHSA's contracts with Home Team Marketing and Striegel Knobloch & Co. [2.] Any and all IHSA sponsorship contracts/agreements covering the 2012-13 and 2013-14 fiscal years. This should include, but not be limited to, contracts/agreements with Nike, Gatorade and Country Financial. [3.] Any and all licensed vendor applications . . . for companies licensed in the 2013-14 fiscal year." (Exhibit E)

40. IHSA denied BGA's request, stating: "We are a Bloomington based non-profit (501 c 3) that is not subject to FOIA." (Exhibit F)

BGA'S FOIA REQUEST TO DISTRICT 230 AND ITS DENIAL

41. On July 2, 2014, BGA requested under FOIA Section 7(2) from DISTRICT 230 the IHSA records that IHSA refused to produce. (Exhibit G)

42. Under FOIA Section 7(2): "A public record that is not in the possession of a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body, and that directly relates to the governmental function and is not otherwise exempt under this Act, shall be considered a public record of the public body, for purposes of this Act."

43. By its own admissions in *Hood* and the roles set forth in its by-laws, IHSA performs a governmental function on behalf of DISTRICT 230 and other public-school IHSA members.

44. In response to BGA's request, DISTRICT 230 stated that it had no responsive records. (Exhibit H)

45. BGA asked DISTRICT 230 to explain whether it sought records from IHSA pursuant to FOIA Section 7(2). (Exhibit I)

46. DISTRICT 230 responded that it did not seek the records from IHSA and contends that the records are not public records of DISTRICT 230. (Exhibit J)

COUNT I – IHSA'S VIOLATION OF FOIA

47. The above paragraphs are incorporated by reference.

48. IHSA is a public body under FOIA.

49. The records sought in BGA's June 5 FOIA request are non-exempt public records under FOIA.

50. IHSA has violated FOIA by failing to produce the requested records.

COUNT II – DISTRICT 230’S VIOLATION OF FOIA

51. The above paragraphs are incorporated by reference.
52. DISTRICT 230 is a public body under FOIA.
53. IHSA performs a governmental function on behalf of public high schools, including DISTRICT 230.
54. The records sought in BGA’s June 5 FOIA request are non-exempt public records of DISTRICT 230 under FOIA.
55. DISTRICT 230 has violated FOIA by failing to produce the requested records.

WHEREFORE, BGA asks that the Court:

- i. in accordance with FOIA Section 11(f), afford this case precedence on the Court’s docket except as to causes the Court considers to be of greater importance, assign this case for hearing and trial at the earliest practicable date, and expedite this case in every way;
- ii. declare that IHSA is a public body under FOIA;
- iii. declare that IHSA performs a governmental function on behalf of public high schools, including DISTRICT 230;
- iv. declare that IHSA violated FOIA by refusing to produce records in response to BGA’s June 5, 2014 FOIA request;
- v. order IHSA to produce the requested records under FOIA;
- vi. enjoin IHSA from withholding non-exempt public records under FOIA;
- vii. declare that DISTRICT 230 violated FOIA by refusing to produce records in response to BGA’s July 2, 2014 FOIA request;
- viii. order DISTRICT 230 to produce the requested records under FOIA;
- ix. enjoin DISTRICT 230 from withholding non-exempt public records under FOIA;
- x. award BGA reasonable attorneys’ fees and costs;
- xi. order IHSA to pay a civil penalty of between \$2500 and \$5000 for each willful and intentional violation of FOIA or other act of bad faith;

- xii. order DISTRICT 230 to pay a civil penalty of between \$2500 and \$5000 for each willful and intentional violation of FOIA or other act of bad faith;
- xiii. award such other relief the Court considers appropriate.

RESPECTFULLY SUBMITTED,



Attorneys for Plaintiff

BETTER GOVERNMENT ASSOCIATION

Matthew Topic
Julie Goodwin
LOEVY & LOEVY
312 North May St., Suite 100
Chicago, IL 60607
(312) 243-5900
matt@loevy.com
julie@loevy.com
Atty. No. 41295

Form **990**

OMB No 1545 0047

Return of Organization Exempt From Income Tax**2012**Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code
(except black lung benefit trust or private foundation)**Open to Public Inspection**Department of the Treasury
Internal Revenue Service

▶ The organization may have to use a copy of this return to satisfy state reporting requirements.

A For the 2012 calendar year, or tax year beginning 7/01 , 2012, and ending 6/30 , 2013	
B Check if applicable: <input type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Terminated <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	C Illinois High School Association 2715 McGraw Drive Bloomington, IL 61704 F Name and address of principal officer: Martin Hickman Same As C Above
D Employer Identification Number: 36-6001358 E Telephone number: (309) 663-6377 G Gross receipts \$ 10,871,209.	
H(a) Is this a group return for affiliates? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No H(b) Are all affiliates included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If 'No,' attach a list (see instructions) H(c) Group exemption number ▶	
I Tax-exempt status: <input checked="" type="checkbox"/> 501(c)(3) <input type="checkbox"/> 501(c) () (insert no) <input type="checkbox"/> 4947(a)(1) or <input type="checkbox"/> 527 J Website: ▶ WWW.IHSA.ORG	
K Form of organization: <input type="checkbox"/> Corporation <input type="checkbox"/> Trust <input checked="" type="checkbox"/> Association <input type="checkbox"/> Other ▶ L Year of Formation 1940 M State of legal domicile IL	

Part I Summary																									
Activities & Governance	1 Briefly describe the organization's mission or most significant activities: <u>The IHSA governs the equitable participation in interscholastic athletics and activities that enrich the educational experience. The purpose of the IHSA is to provide leadership for the development, supervision and promotion of good sportsmanship in interscholastic</u> 2 Check this box <input type="checkbox"/> if the organization discontinued its operations or disposed of more than 25% of its net assets 3 Number of voting members of the governing body (Part VI, line 1a) 3 11 4 Number of independent voting members of the governing body (Part VI, line 1b) 4 0 5 Total number of individuals employed in calendar year 2012 (Part V, line 2a) 5 28 6 Total number of volunteers (estimate if necessary) 6 0 7a Total unrelated business revenue from Part VIII, column (C), line 12 7a 0. 7b Net unrelated business taxable income from Form 990-T, line 34 7b 0.																								
Revenue	<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>Prior Year</th> <th>Current Year</th> </tr> </thead> <tbody> <tr> <td>8 Contributions and grants (Part VIII, line 1h)</td> <td>353,842.</td> <td>346,996.</td> </tr> <tr> <td>9 Program service revenue (Part VIII, line 2g)</td> <td>9,620,520.</td> <td>9,420,430.</td> </tr> <tr> <td>10 Investment income (Part VIII, column (A), lines 3, 4, and 7d)</td> <td>46,274.</td> <td>64,077.</td> </tr> <tr> <td>11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)</td> <td>882,194.</td> <td>1,039,706.</td> </tr> <tr> <td>12 Total revenue - add lines 8 through 11 (must equal Part VIII, column (A), line 12)</td> <td>10,902,830.</td> <td>10,871,209.</td> </tr> </tbody> </table>		Prior Year	Current Year	8 Contributions and grants (Part VIII, line 1h)	353,842.	346,996.	9 Program service revenue (Part VIII, line 2g)	9,620,520.	9,420,430.	10 Investment income (Part VIII, column (A), lines 3, 4, and 7d)	46,274.	64,077.	11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	882,194.	1,039,706.	12 Total revenue - add lines 8 through 11 (must equal Part VIII, column (A), line 12)	10,902,830.	10,871,209.						
	Prior Year	Current Year																							
8 Contributions and grants (Part VIII, line 1h)	353,842.	346,996.																							
9 Program service revenue (Part VIII, line 2g)	9,620,520.	9,420,430.																							
10 Investment income (Part VIII, column (A), lines 3, 4, and 7d)	46,274.	64,077.																							
11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	882,194.	1,039,706.																							
12 Total revenue - add lines 8 through 11 (must equal Part VIII, column (A), line 12)	10,902,830.	10,871,209.																							
Expenses	<table border="1" style="width:100%; border-collapse: collapse;"> <tbody> <tr> <td>13 Grants and similar amounts paid (Part IX, column (A), lines 1-3)</td> <td></td> <td></td> </tr> <tr> <td>14 Benefits paid to or for members (Part IX, column (A), line 4)</td> <td></td> <td></td> </tr> <tr> <td>15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)</td> <td>2,541,323.</td> <td>3,076,721.</td> </tr> <tr> <td>16a Professional fundraising fees (Part IX, column (A), line 11e)</td> <td></td> <td></td> </tr> <tr> <td>b Total fundraising expenses (Part IX, column (D), line 25) ▶</td> <td></td> <td></td> </tr> <tr> <td>17 Other expenses (Part IX, column (A), lines 11a-11d, 11f-24e)</td> <td>8,342,913.</td> <td>8,435,809.</td> </tr> <tr> <td>18 Total expenses Add lines 13-17 (must equal Part IX, column (A), line 25)</td> <td>10,884,236.</td> <td>11,512,530.</td> </tr> <tr> <td>19 Revenue less expenses Subtract line 18 from line 12</td> <td>18,594.</td> <td>-641,321.</td> </tr> </tbody> </table>	13 Grants and similar amounts paid (Part IX, column (A), lines 1-3)			14 Benefits paid to or for members (Part IX, column (A), line 4)			15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)	2,541,323.	3,076,721.	16a Professional fundraising fees (Part IX, column (A), line 11e)			b Total fundraising expenses (Part IX, column (D), line 25) ▶			17 Other expenses (Part IX, column (A), lines 11a-11d, 11f-24e)	8,342,913.	8,435,809.	18 Total expenses Add lines 13-17 (must equal Part IX, column (A), line 25)	10,884,236.	11,512,530.	19 Revenue less expenses Subtract line 18 from line 12	18,594.	-641,321.
13 Grants and similar amounts paid (Part IX, column (A), lines 1-3)																									
14 Benefits paid to or for members (Part IX, column (A), line 4)																									
15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)	2,541,323.	3,076,721.																							
16a Professional fundraising fees (Part IX, column (A), line 11e)																									
b Total fundraising expenses (Part IX, column (D), line 25) ▶																									
17 Other expenses (Part IX, column (A), lines 11a-11d, 11f-24e)	8,342,913.	8,435,809.																							
18 Total expenses Add lines 13-17 (must equal Part IX, column (A), line 25)	10,884,236.	11,512,530.																							
19 Revenue less expenses Subtract line 18 from line 12	18,594.	-641,321.																							
Not Assets or Fund Balances	<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>Beginning of Current Year</th> <th>End of Year</th> </tr> </thead> <tbody> <tr> <td>20 Total assets (Part X, line 16)</td> <td>6,389,509.</td> <td>6,619,664.</td> </tr> <tr> <td>21 Total liabilities (Part X, line 26)</td> <td>6,157,183.</td> <td>4,977,135.</td> </tr> <tr> <td>22 Net assets or fund balances Subtract line 21 from line 20</td> <td>232,326.</td> <td>1,642,529.</td> </tr> </tbody> </table>		Beginning of Current Year	End of Year	20 Total assets (Part X, line 16)	6,389,509.	6,619,664.	21 Total liabilities (Part X, line 26)	6,157,183.	4,977,135.	22 Net assets or fund balances Subtract line 21 from line 20	232,326.	1,642,529.												
	Beginning of Current Year	End of Year																							
20 Total assets (Part X, line 16)	6,389,509.	6,619,664.																							
21 Total liabilities (Part X, line 26)	6,157,183.	4,977,135.																							
22 Net assets or fund balances Subtract line 21 from line 20	232,326.	1,642,529.																							

Part II Signature Block																
Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.																
Sign Here	Signature of officer: <u>Martin Hickman</u> Date: _____ Type or print name and title: Martin Hickman Executive Dir.															
Paid Preparer Use Only	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td>Print/Type preparer's name: John J. Belletete</td> <td>Preparer's signature: <u>[Signature]</u></td> <td>Date: 12/06/13</td> <td>Check <input type="checkbox"/> if self-employed</td> <td>PTIN: P00950749</td> </tr> <tr> <td>Firm's name: ▶ Striegel Knobloch & Company, LLC, CPA's</td> <td colspan="4">Firm's EIN ▶ 37-1122831</td> </tr> <tr> <td>Firm's address: ▶ 115 W Jefferson Suite 200 Bloomington, IL 61701-3946</td> <td colspan="4">Phone no (309) 829-4303</td> </tr> </table>	Print/Type preparer's name: John J. Belletete	Preparer's signature: <u>[Signature]</u>	Date: 12/06/13	Check <input type="checkbox"/> if self-employed	PTIN: P00950749	Firm's name: ▶ Striegel Knobloch & Company, LLC, CPA's	Firm's EIN ▶ 37-1122831				Firm's address: ▶ 115 W Jefferson Suite 200 Bloomington, IL 61701-3946	Phone no (309) 829-4303			
Print/Type preparer's name: John J. Belletete	Preparer's signature: <u>[Signature]</u>	Date: 12/06/13	Check <input type="checkbox"/> if self-employed	PTIN: P00950749												
Firm's name: ▶ Striegel Knobloch & Company, LLC, CPA's	Firm's EIN ▶ 37-1122831															
Firm's address: ▶ 115 W Jefferson Suite 200 Bloomington, IL 61701-3946	Phone no (309) 829-4303															

May the IRS discuss this return with the preparer shown above? (see instructions) ☒ Yes ☐ No**BAA For Paperwork Reduction Act Notice, see the separate instructions.**

TEEA0113L 12/18/12

Form **990** (2012) 21

917

EXHIBIT A

Part III Statement of Program Service Accomplishments

Check if Schedule O contains a response to any question in this Part III

☒ X**1** Briefly describe the organization's mission:See Schedule O**2** Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ?☐ Yes ☒ No

If 'Yes,' describe these new services on Schedule O

3 Did the organization cease conducting, or make significant changes in how it conducts, any program services?☐ Yes ☒ No

If 'Yes,' describe these changes on Schedule O

4 Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses. Section 501(c)(3) and 501(c)(4) organizations and section 4947(a)(1) trusts are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported.**4a** (Code _____) (Expenses \$ 7,159,220. including grants of \$ _____) (Revenue \$ 9,420,430.)The promotion of high school tournaments, contests, and interscholastic competitions for its 797 member high schools.**4b** (Code _____) (Expenses \$ _____ including grants of \$ _____) (Revenue \$ _____)**4c** (Code _____) (Expenses \$ _____ including grants of \$ _____) (Revenue \$ _____)**4d** Other program services (Describe in Schedule O)

(Expenses \$ _____ including grants of \$ _____) (Revenue \$ _____)

4e Total program service expenses **▶** 7,159,220.

Part IV Checklist of Required Schedules

	Yes	No
1 Is the organization described in section 501(c)(3) or 4947(a)(1) (other than a private foundation)? If 'Yes,' complete Schedule A	X	
2 Is the organization required to complete Schedule B, Schedule of Contributors (see instructions)?	X	
3 Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office? If 'Yes,' complete Schedule C, Part I		X
4 Section 501(c)(3) organizations Did the organization engage in lobbying activities, or have a section 501(h) election in effect during the tax year? If 'Yes,' complete Schedule C, Part II		X
5 Is the organization a section 501(c)(4), 501(c)(5), or 501(c)(6) organization that receives membership dues, assessments, or similar amounts as defined in Revenue Procedure 98-19? If 'Yes,' complete Schedule C, Part III		X
6 Did the organization maintain any donor advised funds or any similar funds or accounts for which donors have the right to provide advice on the distribution or investment of amounts in such funds or accounts? If 'Yes,' complete Schedule D, Part I		X
7 Did the organization receive or hold a conservation easement, including easements to preserve open space, the environment, historic land areas or historic structures? If 'Yes,' complete Schedule D, Part II		X
8 Did the organization maintain collections of works of art, historical treasures, or other similar assets? If 'Yes,' complete Schedule D, Part III		X
9 Did the organization report an amount in Part X, line 21, for escrow or custodial account liability, serve as a custodian for amounts not listed in Part X, or provide credit counseling, debt management credit repair, or debt negotiation services? If 'Yes,' complete Schedule D, Part IV		X
10 Did the organization, directly or through a related organization, hold assets in temporarily restricted endowments, permanent endowments, or quasi-endowments? If 'Yes,' complete Schedule D, Part V		X
11 If the organization's answer to any of the following questions is 'Yes,' then complete Schedule D, Parts VI, VII, VIII, IX, or X as applicable		
a Did the organization report an amount for land, buildings and equipment in Part X, line 10? If 'Yes,' complete Schedule D, Part VI	X	
b Did the organization report an amount for investments — other securities in Part X, line 12 that is 5% or more of its total assets reported in Part X, line 16? If 'Yes,' complete Schedule D, Part VII		X
c Did the organization report an amount for investments — program related in Part X, line 13 that is 5% or more of its total assets reported in Part X, line 16? If 'Yes,' complete Schedule D, Part VIII		X
d Did the organization report an amount for other assets in Part X, line 15 that is 5% or more of its total assets reported in Part X, line 16? If 'Yes,' complete Schedule D, Part IX		X
e Did the organization report an amount for other liabilities in Part X, line 25? If 'Yes,' complete Schedule D, Part X	X	
f Did the organization's separate or consolidated financial statements for the tax year include a footnote that addresses the organization's liability for uncertain tax positions under FIN 48 (ASC 740)? If 'Yes,' complete Schedule D, Part X	X	
12a Did the organization obtain separate, independent audited financial statements for the tax year? If 'Yes,' complete Schedule D, Parts XI, and XII	X	
b Was the organization included in consolidated, independent audited financial statements for the tax year? If 'Yes,' and if the organization answered 'No' to line 12a, then completing Schedule D, Parts XI and XII is optional		X
13 Is the organization a school described in section 170(b)(1)(A)(ii)? If 'Yes,' complete Schedule E		X
14a Did the organization maintain an office, employees, or agents outside of the United States?		X
b Did the organization have aggregate revenues or expenses of more than \$10,000 from grantmaking, fundraising, business, investment, and program service activities outside the United States, or aggregate foreign investments valued at \$100,000 or more? If 'Yes,' complete Schedule F, Parts I and IV		X
15 Did the organization report on Part IX, column (A), line 3, more than \$5,000 of grants or assistance to any organization or entity located outside the United States? If 'Yes,' complete Schedule F, Parts II and IV		X
16 Did the organization report on Part IX, column (A), line 3, more than \$5,000 of aggregate grants or assistance to individuals located outside the United States? If 'Yes,' complete Schedule F, Parts III and IV		X
17 Did the organization report a total of more than \$15,000 of expenses for professional fundraising services on Part IX, column (A), lines 6 and 11e? If 'Yes,' complete Schedule G, Part I (see instructions)		X
18 Did the organization report more than \$15,000 total of fundraising event gross income and contributions on Part VIII, lines 1c and 8a? If 'Yes,' complete Schedule G, Part II		X
19 Did the organization report more than \$15,000 of gross income from gaming activities on Part VIII, line 9a? If 'Yes,' complete Schedule G, Part III		X
20a Did the organization operate one or more hospital facilities? If 'Yes,' complete Schedule H		X
b If 'Yes' to line 20a, did the organization attach a copy of its audited financial statements to this return?		

Part IV Checklist of Required Schedules (continued)

	Yes	No
21 Did the organization report more than \$5,000 of grants and other assistance to governments and organizations in the United States on Part IX, column (A), line 1? <i>If 'Yes,' complete Schedule I, Parts I and II</i>		X
22 Did the organization report more than \$5,000 of grants and other assistance to individuals in the United States on Part IX, column (A), line 2? <i>If 'Yes,' complete Schedule I, Parts I and III</i>		X
23 Did the organization answer 'Yes' to Part VII, Section A, line 3, 4, or 5 about compensation of the organization's current and former officers, directors, trustees, key employees, and highest compensated employees? <i>If 'Yes,' complete Schedule J</i>	X	
24a Did the organization have a tax-exempt bond issue with an outstanding principal amount of more than \$100,000 as of the last day of the year, and that was issued after December 31, 2002? <i>If 'Yes,' answer lines 24b through 24d and complete Schedule K. If 'No,' go to line 25</i>		X
24b Did the organization invest any proceeds of tax-exempt bonds beyond a temporary period exception?		
24c Did the organization maintain an escrow account other than a refunding escrow at any time during the year to defease any tax-exempt bonds?		
24d Did the organization act as an 'on behalf of' issuer for bonds outstanding at any time during the year?		
25a Section 501(c)(3) and 501(c)(4) organizations. Did the organization engage in an excess benefit transaction with a disqualified person during the year? <i>If 'Yes,' complete Schedule L, Part I</i>		X
25b Is the organization aware that it engaged in an excess benefit transaction with a disqualified person in a prior year, and that the transaction has not been reported on any of the organization's prior Forms 990 or 990-EZ? <i>If 'Yes,' complete Schedule L, Part I</i>		X
26 Was a loan to or by a current or former officer, director, trustee, key employee, highest compensated employee, or disqualified person outstanding as of the end of the organization's tax year? <i>If 'Yes,' complete Schedule L, Part II</i>		X
27 Did the organization provide a grant or other assistance to an officer, director, trustee, key employee, substantial contributor or employee thereof, a grant selection committee member, or to a 35% controlled entity or family member of any of these persons? <i>If 'Yes,' complete Schedule L, Part III</i>		X
28 Was the organization a party to a business transaction with one of the following parties (see Schedule L, Part IV instructions for applicable filing thresholds, conditions, and exceptions)		
28a A current or former officer, director, trustee, or key employee? <i>If 'Yes,' complete Schedule L, Part IV</i>		X
28b A family member of a current or former officer, director, trustee, or key employee? <i>If 'Yes,' complete Schedule L, Part IV</i>		X
28c An entity of which a current or former officer, director, trustee, or key employee (or a family member thereof) was an officer, director, trustee, or direct or indirect owner? <i>If 'Yes,' complete Schedule L, Part IV</i>		X
29 Did the organization receive more than \$25,000 in non-cash contributions? <i>If 'Yes,' complete Schedule M</i>		X
30 Did the organization receive contributions of art, historical treasures, or other similar assets, or qualified conservation contributions? <i>If 'Yes,' complete Schedule M</i>		X
31 Did the organization liquidate, terminate, or dissolve and cease operations? <i>If 'Yes,' complete Schedule N, Part I</i>		X
32 Did the organization sell, exchange, dispose of, or transfer more than 25% of its net assets? <i>If 'Yes,' complete Schedule N, Part II</i>		X
33 Did the organization own 100% of an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3? <i>If 'Yes,' complete Schedule R, Part I</i>		X
34 Was the organization related to any tax-exempt or taxable entity? <i>If 'Yes,' complete Schedule R, Parts II, III, IV, and V, line 1</i>	X	
35a Did the organization have a controlled entity within the meaning of section 512(b)(13)?		X
35b If 'Yes' to line 35a, did the organization receive any payment from or engage in any transaction with a controlled entity within the meaning of section 512(b)(13)? <i>If 'Yes,' complete Schedule R, Part V, line 2</i>		
36 Section 501(c)(3) organizations. Did the organization make any transfers to an exempt non-charitable related organization? <i>If 'Yes,' complete Schedule R, Part V, line 2</i>		X
37 Did the organization conduct more than 5% of its activities through an entity that is not a related organization and that is treated as a partnership for federal income tax purposes? <i>If 'Yes,' complete Schedule R, Part VI</i>		X
38 Did the organization complete Schedule O and provide explanations in Schedule O for Part VI, lines 11b and 19? Note. All Form 990 filers are required to complete Schedule O	X	

BAA

Form 990 (2012)

Part V Statements Regarding Other IRS Filings and Tax ComplianceCheck if Schedule O contains a response to any question in this Part V ☐

		Yes	No
1 a	Enter the number reported in Box 3 of Form 1096. Enter -0- if not applicable.	56	
1 b	Enter the number of Forms W-2G included in line 1a. Enter -0- if not applicable.	0	
1 c	Did the organization comply with backup withholding rules for reportable payments to vendors and reportable gaming (gambling) winnings to prize winners?	X	
2 a	Enter the number of employees reported on Form W-3, Transmittal of Wage and Tax Statements, filed for the calendar year ending with or within the year covered by this return.	28	
2 b	If at least one is reported on line 2a, did the organization file all required federal employment tax returns? Note. If the sum of lines 1a and 2a is greater than 250, you may be required to e-file. (see instructions)	X	
3 a	Did the organization have unrelated business gross income of \$1,000 or more during the year?		X
3 b	If 'Yes' has it filed a Form 990-T for this year? If 'No,' provide an explanation in Schedule O		
4 a	At any time during the calendar year, did the organization have an interest in, or a signature or other authority over, a financial account in a foreign country (such as a bank account, securities account, or other financial account)? If 'Yes,' enter the name of the foreign country: See instructions for filing requirements for Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts.		X
5 a	Was the organization a party to a prohibited tax shelter transaction at any time during the tax year?		X
5 b	Did any taxable party notify the organization that it was or is a party to a prohibited tax shelter transaction?		X
5 c	If 'Yes,' to line 5a or 5b, did the organization file Form 8886-T?		
6 a	Does the organization have annual gross receipts that are normally greater than \$100,000, and did the organization solicit any contributions that were not tax deductible as charitable contributions?		X
6 b	If 'Yes,' did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?		
7	Organizations that may receive deductible contributions under section 170(c).		
7 a	Did the organization receive a payment in excess of \$75 made partly as a contribution and partly for goods and services provided to the payor?		X
7 b	If 'Yes,' did the organization notify the donor of the value of the goods or services provided?		
7 c	Did the organization sell, exchange, or otherwise dispose of tangible personal property for which it was required to file Form 8282?		X
7 d	If 'Yes,' indicate the number of Forms 8282 filed during the year		
7 e	Did the organization receive any funds, directly or indirectly, to pay premiums on a personal benefit contract?		X
7 f	Did the organization, during the year, pay premiums, directly or indirectly, on a personal benefit contract?		X
7 g	If the organization received a contribution of qualified intellectual property, did the organization file Form 8899 as required?		
7 h	If the organization received a contribution of cars, boats, airplanes, or other vehicles, did the organization file a Form 1098-C?		
8	Sponsoring organizations maintaining donor advised funds and section 509(a)(3) supporting organizations. Did the supporting organization, or a donor advised fund maintained by a sponsoring organization, have excess business holdings at any time during the year?		
9	Sponsoring organizations maintaining donor advised funds.		
9 a	Did the organization make any taxable distributions under section 4966?		
9 b	Did the organization make a distribution to a donor, donor advisor, or related person?		
10	Section 501(c)(7) organizations. Enter		
10 a	Initiation fees and capital contributions included on Part VIII, line 12		
10 b	Gross receipts, included on Form 990, Part VIII, line 12, for public use of club facilities		
11	Section 501(c)(12) organizations. Enter		
11 a	Gross income from members or shareholders		
11 b	Gross income from other sources (Do not net amounts due or paid to other sources against amounts due or received from them)		
12 a	Section 4947(a)(1) non-exempt charitable trusts. Is the organization filing Form 990 in lieu of Form 1041?		
12 b	If 'Yes,' enter the amount of tax-exempt interest received or accrued during the year		
13	Section 501(c)(29) qualified nonprofit health insurance issuers.		
13 a	Is the organization licensed to issue qualified health plans in more than one state? Note. See the instructions for additional information the organization must report on Schedule O		
13 b	Enter the amount of reserves the organization is required to maintain by the states in which the organization is licensed to issue qualified health plans		
13 c	Enter the amount of reserves on hand		
14 a	Did the organization receive any payments for indoor tanning services during the tax year?		X
14 b	If 'Yes,' has it filed a Form 720 to report these payments? If 'No,' provide an explanation in Schedule O		

Part VI Governance, Management and Disclosure For each 'Yes' response to lines 2 through 7b below, and for a 'No' response to line 8a, 8b, or 10b below, describe the circumstances, processes, or changes in Schedule O. See instructions.

Check if Schedule O contains a response to any question in this Part VI ☒

Section A. Governing Body and Management

	Yes	No
1 a Enter the number of voting members of the governing body at the end of the tax year. If there are material differences in voting rights among members of the governing body, or if the governing body delegated broad authority to an executive committee or similar committee, explain in Schedule O	11	
1 b Enter the number of voting members included in line 1a, above, who are independent		
2 Did any officer, director, trustee, or key employee have a family relationship or a business relationship with any other officer, director, trustee or key employee?		X
3 Did the organization delegate control over management duties customarily performed by or under the direct supervision of officers, directors or trustees, or key employees to a management company or other person?		X
4 Did the organization make any significant changes to its governing documents since the prior Form 990 was filed?		X
5 Did the organization become aware during the year of a significant diversion of the organization's assets?		X
6 Did the organization have members or stockholders?		X
7 a Did the organization have members, stockholders, or other persons who had the power to elect or appoint one or more members of the governing body?		X
7 b Are any governance decisions of the organization reserved to (or subject to approval by) members, stockholders, or other persons other than the governing body?		X
8 Did the organization contemporaneously document the meetings held or written actions undertaken during the year by the following:		
a The governing body?	X	
b Each committee with authority to act on behalf of the governing body?	X	
9 Is there any officer, director or trustee, or key employee listed in Part VII, Section A, who cannot be reached at the organization's mailing address? If 'Yes,' provide the names and addresses in Schedule O		X

Section B. Policies (This Section B requests information about policies not required by the Internal Revenue Code.)

	Yes	No
10 a Did the organization have local chapters, branches, or affiliates?		X
10 b If 'Yes,' did the organization have written policies and procedures governing the activities of such chapters, affiliates, and branches to ensure their operations are consistent with the organization's exempt purposes?		
11 a Has the organization provided a complete copy of this Form 990 to all members of its governing body before filing the form?	X	
11 b Describe in Schedule O the process, if any, used by the organization to review this Form 990. See Schedule O		
12 a Did the organization have a written conflict of interest policy? If 'No,' go to line 13	X	
12 b Were officers, directors or trustees, and key employees required to disclose annually interests that could give rise to conflicts?	X	
12 c Did the organization regularly and consistently monitor and enforce compliance with the policy? If 'Yes,' describe in Schedule O how this is done. See Schedule O	X	
13 Did the organization have a written whistleblower policy?	X	
14 Did the organization have a written document retention and destruction policy?	X	
15 Did the process for determining compensation of the following persons include a review and approval by independent persons, comparability data, and contemporaneous substantiation of the deliberation and decision?		
a The organization's CEO, Executive Director, or top management official		X
b Other officers of key employees of the organization		X
If 'Yes' to line 15a or 15b, describe the process in Schedule O. (See instructions.)		
16 a Did the organization invest in, contribute assets to, or participate in a joint venture or similar arrangement with a taxable entity during the year?		X
16 b If 'Yes,' did the organization follow a written policy or procedure requiring the organization to evaluate its participation in joint venture arrangements under applicable federal tax law, and taken steps to safeguard the organization's exempt status with respect to such arrangements?		

Section C. Disclosure

17 List the states with which a copy of this Form 990 is required to be filed ▶ IL

18 Section 6104 requires an organization to make its Forms 1023 (or 1024 if applicable), 990, and 990-T (501(c)(3)s only) available for public inspection. Indicate how you make these available. Check all that apply.
☐ Own website ☐ Another's website ☒ Upon request ☐ Other (explain in Schedule O)

19 Describe in Schedule O whether (and if so, how) the organization makes its governing documents, conflict of interest policy, and financial statements available to the public during the tax year. See Schedule O

20 State the name, physical address, and telephone number of the person who possesses the books and records of the organization
 ▶ Martin L. Hickman 2715 McGraw Bloomington IL 61704 309-663-6377

BAA

TEEA0106L 08/08/12

Form 990 (2012)

Part VII Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent ContractorsCheck if Schedule O contains a response to any question in this Part VII ☐**Section A. Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees****1 a** Complete this table for all persons required to be listed. Report compensation for the calendar year ending with or within the organization's tax year.

- List all of the organization's **current** officers, directors, trustees (whether individuals or organizations), regardless of amount of compensation. Enter -0- in columns (D), (E), and (F) if no compensation was paid.

- List all of the organization's **current** key employees, if any. See instructions for definition of 'key employee.'

- List the organization's five **current** highest compensated employees (other than an officer, director, trustee, or key employee) who received reportable compensation (Box 5 of Form W-2 and/or Box 7 of Form 1099-MISC) of more than \$100,000 from the organization and any related organizations.

- List all of the organization's **former** officers, key employees, and highest compensated employees who received more than \$100,000 of reportable compensation from the organization and any related organizations.

- List all of the organization's **former directors or trustees** that received, in the capacity as a former director or trustee of the organization, more than \$10,000 of reportable compensation from the organization and any related organizations.

List persons in the following order: individual trustees or directors; institutional trustees; officers; key employees; highest compensated employees; and former such persons.

☐ Check this box if neither the organization nor any related organization compensated any current officer, director, or trustee

(A) Name and Title	(B) Average hours per week (list any hours for related organizations below dotted line)	(C) Position (do not check more than one box, unless person is both an officer and a director/trustee)						(D) Reportable compensation from the organization (W-2/1099-MISC)	(E) Reportable compensation from related organizations (W-2/1099-MISC)	(F) Estimated amount of other compensation from the organization and related organizations
		Individual trustee or director	Institutional trustee	Officer	Key employee	Highest compensated employee	Former			
(1) Dan Klett President	2 0	X						0.	0.	0.
(2) Chuck Nagel Vice President	2 0	X						0.	0.	0.
(3) Jim Quaid Secretary	2 0	X						0.	0.	0.
(4) Greg Bradley Treasurer	2 0	X						0.	0.	0.
(5) John Stimler Director	2 0	X						0.	0.	0.
(6) Robert Nolting Director	2 0	X						0.	0.	0.
(7) Tim McConnell Director	2 0	X						0.	0.	0.
(8) Scott Adreon Director	2 0	X						0.	0.	0.
(9) B. Kent Jones Director	2 0	X						0.	0.	0.
(10) Debra Pritts Director	2 0	X						0.	0.	0.
(11) Jeanette Nuckolls Director	2 0	X						0.	0.	0.
(12) Martin Hickman Executive Dir.	40 0			X				204,840.	0.	16,528.
(13) Beth Sauser Asst Exec Dir	40 0			X				96,535.	0.	22,295.
(14) Matt Troha Asst Exec Dir	40 0			X				69,546.	0.	20,269.

Part VII Section A. Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees (cont)

(A) Name and title	(B) Average hours per week (list any hours for related organizations below dotted line)	(C) Position (do not check more than one box, unless person is both an officer and a director/trustee)						(D) Reportable compensation from the organization (W-2/1099-MISC)	(E) Reportable compensation from related organizations (W-2/1099-MISC)	(F) Estimated amount of other compensation from the organization and related organizations
		Individual trustee or director	Institutional trustee	Officer	Key employee	Highest compensated employee	Former			
(15) M. Scott Johnson Asst Exec Dir	40 0			X				108,744.	0.	18,460.
(16) Kurt Gibson Asst Exec Dir	40 0			X				111,184.	0.	23,317.
(17) Ronald McGraw Asst Exec Dir	40 0			X				108,452.	0.	22,795.
(18) Craig Anderson Asst Exec Dir	40 0			X				94,485.	0.	22,157.
(19) Stacey Lambert Asst Exec Dir	40 0			X				63,699.	0.	14,590.
(20) Susan Knoblauch Asst Exec Dir	40 0			X				91,285.	0.	21,608.
(21) Tracie Henry Asst Exec Dir	40 0			X				58,210.	0.	14,970.
(22) _____	_____									
(23) _____	_____									
(24) _____	_____									
(25) _____	_____									
1 b Sub-total								1,006,980.	0.	196,989.
c Total from continuation sheets to Part VII, Section A								0.	0.	0.
d Total (add lines 1b and 1c)								1,006,980.	0.	196,989.

2 Total number of individuals (including but not limited to those listed above) who received more than \$100,000 of reportable compensation from the organization **4**

3 Did the organization list any **former** officer, director or trustee, key employee, or highest compensated employee on line 1a? If 'Yes,' complete Schedule J for such individual

	Yes	No
3	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4 For any individual listed on line 1a, is the sum of reportable compensation and other compensation from the organization and related organizations greater than \$150,000? If 'Yes,' complete Schedule J for such individual

5 Did any person listed on line 1a receive or accrue compensation from any unrelated organization or individual for services rendered to the organization? If 'Yes,' complete Schedule J for such person

Section B. Independent Contractors

1 Complete this table for your five highest compensated independent contractors that received more than \$100,000 of compensation from the organization. Report compensation for the calendar year ending with or within the organization's tax year

(A) Name and business address	(B) Description of services	(C) Compensation

2 Total number of independent contractors (including but not limited to those listed above) who received more than \$100,000 in compensation from the organization **0**

Part VIII Statement of RevenueCheck if Schedule O contains a response to any question in this Part VIII ☐

		(A) Total revenue	(B) Related or exempt function revenue	(C) Unrelated business revenue	(D) Revenue excluded from tax under sections 512, 513, or 514
CONTRIBUTIONS, GIFTS, GRANTS AND OTHER SIMILAR AMOUNTS	1 a Federated campaigns	1 a			
	b Membership dues	1 b			
	c Fundraising events	1 c			
	d Related organizations	1 d			
	e Government grants (contributions)	1 e			
	f All other contributions, gifts, grants, and similar amounts not included above	1 f	346,996.		
	g Noncash contributions included in lns 1a-1f: \$				
	h Total. Add lines 1a-1f		346,996.		
PROGRAM SERVICE REVENUE	Business Code				
	2 a Athletic Tournaments		7,676,655.	7,676,655.	
	b Athletic Officials		843,684.	843,684.	
	c Contests		540,247.	540,247.	
	d Souvenir Income		216,358.	216,358.	
	e Sale of Programs		127,391.	127,391.	
	f All other program service revenue	WKS	16,095.	16,095.	
	g Total. Add lines 2a-2f		9,420,430.		
OTHER REVENUE	3 Investment income (including dividends, interest and other similar amounts)		64,077.	64,077.	
	4 Income from investment of tax-exempt bond proceeds				
	5 Royalties				
	6 a Gross rents	(i) Real (ii) Personal			
	b Less rental expenses				
	c Rental income or (loss)				
	d Net rental income or (loss)				
	7 a Gross amount from sales of assets other than inventory	(i) Securities (ii) Other			
	b Less cost or other basis and sales expenses				
	c Gain or (loss)				
	d Net gain or (loss)				
	8 a Gross income from fundraising events (not including \$ of contributions reported on line 1c) See Part IV, line 18	a			
	b Less direct expenses	b			
	c Net income or (loss) from fundraising events				
	9 a Gross income from gaming activities See Part IV, line 19	a			
	b Less direct expenses	b			
	c Net income or (loss) from gaming activities				
	10 a Gross sales of inventory, less returns and allowances	a			
b Less cost of goods sold	b				
c Net income or (loss) from sales of inventory					
Miscellaneous Revenue		Business Code			
11 a Special Events	900099	309,905.	309,905.		
b Royalty Income	900099	300,637.	300,637.		
c TV/Internet	900099	300,000.	300,000.		
d All other revenue	WKS	129,164.	129,164.		
e Total. Add lines 11a-11d		1,039,706.			
12 Total revenue. See instructions		10,871,209.	10,524,213.	0.	0.

BAA

TEEA0109L 12/17/12

Form 990 (2012)

Part IX Statement of Functional Expenses

Section 501(c)(3) and 501(c)(4) organizations must complete all columns. All other organizations must complete column (A).

Check if Schedule O contains a response to any question in this Part IX

☒ X

Do not include amounts reported on lines 6b, 7b, 8b, 9b, and 10b of Part VIII	(A) Total expenses	(B) Program service expenses	(C) Management and general expenses	(D) Fundraising expenses
1 Grants and other assistance to governments and organizations in the United States. See Part IV, line 21				
2 Grants and other assistance to individuals in the United States. See Part IV, line 22				
3 Grants and other assistance to governments, organizations, and individuals outside the United States. See Part IV, lines 15 and 16				
4 Benefits paid to or for members				
5 Compensation of current officers, directors, trustees, and key employees	1,203,969.	0.	1,203,969.	0.
6 Compensation not included above, to disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B)	0.	0.	0.	0.
7 Other salaries and wages	574,365.		574,365.	
8 Pension plan accruals and contributions (include section 401(k) and section 403(b) employer contributions)	1,298,387.		1,298,387.	
9 Other employee benefits				
10 Payroll taxes				
11 Fees for services (non-employees):				
a Management				
b Legal	129,073.		129,073.	
c Accounting	18,067.		18,067.	
d Lobbying				
e Professional fundraising services. See Part IV, line 17				
f Investment management fees				
g Other (If line 11g amt exceeds 10% of line 25, column (A) amt, list line 11g expenses on Sch O)				
12 Advertising and promotion				
13 Office expenses	95,874.		95,874.	
14 Information technology				
15 Royalties				
16 Occupancy				
17 Travel	22,702.		22,702.	
18 Payments of travel or entertainment expenses for any federal, state, or local public officials				
19 Conferences, conventions, and meetings	50,881.		50,881.	
20 Interest				
21 Payments to affiliates				
22 Depreciation, depletion, and amortization	115,059.		115,059.	
23 Insurance	454,782.		454,782.	
24 Other expenses. Itemize expenses not covered above (List miscellaneous expenses in line 24e. If line 24e amount exceeds 10% of line 25, column (A) amount, list line 24e expenses on Schedule O.)				
a <u>Athletic Tournaments</u>	5,066,747.	5,066,747.		
b <u>Contests</u>	654,772.	654,772.		
c <u>Athletic Officials</u>	312,055.	312,055.		
d <u>Awards</u>	308,602.	308,602.		
e All other expenses. See Sch. O	1,207,195.	817,044.	390,151.	
25 Total functional expenses. Add lines 1 through 24e	11,512,530.	7,159,220.	4,353,310.	0.
26 Joint costs. Complete this line only if the organization reported in column (B) joint costs from a combined educational campaign and fundraising solicitation. Check here <input type="checkbox"/> if following SOP 98-2 (ASC 958-720)				

BAA

TEEA0110L 12/18/12

Form 990 (2012)

Part X Balance SheetCheck if Schedule O contains a response to any question in this Part X ☐

		(A) Beginning of year		(B) End of year
ASSETS	1 Cash – non-interest-bearing	2,151,830.	1	2,360,463.
	2 Savings and temporary cash investments		2	
	3 Pledges and grants receivable, net		3	
	4 Accounts receivable, net	373,546.	4	213,262.
	5 Loans and other receivables from current and former officers, directors, trustees, key employees, and highest compensated employees Complete Part II of Schedule L		5	
	6 Loans and other receivables from other disqualified persons (as defined under section 4958(f)(1)), persons described in section 4958(c)(3)(B), and contributing employers and sponsoring organizations of section 501(c)(9) voluntary employees' beneficiary organizations (see instructions) Complete Part II of Schedule L		6	
	7 Notes and loans receivable, net		7	
	8 Inventories for sale or use		8	
	9 Prepaid expenses and deferred charges	99,646.	9	85,506.
	10 a Land, buildings, and equipment cost or other basis Complete Part VI of Schedule D	10 a 3,339,037.		
	b Less accumulated depreciation	10 b 1,826,090.	10 c	1,512,947.
	11 Investments – publicly traded securities	1,524,060.	11	2,372,134.
	12 Investments – other securities See Part IV, line 11	2,220,276.	12	
	13 Investments – program-related See Part IV, line 11		13	
	14 Intangible assets		14	
	15 Other assets See Part IV, line 11	20,151.	15	75,352.
16 Total assets. Add lines 1 through 15 (must equal line 34)	6,389,509.	16	6,619,664.	
LIABILITIES	17 Accounts payable and accrued expenses	142,001.	17	133,958.
	18 Grants payable		18	
	19 Deferred revenue	442,945.	19	469,775.
	20 Tax-exempt bond liabilities		20	
	21 Escrow or custodial account liability. Complete Part IV of Schedule D		21	
	22 Loans and other payables to current and former officers, directors, trustees, key employees, highest compensated employees, and disqualified persons Complete Part II of Schedule L		22	
	23 Secured mortgages and notes payable to unrelated third parties		23	
	24 Unsecured notes and loans payable to unrelated third parties		24	
	25 Other liabilities (including federal income tax, payables to related third parties, and other liabilities not included on lines 17-24) Complete Part X of Schedule D	5,572,237.	25	4,373,402.
	26 Total liabilities. Add lines 17 through 25	6,157,183.	26	4,977,135.
	NET ASSETS OR FUND BALANCES	Organizations that follow SFAS 117 (ASC 958), check here <input checked="" type="checkbox"/> and complete lines 27 through 29, and lines 33 and 34.		
27 Unrestricted net assets		232,326.	27	1,642,529.
28 Temporarily restricted net assets			28	
29 Permanently restricted net assets			29	
Organizations that do not follow SFAS 117 (ASC 958), check here <input type="checkbox"/> and complete lines 30 through 34.				
30 Capital stock or trust principal, or current funds			30	
31 Paid-in or capital surplus, or land, building, or equipment fund			31	
32 Retained earnings, endowment, accumulated income, or other funds			32	
33 Total net assets or fund balances		232,326.	33	1,642,529.
34 Total liabilities and net assets/fund balances		6,389,509.	34	6,619,664.

BAA

Form 990 (2012)

Part XI Reconciliation of Net AssetsCheck if Schedule O contains a response to any question in this Part XI ☒

1	Total revenue (must equal Part VIII, column (A), line 12)	1	10,871,209.
2	Total expenses (must equal Part IX, column (A), line 25)	2	11,512,530.
3	Revenue less expenses Subtract line 2 from line 1	3	-641,321.
4	Net assets or fund balances at beginning of year (must equal Part X, line 33, column (A))	4	232,326.
5	Net unrealized gains (losses) on investments	5	125,194.
6	Donated services and use of facilities	6	
7	Investment expenses	7	
8	Prior period adjustments	8	
9	Other changes in net assets or fund balances (explain in Schedule O) See Schedule O	9	1,926,330.
10	Net assets or fund balances at end of year Combine lines 3 through 9 (must equal Part X, line 33, column (B))	10	1,642,529.

Part XII Financial Statements and ReportingCheck if Schedule O contains a response to any question in this Part XII ☐

- 1 Accounting method used to prepare the Form 990 ☐ Cash ☒ Accrual ☐ Other _____
If the organization changed its method of accounting from a prior year or checked 'Other,' explain in Schedule O
- 2 a Were the organization's financial statements compiled or reviewed by an independent accountant?
If 'Yes,' check a box below to indicate whether the financial statements for the year were compiled or reviewed on a separate basis, consolidated basis, or both
☐ Separate basis ☐ Consolidated basis ☐ Both consolidated and separate basis
- b Were the organization's financial statements audited by an independent accountant?
If 'Yes,' check a box below to indicate whether the financial statements for the year were audited on a separate basis, consolidated basis, or both
☒ Separate basis ☐ Consolidated basis ☐ Both consolidated and separate basis
- c If 'Yes' to line 2a or 2b, does the organization have a committee that assumes responsibility for oversight of the audit, review, or compilation of its financial statements and selection of an independent accountant?
If the organization changed either its oversight process or selection process during the tax year, explain in Schedule O
- 3 a As a result of a federal award, was the organization required to undergo an audit or audits as set forth in the Single Audit Act and OMB Circular A-133?
- b If 'Yes,' did the organization undergo the required audit or audits? If the organization did not undergo the required audit or audits, explain why in Schedule O and describe any steps taken to undergo such audits

	Yes	No
2 a		X
2 b	X	
2 c	X	
3 a		X
3 b		

BAA

Form 990 (2012)

SCHEDULE A
(Form 990 or 990-EZ)Department of the Treasury
Internal Revenue Service**Public Charity Status and Public Support**

Complete if the organization is a section 501(c)(3) organization or a section 4947(a)(1) nonexempt charitable trust.

▶ Attach to Form 990 or Form 990-EZ. ▶ See separate instructions.

OMB No 1545-0047

2012**Open to Public
Inspection**

Name of the organization

Illinois High School Association

Employer identification number

36-6001358

Part I Reason for Public Charity Status (All organizations must complete this part.) See instructions.

The organization is not a private foundation because it is (For lines 1 through 11, check only one box.)

- 1 ☐ A church, convention of churches or association of churches described in **section 170(b)(1)(A)(i)**.
- 2 ☐ A school described in **section 170(b)(1)(A)(ii)**. (Attach Schedule E.)
- 3 ☐ A hospital or a cooperative hospital service organization described in **section 170(b)(1)(A)(iii)**.
- 4 ☐ A medical research organization operated in conjunction with a hospital described in **section 170(b)(1)(A)(iii)**. Enter the hospital's name, city, and state.
- 5 ☐ An organization operated for the benefit of a college or university owned or operated by a governmental unit described in **section 170(b)(1)(A)(iv)**. (Complete Part II.)
- 6 ☐ A federal, state, or local government or governmental unit described in **section 170(b)(1)(A)(v)**.
- 7 ☐ An organization that normally receives a substantial part of its support from a governmental unit or from the general public described in **section 170(b)(1)(A)(vi)**. (Complete Part II.)
- 8 ☐ A community trust described in **section 170(b)(1)(A)(vi)**. (Complete Part II.)
- 9 ☒ An organization that normally receives (1) more than 33-1/3% of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions — subject to certain exceptions, and (2) no more than 33-1/3% of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975. See **section 509(a)(2)**. (Complete Part III.)
- 10 ☐ An organization organized and operated exclusively to test for public safety. See **section 509(a)(4)**.
- 11 ☐ An organization organized and operated exclusively for the benefit of, to perform the functions of, or carry out the purposes of one or more publicly supported organizations described in **section 509(a)(1)** or **section 509(a)(2)**. See **section 509(a)(3)**. Check the box that describes the type of supporting organization and complete lines 11e through 11h.
- a ☐ Type I b ☐ Type II c ☐ Type III — Functionally integrated d ☐ Type III — Non-functionally integrated
- e ☐ By checking this box, I certify that the organization is not controlled directly or indirectly by one or more disqualified persons other than foundation managers and other than one or more publicly supported organizations described in **section 509(a)(1)** or **section 509(a)(2)**.
- f ☐ If the organization received a written determination from the IRS that is a Type I, Type II or Type III supporting organization, check this box.
- g ☐ Since August 17, 2006, has the organization accepted any gift or contribution from any of the following persons?

- (i) A person who directly or indirectly controls, either alone or together with persons described in (ii) and (iii) below, the governing body of the supported organization?
- (ii) A family member of a person described in (i) above?
- (iii) A 35% controlled entity of a person described in (i) or (ii) above?

	Yes	No
11 g (i)		
11 g (ii)		
11 g (iii)		

h Provide the following information about the supported organization(s)

(i) Name of supported organization	(ii) EIN	(iii) Type of organization (described on lines 1-9 above or IRC section (see instructions))	(iv) Is the organization in column (i) listed in your governing document?		(v) Did you notify the organization in column (i) of your support?		(vi) Is the organization in column (i) organized in the U.S.?		(vii) Amount of monetary support
			Yes	No	Yes	No	Yes	No	
(A)									
(B)									
(C)									
(D)									
(E)									
Total									

BAA For Paperwork Reduction Act Notice, see the Instructions for Form 990 or 990-EZ.

Schedule A (Form 990 or 990-EZ) 2012

Part II Support Schedule for Organizations Described in Sections 170(b)(1)(A)(iv) and 170(b)(1)(A)(vi)

(Complete only if you checked the box on line 5, 7, or 8 of Part I or if the organization failed to qualify under Part III. If the organization fails to qualify under the tests listed below, please complete Part III.)

Section A. Public Support

Calendar year (or fiscal year beginning in) ▶	(a) 2008	(b) 2009	(c) 2010	(d) 2011	(e) 2012	(f) Total
1 Gifts, grants, contributions, and membership fees received. (Do not include any 'unusual grants'.)						
2 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						
3 The value of services or facilities furnished by a governmental unit to the organization without charge						
4 Total. Add lines 1 through 3						
5 The portion of total contributions by each person (other than a governmental unit or publicly supported organization) included on line 1 that exceeds 2% of the amount shown on line 11, column (f)						
6 Public support. Subtract line 5 from line 4						

Section B. Total Support

Calendar year (or fiscal year beginning in) ▶	(a) 2008	(b) 2009	(c) 2010	(d) 2011	(e) 2012	(f) Total
7 Amounts from line 4						
8 Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources						
9 Net income from unrelated business activities, whether or not the business is regularly carried on						
10 Other income. Do not include gain or loss from the sale of capital assets. (Explain in Part IV.)						
11 Total support. Add lines 7 through 10						
12 Gross receipts from related activities, etc (see instructions)					12	
13 First five years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and stop here ▶ <input type="checkbox"/>						

Section C. Computation of Public Support Percentage

14 Public support percentage for 2012 (line 6, column (f) divided by line 11, column (f))	14	%
15 Public support percentage from 2011 Schedule A, Part II, line 14	15	%
16a 33-1/3% support test – 2012. If the organization did not check the box on line 13, and the line 14 is 33-1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization ▶ <input type="checkbox"/>		
b 33-1/3% support test – 2011. If the organization did not check a box on line 13 or 16a, and line 15 is 33-1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization ▶ <input type="checkbox"/>		
17a 10%-facts-and-circumstances test – 2012. If the organization did not check a box on line 13, 16a, or 16b, and line 14 is 10% or more, and if the organization meets the 'facts-and-circumstances' test, check this box and stop here. Explain in Part IV how the organization meets the 'facts-and-circumstances' test. The organization qualifies as a publicly supported organization ▶ <input type="checkbox"/>		
b 10%-facts-and-circumstances test – 2011. If the organization did not check a box on line 13, 16a, 16b, or 17a, and line 15 is 10% or more, and if the organization meets the 'facts-and-circumstances' test, check this box and stop here. Explain in Part IV how the organization meets the 'facts-and-circumstances' test. The organization qualifies as a publicly supported organization ▶ <input type="checkbox"/>		
18 Private foundation. If the organization did not check a box on line 13, 16a, 16b, 17a, or 17b, check this box and see instructions ▶ <input type="checkbox"/>		

BAA

Schedule A (Form 990 or 990-EZ) 2012

Part III Support Schedule for Organizations Described in Section 509(a)(2)

(Complete only if you checked the box on line 9 of Part I or if the organization failed to qualify under Part II. If the organization fails to qualify under the tests listed below, please complete Part II.)

Section A. Public Support

Calendar year (or fiscal yr beginning in) ▶	(a) 2008	(b) 2009	(c) 2010	(d) 2011	(e) 2012	(f) Total
1 Gifts, grants, contributions and membership fees received (Do not include any 'unusual grants'.)	245,106.	301,000.	366,750.	353,842.	346,996.	1,613,694.
2 Gross receipts from admissions, merchandise sold or services performed, or facilities furnished in any activity that is related to the organization's tax-exempt purpose	9,346,268.	9,600,000.	9,968,899.	9,620,520.	9,420,430.	47,956,117.
3 Gross receipts from activities that are not an unrelated trade or business under section 513						0.
4 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						0.
5 The value of services or facilities furnished by a governmental unit to the organization without charge						0.
6 Total. Add lines 1 through 5	9,591,374.	9,901,000.	10335649.	9,974,362.	9,767,426.	49,569,811.
7a Amounts included on lines 1, 2, and 3 received from disqualified persons	0.	0.	0.	0.	0.	0.
b Amounts included on lines 2 and 3 received from other than disqualified persons that exceed the greater of \$5,000 or 1% of the amount on line 13 for the year	0.	0.	0.	0.	0.	0.
c Add lines 7a and 7b	0.	0.	0.	0.	0.	0.
8 Public support (Subtract line 7c from line 6.)						49,569,811.

Section B. Total Support

Calendar year (or fiscal yr beginning in) ▶	(a) 2008	(b) 2009	(c) 2010	(d) 2011	(e) 2012	(f) Total
9 Amounts from line 6	9,591,374.	9,901,000.	10335649.	9,974,362.	9,767,426.	49,569,811.
10a Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources	53,415.	46,658.	58,602.	46,274.	64,077.	269,026.
b Unrelated business taxable income (less section 511 taxes) from businesses acquired after June 30, 1975						0.
c Add lines 10a and 10b	53,415.	46,658.	58,602.	46,274.	64,077.	269,026.
11 Net income from unrelated business activities not included in line 10b, whether or not the business is regularly carried on						0.
12 Other income. Do not include gain or loss from the sale of capital assets (Explain in Part IV.) See Part IV	556,887.	672,372.	649,434.	882,194.	1,039,706.	3,800,593.
13 Total support. (Add lines 9, 10c, 11, and 12.)	10201676.	10620030.	11043685.	10902830.	10871209.	53,639,430.
14 First five years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and stop here ▶ <input type="checkbox"/>						

Section C. Computation of Public Support Percentage

15 Public support percentage for 2012 (line 8, column (f) divided by line 13, column (f))	15	92.41 %
16 Public support percentage from 2011 Schedule A, Part III, line 15	16	93.34 %

Section D. Computation of Investment Income Percentage

17 Investment income percentage for 2012 (line 10c, column (f) divided by line 13, column (f))	17	0.50 %
18 Investment income percentage from 2011 Schedule A, Part III, line 17	18	0.55 %

- 19a **33-1/3% support tests – 2012.** If the organization did not check the box on line 14, and line 15 is more than 33-1/3%, and line 17 is not more than 33-1/3%, check this box and **stop here.** The organization qualifies as a publicly supported organization ▶ ☒
- b **33-1/3% support tests – 2011.** If the organization did not check a box on line 14 or line 19a, and line 16 is more than 33-1/3%, and line 18 is not more than 33-1/3%, check this box and **stop here.** The organization qualifies as a publicly supported organization ▶ ☐
- 20 **Private foundation.** If the organization did not check a box on line 14, 19a, or 19b, check this box and see instructions ▶ ☐

Supplemental Information.

Supplemental Information. Complete this part to provide the explanations required by Part II, line 10; Part II, line 17a or 17b; and Part III, line 12. Also complete this part for any additional information. (See instructions).

**SCHEDULE D
(Form 990)**Department of the Treasury
Internal Revenue Service**Supplemental Financial Statements**

► Complete if the organization answered 'Yes,' to Form 990, Part IV, lines 6, 7, 8, 9, 10, 11a, 11b, 11c, 11d, 11e, 11f, 12a, or 12b.
► Attach to Form 990. ► See separate instructions.

OMB No 1545-0047

2012**Open to Public
Inspection**

Name of the organization

Employer identification number

Illinois High School Association

36-6001358

Part I Organizations Maintaining Donor Advised Funds or Other Similar Funds or Accounts. Complete if the organization answered 'Yes' to Form 990, Part IV, line 6.

	(a) Donor advised funds	(b) Funds and other accounts
1 Total number at end of year		
2 Aggregate contributions to (during year)		
3 Aggregate grants from (during year)		
4 Aggregate value at end of year		

5 Did the organization inform all donors and donor advisors in writing that the assets held in donor advised funds are the organization's property, subject to the organization's exclusive legal control? ☐ Yes ☐ No

6 Did the organization inform all grantees, donors, and donor advisors in writing that grant funds can be used only for charitable purposes and not for the benefit of the donor or donor advisor, or for any other purpose conferring impermissible private benefit? ☐ Yes ☐ No

Part II Conservation Easements. Complete if the organization answered 'Yes' to Form 990, Part IV, line 7.

1 Purpose(s) of conservation easements held by the organization (check all that apply)

<input type="checkbox"/> Preservation of land for public use (e g , recreation or education)	<input type="checkbox"/> Preservation of an historically important land area
<input type="checkbox"/> Protection of natural habitat	<input type="checkbox"/> Preservation of a certified historic structure
<input type="checkbox"/> Preservation of open space	

2 Complete lines 2a through 2d if the organization held a qualified conservation contribution in the form of a conservation easement on the last day of the tax year

	Held at the End of the Tax Year
a Total number of conservation easements	2 a
b Total acreage restricted by conservation easements	2 b
c Number of conservation easements on a certified historic structure included in (a)	2 c
d Number of conservation easements included in (c) acquired after 8/17/06, and not on a historic structure listed in the National Register	2 d

3 Number of conservation easements modified, transferred, released, extinguished, or terminated by the organization during the tax year ► _____

4 Number of states where property subject to conservation easement is located ► _____

5 Does the organization have a written policy regarding the periodic monitoring, inspection, handling of violations, and enforcement of the conservation easements it holds? ☐ Yes ☐ No

6 Staff and volunteer hours devoted to monitoring, inspecting, and enforcing conservation easements during the year ► _____

7 Amount of expenses incurred in monitoring, inspecting, and enforcing conservation easements during the year ► \$ _____

8 Does each conservation easement reported on line 2(d) above satisfy the requirements of section 170(h)(4)(B)(i) and section 170(h)(4)(B)(ii)? ☐ Yes ☐ No

9 In Part XIII, describe how the organization reports conservation easements in its revenue and expense statement, and balance sheet, and include, if applicable, the text of the footnote to the organization's financial statements that describes the organization's accounting for conservation easements

Part III Organizations Maintaining Collections of Art, Historical Treasures, or Other Similar Assets. Complete if the organization answered 'Yes' to Form 990, Part IV, line 8.

1 a If the organization elected, as permitted under SFAS 116 (ASC 958), not to report in its revenue statement and balance sheet works of art, historical treasures, or other similar assets held for public exhibition, education, or research in furtherance of public service, provide, in Part XIII, the text of the footnote to its financial statements that describes these items

b If the organization elected, as permitted under SFAS 116 (ASC 958), to report in its revenue statement and balance sheet works of art, historical treasures, or other similar assets held for public exhibition, education, or research in furtherance of public service, provide the following amounts relating to these items

(i) Revenues included in Form 990, Part VIII, line 1 ► \$ _____

(ii) Assets included in Form 990, Part X ► \$ _____

2 If the organization received or held works of art, historical treasures, or other similar assets for financial gain, provide the following amounts required to be reported under SFAS 116 (ASC 958) relating to these items

a Revenues included in Form 990, Part VIII, line 1 ► \$ _____

b Assets included in Form 990, Part X ► \$ _____

BAA For Paperwork Reduction Act Notice, see the Instructions for Form 990.

TEEA3301L 09/18/12

Schedule D (Form 990) 2012

Part III Organizations Maintaining Collections of Art, Historical Treasures, or Other Similar Assets (continued)

3 Using the organization's acquisition, accession, and other records, check any of the following that are a significant use of its collection items (check all that apply)

- a ☐ Public exhibition
 b ☐ Scholarly research
 c ☐ Preservation for future generations

- d ☐ Loan or exchange programs
 e ☐ Other _____

4 Provide a description of the organization's collections and explain how they further the organization's exempt purpose in Part XIII

5 During the year, did the organization solicit or receive donations of art, historical treasures, or other similar assets to be sold to raise funds rather than to be maintained as part of the organization's collection? ☐ Yes ☐ No

Part IV Escrow and Custodial Arrangements. Complete if the organization answered 'Yes' to Form 990, Part IV, line 9, or reported an amount on Form 990, Part X, line 21.

1 a Is the organization an agent, trustee, custodian, or other intermediary for contributions or other assets not included on Form 990, Part X? ☐ Yes ☐ No

b If 'Yes,' explain the arrangement in Part XIII and complete the following table

- c Beginning balance
 d Additions during the year
 e Distributions during the year
 f Ending balance

	Amount
1 c	
1 d	
1 e	
1 f	

2 a Did the organization include an amount on Form 990, Part X, line 21? ☐ Yes ☐ No

b If 'Yes,' explain the arrangement in Part XIII. Check here if the explanation has been provided in Part XIII ☐

Part V Endowment Funds. Complete if the organization answered 'Yes' to Form 990, Part IV, line 10.

	(a) Current	(b) Prior year	(c) Two years	(d) Three years	(e) Four years
1 a Beginning of year balance					
b Contributions					
c Net investment earnings, gains, and losses					
d Grants or scholarships					
e Other expenditures for facilities and programs					
f Administrative expenses					
g End of year balance					

2 Provide the estimated percentage of the current year end balance (line 1g, column (a)) held as

- a Board designated or quasi-endowment ▶ _____ %
 b Permanent endowment ▶ _____ %
 c Temporarily restricted endowment ▶ _____ %
 The percentages in lines 2a, 2b, and 2c should equal 100%

3 a Are there endowment funds not in the possession of the organization that are held and administered for the organization by

- (i) unrelated organizations
 (ii) related organizations

b If 'Yes' to 3a(ii), are the related organizations listed as required on Schedule R?

	Yes	No
3a(i)		
3a(ii)		
3b		

4 Describe in Part XIII the intended uses of the organization's endowment funds

Part VI Land, Buildings, and Equipment. See Form 990, Part X, line 10.

Description of property	(a) Cost or other basis (investment)	(b) Cost or other basis (other)	(c) Accumulated depreciation	(d) Book value
1 a Land		84,077.		84,077.
b Buildings		2,179,163.	941,045.	1,238,118.
c Leasehold improvements				
d Equipment		417,601.	349,316.	68,285.
e Other		658,196.	535,729.	122,467.
Total. Add lines 1a through 1e (Column (d) must equal Form 990, Part X, column (B), line 10(c).)				1,512,947.

BAA

Schedule D (Form 990) 2012

Part VII Investments – Other Securities. See Form 990, Part X, line 12. N/A

(a) Description of security or category (including name of security)	(b) Book value	(c) Method of valuation. Cost or end-of-year market value
(1) Financial derivatives		
(2) Closely-held equity interests		
(3) Other		
(A) -----		
(B) -----		
(C) -----		
(D) -----		
(E) -----		
(F) -----		
(G) -----		
(H) -----		
(I) -----		
Total. (Column (b) must equal Form 990, Part X, column (B) line 12.)		

Part VIII Investments – Program Related. See Form 990, Part X, line 13. N/A

(a) Description of investment type	(b) Book value	(c) Method of valuation. Cost or end-of-year market value
(1)		
(2)		
(3)		
(4)		
(5)		
(6)		
(7)		
(8)		
(9)		
(10)		
Total. (Column (b) must equal Form 990, Part X, column (B) line 13.)		

Part IX Other Assets. See Form 990, Part X, line 15. N/A

(a) Description	(b) Book value
(1)	
(2)	
(3)	
(4)	
(5)	
(6)	
(7)	
(8)	
(9)	
(10)	
Total. (Column (b) must equal Form 990, Part X, column (B), line 15.)	

Part X Other Liabilities. See Form 990, Part X, line 25.

(a) Description of liability	(b) Book value
(1) Federal income taxes	
(2) Due to IHSA Foundation	31,195.
(3) Pension and Deferred Comp Liability	4,342,207.
(4)	
(5)	
(6)	
(7)	
(8)	
(9)	
(10)	
(11)	
Total. (Column (b) must equal Form 990, Part X, column (B) line 25.)	

2. FIN 48 (ASC 740) Footnote. In Part XIII, provide the text of the footnote to the organization's financial statements that reports the organization's liability for uncertain tax positions under FIN 48 (ASC 740). Check here if the text of the footnote has been provided in Part XIII ☒ See Part XIII

Part XI Reconciliation of Revenue per Audited Financial Statements With Revenue per Return

1	Total revenue, gains, and other support per audited financial statements	1	10,996,403.
2	Amounts included on line 1 but not on Form 990, Part VIII, line 12		
a	Net unrealized gains on investments	2 a	125,194.
b	Donated services and use of facilities	2 b	
c	Recoveries of prior year grants	2 c	
d	Other (Describe in Part XIII.)	2 d	
e	Add lines 2 a through 2 d	2 e	125,194.
3	Subtract line 2 e from line 1	3	10,871,209.
4	Amounts included on Form 990, Part VIII, line 12, but not on line 1:		
a	Investment expenses not included on Form 990, Part VIII, line 7b	4 a	
b	Other (Describe in Part XIII.)	4 b	
c	Add lines 4 a and 4 b	4 c	
5	Total revenue. Add lines 3 and 4 c . (This must equal Form 990, Part I, line 12.)	5	10,871,209.

Part XII Reconciliation of Expenses per Audited Financial Statements With Expenses per Return

1	Total expenses and losses per audited financial statements	1	11,512,530.
2	Amounts included on line 1 but not on Form 990, Part IX, line 25		
a	Donated services and use of facilities	2 a	
b	Prior year adjustments	2 b	
c	Other losses	2 c	
d	Other (Describe in Part XIII.)	2 d	
e	Add lines 2 a through 2 d	2 e	
3	Subtract line 2 e from line 1	3	11,512,530.
4	Amounts included on Form 990, Part IX, line 25, but not on line 1:		
a	Investment expenses not included on Form 990, Part VIII, line 7b	4 a	
b	Other (Describe in Part XIII.)	4 b	
c	Add lines 4 a and 4 b	4 c	
5	Total expenses. Add lines 3 and 4 c . (This must equal Form 990, Part I, line 18.)	5	11,512,530.

Part XIII Supplemental Information

Complete this part to provide the descriptions required for Part II, lines 3, 5, and 9, Part III, lines 1a and 4, Part IV, lines 1b and 2b, Part V, line 4, Part X, line 2, Part XI, lines 2d and 4b, and Part XII, lines 2d and 4b. Also complete this part to provide any additional information.

Part X - FIN 48 Footnote

Accounting principles generally accepted in the United States of America require organization management to evaluate tax positions taken by the organization and recognize a tax liability if the organization has taken an uncertain position that more likely than not would not be sustained upon examination by applicable taxing authorities. Management has analyzed the tax positions taken by the organization, and has concluded that as of June 30, 2013, there are no uncertain positions taken or expected to be taken that would require recognition of a liability or disclosure.

BAA

Schedule D (Form 990) 2012

Part XIII Supplemental Information (continued)**Part X - FIN 48 Footnote (continued)**

in the financial statements. The organization is subject to routine audits by
taxing jurisdictions; however, there are no audits for any tax periods in progress.

SCHEDULE J
(Form 990)Department of the Treasury
Internal Revenue Service**Compensation Information****For certain Officers, Directors, Trustees, Key Employees, and Highest
Compensated Employees**

- **Complete if the organization answered 'Yes' to Form 990, Part IV, line 23.**
 ► **Attach to Form 990.** ► **See separate instructions.**

OMB No 1545-0047

2012**Open to Public
Inspection**

Name of the organization

Illinois High School Association

Employer identification number

36-6001358

Part I Questions Regarding Compensation

1 a Check the appropriate box(es) if the organization provided any of the following to or for a person listed in Form 990, Part VII, Section A, line 1a. Complete Part III to provide any relevant information regarding these items

- | | |
|--|--|
| <input type="checkbox"/> First-class or charter travel | <input type="checkbox"/> Housing allowance or residence for personal use |
| <input type="checkbox"/> Travel for companions | <input type="checkbox"/> Payments for business use of personal residence |
| <input type="checkbox"/> Tax indemnification and gross-up payments | <input type="checkbox"/> Health or social club dues or initiation fees |
| <input type="checkbox"/> Discretionary spending account | <input type="checkbox"/> Personal services (e.g., maid, chauffeur, chef) |

b If any of the boxes on line 1a are checked, did the organization follow a written policy regarding payment or reimbursement or provision of all of the expenses described above? If 'No,' complete Part III to explain

2 Did the organization require substantiation prior to reimbursing or allowing expenses incurred by all officers, directors, trustees, and the CEO/Executive Director, regarding the items checked in line 1a?

3 Indicate which, if any, of the following the filing organization used to establish the compensation of the organization's CEO/Executive Director. Check all that apply. Do not check any boxes for methods used by a related organization to establish compensation of the CEO/Executive Director, but explain in Part III

- | | |
|--|---|
| <input type="checkbox"/> Compensation committee | <input checked="" type="checkbox"/> Written employment contract |
| <input type="checkbox"/> Independent compensation consultant | <input type="checkbox"/> Compensation survey or study |
| <input type="checkbox"/> Form 990 of other organizations | <input checked="" type="checkbox"/> Approval by the board or compensation committee |

4 During the year, did any person listed in Form 990, Part VII, Section A, line 1a with respect to the filing organization or a related organization

a Receive a severance payment or change-of-control payment?

b Participate in, or receive payment from, a supplemental nonqualified retirement plan?

c Participate in, or receive payment from, an equity-based compensation arrangement?

If 'Yes' to any of lines 4a-c, list the persons and provide the applicable amounts for each item in Part III

Only section 501(c)(3) and 501(c)(4) organizations must complete lines 5-9.

5 For persons listed in Form 990, Part VII, Section A, line 1a, did the organization pay or accrue any compensation contingent on the revenues of

a The organization?

b Any related organization?

If 'Yes' to line 5a or 5b, describe in Part III

6 For persons listed in Form 990, Part VII, Section A, line 1a, did the organization pay or accrue any compensation contingent on the net earnings of

a The organization?

b Any related organization?

If 'Yes' to line 6a or 6b, describe in Part III

7 For persons listed in Form 990, Part VII, Section A, line 1a, did the organization provide any non-fixed payments not described in lines 5 and 6? If 'Yes,' describe in Part III

8 Were any amounts reported in Form 990, Part VII, paid or accrued pursuant to a contract that was subject to the initial contract exception described in Regulations section 53.4958-4(a)(3)? If 'Yes,' describe in Part III

9 If 'Yes' to line 8, did the organization also follow the rebuttable presumption procedure described in Regulations section 53.4958-6(c)?

Yes No

1 b

2

4 a

4 b

4 c

5 a

5 b

6 a

6 b

7

8

9

X

X

X

X

X

X

X

X

X

BAA For Paperwork Reduction Act Notice, see the Instructions for Form 990.

Schedule J (Form 990) 2012

Part II Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees. Use duplicate copies if additional space is needed.

For each individual whose compensation must be reported in Schedule J, report compensation from the organization on row (i) and from related organizations, described in the instructions on row (ii). Do not list any individuals that are not listed on Form 990, Part VII.

Note. The sum of columns (B)(i)-(iii) for each listed individual must equal the total amount of Form 990, Part VII, Section A, line 1a, applicable columns (D) and (E) amounts for that individual.

(A) Name and Title		(B) Breakdown of W-2 and/or 1099-MISC compensation			(C) Retirement and other deferred compensation	(D) Nontaxable benefits	(E) Total of columns (B)(i)-(D)	(F) Compensation reported as deferred in prior Form 990
		(i) Base compensation	(ii) Bonus and incentive compensation	(iii) Other reportable compensation				
Martin Hickman	(i)	204,840.	0.	0.	0.	16,528.	221,368.	0.
1 Executive Dir.	(ii)	0.	0.	0.	0.	0.	0.	0.
2	(i)							
	(ii)							
3	(i)							
	(ii)							
4	(i)							
	(ii)							
5	(i)							
	(ii)							
6	(i)							
	(ii)							
7	(i)							
	(ii)							
8	(i)							
	(ii)							
9	(i)							
	(ii)							
10	(i)							
	(ii)							
11	(i)							
	(ii)							
12	(i)							
	(ii)							
13	(i)							
	(ii)							
14	(i)							
	(ii)							
15	(i)							
	(ii)							
16	(i)							
	(ii)							

BAA

TEEA4102L 12/11/12

Schedule J (Form 990) 2012

Part III Supplemental Information

Complete this part to provide the information, explanation, or descriptions required for Part I, lines 1a, 1b, 3, 4a, 4b, 4c, 5a, 5b, 6a, 6b, 7, and 8, for Part II. Also complete this part for any additional information.

Part III - Additional Information

Part I, Line 4B:

Martin Hickman 54,439

SCHEDULE O
(Form 990 or 990-EZ)Department of the Treasury
Internal Revenue Service**Supplemental Information to Form 990 or 990-EZ**Complete to provide information for responses to specific questions on
Form 990 or 990-EZ or to provide any additional information.

► Attach to Form 990 or 990-EZ.

OMB No 1545-0047

2012Open to Public
Inspection

Name of the organization

Illinois High School Association

Employer identification number

36-6001358

Form 990, Part III, Line 1 - Organization Mission

The IHSA governs the equitable participation in interscholastic athletics and activities that enrich the educational experience. The purpose of the IHSA is to provide leadership for the development, supervision and promotion of good sportsmanship in interscholastic competition and other activities in which member schools choose to engage. Participation in such interscholastic activities offers eligible students experiences in an educational setting which provide enrichment to the educational experience.

Form 990, Part VI, Line 11b - Form 990 Review Process

Form 990 is reviewed by the accounting department and the executive committee before filing.

Form 990, Part VI, Line 12c - Explanation of Monitoring and Enforcement of Conflicts

The board members sign a statement annually that determines if a conflict of interest exists. If a conflict of interest arises, it is dealt with on an individual basis.

Form 990, Part VI, Line 19 - Other Organization Documents Publicly Available

The governing documents, conflict of interest policy and financial statements are available to the public on the Organization's website and also upon request.

SCHEDULE R
(Form 990)Department of the Treasury
Internal Revenue Service**Related Organizations and Unrelated Partnerships**

- ▶ **Complete if the organization answered 'Yes' to Form 990, Part IV, line 33, 34, 35, 36, or 37.**
 ▶ **Attach to Form 990.** ▶ **See separate instructions.**

OMB No 1545-0047

2012**Open to Public
Inspection**

Name of the organization

Illinois High School Association

Employer identification number

36-6001358

Part I Identification of Disregarded Entities (Complete if the organization answered 'Yes' to Form 990, Part IV, line 33.)

(a) Name, address, and EIN (if applicable) of disregarded entity	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Total income	(e) End-of-year assets	(f) Direct controlling entity
(1) ----- ----- -----					
(2) ----- ----- -----					
(3) ----- ----- -----					

Part II Identification of Related Tax-Exempt Organizations (Complete if the organization answered 'Yes' to Form 990, Part IV, line 34 because it had one or more related tax-exempt organizations during the tax year.)

(a) Name, address, and EIN of related organization	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Exempt Code section	(e) Public charity status (if section 501(c)(3))	(f) Direct controlling entity	(g) Sec 512(b)(13) controlled entity?	
						Yes	No
(1) Illinois High School Activities Fo 2715 McGraw Drive Bloomington, IL 61704 37-1322645	To promote and support educ. interests	IL	501 (c) (3)	PF	N/A		X
(2) ----- ----- -----							
(3) ----- ----- -----							
(4) ----- ----- -----							

BAA For Paperwork Reduction Act Notice, see the Instructions for Form 990.

TEEA5001L 12/28/12

Schedule R (Form 990) 2012

Part III Identification of Related Organizations Taxable as a Partnership (Complete if the organization answered 'Yes' to Form 990, Part IV, line 34 because it had one or more related organizations treated as a partnership during the tax year.)

(a) Name, address, and EIN of related organization	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Direct controlling entity	(e) Predominant income (related, unrelated, excluded from tax under sections 512-514)	(f) Share of total income	(g) Share of end-of-year assets	(h) Dispropor- tionate allocations?		(i) Code V-UBI amount in box 20 of Schedule K-1 (Form 1065)	(j) General or managing partner?		(k) Percentage ownership
							Yes	No		Yes	No	
(1) ----- ----- -----												
(2) ----- ----- -----												
(3) ----- ----- -----												

Part IV Identification of Related Organizations Taxable as a Corporation or Trust (Complete if the organization answered 'Yes' to Form 990, Part IV, line 34 because it had one or more related organizations treated as a corporation or trust during the tax year.)

(a) Name, address, and EIN of related organization	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Direct controlling entity	(e) Type of entity (C corp, S corp, or trust)	(f) Share of total income	(g) Share of end-of- year assets	(h) Percentage ownership	(i) Sec 512(b)(13) controlled entity?	
								Yes	No
(1) ----- ----- -----									
(2) ----- ----- -----									
(3) ----- ----- -----									

BAA

TEEA5002L 12/28/12

Schedule R (Form 990) 2012

Part V Transactions With Related Organizations (Complete if the organization answered 'Yes' to Form 990, Part IV, line 34, 35b, or 36.)**Note.** Complete line 1 if any entity is listed in Parts II, III, or IV of this schedule**1** During the tax year, did the organization engage in any of the following transactions with one or more related organizations listed in Parts II-IV?**a** Receipt of **(i)** interest **(ii)** annuities **(iii)** royalties or **(iv)** rent from a controlled entity**b** Gift, grant, or capital contribution to related organization(s)**c** Gift, grant, or capital contribution from related organization(s)**d** Loans or loan guarantees to or for related organization(s)**e** Loans or loan guarantees by related organization(s)**f** Dividends from related organization(s)**g** Sale of assets to related organization(s)**h** Purchase of assets from related organization(s)**i** Exchange of assets with related organization(s)**j** Lease of facilities, equipment, or other assets to related organization(s)**k** Lease of facilities, equipment, or other assets from related organization(s)**l** Performance of services or membership or fundraising solicitations for related organization(s)**m** Performance of services or membership or fundraising solicitations by related organization(s)**n** Sharing of facilities, equipment, mailing lists, or other assets with related organization(s)**o** Sharing of paid employees with related organization(s)**p** Reimbursement paid to related organization(s) for expenses**q** Reimbursement paid by related organization(s) for expenses**r** Other transfer of cash or property to related organization(s)**s** Other transfer of cash or property from related organization(s)

Yes No

1 a X**1 b** X**1 c** X**1 d** X**1 e** X**1 f** X**1 g** X**1 h** X**1 i** X**1 j** X**1 k** X**1 l** X**1 m** X**1 n** X**1 o** X**1 p** X**1 q** X**1 r** X**1 s** X**2** If the answer to any of the above is 'Yes,' see the instructions for information on who must complete this line, including covered relationships and transaction thresholds.

(a) Name of other organization	(b) Transaction type (a-s)	(c) Amount involved	(d) Method of determining amount involved
(1)			
(2)			
(3)			
(4)			
(5)			
(6)			

BAA

TEEA5003L 12/28/12

Schedule R (Form 990) 2012

Part VI Unrelated Organizations Taxable as a Partnership (Complete if the organization answered 'Yes' to Form 990, Part IV, line 37.)

Provide the following information for each entity taxed as a partnership through which the organization conducted more than five percent of its activities (measured by total assets or gross revenue) that was not a related organization. See instructions regarding exclusion for certain investment partnerships.

(a) Name, address, and EIN of entity	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Predominant income (related, unre- lated, excluded from tax under section 512-514)	(e) Are all partners section 501(c)(3) organizations?		(f) Share of total income	(g) Share of end-of-year assets	(h) Dispropor- tionate allocations?		(i) Code V-UBI amount in box 20 of Schedule K-1 Form (1065)	(j) General or managing partner?		(k) Percentage ownership
				Yes	No			Yes	No		Yes	No	
(1) _____ _____ _____													
(2) _____ _____ _____													
(3) _____ _____ _____													
(4) _____ _____ _____													
(5) _____ _____ _____													
(6) _____ _____ _____													
(7) _____ _____ _____													
(8) _____ _____ _____													

BAA

TEEA5004L 12/28/12

Schedule R (Form 990) 2012

Part VII Supplemental Information

Complete this part to provide additional information for responses to questions on Schedule R (see instructions).

Area with horizontal dashed lines for supplemental information.

2012

Schedule A, Part IV - Supplemental Information

Page 5

Illinois High School Association

36-6001358

Part III, Line 12 - Other Income

<u>Nature and Source</u>	<u>2012</u>	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>
Total	\$1,039,706.	\$ 882,194.	\$ 649,434.	\$ 672,372.	\$ 556,887.
	<u>\$1,039,706.</u>	<u>\$ 882,194.</u>	<u>\$ 649,434.</u>	<u>\$ 672,372.</u>	<u>\$ 556,887.</u>

2012

Schedule O - Supplemental Information

Page 2

Illinois High School Association

36-6001358

Form 990, Part IX, Line 24e
Other Expenses

	(A) <u>Total</u>	(B) <u>Program Services</u>	(C) <u>Management & General</u>	(D) <u>Fundraising</u>
Actuarial Services	28,978.		28,978.	
Board of Directors	79,361.		79,361.	
Building Improvements	9,108.		9,108.	
Building Utilities	54,903.		54,903.	
Drug Testing	100,685.	100,685.		
Employee Expenses	88,563.		88,563.	
Maintenance	14,288.		14,288.	
Marketing Expenses	5,363.		5,363.	
Miscellaneous	1,684.		1,684.	
Other Tournament Expenses	217,775.	217,775.		
Postage and Shipping	55,909.		55,909.	
Printing and Publications	27,969.		27,969.	
Sale of Programs	248,584.	248,584.		
Sales Tax	1,903.		1,903.	
Subscriptions	682.		682.	
Telephone	21,440.		21,440.	
TV/Internet	250,000.	250,000.		
Total	<u>\$ 1,207,195.</u>	<u>\$ 817,044.</u>	<u>\$ 390,151.</u>	<u>\$ 0.</u>

Form 990, Part XI, Line 9
Other Changes In Net Assets Or Fund Balances

Pension-related changes other than net periodic pension cost

Total \$ 1,926,330.

Total \$ 1,926,330.

Form **8868**

(Rev. January 2013)

Application for Extension of Time To File an Exempt Organization Return

OMB No 1545-1709

Department of the Treasury
Internal Revenue Service► **File a separate application for each return.**

- If you are filing for an **Automatic 3-Month Extension**, complete only **Part I** and check this box ☒
- If you are filing for an **Additional (Not Automatic) 3-Month Extension**, complete only **Part II** (on page 2 of this form)

Do not complete Part II unless you have already been granted an automatic 3-month extension on a previously filed Form 8868

Electronic filing (e-file). You can electronically file Form 8868 if you need a 3-month automatic extension of time to file (6 months for a corporation required to file Form 990-T), or an additional (not automatic) 3-month extension of time. You can electronically file Form 8868 to request an extension of time to file any of the forms listed in Part I or Part II with the exception of Form 8870, Information Return for Transfers Associated With Certain Personal Benefit Contracts, which must be sent to the IRS in paper format (see instructions). For more details on the electronic filing of this form, visit www.irs.gov/efile and click on *e-file for Charities & Nonprofits*.

Part I Automatic 3-Month Extension of Time. Only submit original (no copies needed).A corporation required to file Form 990-T and requesting an automatic 6-month extension — check this box and complete Part I only ☐

All other corporations (including 1120-C filers), partnerships, REMICs, and trusts must use Form 7004 to request an extension of time to file income tax returns

Enter filer's identifying number, see instructions

Type or print	Name of exempt organization or other filer, see instructions		Employer identification number (EIN) or
	Illinois High School Association		36-6001358
	Number, street, and room or suite number. If a P.O. box, see instructions		Social security number (SSN)
	2715 McGraw Drive		
File by the due date for filing your return. See instructions	City, town or post office, state, and ZIP code. For a foreign address, see instructions		
	Bloomington, IL 61704		

Enter the Return code for the return that this application is for (file a separate application for each return)

01

Application Is For	Return Code	Application Is For	Return Code
Form 990 or Form 990-EZ	01	Form 990-T (corporation)	07
Form 990-BL	02	Form 1041-A	08
Form 4720 (individual)	03	Form 4720	09
Form 990-PF	04	Form 5227	10
Form 990-T (section 401(a) or 408(a) trust)	05	Form 6069	11
Form 990-T (trust other than above)	06	Form 8870	12

- The books are in the care of ► Martin L. Hickman

Telephone No ► 309-663-6377 FAX No ► _____

- If the organization does not have an office or place of business in the United States, check this box ☐
- If this is for a Group Return, enter the organization's four digit Group Exemption Number (GEN) _____. If this is for the whole group, check this box ☐. If it is for part of the group, check this box ☐ and attach a list with the names and EINs of all members the extension is for.

- 1 I request an automatic 3-month (6 months for a corporation required to file Form 990-T) extension of time until 2/15, 20 14, to file the exempt organization return for the organization named above.

The extension is for the organization's return for

- ☐ calendar year 20 ____ or
- ☒ tax year beginning 7/01, 20 12, and ending 6/30, 20 13

- 2 If the tax year entered in line 1 is for less than 12 months, check reason ☐ Initial return ☐ Final return ☐ Change in accounting period

3a If this application is for Form 990-BL, 990-PF, 990-T, 4720, or 6069, enter the tentative tax, less any nonrefundable credits. See instructions.	3a \$	0.
b If this application is for Form 990-PF, 990-T, 4720, or 6069, enter any refundable credits and estimated tax payments made. Include any prior year overpayment allowed as a credit.	3b \$	0.
c Balance due. Subtract line 3b from line 3a. Include your payment with this form, if required, by using EFTPS (Electronic Federal Tax Payment System). See instructions.	3c \$	0.

Caution. If you are going to make an electronic fund withdrawal with this Form 8868, see Form 8453-EO and Form 8879-EO for payment instructions.**BAA For Privacy Act and Paperwork Reduction Act Notice, see instructions.**Form **8868** (Rev 1-2013)

FIF20501L 01/21/13

DEFINITIONS

The following definitions have been adopted as official interpretations of the Board of Directors under its authority and responsibility as provided in Article 1.420 of the IHSA Constitution.

Attend — Enrolled and physically present in classes for the period specified in the by-laws, or in the event a by-law does not contain such specification, then for one school term as this is defined in the Illinois School Code. This definition pertains to students, parents or any other person for whom it is necessary under these by-laws to determine whether the person attended a member high school.

Breach of contract — Literally, the nonfulfillment of the terms of a contract. Therefore, if the written terms of a contract are not fulfilled by both schools which are party to the agreement, the contract is technically breached. (By-law 6.040)

Classes begin — The first day of school attendance as designated by a member school's official calendar as filed with the Education Service Region Superintendent.

Coach — Any person, regardless of whether employed or volunteer, who instructs, supervises, or otherwise manages or participates with student athletes in conjunction with a practice, tryout, drill, workout, evaluation of competition activity.

Coaching school, camp or clinic — Any program, sponsored by an organization or individual, which provides instruction in sports theory and/or skills and which does not culminate in competition.

College, junior college or university athletic team — An organized team in a sport sponsored and operated by a college, junior college or university.

Compensation — Any financial consideration, including travel expenses. (By-law 2.080)

Competition "in" or "that involves" the skill of the sport — An event in which teams and/or individuals compete against one another, utilizing one or more of the skills of the sports listed above, under specified competition rules, to determine one or more winner(s).

Contest — Any interscholastic competition, including a scrimmage, in which students representing two or more high schools participate with or against each other.

Custodial Parent — A parent (mother or father) who has been assigned custody or joint custody by a court of proper jurisdiction.

Demonstration — The act, process or means of making one's ability, skill or potential to play a sport evident to one or more observers.

Emancipated student — A student who has been a resident of the State of Illinois for a minimum of one year and who is ruled by the Executive Director to have provided documentation to the IHSA demonstrating that the student is completely financially independent of parents, guardians or any other person, and is completely self-supporting.

Financial assistance — Monetary contribution, remission of tuition or credit toward payment of school costs, granted exclusively on the basis of objectively determined need.

Game — An organized contest between two different teams.

Home high school — The member school in which a student is enrolled and where the student is granted credit toward graduation for the academic work being taken. Can include the school where the student is claimed for state financial reimbursement.

Home schooled student — A home schooled student is considered to be a student in a private school.

In the same sport — In a team sport, "in the same sport" means practice for or competition in an event played under the published rules for the sport utilized in the IHSA State Tournament Series, or any other published rules for the sport for teams comprised of the same number of players as in the rules used for the IHSA State Series in the sport. In a sport where competition may be in a different events or on an individual basis, "in the same sport" means competition in any event included in the IHSA State Tournament Series for the sport or in which interscholastic competition is offered by the student's high school. (By-law 3.010)

Improper contact — Verbal and/or written communication regarding athletic programs and/or participation, except in response to a parental request; any communication by school personnel to a prospective student which states, suggests or implies advantages which might accrue to the prospective student in relation to or arising from athletic participation in the event the prospective student should attend the school.

Initiate contact — Engaging in verbal and/or written communication regarding athletic programs and/or athletic participation, in the absence of a student's or parent's request for admissions information, with any boy or girl who has not filed an application or taken other steps toward registration at a member high school.

Induce — Communication and/or actions expressed to inspire, move or lead by persuasion or influence related to athletic participation or opportunity a student to attend a particular school.

Involved in any respect — Engaging in anything to do with a non-school team, including, but not limited to coaching, scheduling, transporting, officiating and hiring of officials, training, taping, managing team expenses, purchasing of uniforms and equipment, etc.

Lives on a full-time basis — The location at which a student is permanently domiciled and actually resides on a full-time basis of at least five (5) calendar days per week.

Move — The actual physical relocation in joint residence by the parents of a student and the student from one school district to another, with the intent to reside there indefinitely and terminate all occupancy of their previous residence. (By-law 3.041)

Non-boundaried school — Any private school, charter school, lab school, magnet school, residential school, and any public school in a multi-high school district that does not accept students from a fixed portion of the district.

One year — One year means 365 consecutive days.

Parents — The birth mother and biological father of a student, or the persons to whom a court of proper jurisdiction grants adoption of the student.

Participate — To be present for and personally engage in any organized tryout, drill, practice, training or competition activity for a sport.

Participation — The act of personally engaging in an organized tryout, training or competition activity in a sport.

Physical conditioning programs — Organized physical activity performed without use of any “skill of a sport” which is designed and intended exclusively to facilitate the development of physical strength, agility, muscle tone, stamina, flexibility and general physical fitness of participants.

Prospective student-athlete — A boy or girl who is not a student at and who has not yet registered at a public or non-public high school, but who has been identified by expression of interest and/or pre- or non-high school athletic participation as an individual potentially interested in participating in interscholastic athletics.

Recreational programs — Organized free play, with no instruction, coaching or participant evaluation of any kind, with the exclusive goal of providing enjoyable physical activity to participants.

Regularly certified teacher — A person who possesses a currently registered Illinois teacher’s certificate which required completion of student teaching and possession of at least a bachelor’s degree. (By-law 2.071) “Substitute” or “Type 39” certificates, which permit an individual to be a substitute teacher only for a limited time period and require only possession of at least a bachelor’s degree, without a teacher training or student teaching experience, are acceptable. (By-law 2.072)

Same geographical area — The “same geographical area” will be defined by the boards of education forming a cooperative team. The practical factors involved in the cooperative agreement will create practical parameters to the geographical area any cooperative might serve.

Scholarship — Monetary contribution, remission of tuition or credit toward payment of school costs, based upon selection criteria of any kind other than need.

School personnel — Any person, compensated or non-compensated, who provides services to the operations of a school with the consent of the administration and/or Board of Education or governing Board.

School season — The period of time a school may conduct activity in a sport, commencing with the date on which a school engages in its first contest at any level and ending with the date of the school’s last contest at any level in any given school term.

School team — An entity comprised of one or more students in a school, under the control and conduct of the school, which represents the school in interscholastic athletic competition.

School term — the period commencing on the first day of student attendance at the member school at which the student attends or is enrolled or the first such day at any member school in the same school district, whichever is first, until the last day of student attendance at the member school at which the student attends.

School they attend — the school at which a student is enrolled and permanent records are kept. This term is used in connection with student attendance. (By-law 3.013)

School year — That period of time commencing with the first day of school in the fall and culminating on the last day of school in the spring, commonly called school term.

Scrimmage — Practice under actual or simulated game-play conditions, involving members of one or more individual teams.

Skill of the sport — Those basic physical actions, techniques and procedures that have been determined by the IHSA Board of Directors to be essential to the sport. Following is a listing of interscholastic sports and the skill(s) of each sport for which IHSA maintains a season as determined by the Board of Directors:

Badminton — Striking or simulating the striking of a shuttlecock with a racquet in the form of serving or returning.

Baseball — Using or simulating the use of baseball equipment including but not limited to a bat, ball or glove to hit throw, catch or pitch; running bases.

Basketball — Any shooting, passing, dribbling, rebounding, shot blocking, defending activity using or simulating the use of a basketball.

Bowling — Any delivery or simulated delivery of a bowling ball on any surface toward bowling pins.

Competitive Cheerleading — Competitive, organized routines which contain the components of tumbling, dance, jumps, cheers, and stunting.

Sideline Cheer (Spirit Groups) — Organized groups that may display the components of tumbling, dance, jumps, cheers, and stunting to direct spectators of events to cheer on sports teams at games.

Competitive Dance — Movement of the body to rhythm. Movement includes body placement, alignment, posture, expression of style, control, extension, flow and continuity. (Excluding: Ethnic or Folk Dancing, Ballet and Tap.)

Cross Country — Running any distance on any surface other than a track.

Football — Any blocking, tackling, catching, punting, kicking or throwing activity using or simulating the use of a football, or using any traditional football training equipment, including, but not limited to blocking sleds or blocking dummies.

Golf — Striking a golf ball with a club in any manner, such as pitching, driving, putting, chipping.

Gymnastics — Any activity which uses or simulates use of apparatus such as a mat, vaulting horse, pommel horse, horizontal bars, parallel bars, uneven bars, still rings, spring board, mini-trampoline, trampoline, etc. including but not limited to balances; mounts or dismounts; flight, free, connected, locomotor, non-locomotor, or bounding movements; turns; twists, or swings.

Soccer — Any dribbling, passing, throw-ins, kicks, shooting, heading, tackling, or goal keeping using or simulating the use of a soccer ball, or any other equipment used in playing the game of soccer.

Softball — Using or simulating the use of softball equipment including but not limited to a bat, ball or glove to hit throw, catch or pitch; running bases.

Swimming and Diving — Any activity in which participants turn, start, kick, dive including entering water from a springboard or starting platform, or propel themselves through water by means of any stroke, including but not limited to freestyle, backstroke, butterfly or breaststroke.

Tennis — Striking or simulating the striking of a ball with a racquet in any manner, including, but not limited to forehand, backhand, serve, return, volley, lob or overhead hit.

Track and Field — Running any distance on a track, jumping for height or distance, throwing or using any implement, technique or motion associated with any field event.

Volleyball — Any passing, setting, digging, spiking, tipping, dumping or blocking activity using or simulating the use of a volleyball or using any volleyball competitive equipment with a ball and a net.

Water Polo — Any dribbling, throwing, shooting, passing or goalkeeping activity using or simulating the use of a water polo ball.

Wrestling — Any activity in which participants engage in or simulate set-ups, takedowns, reversals, throws, escapes, riding or near-falls.

Sport season — As used in relation to the age limitation for eligibility, that period of time between the dates specified in the Sections of By-law 5.000 during which member schools may organize their teams, practice or participate in interscholastic competition in any given sport. (By-law 3.060)

Student — A boy or girl who has formally registered and begun to attend classes at a high school.

Student-athlete — A student who has participated in one or more practices and/or athletic contests in any sport offered by or under the auspices of a high school.

Student-Athlete with a disability — A person with a disability is one who has a record of, or is regarded as having, a substantial, as opposed to a minor, physical or mental impairment. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, walking, breathing, performing manual tasks, caring for oneself, learning or working.

Team activity — Anything done by the team or its members together to plan for, prepare for, travel to, compete in or evaluate after the completion of non-school competition.

Thirty Mile Radius — A straight line measurement between a student's home and the private or non-boundaried school the student plans to attend.

Tournament — A competition involving three or more schools in which teams and/or athletes compete under an elimination and/or round robin format within a 14 consecutive day period which results in a single winner of the competition and or event(s). No regular season tournament shall allow for a member school to participate in more than five (5) games/contests/matches. IHSA By-law 5.004 provides an exception for wrestling tournaments.

Transfer Student — Any student who attended another high school prior to coming to your school whether or not he/she begins attending on the first day of the school term. This also includes home schooled students who were taking high school work and then transfer to a member school. Home schools are considered to be non-boundaried schools.

Tryout — An organized occasion on which one is considered for selection to a team in a sport by undergoing evaluation of the ability, skill or potential to play the sport.

Undue influence — Any influence exerted by school personnel upon a prospective student or a prospective student's family related to athletic participation, potential or accomplishment.

Week No. 4 in the IHSA Standardized Calendar — The IHSA Standardized Calendar utilizes the first full seven day week of July that begins on Sunday as Week No. 1.

CONSTITUTION

The following Constitution has been adopted by the membership of the Illinois High School Association and is applicable to the current school term.

1.000 CONSTITUTION

Included in this Section:

- 1.000 Constitution
- 1.100 Name and Objectives
- 1.200 Membership
- 1.300 Board of Directors
- 1.400 Powers and Duties of Board
- 1.500 Officers
- 1.600 Dues and Assessments
- 1.700 Legislative Commission
- 1.800 Meetings of the Association
- 1.900 Amendments

1.100 NAME AND OBJECTIVES

- 1.110** This Association shall be known as the Illinois High School Association (IHSA).
- 1.120** It shall be the purpose of this Association to provide leadership for the development, supervision and promotion of interscholastic competition and other activities in which its member schools engage. Participation in such interscholastic activities offers eligible students experiences in an educational setting which may provide enrichment to the educational experience.
- 1.130** This Association through the employment of the instrumentalities hereinafter established shall:
 - (a) supervise and regulate all of the interscholastic activities in which its member schools may engage; and
 - (b) perform such other functions related to interscholastic activities as may from time to time be approved and adopted by the membership.

1.140 In the performance of these functions, the objectives of the Association shall be:

- (a) to stress the educational importance, the cultural values, the appreciations and skills involved in all interscholastic activities and to promote cooperation and friendship;
- (b) to regulate interscholastic programs in both character and quantity in regard to the generally accepted objectives of secondary education and so they shall not unduly interfere with nor abridge the regular program of teachers and students in the performance of their regular day-to-day school duties;
- (c) to encourage economy in the time of the student and teacher personnel devoted to interscholastic activities;
- (d) to encourage economy in expenses of interscholastic activities; and
- (e) to promote only those activities which enhance the accomplishment of desired educational goals.

1.200 MEMBERSHIP

1.210 PUBLIC HIGH SCHOOLS

Any public high school in the State of Illinois may become a member of this Association provided:

- (a) the school is supported by public taxation;
- (b) the school is Recognized by the Illinois State Board of Education;
- (c) this Constitution and By-laws has been adopted by the Board of Education or Board of Directors of the petitioning school as the code governing its interscholastic activities;
- (d) the principal, defined as the administrator directly in charge of the day-to-day operation of the high school, is officially designated by the Board of Education of the petitioning school as the school's official representative to the Association in all matters, unless the Board of Education officially designates another full-time, certified member of the school's staff to be its official representative;
- (e) application of membership is signed by the official representative of the high school; and
- (f) the school pays dues as required in this Constitution.

1.220 HIGH SCHOOLS CONDUCTED BY COLLEGES AND UNIVERSITIES

All high schools in Illinois conducted by colleges or universities for purposes of educational experimentation, research and practice teaching may become members provided:

- (a) this Constitution and By-laws has been adopted by the petitioning school as the code governing its interscholastic activities;
- (b) the school complies with items (b), (d), (e), and (f) of 1.210 above.

1.230 HIGH SCHOOL DEPARTMENTS OF ILLINOIS SCHOOLS FOR THE DEAF OR BLIND

The high school departments of Illinois schools for the deaf or blind may become members of this Association upon such terms as, from year to year, may be fixed by the Board of Directors. Non-recognition of the schools by the Illinois State Board of Education shall not necessarily preclude them from membership.

1.240 DISTRICTS SUPPORTING TEN OR MORE HIGH SCHOOLS

Public high schools in districts supporting ten or more high schools all under the supervision of a single Board of Education may become members of this Association provided:

- (a) the district has a separate and efficient local interscholastic organization for the adequate supervision of its interscholastic activities;
- (b) the school is Recognized by the Illinois State Board of Education;
- (c) the eligibility rules and conditions of competition for the district have been approved by the Board of Directors of this Association prior to September 1 each year;
- (d) the local organization pays, as a membership fee, an amount equal to a sum of \$10 per school for all schools in the district, payment to be made on or before June 1 preceding the year for which payment is due; and
- (e) application for membership is signed by the official representative of the individual high schools.

Schools admitted under this Section, in their interscholastic relationships with each other, shall be governed by the eligibility rules and conditions of competition approved by the Board of Directors of this Association. However, in all interscholastic relationships with any school located outside of the district, they must conform to all of the rules and regulations of the Illinois High School Association.

1.250 NON-PUBLIC HIGH SCHOOLS

Any non-public high school located in the State of Illinois may be admitted to membership provided:

- (a) the application for membership is signed by the administrative head of the school;
- (b) the school pays dues as required in this Constitution; and
- (c) the school complies with items (b), (c), (d), (e) and (f) of 1.210 above; and
- (d) the school's financial assistance program complies with the following standards:
 - (1) financial assistance to incoming and/or continuing students is approved by the president/principal of the school on the basis of need determined by using data provided through the use of a financial need approval plan which has been approved by the IHSA Board of Directors; and/or
 - (2) financial assistance to incoming and/or continuing students is granted by the principal of the school on the basis of academic performance or other criteria to students which are adopted by the school's governing body and approved by the IHSA Board of Directors; in no respect related to athletic interest or performance; and which are controlled and managed by the principal.

The IHSA Board of Directors shall, in consultation with representatives of private member schools, establish criteria for approval of financial need assessment plans and criteria for the awarding of non-need based financial assistance.

1.260 ASSOCIATE SCHOOLS

Any high school in Illinois operating strictly as a boarding school may be admitted to Associate membership provided:

- (a) the application for membership is signed by the administrative head of the school;
- (b) the school pays dues as required in this Constitution; and
- (c) the school complies with items (b), (c), (d), (e) and (f) of 1.210 above.

An Associate member shall be entitled to the same privileges as other member schools except that:

- (a) it shall not be permitted to participate in any athletic meet or tournament conducted for the purpose of determining an official state championship in the Illinois High School Association;
- (b) it shall not be privileged to vote on Association matters; and
- (c) it shall not share in the distribution of Association funds.

In all interscholastic competition, an Associate member shall observe all of the rules and regulations of the Association except that students who change schools without a corresponding change of residence on the part of their parents or guardians may establish eligibility immediately so far as residence is concerned provided their transfer occurs at the beginning of a semester and is made for reasons other than athletics, and no undue influence is involved.

1.270 APPROVED SCHOOLS

Schools which are not eligible for membership in the Illinois High School Association may be approved by the Board of Directors for competition with member schools. Approved schools are not fully-accredited members of the Association. Member schools may engage only in dual contests with approved schools and not in invitational tournaments, festivals, etc. Approved schools are not eligible to participate in state tournament series sponsored by the Association. Schools wishing to be granted Approved status must apply annually to the Board of Directors.

Illustrations for Section 1.270 of the Constitution

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

1) WHAT IS APPROVED SCHOOL STATUS?

- Q. Are "approved schools" members of the Association?
- A. The Board of Directors may grant approved status to a school only in the event that it is not eligible for membership. Approved schools may participate with member schools in dual competition only. (Constitution 1.270)

2) APPROVED SCHOOLS AND ELIGIBILITY RULES?

- Q. Must an Approved school abide by IHSA eligibility rules?
- A. Since Approved schools are not members of the Association, they are not subject to the requirements of IHSA rules. However, approved schools must be Registered or Recognized by the Illinois State Board of Education, or the school must be accredited by an organization that evaluates public and/or private schools. The accrediting organization must be acceptable to the IHSA Board of Directors. In addition, schools must substantially comply with the Association's rules regarding: Scholastic Standing, Age Limitations, Contest Limitations and Participation Limitations. (Constitution 1.270)
- 3) Q. May an approved school participate in a tournament against an IHSA member school?
- A. No. Approved schools may only participate in dual contests with IHSA member schools. (Article 1.270 and By-law 2.050)

1.300 BOARD OF DIRECTORS**1.310 ADMINISTRATION**

The administrative authority of this Association shall be vested in a Board of Directors of ten (10) members elected, each for a term of three years, as hereinafter provided.

The office of the Association shall be the office of the Board of Directors.

1.320 ELECTION DIVISIONS

For the purpose of electing the members of the Board of Directors and providing equal representation for all parts of the state, the state shall be divided into seven (7) Divisions. Each of these Divisions shall be formed by combining three of the twenty-one (21) Districts of the state established for the purpose of electing the members of the Legislative Commission, these Districts being defined in Section 1.330 of this Constitution. In addition three (3) members shall be elected from the membership at-large. One at-large member must be a racial minority, one must be a member of the underrepresented gender and one must be a member of a private/non-public school. All must be principals of member schools. At-large members elected to the Board of Directors may not be from the same Board Division.

1.330 DIVISIONS DEFINED

Until changed by the Board of Directors, the seven Divisions from which Directors shall be elected shall be made up of Legislative Commission Districts as follows:

Division 1-Legislative Commission
Districts 1, 2 and 3

Division 2-Legislative Commission
Districts 4, 5 and 6

Division 3-Legislative Commission
Districts 7, 8 and 9

Division 4-Legislative Commission
Districts 10, 11 and 12

Division 5-Legislative Commission
Districts 13, 14 and 15

Division 6-Legislative Commission
Districts 16, 17 and 18

Division 7-Legislative Commission
Districts 19, 20 and 21

1.340 NOMINATIONS

No later than September 1 each year, the Board of Directors shall cause to be electronically mailed to the principal of each member school in each division in which a member of the Board of Directors is to be elected, and to the membership in the event one or more at-large members of the Board of Directors is to be elected, a letter identifying the positions for which elections are to be held along with a primary ballot requesting nominations for the appropriate Board member positions.

Principals may nominate one principal from a member school in their Division as a candidate and/or one principal from any member school in the state as a candidate for an at-large position. These nominations must be completed online by September 15. The Board of Directors shall appoint a teller to verify the vote count. The two principals from each Division, or from the state at-large, as pertinent to the positions for which nominations are sought, receiving the highest number of nominating votes shall be declared the nominees and they shall be notified immediately of their nomination by mail. In case of a tie vote in any Division, the tellers shall determine the winner by lot.

1.350 ELECTION

Not later than September 20, the Board of Directors shall cause to be electronically mailed to the principal of each member school in each Division or in the membership at-large in which an election is to be held, a ballot on which are the names of the two nominees. Principals shall mark their electronic ballots in the regular manner, voting for only one of the nominees. Each electronic ballot shall be submitted electronically to the Association by October 1. The Board of Directors shall appoint a teller who shall meet not later than October 4, to verify the vote count. The teller shall then certify to the Board of Directors the results of the balloting. Within thirty days after the election, the Board shall meet, canvass the vote and declare the candidate(s) in each Division receiving the higher number of votes for each position to have been elected. In case of a tie vote in any Division, the tellers shall determine the winner by lot.

1.360 TERM OF OFFICE

Members of the Board of Directors shall be elected for terms of three years and shall take office immediately upon the determination of their election as provided in 1.350 of this Section. They shall be eligible for no more than three three-year terms. They shall serve until a successor is elected or until they cease to be a principal of a member school in the Division from which they were elected, unless because of redistricting, or in the case of at-large members, until they cease to be principal of a member school, or unless they tender their resignation and it is accepted by the Board of Directors.

In the event that high school principals who are Board members, because of the redistricting of the state, are removed from their Division, they shall continue to represent the Division from which they were elected for the balance of the year, provided they continue to serve as a principal of a member school in the territory which formerly comprised the Division from which they were elected.

1.370 MEETINGS

The Board of Directors shall meet a minimum of ten (10) times per year, on a date to be determined by the Board. The time and place of each meeting shall be determined by its members. Special meetings may be called by the President and must be called upon written request of any two members of the Board.

1.400 POWERS AND DUTIES OF BOARD**1.410 QUORUM**

A majority of the Board of Directors shall constitute a quorum. When a vote is taken upon any matter pending before the Board, a quorum being present, a majority of the votes of the members of the Board voting on the matter shall determine the outcome thereof.

1.420 AUTHORITY

The officers and members of the Board of Directors of the Illinois High School Association are hereby authorized to interpret the Constitution and By-laws and to exercise all the powers and duties expressed or implied in this Constitution and By-laws, and to act as an administrative board in the interpretation of and final decision on all questions and appeals arising from the directing of interscholastic activities of member schools.

1.430 PROVIDE EMPLOYEES

The Board of Directors shall conduct all business of the Association, shall be empowered to employ an Executive Director with such assistants as may be found necessary to carry on the affairs of the Association, and to provide office facilities, by rental, purchase or other means, and employees for the proper conduct of the business of the Association.

1.440 FINANCIAL STRUCTURE AND MANAGEMENT

1.441 DUES AND ASSESSMENTS

The Board of Directors shall be authorized to collect annual dues as provided in this Constitution and levy entry fees and such other assessments on all schools participating in any interscholastic activity as shall be adequate to meet the total expenses involved in the conduct of such activity and such proportionate share of overhead as is deemed necessary. Such dues and assessments shall be considered current funds of the Association and shall be used by the Board of Directors in financing the various activities of the Association.

The determination and collection of all activity fees and the collection and final distribution of receipts from all contests sponsored by the Association shall be left to the discretion of the Board of Directors.

1.442 EXPENDITURES

The Board of Directors shall determine all necessary expenditures of money in the conduct of the affairs of the Association.

1.443 MANAGE SURPLUS FUNDS

The Board of Directors shall receive and hold title to all surplus funds of the Association. Surplus funds belonging to any of the separate activities shall be held for and administered in the interest of that activity. Surplus funds of one activity of the Association may be transferred to another activity only by a two-thirds vote of the Board of Directors or by a majority of the member schools voting in a statewide referendum conducted by the Board of Directors whenever requested by not less than five percent of the membership of the Association.

1.444 INVESTMENT OF FUNDS

The Board of Directors shall invest all surplus funds of the Association in bonds or treasury certificates of the United States or in bonds of the state of Illinois, registered in the name of the Illinois High School Association. However, in any fiscal year the Board of Directors may, by a two-thirds vote, suspend the enforcement of this requirement.

1.450 STATEWIDE INTERSCHOLASTIC ACTIVITIES

The Board of Directors shall have complete authority, subject to the provisions of the Constitution and By-laws, to organize and conduct such statewide interscholastic activities as may or may not lead to state championships and to establish Terms and Conditions for these activities. Whenever it is deemed advisable, the Board shall call upon specialists from the high school field for such technical or other advice and assistance as may seem necessary. The expenses of such specialists incurred in activities ordered by the Board of Directors shall be paid by the Association. In addition, the Board of Directors shall establish and publish criteria to be followed in the selection of schools to host state tournament series events.

Illustrations for Section 1.450 of the Constitution

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

4) TERMS AND CONDITIONS

- Q. How authoritative are the Terms and Conditions for Association-sponsored events established by the Board of Directors?
- A. Since the Board of Directors is authorized by the Constitution to establish Terms and Conditions for IHSA-sponsored meets and tournaments, Terms and Conditions established by the Board are absolutely authoritative in respect to the various state tournament series conducted by the Association. Schools which do not adhere explicitly to the Terms and Conditions for a given activity are subject to penalty. (Constitution 1.450)

1.460 RULINGS AND APPEALS

The Executive Director shall have the authority and responsibility to investigate and decide all matters concerning eligibility, protests, by-laws or rules. The Executive Director may modify the effect of or penalty for violation of or non-compliance with any by-law or rule if the circumstances causing the student or school to be ineligible or otherwise in violation of or non-compliance with the by-law or rule are determined:

- (1) to have been completely beyond the control of all of the following:
 - (a) the student
 - (b) the student's parent(s)/guardian(s)
 - (c) the school
- (2) or where the violation or non-compliance has been caused exclusively by a clerical or administrative error.

A student, parent/guardian, school or individual, in whose favor or against whom a decision of the Executive Director made pursuant to this Section applies, may appeal that decision by submitting a written request for a hearing to the Board of Directors. In response to such a written request, the Board of Directors or, in its discretion, a hearing officer appointed by the Board, shall conduct a hearing to review the action of the Executive Director.

At a hearing, the party appealing the action and all other interested parties, including but not limited to representatives of the member school, may appear and present information for consideration. If a hearing officer has been appointed by the Board, such hearing officer shall submit a written report of findings to the Board, including a written summary of the testimony heard and/or evidence presented at the hearing. After a hearing before the Board, or upon receipt and review of the hearing officer's report, the Board may, within the authority of this Constitution and By-laws, sustain, modify or overturn the Executive Director's decision, or sustain, increase, decrease or otherwise modify any penalty for violation of any by-law or rule or take such other action as it finds appropriate. If a hearing has been conducted by a hearing officer appointed by the Board, the student, parent/guardian, school or individual in whose favor or against whom a decision has been sustained or modified, may request, in writing through the principal of the involved member school, a further hearing to be held before the Board of Directors in accordance with the provisions of this Section, at the next regularly scheduled meeting of the Board or at a special meeting of the Board convened by the president of the Board. The decision or action of the Board of Directors, pursuant to any hearing held before it, shall in all instances be final.

Illustrations for Section 1.460 of the Constitution

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

- 5)
 - Q. What is a clerical or administrative error?
 - A. An inadvertent or unintentional error or omission that results in technical, rather than substantive, noncompliance with these by-laws. The failure to comply with any affirmative requirement of these by-laws shall not be deemed a clerical or administrative error.

1.470 FILL VACANCIES

In case a vacancy occurs on the Board of Directors, the remaining members shall fill the vacancy by the appointment of a principal of a member school from the Division in which the vacancy occurs.

An appointee to an office must meet the same qualification standards that a person running for the office would be required to meet.

Appointees shall serve for the remainder of the unexpired term.

1.480 RETIREMENT SYSTEM

It shall be the duty of the Board of Directors to establish a retirement system for its employed administrative officers.

1.500 OFFICERS

1.510 TITLES OF OFFICERS

The officers of the Board of Directors shall be President, Vice President and Secretary who shall be elected by the Board from among its members. These officers shall serve in similar capacities as officers of the Association and shall perform the duties which regularly devolve upon such officers.

1.520 TERM OF OFFICE

Officers shall be elected annually by the Board of Directors at the meeting during which the ballots from the election of members of the Board of Directors are canvassed and after new members have been seated. Officers shall be eligible to succeed themselves provided they continue to be members of the Board of Directors.

1.530 TREASURER

The Board of Directors shall elect a Treasurer of the Association who shall be a principal of a member school whose term of office shall not exceed three years. The treasurer shall, however, be eligible for successive terms in office. The Treasurer shall receive for deposit all funds belonging to this Association; shall pay out money from funds belonging to the Association only upon the order of the Board of Directors and approval by the President; shall furnish a bond, the amount of which shall be determined by the Board of Directors, premium on which shall be paid by the Association; shall keep separate bookkeeping records of all receipts and expenditures relating to each respective activity of the Association; and, shall make a complete financial statement to the Association as of June 30 of each year.

The Treasurer's accounts shall be audited at least annually at the close of each fiscal year by a committee to be composed of the President of the Board of Directors as Chairman, the Chairman of the Legislative Commission and a third high school principal to be chosen by these two. This committee shall employ a certified public accountant who shall make the audit under its supervision. All expenses of the audit shall be paid by the Association.

1.600 DUES AND ASSESSMENTS**1.610 FISCAL YEAR**

The fiscal year of the Association shall be from July 1 to June 30.

1.620 DUES

The Board of Directors shall have authority to assess annual membership dues to be paid by all schools belonging to the Association.

1.630 ENTRY FEES AND ASSESSMENTS

The Board of Directors shall be authorized to levy entry fees and assessments when necessary for the conducting of any inter-scholastic activity.

1.640 DATE OF PAYMENT OF DUES

The annual school membership dues, if assessed, shall be for the fiscal year of the Association, shall be payable on or after April 1 of each year and must be paid on or before June 30 of each year.

1.650 PENALTY

In case a school has allowed its membership to lapse, it cannot be reinstated until it has paid into the treasury the current dues plus an amount equal to one-third of the annual dues for that school year for which the school failed to pay its dues. However, in any event the penalty payment shall not exceed the dues for one full year.

1.700 LEGISLATIVE COMMISSION

1.710 AUTHORITY

All proposed amendments to either the Constitution or By-laws, or the consideration of any other proposed legislation, shall be referred to the Legislative Commission for evaluating and screening. Action shall be taken by the Commission on proposed legislation as provided for in Section 1.920.

1.720 ORGANIZATION AND OPERATION

1.721 ELECTION DISTRICTS

For the purpose of providing a geographic and equal representation on the Legislative Commission, the Board of Directors shall divide the State of Illinois into twenty-one Districts. Three of these Districts shall be in the City of Chicago. The other eighteen Districts shall consist of compact and contiguous territory containing approximately equal numbers of member schools. In 1978 and each three years thereafter, the Board of Directors shall review the compositions of the Districts then existent and, if deemed necessary or advisable, shall redistrict the state. In addition, seven (7) at-large Commission members shall be elected. One at-large Commission member shall be elected from each Division. All at-large Commission members must be a racial minority or a member of the under represented gender. At-large Commission members must be principals, official representatives, athletic administrators or activity directors.

1.722 MEMBERSHIP

The Legislative Commission shall consist of thirty-five (35) members from thirty-five (35) member schools. One principal shall be elected from each of the twenty-one (21) Districts. One athletic administrator shall be elected from each of the seven (7) Divisions. One at-large Commission member will be elected from each of the seven (7) Divisions. All at-large Commission members must be members of the under represented gender and/or minorities. At-large Commission members must be principals, official representatives, athletic administrators or activity directors. Elections shall be conducted for principals of the various Districts according to the following schedule:

- (a) In 1982 and each third year thereafter, Districts 1, 4, 10, 15, 16, 17 and 21;
- (b) In 1983 and each third year thereafter, Districts 2, 5, 8, 12, 14, 18 and 20;
- (c) In 1984 and each third year thereafter, Districts 3, 6, 7, 9, 11, 13 and 19.

Elections shall be conducted for representative athletic administrators of the various Divisions according to the following schedule:

- (a) In 1992 and each third year thereafter, Divisions 1, 4 and 7
- (b) In 1993 and each third year thereafter, Divisions 2 and 5
- (c) In 1994 and each third year thereafter, Divisions 3 and 6

Elections shall be conducted for at-large Commission members of the various Divisions according to the following schedule:

- (a) In 2000 and each third year thereafter, Divisions 1, 4 and 7
- (b) In 2001 and each third year thereafter, Divisions 2 and 5
- (c) In 2002 and each third year thereafter, Divisions 3 and 6

Note: Elections shall be conducted in 1992 for representative athletic administrators of Divisions 2, 3, 5 and 6. Division 2 and 5 athletic administrator representatives' terms from that election shall expire in one year with the regularly scheduled 1992 elections. Division 3 and 6 athletic administrator representatives' terms from that election shall expire in two years with the regularly scheduled 1993 elections.

1.723 NOMINATIONS

Not later than September 1 each year, the Board of Directors shall cause to be electronically mailed to the principal of each member school in each District/Division and athletic administrator of each member school in each Division in which a member of the Legislative Commission is to be elected, a letter giving the boundaries of the District/Division and a primary ballot requesting a nomination for a member of the Legislative Commission.

Principals may nominate one principal, not a member of the Board of Directors, from a member school in their District as a candidate electronically. Athletic administrators may nominate one athletic administrator from a member school in their District as a candidate electronically. In addition, principals may nominate one at-large Commission member from their Division electronically.

ly. These nominations must be submitted electronically to the Association by September 15. The Board of Directors shall appoint a teller to verify the vote count. The two principals from each District and the two athletic administrators from each Division receiving the highest number of nominating votes shall be declared the nominees and they shall be notified immediately of their nomination by mail. In case of a tie vote in any District/Division, the tellers shall determine the winner of the tie by lot.

An athletic administrator or activities director may not be considered for nomination if the principal at his/her school is a current member of the legislative commission and whose term has not expired. A principal may not be considered for nomination if the athletic administrator or activities director at his/her school is already a member of the legislative commission and whose term has not expired.

If a principal, athletic administrator or activities director from the same school are both nominated for the legislative commission, and the tellers determine they qualify as official nominees, the official representative of the principal's, athletic administrator's or activities director's school shall be contacted in order for the school to indicate which nomination will go forward on the ballot. The nominee not going forward will be replaced by the respective nominee with the next highest number of votes.

1.724 ELECTION

Not later than September 20, the Board of Directors shall cause to be electronically mailed to the principal of each member school in each District/Division and athletic administrator in each Division in which an election is to be held a electronic ballot on which are the names of the two nominees. Principals and athletic administrators shall mark their ballots in regular manner, each principal voting for only one of the respective nominees. Each ballot shall be electronically submitted to the office of the Association by October 1. The Board of Directors shall appoint a teller who shall meet not later than October 4, to verify the vote count. The teller shall then certify to the Legislative Commission the results of the balloting. At the next regular meeting of the Legislative Commission following the election, the Commission shall canvass the vote and declare the candidate(s) in each District/Division receiving the highest number of votes for each position to have been elected. In case of a tie in any District, the tellers shall determine the winner by lot.

1.725 TERM OF OFFICE

Members of the Legislative Commission shall be elected for terms of three years (except as provided in Section 1.722) and shall take office immediately upon the determination of their election as provided in Section 1.724. They shall serve until their successor is elected; until they cease to be a high school principal, athletic director, or activities director in the District/Division from which they were elected unless because of redistricting; until they tender their resignation and it is accepted by the Board of Directors; or until they become a member of the Board of Directors. They shall be eligible for no more than three three-year terms.

In the event that high school principals, athletic administrators or activities directors who are Legislative Commission members are removed from their District/Division because of the redistricting of the state (except as provided in Section 1.722) they shall continue to represent the District from which they were elected for the balance of the year provided they continue to serve as principal, athletic administrator or activities director of a member school in the territory which formerly comprised the District/Division from which they were elected.

1.726 VACANCIES

In case of a vacancy, the President of the Association shall appoint a principal or athletic administrator of a member school from the District/Division in which the vacancy occurs to serve until the time of the next regular election.

1.727 OFFICERS

The officers of the Commission shall be Chairman, Vice Chairman and Secretary. The Commission shall elect the Chairman and Vice Chairman. The Executive Director of the Association shall be the Secretary of the Commission.

1.728 MEETINGS

The officers of the Commission shall fix the time, place and provide reasonable notice of all meetings of the Commission. However, there will be at least two meetings between November 1 and December 31 of each year. Meetings may be called by the President of the Association and must be called by the Secretary upon written request of a majority of the members of the Commission or of not less than five percent of the member schools of the Association.

In case members report that they will be unable to attend a scheduled meeting of the Commission, the President of the Association shall appoint a principal of a member school from the District represented by an absentee to serve at the said meeting.

1.730 ACTION ON AMENDMENTS

All proposed amendments to the Constitution and By-laws and all other proposed legislation of a permanent character shall be referred to this Commission for consideration. In considering such proposals, the Commission shall have two meetings. In the first of these, the Commission shall meet as a Committee of the Whole. At their own expense, high school principals or any representative or committee not exceeding three members from any statewide organization of teachers may appear before the Committee to promote or oppose any proposal before the Committee or to counsel and advise the Committee regarding any desired modifications in the proposals.

The second meeting, which shall be the official legislative meeting of the Commission, may be held on the same day as the first meeting or at any time within thirty (30) days following the first meeting. The Commission shall be authorized to reword or amend a proposal, but shall obtain authorization from the principal submitting the original proposal before referring the revised or amended proposal to the Association. The Commission, with formal recommendations, shall refer to the Association for final action on all proposals except those rejected by a majority vote of the Commission members present. The report of the Commission shall be accompanied by a brief statement of the arguments for and against each proposal referred to the Association. Votes of the individual members of the Legislative Commission shall be recorded and made available to member school principals/official representatives upon written request. If, after consideration by the Legislative Commission, a proposal is not accepted for inclusion on the referendum ballot, but petitions requesting inclusion of the proposal on a referendum ballot are received from twenty percent (20) of the member school principals, the proposal shall automatically be included on the next referendum ballot without further action by the Legislative Commission.

1.740 EXPENSES OF COMMISSION MEMBERS

The necessary expenses incurred by members of the Legislative Commission in attending meetings shall be paid by the Association upon presentation of a proper voucher and approval by the Board of Directors.

1.800 MEETINGS OF THE ASSOCIATION

1.810 TIME AND PLACE

The time and place of the annual meeting of the Association shall be determined by the Board of Directors.

1.820 SPECIAL MEETINGS

Special meetings may be called by the President of the Association and must be called by the Secretary upon written request of not less than five percent of the member schools.

1.830 REPRESENTATION AT MEETINGS

The principal of each member school, or a teacher in the school delegated by the principal in writing, shall represent such school at all meetings of the Association and in all matters involving the relationships of the school with other schools under the rules of the Association.

1.840 QUORUM

Representatives of ten percent of the member schools shall constitute a quorum at any meeting of the Association.

1.900 AMENDMENTS

1.910 SUBMISSION OF AMENDMENTS

Proposals to amend the Constitution and By-laws shall be submitted by the official representative of any member school provided they are filed with the Executive Director of the Association not less than twenty (20) days prior to consideration by the Legislative Commission at a first meeting which deals with such proposals. All proposals shall be considered and reported on by the Legislative Commission in accordance with the provisions in Sections 1.721 through 1.740. All such proposed amendments to the Constitution and By-laws recommended by the Legislative Commission for final action by the membership must be voted on as provided in Section 1.920.

Proposals to amend Section 5.000 (By-Laws—Individual Sport) of this Constitution and By-laws and/or any of its sub-sections may be acted upon in accordance with the provisions of this Section. However, if the Section and/or Sub-section to which the amendment is proposed has been amended during the two (2) school years immediately preceding the school year in which the proposal is submitted, affirmative vote by at least sixteen (16) members of the Legislative Commission is necessary for submission of the proposal for referendum.

1.920 REFERENDUM VOTE

All proposals pertaining to the Constitution and By-laws and all other matters requiring an approving vote of the member schools that have been recommended for final action by the Legislative Commission shall be electronically mailed not more than ten (10) days after the second meeting of the Legislative Commission. Ballots for use in voting on such proposals shall be electronically mailed to all member schools not more than twenty (20) days after the second meeting of the Legislative Commission. All voting must be completed online within thirty (30) days after the second meeting of the Legislative Commission. A majority of the electronic votes cast shall be required for the passage of any proposal.

The Board of Directors shall appoint a teller, a high school principal who is not a member of either the Board of Directors or the Legislative Commission, to verify the vote count. These electronic ballots must be counted and the results announced to the membership by electronic mail within thirty (30) days after the conclusion of the balloting.

1.930 EFFECTIVE DATES OF AMENDMENTS

Each amendment of the Constitution and By-laws shall become effective on July 1 of the year following its adoption; on the date specified by the principals submitting the proposal providing such date is not less than thirty days following the notification of member schools of the results of the referendum in which the proposal was passed; or on a date mutually agreed upon by the submitting principal and the Legislative Commission.

BY-LAWS

All terms, conditions and provisions of the IHSA Constitution are incorporated herein as part of these By-laws. Any sections hereof deemed or found to be inconsistent shall be controlled and interpreted pursuant to the authority of the IHSA Constitution.

2.000 SCHOOL BY-LAWS

Included in this Section:

- 2.000 School By-laws
- 2.010 Compliance with Rules
- 2.020 Responsibility of Principal
- 2.030 Cooperative Team Sponsorship
- 2.040 Sportsmanship of School Representatives
- 2.050 Schools with which Contests May be Held
- 2.060 Multiple School Interscholastic Activities
- 2.070 Qualifications of Coaches
- 2.080 Selection and Use of Licensed Officials
- 2.090 Season Limitation in Athletic Activities
- 2.100 All-Star Teams and Games
- 2.110 Officials' Attendance at Rules Meeting
- 2.120 Coaches' Attendance at Rules Meeting
- 2.130 Principals' Attendance At Meetings
- 2.140 Participation Limitations During Strike
- 2.150 Physical Examination
- 2.160 Classification
- 2.170 Distribution of Steroids and Performance Enhancing Drugs
- 2.180 Travel Policy

2.010 COMPLIANCE WITH RULES

- (a) Members of this Association must comply with the rules as stipulated in the Constitution and By-laws of the Association in all matters pertaining to athletic and activity programs, competitions and other events, with or against any other school, whether it is a member or non-member of the Association.
- (b) All interscholastic athletic games, meets and contests participated in by IHSA member schools shall be governed only by the rules written or officially adopted for those respective sports by the National Federation of State High School Association and modified by the IHSA.

Illustrations for Section 2.010 of the Constitution

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

- 6) Q. If a school joins the Association during the school term, is the school required to meet all the by-law requirements beginning with the first day of the school term in which it becomes a member.
- A. Yes. This would apply to residence, transfers, academics and all other by-laws. (By-law 2.010)

2.020 RESPONSIBILITY OF THE PRINCIPAL

The principals, as defined in Section 1.200 of the Constitution, or their designates, shall be responsible to this Association for matters pertaining to all athletic as well as non-athletic activities of their school. In addition, they shall be responsible to insure that their school is properly represented at all interscholastic events and be responsible for the conduct of their team and other persons from their school.

Illustrations for Section 2.020 of the Constitution

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

7) CERTIFICATION OF ELIGIBILITY

- Q. Who is responsible to certify the eligibility of a student athlete?
- A. Principals must be prepared to certify the eligibility of an athlete at any time. They must maintain sufficient records to verify each athlete's compliance with all eligibility rules. Upon the request of a fellow member school principal, or upon request from the IHSA Office, principals shall provide written certification of a student's eligibility. (By-law 2.020)

8) SCHOOL REPRESENTATIVES AT CONTESTS

- Q. Must the school principal be personally present at all interscholastic activities?
- A. No. The principal is responsible to insure proper representation by officially designated school personnel. (By-law 2.020)

9) "PROPER REPRESENTATION"

- Q. What is the meaning of "proper representation" in By-law 2.020?
- A. This term is interpreted to require presence of a faculty member or other certified or non-certified person who meets the coach qualification requirements of By-law 2.070. (By-law 2.020)

10) COACH AS SCHOOL REPRESENTATIVE

- Q. May a coach serve as the school's representative to provide "proper representation" at an interscholastic contest?
- A. Yes. (By-law 2.020)

11) COACH/REPRESENTATIVE EJECTED FROM PLAYING AREA

- Q. What action should be taken if the coach of a school team, who is the only school representative present at a contest, is ejected from the contest and removed from the immediate playing area?
- A. With no remaining school representative present, the school may not continue to participate. The contest should be terminated and forfeited to the opponent. A Special Report must be filed with the IHSA Office by the officials and/or schools involved. (By-laws 2.041 & 6.012)

2.030 COOPERATIVE TEAM SPONSORSHIP

The Board of Directors shall have the authority to approve the formation of cooperative athletic teams or activity programs by two or more member schools under the following conditions:

- (a) The schools are located in the same geographical area;
- (b) All schools participating in the cooperative are Class A (in a 2-class system) or Class 1A or 2A (in a 3 or 4-class system) schools according to the IHSA Classification System; or, in the event one or more of the cooperating schools is a Class 3A or 4A public school, the cooperative team is for a sport other than Boys Football or Boys or Girls Basketball; In the event one or more of the schools involved in the cooperative is a public non-boundary school, that school's actual enrollment, not multiplied enrollment is used to determine the eligibility of the cooperative team request.
- (c) Only private schools with non multiplied enrollments of 200 or less are eligible to form cooperative teams.
- (d) The combined enrollments of all schools involved in the cooperative team, calculated according to the IHSA Classification System, is utilized to determine the classification for the cooperative team;
- (e) The cooperative sponsorship agreement is established for a period of two consecutive school years;
- (f) The governing boards of all schools participating in the cooperative team agreement jointly make the application to the IHSA Board of Directors for approval of the cooperative team agreement;
- (g) The joint application includes:
 - (1) Written approval from the conference(s) of which the cooperating schools are members, and/or in which the cooperative team will participate, or, in the event the cooperative team will not be affiliated with a conference, written approval from a minimum of seven schools included in the cooperative team's schedule of competition;
 - (2) A statement signed by the principals of all cooperating schools designating the name under which the cooperative team will compete;
 - (3) A report of the number of students from each of the cooperative schools expected to participate on the cooperative team;
 - (4) A report of the number of students, if any, from each of the cooperating schools who have been participating in the sport involved, in programs offered on a non-cooperative basis by their own schools;
 - (5) A statement expressing the reasons for the formation of a cooperative team;
 - (6) Written assurance that the cooperative team will not limit participation opportunities for students in any of the cooperating schools.

When a cooperative team completes two years of approved operation and the boards of education involved wish to renew the agreement for another two-year period, the involved school(s) shall submit to the IHSA, by the established date, notification that they wish to continue the cooperative with no changes and written approval from the conference.

----- Illustrations for Section 2.030 of the Constitution

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

- 12) Q. According to the by-law, "conference approval" is required for each cooperative team. What constitutes "conference approval"?
A. "Conference approval" is a formal, voted-upon action by a conference, according to its own method of voting, granting formal approval by the conference to the formation of a cooperative team involving one or more of its member schools. On the application form for IHSA approval of each cooperative team, conference presidents of involved conferences will be required to sign certification of conference approval and indicate the method of voting used by the conference in determining approval. (Constitution 1.420 & By-law 2.030)
- 13) Q. What requirements do schools which establish cooperative agreements have to meet in respect to defining the administrative details of a cooperative team?
A. Boards of Education must adopt an agreement with the other district(s) involved in the formation of a cooperative team in order to delineate provisions for insurance, coaching personnel and compensation, liability, facilities, equipment, etc. (By-law 2.030) This agreement may be designed like the intergovernmental agreement authorized under the provisions of Section 10-22.31(a) of the School Code of Illinois.
- 14) Q. If a school adds a boys sport team by formation of cooperative teams, must it also add a girls sport team to its program?
A. Simply adding a team for one gender of student by forming a cooperative does not require corresponding action to add a team for the other gender of students. However, schools are bound by the provisions of the State Sex Equity Rules, published by the State Board of Education. Questions in respect to these rules and the implications of cooperative teams in light of them should be referred to the State Board of Education. (By-law 2.030)
- 15) Q. May cooperative teams be formed with out-of-state schools?
A. Yes. However, cooperative teams formed with either out-of-state or other non-member schools may not compete against IHSA member schools. Therefore, if a school located along the state border forms a co-op team with a school in a neighboring state, it may compete only with schools in that state or schools which are not members of the Illinois High School Association. (By-law 2.030)

- 16)** Q. May cooperative teams be formed with non-IHSA member schools from Illinois?
A. No. (By-law 2.030)
- 17)** Q. May a school form more than one cooperative team in the same sport?
A. No. (By-law 2.030)
- 18)** Q. May a school form a cooperative team with one other school in football, a different cooperative team with another school in cross country and even a third cooperative team with yet another school in volleyball?
A. Yes. The provisions of this rule permit formation of different cooperative teams with different schools on a sport-by-sport basis. However, each cooperative team formed must undergo the complete process approval by the boards of education, the conference, and the IHSA Office. (By-law 2.030)
- 19)** Q. In light of the requirement that cooperative teams may not "limit participation opportunities," must a "no-cut" policy be established for each cooperative team that is formed?
A. No. (Constitution 1.420 & By-law 2.030)
- 20)** Q. May a school drop one sport, such as fall baseball, in order to enter a cooperative team arrangement in another sport, such as football?
A. Yes. The decision as to which sports to offer is exclusively the prerogative of each local board of education. (By-law 2.030)
- 21)** Q. May a cooperative team agreement be formed during a sport season, in order to accommodate participation in the state tournament series that school year?
A. No. All cooperative teams must have applied to the IHSA for approval no later than the pre-season deadlines established (Fall Sports—August 1; Winter Sports—October 1; Spring Sports—February 1). Applications received after this date will be denied or considered only for implementation no sooner than the subsequent school year. (By-law 2.030)
- 22)** Q. Must cooperative teams compete in six contests to be eligible for state series team competition under the provisions of By-law 3.054?
A. Yes. (By-laws 2.030 & 3.054)
- 23)** Q. If two schools, whose enrollments as of September 30 in a given year are 450 and 400 respectively, form a cooperative team, what enrollment will be used to determine the classification of the cooperative team?
A. Classification of the cooperative team will be based on the combined enrollment of the cooperating schools. In this case, 450 plus 400, or a total of 850. This figure of 850 will determine classification for the cooperative team only. The individual schools will still be classified on the basis of their individual enrollments of 450 and 400 respectively for other sports. (By-law 2.030)
- 24)** Q. If the combined enrollment of schools in a cooperative team agreement exceeds the cut-off for division between any class, in which classification will this cooperative team compete?
A. In all sports and activities other than football and music, if a cooperative team has a combined enrollment over the dividing line between classes, the cooperative team will compete in the higher class for that sport or activity. (By-law 2.030)
- 25)** Q. In the event the situation indicated in the previous Illustration occurs in football, what will be the classification of the cooperative team?
A. Football classification differs from that for other sports in that class designation is not determined until all teams qualifying for the State Playoffs are established. Then the number of qualifiers is divided into eight equal groups, on the basis of their official enrollments. Therefore, the coop team referred to in the previous Illustration would be classified on the basis of its 850 combined enrollment, and would almost certainly be in a different class than either school would have been in with their individual enrollments of 450 and 400. (Constitution 1.450 & By-law 2.030)
- 26)** Q. In the event the situation indicated in the previous Illustration occurs in music, what would be the classification of the cooperative program?
A. Music classification also differs from that in other activities. Schools are classed as follows: 0-190 = Class D; 191-350 = Class C; 351-800 = Class B; 801-1600 = Class A; Over 1600 = Class AA. Therefore, the co-op program referred to in Illustration 21 would be classified as Class A in Music. (Constitution 1.450 & By-law 2.030)
- 27)** Q. If a school is in Class 2A by enrollment at the time it enters a cooperative team agreement, but then grows to Class 3A size before the end of the agreement's term (minimum of two years), may it continue in the cooperative team agreement for its duration?
A. Yes. If a school in a cooperative team agreement grows beyond the classification dividing line and becomes Class 3A, any cooperative agreement of which it is a party will remain in effect for its duration. (By-law 2.030)
- 28)** Q. If two schools form a cooperative team, may they redraft their cooperative agreement and add a third school to the cooperative at the end of one year?
A. Yes. With the approval of all the schools involved, the conferences (if applicable), and the approval of the Executive Director, a school may be added to a cooperative team at the end of the first year. (By-law 2.030)

- 29)** Q. If two schools form a cooperative agreement, and then after the season for that sport begins, interest wanes and there are not sufficient students participating to sustain the team, what is the status of the agreement if the boards by mutual consent terminate the team's existence?
- A. Note that each cooperative agreement is for a minimum of two years. Even if the team for which the agreement is established does not compete, the schools are committed to the agreement for the two-year period. They may not terminate the agreement early, nor may they enter another cooperative agreement with another school during the lifetime of such an original agreement. Furthermore, if students from either of the schools should enter the IHSA state tournament series as individuals in the sport for which the cooperative was established, they would have to be entered under the auspices of the cooperative team, not their own individual high school. (By-law 2.030)
- 30)** Q. Can a cooperative team form for only one year?
- A. No. Cooperative team agreements are for a two year period. Consolidation or annexation of a school in a coop could allow a coop to end prior to the completion of its two year cycle. (By-law 2.030)
- 31)** Q. If two schools have established a cooperative team, and the cooperative dissolves prior to the end of its two-year agreement, may either of the schools participate as an individual school in that sport before the termination of the cooperative agreement?
- A. Yes, provided the reasons for dissolution of the cooperative team are extenuating circumstances accepted by the IHSA Board of Directors. However, a school in this situation may not enter another cooperative agreement in this sport until the end of the two-year time period of the original cooperative agreement. (By-law 2.030)
- 32)** Q. In the event two schools, each of which is a member of a different conference, form a cooperative team, how will the requirement for conference approval be administered?
- A. According to By-law 2.030, cooperative teams must be approved by the conference(s) of which the participating schools are members. They must also be approved by the conference in which the cooperative team will participate or by seven schools on the cooperative team's schedule if it will not compete in a conference. To illustrate:
- (a) If the new cooperative team will compete in the conference of which one of the cooperating schools has been a member, both that conference and the conference(s) of which other schools in the cooperative have been members will be required to approve the cooperative team.
 - (b) If the new cooperative team will compete in neither of the existing conferences but in another conference altogether, then both the previous conferences and the new conference must approve formation of the cooperative team.
 - (c) If the schools forming a cooperative team have been members of conferences but will compete as an independent team under their cooperative agreement, then the conferences of which they have individually been members, along with seven (7) schools from the proposed independent team's schedule, must approve formation of their cooperative team.
 - (d) If one school entering a cooperative has been a member of a conference and the other school entering the cooperative has been independent, and the cooperative will compete as an independent, approval of the cooperative team must be obtained from both the conferences of the one cooperating school and from seven (7) schools on the new cooperative team's schedule.
- 33)** Q. How is the term "seven schools" defined with respect to requiring approval by "seven schools on its schedule" in the event the co-op team will not compete in a conference?
- A. "Seven schools" means seven actual and different individual IHSA member high schools from seven different competitions included on the cooperative team's proposed schedule for the succeeding school year. (Constitution 1.420 & By-law 2.030)
- 34)** Q. Assume that a school drops out of a conference where it has participated in a particular sport and then enters a cooperative team agreement to participate in that same sport in another conference. Do the schools in the original conferences have any recourse, especially if they are not able to reschedule new opponents?
- A. Formation of cooperative teams does not automatically negate all existing contracts. In general, contracts may be dissolved or altered only by mutual consent on the part of all involved parties. (By-law 2.030) In this situation, however, approval of the formation of a cooperative team by a conference will be interpreted to indicate tacit acceptance of the dissolution of all contracts between conference members and the school(s) involved in the cooperative. Therefore, schools in a conference which approves a member leaving the conference to form a cooperative team that will compete as an independent or in another conference, may lose games they had planned on without having breach of contract recourse. On the other hand, contracts for games which are not part of a conference schedule in a conference which has approved the formation of the cooperative team will be considered as individual contracts between the two schools. They may be dissolved only by mutual consent of both schools. If the school which is party to such contract and is not entering a cooperative team agreement refuses to dissolve the contract mutually, it will leave the school entering the cooperative agreement with a potential breach of contract situation.
- 35)** Q. Will the IHSA approve a cooperative team application in the event all questions pertaining to contracts with other schools and/or officials are not mutually resolved?
- A. It is not likely, though a judgment will be made in each individual case. (By-law 2.030)
- 36)** Q. If two schools have established a cooperative team and, during the season for that sport, one of the two cooperating schools experiences a teachers' strike, may the cooperative team continue to participate during the strike or is it restricted under the terms of the IHSA Strike Policy?
- A. The cooperative team will be affected by the strike policy. Therefore, if either cooperating school experiences a strike, the students from the striking school will be restricted from competition for the duration of the strike. Students from the non-striking school may continue to participate. If the non-striking school is unable, due to insufficient numbers, etc., to fulfill the terms of contracted obligations, the cooperative will be held in breach of contract. (Constitution 1.420 & By-law 2.030)

- 37) Q. What impact on a coop is there if, during the term of a coop, one of the schools involved in a coop consolidates with another district, annexes with another district, or deactivates?
- A. In the event of consolidation, annexation, or deactivation, a coop agreement among schools will cease to exist. In such an event, the consolidation, annexation, or deactivation will supersede the coop agreement. In such an event, the remaining school(s) would be allowed to enter into a new coop agreement with a new district, even if their former agreement had not expired. (By-law 2.030(e).
- 38) Q. Can two districts that are not contiguous form a coop?
- A. Yes. Public school districts must be in the same geographical area in order to form a coop within the parameters of the by-law, but the districts do not have to be contiguous. (By-law 2.030)

2.040 SPORTSMANSHIP OF SCHOOL REPRESENTATIVES

- 2.041 Students, school staff, boards of education, spectators and all other persons connected directly or indirectly with a member school shall practice and promote the highest principles of sportsmanship and the ethics of competition in all interscholastic relationships. The Executive Director shall have authority to investigate allegations and incidents of unsportsmanlike conduct or conduct which adversely affects the ethics of competition in connection with interscholastic contests. The Executive Director shall also have full authority to invoke penalties, in the context of the provisions of Division 6.000 of these By-laws, against a member school and/or individuals whose conduct in connection with an interscholastic contest violates these principles or ethics.
- 2.042 Member schools shall maintain proper crowd control and enforce the principles of good sportsmanship and ethics for all interscholastic activities. The Executive Director shall have authority to investigate reported incidents of unsportsmanlike conduct or conduct which adversely affects the ethics of competition in connection with interscholastic contests and shall have full authority to invoke penalties, in the context of Division 6.000 of these By-laws, against a member school which fails to fulfill its obligations as provided in this section.

Illustrations for Section 2.040 of the Constitution

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

39) CROWD CONTROL

- Q. Who is responsible for crowd control at an interscholastic contest?
- A. The host school must assume primary responsibility for the physical management of the activity, including providing for crowd control. Both the host school and the visiting school must also enforce proper behavior on the part of their own students and fans. (By-law 2.040)

2.050 SCHOOLS WITH WHICH CONTESTS MAY BE HELD

Member schools may permit eligible students to participate in competitive activities as school representatives only with the following:

- schools which are members of this Association;
- schools which are members of an athletic or activities association in another state which is recognized by the Board of Directors of this Association;
- schools which are not members of this Association but are approved for interscholastic participation by the Board of Directors of this Association;
- schools which are not members of an athletic or activities association in another state but are approved for interscholastic participation by such an association;
- junior high schools, provided that in any event other than a dual contest, only eligible ninth grade students represent the junior high school; and
- cooperative athletic teams approved by the Board of Directors under the provisions of these By-laws.
- The Illinois High School Association Executive Director is authorized to waive the provisions of this By-law for the Illinois School for the Visually Impaired (ISVI) when the ISVI is in competition only with other schools for the blind provided such competition is governed by the standards adopted by the North Central Association of Schools for the Blind.
- The Illinois High School Association Executive Director is authorized to waive the provisions of this By-law for the Illinois School for the Deaf (ISD) when the ISD is in competition only with other schools for the deaf.

Member schools may not permit students to participate as school representatives in activities with non-school groups.

Illustrations for Section 2.050 of the Constitution

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

40) APPLICATION OF RULE

- Q. Do the provisions of this rule prohibit:
- (a) school bands from marching in parades in which non-school groups perform but do not compete?
 - (b) school-sponsored ice hockey teams from competing with non-school clubs or teams?
 - (c) FFA judging groups from competing against 4H or other non-school entities?
- A. This by-law is interpreted to apply only to competitive activities. Therefore, it does not prohibit Example (a) but it does prohibit Examples (b) and (c). The key factor to consider is whether competition is involved in an activity or not. (By-law 2.050)

- 41)** Q. May schools that sponsor ice hockey teams, lacrosse teams or any other interscholastic teams participate against non-school teams?
- A. No. (By-law 2.050)

42) ALUMNI GAMES

- Q. May a school team play a contest against a group of alumni, just for local interest?
- A. The by-laws limit member schools to compete against other schools. A school may not play an alumni contest in any sport since alumni teams are not school groups. (By-law 2.050)

43) FACULTY GAMES

- Q. May a school conduct a basketball game between teams of faculty members and school basketball team members to raise funds for the purchase of a new clock and scoreboard?
- A. Faculty-student games are interpreted to be intramural events. Therefore, they are not restricted by this by-law. Only members of the school's faculty and students at the school may participate. (By-law 2.050) Such contests are not counted as one of the contests to which a school team is limited by the by-laws. (By-law Section 5.000)

- 44)** Q. May an approved school participate in a tournament against an IHSA member school?
- A. No. Approved schools may only participate in dual contests with IHSA member schools. (By-law 2.050 and Article 1.270)

2.060 MULTIPLE SCHOOL INTERSCHOLASTIC ACTIVITIES

Member schools must adhere to the following conditions when participating in any interscholastic multiple school (four or more schools) contest or other activity:

- (a) athletic activities, not sponsored by this Association, must be hosted by a school which is a member of this Association or a school which is a member of another state activities or athletic association which is recognized by the Board of Directors of this Association.
 - (b) multiple school activities may not begin before 1:00 p.m. on a school day;
 - (c) multiple school conference activities may begin as early as 8:00 a.m. on a school day;
 - (d) multiple school activities sponsored by a statewide organization such as the Illinois Coordinating Council for Career and Technical Student Organizations, the Illinois Association of Student Councils, etc. may begin as early as 8:00 a.m. on a school day;
 - (e) awards presented to schools and individuals are within the limitations established by these By-laws;
 - (f) lodging arrangements for student participants are exclusively the prerogative of the member school;
 - (g) student participants must be eligible under all the provisions of these By-laws;
 - (h) no participating school may exceed participation limits established in these By-laws;
 - (i) inter-state activities are approved through the established procedures of the National Federation of State High School Associations; and
 - (j) except for the State Final meet or tournament, practice rounds or other practice or workout sessions at the site of an interscholastic contest do not begin sooner than fifteen (15) minutes after the end of the school day.
-

----- **Illustrations for Section 2.060 of the Constitution** -----

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

45) DISMISSAL TIME

- Q. Whose school dismissal time is used to determine the permitted time for practice or workouts at the site of a contest?
- A. The dismissal time of the school hosting the contest shall be the time from which practices may be scheduled. Therefore, if the host school is dismissed at 3:15 p.m., no visiting school may practice at the site of the contest until 3:30 p.m. or later, regardless of its own dismissal time. (By-law 2.060(i))

46) LEAVING SCHOOL EARLY

- Q. May a team leave school prior to dismissal time to travel to the site of a contest?
- A. This by-law regulates only the actual start of practice at a contest site. Schools make their own determinations about leaving school to travel to the site. (By-law 2.060(a), (b), and (i))

47) GOVERNMENTAL SPONSORSHIP

- Q. When a governmental agency, such as the General Assembly or Department of Tourism, provides funds for a school's use to travel to and participate in a particular event, does this constitute "governmental sponsorship" of the activity under the terms of this rule?
- A. Yes, and the school may participate under all the terms of the sanction policy. (By-law 2.060(c))

2.070 QUALIFICATIONS OF COACHES

To serve a member school as a Head or Assistant Coach, athletic coaches in member schools must:

- (a) be regularly certified by the ISBE as a teacher, administrator, or school service personnel (i.e. counselor, social worker, speech therapist, etc., including substitute teachers), or
- (b) be a retired teacher/coach from an IHSA member school, or
- (c) be a college student coaching as part of an official student teaching assignment, or
- (d) be certified through ASEP, NFHS or other IHSA Board approved coaches certification program (see IHSA Policy Number 9 for a complete list of approved programs), and
- (e) be at least 19 years of age, and
- (f) be officially employed by the local school board of the member school.

- 2.071** All remuneration for high school athletic coaching must be from the Board of Education of the member school employing the coach.

----- **Illustrations for Section 2.070 of the Constitution** -----

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

48) NON-FACULTY COACHES AS NON-SCHOOL COACHES

- Q. May a non-faculty coach at a member school coach a non-school team in an independent league outside the school season?
- A. By-law 3.107 restricts the amount of involvement permitted between students and their school coaching staff members in non-school athletic competition. A non-faculty coach is a member of a school's coaching staff, and is considered to be such for a period of time commencing with the date on which he/she is contracted for the coaching position by the school and extending until the beginning of the next year's season for the sport. Therefore, a non-faculty coach may coach a non-school team outside the school season only under the guidelines provided under By-law 3.107.

49) STUDENT TEACHERS

- 49.1** Q. May a student teacher assist with the coaching of an athletic team?
- A. Yes, provided it is part of the student teaching experience. (By-law 2.076)
- 49.2** Q. May student teachers be paid for assisting with the coaching of athletic teams?
- A. No, unless the person who is student teaching is at least 19 years old and has completed an IHSA approved coach training program. (By-law 2.076)

- 49.3** Q. May student teachers continue coaching their student teaching assignments after the regular student teaching period ends?
 A. Yes, provided their college or university authorizes the continuation. (By-law 2.076)

50) VOLUNTEER COACHES

- Q. May a person volunteer to coach without pay at a member school?
 A. Yes. However, whether a person is paid to coach or is a non-paid volunteer, the person must meet the qualification requirements of By-law 2.070 and its sub-sections. (By-law 2.070)

51) BY-LAW COVERAGE

- Q. Does By-law 2.070 require music directors, speech coaches and other activity sponsors or coaches to be certified teachers and have one of the specified employment relationships with a school?
 A. No. This by-law applies only to coaches of athletic teams. (By-law 2.070)

52) MINIMUM AGE OF NON-FACULTY COACHES

- Q. Is there an age minimum for non-faculty and/or non-certified personnel who coach?
 A. The Board of Directors interprets the provisions of this By-law to require non-faculty and/or non-certified coaches to be at least nineteen (19) years of age. (By-law 2.070 and Constitution 1.420)

53) PRACTICE WITH COLLEGE STUDENT OR ALUMNUS

- Q. May a college student or other alumnus participate in a school team practice?
 A. No. A person who is not a student at the school and is not qualified and approved by the school as a coach under the provisions of this by-law may not participate in any respect in a school team practice.

2.080 SELECTION AND USE OF LICENSED OFFICIALS

All major officials for athletic contests must be licensed with the IHSA in the sport the individual is to officiate, except that in the event contracted officials do not appear for a contest below varsity level, and with mutual consent by all competing schools, members of the coaching staff, faculty, and/or administrative staff of any of the competing schools may officiate the contest. The Board of Directors shall be responsible to establish policies and procedures governing the licensing process.

The names of game officials for each interscholastic athletic contest must be submitted by the host school to the visiting school not later than five school days before such contest and must be mutually agreed upon not later than the night preceding the contest.

Illustrations for Section 2.080 of the Constitution

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

54) REPLACING CONTRACTED OFFICIALS

- Q. If two schools have approved officials for a contest and the host school has contracted the officials, may either the host or the visiting school cancel the contract of one or more of the officials prior to the contest?
 A. The Board of Directors, under the authority granted in Constitution 1.420, has adopted the following guidelines for such situations:
- (1) Prior to contract negotiations with an official, the host school should receive approval of the visiting school before employing the services of a designated official. The IHSA recommends that approval be in writing as provided on the game contract.
 - (2) Having contracted an approved official as listed in (1), only the host school can release or replace an official from contractual commitments.
 - (3) The visiting school has the privilege of requesting that a previously approved official be replaced. If this occurs, only the host school, as the contracting agent, becomes involved with the official. Usually, it will defer to the visiting school's wishes if an acceptable replacement that is mutually agreeable to both schools can be found. However, this is not mandatory if (1) has been followed.
 - (4) Whenever the host school cancels a legal contract because of the visiting school's request, only the host school negotiates with the official in resolving the terms of the contract. The host school makes the payment for the contractual fee.
 - (5) If the official is cancelled because of the visiting school's request, the visiting school must reimburse the host school for the contracted fee. The host school will then reimburse the official.
 - (6) If By-law 2.080 is not complied with by the host school, then all obligations in contractual matters must be assumed by the host school.
 - (7) The contract must be valid in all aspects and both parties must comply with all of its provisions.

55) MAJOR OFFICIALS

- Q. Who are "major officials" as identified in this by-law?
- A. The Board of Directors interprets "major officials" to be officials who are required to be licensed with the Association in order to receive remuneration for their services. They include: (By-law 2.080)
- Basketball—Referee, Umpire
 - Soccer—Referee
 - Swimming—Referee, Starter, Diving Referee
 - Track & Field—Referee, Starter, Referee-Starter
 - Boys Baseball—Umpire
 - Boys Football—Linesman, Umpire, Line Judge, Back Judge, Referee
 - Boys Gymnastics—Judge
 - Boys Wrestling—Referee, Assistant Referee
 - Girls Gymnastics—Judge
 - Girls Softball—Umpire
 - Volleyball—Referee, Umpire

56) NOTIFYING OPPONENT OF OFFICIALS HIRED

- Q. According to this By-law, the names of officials for a contest must be provided to visiting schools at least five days prior to the contest. How is this notice to be provided?
- A. Space is provided for this purpose on IHSA game contract forms. A host school may also notify the visiting school by letter or fax, and receive a letter or fax in response giving approval by the visiting school. Acceptance of a contract containing names of officials, or failure to reject officials in writing, shall constitute approval of officials. (By-law 2.080)

57) CONTRACTED OFFICIALS NOT APPEARING FOR THE CONTEST

- Q. What should schools do if the licensed officials who are contracted for a contest do not appear?
- A. A varsity contest may be played only if licensed officials can be obtained. However, for a below-varsity level contest, members of the coaching staff, faculty and/or administrative staff from any of the competing schools may officiate the contest.

2.090 SEASON LIMITATION IN ATHLETIC ACTIVITIES

No school belonging to this Association shall organize its teams, practice, scrimmage or participate in any interscholastic sport outside of the season limitations as prescribed in Section 5.000 of these By-Laws; nor shall any person who coaches any sport at a member school, coach or supervise a non-school team in any interscholastic sport composed of students from that school, except within the guidelines promulgated by the IHSA Board of Directors.

Exception: For each sport, a school may hold one informational meeting prior to the start of its season to provide information regarding tryouts, procedures and forms that need to be on file. Coaches or school personnel may not use this meeting to organize out of season programs (example: fall, winter or spring leagues).

Illustrations for Section 2.090 of the Constitution

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

58) SCRIMMAGE AS CONTEST

- Q. Is a scrimmage considered to be a practice or an interscholastic contest?
- A. If a scrimmage involves exclusively students from one high school, it is considered to be practice. If a scrimmage involves students from more than one high school, it is viewed to be an interscholastic contest and is subject to all rules pertaining thereto. (Constitution 1.420 & By-law 2.090)

59) PRIVATE LESSONS FROM HIGH SCHOOL COACH

- Q. May a student receive private instruction from his/her high school coach outside the school season?
- A. Taking a private lesson from a faculty member or coach at a member school, outside the season, in the sport in which the student participates, is permitted only if the coach gives private lessons to clients other than students from his/her school. If the lesson program is limited to students from the instructor's school, it is viewed as a form of organizing and practicing the school team. (By-law 2.090)

60) USE OF SCHOOL EQUIPMENT, PAYMENT OF FEES, ETC.

- Q. May school facilities and/or athletic equipment be used for non-school athletic programs during the school year?
- A. Schools may not underwrite any part of the cost of participation by students in non-school athletic programs. This means that schools may not pay entry fees, provide uniforms, etc. However, if a school has an established policy governing use of school facilities and/or equipment by non-school groups, schools may permit the use of their facilities and/or equipment by non-school athletic teams under such a policy. (Constitution 1.420)

61) COACH PLAYING ON TEAM

- Q. May a school coach play on a non-school team with students from the same school at which he/she coaches?
- A. Yes, under the following conditions: a) during the school year, only if the number of players on the non-school team's roster who attend the school where the coach coaches does not exceed one half the number of players required to comprise the starting line-up for the sport; b) during the summer, between the close of school and Saturday of Week 4 in the IHSA Standardized Calendar, each day on which such participation occurs is considered to be a contact day for both the coach and students from his/her school. (Constitution 1.420)

62) TRANSPORTATION TO NON-SCHOOL COMPETITION AND COACHING SCHOOLS

- Q. May a coach at a member school transport students from his/her school to the site of practice or competition for non-school activities and coaching schools?
- A. During the school year, this would constitute a form of "organizing a school team" and is not permitted. (By-law 2.090) During the contact day period in the summer, it is permitted. (By-law 3.154)

63) EX-COACHES

- Q. May an individual who has been coaching in a member school but whose coaching contract has been terminated for the ensuing year now coach a team in non-school competition, composed totally of students from the school at which he/she has been coaching?
- A. Yes. This individual is no longer a member of the school's coaching staff. However, if the termination of coaching services is not confirmed officially in writing and is merely a verbal understanding or an action which is anticipated, the individual is still considered to be a coaching staff member and may not coach such a team. (By-law 2.070 & 2.090)

TEAMS ORGANIZING AND PARTICIPATION IN CONTESTS DURING THE SUMMER AND DURING THE SCHOOL TERM

- 64)** Q. May a school hold a meeting in the spring for students at the school to distribute information regarding summer programs?
- A. Yes. (By-law 2.090)
- 65)** Q. May a school hold a meeting during the school term for students at the school to distribute information regarding non-school programs also held during the school term?
- A. No. (By-law 2.090)
- 66)** Q. May a school conduct pre-season conditioning for a team prior to the starting date for any sport as outlined in Section 5.000 of the IHSA By-laws?
- A. No. Conducting a preseason conditioning program as outlined above would constitute a violation of IHSA By-law 2.090. (By-law 2.090)

2.100 ALL-STAR TEAMS AND GAMES

No athletic team from any member school may compete against an "all-star" team. No school official from a member school shall assist, either directly or indirectly, with any contest by an all-star team during the school year, unless the contest is approved by the Board of Directors.

Illustrations for Section 2.100 of the Constitution

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

67) SCHOOL OFFICIAL DEFINED

- Q. How is the term "school official" defined in the context of this rule?
- A. A "school official" is considered to be "any person who meets the coach qualification provisions of By-law 2.070 and who is employed by a school and/or school district." No individual so situated may assist in any respect with any all-star competition during the school year unless it is approved by the IHSA. (By-law 2.100)

68) ALL-STAR COACH

- Q May a coach from a member high school accept an invitation to coach at an all-star game?
- A If the sponsor of the contest secures approval from the IHSA Office, the individual may coach. (By-law 2.100)

2.110 OFFICIALS' ATTENDANCE AT RULES INTERPRETATION MEETINGS

Attendance at the annual Association sponsored sport rules interpretation meetings shall be required for all registered athletic officials, provided rules meetings are conducted in the sport. Failure to comply with this requirement may be penalized by probation, restriction on assignments or suspension of the official's registration.

Illustrations for Section 2.110 of the Constitution

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

69) PENALTY FOR NOT ATTENDING

- Q. What is the penalty for officials who do not attend rules interpretation meetings as required?
- A. Violations of this by-law will be addressed on a sport-by-sport basis as follows:
- An official who does not attend an IHSA rules meeting in a sport shall be placed on probation in that sport for one year. An official on probation may officiate regular season contests, but is not be eligible for assignment to the state tournament series and is not be eligible for promotion in the sport during the probation period. (By-law 2.110)
 - An official who does not attend an IHSA rules meeting in a sport for two (2) consecutive years shall be suspended for one year in that sport. Suspension causes the official to lose his/her license in that sport for the suspension period and to lose all ratings in that sport. After the year's suspension, an official may reapply for a license in that sport. (By-law 2.110)

2.120 COACHES' ATTENDANCE AT RULES INTERPRETATION MEETINGS

In every sport and activity, each member school shall be represented by its head coach at an annual rules interpretation meeting or online rules presentation sponsored by the Association, provided rules interpretation meetings or online rules presentations are conducted in that sport or activity. Failure to comply with this requirement may be penalized by the Board of Directors. This shall include all individual as well as team entries.

Illustrations for Section 2.120 of the Constitution

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

70) PENALTY FOR NOT ATTENDING

- Q. What is the penalty if a coaching staff representative does not attend a rules interpretation meeting in a sport?
- A. Penalties are assessed at the discretion of the Board of Directors. The Board considers non-attendance to be a school violation and regularly penalizes the first violation by placing the school team in the sport on probation for one year. The Board regularly penalizes the second consecutive violation by a school in a sport by suspending the school from participation in the state series in that sport. (By-laws 2.120 and 6.010)

71) SCHOOL REPRESENTATION AT RULES MEETINGS

- Q. If a school has both a boys and a girls team in a sport, may the school send only one coach to the rules meeting to represent both programs?
- A. Boys and girls teams are considered to represent different sports. Therefore both a boys coach and a girls coach are required to attend the rules meeting. This is true even if the boys and girls sports are in the same season and follow the same playing rules. (By-laws 2.120 and 6.010)

72) INDIVIDUALS PARTICIPATING DURING THE SEASON

- Q. If a school does not enter a team for team honors in state series competition, but does enter individuals in regular season contests in the sport, must it comply with the requirement for [redacted] to attend the rules meeting for the sport?
- A. Yes, because it has maintained a program of competition in that sport during the season. (By-law 2.120)

73) PRINCIPAL/ATHLETIC DIRECTOR ATTENDANCE

- Q. May a principal or athletic director attend a sport rules meeting as the school's representative?
- A. Yes, but only in emergency situations. The requirement of the by-law is that coaches attend the rules meetings. If a principal or athletic director attends in an emergency, the IHSA must be notified by the school in writing immediately following the rules meeting so credit for attendance by a school representative can be recorded. (By-law 2.120)

2.130 PRINCIPALS' ATTENDANCE AT MEETINGS

Each member school principal or his/her designee shall be in attendance at an annual principals rules meeting/town meeting. Failure to comply with this requirement may be penalized by the Board of Directors.

Illustrations for Section 2.130 of the Constitution

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

74) PENALTY FOR NOT ATTENDING

- Q. What is the penalty if a principal/principal's representative does not attend a rules interpretation meeting in a sport?
- A. Penalties are assessed at the discretion of the Board of Directors. The Board considers non-attendance by a principal/principal's representative a violation and regularly penalizes the first violation by placing the school on probation for one year. The Board regularly penalizes the second consecutive violation by a school by suspending the school from participation in the state series for a period of one year beginning on January 1 following the school's second consecutive noncompliance with the by-law. (By-laws 2.130 and 6.010)

2.140 PARTICIPATION LIMITATIONS DURING STRIKE

No team or other entity representing a member school may participate in an interscholastic contest or activity during the time the member school is not in session due to a strike by teachers or other school personnel. A member school shall not be considered to be in legal session on any school day if it does not have fifty-one (51%) of the students in the district in attendance and cannot offer the minimum program required by state law and ISBE Circular Series A160 on a daily basis.

2.140.1 This limitation shall not pertain to time designated by the member school's governing board as school holidays or vacation, including the days designated by the Illinois School Code as emergency days, provided school is in full operation on the school day preceding the school holiday, vacation or emergency day.

2.140.2 Practice sessions of normal length and frequency may be held during the period when school is not fully operating, provided the following conditions are met:

- (1) They must be approved by the school's governing board and administration;
- (2) They must be conducted by personnel who meet the provisions of By-law 2.070;
- (3) They must be conducted in a manner which assures the health and safety of the participants; and
- (4) Students from a school on strike may not participate with a team from a school which is not on strike.

2.140.3 A school which has a football game scheduled with a school which is on strike on the Monday preceding the scheduled game shall have the option to cancel the game with the striking school and schedule a game with another school provided it has a pending alternative contract. If this option is exercised, the striking school shall forfeit the scheduled contest and receive a forfeit loss. The non-striking school shall receive a forfeit win and may play the alternate contest, which shall not count as a win or loss for the non-striking school. **A school which has a football game scheduled with a school which goes on strike after the Monday preceding the scheduled game shall receive a forfeit if the striking school does not settle its contract by midnight preceding the scheduled game.**

2.150 PHYSICAL EXAMINATION

2.150 A school shall have on file for each student who participates (including practice) in interscholastic athletics a certificate of physical fitness issued by a licensed physician, physician's assistant or nurse practitioner as set forth in the Illinois State Statutes not more than 395 days preceding any date of participation in any such practice, contest or activity.

Illustrations for Section 2.150 of the Constitution

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

75) CHIROPRACTOR

- Q. Is a physical examination administered by a chiropractor acceptable for athletic purposes?
- A. The athletic physical examination must be administered by a licensed physician. Consistent with the interpretation of the State Board of Education, the Board of Directors interprets a "licensed physician" to be one who is licensed to practice medicine in all its branches. A chiropractor's physical examination is acceptable only if the chiropractor is licensed to practice medicine in all its branches. (Constitution 1.420 and By-law 2.150)

76) PHYSICIAN'S ASSISTANT

- Q. May a physician's assistant perform the physical examination the by-laws require?
- A. Yes. (By-law 2.150)

77) RECORD OF EXAMINATION

- Q. Must the form provided by the IHSA be used for physical examinations?
- A. No. The IHSA provides a form only as a service. Its use is optional. However, some form of written physical examination certificate must be used. (By-law 2.150)

2.160 CLASSIFICATION

- 2.160** Guidelines and regulations for classification of non-boundaried schools are applied to all non-boundaried schools. A non-boundaried school is defined as any private school, charter school, lab school, magnet school, residential school, and any public school in a multi-high school district that does not accept students from a fixed portion of the district.

2.170 DISTRIBUTION OF STEROIDS AND PERFORMANCE ENHANCING DRUGS

2.171 No coach, administrator, school official or employee, or booster club/support group member may sell, distribute, or promote the use of any anabolic steroids or performance-enhancing dietary supplements to students at member schools.

2.172 A coach, administrator, school official or employee, or booster club/support group member may provide only permissible nutritional supplements to students at any time for the purpose of providing additional calories and electrolytes, provided they do not contain any dietary supplements banned by the Association. Permissible nutritional supplements are identified according to the following classes: Carbohydrate/electrolyte drinks, energy bars, carbohydrate boosters and vitamins and minerals.

Illustrations for Section 2.170 of the Constitution

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

- 78)** Q. Has the IHSA established banned drug classes for its performance-enhancing drug testing program?
- A. Yes. The IHSA Board of Directors has approved the banned drug classes for which it will test as a part of its performance-enhancing drug testing program. The banned drug classes can be accessed on the IHSA's Sports Medicine Advisory Committee's Special Topics Page. (By-laws 2.171 and 2.172)

2.180 TRAVEL POLICY

School teams may travel out of state any distance provided the participating students miss no more than two school days, including travel to and from the competition. The number of instances that any single school team can use this provision is limited to two occasions per school year.

Illustrations for Section 2.180 of the Constitution

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

- 79)** Q. Is this by-law applicable to contests conducted out of state when no school time is missed?
- A. No

3.000 ATHLETIC ELIGIBILITY BY-LAWS

Included in this Section:

- 3.000 Athletic Eligibility By-laws
- 3.010 Attendance
- 3.020 Scholastic Standing
- 3.030 Residence
- 3.040 Transfer
- 3.050 Participation Limitations
- 3.060 Age
- 3.070 Recruiting of Athletes
- 3.080 Amateurism
- 3.090 Participating Under An Assumed Name
- 3.100 Independent Team Participation
- 3.110 Coaching School Participation
- 3.120 All-Star Participation
- 3.130 Use of Players
- 3.140 Misbehavior during Contests
- 3.150 Special Provisions for Summer Participation
- 3.160 Open Gym Limitations
- 3.170 Classification

Students in member schools shall be eligible to participate on athletic teams in interscholastic athletic contests as representatives of their schools provided:

3.010 ATTENDANCE

- 3.011** A student must attend a member school and may only represent in interscholastic competition the member school the student attends. For purposes of this by-law, the term “attend” shall mean that the student is enrolled at the member school, and is taking at, or under arrangements approved by the member school, a minimum of twenty five (25) credit hours of work for which credit toward high school graduation will be granted by the member school upon the student’s completing and passing the courses. The school which enrolls the student shall be exclusively responsible to verify the student’s compliance with all of the eligibility requirements of all IHSA by-laws.

The Board of Directors shall have the discretion to waive the requirement of this by-law for the Illinois schools for the deaf or blind. In unit systems having a 6-3-3 or 6-4-2 type of organization, ninth grade students may participate on senior high school athletic teams at the member high school in the district designated by the Board of Education, provided:

- (a) such participation is approved by the district’s superintendent of schools;
- (b) the senior high school principal shall certify that the ninth grade students:
 - (1) are eligible under the requirements of these By-laws,
 - (2) are students at a junior high school located in the district which supports the senior high school, and
 - (3) are not members of a grade or junior high school team in the same sport; and,
- (c) the senior high school principal assumes full responsibility for the conduct of these students during all athletic contests in which they represent the senior high school.

- 3.012** They shall have been enrolled and in attendance not later than the beginning of the eleventh school day of the semester. Exception may be considered only if written verification that delay in enrollment or attendance is caused by illness of the students or their immediate family or by other circumstances deemed acceptable by the Board of Directors which are submitted to the Executive Director for presentation to the Board of Directors.

- 3.013** Including a student’s name on school attendance records for a period of ten (10) or more school days during any given semester, beginning with the date of the student’s first physical attendance and ending with the date of the student’s official withdrawal from school, shall constitute a semester of attendance for the student.

- 3.014** If a student does not attend school for ten (10) days in a semester, as defined in Section 3.013, but participates in any interscholastic athletic activity, the student shall be considered to have completed a semester of attendance, unless withdrawal from school occurs prior to completion of ten (10) days attendance and is necessitated by disabling illness or injury which is certified by a physician.

- 3.015** They shall not have any lapse of school connection during any given semester of greater than ten consecutive school days. Lapse of school connection for greater than ten consecutive school days shall render them ineligible for the remainder of the entire semester. Exceptions may be considered only if written verification that lapse in school connection is caused by illness of the students or their immediate family or by other circumstances deemed acceptable to the Board of Directors which are submitted to the Executive Director for presentation to the Board of Directors.

- 3.016** Absence of students required by military service to state or nation in the time of any state of national emergency shall not affect students' eligibility.

Illustrations for Section 3.010 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

80) DAY OF GAME SICKNESS

- Q. If a student is ill and does not attend school on the day of an interscholastic contest, may the student play in a contest on that day?
 A. IHSA by-laws do not contain any requirement stating that a student must attend school on the day of an interscholastic activity in order to be eligible for the contest. Member schools may have local policies of this sort, but they are not required to do so by the Association. (By-law 3.010)

81) HOME SCHOOL STUDENT ELIGIBILITY

- Q. May a student who is home schooled, participate on a high school team?
 A. Yes, provided the student is enrolled at the member high school, the student is taking a minimum of twenty five (25) credit hours of work at the member school or in a program approved by the member school, and, the student must be granted credit for the work taken either at the member school or in a program it approved. The student must also pay applicable tuition and fees at the member high school. (By-law 3.011)

82) JUNIOR HIGH PLAYERS ON HIGH SCHOOL TEAMS

- Q. May students who are not yet in high school practice or participate on high school teams?
 A. No. (By-laws 3.011, 3.051, 3.053 and 3.132)

83) PRIVATE SCHOOLS STUDENT PARTICIPATION

- Q. May a student who attends a private school participate on a public school's team?
 A. No. (By-law 3.011)

3.020 SCHOLASTIC STANDING

- 3.021** They shall be doing passing work in at least twenty five (25) credit hours of high school work per week.

Physical Education can be used as a .50 credit class to meet the 25 credit hour requirement, even if the member school is giving academic credit less than .50 or no credit at all. Students must be passing Physical Education in order to use the class towards academic eligibility.

Schools that offer only five classes per day may request a waiver annually from the IHSA Board of Directors to require the passing of at least twenty (20) credit hours of high school work per week to be eligible for participation.

- 3.022** They shall, unless they are entering high school for the first time, have credit on the school records for twenty five (25) credit hours of high school work for the previous semester. Such work shall have been completed in the semester for which credit is granted or in a recognized summer school program which has been approved by the Board of Education and for which graduation credit is received.

Physical Education can be used as a .50 credit class to meet the 25 credit hour requirement, even if the member school is giving academic credit less than .50 or no credit at all. Students must be passing Physical Education in order to use the class towards academic eligibility.

Schools that offer only five classes per day may request a waiver annually from the IHSA Board of Directors to require the passing of at least twenty (20) credit hours of high school work for the previous semester to be eligible for participation.

- 3.023** They shall not have graduated from any four-year high school or its equivalent.
- 3.024** Passing work shall be defined as work of such a grade that if on any given date a student would transfer to another school, passing grades for the course would immediately be certified on the student's transcript to the school to which the student transfers.
- 3.025** Work taken in junior college, college, university, or by correspondence may be accepted toward meeting the requirements of this Section provided it is granted credit toward graduation from high school by the local Board of Education.

----- **Illustrations for Section 3.020 of the By-laws**

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

84) BECOMING ELIGIBLE AFTER PERIOD OF INELIGIBILITY

- Q. If a student who has been scholastically ineligible for the current semester passes twenty five (25) hours for the current semester which ends on Friday, January 19, when is the student eligible to play?
- A. A student who is ineligible for a semester is ineligible until the day the high school certifies the semester grades for all students in the school. (By-law 3.022)

85) HOMEBOUND INSTRUCTION

- Q. If a student is placed on homebound instruction, does the work taken count toward scholastic eligibility requirements?
- A. This work can count if the student receives credit toward graduation for the work taken under homebound instruction. (By-law 3.022)

86) CREDIT FOR PHYSICAL EDUCATION

- Q. May a school count physical education classes toward academic eligibility requirements?
- A. Yes. Students may also receive credit for physical education waivers.

87) WITHDRAWN "PASSING"

- Q. If a student withdraws from school after 65 days of attendance in the fall semester with passing grades at that point, and does not attend school again until the first day of the succeeding spring semester, is the student scholastically eligible for the second semester?
- A. Probably not. Attending school for more than ten days in the fall semester causes that semester to be counted as a semester of attendance. The student must pass twenty five (25) credit hours of high school work for that semester in order to be scholastically eligible in the next semester. "Withdrawn passing" is not considered to be passing work for the semester. This student will be ineligible for the spring semester unless the record shows that he/she passed and received credit toward graduation for at least twenty five (25) hours of high school in the fall semester. (By-laws 3.022 and 3.024)

88) COLLEGE WORK

- Q. May a student take a college or junior college class and receive high school credit for this work which may be counted toward scholastic eligibility?
- A. Such a class may be counted for scholastic eligibility, provided the student's high school accepts it and grants it credit toward high school graduation. (By-law 3.025)

89) SUMMER SCHOOL LIMITATIONS

- Q. How many credit hours may a student earn in summer school for the purpose of counting toward determination of scholastic eligibility for the next semester?
- A. There is no specific limitation. Summer school work may be counted toward scholastic eligibility for the ensuing fall semester provided it is completed by the time the fall semester begins and is granted credit toward graduation by the student's high school. (By-law 3.022)

90) BLOCK SCHEDULING

- Q. If a school utilizes a block 4 schedule, how many classes must a student pass to meet the scholastic eligibility requirements of the by-laws?
- A. Regardless of the schedule utilized by the school, students must be passing enough courses on both a weekly and semester basis to earn 2.5 full credits. In a block 4 schedule where each class is worth one credit per semester, a student must be passing at least three of the four classes to be considered to be passing twenty five (25) credit hours as By-laws 3.021 and 3.022 require. (By-laws 3.021 and 3.022)

91) ACADEMIC ELIGIBILITY OF OUT-OF-STATE TRANSFER

- 91.1)** Q. When a student who lives in another state and is eligible according to the academic standards of that state transfers to Illinois, but does not meet the IHSA's eligibility standards by the work taken in the previous state, what is the student's academic eligibility status?
- A. In such a case, the student would be granted eligibility upon enrollment at a member school if eligible under the standards in the state from which the transfer has occurred. However, the student would have to begin immediately meeting the IHSA requirements to retain eligibility. (By-laws 3.021 and 3.022)

- 91.2)** Q. When a student transfers from one state to a member school and is scholastically ineligible according to that state's academic standards, what is the student's academic eligibility status?
- A. In such a case, the student would be ineligible for the duration of the term of ineligibility imposed at the school from which he/she transferred. The student would then have to comply with IHSA academic eligibility standards before becoming eligible. (By-laws 3.021, 3.022 and 3.047)

3.030 RESIDENCE

A student's eligibility is contingent upon the student meeting the applicable criteria from Sections 3.031-3.034 below. Except as provided in Section 6.010 of these by-laws, a student who does not comply with the applicable provisions of Sections 3.031-3.034 of these by-laws shall be ineligible for a period not to exceed 365 days. Once a student has attended high school, any change of the school attended by the student shall subject that student to the requirements of the rules applicable to transfers under Section 3.040 of these by-laws and its subsections.

3.031 Public School Students: Students attending public member schools shall be eligible at the public high school in which they enroll, provided:

3.031.1 They reside full time with their parents, custodial parent or guardian appointed by a judge of a court having proper jurisdiction, or they currently and for at least the last two years prior to the student's enrolling in high school, have lived with another family member or relative who has provided full support and adult supervision for the student, as though they were the guardian, within the boundaries of the attendance area of the high school they attend; or

3.031.2 They reside full time with their parents, custodial parent or guardian appointed by a judge of a court having proper jurisdiction, and have attended a minimum of the seventh and eighth grades as tuition-paying non-resident students in the district in which the high school they attend is located.

3.031.3 They reside full time with one birth or adoptive parent or other relative without assignment of custody or legal guardianship by the court, provided:

- (1) their residence is in the district in which the member school they attend is located; and
- (2) they attended that member school the previous school term.
- (3) if a freshman, they attended both seventh and eighth grade in the district.

3.031.4 In the cases where a Legislative Waiver has been granted for children of faculty members to attend the school tuition-free, the students shall have eligibility at the school where the parent teaches.

3.031.5 In all other cases, students shall not participate until a ruling on their eligibility is made by the Executive Director.

3.032 Private School Students: Students attending private member schools shall be eligible at the private high school in which they enroll, provided:

3.032.1 They reside full time with their parents, custodial parent or guardian appointed by a judge of a court having proper jurisdiction, or they currently and for at least the last two years prior to the student's enrolling in high school, have lived with another family member or relative who has provided full support and adult supervision for the student, as though they were the guardian, within the boundaries of the public high school district in which the private high school they attend is located; or

3.032.2 They reside full time with their parents, custodial parent or guardian appointed by a judge of a court having proper jurisdiction, and have attended private schools on a continuous basis for the last two consecutive school years before entering high school or for a total of not less than four school years from kindergarten through eighth grade; or

3.032.3 They reside full time with their parents, custodial parent or guardian appointed by a judge of a court having proper jurisdiction, and attend the private member school attended by one or both of their parents; or

3.032.4 They reside full time with their parents, custodial parent or guardian appointed by a judge of a court having proper jurisdiction, in a residence located within a thirty (30) mile radius of the private member school they attend.

3.032.5 In the event a student who resides full time with his/her parents, custodial parent or guardian appointed by a judge of a court having proper jurisdiction, attends a private school but does not comply with the provisions of by-laws 3.032.1-3.032.4, or in any other circumstance in which a student attends a private school but does not comply with the provisions of by-laws 3.032.1-3.032.4, the student(s) shall not be eligible and shall not participate in an interscholastic contest until a ruling on their eligibility is made by the Executive Director.

3.033 Students in Public Schools Without Boundaries: Students attending public member schools which do not have geographical district boundaries shall be eligible at such public high school in which they enroll, provided:

- 3.033.1** They reside full time with their parents, custodial parent or guardian appointed by a judge of a court having proper jurisdiction, or they currently and for at least the last two years prior to the student's enrolling in high school, have lived with another family member or relative who has provided full support and adult supervision for the student, as though they were the guardian, within the boundaries of the public high school district in which the non-boundaried public high school they attend is located; OR
- 3.033.2** They reside full time with their parents or custodial parent or guardian appointed by a judge of a court having proper jurisdiction, and have attended non-boundaried public schools or private schools on a continuous basis for the last two consecutive school years before entering high school or for a total of not less than four school years from kindergarten through eighth grade; OR
- 3.033.3** They reside full time with their parents, custodial parent or guardian appointed by a judge of a court having proper jurisdiction, and attend the non-boundaried public school attended by one or both of their parents; OR
- 3.033.4** They reside full time with their parents, custodial parent or guardian appointed by a judge of a court having proper jurisdiction, in a residence located within a thirty (30) mile radius of the non-boundaried public member school they attend.
- 3.033.5** In the event a student who resides full time with their parents custodial parent or guardian appointed by a judge of a court having proper jurisdiction, attends a public school without boundaries but does not comply with the provisions of By-laws 3.033.1-3.033.4, or in any other circumstance in which a student attends a public school without boundaries but does not comply with the provisions of By-laws 3.033.1-3.033.4, the student(s) shall not be eligible and shall not participate in an interscholastic contest until a ruling on their eligibility is made by the Executive Director.

3.034 Students in Prescribed Conditions: Students attending member schools under one of the following specifically prescribed conditions shall be eligible in accordance with the requirements set forth under that condition:

- 3.034.1** Residential Students: Students attending public or private member schools as residential students, shall be eligible at the public or private member school in which they enroll provided they reside full time at such school. Eligibility of residential students who do not reside full time at the school they attend shall be determined under the applicable provisions of By-laws 3.031-3.034.
- 3.034.2** Students who have attended one school for their entire high school career and whose parents, custodial parent or court appointed guardian moves from the district or community traditionally served by that school following the student's completion of the eleventh (11th) grade, may remain in that member school and retain eligibility regarding residence for the twelfth (12th) grade, provided:
 - 1. The student, if not yet eighteen (18) years of age, resides full time with the parents, a custodial parent, a non-custodial birth parent or a court appointed legal guardian; or the student, if eighteen (18) years of age, continues to reside with parents, custodial parent, a non-custodial birth parent or a court appointed legal guardian, or is accepted for enrollment by the school as a student having reached the age of majority under the laws of the State of Illinois; and,
 - 2. Such attendance is approved by the Board of Education or local governing board of the school; and,
 - 3. There is no evidence of undue influence, including but not limited to inducement, remuneration, pressure, promise or provision of special benefits or any other form of encouragement or persuasion, on the part of any person(s) directly or indirectly connected to the school, to retain the student's attendance.
- 3.034.3** **International and Foreign Exchange Students:** Students attending school in Illinois under the auspices of approved student exchange programs shall be considered eligible regarding residence and transfer for a maximum period of one calendar year, commencing with the date of their enrollment and beginning attendance at an IHSA member school. To be considered for approval, a foreign exchange program must **be approved by the IHSA and the Council on Standards for International Educational Travel (CSIET). It must also** assign students to schools by a method which insures that no student, school, or other interested party may influence the assignment for athletic or other purposes. The Board of Directors shall establish additional criteria by which it shall approve foreign exchange student programs. **International students attending school in Illinois who are not participating in an approved student exchange program will not be eligible with respect to residence or transfer for the duration of their high school attendance unless they meet the requirements of the applicable provisions of the residency and transfer By-Laws as determined in an official ruling from the Executive Director. For purposes of this By-Law, the residential school exception set forth in By-Law 3.034.1 shall not apply to establish a student's residency.**

3.034.4 Special Education and Special Vocational Education Students: Students attending a Special Education or Special Vocational Educational Cooperative Center, shall be eligible under the following conditions:

3.034.41 Students taking part of their work at the Special Center and part at their home high school shall be eligible at their home high school only;

3.034.42 Students taking all of their work at the Special Center shall be eligible at either their home high school or the school housing the Special Center. However, once the students elect the school at which they will participate, they may not change their decision without the loss of a period of eligibility not to exceed 365 days.

3.034.5 Students Affected by Deannexation: Students affected by a deannexation/annexation of an elementary district from the current high school district will be permitted the choice of attending in the district from which the deannexation occurs or the district to which the territory is then annexed. Whichever choice is made, all students whose families reside in the territory in question will be permitted to retain eligibility in regard to residence, provided they are high school students at the time of the deannexation action.

Illustrations for Section 3.030 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

92) FUNDAMENTAL PRINCIPLE

Q. What is the "fundamental principle" underlying the residence by-laws?

A. High school sports are best controlled and conducted fairly when students reside full time with their parents and attend high school in the district in which they reside with their parents. Departure from this basic premise requires circumstances which are within the parameters established within Article 1.460 of the IHSA Constitution, which do not conflict with the overall purpose and scope of the by-laws. (By-law 3.031.1)

93) ELIGIBILITY WHEN PARENTS MOVE

Q. If, prior to a student entering high school for the first time, the student and his/her parents move into a district in which there is both a public and private member school where may the student attend and be eligible?

A. If the family move occurs prior to the beginning of the school term, the student may attend either the public or private school in the school district into which the student and parents have moved and be eligible in regard to residence. (By-law 3.031.1) If the family move occurs after the beginning of the school term, and the student has not participated in a sport during that school term prior to the transfer, the student may attend either the public or private school in the school district into which the student and parents have moved, but the student will be ineligible for a period of thirty (30) days. If the student in this situation has participated, by trying out for, practicing or competing as a member of a team in a sport during the school term prior to the transfer, the student will be ineligible for the remainder of the school year in that sport and will be ineligible for a period of thirty (30) days from the date of the transfer in all other sports.

94) Q. If, after the beginning of a school term a student who is not a senior or is a senior who has not attended the same high school all four years, (A) parents move to a new school district and the student does not move with them but lives with family friends or relatives in the district and continues attending the same school, (B) parents move to a new school district and the student continues to reside with his or her parents and continues attending the same school, is the student eligible or ineligible?

A. (A) Ineligible. (By-law 3.031.1) (B) A ruling by the Executive Director is required. (By-laws 3.031.4, 3.032.5 and 3.033.5)

95) Q. In multiple high school districts, may a student attend a district wide academy or attendance center within the school district, but outside of their attendance area, and retain athletic eligibility? (special education program, gifted program, vocational program, ROTC, etc)

A. Yes. However, a student must enter the special center as an incoming freshman or as a transfer student enrolling in the district for the first time. Any subsequent transfer to a high school within the district may result in a period of ineligibility not to exceed 365 days. (By-law 3.031.1)

96) Q. In multiple high school districts, is an incoming freshman eligible if he/she attends the high school where his/her sibling currently attends, even if high school is outside of their attendance area?

A. Yes. However, any subsequent transfer to a high school within the district may result in a period of ineligibility not to exceed 365 days. (By-law 3.031.1)

97) Q. Does By-law 3.031.1 apply to students enrolled in multiple high school districts prior to the 2010-11 school term?

A. No. By-law 3.031.1 takes effect for incoming freshmen and transfer students beginning with the 2010-11 school term. (By-law 3.031.1)

- 98)** Q. Are students who enroll as incoming freshmen in a high school outside of their attendance area as a result of court ordered plan eligible?
A. Yes. However, any subsequent transfer to a high school within the district may result in a period of ineligibility not to exceed 365 days. (By-law 3.031.1)
- 99)** Q. In the same situation as the previous Illustration, may the student become eligible for a subsequent term if he/she never transfers to a school in the district into which the parents have moved?
A. No. (By-law 3.034.2)
- 100)** Q. Where is a student eligible if the parents are maintaining residences in two or more school districts?
A. A student is eligible in regard to residence in only one school district. This is the school district where the student actually lives with both parents on a full-time basis or the school district where the student lives with one birth or adoptive parent without assignment of custody or legal guardianship by the court. In the second situation, the student must continue to reside in the district where he/she attended school the previous school term. (By-law 3.031.3)
- 101) LEGAL GUARDIANSHIP**
- Q. What is legal guardianship, and how must it be documented when requesting an eligibility ruling?
A. Legal guardianship entails issuance of Letters of Guardianship of a student's person or person and estate by a court. It must be an order signed by a judge and/or the clerk of the court as the judge's representative. A file stamped copy of the Letters of Guardianship court order, along with a copy of the petition filed with the court at the hearing seeking that order and other evidence the court had to determine appointment of the guardianship, must be attached to each request for an eligibility ruling involving a change in legal guardianship. (By-laws 3.030 and its sub-sections and 3.040 and its sub-sections)
- 102) TUITION PAYMENT AND ELIGIBILITY**
- Q. If a student's parents do not reside in the district and the student is a tuition paying nonresident at the high school he/she attends, is the student eligible?
A. Such a student may only be eligible when the student lives full time with his/her parents and has attended a public grade school in the same high school district for at least the 7th and 8th grades as a tuition-paying nonresident student; otherwise the student is ineligible for a period not to exceed 365 days. (By-law 3.031.2)
- 103) ELIGIBILITY OF SHARED-TIME STUDENT**
- Q. What is the eligibility status of a student who takes part in a shared-time instructional program at two or more schools?
A. Such student will be eligible at his/her home high school, provided he/she is enrolled there, all credit earned at other attendance centers is recorded toward graduation from the home high school, and the student is meeting all of the IHSA academic and other eligibility requirements. (By-laws 3.011 & 3.031.1)
- 104) SPECIAL EDUCATION STUDENT PARTICIPATION**
- Q. May a special education student, who is enrolled at a member high school but participates in a special education program at an area cooperative center or school location assigned by the Special Education Cooperative, make an annual choice of the school at which he/she will be a participant in interscholastic athletics?
A. Yes. Students from member high schools assigned to special education centers or other locations may be eligible to participate either at the school housing the student's classes or at their home high school. At the beginning of each school term, such students must determine the site at which they wish to participate during that year. They are then eligible, in regard to residence and attendance, for that year only at the school chosen, and any change constitutes a transfer subject to compliance with all by-laws. (By-laws 3.011 & 3.031.1)

3.040 TRANSFER

The eligibility of a student who transfers attendance from one high school to another high school is subject to the following Sections 3.041-3.047 and their sub-sections. Such student must additionally be in compliance with the applicable residency provisions of By-laws 3.031-3.034 and their respective sub-sections after the transfer. Except as provided in Section 6.010 of these by-laws, a student who does not comply with the applicable provisions of Sections 3.041-3.047 of these by-laws and their sub-sections shall be ineligible for a period not to exceed 365 days.

- 3.041** In all transfer cases, both the principal of the school from which the student transfers and the school to which the student transfers must approve of the transfer and execute a form provided by the IHSA Office. This form is to be initiated and signed by the principal of the school to which the student transfers and provided to the principal of the school from which the student transfers for signature by that principal. The concurrence of the principals accepting a transfer shall not be determinative of eligibility or binding on the Executive Director and/or the Board of Directors who shall have the discretion to investigate the accuracy of such conclusion and to override the acceptance of a transfer if evidence of violation or avoidance of non compliance with any by-law, or recruiting in connection with the transfer is found. A student is not eligible to participate in an interscholastic contest until the transfer form, fully executed by both principals, is on file in the offices of the school to which the student transfers.

- 3.042** **After the official start date of an IHSA sport season** for the current school year, if a student changes attendance from that high school to another high school, the student shall be ineligible for the remainder of the school year in any sport in which he/she participated or was participating in a practice or interscholastic contest in the current school year at the school from which the transfer occurs; or

Once classes begin in a school for the current school year, if a student changes attendance from that high school to another high school, the student shall be ineligible for a period of thirty days, commencing on the first day of attendance at the new high school, in any sport in which he/she was not participating or had not participated during the current school year at the school from which the student transferred.

- 3.043** In addition, a student who transfers attendance from one high school to another high school pursuant to these by-laws, shall be ineligible unless:

3.043.1 The student transfers attendance in conjunction with a change in residence by both the student and his or her parents, custodial parent, surviving parent (in the case of a student with one deceased parent), or guardian from one public high school district to a different public high school district; or

3.043.2 The student transfers attendance from one public high school in a school district which supports two (2) or more public high schools to another public high school in that school district, and the transfer is in conjunction with a change in residence by both the student and his or her parents, custodial parent, surviving parent, or guardian to a residence within the boundaries established by the governing board of the school district for the high school to which the student transfers; or

3.043.3 In the event the student transfers attendance from any high school to any other high school, and the transfer is not in conjunction with a change in residence by both the student and his or her parents, custodial parent, surviving parent, or guardian to a residence outside the boundaries of the public school district attendance area the family originally resided in, the Executive Director may grant eligibility based on documentation that the transfer met one of the following conditions:

- The student is enrolling for the first time in the student's home public member high school with boundaries;
- Change in family's financial position;
- Extenuating circumstances documented by the sending school's principal or official representative

3.043.4 The student, who is a child of divorced or legally separated parents, transfers attendance from one high school to another in conjunction with a change in legal custody between the parents by action of a judge of a court of proper jurisdiction, and a change in the student's residence from the former custodial parent to the parent to whom custody has been awarded by the court, provided that a copy of the petition and the court order so changing custody is on file with the principal of the high school to which the student transfers.

- 3.044** The student, who (a) is an orphan; (b) is a child of divorced, legally separated, or unmarried parents with respect to whom there has not been a change in custody ordered by a court of proper jurisdiction; or (c) is a ward of the state who transfers attendance from one high school to another high school, shall be subject to the eligibility provisions of Sections 3.043.1-3.043.3 as if the student resided with his/her parent(s), provided that following the transfer, the student continues to reside with the same family, foster family, group home or other unit or entity after the transfer as prior to and at the time of the transfer.

- 3.045** In the case of a student who transfers attendance from one high school to another in conjunction with the adoption of the student after the student has entered high school for the first time, or a change in guardianship of the student by order of a court of proper jurisdiction, the student shall be ineligible pending a ruling by the Executive Director. In such cases, the Executive Director may grant eligibility only if it is determined, after investigation, that the circumstances giving rise to the change of guardianship or adoption and the transfer were completely beyond the control of all of the following:

- (1) the student
- (2) the student's parent(s)/guardian(s)
- (3) the schools to and from which the student transferred.

Any action, inaction, or voluntary or self-initiated decision of the student, parent/guardian or the school to or from which the student transfers, or any one or more of them, which results in, affects, causes or pertains to the transfer shall not be considered to be "circumstances completely beyond the control." The student may practice, but shall not participate in an interscholastic athletic contest until a ruling on the student's eligibility has been made by the Executive Director.

- 3.046** In all other circumstances involving a transfer, the student shall be ineligible pending a ruling by the Executive Director. In such cases, the Executive Director may grant eligibility if it is determined after investigation that the circumstances giving rise to the transfer were completely beyond the control of all of the following:

- (1) the student
- (2) the student's parent(s)/guardian(s)
- (3) the schools to and from which the student transferred.

Any action, inaction, or decision of the student, parent/guardian or the school to or from which the student transfers, or any one or more of them, which results in, affects, causes or pertains to the transfer shall not be considered to be "circumstances completely beyond the control." The student may practice, but shall not participate in an interscholastic athletic contest until a ruling on the student's eligibility has been made by the Executive Director.

- 3.047** The member school to which a student transfers shall enforce any period of ineligibility imposed or that would have been imposed upon the student by the school from which the student is transferring, even if the student is otherwise eligible under these by-laws. The period of ineligibility at the school to which the student transfers shall be the remaining duration of the period of ineligibility imposed or that would have been imposed had the student not transferred, but not longer than 365 days after the date of the transfer, whichever is less.

Illustrations for Section 3.040 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

- 105)** Q. What evidence is required to affirm that a student and his/her parents have moved to a new school district and are living there full time?
 A. Documents requested by the Executive Director, including but not limited to some or all of the following: a lease or rental contract, closing documents, recorded title, affidavit of parent and student, documentation from the principals of the respective schools involved, telephone/utility and post office records, and such other evidence as may be deemed necessary by the Executive Director in a particular situation to enable the Executive Director to verify the facts. Schools requesting an eligibility ruling that provide such documents and information shall be subject to penalty if the information provided is found to be false.
- 106)** Q. What evidence is required to affirm that a student and his/her parents are living within a 30 mile radius of the private school the student attends?
 A. The same documents as set forth in response above.
- 107)** Q. If a family (parents and children) moves from one school district to another school district after the official start date of an IHSA sports season, what factors will the Executive Director consider in applying By-law 3.042 and ruling on the eligibility of students who transfer in connection with such moves?
 A. Factors to be considered by the Executive Director will include but not be limited to the following:
 (1.) Whether it is documented that the move was necessitated by an employment transfer.
 (2.) Whether it is documented that the move was necessitated by a change in employment.
 (3.) Whether it is documented that the move was necessitated by a change in family status.
- 108)** Q. If parents divorce or become legally separated after the start of classes for the school term and their child transfers to live in a different district with the parent who is granted custody, what factors will the Executive Director consider in ruling on the student's eligibility?
 A. Factors to be considered by the Executive Director will include but not be limited to the following:
 (1.) Certified court documentation of custody.
 (2.) Copies of file stamped court documents pertaining to the divorce or legal separation.
 (3.) Documentation of specific circumstances which necessitate the student's transfer, particularly if the transfer occurs after the start of classes in a school term.
 (4.) Concurrence of the transfer by the sending and receiving school principals.
 (5.) Documents to show the residence of the student and the custodial parent.
- 109)** Q. If parents divorce or become legally separated with joint custody assigned by the court, and the student moves to live with one parent or the other in a different district and transfers to a member school in connection with this move, what factors will the Executive Director consider in applying By-law 3.040 and its sub-sections and ruling on the student's eligibility?
 A. The same factors as stated above plus an acknowledgment that the student is eligible at only one school, and any move thereafter will create the need for a ruling from the Executive Director before the student can participate on a school team.
- 110)** Q. A student's parents never married and no court custody has been established. What is the student's eligibility regarding residence if the student:
 (a.) Lives with the birth mother and attends school in the district where they live together full time?
 (b.) Lives with the biological father and attends school in the district where they live together full time?
 A. In a, the student is eligible with regard to residence.
 In b, documentation that custody has been assigned by the court to the biological father must be provided to the Executive Director along with verification of the student's residence in the district with the father, and an eligibility ruling must be made.

- 111)** Q. What is a student's eligibility if the family has had a new home under construction in a different district from where they currently live, and the home is finally completed and the student transfers to the new district when the family moves into the home, which is:
 (a.) After classes start but before the student goes out for a sport.
 (b.) After classes start and after the student goes out for a sport.
 (c.) Before classes start but after the student goes out for a sport.
 A. In a and b, the student is a transfer student and will be ineligible for a period of time. In a, the student would be ineligible for thirty (30) days. In b, the student is ineligible for the remainder of the school year in the sport in which he/she had participated at the previous school and ineligible for thirty (30) days in all other sports. In c, the student is eligible in regard to the transfer by-law.
- 112) LEGAL GUARDIANSHIP**
- Q. What is legal guardianship, and how must it be documented when requesting an eligibility ruling?
 A. Legal guardianship entails issuance of Letters of Guardianship of a student's person or person and estate by a court. It must be an order signed by a judge and/or the clerk of the court as the judge's representative. A file stamped copy of the Letters of Guardianship court order, along with a copy of the petition filed with the court at the hearing seeking that order and other evidence the court had to determine appointment of the guardianship, must be attached to each request for an eligibility ruling involving a change in legal guardianship. (By-laws 3.030 and its sub-sections and 3.040 and its sub-sections)
- 113)** Q. May a student who has transferred to an IHSA member school from out of state participate in the same sport he/she was participating in prior to the transfer?
 A. In a situation like the one above, a ruling from the IHSA office is required. If it is determined that the student, the family and the school are in a circumstance completely beyond their control, the student may be ruled eligible. (By-law 3.042)
- 114)** Q. May a student who played girls soccer for her high school in the fall in Missouri play girls soccer in the spring in Illinois if her family moves from Missouri to Illinois?
 A. Yes. The IHSA Board of Directors has determined that the season in which a sport is played in another state is a circumstance beyond the control of the student, the family and the school. (By-law 3.042)

3.050 PARTICIPATION LIMITATIONS

- 3.051 After they enroll in the ninth grade, students shall be eligible for no more than eight (8) semesters. They shall not be eligible for more than the number of semesters for which their school is recognized by the Illinois State Board of Education.
- 3.052 Their last two (2) semesters of possible eligibility shall be consecutive. Other semesters of possible eligibility need not be consecutive.
- 3.053 After becoming a student in ninth grade, the student shall not be eligible for more than four (4) consecutive school years of competition in any sport.
- 3.054 Any student in a member school, eligible in all respects under the terms of these By-laws, may be entered to represent that school as an individual in Association-sponsored meets or tournaments under the terms and conditions for that particular event. However, only schools which have an established school team which has engaged in at least six (6) interscholastic contests in that sport during the current season or, in the case of boys baseball, boys golf, boys tennis, girls softball, girls golf, and girls tennis, during the preceding IHSA recognized season in that sport, may participate in team competition in Association-sponsored meets or tournaments.

Illustrations for Section 3.050 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

115) MORE THAN ONE SPORT

- Q. May a boy or girl participate on more than one school athletic team (such as golf and football) at the same time?
 A. Yes. (By-law 3.050)

116) JUNIOR HIGH PLAYER

- Q. What impact on eligibility does participation on high school teams by a ninth grader in a junior high school have for the student?
 A. A ninth grader, whether or not he/she participates on high school or junior high school athletic teams, uses two possible semesters of eligibility and has no more than six remaining. If such a student participates in either high school or junior high school athletics, that participation counts as one school year of athletic competition in each sport in which the student participates. (By-law 3.051 and 3.053)

117) JUNIOR HIGH PLAYERS ON HIGH SCHOOL TEAMS

- Q. May students who are not yet in high school practice or participate on high school teams?
 A. No. (By-laws 3.051, 3.053, 3.011 and 3.132)

118) SIX-CONTEST RULES

Note: The following illustrations are all written in the context that the six (6) required contests under the by-laws must be played in the same sport in the season in which the state tournament series for the sport is conducted.

- 118.1)** Q. If a school permits girls to participate on its boys cross country team and those girls run in six or more boys cross country meets during the season, may the boys meets satisfy the requirement of six (6) interscholastic meets needed by the girls to qualify for team competition in the girls state meet series?
 A. No. (By-law 3.054)
- 118.2)** Q. Does participation in summer baseball games satisfy the six contest requirement for state tournament series participation?
 A. No. (By-law 3.054)
- 118.3)** Q. If a school has eight girls softball games scheduled with signed contracts, and three of those contests are rained out and cannot be rescheduled and played prior to the date of the beginning of the state tournament series, may the school participate as a team in the girls softball state series even though it has actually played only five softball games prior to the beginning of the series?
 A. Determination of such a team's eligibility to play must be made on a case-by-case basis by the Executive Director. (By-law 3.054)
- 118.4)** Q. If a school has too few participants on its wrestling team to enter a contestant in each weight class, but has competed in more than six contests against other schools during the season, may the school participate as a team in the IHSA state wrestling series?
 A. Yes. (By-law 3.054)
- 118.5)** Q. How is a double dual or a doubleheader counted under the terms of the participation limitations and the six-contest requirements of By-law 3.054?
 A. A doubleheader will be counted as two (2) contests. A double dual in which the participants compete only once will be counted as one (1) date (for the school) and two contests (for an individual). A double dual in which the participants compete twice (against different opponents) will be counted as two (2) contests. (By-law 3.054)
- 118.6)** Q. If a girls team competes against boys teams from other schools, may such contests be counted toward the six contest requirement for the girls team in that sport?
 A. Yes, provided the girls team competes against another school's boys team in the same sport and in the same season as the state series it seeks to enter. (By-law 3.054)
- 118.7)** Q. May seven schools schedule a hexadual contest (scoring the competition as six dual meets simultaneously conducted) and meet the requirements of the six contest rule?
 A. No. The Board of Directors has ruled that a school must utilize a minimum of three different dates and may not count more than two contests on any given date in order to satisfy the requirement of the rule. (By-law 3.054)
- 118.8)** Q. May a freshman, sophomore or junior varsity team contest be counted as one of the six required contests?
 A. No. Only varsity team contests may be counted. (By-law 3.054)
- 118.9)** Q. What determines whether a team is a varsity team?
 A. In most sports, the school identifies a team it defines as "varsity" at the start of the season and that team fulfills a schedule of contests arranged for the "varsity" team. This team is considered to be the team which comprises the most skilled competitors in the sport and is the team which is the school's representative at its highest level of competition, including the state series. (Constitution 1.420)
- 118.10)** Q. What determines whether a contest is a varsity contest?
 A. The level of competition for a contest is regularly specified on the contract which schools enter into for a given contest. It is the Board of Directors' interpretation that unless otherwise mutually agreed upon by the principals/official representatives of all competing schools prior to the contest, the level of competition specified on the contract designates the level of the competition. (Constitution 1.420)

119) INDIVIDUALS IN STATE SERIES

- Q. If a school does not maintain a team in a sport that involves individual events, but has one student who wishes to compete in a state series, may the school enter the individual student in the state series?
 A. Yes. The student may not compete for a team score, since the school has not competed in six contests, but will compete only as an individual representing his/her high school. (By-law 3.054)

120) PRACTICE WITH ANOTHER SCHOOL TEAM

120.1) Q. In the regular season, may an individual student who attends a school which does not maintain a school team in a given sport participate in practice sessions at a neighboring school which does maintain a school team in that sport?

A. No. (By-laws 3.054 and 2.060)

120.2) Q. After a student qualifies for advancement in the state series in a sport where he/she may compete as an individual, may that student practice against similar qualifiers from other schools in preparation for further state series competition?

A. No. (By-law 5.000 and its sub-sections)

3.060 AGE

3.061 A student shall be eligible through age nineteen (19) unless the student shall become twenty (20) during a sport season, in which event eligibility shall terminate on the first day of such season (as the season is defined in Section 5.000 of these By-laws).

3.070 RECRUITING OF ATHLETES

In the enforcement of the rule, member schools shall be responsible for any violation committed by any person associated with the school, including principals, assistant principals, coaches, teachers, any other staff members or students, or any organization having any connection to the school.

3.071 Recruitment of students or attempted recruitment of students for athletic purposes is prohibited, regardless of their residence.

3.072 It shall be a violation of this rule for any student athlete to receive or be offered any remunerations of any kind or to receive or be offered any special inducement of any kind which is not made available to all applicants who enroll in the school or apply to the school.

Special inducement shall include, but not be limited to:

- (1) Offer or acceptance of money or other valuable consideration such as free or reduced tuition during the regular year or summer school by anyone connected with the school. (Exception – private schools may waive tuition for children of faculty members, as a benefit of employment, provided there is no undue influence exerted upon the student or the family to attend the school.)
- (2) Offer or acceptance of room, board or clothing or financial allotment for clothing.
- (3) Offer or acceptance of pay for work that is not performed or that is in excess of the amount regularly paid for such service.
- (4) Offer or acceptance of free transportation by any school connected person.
- (5) Offer or acceptance of a residence with any school connected person.
- (6) Offer or acceptance of any privilege not afforded to non-athletes.
- (7) Offer or acceptance of free or reduced rent for parents.
- (8) Offer or acceptance of payment of moving expenses of parents or assistance with the moving of parents.
- (9) Offer or acceptance of employment of parent(s) in order to entice the family to move to a certain community if someone connected with the school makes the offer.
- (10) Offer or acceptance of help in securing a college athletic scholarship.

3.073 It shall also be a violation of this rule to induce or attempt to induce or encourage any prospective student to attend any member school for the purpose of participating in athletics even when special remuneration or inducement is not given.

Schools are not prohibited from conducting academic recruitment programs, programs which may include information concerning the school's extracurricular offerings. However, such recruitment programs must be designed to provide an overview of the academic and extracurricular programs offered by a school and are not to be used as a subterfuge for recruiting students for athletic purposes. Such general recruitment programs permissible under this rule shall be carried out under the following guidelines:

- With the exception of an open house conducted at a member school, no member of a school's coaching staff may present or distribute the school's information to students not yet in high school unless they are representing all phases of the entire high school program at official junior high functions such as high school nights, fairs, days or visits.
- Any information presented or distributed shall be limited to the academic and extracurricular offerings provided by the school. The information may include a description of the athletic facilities available at the school.

- Any information presented or distributed shall not imply, in any manner, that the member school's athletic program is better or more accomplished than any other member school's athletic program.
 - Any information presented or distributed shall not imply, in any manner, that it would be more advantageous for a prospective student athlete to attend a member school over any other school because of its extracurricular programs.
 - Information may be presented or distributed only at an open house conducted at a member school or at a school housing grades below the ninth from which the member school can normally expect enrollment.
-

Illustrations for Section 3.070 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

Introduction

IHSA By-law 3.070 and its sub-sections focus attention on the solicitation or inducement of young people to attend a particular high school in connection with participation in interscholastic athletics. It is important to note that these rules do not prohibit legitimate high school public relations, promotion or marketing. Rather, these rules prohibit capitalization upon a school's athletic program and/or a young person's athletic interest, potential or proficiency as a factor in determining school attendance.

Contacts with Prospective Students

- 121)** Q. May an employee, booster club member, alumna/alumnus or individual providing volunteer service to a member school make a home visit to a prospective student athlete for recruiting purposes?
A. No. (By-law 3.073)
- 122)** Q. Does registration and attendance at a school's "Open House for Prospective Students" constitute a "formal request for admissions information"?
A. Yes. By-law 3.073)
- 123)** Q. May a coach initiate contact with a prospective student-athlete?
A. No. (By-law 3.073)
- 124)** Q. May school administrators initiate contact with a prospective student-athlete?
A. Yes, provided the contact is made only with the understanding that the young person is a prospective student, not a prospective athlete. (By-law 3.073)
- 125)** Q. May a coach or school official who is approached by a parent distribute contact information for the school?
A. Yes. (By-law 3.073)
- 126)** Q. May school personnel respond to an inquiry by providing information either verbally or in writing about the school's academic and/or athletic program?
A. Yes, provided the information is purely factual and provided the responding individual is not a coach relating to his/her own sport(s) or in any way appraising the inquirer's talent, potential opportunities or prospects for athletic participation at the school. (By-law 3.073)
- 127)** Q. If a family is moving into the area and has stopped by the athletic office because they are "shopping" for a school, may specifics about a particular sport be discussed?
A. Yes, provided "specifics" includes only factual information and the family initiates the contact. However, the family must be directed to the administrative or admissions office. (By-law 3.043)
- 128)** Q. May high school personnel direct inquiries regarding feeder teams to feeder team personnel?
A. The name or designation of the team is not material. High school personnel may provide information regarding all programs in their community which provide participation opportunities for pre-high school students. No specific program may be singled out or identified as preferable, recommended or advised, or in any other way connected to the high school. (By-law 3.073)

School Publicity and Promotions

- 129)** Q. May a school include a report of athletic team records and successes in its publicity/promotional materials?
A. Yes, provided such reports present only facts which are public information. (By-law 3.073)
- 130)** Q. May a high school host an athletic tournament for grade school teams?
A. Yes, provided teams are not selected on the basis of their caliber or their player personnel. (By-law 3.073)
- 131)** Q. May teams and/or individuals participating in such a tournament receive awards for their participation and/or placement?
A. Yes. (By-law 3.072)
- 132)** Q. May a school provide promotional merchandise, such as key rings, calendars, pens, etc., to prospective student-athletes?
A. Yes, provided all prospective students, not just prospective student-athletes, receive such items. (By-law 3.072)

Financial Assistance and Scholarships

- 133)** Q. May a private school waive tuition or provide reduced tuition to the children of faculty members?
A. Yes. (By-law 3.072)
- 134)** Q. Is there a distinction between a scholarship and financial assistance?
A. Yes. "Financial assistance" is a monetary contribution or credit toward payment of school costs, granted exclusively on the basis of objectively determined need. A "scholarship" is monetary contribution, remission of tuition, or credit toward payment of school costs based upon selection criteria of any kind other than need. (By-law 3.072)
- 135)** Q. May an alumnus provide financial assistance to a needy student?
A. No, not directly. Donations may be made to a school and dispersed by the school to students who qualify for financial assistance or scholarship as defined above, provided student-athletes receive no special consideration. (Constitution 1.250, By-law 3.072)
- 136)** Q. A school has a donor who wants to give funds to underwrite the tuition and fees of a needy student. It has a process for determining "need" which is objective and does not involve athletic or activity participation in any way. May the donor be permitted to meet, interview and endorse the selection of the needy student prior to the allocation of this financial aid?
A. No. (By-law 3.072)
- 137)** Q. After donated funds are objectively allocated by a school as permitted above, may the donor meet the student(s) who were recipients of the donation?
A. Yes. (By-law 3.072)
- 138)** Q. May a booster club provide financial assistance to a needy student?
A. No, not directly. Donations may be made to a school and dispersed by the school to students who qualify for financial assistance or scholarship as defined above, provided student-athletes receive no special consideration. (By-law 3.072)
- 139)** Q. What criteria guides provision of financial assistance to students?
A. Objective determination of need. Financial assistance may not be provided on any other basis. The school's financial assistance program must comply with the criteria approved by the Board of Directors as required in Section 1.250 of the Constitution. (Constitution 1.250 and By-law 3.072).
- 140)** Q. May a student-athlete receive a scholarship for high school attendance?
A. Yes, provided: (a) the scholarship is administered and approved by the school, (b) the school maintains and follows published criteria for the eligibility and selection of recipients which comply with the criteria approved by the Board of Directors as required in Section 1.250 of the Constitution, and (c) athletic interest, experience, skill, performance, talent or potential are in no respect any part of the selection and/or eligibility criteria for the scholarship. (Constitution 1.250 and By-law 3.072).

Special Amenities

- 141)** Q. May a school provide items of clothing such as T-shirts, jackets, shoes, etc., to prospective student-athletes?
A. Yes, provided all prospective students receive identical items of this nature as promotional material or as a general marketing device. (By-law 3.072)
- 142)** Q. May a school, booster club, civic organization, individual donor, church or social agency underwrite any school expenses, such as book fees, lunches, transportation costs, participation fees, etc., for a student-athlete?
A. Such financial assistance may be provided only if (a) it is available to all students, (b) the sole criterion for receiving this assistance is objectively determined need and (c) allocation of such assistance made is exclusively by the school. (By-law 3.072)

Activities of Coaches with/for Prospective Students

- 143)** Q. May a coach attend and observe a grade school or non-school athletic contest?
A. Yes, but a coach may not exert undue influence upon, induce attendance of, or engage in any improper contact with any prospective students on such an occasion. (By-law 3.073)
- 144)** Q. When does a prospective student become a student at a school?
A. On the first date of actual class attendance. (Constitution 1.420)
- 145)** Q. When does a prospective student-athlete become a student-athlete?
A. On the date of the first school practice in the sport involved, or on the date the prospect first attends class at the school, whichever comes first. (Constitution 1.420)
- 146)** Q. May a public or non-public high school or a high school coach conduct athletic programs such as summer camps, tournaments, etc., for non-high school students?
A. Yes, provided such programs and/or activities are open to all applicants within the age group for which they are offered and provided no specific invitations to participate or special terms for participation, such as fee discounts, provision of equipment, etc., are extended to any select individuals or groups. (By-law 3.073)

- 147)** Q. May high school coaches conduct summer programs for high school students through a park district which does not allow students from outside the park district boundaries to enroll?
A. Yes, provided the program is not used to induce or attempt to induce any student to attend any member school. (By-law 3.073)
- 148)** Q. May a coach who has no affiliation with a junior high team or youth league team attend a practice session simply for the purpose of observing the practice?
A. No. (By-law 3.073)

Activities of Prospective Students

- 149)** Q. May a school permit incoming freshmen to participate in high school athletic practices, or in any other high school athletic activities, such as riding a team bus to a contest, attending a state tournament with the school team, etc., conducted by or through the school?
A. No. (By-law 3.073)
- 150)** Q. May a school permit incoming freshmen to participate in high school sponsored open gym programs during or outside the school year?
A. Yes, provided the program is conducted in accordance with the open gym by-law. (By-law 3.071 and By-law 3.160)
- 151)** Q. May incoming freshmen enroll in summer school physical education programs that have been approved by the high school district's board of education?
A. Yes. (By-law 3.073)
- 152)** Q. May incoming freshmen or transfer students participate in summer league programs?
A. Yes, however, they must have registered at the school and paid applicable fees and/or deposits. (By-law 3.150 and 3.073)
- 153)** Q. May a school permit a non-high school student to participate on an "exhibition" or "unattached" basis in a high school athletic contest?
A. No. (By-law 3.072)
- 154)** Q. May a school permit non-high school students, or current high school students at another school, to accompany a school team to a contest and/or be present with the school team at the contest site?
A. No. (By-law 3.072) Note: This does not apply to a parent who is a coach and takes his/her own child to a contest with the team he/she coaches, or to elementary school students (grades 6 or below) serving as ball boys/girls for a school's home athletic contests.
- 155)** Q. May testimonials by former student-athletes be used in school marketing materials/endeavors?
A. Yes, provided they are factual. (By-law 3.073)
- 156)** Q. May a school employee, a booster club member, an alumna/alumnus, or any person or organization providing volunteer service to a school, underwrite sports camp or non-school competition costs or underwrite athletic equipment costs for a prospective student or prospective student-athlete?
A. No. (By-law 3.072) Note: This does not prohibit a parent from underwriting such items for his/her own child.
- 157)** Q. May a school employee, a booster club member, an alumna/alumnus, or any person or organization providing volunteer service to a school, provide transportation to a sports camp or to a non-school sports competition for a prospective student?
A. No. (By-law 3.072) Note: This does not apply to a parent who is a coach and takes his/her own child to a camp or competition.
- 158)** Q. May a high school directly or indirectly sponsor an athletic team for grade school students, junior high school student(s) or any other non-high school group, "select" or "traveling" athletic team?
A. No. (By-law 3.072)
- 159)** Q. May high school coaches put on clinics for feeder coaches or participants?
A. High school coaches may conduct or be instructors in clinics for coaches of non-high school teams. If a high school coach conducts, gives instruction or has any other involvement with a clinic for pre-high school students: (1) participation may not be restricted to any designated group(s) or individual(s); (2) no specific individual(s) or group(s) may be given special invitation or encouragement to participate; and (3) no participant(s) or group(s) may be given special rates, discounts or other services/benefits/privileges not identically provided to all participant(s) and group(s) invited. (By-law 3.073)
- 160)** Q. May high school personnel coach a feeder team if their sibling is a member of the feeder team?
A. Yes, but not on teams with high school students, unless: (a) the team involves players from two or more high schools; or (b) the team involves only high school students from the school within whose geographic attendance boundaries the student's parents reside and is not coached by a member of that high school's athletic coaching staff; or (c) the team involves only high school students from a private/parochial member high school, the incoming freshman attended eighth grade at a private/parochial elementary/junior high school from which other students attend the member high school, and the team is not coached by a member of the private/parochial school's athletic coaching staff. (By-law 3.073)

- 161)** Q. May a school market its school program, including athletics as a part of that program, to a degree proportional with all other aspects of the program?
A. Yes. (By-law 3.073)
- 162)** Q. May a school give any priority, special attention or consideration to prospective athletes in any of its activities for marketing the school program and recruiting students?
A. No. (By-law 3.073)
- 163)** Q. May a high school provide free admission to athletic contests for special interest, non-high school groups, such as a junior high basketball team, youth sports club or team, cub scout pack, church group, etc.?
A. Yes, provided this benefit is provided to all such groups located within the normal attendance boundaries of the school. (By-law 3.073)
- 164)** Q. May a school sponsor a "Junior High Night" during a sport season, provide free admission to all junior high students on that night, and conduct some skill contests in the sport with prizes, such as school T-shirts, etc., for the winners?
A. Yes, provided it is a completely open event, with no specific students or student groups being invited and provided that any contests conducted and/or prizes awarded use random selection of participants. (By-laws 3.071 and 3.072)
- 165)** Q. May a school provide any services or other benefits to students or prospective students who are athletes which are not correspondingly provided to all students or prospective students who are not athletes?
A. No. (By-law 3.072)

3.080 AMATEURISM

- 3.081** For winning or placing in actual athletic competition, a student in a member school may accept a medal, cup, trophy or plaque, from the sponsoring agent regardless of cost.
- 3.082** Schools may provide an individual or teams that win an IHSA state championship, a ring/memento not to exceed \$200 in fair market value. Businesses, booster clubs or other organizations desiring to make contributions toward the purchase of a championship ring/memento must make those contributions to the school.
- 3.083** A student in a member school may accept any other award for participation in an athletic contest, or for athletic honors or recognition, which does not exceed \$75 in fair market value, in the following sports: badminton, baseball, basketball, bowling, cross country, football, golf, gymnastics, soccer, softball, swimming, tennis, track and field, volleyball, wrestling, and any other sport in which the student's school provides interscholastic competition. In addition, a student in a member school may receive and retain items of wearing apparel which are worn for non-school athletic competition as part of a team uniform provided for and worn by the student during competition.
- 3.084** A student in a member school may accept a school letter for an interscholastic sport, regardless of cost.
- 3.085** Violation of the provisions of By-laws 3.081, 3.082, 3.083 or 3.084 shall cause ineligibility in the sport in which the violation occurred. An official ruling must be secured from the Executive Director before any student who violates these rules may be reinstated to eligibility.

Illustrations for Section 3.080 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

166) NUMBER OF PRIZES PERMITTED

- Q. Is there a limit on the number of different prizes an athlete may win in any given contest or awards an athlete may receive on any given occasion?
A. Yes. An athlete may receive no more than one (1) prize of \$75 fair market value per sponsor per athletic contest. (By-law 3.083)

167) REWARDS REVIEWED

- 167.1)** Q. If a student participates in a road race sponsored by (1) a member school; (2) a local business; or (3) a private running club, may the student receive a T-shirt instead of a medal or trophy for winning or placing in the race?
A. In all three of these instances the student may accept a T-shirt or other merchandise reward, if the fair market value of the award is less than \$75. (By-law 3.083)

- 167.2)** Q. May a contestant pay an entry fee to be in the race if part of that fee is used to purchase a shirt or other memento?
A. Yes, if the item does not exceed \$75 fair market value. (By-law 3.083)
- 167.3)** Q. May a student accept a meal at a restaurant and a plaque in recognition of being chosen "player of the week" or for a similar honor?
A. The food prize is acceptable as long as it is physically consumed by the student personally. The plaque is acceptable if its cost did not exceed \$75 fair market value. (By-laws 3.081 and 3.083)
- 167.4)** Q. May a student accept a trophy valued at \$125 for winning a non-school competition?
A. Yes. (By-law 3.081)
- 167.5)** Q. May a student accept a trophy valued at \$50 for shooting a hole-in-one during a golf tournament in the summer?
A. Yes. (By-law 3.083)
- 167.6)** Q. May a student accept a \$25 cash prize for winning a competition?
A. No. (By-law 3.083)
- 167.7)** Q. How is the term "wearing apparel" defined in the context of this rule?
A. "Wearing apparel" is defined to mean uniform shirts or jerseys, uniform shorts or pants, warm-up clothing such as sweat suits, and playing shoes for the particular sport in question. (By-law 3.083)

168) WHAT CAN BE PROVIDED TO CHAMPIONS?

- 168.1)** Q. In recognition of a team's accomplishments, may team members receive items such as gift certificates for dinners, jackets, sweaters, watches, etc.?
A. Gifts such as these are permitted only if no individual item exceeds \$75 in "fair market value" and items totaling no more than \$75 in fair market value are provided by any one sponsor. (By-law 3.083)
- 168.2)** Q. Is it acceptable if, by virtue of a student's performance in an athletic contest, the student is awarded:
(a) \$1,000 in the form of a college scholarship?
(b) \$1,000 donated to the scholarship fund of the college of his choice?
(c) \$1,000 donated in the student's name to charity?
(d) \$1,000 donated in the student's name to the athletic program at high school?
A. IHSA By-laws prohibit a student from receiving any amount of cash for participating in an athletic contest. This is true even if the reward is delayed for presentation following the student's graduation from high school. Consequently, example (a) is not permitted, but examples (b), (c) and (d) are acceptable, since the student personally does not and will not receive any cash or merchandise. (By-law 3.083)
Note: While a student may not directly receive a scholarship, a scholarship may be given to a college or university and the student may receive the benefits of the scholarship fund if he/she attends that university. Failure to attend the school designated by the students forfeits the student's opportunity to receive any and all benefits of the scholarship. In such an event, the student may not receive any portion of the scholarship in cash. (By-law 3.083)

169) TEAM CASH

- Q. If a student plays on a community sports team, and that team wins \$500 cash in a tournament, is the student in violation of the amateur by-laws?
A. No. The rules prohibit the student from receiving cash and restrict the value of merchandise. Since the student does not receive cash or merchandise personally, there is no violation of the amateur rules in this case. (By-law 3.083)

170) STATUS OF "THONS"

- Q. May a student participate in a "jog-a-thon," "swim-a-thon," or other "-thon" activity and receive cash or merchandise prizes for his fund-raising effort?
A. Yes, but the prizes are acceptable only if they are presented exclusively on the basis of the student's fund-raising achievements. (By-law 3.083)

171) ATHLETE AS A MODEL

- Q. If a student-athlete who is selected by audition is paid \$250 to appear in a TV commercial for athletic equipment, is the student in violation of the amateur rules?
A. No. (By-law 3.083) This is not a reward for participation in an athletic contest; rather, it is payment for specific services rendered.

172) COMPETE WITH PRO

- Q. May a student participate as a team member with a professional?
A. Yes, provided the student does not receive cash of any amount or merchandise prizes which exceed \$75 in "fair market value". (By-law 3.083)

173) COMPETE AGAINST PRO

- Q. May a student participate in a contest against a professional?
 A. Yes. (By-law 3.083)

174) DESIGNATION OF WINNINGS TO OTHERS

- Q. May a student participate as a substitute in a non-school sports program with the person for whom the student substitutes receiving cash or merchandise prizes as a result of (1) the student's substitute performance, or (2) the performance of the team to which the substitute student contributed?
 A. In (1), the student will be considered to have received cash or illegal merchandise in violation of the by-laws, even though actual possession of the reward was granted to another individual. Designation of cash or merchandise won by a student in competition to an individual is viewed to be acceptance of the award by the student and may be in violation of the provisions of IHSA amateur rules. (By-law 3.083)
 In (2), a student's score may contribute to a team score by which other members of the team may win a cash, gift certificate or merchandise reward, provided the student personally receives nothing other than a medal, cup or trophy. If a team on which a student is a substitute wins a cash or merchandise prize that is divided among team members, the student is not in violation if the individual substituted accepts a share of the team prize. The student simply cannot accept or designate to someone else a share of the prize for his/her own performance with the team. (By-law 3.083)

175) EXPENSE REIMBURSEMENT

- Q. Does acceptance of reimbursement of expenses for non-school competition constitute an amateur rule violation?
 A. No, provided reimbursement can be documented not to exceed actual out-of-pocket expenses. (By-law 3.083)

176) EVIDENCE OF EXPENSE

- Q. What is acceptable documentation of expenses?
 A. Itemized bills, properly receipted by persons alleged to have received the payments. (Constitution 1.420)

177) WORKING FOR PAY

- Q. May a student coach, teach or officiate an athletic contest for pay?
 A. Yes. The rule refers exclusively to actual playing. An individual may be paid for services performed. (By-law 3.083)

178) PENALTIES

- Q. If a student violates the amateur rules, how and when is the penalty applied?
 A. Violation is penalized with a period of ineligibility. A report of the violation must be made to the IHSA Office for determination of the term and effective date of ineligibility. In addition, the reward must be returned or surrendered, at the direction of the Executive Director. (By-law 3.083)

179) PRIZES WON IN DRAWINGS OR RAFFLES

- Q. May a high school athlete accept a cash or merchandise prize won through a drawing or raffle at a high school athletic contest?
 A. Yes. (By-law 3.083)

180) EVENTS TO WHICH AMATEUR RULES APPLY

- Q. Does the amateur rule apply to events such as three player basketball, seven-player football, golf scrambles, etc.?
 A. No. The amateur rule applies only to "interscholastic" sports. (Constitution 1.420)

3.090 PARTICIPATING UNDER AN ASSUMED NAME

- 3.091** In the event students participate in interscholastic competition under any other name than their own, a student's principal shall immediately suspend violators from further interscholastic participation. The future interscholastic participation of violators and/or persons contributing to a violation shall then be considered by the Board of Directors.

3.100 INDEPENDENT TEAM PARTICIPATION

- 3.101** During the school season for a given sport, in a school which maintains a school team in that sport, a student shall not participate on any non-school team, nor as an individual unattached in non-school competition, in that given sport or in any competition that involves the skill of the sport in question. Violation shall cause ineligibility for a period not to exceed 365 days. An exception may be made by the Executive Director under the guidelines adopted by the Board of Directors for competitions sanctioned directly by the National Governing Body or its official Illinois affiliate for the sport.

- 3.102** Students may participate in a tryout for a non-school athletic team while a member of a high school team in the same sport, provided the tryout is exclusively a demonstration of skills with no practice or instruction involved. A student shall be considered to be a member of a school team when he/she engages in any team activity, including but not limited to tryouts, drills, physical practice sessions, team meetings, playing in a contest, etc., on or after the date specified in By-law 5.000 and its sub-sections.
- 3.103** The phrase, “participate on any non-school team,” as utilized in By-law 3.101, is defined to mean engaging in any team activity, including but not limited to, tryouts (except as defined in Section 3.102), drills, physical practice sessions, player evaluations, team meetings, etc.
- 3.104** In the event a school does not maintain a team which competes during the regular high school season for a sport, but enters one or more students into competition for the first time in that season at the beginning level of the IHSA tournament series for the sport, the date of the beginning level contest in the IHSA series shall be the date on which the school shall be considered to have a school team in that sport.
- 3.105** Students or teams at member schools shall not be permitted to participate on, practice with or compete against any college, junior college or university athletic team. This restriction shall apply in all situations, regardless of the competitive structure or sponsor of the competing entities for such events.
- 3.106** To be eligible for a school team in a given sport, students must cease non-school practice and competition in that sport no later than seven (7) days after the date on which the school team engages in its first practice or tryout in that sport.
- 3.107** During the school year, a person who is a coach in any sport at a member school, may be involved in any respect with any non-school team, only if the number of squad members from his/her school which are on the non-school team roster does not exceed one-half the number of players needed to field a team in actual IHSA state series competition in that sport. The number of non-school team squad members that are counted only include those that are eligible to play in the next season of that sport.
- 3.108** The Illinois School for the Visually Impaired (ISVI), may with the permission of the IHSA Executive Director, under the guidance of the Board of Directors, conduct cooperative practices with another team in the immediately geographic area of Jacksonville, Illinois.

Illustrations for Section 3.100 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

- 181)** Q. May a student participate on a team or as an individual outside the school?
A. Yes, provided such participation does not occur during the school season for the sport, as defined above. (By-law 3.101)
- 182)** Q. May a student who is a member of a school cross country team run in a 10K road race apart from the school cross country program during the school cross country season?
A. No. “Running on any surface other than a track” is defined by the Board of Directors as a skill of the sport of cross country. (By-law 3.101) NOTE: This illustration can be applied to any sport and/or season by referring to the definition of “skill of the sport” and the list of skills determined for each interscholastic sport by the Board of Directors which is included in the Definitions Section at the beginning of the Casebook.
- 183)** Q. Is there a difference between “skill of the sport” and “skills of a particular event” in a sport, in regard to competition in “the skill of the sport?”
A. No. The list of “skills of the sport” which the Board of Directors has determined are essential to each sport are applicable to any and all events within a sport, regardless of whether a particular event utilizes a specific skill or not. For example, since “running any distance on a track” is a skill essential to the sport of track and field, a discus thrower, whose specific track and field event may not utilize the skill of running, is still prohibited from engaging in non-school running competition during the school track and field season, because “running” is a skill of his/her sport. (By-law 3.101)
- 184)** Q. Is there any circumstance in which special permission may be granted to permit a student to compete in a non-school event in or utilizing “the skill of the sport,” during the school season for the sport?
A. Yes. The Executive Director may make an exception under guidelines adopted by the Board of Directors for competitions sanctioned by the National Governing Body for the sport. (By-law 3.101) A completed request form, and written verification from the National Governing Body for the sport indicating that the event has been officially sanctioned, must be submitted to the IHSA Office for the Executive Director’s review.
- 185)** Q. How is the term “maintains a school team” defined in the context of a school which does not sponsor or otherwise facilitate competition in a sport during the regular season?
A. Such a school is considered to be “maintaining a school team” on the date any student first represents the school in an interscholastic contest in the sport. Beginning on that date, any student from the school who subsequently practices or competes outside the school in the sport, will violate this by-law. (By-law 3.101)

- 186)** Q. May a high school student-athlete be randomly selected from the crowd at a sports event to shoot from half-court and win a prize if the shot is made?
A. Yes. Performance of an athletic feat when randomly selected and when the feat does not involve competition against other individuals, is not considered to be "competition in the skill of the sport". (By-law 3.101)
- 187)** Q. When does the "school season" end for varsity or non-varsity athletes in a sport?
A. The "school season," as defined above, ends for varsity athletes and non-varsity athletes on the date of the school's last contest at their level in the particular sport. (By-law 3.101)
- 188)** Q. May a tryout be conducted in more than one session over one or more days?
A. Yes, if determined to be necessary by virtue of the numbers of individuals participating or the extent of skill demonstration being pursued in the tryout, and provided it meets the definition of a tryout. (By-law 3.102)
- 189)** Q. May a tryout include a scrimmage?
A. Yes, provided it only involves individuals who are actually trying out, and is within parameters of all other by-laws. (By-law 3.102)
- 190)** Q. May a student who is a member of a school 12-inch fast pitch softball team attend weekly team meetings during the high school softball season for a team that competes in a non-school 12-inch slow pitch softball league?
A. No. (By-law 3.103)
- 191)** Q. May a student attend a meeting to organize and plan a fund raising activity for a non-school team?
A. Yes, provided the meeting focuses exclusively on the fund raiser and not on any activity identified in the definition of "team activity" above. (By-law 3.103)
- 192)** Q. May a student who attends a school which does not maintain a school team in a given sport participate in practice sessions at a neighboring school which does maintain a school team in that sport?
A. No. (By-law 3.104)
- 193)** Q. May a student in a school which does not maintain a school team in a given sport participate in a scrimmage in the sport at a neighboring school?
A. No. (By-law 3.104)
- 194)** Q. May a school which does not maintain a school team in a given sport enter one or more of its students in competition against a neighboring school during the regular season for the sport?
A. Yes. However, such competition shall be considered to be competition by the school team, and the date on which it first occurs shall be considered to be the date on which the school has a school team in that sport. (By-law 3.105)
- 195)** Q. May a high school team practice at the same time and place as a college team?
A. Yes, but under no conditions may the high school team or individual members of the high school team interact in any manner whatever with either the college athletes, coaches, or other college personnel. (By-law 3.105)
- 196)** Q. Does this by-law pertain only to varsity student-athletes?
A. No. It applies to all students at member schools. (3.106)
- 197)** Q. If practice begins on Monday, when must students cease participation on non-school teams?
A. Students must cease non-school practice and competition in that sport within 7 days. (By-law 3.106)
- 198)** Q. What number of players is needed to constitute "one-half the number of players needed to field a team in actual IHSA state series competition" in each sport?
A. The number in each sport for which IHSA conducts a state series has been determined by the Board of Directors. Specifically, the limitations are:
Badminton—3; Baseball—4; Basketball—2; Bowling—2; Cross Country—3; Football—5; Golf—3; Boys Gymnastics—12; Girls Gymnastics—8; Soccer—5; Softball—4; Swimming—15; Tennis—3; Track and Field—17; Volleyball—3; Water Polo—3; Wrestling—7. (By-law 3.107)
- 199)** Q. May a school soccer coach serve as a coach for a non-school basketball team, on which students from the school participate, during the school term?
A. Yes, provided the number of students from the school at which the individual coaches does not exceed the number permitted in By-law 3.107. (By-law 3.107)
- 200) WHEN ON SCHOOL SQUAD**
- Q. When does a student become a member of a school athletic squad?
A. In schools conducting an interscholastic program in the sport during the regular season, a student shall be considered to be a member of a school team when he/she engages in any team activity as defined in By-law 3.102. In schools entering interscholastic competition for the first time at the beginning of the IHSA state series in the sport, the date of the beginning level contest in the IHSA series shall be the date on which the school shall be considered to have a school team in that sport. (By-law 3.102 and 3.104)

201) NON-SCHOOL COMPETITION

- Q. May a student who is on a school team and who participates in competition outside the season in the same sport with a non-school organization, participate in a non-school competition in that sport on the day after the high school season ends?
- A. Yes. (By-law 3.101)

202) FAST VS. SLOW PITCH SOFTBALL

- Q. May a student who is a member of the school team in 12-inch fast pitch softball, play during the girls softball season for a slow pitch team in a recreation 12-inch slow pitch league?
- A. No. During the school season, a student shall not participate on any non-school team that involves the skill of the sport in question. (By-law 3.101)

203) BASEBALL VS. SLOW PITCH OR FAST PITCH SOFTBALL

- Q. May a student who is a member of the school baseball team play during the boys baseball season for a fast pitch or slow pitch softball team in a recreation league?
- A. No. During the school season, a student shall not participate on any non-school team that involves the skill of the sport in question. (By-law 3.101)

204) DATE OF FIRST CONTEST

- Q. What does the term "date of the first level contest in the IHSA series" mean in the provisions of By-law 3.102?
- A. The term "date of the first level contest in the IHSA series" shall be interpreted to mean the first date on which any individual contest of the IHSA series in that sport is conducted. (Constitution 1.420)

205) COMPETING WHEN INELIGIBLE

- Q. If a student is ineligible by virtue of a by-law violation and ruling by the Executive Director, may the student compete in non-school competition in the same sport outside the school?
- A. No. Once a student becomes a member of a school team, that student may not compete in non-school competition (By-law 3.101)

206) PRACTICE WITH NON-SCHOOL TEAM

- Q. May a student participate in practice with a non-school team while a member of the school team in the same sport?
- A. No. (By-law 3.101)

- 207)** Q. May schools pay entry fees for any non-school leagues during the school year?
- A. No. (Article 1.420 and By-law 2.090)

3.110 COACHING SCHOOL PARTICIPATION

- 3.111** During the school year, a person who is a coach at any member school may not be involved in any respect with any coaching school, camp, or clinic for any interscholastic sport or which provides instruction in any skill of an interscholastic sport and is attended by more than two (2) persons from the coach's school. Violation shall cause ineligibility for a period not to exceed 365 days. Programs that involve only demonstration of skills and sports theory without providing instruction and requiring active participation by attendees are not considered coaching schools.
- 3.112** Students may attend a coaching school, camp or clinic during the summer months provided they do not attend before school is out in the spring or after Sunday of Week Number 5 in the IHSA Standardized Calendar. Such coaching schools, camps and clinics may be conducted by an individual, group or even a member school and instruction at such programs may be provided by any person. However, in the case of a school-sponsored camp, participation may not be restricted to high school students who have been certified eligible for athletics.
- 3.113** Students may participate in school physical conditioning programs and recreational programs.
- 3.114** During the school year, students may serve as demonstrators for a coaching school, camp or clinic conducted exclusively for coaches or officials. Students may participate in one practice session for such event with the instructor for whom they will demonstrate.

Illustrations for Section 3.110 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

208) LIMITS AT SPORT CAMPS

- Q. Is it permissible for five students from an IHSA member school to go to Florida during the school year and take part in a baseball instructional program?
- A. Yes, during the school year any number of students from a school may participate in sports lessons provided no coach from the school is involved in any respect. (By-law 3.111)

209) SCHOOL PAY CAMP FEES/LEAGUE FEES

- Q. May a school pay fees for students participating in a summer sports camp or summer league?
- A. Schools may only use funds from their activity accounts to pay fees for summer sports camps or summer leagues if the funds have been raised by school teams, school clubs or booster clubs for that purpose. (Article 1.420)

210) SCHOOL PROVIDE TRANSPORTATION

- Q. May a school provide transportation for students attending a summer sports camp during the contact day period?
- A. Yes. (By-law 3.154)

211) COACH AT CAMP

- Q. May a school coach be a staff member at a summer camp which students from his/her school attend?
- A. Yes, provided the camp is conducted between the last day of school in the spring and Saturday of Week 4 in the IHSA Standardized Calendar. Note: Any day during the camp on which the coach and any student from his/her school are involved together in sports instruction will be considered a contact day for both the coach and student. (By-law 3.112)

212) Q. May an incoming freshman participate in a school sponsored camp?

- A. Yes, provided there is no violation of By-law 3.070 (Recruiting) by the school conducting the camp. (By-law 3.112)

213) Q. Is participation in speech, music or other activity camps or clinics restricted by this by-law?

- A. No. This by-law, as all the by-laws in Section 3.000, pertains exclusively to athletics and the eligibility of students for athletics. (By-law 3.121 and 3.112)

214) Q. Is there any time period during which participation in school physical conditioning and/or recreational programs is prohibited to student athletes?

- A. No. (By-law 3.113)

215) Q. May activities involving the "skill(s) of a sport" be conducted as part of a school physical conditioning program?

- A. Such activities are permitted in school physical conditioning programs, provided they are conducted purely for the development of strength, endurance and general physical fitness, without instruction, coaching, competition or other relation to the theories and strategies of any sport. (By-law 3.113)

216) Q. May a school conduct pre-season conditioning for a team prior to the starting date for any sport as outlined in Section 5.000 of the IHSA By-laws?

- A. No. Conducting a preseason conditioning program as outlined above would constitute a violation of IHSA By-law 2.090. (By-law 2.090 and 3.113)

3.120 ALL-STAR PARTICIPATION

- 3.121** No student at a member school shall participate on an all-star team in basketball, football, soccer or volleyball during the student's high school career until completing their interscholastic athletic eligibility in that particular sport. A student may participate in no more than three (3) all-star contests in a sport.

Illustrations for Section 3.120 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

217) ALL-STAR FACTORS

- Q. What factors are used in identifying an all-star contest?
- A. In identifying an all-star contest, answers to the following questions will be reviewed (Constitution 1.420):
- (1) Are participants selected by an individual or group according to a structural system relating to athletic ability, performance or reputation?
 - (2) Does publicity for the event state or imply an honorary status for participants?
 - (3) Are the contests, by name or otherwise, identified as all-star?
 - (4) Does any revenue generated through ticket sales or other means accrue to, or are expenses paid by a sponsoring agency or organizations?
 - (5) Is the contest sponsored by a non-school agency?
 - (6) Is the contest sponsored by a school agency?

218) SAME SCHOOL "ALL-STAR"

- Q. If all participants in a contest which meets the general definition of an all-star contest attend the same school, is the contest an all-star event?
- A. Yes. The number of schools which may have students in the contest is not a factor in determining whether the contest is an all-star event. (By-law 3.121)

219) INDEPENDENT TEAMS AND ALL-STAR COMPETITION

- Q. Is an independent team ever an all-star team?
- A. It may be. According to the published list of all-star factors, if an independent team is formed to play in one game or one tournament, it is viewed as an all-star team. If it engages in a regular schedule of competition, it is a permissible non-school program, and high school students may participate. (By-law 3.111 and 3.120)

220) ALL-STAR COMPETITION WHEN ON TEAM IN ANOTHER SPORT

- Q. May a student participate in a national all-star high school basketball game during the month of April when the student is a member of the school's boys tennis team?
- A. Yes, provided the student is in compliance with the all-star by-law. (By-law 3.120)

3.130 USE OF PLAYERS

- 3.131** Only students who are currently eligible to participate in an interscholastic athletic contest shall appear at the contest in the uniform of their school.
- 3.132** Only bona fide students of a school may participate in a practice session for any interscholastic team sponsored by that member school.

Illustrations for Section 3.130 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

221) MAY AN INELIGIBLE STUDENT PRACTICE?

- Q. May a student who is ineligible practice with a school team?
- A. Yes, provided local policy permits it. IHSA rules only prohibit the student from participating in or dressing for an interscholastic contest. (By-law 3.131)

222) INELIGIBLE STUDENT AS MANAGER

- Q. May an ineligible student sit with a school team on the bench and perform managerial or other specifically assigned duties?
- A. Yes, within the limits of any local policies. The student is only prohibited by IHSA rules from appearing on the team bench in uniform. (By-law 3.131)

- 223)** Q. May alumni, or others who are not currently enrolled in a member school, participate in a practice session conducted by a member school?
- A. No. (By-law 3.132)

- 224)** Q. May students who are not yet in high school practice or participate on high school teams?
- A. No. (By-laws 3.051, 3.053, 3.011 and 3.132)

3.140 MISBEHAVIOR DURING CONTESTS

- 3.141** Students participating in interscholastic athletic contests in violation of the By-laws, or other persons found to be in gross violation of the ethics of competition or the principles of good sportsmanship, may be barred by the Board of Directors from interscholastic contests.

3.150 SPECIAL PROVISIONS FOR SUMMER PARTICIPATION

- 3.151** Participation by high school students in summer programs must be voluntary and in no way be an actual or implied prerequisite for membership on a high school team.

- 3.152** Students may participate in summer baseball/softball leagues sponsored by schools, during the period between Monday of Week 44 and Saturday of Week 7 in the IHSA Standardized Calendar.
- 3.153** Persons who coach a sport at a member school may have a maximum of 25 days of contact in that sport with students from that school during the period between the last day of classes or Monday of Week 49 in the IHSA Standardized Calendar (whichever date is earlier) in the spring each year and Sunday of Week 5 in the IHSA Standardized Calendar. Additionally, there may be no contact during the mandatory “Dead Week” for either Week 52 or Week 1 (whichever week encompasses the July 4th holiday) of the IHSA Standardized Calendar. This “Dead Week” would be determined annually by the IHSA. Students may have a maximum of 25 days of contact per sport with persons who coach that sport at the school they attend during the same time period. A day of contact is defined as any date on which any coaching or instruction in the skills and techniques of any sport takes place. These limitations apply to all sports except Baseball and Softball. An exception may be made by the Executive Director under the guidelines adopted by the Board of Directors for competitions sponsored and conducted directly by the National Governing Body for the sport.
- 3.154** Schools may transport students from their schools to summer league contests, coaching schools, clinics or other non-school contests in the summer during the contact day period outlined in By-law 3.153.
- 3.155** Schools may conduct coaching schools, camps or clinics during the summer, provided:
- The event is conducted between the close of school in the spring and Sunday of Week 5 in the IHSA Standardized Calendar;
 - The event is open to any high school student and is not restricted to students who have been or expect to be high school athletes; and,
 - The event provides common instruction and activities for all participants.
- 3.156** Students may participate in a summer school class taught by a coach or other faculty member from their school and which offers instruction in interscholastic sports, provided the class is not restricted to students who have been certified eligible for participation in interscholastic athletics and the class is approved by the local Board of Education. In addition, credit toward graduation must be granted by the local Board of Education. Summer school courses offering instruction in interscholastic sports, must conclude by Saturday of Week 4 in the IHSA Standardized Calendar.
- 3.157** During the summer contact period, schools may not organize or participate in any football activities that involve “full contact” or allow players to be in full pads, even if “full contact” doesn’t occur.
- “Full Contact” is defined as football drills or live game simulations where ‘live action’ occurs. ‘Live action’, as defined by USA Football, is contact at game speed where players execute full tackles at a competitive pace taking players to the ground. It is assumed that when players are not in full pads, no live action drills or simulations will occur. Players not in full pads may participate in ‘air’, ‘bags’, ‘wrap’, and ‘thud’ drills and simulations at any point. These contact levels are defined as:
- Air – Players should run unopposed without bags or any opposition.
- Bags – Activity is executed against a bag, shield, or pad to allow for a soft-contact surface, with or without the resistance of a teammate or coach standing behind the bag.
- Wrap – Drills run at full speed until contact, which is above the waist with the players remaining on their feet.
- Thud – Same as wrap but tempo is competitive with no pre-determined winner and the players are not tackling to the ground.
- During the summer contact period, 7 on 7 pass skeleton (touch only) games are allowed against other schools, and helmets, mouth pieces, and appropriate footwear are the only equipment that may be worn during these 7 on 7 contests.
- Organized football activity that doesn’t involve any protective equipment (such as a helmet) can occur at any time and for any length on a given day so long as coaches and players do not violate the provisions of IHSA By-laws 3.151 and 3.153.
- During the summer contact period, schools may organize and participate in football activities involving coaches and students at that school under the following conditions:
- A high school team may wear helmets and shoulder pads for the school’s organized football activities, building up to this in the following manner:
 - 1st two (2) days of summer football activities: helmets only: (any break in summer contact days with the team exceeding seven (7) days would additionally require two (2) days of helmet only activities).
 - Day three (3): helmets and shoulder pads are the maximum allowed equipment for the remaining contact day period.

- b. The following limitations are in effect during the summer contact day period:
1. Practices are limited to a maximum of five (5) hours per day with players in helmets and shoulder pads. Any additional (no protective equipment) football related activities beyond the five (5) hours per day can only be conducted following two (2) hours of rest. No one practice can exceed three (3) hours before a two (2) hour rest period is allowed.
 2. Practices with helmet and shoulder pads are limited to fourteen (14) hours per week (Sunday-Saturday) with a maximum of fifteen (15) days in helmet and shoulder pads during the twenty-five (25) summer contact day period.

During the summer contact period, schools may attend a summer football camp that involves coaches and/or players from another high school under the following conditions:

- a. Practice limit maximums of equipment and hours per day along with hours per week follow the same limitations as identified above.
- b. The maximum number of football camp days with other teams is limited to four (4) days during the summer.
- c. The maximum number of players from one school in drill work versus another school is five (5) players. Note: 7 on 7 non-padded passing games are allowed during the summer.

Illustrations for Section 3.150 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

- | | |
|-------------|---|
| 225) | Q. Are open gyms, camps, contact days, or physical conditioning programs allowed during the dead week?
A. No. (By-law 3.153) |
| 226) | Q. Does By-law 3.153 apply to activity programs such as marching band?
A. No. |
| 227) | Q. May coaches require students to attend summer workouts, leagues, conditioning programs, etc.?
A. No. (By-law 3.151) |
| 228) | Q. Is participation by a student in a summer school class taught by a coach considered to be a contact day.
A. Yes, for both the individual student(s) and the coach, unless it is a class which awards academic credit toward graduation from the school. (By-law 3.153) |
| 229) | Q. What is the difference between a "camp" which counts as a contact day and a "class" which does not?
A. A "class" is a legitimate academic activity in the school's curriculum which grants credit toward graduation from the school to students who successfully complete it. A camp is not. (By-law 3.153) |
| 230) | Q. If a coach is purely a spectator at a non-school contest, and does not speak to or otherwise communicate with students from the school where he or she coaches, before, during, after or about the contest, is that considered to be a contact day for the coach?
A. No. (By-law 3.153) |
| 231) | Q. May two or more coaches on a school's coaching staff have contact with an individual student on the same day?
A. Yes, but such contact is counted as a contact day for each coach and the student. (By-law 3.153) |
| 232) | Q. If a coach has contact with a student more than once in a given day, how is that counted for contact days?
A. One contact day. (By-law 3.153) |
| 233) | Q. If a person coaches more than one sport at a school, may he/she have a contact day in Sport A on Monday, Wednesday, Friday and a contact day in Sport B on Tuesday, Thursday, Saturday with the same student?
A. Yes. (By-law 3.153) |
| 234) | Q. Is participation in a 7-7 football passing league game considered to be a contact day?
A. If a coach from the school of the participants provides instruction to participants before, during or after the game, it is considered to be contact each day on which such contact may occur. It is considered to be a contact day for the coach and each student involved. (By-law 3.153) |
| 235) | Q. A school coach conducts or works at a camp where some days involve instruction in sports skills and other days involve purely physical conditioning activities. Clearly, any day which involves sports skills instruction are "contact days." Are the days on which only physical conditioning activities are conducted also considered "contact days"?
A. Yes. In this case, they are part of a sports skills camp and are thereby interpreted as "contact days." (By-law 3.153) |
| 236) | Q. If a high school coach is also the parent of a high school athlete at his/her school, is it a "contact day" if the coach works with and/or instructs his/her child in the skills of a sport?
A. No, as long as the work and/or instruction the coach engages in with his/her child is not also similarly provided to other students from the school. (By-law 3.153) |

- 237)** Q. What are the guidelines for IHSA By-law 3.153?
 A. 1. The competition must be sponsored and conducted by the National Governing Body (NGB) for the sport. Written verification from the NGB indicating they are sponsoring and conducting the event must be received in the IHSA office no later than ten days prior to the event.
 2. The competition must be completed by the time the student's school starts in the fall.
 3. A maximum of seven additional contact days may be granted for practice/training and competition.
- 238)** Q. Is interaction between a high school coach who also owns, operates or works at a private sports club or in a public sports program during the activities of such a club or program restricted by the limit on "contact days"?
 A. Yes. If such interaction includes any "coaching or instruction in the skills and techniques of any sport" during the period between the "time school is out in the spring and Saturday of Week 4 in the IHSA Standardized Calendar," it will be restricted by the "contact day" limitation. (By-law 3.163)
- 239)** Q. Is participation by a student in a summer school class in a sport, taught by a coach in that sport, considered to be a "contact day under By-law 3.153?"
 A. Yes, unless it is a class for which the school grants academic credit toward graduation. (By-law 3.153 and 3.156)
- 240)** Q. May participants in passing leagues wear pads?
 A. No. Passing leagues are limited to touch football. Helmets and football shoes are the only football equipment which may be worn by participants. (By-law 3.157)
- 241)** Q. May participants in one camp, coaching school or clinic scrimmage with and/or against participants in another camp, coaching school or clinic?
 A. No. (By-law 3.157)
- 242)** Q. May high schools host camps for elementary and junior high school students after Sunday of Week No. 5 in the IHSA Standardized Calendar?
 A. Yes. (By-law 3.155)
- 243)** Q. May high schools host camps for high school students, including incoming freshmen, after Sunday of Week No. 5 in the IHSA Standardized Calendar?
 A. No. (By-law 3.155)
- 244)** Q. If a school has a conditioning program during the summer contact period that is designed for a specific population (ex., a school's football team), is it considered to be a contact day, even if no sport-specific instruction occurs?
 A. Yes. (By-law 3.150)
- 245)** Q. If a school hosts a camp after the summer contact period for non-high school aged students may high school students serve as counselors at the camp?
 A. Yes, provided the high school students are strictly at the camp as instructors. (By-law 3.150)
- 246)** Q. May incoming freshmen or transfer students participate in summer league programs?
 A. Yes, however, they must have registered at the school and paid applicable fees and/or deposits. (By-law 3.150 and 3.073)
- 247)** Q. What is a football scrimmage?
 A. Any action, regardless of whether it would involve 11 on 11, 9 on 8, 4 on 4, etc., which simulates any game play conditions where members of one school would be organized against members of one or more schools would be considered a scrimmage. (By-law 3.157)
- 248)** Q. Does the contact day provision of IHSA by-laws apply to competitive cheer?
 A. Yes. (By-law 3.153)
- 249)** Q. Does a school that does not intend on wearing full pads during the summer contact day period have to comply with section (a) of by-law 3.157?
 A. No. Only schools going to full pads are required to use the acclimatization schedule. (By-law 3.157)
- 250)** Q. Do the four days of acclimatization prior to full pads during the summer contact period have to be consecutive days?
 A. No. Each student athlete must have 2 days (or more) of helmets only followed by 2 days (or more) of helmets and shoulder pads before going to full pads during the contact day period. (By-law 3.157)

3.160 OPEN GYM LIMITATIONS

- 3.161** Schools may open their gymnasiums or facilities for recreational activities to students or other persons who reside in or outside their district, under the following conditions:
- A variety of recreational activities are available during the course of the year.
 - There is no coaching or instruction in the skills and techniques in any sport at any time.
 - Participation is voluntary and is not required directly or indirectly for membership on a high school squad.
 - Comparable opportunities are afforded to all participants.

Illustrations for Section 3.160 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

- 251)** Q. What procedures should schools use to insure all students are adequately notified of opportunities to participate in open gyms?
 A. Schools must publicize open gyms in a manner that insures all students have a reasonable opportunity to be informed regarding dates and times of open gyms. Schools may utilize public address announcements, flyers, written announcements or newsletters to notify students regarding open gyms. (By-law 3.161)
- 252)** Q. May a school conduct a sport specific open gym?
 A. Yes, provided a variety of recreational activities are available during the course of the year. (By-law 3.161)
- 253)** Q. May a coed school conduct a gender specific open gym?
 A. No. (Article 1.420)
- 254) COACH PLAYING IN OPEN GYM**
- Q. Is it permissible for a coach to play with or against students from his/her own school during out-of-season open gym programs?
 A. Yes. (By-law 3.161)

3.170 CLASSIFICATION

The IHSA Board of Directors has the complete authority to establish and implement policies to determine the number of classes of competition in IHSA sports and activities and to classify schools participating in such sports/activities except as follows:

An enrollment multiplier of 1.65 will be added to all non-boundaried schools unless application of this multiplier is waived under a policy of waiver which would be established by the Board of Directors.

The definition of a non-boundaried school is: Any private school, charter school, lab school, magnet school, residential school, and any public school in a multi-high school district that does not accept students from a fixed portion of the district.

Classifications shall be determined on an annual basis.

There will be a sub-committee comprised of IHSA staff and Legislative Commission members to develop the waiver policy for submission to the Board.

- 3.171 Any member public member school charging less than the full tuition rate authorized by the Illinois School Code will be considered a non-boundaried school for classification purposes.

4.000 ACTIVITY ELIGIBILITY BY-LAWS

Included in this Section:

- 4.000 Activity Eligibility By-laws
- 4.010 Attendance
- 4.020 Scholastic Standing
- 4.030 Participation Limitations
- 4.040 Age
- 4.050 Use of Assumed Name
- 4.060 Misbehavior During Activities
- 4.070 Use of Participants
- 4.080 Spirit Limitations

Students in member schools shall be eligible to participate in interscholastic activity contests as representatives of their schools provided:

4.010 ATTENDANCE

- 4.011** A student must attend a member school and may only represent in interscholastic competition the member school the student attends. For purposes of this by-law, the term "attend" shall mean that the student is enrolled at the member school and is taking at, or under arrangements approved by, the member school, a minimum of twenty (20) credit hours of work

for which credit toward high school graduation will be granted by the member school upon the student's completing and passing the courses. The school which enrolls the student shall be exclusively responsible to verify the student's compliance with all of the eligibility requirements of the by-laws

The Board of Directors shall have discretion to waive this requirement of this by-law for the Illinois schools for the deaf or blind. In unit systems having a 6-3-3 or 6-4-2 type of organization, ninth grade students may participate on senior high school teams at the member high school in the district designated by the Board of Education, provided:

- (a) such participation is approved by the district's superintendent of schools;
- (b) the senior high school principal shall certify that the ninth grade students:
 - (1) are eligible under the requirements of these By-laws;
 - (2) are students at a junior high school located in the district which supports the senior high school; and
 - (3) are not members of a grade or junior high school team in the same activity; and
- (c) the senior high school principal assumes full responsibility for the conduct of these students during all contests in which they represent the senior high school.

- 4.012** They shall have been enrolled and in attendance not later than the beginning of the eleventh school day of the semester. Exception may be considered only if written verification that delay in enrollment or attendance is caused by illness of the students or their immediate family or by other circumstances deemed acceptable by the Board of Directors which are submitted to the Executive Director for presentation to the Board of Directors.
- 4.013** Including a student's name on school attendance records for a period of ten (10) or more school days during any given semester, beginning with the date of the student's first physical attendance and ending with the date of the student's official withdrawal from school, shall constitute a semester of attendance for the student.
- 4.014** If a student does not attend school for ten (10) days in a semester, as defined in Section 4.013, but participates in any interscholastic activity, the student shall be considered to have completed a semester of attendance, unless withdrawal from school occurs prior to completion of ten (10) days attendance and is necessitated by disabling illness or injury which is certified by a physician.
- 4.015** They shall not have any lapse of school connection during any given semester of greater than ten consecutive school days. Lapse of school connection for greater than ten consecutive school days shall render them ineligible for the remainder of the entire semester. Exceptions may be considered only if written verification that lapse in school connection is caused by illness of the students or their immediate family or by other circumstances deemed acceptable to the Board of Directors which are submitted to the Executive Director for presentation to the Board of Directors.
- 4.016** Absence of students required by military service to state or nation in the time of any state of national emergency shall not affect students' eligibility.
- 4.017** Bona fide pupils of grade schools or junior high schools in the district of a member school may participate with the high school musical organizations and ensembles in interscholastic music activities.
- 4.018** Students in member schools which maintain a joint music curricular program with one or more other member schools may participate in interscholastic music activities as members of groups composed of students from the schools involved in the joint curricular program.

Illustrations for Section 4.010 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

255) HOME SCHOOL STUDENT ELIGIBILITY

- Q. May a student who is home schooled, participate on a high school team or in an interscholastic activity program?
- A. Yes provided the student is enrolled at the member high school, the student is taking a minimum of twenty credit hours of work at the member school or in a program approved by the member school, and, the student must be granted credit for the work taken either at the member school or in a program it approved. (By-law 4.011)

4.020 SCHOLASTIC STANDING

- 4.021** They shall be doing passing work in at least credit hours of high school work per week.
- 4.022** They shall, unless they are entering high school for the first time, have credit on the school records for twenty-five (25) credit hours of high school work for the previous semester. Such work shall have been completed in the semester for which credit is granted or in a recognized summer school program which has been approved by the Board of Education and for which graduation credit is received.

- 4.023** They shall not have graduated from any four-year high school or its equivalent.
- 4.024** Passing work shall be defined as work of such a grade that if on any given date a student would transfer to another school, passing grades for the course would immediately be certified on the student's transcript to the school to which they transfer.
- 4.025** Work taken in junior college, college, university, or by correspondence may be accepted toward meeting the requirements of this Section provided it is granted credit toward graduation from high school by the local Board of Education.

4.030 PARTICIPATION LIMITATIONS

- 4.031** After they enroll in the ninth grade, students shall be eligible for no more than eight (8) semesters. They shall not be eligible for more than the number of semesters for which their school is recognized by the Illinois State Board of Education.
- 4.032** After they enroll in the ninth grade, they shall not be eligible for more than four (4) school years of competition in any non-athletic activity.

4.040 AGE

- 4.041** A student shall be eligible through age nineteen (19).

4.050 USE OF ASSUMED NAME

- 4.051** After entering a member school, students shall not compete under any name other than their own.

4.060 MISBEHAVIOR DURING ACTIVITIES

- 4.061** Students participating in interscholastic activities in violation of the By-laws, or other persons found to be in gross violation of the ethics of competition or the principles of good sportsmanship, may be barred by the Board of Directors from interscholastic activities.

4.070 USE OF PARTICIPANTS

- 4.071** Only students who are currently eligible to participate in an activity shall appear at the site as representatives of their school.

4.080 SPIRIT LIMITATIONS

- 4.081** All cheers, performances, routines, or other activities conducted by a school's spirit squads (i.e. cheerleaders, pom poms, flags, drill team) shall be conducted in accordance with the Spirit Rules published by the National Federation of State High School Associations.

Illustrations for Section 4.080 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

256) NATIONAL FEDERATION SPIRIT RULES

- Q. What effect does use of the National Federation Spirit Rules have on cheerleading, either at interscholastic contests or at competitive events?
- A. The National Federation Spirit Rules have been adopted as the official rules and interpretations for all cheerleading in and involving IHSA member schools. (By-law 4.080)

257) SUMMER APPLICATION OF RULES

- Q. Do the spirit rules apply during the summer?
- A. No. These rules are enforced only for cheerleading and pom pon squad competitions. (By-law 4.081)

258) TOSSES AND PYRAMIDS

- Q. May tosses and pyramids be performed under the National Federation Spirit Rules?
- A. Yes. Tosses and pyramids may be performed, but must be performed in accordance with the rules stated in the National Federation Spirit Rules Book. All pom poms, cheerleading and drill team groups must follow the rules published in the National Federation Spirit Rules Book for both non-competitive performances and competition. (By-law 4.080)

5.000 SPORT SEASON BY-LAWS

Included in this Section:

5.000	Sport Season By-laws	5.120	Boys Swimming	5.250	Girls Soccer
5.010	Boys Fall Baseball	5.130	Boys Spring Tennis	5.260	Girls Fall Softball
5.020	Boys Spring Baseball	5.140	Boys Track and Field	5.270	Girls Spring Softball
5.030	Boys Summer Baseball	5.150	Boys Volleyball	5.280	Girls Summer Softball
5.040	Boys Basketball	5.160	Boys Water Polo	5.290	Girls Swimming
5.050	Boys Bowling	5.170	Boys Wrestling	5.300	Girls Fall Tennis
5.060	Boys Cross Country	5.180	Girls Badminton	5.310	Girls Track and Field
5.070	Boys Football	5.190	Girls Basketball	5.320	Girls Volleyball
5.080	Boys Fall Golf	5.200	Girls Bowling	5.330	Girls Water Polo
5.090	Boys Gymnastics	5.210	Girls Cross Country	5.340	Competitive Cheerleading
5.100	Boys Lacrosse	5.220	Girls Fall Golf	5.350	Competitive Dance
5.110	Boys Soccer	5.230	Girls Gymnastics	5.360	Scholastic Bowl
		5.240	Girls Lacrosse		

5.001 Standardized IHSA Calendar

All IHSA-sponsored State Tournament Series and IHSA Sport Seasons shall be conducted on dates established in accordance with the standardized calendar developed by the National Federation of State High School Associations. This calendar shall number the weeks of the year, with week one (No. 1) being the first full week of July (Sunday through Saturday).

5.002 IHSA Tournament Series

The Board of Directors shall establish Terms and Conditions and shall set dates for IHSA-sponsored State Tournament Series in those sports in which State Tournaments are conducted.

5.003 Associate Member School Limits

Schools which are Associate Members shall not be permitted to enter teams and/or contestants in any IHSA-sponsored State Tournament Series. However, Associate members shall be permitted to participate in one additional invitational tournament in those sports where such participation is limited.

5.004 Tournament Limitations

No athletic team, representing a member school, shall play in more than five (5) different games/contests/matches during any given interscholastic tournament, unless in the sport of wrestling, that tournament takes place over two consecutive days.

Illustrations for Section 5.000 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

259) DATE

- Q. What is considered to be a date in participation limits?
- A. A date is a single day on the calendar. (Constitution 1.420)

260) CONFERENCE TOURNAMENT/MEET

- Q. Is a two-day conference meet or tournament considered one or two dates?
- A. A conference meet or tournament conducted over two days is considered to be one date. (Constitution 1.420)

261) MATCH/MEET IN INDIVIDUAL SPORTS

- Q. What is a match or meet in individual team sports?
- A. A match and a meet are each considered as individual contests between schools. (Constitution 1.420)

262) MULTI-SCHOOL CONTESTS

- Q. How will a multi-school contest where only one (1) school winner is determined be considered?
 A. Such a contest is considered one meet or match for each participating school. (Constitution 1.420)

263) THREE-TEAM CONTESTS

- Q. How will multi-school contests be counted if three schools are involved, with Team A vs. Team B; Team B vs. Team C; and Team C vs. Team A?
 A. As two (2) meets or matches per school. (Constitution 1.420)

264) COUNTING CONTESTS

- Q. How will an interscholastic contest involving only a few members of a school team be counted in terms of contest limitations?
 A. As one (1) contest for the team represented by the students involved. However, in swimming, if a school participates in a swimming meet (excluding diving) and a diving meet (excluding swimming) on the same date, the two meets will be counted as one. In track and field, all meets whether outdoors or indoors count toward the limit of dates. (Constitution 1.420)

265) SEASON END

- Q. When does each sport season end?
 A. Some seasons end with the completion of the state final tournament, while others end on a specific date stated in the individual sport limitations. Check the by-laws for each sport to be sure of both starting and ending dates. (By-law 5.000)

266) SUNDAY PLAY

- Q. May a school conduct or participate in an interscholastic athletic contest on Sunday?
 A. Yes. Sunday participation is not directly prohibited by IHSA rules. (Constitution 1.420)

267) PRACTICE/PLAY ON BOTH BOYS AND GIRLS TEAM

- Q. May a girl practice and/or compete on her school's boys soccer team during the fall season, and then also practice and/or play on her school's girls soccer team in the spring season?
 A. No. If a school offers a girls team in a sport which has its own season, girls in that school may practice and compete only on the girls team during the girls season.

5.010 BOYS FALL BASEBALL**5.011 Season Limitation**

- a. No member school shall organize a Boys Fall Baseball team if it organizes a Football team, or if more than 15 percent of its male student body participates in a cooperative Football program.
- b. No school belonging to this Association shall organize its Boys Fall Baseball teams, practice or participate in interscholastic contests earlier than Monday of Week 7 or later than Saturday of Week 16 in the IHSA Standardized Calendar.
- c. A member school may conduct its first interscholastic contest in Boys Fall Baseball no earlier than Monday of Week 8 in the IHSA Standardized Calendar.

5.020 BOYS SPRING BASEBALL**5.021 Season Limitation**

- a. No school belonging to this Association shall organize its Boys Spring Baseball teams, practice or participate in interscholastic contests earlier than Monday of Week 35 or later than Saturday of Week 49 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Boys Spring Baseball no earlier than Monday of Week 37 in the IHSA Standardized Calendar.

5.022 Contest Limitations

No Boys Spring Baseball team representing a member school shall, in any one season, participate in more than thirty-five (35) games, exclusive of the IHSA series.

5.030 BOYS SUMMER BASEBALL

5.031 Season Limitation

- a. No school belonging to this Association shall organize its Boys Summer Baseball teams, practice or participate in interscholastic contests earlier than Monday of Week 44 or later than Saturday of Week 7 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Boys Summer Baseball no earlier than Monday of Week 46 in the IHSA Standardized Calendar.

5.040 BOYS BASKETBALL

5.041 Season Limitation

- a. No school belonging to this Association shall organize its Boys Basketball teams, practice or participate in interscholastic contests earlier than Monday of Week 19 or later than Saturday of Week 37 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Boys Basketball no earlier than Monday of Week 21 in the IHSA Standardized Calendar.

5.042 Team Limitations

- a. No Boys Basketball team representing a member school shall, in any one season, participate in more than:
 - (1) twenty-one (21) games and no (0) tournaments exclusive of the IHSA series; or
 - (2) nineteen (19) games and one (1) tournament exclusive of the IHSA series; or
 - (3) eighteen (18) games and two (2) tournaments exclusive of the IHSA series; or
 - (4) sixteen (16) games and three (3) tournaments exclusive of the IHSA series.
- b. No Boys Basketball team, representing a member school, shall play in more than five (5) different games during any given interscholastic basketball tournament.

5.043 Individual Player Limitations

Students may participate in no more than three (3) tournaments exclusive of the IHSA State Tournament Series except that a student who does not participate in the IHSA State Tournament Series may participate in one (1) additional tournament. Participation in a tournament shall mean that a student actually competes (regardless of the length of time) in a game.

5.050 BOYS BOWLING

5.051 Season Limitation

- a. No school belonging to this Association shall organize its Boys Bowling teams, practice or participate in interscholastic contests earlier than Monday of Week 17 **or later than Saturday of Week 30** in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Boys Bowling no earlier than Friday of Week 18 in the IHSA Standardized Calendar.

5.052 Contest Limitations

No Boys Bowling team representing a member school shall, in any one season, participate on more than twenty (20) dates, exclusive of the IHSA series.

5.060 BOYS CROSS COUNTRY

5.061 Season Limitation

- a. No school belonging to this Association shall organize its Boys Cross Country teams, practice or participate in interscholastic contests earlier than Wednesday of Week 6 or later than Saturday of Week 18 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Boys Cross Country no earlier than Monday of Week 8 in the IHSA Standardized Calendar.

5.062 Contest Limitation

Team: No Boys Cross Country team representing a member school shall, in any one season, participate on more than fifteen (15) dates exclusive of the IHSA series.

Individual: No individual shall compete in Boys Cross Country on more than eighteen (18) dates, exclusive of the IHSA series.

5.070 BOYS FOOTBALL**5.071 Season Limitation**

- a. No school belonging to this Association shall organize its Boys Football teams, practice or participate in interscholastic contests earlier than **Monday** of Week 6 or later than Saturday of Week 21 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Boys Football no earlier than Friday of Week 8 in the IHSA Standardized Calendar.

5.072 Pre-Season Practice Requirements:

A student shall become eligible to participate in an interscholastic contest or scrimmage in Boys Football after completing a minimum of 1 1/2 hours of actual field practice on twelve (12) different days excluding Sunday and any day on which the student actually plays in an interscholastic football contest. These practices must be conducted in accordance with Association By-laws.

5.073 Contest Limitation

No Boys Football team representing a member school shall, in any one season, participate in more than nine (9) games exclusive of the IHSA series and exclusive of the City of Chicago Prep Bowl series, participated in by the Chicago Public League and the Chicago Catholic League.

5.080 BOYS FALL GOLF**5.081 Season Limitation**

- a. No school belonging to this Association shall organize its Boys Fall Golf teams, practice or participate in interscholastic contests earlier than Wednesday of Week 6 or later than Saturday of Week 15 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Boys Fall Golf no earlier than Monday of Week 7 in the IHSA Standardized Calendar.

5.082 Contest Limitation

No Boys Fall Golf team representing a member school shall, in any one season, participate on more than eighteen (18) dates exclusive of the IHSA series.

5.090 BOYS GYMNASTICS**5.091 Season Limitation**

- a. No school belonging to this Association shall organize its Boys Gymnastics teams, practice or participate in interscholastic contests earlier than Monday of Week 33 or later than Saturday of Week 47 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Boys Gymnastics no earlier than Monday of Week 35 in the IHSA Standardized Calendar.

5.092 Contest Limitations

Team: No Boys Gymnastics team representing a member school shall, in any one season, participate on more than fifteen (15) dates exclusive of the IHSA series.

Individual: No individual shall compete in Boys Gymnastics on more than fifteen (15) dates exclusive of the IHSA series.

5.100 BOYS LACROSSE

5.101 Season Limitation

- a. No school belonging to this Association shall organize its Boys Lacrosse teams, practice or participate in interscholastic contests earlier than Monday of Week 35 or later than Saturday of Week 49 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Boys Lacrosse no earlier than Monday of Week 37 in the IHSA Standardized Calendar.

5.102 Contest Limitations

No Boys Lacrosse team representing a member school shall, in any one season, participate in more than:

- (1) Nineteen (19) matches exclusive of state playoffs; or
- (2) Eighteen (18) matches plus one (1) tournament, exclusive of state playoffs; or
- (3) Seventeen (17) matches plus two (2) tournaments, exclusive of state playoffs.

5.110 BOYS SOCCER

5.111 Season Limitation

- a. No school belonging to this Association shall organize its Boys Soccer teams, practice or participate in interscholastic contests earlier than Wednesday of Week 6 or later than Saturday of Week 18 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Boys Soccer no earlier than Monday of Week 8 in the IHSA Standardized Calendar.

5.112 Contest Limitations

No Boys Soccer team representing a member school shall, in any one season, participate in more than:

- (1) Seventeen (17) matches exclusive of the IHSA series; or
- (2) Sixteen (16) matches plus 1 tournament exclusive of the IHSA series; or
- (3) Fifteen (15) matches plus 2 tournaments exclusive of the IHSA series.

5.120 BOYS SWIMMING

5.121 Season Limitation

- a. No school belonging to this Association shall organize its Boys Swimming teams, practice or participate in interscholastic contests earlier than Monday of Week 21 or later than Saturday of Week 34 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Boys Swimming no earlier than Friday of Week 22 in the IHSA Standardized Calendar.

5.122 Contest Limitation

Team: No Boys Swimming team representing a member school shall, in any one season, participate in more than fourteen (14) dates exclusive of the IHSA series. If both swimming and diving are held at the same meet, it counts as one date. If there are two (2) separate meets where only swimming OR diving occur, the team could participate in both the swimming and diving and only count it as one date.

Individual: No individual shall compete in Boys Swimming in more than seventeen (17) dates exclusive of the IHSA series.

5.130 BOYS SPRING TENNIS

5.131 Season Limitation

- a. No school belonging to this Association shall organize its Boys Spring Tennis teams, practice or participate in interscholastic contests earlier than Monday of Week 35 or later than Saturday of Week 47 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Boys Spring Tennis no earlier than Monday of Week 37 in the IHSA Standardized Calendar.

5.132 Contest Limitation

- a. No Boys Spring Tennis team representing a member school shall, in any one season, participate on more than twenty (20) dates, exclusive of the IHSA series.
- b. No member of a Boys Spring Tennis team representing a member school shall, in any one season, participate on more than twenty (20) dates, exclusive of the IHSA series.

5.140 BOYS TRACK AND FIELD**5.141 Season Limitation**

- a. No school belonging to this Association shall organize its Boys Track and Field teams, practice or participate in interscholastic contests earlier than Monday of Week 29 or later than Saturday of Week 47 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Boys Track and Field no earlier than Monday of Week 31 in the IHSA Standardized Calendar.

5.142 Individual Limitations

In all interscholastic track and field meets, including the state championship series, no school belonging to this Association shall permit a student to participate in more than four (4) events. If a competitor exceeds participation limitations, he shall forfeit all individual and team points earned in any event in which he competes.

5.143 Contest Limitation

Team: No Boys Track and Field team representing a member school shall, in any one season, participate on more than eighteen (18) dates exclusive of the IHSA series, including indoor and outdoor dates.

Individual: No individual shall compete in Boys Track and Field on more than twenty-one (21) dates exclusive of the IHSA series, including indoor and outdoor dates.

5.150 BOYS VOLLEYBALL**5.151 Season Limitation**

- a. No school belonging to this Association shall organize its Boys Volleyball teams, practice or participate in interscholastic contests earlier than Monday of Week 36 or later than Saturday of Week 48 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Boys Volleyball no earlier than Monday of Week 38 in the IHSA Standardized Calendar.

5.152 Contest Limitation

No Boys Volleyball team representing a member school shall, in any one season, participate in more than:

- (1) twenty-one (21) matches exclusive of the IHSA series; or
- (2) nineteen (19) matches plus one (1) tournament, exclusive of the IHSA series; or
- (3) eighteen (18) matches plus two (2) tournaments, exclusive of the IHSA series; or
- (4) sixteen (16) matches plus three (3) tournaments, exclusive of the IHSA series; or
- (5) fifteen (15) matches plus four (4) tournaments, exclusive of the IHSA series.

No Boys Volleyball team representing a member school shall play in more than five (5) different matches during any given volleyball tournament.

5.153 Individual Player Limitations

Students may participate in no more than four (4) tournaments exclusive of the IHSA State Tournament Series except that a student who does not participate in the IHSA State Tournament Series may participate in one (1) additional tournament. Participation in a tournament shall mean that a student actually competes (regardless of the length of time) in a game.

Participation in a game or tournament shall mean that a student actually competes (regardless of the length of time) in the contest.

5.160 BOYS WATER POLO

5.161 Season Limitation

- a. No school belonging to this Association shall organize its Boys Water Polo teams, practice or participate in interscholastic contests earlier than Monday of Week 35 or later than Saturday of Week 46 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Boys Water Polo no earlier than Week 36 of the IHSA Standardized Calendar.

5.162 Contest Limitations

No Boys Water Polo team representing a member school shall, in any one season, participate in more than thirty (30) games, exclusive of the IHSA series.

5.170 BOYS WRESTLING

5.171 Season Limitation

- a. No school belonging to this Association shall organize its Boys Wrestling teams, practice or participate in interscholastic contests earlier than Monday of Week 19 or later than Saturday of Week 34 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Boys Wrestling no earlier than Monday of Week 21 in the IHSA Standardized Calendar.

5.172 Team Limitations

No Boys Wrestling team representing a member school shall, in any one season, participate in more than:

- a. eighteen (18) dates and no (0) tournaments exclusive of the IHSA series; or
- b. seventeen (17) dates and one (1) tournament exclusive of the IHSA series; or
- c. sixteen (16) dates and two (2) tournaments exclusive of the IHSA series; or
- d. fifteen (15) dates and three (3) tournaments exclusive of the IHSA series; or
- e. fourteen (14) dates and four (4) tournaments exclusive of the IHSA series.

5.173 Individual Limitations

Students who participate on a school squad in Boys Wrestling may participate in no more than twenty-one (21) matches in any one season, exclusive of tournaments. Students may participate in no more than four (4) tournaments exclusive of the IHSA State Tournament Series except that a student who does not participate in the IHSA State Tournament Series may participate in one (1) additional tournament. Participation in a tournament shall mean that a student actually competes (regardless of the length of the time) in a match.

5.180 GIRLS BADMINTON

5.181 Season Limitation

- a. No school belonging to this Association shall organize its Girls Badminton teams, practice or participate in interscholastic contests earlier than Monday of Week 35 or later than Saturday of Week 45 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Girls Badminton no earlier than Monday of Week 37 in the IHSA Standardized Calendar.

5.182 Contest Limitation

- a. No Girls Badminton team representing a member school shall, in any one season, participate on more than eighteen (18) dates, exclusive of the IHSA series.
- b. No member of a Girls Badminton team representing a member school shall, in any one season, participate on more than eighteen (18) dates, exclusive of the IHSA series.

5.190 GIRLS BASKETBALL

5.191 Season Limitation

- a. No school belonging to this Association shall organize its Girls Basketball teams, practice or participate in interscholastic contests earlier than Monday of Week 18 or later than Saturday of Week 37 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Girls Basketball no earlier than Monday of Week 20 in the IHSA Standardized Calendar.

5.192 Team Limitations

- a. No Girls Basketball team representing a member school shall, in any one season, participate in more than:
 - (1) twenty-one (21) games and no (0) tournaments exclusive of the IHSA series; or
 - (2) nineteen (19) games and one (1) tournament exclusive of the IHSA series; or
 - (3) eighteen (18) games and two (2) tournaments exclusive of the IHSA series; or
 - (4) sixteen (16) games and three (3) tournaments exclusive of the IHSA series.
- b. No Girls Basketball team, representing a member school, shall play in more than five (5) different games during any given interscholastic basketball tournament.

5.193 Individual Player Limitations

Students may participate in no more than three (3) tournaments exclusive of the IHSA State Tournament Series except that a student who does not participate in the IHSA State Tournament Series may participate in one (1) additional tournament. Participation in a tournament shall mean that a student actually competes (regardless of the length of time) in a game.

5.200 GIRLS BOWLING

5.201 Season Limitation

- a. No school belonging to this Association shall organize its Girls Bowling teams, practice or participate in interscholastic contests earlier than Monday of Week **20** or later than Saturday of Week **33** in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Girls Bowling no earlier than **Friday** of Week 21 in the IHSA Standardized Calendar.

5.202 Contest Limitation

- a. No Girls Bowling team representing a member school shall, in any one season, participate on more than twenty (20) dates, exclusive of the IHSA series.

5.210 GIRLS CROSS COUNTRY

5.211 Season Limitation

- a. No school belonging to this Association shall organize its Girls Cross Country teams, practice or participate in interscholastic contests earlier than Wednesday of Week 6 or later than Saturday of Week 18 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Girls Cross Country no earlier than Monday of Week 8 in the IHSA Standardized Calendar.

5.212 Contest Limitation

Team: No Girls Cross Country team representing a member school shall, in any one season, participate on more than fifteen (15) dates exclusive of the IHSA series.

Individual: No individual shall compete in Girls Cross Country on more than eighteen (18) dates, exclusive of the IHSA series.

5.220 GIRLS FALL GOLF

5.221 Season Limitation

- a. No school belonging to this Association shall organize its Girls Fall Golf teams, practice or participate in interscholastic contests earlier than Wednesday of Week 6 or later than Saturday of Week 15 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Girls Fall Golf no earlier than Monday of Week 7 in the IHSA Standardized Calendar.

5.222 Contest Limitation

No Girls Fall Golf team representing a member school shall, in any one season, participate on more than eighteen (18) dates exclusive of the IHSA series.

5.230 GIRLS GYMNASTICS

5.231 Season Limitation

- a. No school belonging to this Association shall organize its Girls Gymnastics teams, practice or participate in interscholastic contests earlier than Monday of Week 19 or later than Saturday of Week 33 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Girls Gymnastics no earlier than Monday of Week 21 in the IHSA Standardized Calendar.

5.232 Contest Limitation

No Girls Gymnastics team representing a member school shall, in any one season, participate on more than fifteen (15) dates exclusive of the IHSA series.

5.240 GIRLS LACROSSE

5.241 Season Limitation

- a. No school belonging to this Association shall organize its Girls Lacrosse teams, practice or participate in interscholastic contests earlier than Monday of Week 35 or later than Saturday of Week 49 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Girls Lacrosse no earlier than Monday of Week 37 in the IHSA Standardized Calendar.

5.242 Contest Limitations

No Girls Lacrosse team representing a member school shall, in any one season, participate in more than:

- (1) Nineteen (19) matches exclusive of state playoffs; or
- (2) Eighteen (18) matches plus one (1) tournament, exclusive of state playoffs; or
- (3) Seventeen (17) matches plus two (2) tournaments, exclusive of state playoffs.

5.250 GIRLS SOCCER

5.251 Season Limitation

- a. No school belonging to this Association shall organize its Girls Soccer teams, practice or participate in interscholastic contests earlier than Monday of Week 35 or later than Saturday of Week 48 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Girls Soccer no earlier than Monday of Week 37 in the IHSA Standardized Calendar.

5.252 Contest Limitations

No Girls Soccer team representing a member school shall, in any one season, participate in more than:

- (1) Seventeen (17) matches exclusive of the IHSA series; or
- (2) Sixteen (16) matches plus 1 tournament exclusive of the IHSA series; or
- (3) Fifteen (15) matches plus 2 tournaments exclusive of the IHSA series.

5.260 GIRLS FALL SOFTBALL

5.261 Season Limitation

- a. No member school shall organize a Girls Fall Softball team if it organizes a Girls Volleyball team, or if more than 15 percent of its female student body participates in a cooperative Girls Volleyball program.
- b. No school belonging to this Association shall organize its Girls Fall Softball teams, practice or participate in interscholastic contests earlier than Monday of Week 7 or later than Saturday of Week 16 in the IHSA Standardized Calendar.
- c. A member school may conduct its first interscholastic contest in Girls Fall Softball no earlier than Monday of Week 9 in the IHSA Standardized Calendar.

5.270 GIRLS SPRING SOFTBALL

5.271 Season Limitation

- a. No school belonging to this Association shall organize its Girls Spring Softball teams, practice or participate in interscholastic contests earlier than Monday of Week 35 or later than Saturday of Week 49 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Girls Spring Softball no earlier than Monday of Week 37 in the IHSA Standardized Calendar.

5.272 Contest Limitations

No Girls Spring Softball team representing a member school shall, in any one season, participate in more than thirty-five (35) games exclusive of the IHSA series.

5.280 GIRLS SUMMER SOFTBALL

5.281 Season Limitation

- a. No school belonging to this Association shall organize its Girls Summer Softball teams, practice or participate in interscholastic contests earlier than Monday of Week 44. The concluding date of summer softball shall be Saturday of Week 7 in the IHSA Standardized Calendar.
- b. The member school may conduct its first interscholastic contest in Girls Summer Softball on any date after the legal starting date of Monday of Week 46 in the IHSA Standardized Calendar.

5.290 GIRLS SWIMMING

5.291 Season Limitation

- a. No school belonging to this Association shall organize its Girls Swimming teams, practice or participate in interscholastic contests earlier than Wednesday of Week 6 or later than Saturday of Week 20 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Girls Swimming no earlier than Monday of Week 8 in the IHSA Standardized Calendar.

5.292 Contest Limitation

Team: No Girls Swimming team representing a member school shall, in any one season, participate in more than fourteen (14) dates exclusive of the IHSA series. If both swimming and diving are held at the same meet, it counts as one date. If there are two (2) separate meets where only swimming OR diving occur, the team could participate in both the swimming and diving and only count it as one date.

Individual: No individual shall compete in Girls Swimming in more than seventeen (17) dates exclusive of the IHSA series.

5.300 GIRLS FALL TENNIS

5.301 Season Limitation

- a. No school belonging to this Association shall organize its Girls Fall Tennis teams, practice or participate in interscholastic contests earlier than Wednesday of Week 6 or later than Saturday of Week 17 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Girls Fall Tennis no earlier than Monday of Week 8 in the IHSA Standardized Calendar.

5.302 Contest Limitation

- a. No Girls Fall Tennis team representing a member school shall, in any one season, participate on more than twenty (20) dates, exclusive of the IHSA series.
- b. No member of a Girls Fall Tennis team representing a member school shall, in any one season, participate on more than twenty (20) dates, exclusive of the IHSA series.

5.310 GIRLS TRACK AND FIELD**5.311 Season Limitation**

- a. No school belonging to this Association shall organize its Girls Track and Field teams, practice or participate in interscholastic contests earlier than Monday of Week 29 or later than Saturday of Week 47 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Girls Track and Field no earlier than Monday of Week 31 in the IHSA Standardized Calendar.

5.312 Individual Limitations

In all interscholastic track and field meets, including the state championship series, no school belonging to this Association shall permit a student to participate in more than four (4) events. If a competitor exceeds participation limitations, she shall forfeit all individual and team points earned in any event in which she competes.

5.313 Contest Limitation

Team: No Girls Track and Field team representing a member school shall, in any one season, participate on more than eighteen (18) dates exclusive of the IHSA series, including indoor and outdoor dates.

Individual: No individual shall compete in Girls Track and Field on more than twenty-one (21) dates exclusive of the IHSA series, including indoor and outdoor dates.

5.320 GIRLS VOLLEYBALL**5.321 Season Limitation**

- a. No school belonging to this Association shall organize its Girls Volleyball teams, practice or participate in interscholastic contests earlier than Wednesday of Week 6 or later than Saturday of Week 19 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Girls Volleyball no earlier than Monday of Week 8 in the IHSA Standardized Calendar.

5.322 Contest Limitation

No Girls Volleyball team representing a member school shall, in any one season, participate in more than:

- (1) twenty-one (21) matches exclusive of the IHSA series; or
- (2) nineteen (19) matches plus one (1) tournament, exclusive of the IHSA series; or
- (3) eighteen (18) matches plus two (2) tournaments, exclusive of the IHSA series; or
- (4) sixteen (16) matches plus three (3) tournaments, exclusive of the IHSA series; or
- (5) fifteen (15) matches plus four (4) tournaments, exclusive of the IHSA series.

No Girls Volleyball team representing a member school shall play in more than five (5) different matches during any given volleyball tournament.

5.323 Individual Player Limitations

Students may participate in no more than four (4) tournaments exclusive of the IHSA State Tournament Series except that a student who does not participate in the IHSA State Tournament Series may participate in one (1) additional tournament. Participation in a tournament shall mean that a student actually competes (regardless of the length of time) in a game.

Participation in a game or tournament shall mean that a student actually competes (regardless of the length of time) in the contest.

5.330 GIRLS WATER POLO

5.331 Season Limitation

- a. No school belonging to this Association shall organize its Girls Water Polo teams, practice or participate in interscholastic contests earlier than Monday of Week 35 or later than Saturday of Week 46 in the IHSA Standardized Calendar.
- b. A member school may conduct its first interscholastic contest in Girls Water Polo no earlier than Week 36 of the IHSA Standardized Calendar.

5.332 Contest Limitations

No Girls Water Polo team representing a member school shall, in any one season, participate in more than thirty (30) games, exclusive of the IHSA series.

5.340 COMPETITIVE CHEERLEADING

5.341 Season Limitation

- a. No school belonging to this Association shall conduct its Competitive Cheer team practice earlier than Monday of Week 17 or later than Saturday of Week 31 in the IHSA Standardized Calendar.
- b. No school belonging to this Association shall allow its Competitive Cheerleading squad to participate in interscholastic contests earlier than Monday of Week 18 or later than Saturday of Week 31 in the Standardized Calendar.

5.342 Contest Limitation

No Competitive Cheerleading team representing a member school shall, in any one season, participate in more than six (6) dates exclusive of the IHSA state series.

5.343 Individual Limitation

- a. No individual shall be permitted to participate on a member school's Competitive Cheerleading team unless he/she is a rostered participant on the member school's winter (basketball) sideline cheerleading team.
- b. No member of a Competitive Cheerleading Team representing a member school shall, in any one season, participate on more than [REDACTED], exclusive of the IHSA series.

5.350 COMPETITIVE DANCE

5.351 Season Limitation

- a. No school belonging to this Association shall conduct its Competitive Dance team practice earlier than Monday of Week 17 or later than Saturday of Week 39 in the Standardized Calendar.
- b. No school belonging to this Association shall allow its Competitive Dance team to participate in interscholastic contests earlier than Monday of Week 18 or later than Saturday of Week 39 in the Standardized Calendar.

5.352 Contest Limitation

No Competitive Dance team representing a member school shall, in any one season, participate in more than six (6) dates exclusive of the IHSA state series.

5.353 Individual Limitation

- a. No Individual shall be permitted to participate on a member school's Competitive Dance team unless he/she is a rostered participant on the member school's winter (basketball) game day performance team.
- b. No member of a Competitive Dance Team representing a member school shall, in any one season, participate on more than six (6) dates, exclusive of the IHSA series.

5.360 SCHOLASTIC BOWL

5.361 Season Limitation

- a. No school belonging to this Association shall organize its Scholastic Bowl teams, practice or participate in interscholastic contests earlier than Monday of Week 8 or later than Sunday of Week 38.
- b. Each school belonging to this Association shall be limited to practicing and participating in no more than one (1) scholastic bowl tournament beginning the Sunday of Week No. 38 and ending the Monday of Week No. 8.

5.362 Contest Limitation

- a. No school belonging to this Association shall participate on more than eighteen (18) dates of interscholastic contests, exclusive of the IHSA series.
- b. No individual shall compete on more than eighteen (18) dates of interscholastic contests, exclusive of the IHSA series.

Illustrations for Sections 5.010-5.360 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

BOYS AND GIRLS BASKETBALL

268) PLAY BEFORE OPENING DATE

- Q. If a school begins basketball practice on Monday of Week 19 and has its first varsity game scheduled for Tuesday, of Week 21, one day after the legal date for the first game, may it play a controlled scrimmage against a neighboring school on Friday of Week 18.
- A. No. (By-law 5.041 c)

BOYS FOOTBALL

269) FOOTBALL SCRIMMAGES

- Q. May a school play a controlled scrimmage against another school on Saturday of Week 8, if it began football practice on Monday, Week 7, and has its first varsity game scheduled for Friday of Week 9?
- A. No. A scrimmage against another school in any sport is viewed to be an interscholastic contest. Therefore, it must be counted as one of the contests a school is permitted to play during the season, and is restricted as to the dates for playing contests. (By-law 5.062)

BOYS AND GIRLS SWIMMING & DIVING

270) SPLITTING SWIMMING AND DIVING DATES

- Q. In the event a school participates in a meet where the diving event is not conducted due to insufficient pool depth, may the divers from that school compete in a different diving competition on a different date without having the school charged with an additional contest under the contest limitations?
- A. Yes. (By-law 5.122)

BOYS AND GIRLS TRACK AND FIELD

271) INDIVIDUALS COMPETING IN HONOR ROLL OR CLASSIC MEETS

- Q. If a school conducts a track meet to which member schools are invited to send only individual participants who have achieved outstanding record(s) or time(s), may schools send students to participate in this meet without the meet being counted as a team date within their limitation on dates of competition? (The meet is considered a "classic" event for individual competition only. No team scores are kept.)
- A. In such a case, if the meet is truly for individual athletes only and no team scores are kept, the event will not be counted as a team meet for participating schools. It will, however, be counted in the number of dates (maximum 21) on which the individual athletes may participate. (By-laws 5.152 and 5.153)

SCHOLASTIC BOWL

- 272)** Q. What is considered to be a contest?
- A. An event in which teams of five (5) students representing two (2) high schools compete with or against each other in academic quizzing, utilizing a format and rules comparable to the IHSA series, is considered a scholastic bowl contest. (By-law 5.362)

COMPETITIVE CHEERLEADING

- 273)** Q. What constitutes a “competitive cheerleading” meet?
 A. A “competitive cheerleading” meet:
 a. Is a standalone competition, and is not a support or ancillary activity to another event such as a boys basketball tournament.
 b. Is judged according to rules for competition endorsed by a governing body.
- 274)** Q. Does a cheerleading competition held in conjunction with a basketball tournament, in which cheerleaders are judged on the basis of their sideline performance, fall under the category of competitive cheerleading?
 A. No. This is not considered “competitive cheerleading”.
- 275)** Q. When may a school hold tryouts and practice for its cheerleading squad?
 A. Tryouts may be held in the summer or tryouts may be held in the spring for the following school year. Tryouts may include incoming freshmen from feeder schools.
- 276)** Q. May a student compete in competitive cheerleading for a school he or she does not attend?
 A. No. The only exception is for cooperative competitive cheerleading teams as outlined in IHSA By-law 2.030.
- 277)** Q. After seven days of tryouts/practice during the IHSA competitive season, may a member of the competitive squad practice or compete with an independent team (for example, an All-Star squad)?
 A. No, students involved in competitive cheerleading must cease non-school practice and competition after seven days of tryouts/practice during the IHSA competitive season. (By-law 3.106 and 5.750).
- 278)** Q. What eligibility rules apply to competitive cheer and competitive dance?
 A. The sport eligibility by-laws (Section 3.000).
- 279)** Q. What eligibility rules apply to sideline cheerleaders?
 A. The activity eligibility by-laws (Section 4.000), but only if the team does not engage in interscholastic competition.
- 280)** Q. If tryouts are held in the spring or in the summer before classes have begun, will a student who takes part in tryouts be ineligible for competitive cheerleading with respect to transfer if he or she enrolls in a new school? What if he or she is an incoming ninth-grader?
 A. No in both cases. (By-law 3.042)
- 281)** Q. If tryouts are held after classes have begun, will a student who takes part in tryouts be ineligible for competitive cheerleading with respect to transfer if he or she enrolls in a new school during the school term?
 A. Yes. (By-law 3.042)
- 282)** Q. Must competitive cheer and competitive dance coaches meet the requirements of IHSA By-law 2.070 (Qualifications of Coaches)?
 A. Yes.
- 283)** Q. May students who are members of a competitive cheer team participate in tumbling classes during the school year?
 A. Yes, provided there is no instruction related to the theories and strategies of competitive cheer.
- 284)** Q. Does the twenty-five day contact limit apply to competitive cheer and competitive dance in the summer?
 A. Yes. (By-law 3.153)
- 285)** Q. May a competitive cheer squad attend a cheerleading camp after Saturday of Week No. 4 in the standardized calendar?
 A. No. IHSA By-law 3.112 prohibits students from attending coaching schools, camps or clinics after Saturday of week 4.
- 286)** Q. Are students who try out for cheerleading squads in the spring eligible to compete with outside teams after the try-out date?
 A. Yes. By-law 3.106 says that “students must cease non-school practice and competition in that sport no later than seven days after the date on which the school team engages in its first practice or tryout.” By board interpretation, students involved in competitive cheerleading must cease non-school practice and competition after seven days of tryouts/practice during the IHSA competitive season. (By-laws 3.106 and 5.750)
- 287)** Q. May a school’s wrestling cheer squad participate in cheer competitions?
 A. Yes. By-law 5.753 says that “no individual shall be permitted to participate on a member school’s Competitive Cheerleading team unless he/she is a rostered participant on the member school’s winter (basketball) sideline cheerleading team.” Since the competitive squad at some schools is the wrestling squad rather than the basketball squad, the parenthetical comment in the by-law is interpreted merely as an example of a winter squad, rather than as a requirement that the competitive squad must perform at basketball games. (By-law 5.753)
- 288)** Q. What is a “rostered participant”?
 A. A rostered participant is a student who is both on the roster and who participates on a sideline cheerleading squad. (By-law 5.753)

6.000 PROTEST, PENALTY BY-LAWS

Included in this Section:

- 6.000 Protest and Penalty By-laws
- 6.010 Penalty for Violating Rules
- 6.020 Forfeiture of Contest
- 6.030 Protest Procedure
- 6.040 Breach of Contract Between Member Schools
- 6.050 Breach of Contract Between Member School and Official

6.010 PENALTY FOR VIOLATING RULES

Any violation of the Constitution and/or By-laws, Terms and Conditions, IHSA Policies and Guidelines, and/or other rules of the Association shall be reported to the Executive Director, who shall have authority to investigate all alleged violations. The findings of the investigation shall be made known to the school (or schools), person (or persons), alleged to have committed a violation. The Executive Director shall then have full authority to invoke penalties against such school or persons found to have committed violations. Penalties shall include, but not be limited to, written warning or reprimand, requisite affirmative corrective action, up to and including suspension and/or expulsion. Failure to take the corrective action required by any penalty shall be the basis for further action, up to and including suspension and/or expulsion.

Persons found guilty of exercising undue influence to secure or retain the attendance of a student at a member school shall be ineligible to coach at an IHSA member school for one year. Sanctions shall also be imposed against the school represented by such persons.

Students whose high school attendance is found to have been affected by undue influence to secure or retain the student at a member school shall be permanently ineligible at that school.

6.011 PLAYERS EJECTED FOR UNSPORTSMANLIKE CONDUCT

Any player ejected from a contest for unsportsmanlike conduct shall be ineligible for the next interscholastic contest at that level of competition, and all other interscholastic contests at any level in the interim, in addition to other penalties the IHSA or the school may assess.

Illustrations for Section 6.011 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

- 289)** Q. When a student-athlete is ejected for unsportsmanlike conduct and has to sit out the next game and also becomes academically ineligible for the next game, will the student serve both periods of ineligibility at the same time?
A. No. The student-athlete will be academically ineligible for the next week and then will serve the penalty for the ejection once the student-athlete has regained eligibility. (By-law 6.010)
- 290)** Q. May players who are ineligible for a contest due to a suspension for unsportsmanlike conduct travel with the team to the contest or attend the contest?
A. Yes. However, ineligible players may not appear at the contest in uniform. (By-law 6.011)
- 291)** Q. If a player or coach is ejected from a junior varsity soccer game, when is he/she eligible to participate?
A. A player or coach ejected from a junior varsity soccer game for unsportsmanlike conduct will not be eligible to participate at any level of competition in soccer until the next junior varsity soccer game has been completed. If there is no contest at the same level within a ten day period, the ejected player or coach may fulfill the requirements of the by-law by missing three contests for another team(s) at any level in the same sport for which they are a rostered player or contracted coach. (By-law 6.011)
- 292)** Q. If a player is disqualified for committing five personal fouls in a basketball game, must he/she sit out the next game?
A. No. By-law 6.011 only applies when players are ejected for unsportsmanlike conduct.
- 293)** Q. If a player is ejected from the first game of a doubleheader in softball, is she eligible to play in the second game of the doubleheader?
A. No. (By-law 6.011)
- 294)** Q. In the same situation, if the girl was in the lineup for the second game should the umpire allow her to play?
A. Yes. Game officials are not responsible for enforcing By-laws 6.011 or 6.012. The ejection from the first game should be reported as required. Note: all ejections for unsportsmanlike conduct must be reported in writing to the IHSA and the member school(s) involved by officials within 48 hours of the incident. (By-law 6.011)

- 295)** Q. In some sports players and coaches may be ejected from a contest for reasons other than unsportsmanlike conduct. Do By-laws 6.011 and 6.012 still apply?
A. No. By-laws 6.011 and 6.012 only apply when players or coaches are ejected for unsportsmanlike conduct.
- 296)** Q. What if a school fails to enforce By-laws 6.011 or 6.012?
A. Schools will be required to forfeit any contest(s) (including an IHSA state series contest) when a player or coach is allowed to participate when he/she is ineligible due to an ejection for unsportsmanlike conduct. Schools are to set up administrative procedures to insure proper enforcement of By-laws 6.011 and 6.012.
- 297)** Q. May a school schedule a contest after a player or coach has been ejected for unsportsmanlike conduct to fulfill the requirements of by-laws 6.011 or 6.012?
A. No. Coaches or players ejected for unsportsmanlike conduct must miss the next regularly scheduled contest. Contests that are rescheduled prior to an ejection because of inclement weather, etc., will be treated like a regularly scheduled contest.
- 298)** Q. If a player or coach receives two yellow cards in the same game, is he/she eligible for the next contest at that level?
A. No. (By-laws 6.011 and 6.012)
- 299)** Q. If a player is ejected from the last game of the season, when is he/she eligible to participate?
A. A player ejected from the last game of the season must sit out the next contest in which he/she would normally participate. (By-law 6.011)

6.012 COACHES EJECTED FOR UNSPORTSMANLIKE CONDUCT

Any coach ejected from a contest for unsportsmanlike conduct shall be ineligible for the next interscholastic contest at that level of competition, and all other interscholastic contests at any level in the interim, in addition to others penalties the IHSA or the school may assess.

Illustrations for Section 6.012 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

- 300)** Q. May coaches who are ineligible for a contest due to a suspension for unsportsmanlike conduct travel with the team to the contest or attend the contest?
A. No. (By-law 6.012)
- 301)** Q. If a coach is ejected from the last game of the season, when is he/she eligible to coach?
A. A coach ejected from the last game of the season must sit out the next contest in which he/she would normally coach. (By-law 6.012)

6.020 FORFEITURE OF CONTEST

- 6.021** The use of any ineligible participant in any interscholastic contest will result in one or more of the following actions based upon the facts and findings:
- The ineligible participant may be suspended from further competition in that activity, as determined by the Executive Director.
 - The specific sport during which the ineligible player was used will be placed on probation status for one (1) calendar year.
 - Forfeiture of the contest.

If the Executive Director or the Board of Directors determines that the facts, findings or other information demonstrates that the ineligible student has provided the school false information upon which the student was certified to have been eligible, a penalty may be set aside or modified.

- 6.022** If an ineligible student participates in any interscholastic contest(s), pursuant to and in accordance with a restraining order, injunction, or other court order entered against the IHSA or a member school, and the restraining order, injunction or other court order expires without final determination or is subsequently vacated (whether voluntarily or otherwise), stayed, reversed or otherwise modified or found to have been entered in error, the contest(s) in which such student has participated shall be subject to forfeiture pursuant to By-law 6.021.
- 6.023** If a student or member school, while in violation of or noncompliance with any provision(s) of the IHSA Constitution and/or By-laws, Terms and Conditions, IHSA Policies and Guidelines, and/or other rules of the Association, participates in any interscholastic contest(s), pursuant to and in accordance with a restraining order, injunction, or other court order

entered against the IHSA or a member school, and the restraining order, injunction or other court order expires without final determination or is subsequently vacated (whether voluntarily or otherwise), stayed, reversed or otherwise modified or found to have been entered in error, such member school and/or student shall be subject to penalty for such violations pursuant to By-law 6.010.

6.030 PROTEST PROCEDURE

Any school making a protest shall submit in writing a full statement of facts to the Executive Director of the Association, who shall transmit a copy of the statement to the principal of the school against which a protest has been made or to the principal, parent or guardian if such protest pertains to an individual.

- 6.031** Each protest must be accompanied by a deposit of \$10.
- 6.032** The Board of Directors shall have final authority in determining the outcome of properly-filed protests. Should the Board of Directors, after due investigation, decide in favor of the school making the protest, the deposit shall be returned. Should the Board of Directors decide against the school making the protest, the deposit shall become a part of the funds of the Association.
- 6.033** The decisions of game officials shall be final; protests against the decision of a game official shall not be reviewed by the Board of Directors.
- 6.034** Principals should file with the Executive Director, on forms provided by the IHSA Office, reports of unsatisfactory performance on the part of game officials, which may be due to alleged lack of knowledge of the rules, errors in judgment, or improper conduct.

Illustrations for Section 6.033 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

- 302)** Q. May a school appeal an ejection for unsportsmanlike conduct?
A. No. Ejections for unsportsmanlike conduct are considered decisions of contest officials and will not be subject to appeal. (By-law 6.033)

6.040 BREACH OF CONTRACT BETWEEN MEMBER SCHOOLS

In case of breach of contract between member schools, either in total or in part, the Board of Directors shall have authority to assess as a penalty against the offending school a sum not to exceed \$100, in addition to the financial loss which, in the judgment of the Board of Directors, is sustained by the offended school as a result of such breach.

- 6.041** In case of breach of contract between member schools and the Association in IHSA State Series Tournaments and Contests, the Board of Directors shall have the authority to assess as a penalty against the offending school an amount not to exceed \$100, in addition to the financial loss which, in the judgment of the Board of Directors, is sustained by the offended school(s) or the Association as a result of such breach.
- 6.042** The entire assessment shall be paid to the Association. That part of the assessment levied to cover the financial loss shall be remitted to the offended school, with the remainder to become part of the funds of the Association.
- 6.043** In the event a contest is not played due to an emergency, strike or boycott, every effort should be made by both parties to resolve the matter by mutual consent. If, in an emergency or boycott situation, an agreement cannot be reached, the school which created the breach shall be responsible to fulfill the terms of the contract or be liable to terms of this section. If a contest is not played because a member school complies with the prohibitions of By-law 2.140 pertaining to a strike, no financial penalty or assessment shall be imposed against the offending school for breach of contract.

Illustrations for Section 6.040 of the By-laws

The illustrations and situations it contains are for purposes of assisting in understanding the application of the particular by-law to which they pertain. In the case of any conflict, whether actual or believed, between the illustrations, examples or situations in this publication and the constitution or by-laws of the IHSA, the constitution and by-laws shall control.

303) BREACH OF CONTRACT RESOLUTION

- Q. When schools face a potential breach of contract situation, what steps should be followed to resolve the matter?
- A. Every effort should be made by both schools involved to find mutual resolution before the breach actually occurs. Even after the contract is breached, it is preferable for the two schools to resolve the matter by mutual consent. As a last resort, the matter may be referred to the Board of Directors for settlement. (By-law 6.040)

304) Q. When a member school cannot participate in a scheduled contest because it is not in legal session as defined by the Illinois School Code and State Board of Education Policy, due to a strike, may the contest be rescheduled or must it be canceled and forfeited?

- A. A contest which is not played because of a strike may be rescheduled within the provisions of the season and participation limitations of these by-laws and by mutual consent of both schools. If the contest is not rescheduled and played, the school which could not participate because of a strike must forfeit the contest.

305) Q. When a contest is not played because of a strike, how are game officials contracts resolved?

- A. Game officials are contracted by the host school for the contest. It is the position of the IHSA that the host school is obligated to pay officials for contracted games, whether the game is played or not, unless other resolution is mutually consented to by both the school and the official(s). In the event a game is not played because one of the schools to play in the game cannot play because of a strike, the striking school must either pay the game officials according to the terms of their contracts if it is the host school, or the striking school must reimburse the host school for the terms of the officials contracts if it is the visitor.

306) Q. Is a school which cannot play a contest because of a strike obligated to make financial settlement for unrealized revenue with the host school for the contest?

- A. No. The provisions of By-law 6.043 relieve a striking school of such obligations if it complies with By-law 2.130 which prohibits the playing of contests during a strike.

307) COACH TAKES TEAM OFF FLOOR

- Q. If a coach orders his/her team off the floor or playing field before the contest is concluded, is it a breach of contract?
- A. Yes. (Constitution 1.420 and By-law 6.040)

308) EMERGENCY SITUATION

- Q. Is a school justified in canceling a contest if it finds that several of its students are unable to take part because of an emergency?
- A. Such cases would have to be decided individually by the Executive Director. If the school has a sufficient number of students to participate, it should fulfill its part of the contract even though the contest could be one-sided. If the contest cannot be held, the school should seek cancellation or postponement by mutual consent as early as possible. (Constitution 1.460 and By-law 6.040)

309) STRIKE OR BOYCOTT

- Q. How is this Section interpreted in the case of a strike, boycott or other emergency?
- A. Every effort shall be made by both parties to resolve the breach of contract by mutual agreement. (By-law 6.040). However, if an agreement cannot be reached, the matter shall be reviewed by the Board of Directors under the terms of By-laws 6.040 and 6.043.

6.050 BREACH OF CONTRACT BETWEEN MEMBER SCHOOL AND OFFICIAL

In case of breach of contract between a member school and official, either in total or in part, the Board of Directors shall have authority to assess as a penalty against the offending party the sum of \$10, in addition to the forfeit named in the contract.

6.051 All contracts between schools and officials shall be written on the Contract for Officials form supplied by the Board of Directors through the IHSA Office. The Terms and Conditions of these contracts should be scrupulously observed.

6.052 If, in the judgment of the Board of Directors, the contract has been broken by the school and no forfeit has been named in the contract, the penalty shall consist of an amount not to be in excess of the contractual sum to be paid the official, plus a breach fee of \$10.

6.053 If, in the judgment of the Board of Directors, the contract has been broken by the official, the penalty shall consist of an amount not to exceed the entire cost of employing a substitute official, plus a breach fee of \$10.

6.054 If, in the judgment of the school or official, there are extenuating conditions, a hearing may be held. Written request for such hearing must be submitted to the Executive Director, who shall be responsible for conducting an investigation and hearing.

6.055 If an official's contract is made during a given school year for a contest to be played during the next school year and if, in the meantime, there is a change in the school principalship, the contract is valid only if and when the incoming principal has been notified of the existing contract and has sanctioned it or has failed to inform the official of cancellation within one week after the notification.

359 Ill.App.3d 1065
Appellate Court of Illinois,
Second District.

Frank HOOD, Plaintiff–Appellant,
v.
The ILLINOIS HIGH SCHOOL ASSOCIATION and Martin L. Hickman, Defendants–
Appellees.

No. 2–05–0141. | Sept. 16, 2005. | Rehearing Denied Oct. 17, 2005.

Synopsis

Background: Former basketball coach at private high school brought action for negligence and defamation against Illinois High School Association (IHSA) and IHSA’s executive director, alleging that IHSA found that coach was guilty of recruiting violations and barred him from coaching at any IHSA member school for one year when, in fact, coach had not violated recruiting regulations. The Circuit Court, Winnebago County, No. 03–L–410, [Janet R. Holmgren](#), J., dismissed the action, and coach appealed.

[Holding:] The Appellate Court, [Callum](#), J., held that, as matter of first impression, IHSA was not a “local public entity” within meaning of statute providing that “local public entity” is not liable for injury caused by any action of its employees that is libelous or slanderous, and thus, IHSA was not shielded by the statute from coach’s defamation action.

Reversed and remanded.

Attorneys and Law Firms

****939** [Vern L. Davitt](#), [Sasha S. Jonic](#), Rockford, for Frank Hood.

Dykema Gossett Rooks Pitts, PLLC, [David J. Bressler](#), [Gregory L. Lacey](#), Lisle, Schueler, Dallavo & Casieri, [Christopher J. Dallavo](#), Chicago, for Martin L. Hickman, Illinois High School Association.

Opinion

Justice **CALLUM** delivered the opinion of the court:

***1066 ***586** Plaintiff, Frank Hood, sued defendants, the Illinois High School Association (IHSA) and Martin L. Hickman, the IHSA's executive director, for negligence and defamation. The trial court dismissed the action (see [735 ILCS 5/2-619\(a\)\(9\)](#) (West 2002)) as barred by the Local Governmental and Governmental Employees Tort Immunity Act (Act) ([745 ILCS 10/1-101 et seq.](#) (West 2002)). On appeal, plaintiff argues that defendants are outside the Act's protection because the IHSA is not a "local public entity" as defined by section 1-206 of the Act ([745 ILCS 10/1-206](#) (West 2002)). We agree, and we reverse the judgment and remand the cause.

Plaintiff's complaint alleged as follows. He was most recently employed as the basketball coach at privately owned Christian Life High School (CLHS) in Rockford. CLHS belongs to the IHSA, as do the vast majority of high schools, private and public, in Illinois. The ***1067** IHSA makes and enforces rules to assure that its members' sports teams operate fairly. All member schools and their employees must follow these rules. On September 18, 2002, CLHS told the IHSA that plaintiff had violated IHSA rules pertaining to recruiting student athletes. CLHS's allegation was untrue. By a letter dated November 5, 2002, the IHSA, by Hickman, found that plaintiff was guilty of recruiting violations. Effective that day, the IHSA barred plaintiff from coaching at any IHSA member school for one year. The ruling prevented plaintiff from completing the 2002-03 season and made him unemployable for 2003-04. Defendants did not use due care in investigating the case and failed to inform plaintiff of the charge or allow him to answer it with evidence. Also, defendants defamed plaintiff by publishing its ruling on the IHSA's Web site and elsewhere.

Defendants moved to dismiss the complaint under section 2-619(a)(9) of the Code of Civil Procedure ([735 ILCS 5/2-619\(a\)\(9\)](#) (West 2002)), claiming the affirmative defense of immunity under the Act.¹ Defendants' motion noted that the ****940 ***587** IHSA is an unincorporated voluntary association of public and private high schools and that plaintiff's claims arose from defendants' official actions. The IHSA's claim of immunity relied on section 2-109 of the Act, which states, "A local public entity is not liable for an injury resulting from an act or omission of its employee where the employee is not liable." [745 ILCS 10/2-109](#) (West 2002). Hickman's claim of immunity for his alleged negligence relied on section 2-201 of the Act, which states, "Except as otherwise provided by Statute, a public employee serving in a position involving the determination of policy or the exercise of discretion is not liable for an injury resulting from his act or omission in determining policy when acting in the exercise of such discretion even though abused." [745 ILCS 10/2-201](#) (West 2002). A "public employee" is an employee of a local public entity. [745 ILCS 10/1-207](#) (West 2002). To establish their immunity to the defamation counts of the complaint, defendants relied on section 2-107 of the Act ([745 ILCS 10/2-107](#) (West 2002)), which states, "A local public entity is not liable for injury caused by any action of its employees that is libelous or slanderous * * *."

Defendants' invocation of the Act was premised on their assertion that the IHSA is a "local public entity." Section 1–206 of the Act defines that term as follows:

***1068** “ ‘Local public entity’ includes a county, township, municipality, municipal corporation, school district, school board, educational service region, regional board of school trustees, community college district, community college board, forest preserve district, park district, fire protection district, sanitary district, museum district, emergency telephone system board, and all other local governmental bodies. ‘Local public entity’ also includes library systems and any intergovernmental agency or similar entity formed pursuant to the Constitution of the State of Illinois or the Intergovernmental Cooperation Act *as well as any not-for-profit corporation organized for the purpose of conducting public business*. It does not include the State or any office, officer, department, division, bureau, board, commission, university or similar agency of the State.” (Emphasis added.) [745 ILCS 10/1–206 \(West 2002\)](#).

Relying in part on [Carroll v. Paddock](#), 199 Ill.2d 16, 262 Ill.Dec. 1, 764 N.E.2d 1118 (2002), defendants argued that the IHSA is “organized for the purpose of conducting public business.” [745 ILCS 10/1–206 \(West 2002\)](#). Defendants noted that public schools make up about 85% of the IHSA’s membership. As a result, it has been held that, “although the IHSA is a purely voluntary association, the overwhelmingly public character of the IHSA membership is sufficient to confer state action” under the federal due process clause (U.S. Const. amend. XIV) and federal civil rights law (42 U.S.C. § 1983 (2000)). [Griffin High School v. Illinois High School Ass’n](#), 822 F.2d 671, 674 (7th Cir.1987).

In response, plaintiff noted that the sentence in section 1–206 on which defendants relied applies only to “not-for-profit corporation[s]” ([745 ILCS 10/1–206 \(West 2002\)](#)) and thus, read literally, excludes the IHSA. Also, plaintiff reasoned that because the IHSA is a statewide organization, it is more akin to a division or agency of the state than to a unit of local government. Defendants replied that, although ****941 ***588** the IHSA is a voluntary association, and not a corporation, its characteristics “mirror those described by the Illinois Supreme Court in [Carroll](#).” Defendants contended that the IHSA conducts “public business” in that its activities benefit the community at large (see [Carroll](#), 199 Ill.2d at 26, 262 Ill.Dec. 1, 764 N.E.2d 1118). Also, defendants relied on [Carroll](#)’s statement that “a not-for-profit is involved in the operation of the government’s public business if and only if [it] is tightly enmeshed with government either through direct governmental ownership or operational control by a unit of local government.” [Carroll](#), 199 Ill.2d at 27, 262 Ill.Dec. 1, 764 N.E.2d 1118. Defendants contended that the IHSA meets this description because it is controlled by local public officials, *i.e.*, the principals of its member public schools.

The trial court denied defendants’ motion. Defendants moved to reconsider and provided an affidavit from Hickman. His affidavit ***1069** stated as follows. The IHSA is a voluntary

association that currently includes 639 public schools and 118 private schools. The IHSA's constitution and bylaws may be adopted or amended only by the approval of a majority of the member schools. The bylaws govern the eligibility of member schools and student athletes for interscholastic competition and vest administrative authority in the board of directors, which consists of 10 principals of member schools. One director is elected from each of seven districts, and three are elected at large. One of the at-large directors must be employed by a private school. Before the bylaws were amended in 2003, there were nine directors. Two were elected at large, and neither was required to be from a private school. As of October 7, 2004, the date of Hickman's affidavit, nine directors were from public schools. The IHSA constitution allows the board to appoint an executive director who may investigate and decide "all matters concerning eligibility" and allegations that IHSA rules have been violated.

[1] On reconsideration, the trial court dismissed the complaint. The court's written opinion explained that even though a voluntary association is not specifically listed as a type of "local public entity" in section 1-206, "nonetheless the IHSA is the equivalent of a 'not-for-profit corporation organized to conduct public business.'" The court reasoned that the IHSA is "tightly enmeshed with local governments" because its operations are controlled by "the local school district members." Plaintiff timely appealed. Plaintiff again argues that the IHSA is not a "local public entity" under section 1-206 of the Act. We agree.

[2] [3] [4] [5] [6] [7] Statutory construction raises a question of law that we review *de novo*. *Carver v. Sheriff of La Salle County*, 203 Ill.2d 497, 506-07, 272 Ill.Dec. 312, 787 N.E.2d 127 (2003). Our goal is to ascertain and effectuate the intent of the legislature. *Carver*, 203 Ill.2d at 507, 272 Ill.Dec. 312, 787 N.E.2d 127. Ordinarily, the best guide to the legislature's intent is the statutory language itself. *Garcia v. Nelson*, 326 Ill.App.3d 33, 38, 259 Ill.Dec. 821, 759 N.E.2d 601 (2001). If the language is unambiguous, it must be applied as written. *Garcia*, 326 Ill.App.3d at 38, 259 Ill.Dec. 821, 759 N.E.2d 601. Also, because the Act is in derogation of the common law, it must be strictly construed against the public defendant. *Van Meter v. Darien Park District*, 207 Ill.2d 359, 368, 278 Ill.Dec. 555, 799 N.E.2d 273 (2003); *Dewitt v. McHenry County*, 294 Ill.App.3d 712, 717-18, 229 Ill.Dec. 278, 691 N.E.2d 388 (1998). We may not depart from the plain language of the Act by reading into it exceptions, limitations, or conditions that conflict with the express ****942 ***589** legislative intent. *Barnett v. Zion Park District*, 171 Ill.2d 378, 389, 216 Ill.Dec. 550, 665 N.E.2d 808 (1996).

Whether the IHSA is a "local public entity" under the Act is a question of first impression. However, the question can be answered by recourse to the plain language of section 1-206. Defendants do not ***1070** claim that the IHSA falls into any of the categories listed in the first sentence of section 1-206. Instead, relying on the second sentence, they contend that the IHSA is a "not-for-profit corporation organized for the purpose of conducting public business." **745 ILCS 5/1-206** (West 2002). However, as plaintiff points out, the IHSA is simply *not* a not-for-profit corporation; it is a voluntary association. Thus, to interpret the language at issue as defendants urge would require us to read in a term that the legislature easily could have inserted

but did not. Such judicial legislation would be no more defensible than reading unexpressed exceptions, limitations, or conditions into the Act. Moreover, even were the term “not-for-profit corporation” somehow to be considered ambiguous, strict construction would require us to resolve any ambiguity against defendants.

The trial court reasoned that the IHSA is “equivalent” to a not-for-profit corporation. Whatever the merits of that observation, it cannot negate the plain language of the Act. Moreover, as plaintiff observes, the IHSA is not truly local, but statewide. It is controlled by a board that is chosen from member schools (not school districts) from across the state, not by units of local government as such. Also, although public schools form the bulk of the IHSA’s membership, private schools still make up a significant portion of the organization and may play a key role in its decision making, if only by providing a “swing vote” on the board of directors.

As they did at the trial court, defendants note that the IHSA is considered a part of the state for fourteenth amendment purposes, and they maintain that the IHSA conducts “public business” (745 ILCS 5/1–206 (West 2002)) in that it “ ‘ ‘ ‘ ‘ ‘benefits the entire community without limitation.’ ” ‘ ‘ ‘ ‘ ‘ *Brugger v. Joseph Academy, Inc.*, 202 Ill.2d 435, 445, 269 Ill.Dec. 472, 781 N.E.2d 269 (2002), quoting *Carroll*, 199 Ill.2d at 25–26, 262 Ill.Dec. 1, 764 N.E.2d 1118, quoting *Carroll v. Paddock*, 317 Ill.App.3d 985, 992, 251 Ill.Dec. 732, 741 N.E.2d 326 (2000), quoting *O’Melia v. Lake Forest Symphony Ass’n*, 303 Ill.App.3d 825, 828, 237 Ill.Dec. 223, 708 N.E.2d 1263 (1999). Again, while these observations may well be correct as far as they go, they do not demonstrate that the IHSA fits within the specific terms of section 1–206 of the Act. We hold that it does not and thus that neither defendant is shielded by the Act.

For the foregoing reasons, we reverse the judgment of the circuit court of Winnebago County and remand the cause.

Reversed and remanded.

O’MALLEY, P.J., and KAPALA, J., concur.

Parallel Citations

359 Ill.App.3d 1065, 835 N.E.2d 938, 202 Ed. Law Rep. 719

Footnotes

¹ Defendants also moved to dismiss both negligence counts and the defamation count against Hickman for failure to state a cause of

Hood v. Illinois High School Ass'n, 359 Ill.App.3d 1065 (2005)

835 N.E.2d 938, 296 Ill.Dec. 585, 202 Ed. Law Rep. 719

action (see [735 ILCS 5/2-615 \(West 2002\)](#)). However, the trial court dismissed the complaint under section 2-619(a)(9) and specifically declined to address the section 2-615 issues. Therefore, we do not consider them.

End of Document

© 2014 Thomson Reuters. No claim to original U.S. Government Works.

FILED

In the Appellate Court of Illinois
Second Judicial District

JUN 24 2005
ROBERT J. MANGAN, CLERK
APPELLATE COURT 2nd DISTRICT

FRANK HOOD,

Plaintiff-Appellant

vs.

ILLINOIS HIGH SCHOOL ASSOCIATION
and MARTIN L. HICKMAN,

Defendants-Appellees

Circuit Number: 2003 L 410

On Appeal From the Circuit Court for the
Seventeenth Judicial Circuit, Winnebago
County, Illinois

Trial Judge: Janet Holmgren

RECEIVED

JUN 24 2005

**Brief of Illinois High School Association
and Martin L. Hickman, Appellees**

ROBERT J. MANGAN, CLERK
APPELLATE COURT 2nd DISTRICT

David J. Bressler
Gregory L. Lacey
DYKEMA GOSSETT ROOKS PITTS, PLLC
4200 Commerce Court, Suite 300
Lisle, Illinois 60532
630/245-0400
630/245-0140 (facsimile)

Christopher J. Dallavo, Esq.
SCHUELER, DALLAVO & CASIERI
233 S. Wacker Drive, Suite 6150
Chicago, Illinois 60606
312/831-1090
312/831-4144 (facsimile)

*Attorneys for Appellees,
Illinois High School Association
and Martin L. Hickman*

ORAL ARGUMENT REQUESTED

EXHIBIT D -

**In the Appellate Court of Illinois
Second Judicial District**

FRANK HOOD,

Plaintiff-Appellant

vs.

ILLINOIS HIGH SCHOOL ASSOCIATION
and MARTIN L. HICKMAN,

Defendants-Appellees

*Circuit Number: 2003 L 410**On Appeal From the Circuit Court for the
Seventeenth Judicial Circuit, Winnebago
County, Illinois**Trial Judge: Janet Holmgren*

***Brief of Illinois High School Association
and Martin L. Hickman, Appellees***

POINTS AND AUTHORITIES**Page**

I.	UNDER THE MEANING AND APPLICATION OF THE LOCAL GOVERNMENT TORT IMMUNITY ACT, THE IHSA IS A LOCAL PUBLIC ENTITY AND, THEREFORE, IMMUNE FROM CIVIL LIABILITY	4
A.	The IHSA is a State Actor.	5
	<u>Griffin High School v. Illinois High School Ass'n</u> , 822 F.2d 671 (7 th Cir. 1987)	5
	<u>Brentwood Academy v. Tennessee Secondary School Athletic Association</u> , 531 U.S. 288, 121 S.Ct. 924, 148 L.Ed.2d 807 (2001)	5
	<u>National Collegiate Athletic Association v. Tarkanian</u> , 488 U.S. 179 (1988)	6
B.	The IHSA Fits the Definition of a Local Public Entity.	7
	<u>Carroll v. Paddock</u> , 199 Ill.2d 16, 764 N.E.2d 1118 (Ill. 2002)	7, 9, 10
	<u>Mount Carmel High School v. Illinois High School Ass'n</u> , 279 Ill.App.3d 122, 664 N.E.2d 252 (1 st Dist. 1996)	8
C.	There is No Merit to Plaintiff's Argument that the IHSA lacks Characteristics of a "Local Government"	11
	<u>Talton v. Behncke</u> , 199 F.2d 471 (7 th Cir. 1952)	11
D.	Plaintiff Misconstrues the Court's Analysis in Monts	11
	<u>Isaac Monts v. Illinois High School Association</u> , 338 Ill.App.3d 1099, 789 N.E.2d 413 (4 th Dist. 2003), vacated, 205 Ill.2d 588, 796 N.E.2d 1060 (Ill. 2003)	11, 12
	<u>People ex re Black v. Dukes</u> , 96 Ill.2d 273, 449 N.E.2d 856 (Ill. 1983)	11
	<u>Lee v. Synder</u> , 285 Ill.App.3d 555, 675 N.E.2d 1136 (Ill. 1996)	12
II.	AS EXECUTIVE DIRECTOR OF THE IHSA, HICKMAN IS A "PUBLIC EMPLOYEE" PROTECTED FROM CIVIL LIABILITY PURSUANT TO THE LOCAL GOVERNMENT TORT IMMUNITY ACT	13
	<u>Albers v. Breen</u> , 346 Ill.App.3d 799, 806 N.E.2d 667 (4 th Dist. 2004)	13
	<u>Trotter v. School District 218</u> , 315 Ill.App.3d 1, 773 N.E.2d 363 (1 st Dist. 2000)	15
	<u>Snyder v. Curran Township</u> , 167 Ill. 2d 446, 657 N.E.2d 988 (Ill. 1995)	15
III.	IHSA AND HICKMAN ARE SPECIFICALLY IMMUNE FROM DEFAMATION CLAIMS	15

POINTS AND AUTHORITIES
(continued)

Page

State Statutes

745 ILCS 10/2/109.....	4, 15
745 ILCS 10/2-201	4, 5, 14, 15
745 ILCS 10/1-206	7
745 ILCS 10/2-101	12
745 ILCS 10/1-207	14
745 ILCS 10/2-212	14, 15
745 ILCS 10/2-107	15
745 ILCS 10/2-210	15

ISSUES PRESENTED FOR REVIEW

- I. WHETHER THE TRIAL COURT PROPERLY RULED THAT DEFENDANT ILLINOIS HIGH SCHOOL ASSOCIATION IS IMMUNE FROM CIVIL LIABILITY UNDER THE LOCAL GOVERNMENT TORT IMMUNITY ACT, 745 ILCS 10/2-109.
- II. WHETHER THE TRIAL COURT PROPERLY RULED THAT DEFENDANT DR. MARTIN HICKMAN IS IMMUNE FROM CIVIL LIABILITY, IN HIS CAPACITY AS EXECUTIVE DIRECTOR OF THE ILLINOIS HIGH SCHOOL ASSOCIATION, UNDER THE LOCAL GOVERNMENT TORT IMMUNITY ACT, 745 ILCS 10/2-201.

STATEMENT OF FACTS

On October 29, 2003, Plaintiff filed a four-count Complaint seeking damages against Defendants, the Illinois High School Association ("IHSA") and Dr. Martin Hickman ("Hickman"), in his official capacity as Executive Director of the IHSA. (R. C3-C6). Counts I and II asserted negligence against the IHSA and Hickman, respectively. (R. C2-C4). Counts III and IV asserted allegations of defamation against the IHSA and Hickman, respectively. (R C3-C5).

The allegations of the complaint derived from a November 5, 2002 ruling by the IHSA that Plaintiff was guilty of recruiting violations as prohibited by the IHSA rules. As a result of the ruling, Plaintiff, a basketball coach, was ineligible to coach for one (1) year at any IHSA member school. (R. C3, C77).

The IHSA is an unincorporated voluntary association of public and private high schools in Illinois. (R. C78). Hickman is the IHSA's Executive Director. At all relevant times, Plaintiff was a basketball coach for Christian Life High School, a high school owned and operated by the First Assembly of God Church, Rockford, Illinois, which is a member school of the IHSA. (R. C78). The claims that Plaintiff assert stem from the official actions of the IHSA and Hickman.

The IHSA is comprised of more than 700 Illinois public and private high schools located throughout the State of Illinois. (C. 80). There are six hundred and thirty-nine (639) public high school member schools, and one hundred eighteen (118) private high school member schools.

[Stated differently, approximately 85% of the member schools are public high schools. (R. C81).]

As the Executive Director, Hickman has the authority and responsibility to investigate and decide, among other things, all matters concerning eligibility, among other violations. (R. C84). The IHSA Constitution and By-Laws, Sections 1.460 and 6.010, authorize Hickman as Executive Director to investigate all alleged violations of the IHSA Policies and Guidelines

and/or other rules, and to invoke the penalties against such school(s) or person(s) found to have committed violations. (R. C52-53, C84). Penalties under Section 6.010 include, but are not limited to, suspension and/or expulsion. ^DThe rule specifically mandates that coaches found guilty of exercising undue influence to secure the attendance of a student at a member school shall be ineligible to coach at an IHSA member school for one year. ^JSection 1.460 of the IHSA Constitution sets forth a procedure to appeal any ruling of the Executive to the IHSA's full Board of Directors. (R. C53, C84).

In 2002, Hickman investigated allegations made by Christian Life High School that during the summer of 2002 Plaintiff had violated rules prohibiting recruitment of student athletes by assisting a basketball player in his efforts to gain admission to the school. (R. C3, C101). As a result of his investigation, Hickman concluded that Plaintiff was guilty of the recruiting violations. As a result, the school was placed on probation and Plaintiff was precluded from coaching at a member school for one year. (R. C101). Hickman and his staff advised Plaintiff of the allegations against him and on November 5, 2002, advised Plaintiff of his ruling. (R. C101). On December 2, 2002, Plaintiff appealed Hickman's ruling to the IHSA Board of Directors ("Board"). On January 13, 2003, the Board considered the additional documentation submitted by Mr. Hood. After the Board's deliberations, Hickman's ruling was sustained. (R. C102). Thereafter, Plaintiff initiated this lawsuit.

On December 23, 2003, the IHSA and Hickman filed a Motion to Dismiss pursuant to 735 ILCS 5/2-619(a)(9) and 5/2-615, claiming that the Illinois Local Government Tort Immunity Act (the "Act") immunizes the IHSA and Hickman from civil liability and asserting a failure to state a cause of action. (R. C30-C40). On May 27, 2004, the Court denied Defendants' Motion. (R. C75). In its denial of the Motion to Dismiss, the Court indicated in open court that it "needed

more information” for consideration of the Motion. On October 14, 2004, the IHSA and Hickman filed a Renewed Motion to Dismiss or, in the alternative, Motion to Reconsider (R. C77-C89). To further assist the Court, the Renewed Motion to Dismiss/Motion to Reconsider incorporated an affidavit signed by Hickman (R. C78, C99-C102), with additional facts about the IHSA and its membership and his role as the Executive Director.

On January 12, 2005, the Court dismissed Plaintiff’s Complaint, pursuant to 735 ILCS 5/2-619(a)(9),¹ and ruled that the IHSA was a local public entity and, therefore, was immune from liability for all counts under the Local Government Tort Immunity Act. (R. C125). Similarly, the Court ruled that Hickman was a public employee for purposes of the Act and, therefore, was also immune from liability as the complained of acts involved a determination of policy and an exercise of discretion. (R. C125).

On February 10, 2005, Plaintiff filed his notice of appeal. (R. C126).

¹ Since the trial court granted the IHSA and Hickman’s Renewed Motion to Dismiss pursuant to 735 ILCS 5/2-619(a)(9), there was no need to address the motion brought under 735 ILCS 5/2-615.

ARGUMENT

This appeals involves two narrow issues: (1) whether the Illinois High School Association (“IHSA”) is a “local public entity” thereby immunizing it from civil liability for certain actions pursuant to the Local Government Tort Immunity Act; 745 ILCS 10/2-109, and (2) whether Dr. Martin Hickman (“Hickman”), as Executive Director of the IHSA, qualifies as a “public employee” under the Tort Immunity Act, and is thereby immunized from civil liability for acts or omissions involving determination of policy or exercise of his discretion.

Notwithstanding the clear and narrow issues on appeal, Plaintiff improperly argues factual issues which are not germane to this appeal. Specifically, Plaintiff refers to claims that he was penalized in the “absence of any due process rules and reasonable appeal procedures” (Plaintiff’s Brief, p.5), and that he was not advised of charges and had no opportunity prove that charges against him were false. (Plaintiff’s Brief, p.6). Despite evidence to the contrary, these arguments are directed to the underlying facts of the case, which are not up for review. Therefore, the Court should not consider them on appeal.

I. UNDER THE MEANING AND APPLICATION OF THE LOCAL GOVERNMENT TORT IMMUNITY ACT, THE IHSA IS A LOCAL PUBLIC ENTITY AND, THEREFORE, IMMUNE FROM CIVIL LIABILITY

The Local Government Tort Immunity Act, 745 ILCS 10/2-109, immunizes local public entities and public employees from liability arising from the operation of government. 745 ILCS 10/1-101.1. The IHSA qualifies as a local public entity because of the character of the association and of its membership. Under the Illinois Tort Immunity Act (the “Act”), “a local public entity is not liable for an injury resulting from an act or omission of its employee where the employee is not liable.” 745 ILCS 10/2-109. Under 745 ILCS 10/2-201, a public employee in a position involving the determination of policy or the exercise of discretion is not liable for

an injury arising from his act or omission in determining policy when acting in the exercise of such discretion. Here, any acts or omissions of the IHSA would have been carried out through employees or agents who are immune under 745 ILCS 10/2-201 (*see* discussion *infra.*). The IHSA is therefore immune.

A. The IHSA is a State Actor.²

Any analysis of whether the IHSA enjoys immunity under the Local Government Tort Immunity Act necessarily begins with a determination of whether the association is a “state” actor.

(The IHSA, as an entity, has been deemed a state actor, based upon the pervasive involvement of local governmental entities in the organization. See, Griffin High School v. Illinois High School Ass’n, 822 F.2d 671, 674 (7th Cir. 1987) (“Public schools make up 85% of the IHSA’s membership, and although the IHSA is a purely voluntary association, the overwhelmingly public character of the IHSA membership is sufficient to confer state action for the purposes of §1983”); see, also, Brentwood Academy v. Tennessee Secondary School Athletic Association, 531 U.S. 288, 121 S.Ct. 924, 148 L.Ed.2d 807 (2001) (holding athletic association’s regulatory activity to be state action because of pervasive entwinement of public school officials in structure of organization).³

² In an attempt to support his argument that the IHSA is not a local public entity, Plaintiff incorrectly states that “IHSA” is an abbreviation for the “Illinois **State** High School Association.” (Plaintiff’s Brief, p. 1). In reality, “IHSA” is an abbreviation for the “Illinois High School Association.” However, use of the IHSA’s correct name does not negate that IHSA is a State actor or that it is so because of the pervasive involvement of local governments.

³ Although Plaintiff does not dispute that the IHSA is a state actor, he argues that case precedent limits the purposes for which the state-actor status may be used. Plaintiff cites to Brentwood Academy and Griffin High School for this proposition, and asserts that the designation of the athletic associations as state actors in these cases only applied to federal anti-discrimination laws. However, neither the U.S. Supreme Court in Brentwood Academy nor the Seventh Circuit Court of Appeals in Griffin High School limits the designation of state actor as Plaintiff contends. Moreover, Plaintiff fails to cite to the specific language of either decision where the U.S. Supreme Court or Seventh Circuit Court limits the IHSA’s state actor designation to federal anti-discrimination claims.

In National Collegiate Athletic Association v. Tarkanian, 488 U.S. 179 (1988), the court held that the NCAA was not a state actor because no single state had sufficient involvement in the association, and the organization's members were not overwhelmingly state schools. However, the U.S. Supreme Court recognized the difference between the NCAA and state associations like the IHSA. Indeed, in footnote 13, the Court acknowledged that the NCAA and state athletic associations are quite different:

The situation (holding the NCAA not to be a state actor) would, of course, be different if the membership consisted entirely of institutions located within the same State, many of them public institutions created by the same sovereign. See Clark v. Arizona Interscholastic Association, 695 F.2d 1126 (CA9 1982), cert. denied, 464 U.S. 818 (1983); Louisiana High School Athletic Association v. St. Augustine High School, 396 F.2d 224 (CA5 1968).

Tarkanian, 488 U.S. at 194 (fn 13).

The IHSA's membership is comprised of public and private schools from around the State of Illinois. There are six hundred and thirty-nine (639) public high school member schools, and one hundred eighteen (118) private high school member schools. Stated differently, approximately 85% of the member schools are public high schools. (R. C81).

Clearly, the United States Supreme Court believes that the IHSA, as an association of members located within the same state (most of which are public institutions created by the state) is a public entity. The Supreme Court, of course, did not analyze the impact of the Illinois Local Government Tort Immunity Act. That Act specifically immunizes the very entities (school districts) referenced by the Supreme Court in footnote 13, such entities being local governmental entities created by the state or under state law. Under the logic holding the IHSA to be a state actor because its membership is largely local governmental entities, the IHSA is a local governmental entity because that is indisputably the character of its membership.

That the IHSA is a “state actor” does not establish it as a branch of state government. Under 745 ILCS 10/1-206, the Local Government Tort Immunity Act specifically excludes the state or any of its divisions. However, if the IHSA is deemed to be a branch of the state, such entities receive limited immunity under the Court of Claims Act, 705 ILCS 505/1, *et. seq.* which provides, in pertinent part at Section 8, as follows:

The Court [of Claims] shall have exclusive jurisdiction to hear and determine the following matters:

* * *

(d) All claims against the State for damages in cases sounding in tort . . . provided that an award for damages in a case sounding in tort shall not exceed the sum of \$100,000.

If Plaintiff is correct that the IHSA is not immunized by the Local Government Tort Immunity Act because it is a branch of the state, then the Court of Claims would be the appropriate and exclusive forum for this claim. IHSA does not, however, concede that it is a branch of the state; rather, because it derives its status as a state actor from the characteristics of its membership, it fits squarely within the definition of a local public entity.

B. The IHSA Fits the Definition of a Local Public Entity.

The Act defines a “local public entity” to include “*any not-for-profit corporation organized for the purpose of conducting public business.*” 745 ILCS 10/1-206 (emphasis added). Although the Act defines “local public entity,” it is silent with respect to the definition of “public business.” However, the Illinois Supreme Court has held that the term “public business” under the Act requires that an entity “must pursue an activity that benefits the entire community without limitation.” Carroll v. Paddock, 199 Ill.2d 16, 25-26, 764 N.E.2d 1118, 1124 (Ill. 2002) (internal citation omitted). The Supreme Court also found that the term “public business” incorporates the business of the government. Id. Thus, the Act includes within the scope of

immunity not only the local governmental entities themselves, but those entities created by local entities to carry out public business, a description which clearly fits the IHSA.

The IHSA is a voluntary, non-profit, private association made up of more than 700 Illinois public and private high schools located throughout the state. Mount Carmel High School v. Illinois High School Ass'n, 279 Ill.App.3d 122, 123, 664 N.E.2d 252, 253, (1st Dist. 1996). The purpose of the IHSA is to provide leadership for the development, supervision and promotion of interscholastic competition and other activities in which its member schools engage. (R. C2.) As Plaintiff indicates in his Complaint, the IHSA “undertakes to make and enforce rules to be followed by all member schools and their employees to assure fair and equal methods of operation of sports teams, and prevent any school from the practice of methods of operating its team sports in ways that will give them unfair advantage over its opponents.” (R. C2). Insofar as every resident of the State of Illinois is in a high school district, and the overwhelming majority of high school students in the state attend member schools, which themselves sponsor and organize athletic competition, there can be little doubt that the business of the association is public business. By associating to do collectively what each does individually – organizing athletic competitions and other student activities – the public nature of the members’ collective activity does not change and does not become any less “public business.”

The description, operation and purpose of the IHSA as stated above fits squarely within the definition of “a local public entity organized for the purpose of conducting public business” as expressed in the Act and enunciated by the Illinois Supreme Court. As a non-profit organization, the purpose of the IHSA benefits the public in coordinating the efforts of individual school districts throughout the state. As such, the IHSA is an agency of the collective schools of

the State, which are predominately local governmental units explicitly protected by the Act. Thus, the IHSA should be viewed as akin to a partnership, under which structure any liability against the partnership flows through to the individual partners. Here, however, since the individual partners (*e.g.*, the local public school districts) are indisputably immune under the Local Government Tort Immunity Act, that immunity protects them from liability when they associate.⁴ The immunity that individual school districts indisputably enjoy should not be eviscerated simply because the immune entities chose to act collectively.

In Carroll, the Illinois Supreme Court, in assessing whether an organization qualified as a local public entity, considered whether there was control of the organization by the county board or any other unit or agency of local government. A not-for-profit organization involved in public business will be deemed a governmental entity if it is “tightly enmeshed with government either through direct governmental ownership or operational control by a unit of local government.” Carroll, 199 Ill.2d at 27, 764 N.E.2d at 1125. It is undisputed that the IHSA is an association of over 700 school in Illinois, 85% of which are public. (R. C99-100). Clearly, the element of “direct governmental ownership” set forth in Carroll has been met.

The By-Laws of the IHSA, as amended in 2003, provide that the administrative authority of the IHSA is vested in a Board of Directors of ten (10) members each elected for a 3-year term. Each member must be a principal from a member school. (R. C100). Before 2003, the Board of Directors was comprised of nine members, seven representing different geographic divisions and two at-large members. (R. C82, C100). Prior to July of 2003, when an at-large seat was established for a representative from a non-public school, there had never been a Board member

⁴ Plaintiff contends that the analogy of the IHSA to a partnership is “very complicated.” (See Plaintiff’s Brief, p. 7). However, the IHSA disagrees. In fact, this reasoning is very fundamental: since each component part (*i.e.* the local public school districts) of the IHSA would be immune under the Act, it logically follows that the “sum of the parts” (*i.e.*, the IHSA) should also be immune.

from a private/non-public school. Thus, until July of 2003, including the timeframe to which Plaintiff's Complaint pertains, the IHSA was governed exclusively by a Board composed of principals of public high schools, acting not as individuals, but by virtue of their positions as principals. (R. C82, C100). In Carroll, the court noted that an indication of the necessary governmental control can be found where "members of the county board or other local governing bodies control the governing body" of the entity. Id. at 27, 764 N.E.2d at 1125. IHSA Constitution, Section 1.320, states that members of the Board must be "...principals of member schools." (R. C50, C82, C100). Clearly, the important *indicia* of governmental control found in Carroll is also present here as not only do local governmental entities "own" the association, employees of the local entities control the IHSA's governing body. As 90% (or during the time period encompassed by Plaintiff's Complaint, 100%) of the IHSA's governing board is comprised of public high school principals, it is evident that the IHSA is enmeshed with and under the control of "local government" to satisfy that it is a not-for-profit organization conducting public business under the Act.

*Interim
con of local
schools = OK*

With the asserted public purpose of the organization indicated above, coupled with the requisite control by members of the IHSA acting as representatives of local governmental entities, the IHSA falls squarely within the definition of "a local public entity conducting public business" as defined under the Act. Not only is the IHSA governed by a Board of Directors comprised, overwhelmingly, of representatives of public schools, its overwhelmingly local public school membership "owns" the association and exercises its control over the organization by electing representatives, including directors, to operate the association, and by engaging in the legislative process through which the constitution, by-laws, rules and policies of the association are enacted. Clearly, local governmental control of the organization is pervasive.

C. There is No Merit to Plaintiff's Argument that the IHSA lacks Characteristics of a "Local Government"

Plaintiff argues that the IHSA fails to demonstrate the local nature of the association and, therefore, it does not fit within the definition of "local public entity." (Plaintiff's Brief, p. 4). Plaintiff's argument is that the IHSA is not a single local public entity but an association of many local public entities. As such, according to Plaintiff, the IHSA cannot be immune under the Local Government Tort Immunity Act. However, Plaintiff cites no precedent for the notion that the schools of Illinois lose their local governmental character when they band together as an association.

By associating as the IHSA, the schools of the State of Illinois have merely contracted to work together in a certain manner to oversee athletic and other activities. Talton v. Behncke, 199 F.2d 471 (7th Cir. 1952). Just as an agreement between two schools to engage in an athletic contest would not change the nature of the contracting entities, a contract to which virtually all the high schools in the State are parties does not alter the character of those parties.

D. Plaintiff Misconstrues the Court's Analysis in Monts

Plaintiff cites Isaac Monts v. Illinois High School Association, 338 Ill.App.3d 1099, 789 N.E.2d 413 (4th Dist. 2003), for the proposition that associations such as the IHSA do not have unbridled discretion in making and enforcing rules. (Plaintiff's Brief, pp. 5-6.) However, Plaintiff misconstrues the holding in Monts, evidencing a misunderstanding of the scope of the Act.

Of primary significance, the Plaintiff fails to note that the Illinois Supreme Court ordered the Appellate Court's ruling in Monts vacated due to mootness. Monts, 205 Ill.2d 588, 796 N.E.2d 1060 (Ill. 2003). Accordingly, Monts, is not binding precedent. See People ex rel Black v. Dukes, 96 Ill.2d 273, 449 N.E.2d 856 (Ill. 1983).

To the extent Monts has any continued viability, it is simply to establish the limited circumstances under which a court may review the actions of a voluntary association such as the IHSA. Though the IHSA is a public entity, it is a voluntary association as there is no requirement that a high school in Illinois join the association. As noted in Monts, voluntary associations such as the IHSA are granted broad powers of self-governance, noting that “voluntary associations have great discretion when conducting their internal affairs, especially when their conduct relates to the rules and regulations.” 338 Ill.App.3d at 1009 (citing to Lee v. Synder, 285 Ill.App.3d 555, 558, 675 N.E.2d 1136, 1139 (Ill. 1996)). Courts may only review the actions of such associations to determine whether they have acted arbitrarily or capriciously. In Monts, the Court merely held that a question of fact existed as to whether the IHSA had acted arbitrarily in its decision making so as to preclude summary judgment. It did not hold, as Plaintiff infers, that the IHSA had violated the affected student’s rights or had in anyway wronged him. Monts v. Illinois High School Association, 338 Ill.App.3d 1099, 1108, 789 N.E.2d 413, 421 (4th Dist. 2003).

In addition to misstating the Monts holding and ignoring that it had been vacated, Plaintiff fails to recognize that Monts is inapposite to the present case, evidencing misunderstanding of the scope of the Act. The Act is clearly limited in its application to immunize local public entities and their employees from damages. At 745 ILCS 10/2-101, the Act clearly states:

Nothing in this Act affects the right to obtain relief other than damages against a local public entity or public employee. Nothing in this Act affects the liability, if any, of a local public entity or public employee, based on:

- a) Contract

* * *

(Emphasis added)

In Monts, unlike here, plaintiffs did not seek tort damages, but instead sought injunctive relief based, in part, on alleged breach of contract. Under any construction of the Act, such claims are not barred. Plaintiff's claims here, however, seeking damages in tort and for defamation, clearly are barred.

In light of the foregoing, it is clear that the IHSA, as a collective of predominately local public entities, enjoys the very immunity from tort claims as enjoyed by its membership. To hold otherwise would be to reason that when governmental entities act collectively, they are no longer local public entities, and that the very immune governmental and public functions which the association's members carry out on a daily basis when acting alone are somehow transformed when the members act together. Such a holding is unsupported by statute or precedent and the trial court's dismissal of this cause should be affirmed.

II. AS EXECUTIVE DIRECTOR OF THE IHSA, HICKMAN IS A "PUBLIC EMPLOYEE" PROTECTED FROM CIVIL LIABILITY PURSUANT TO THE LOCAL GOVERNMENT TORT IMMUNITY ACT

Having established that the IHSA is a local entity immune from a damages claim under the Act, this Court must determine whether the trial court properly held that Hickman, as Executive Director of IHSA, is a public employee immune under the Act from civil liability. Plaintiff claims that Hickman's actions were neither a determination of public policy nor a discretionary act. (Plaintiff's Brief, pp.2-3). Plaintiff's analysis of Hickman's conduct is not accurate. In fact, Hickman's decision to penalize Plaintiff was a policy decision made squarely within the exercise of his discretion as Executive Director. Albers v. Breen, 346 Ill.App.3d 799, 806 N.E.2d 667 (4th Dist. 2004). Therefore, the lower court's ruling should be affirmed.

As the IHSA and Hickman argued to the trial court, the Act provides that "a public employee serving in a position involving the determination of policy or the exercise of discretion

is not liable for an injury resulting from his act or omission in determining policy when acting in the exercise of such discretion even though abused.” 745 ILCS 10/2-201. The Act defines a “public employee” as an employee of a local public entity. 745 ILCS 10/1-207. Section 745 ILCS 10/2-212 immunizes public employees whether they act alone or in collaboration with other public employees.

The IHSA By-Laws provide that the officers and members of the Board of Directors are authorized to interpret the Constitution and By-Laws and to exercise all the powers and duties expressed or implied therein (IHSA Constitution, Section 1.420). (R. C51). Furthermore, the Board acts as the final arbitrator on all questions and is the interpreter of the rules of the association. (R. C100-01). Pursuant to Section 1.430 of the Constitution, the Board of Directors is empowered to employ an Executive Director to carry on the affairs of the Association. (R. C101).

Hickman’s position as dictated by the IHSA Constitution and By-Laws necessarily requires that he exercise discretion in carrying out his job functions. As the Executive Director, Hickman has the authority and responsibility to investigate and decide, among other things, all matters concerning eligibility. The IHSA Constitution and By-Laws, Sections 1.460 and 6.010, authorize Hickman as Executive Director to investigate all alleged violations of the IHSA Policies and Guidelines and/or other rules. Hickman then has the authority to invoke the penalties against such school(s) or person(s) found to have committed violations. Penalties under Section 6.010 include, but are not limited to, suspension and/or expulsion and including that coaches found guilty of exercising undue influence to secure the attendance of a student at a member school shall be ineligible to coach at an IHSA member school for one year. (R. C101). Such authority necessarily invokes the exercise of discretion in the implementation of policy

decisions, as in dealing with disciplinary matters, the Executive (and the Board Members) must balance competing interests, appropriate levels of punishment, parental, student, and member concerns, and the impact on members and students generally. Albers v. Breen, *supra*. Discretionary acts are those of a public, legislative or quasi-judicial character that are unique to a particular office. Trotter v. School District 218, 315 Ill.App.3d 1, 733 N.E.2d 363 (1st Dist. 2000), citing Snyder v. Curran Township, 167 Ill.2d 466, 473, 657 N.E.2d 988 (Ill. 1995). In ruling relative to Plaintiff, Hickman was doing nothing more than implementing policy by exercising the discretion afforded to him, by virtue of his office, by the Board and by the rules. Accordingly, Hickman is immune from liability.⁵

III. IHSA AND HICKMAN ARE SPECIFICALLY IMMUNE FROM DEFAMATION CLAIMS.

Among the claims raised by Plaintiff against Hickman is a claim for defamation. (R. C4-C5). 745 ILCS 10/2-107 specifically immunizes public entities from claims for defamation, while 745 ILCS 10/2-210 specifically immunizes public employees for negligent misrepresentation in the provision of information. These sections operate to immunize both Hickman and, in turn, the IHSA from the defamation claims, which claims are also barred by Sections 10/2-109 and 10/2-201.

CONCLUSION

The IHSA is deemed a state actor because of the overwhelmingly local governmental character of its membership. The nature and characteristics of the IHSA comport with the definition of a local public entity as set forth in the Local Government Tort Immunity Act.

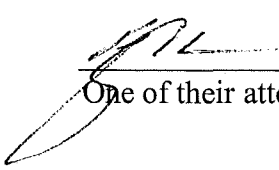
⁵ While not explicitly argued by Plaintiff, to the extent that liability against the IHSA is alleged based on the actions of the Board, the members of the Board of Directors would be similarly immune. They are employees of local public entities acting in a representative capacity, exercising discretion in the determination of policy. As the Board Members would enjoy immunity for their acts, liability cannot be asserted against the IHSA for the actions of the Board. See, also, 745 ILCS 10/2-212 (public employees who function jointly in collaboration with other public employees are immune).

Therefore, the IHSA is immune from liability. This immunity attaches to all allegations made against the IHSA by Plaintiff in his Complaint. As Hickman was at all times engaged in the exercise of discretion in determination of policy, he qualifies as a public employee who enjoys immunity under the Act, not only for "negligence" but for defamation as well. As Hickman and all other representatives of the IHSA are immune from Plaintiff's claims, the IHSA is itself immune, and the trial court's order dismissing Plaintiff's Complaint should be affirmed.

WHEREFORE, the Illinois High School Association and Dr. Martin Hickman respectfully pray that this court affirm the trial court's order granting the Association and Hickman's Motion to Dismiss as a matter of law.

Respectfully submitted,

ILLINOIS HIGH SCHOOL ASSOCIATION
and MARTIN L. HICKMAN



One of their attorneys

David J. Bressler
Gregory L. Lacey
DYKEMA GOSSETT ROOKS PITTS PLLC
4200 Commerce Court, Suite 300
Lisle, IL 60532-3610
(630) 245-0400
(630) 245-0410 (facsimile)

Christopher J. Dallavo, Esq.
SCHUELER, DALLAVO & CASIERI
233 S. Wacker Drive, Suite 6150
Chicago, Illinois 60606
312/831-1090
312/831-4144 (facsimile)

**In the Appellate Court of Illinois
Second Judicial District**

FRANK HOOD,

Plaintiff-Appellant

vs.

ILLINOIS HIGH SCHOOL ASSOCIATION
and MARTIN L. HICKMAN,

Defendants-Appellees

*Circuit Number: 2003 L 410**On Appeal From the Circuit Court for the
Seventeenth Judicial Circuit, Winnebago
County, Illinois**Trial Judge: Janet Holmgren*

PROOF OF SERVICE

The undersigned, a non-attorney, hereby verifies that on March 25, 2004, she placed in the U.S. Mail at Lisle, Illinois for filing with the Clerk of the Appellate Court, Second District, 55 Symphony Way, Elgin, Illinois 60120, the original and nine copies of the Brief of Appellee, Illinois High School Association and Martin L. Hickman.

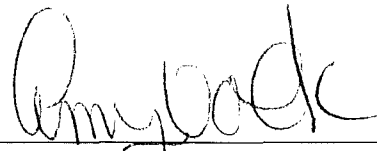
The undersigned further verifies that she caused three copies of the Brief of Appellee, Illinois High School Association and Martin L. Hickman, to be served upon the following individuals:

Vern L. Davitt, Esq.
Sasha L. Jonic, Esq.
2411 13th Avenue
Rockford, Illinois 61108

Christopher J. Dallavo, Esq.
Schueler, Dallavo & Casieri
233 S. Wacker Drive, Suite 6150
Chicago, Illinois 60606-6303

via U.S. Mail at Lisle, Illinois on June 23, 2004.

- ☒ Under penalties as provided by law pursuant to ILL. REV. STAT. CHP 110 Sec 1-109, I certify that the statements set forth herein are true and correct.



Amy Volk



Robert Herguth <rherguth@bettergov.org>

Request from the BGA

Robert Herguth <rherguth@bettergov.org>

Thu, Jun 5, 2014 at 5:07 PM

To: mhickman@ihsa.org

Cc: mtroha@ihsa.org

Dear Mr. Hickman and Mr. Troha,

This is Bob Herguth at the Better Government Association, which is a Chicago-based nonprofit that engages in investigative journalism on government in Illinois.

I am writing you, the IHSA, with a request for documents under the Illinois Freedom of Information Act.

Specifically, under FOIA, I am requesting copies of:

+ Any and all IHSA contracts for accounting, legal, sponsorship and public relations/crisis communications services for the 2012-13 and 2013-14 fiscal years. This should include, but not be limited to, the IHSA's contracts with Home Team Marketing and Striegel Knobloch & Co.

+ Any and all IHSA sponsorship contracts/agreements covering the 2012-13 and 2013-14 fiscal years. This should include, but not be limited to, contracts/agreements with Nike, Gatorade and Country Financial.

+ Any and all licensed vendor applications
http://www.ihsa.org/documents/forms/Licensed_Vendor_Application.pdf
 for companies licensed in the 2013-14 fiscal year.

Please note this information is for a possible news story. As such, I ask that all fees be waived as the law allows. I ask that you please convey this information electronically, to this email address: rherguth@bettergov.org. I ask that you please contact me with any questions or needs for clarification.

I appreciate your consideration.

Sincerely,

Bob Herguth
 Editor of Investigations
 Better Government Association
 223 W. Jackson Blvd., Suite 900
 Chicago, IL 60606
 (312) 821-9030 office
 (773) 706-3207 cell
 rherguth@bettergov.org

EXHIBIT E -



Robert Herguth <rherguth@bettergov.org>

Request from the BGA

Marty Hickman <MHickman@ihsa.org>

Thu, Jun 5, 2014 at 5:26 PM

To: Robert Herguth <rherguth@bettergov.org>

Cc: Matt Troha <MTroha@ihsa.org>

Robert,

We are a Bloomington based non-profit (501 c 3) that is not subject to FOIA.

Sincerely,

Marty Hickman.

Sent from my iPhone

[Quoted text hidden]

Disclaimer: This e-mail message is strictly confidential to the Illinois High School Association and is intended only for the addressee. It may contain information that may be confidential, legal, privileged, or otherwise exempt from disclosure under applicable law. If you are not the intended addressee, or someone authorized by the intended addressee to receive transmission on behalf of the addressee, you must not retain, disclose in any form, copy, or take action in reliance on this transmission.

EXHIBIT F -



Robert Herguth <rherguth@bettergov.org>

FOIA request

1 message

Robert Herguth <rherguth@bettergov.org>

Wed, Jul 2, 2014 at 3:41 PM

To: Carla Erdey <cerdey@d230.org>

Dear FOIA officer,

This is Bob Herguth at the Better Government Association, which is a Chicago-based nonprofit that engages in investigative journalism on government in Illinois.

I am writing you with a request for documents under the Illinois Freedom of Information Act.

Specifically, under FOIA Section 7(2), I am requesting the following records of the Illinois High School Association, which performs governmental functions for District 230:

- + Any and all IHSA contracts for accounting, legal, sponsorship and public relations/crisis communications services for the 2012-13 and 2013-14 fiscal years. This should include, but not be limited to, the IHSA's contracts with Home Team Marketing and Striegel Knobloch & Co.
- + Any and all IHSA sponsorship contracts/agreements covering the 2012-13 and 2013-14 fiscal years. This should include, but not be limited to, contracts/agreements with Nike, Gatorade and Country Financial.
- + Any and all licensed vendor applications
http://www.ihsa.org/documents/forms/Licensed_Vendor_Application.pdf for companies licensed in the 2013-14 fiscal year.

Please note this information is for a possible news story. As such, I ask that all fees be waived as the law allows. I ask that you please convey this information electronically, to this email address: rherguth@bettergov.org. I ask that you please contact me with any questions or needs for clarification.

I appreciate your consideration.

Sincerely,

Bob Herguth
Editor of Investigations
Better Government Association
223 W. Jackson Blvd., Suite 900
Chicago, IL 60606
(312) 821-9030 office
(773) 706-3207 cell
rherguth@bettergov.org

EXHIBIT G -



Robert Herguth <rherguth@bettergov.org>

FOIA request

Carla Erdey <cerdey@d230.org>

Tue, Jul 15, 2014 at 1:20 PM

To: Bob Herguth <rherguth@bettergov.org>

I am very sorry. My initial response did not send. District 230 does not have any responsive documents.

[Quoted text hidden]

This communication may contain proprietary and confidential information for the sole use of the intended recipient. If you are not the intended recipient, please note that any other dissemination, distribution, use or copying of this communication is strictly prohibited. Anyone who receives this message in error should notify the sender immediately by telephone or by return e-mail and delete it from their computer.

EXHIBIT H -

12/12/14



Robert Herguth <rherguth@bettergov.org>

FOIA request

Robert Herguth <rherguth@bettergov.org>

Tue, Jul 15, 2014 at 1:41 PM

To: Carla Erdey <cerdey@d230.org>

Bcc: Matt Topic <matt@loevy.com>

Thanks. Did you attempt to obtain the records from IHSA per FOIA Section 7(2)?

[Quoted text hidden]

EXHIBIT I -



Robert Herguth <rherguth@bettergov.org>

FOIA request

Carla Erdey <cerdey@d230.org>

Mon, Jul 21, 2014 at 2:27 PM

To: Robert Herguth <rherguth@bettergov.org>

In response to your inquiry, the District has not attempted to obtain the requested documents from IHSA. Section 7(2) pertains to "public records" which are not in possession of a public body but are in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body, and that directly relate to the governmental function and are not otherwise exempt under this Act. "Public records", in turn, are defined under Section 2(c) of FOIA as records pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body. The documents you request do not pertain to the transaction of the District's public business, and in any event were not prepared by or for, and have not been used by, received by, in the possession of or under the control of the District. Thus, the documents you request are not public records and are not subject to FOIA. Even if the documents were public records under the 2(c) definition, the District does not construe its relationship with IHSA as a contract to perform a governmental function, and the documents as described do not directly relate to services IHSA may perform, if any, on behalf of the District.

Carla Erdey

Director of Communications

Consolidated High School District 230

708-745-5222

cerdey@d230.orgwww.d230.org

Connect with us:

Facebook: www.facebook.com/CHSD230Twitter: www.twitter.com/CHSD230Youtube: www.youtube.com/D230communication

[Quoted text hidden]

[Quoted text hidden]

EXHIBIT J

Order

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Better Government Association

v.

No. 14 CH 12091Illinois High School Association et al

ORDER

This cause coming to be heard on the Motion to Dismiss of Defendant Illinois High School Association pursuant to 735 ILCS §/2-619(a)(9), the court being fully advised, having heard arguments of the parties and having reviewed the briefing submitted, hereby orders:

1) Defendant Illinois High School Association's Motion to Dismiss pursuant to Section 2-619(a)(9) is hereby granted and plaintiff's complaint is dismissed with prejudice for the reasons stated by the court ~~in its~~ ~~order~~ ~~of~~ ~~discovery~~ before a certified court reporter.

2) This is a final and appealable order.

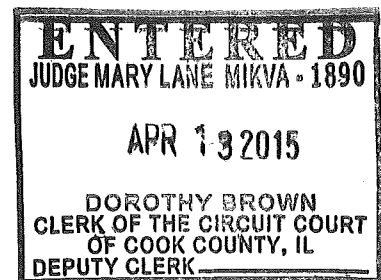
Atty. No.: 42297Name: Bressler / DykemaAtty. for: Deft Illinois High School Assn.Address: 422 Commerce Court #300City/State/Zip: Lisle, IL 60532Telephone: 630-245-0400

ENTERED:

Dated: _____

Judge

Judge's No.



DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Order

(2/24/05) CCG N002

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Baker Government Ass'n

v.

No. 14CA 12091Illinois High School Ass'n & District 230

ORDER

This cause coming to be heard on the 735 ILCS §12-615 Motion to Dismiss of Defendant Consolidated High School District 230, on notice, the court being fully advised and having heard arguments and having reviewed the Briefing of the parties, it is hereby ordered:

① District 230's motion to dismiss is granted for the reasons stated on the record, before a certified court reporter, and the BGA's complaint is dismissed, with ~~no~~ prejudice.

② This is a final and appealable order.

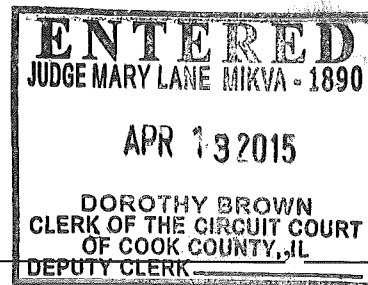
Atty. No.: 6292892Name: Jeffrey C. GoolitzAtty. for: District 230Address: 8030 Salt Creek Lane, Ht 202City/State/Zip: Arlington Hts, IL 60005Telephone: 847-670-9000

ENTERED:

Dated: _____

Judge

Judge's No.



DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Copy Distribution - White: 1. ORIGINAL - COURT FILE Canary: 2. COPY Pink: 3. COPY

APPEAL TO THE APPELLATE COURT OF ILLINOIS
 FROM THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

COUNTY _____ DEPARTMENT, CHANCERY

DIVISION _____

BETTER GOVERNMENT ASSOCIATION,

Plaintiff/ Appellant

v.

ILLINOIS HIGH SCHOOL ASSOCIATION, et al.

Defendant/ Appellees

Reviewing Court No. _____

Circuit Court No. 14 CH 12091

NOTICE OF APPEAL

(Check if applicable. See Ill. Sup. Ct. Rule 303(a)(3).)

☐ Joining Prior Appeal ☒ Separate Appeal ☐ Cross Appeal

Appellant's Name: Better Government Association

Appellant's Attorney (if applicable): Matt Topic

Address: 312 N. May Street, Suite 100

City/State/Zip: Chicago, IL, 60607

Telephone Number: (312) 243-5900

☒ Cook County Attorney Code: 41295 or ☐ Pro se 99500 (Choose one)

Appellee's Name: Illinois High School Association, Consolidated High School District 230

Appellee's Attorney (if applicable):

Address:

City/State/Zip:

Telephone Number:

☐ Cook County Attorney Code: or ☐ Pro se 99500 (Choose one)

An appeal is taken from the order or judgment described below:

Date of the judgment/order being appealed: 04/13/15

Name of judge who entered the judgment/order being appealed: Mary Lane Mikva

Relief sought from Reviewing Court: Plaintiff-Appellant Better Government Association appeals the circuit court's April 13, 2015 order granting

Defendant Illinois High School Association's motion to dismiss under Rule 2-619 and Defendant Consolidated High School District 230's motion to dismiss under Rule 2-615. Plaintiff Appellant asks that the Appellate Court reverse the circuit court's decision and remand the case for further proceedings.

I understand that a "Request for Preparation of Record on Appeal" form (CCA 0025) must be completed and the initial payment of \$110 made prior to the preparation of the Record on Appeal. The Clerk's Office will not begin preparation of the ROA until the Request form and payment are received. Failure to request preparation of the ROA in a timely manner, i.e., at least 30 days before the ROA is due to the Appellate Court, may require the Appellant to file a request for extension of time with the Appellate Court. A "Request for Preparation of Supplemental Record on Appeal" form (CCA 0023) must be completed prior to the preparation of the Supplemental ROA.

/s/ Matthew Topic

(To be signed by the Appellant or Appellant's Attorney)

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 COUNTY DEPARTMENT, CHANCERY DIVISION**

BETTER GOVERNMENT ASSOCIATION,)	
)	
Plaintiff-Appellant,)	
	)	14 CH 12091
v.)	
)	
ILLINOIS HIGH SCHOOL ASSOCIATION;)	
CONSOLIDATED HIGH SCHOOL)	
DISTRICT 230,)	
)	
Defendants-Appellees.)	

CERTIFICATE OF SERVICE

This is to certify that on May 12, 2015, I served the foregoing Plaintiff's Notice of Appeal on all counsel of record via electronic mail.

s/ Matthew Topic

NOTICE

The text of this opinion may be changed or corrected prior to the time for filing of a Petition for Rehearing or the disposition of the same.

2016 IL App (1st) 151356

No. 1-15-1356

FIFTH DIVISION

June 24, 2016

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

BETTER GOVERNMENT ASSOCIATION,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
)	
v.	)	No. 14 CH 12091
)	
ILLINOIS HIGH SCHOOL ASSOCIATION and)	
CONSOLIDATED HIGH SCHOOL DISTRICT 230,	)	The Honorable
	)	Mary Lane Mikva,
Defendants-Appellees.	)	Judge Presiding.

JUSTICE LAMPKIN delivered the judgment of the court, with opinion.
Presiding Justice Reyes and Justice Burke concurred in the judgment and opinion.

OPINION

¶ 1 Plaintiff, Better Government Association (BGA), appeals the circuit court's orders dismissing its complaint alleging that defendants, Illinois High School Association (IHSA) and Consolidated High School District 230 (District 230), violated the Freedom of Information Act (FOIA or Act) (5 ILCS 140/1 (West 2014)). Plaintiff had submitted written requests from defendants seeking all of IHSA's contracts for accounting, legal, sponsorship, and public relations/crisis communications services and all licensed vendor applications for the 2012 to 2013 and 2013 to 2014 fiscal years. Plaintiff contends the circuit court erred in finding: (1) that IHSA was not a subsidiary public body as the term is used in FOIA and (2) that IHSA does not

1-15-1356

perform a governmental function for member public schools, including District 230, such that the requested records were available to the public *vis-a-vis* District 230 pursuant to section 7(2) of FOIA. Based on the following, we affirm.

¶ 2

FACTS

¶ 3 On June 5, 2014, BGA submitted a written request to IHSA seeking all of IHSA's contracts for accounting, legal, sponsorship, and public relations/crisis communications services and all licensed vendor applications for the 2012 to 2013 and 2013 to 2014 fiscal years. IHSA responded to the request by stating that it was a nonprofit 501(c)(3) charitable organization that is not subject to FOIA. BGA then submitted a request on July 2, 2014, to District 230 seeking the same records pursuant to section 7(2) of FOIA. District 230 responded by stating that it did not have any of the requested documents in its possession.

¶ 4 BGA filed its one-count complaint for violation of FOIA against defendants on July 23, 2014, requesting that the court declare IHSA a subsidiary "public body" under FOIA; declare IHSA performs a governmental function on behalf of its member schools, including District 230; and order IHSA and District 230 to produce the requested documents.

¶ 5 IHSA responded by filing a section 2-619 motion to dismiss, arguing that it was not subject to the provisions of FOIA because it was neither a public body nor a subsidiary as the terms are used in the Act. To its motion, IHSA attached a copy of its constitution and by-laws, an affidavit submitted by Martin Hickman, and a copy of a September 29, 2010, letter from the public access counselor (PAC) from the Illinois Attorney General's Office.

¶ 6 According to IHSA's constitution, its purpose is to "provide leadership for the development, supervision, and promotion of interscholastic competition and other activities in which its member schools engage." Each year, the member schools adopt IHSA's constitution

1-15-1356

and by-laws. Pursuant to section 1.300 of the constitution, the administrative authority of IHSA is vested in a board of directors composed of 10 elected members chosen by general membership. Each board member must be a principal of a member school. At least one member of the board is elected from each of the seven divisions of member schools within Illinois. The remaining three board members are elected from the schools at-large. Of those three, at-large elected board members, one must be from a private/nonpublic school, one must represent under-represented genders, and one must represent racial minorities. There is no minimum number of members that must represent public schools. The by-laws provide the rules governing participation by the member schools and students in the designated sports covered by IHSA.

¶ 7 In Hickman's affidavit, he attested that he is the executive director of IHSA, which is a voluntary, unincorporated association consisting of over 800 public and private high schools located throughout Illinois. According to the affidavit, IHSA is a recognized 501(c)(3) charitable organization that files separate tax returns annually. Hickman averred that IHSA does not charge its member schools membership fees or dues¹ and does not charge its member schools entry fees for its events. Instead, IHSA generates revenue based on interscholastic events organized by it and the sponsorships it receives. Hickman attested that the board of directors is composed of elected individual principals and not the member schools. More specifically, if a principal moved schools during his or her elected term, he or she would remain a board member and not be replaced by a different principal from the original school even if the principal switched to a private school from a public school or vice versa. According to Hickman, the board of directors could consist of a majority of private/nonpublic schools. In fact, Division 1, which contained all city of Chicago schools and overwhelmingly was composed of public schools, had two back-to-

¹The IHSA constitution does permit it to charge dues to its members.

1-15-1356

back elected board members from private schools. Hickman attested that the board of directors' members were not paid a salary or considered employees of IHSA. In addition, Hickman's affidavit provided that the day-to-day operations of IHSA were performed by the executive director and the administrative staff, who were not government employees, were not paid from government funds, were not subject to any state regulations regarding public employees, and were not eligible for any state or local governmental retirement programs or insurances benefits. Instead, Hickman attested that the executive director and administrative staff were employees of IHSA, were paid by IHSA, and were provided benefits solely by IHSA where IHSA had its own federal employer identification number, withheld payroll taxes, and issued W-2 forms annually to its employees. Hickman added that IHSA owned the building housing its offices.

¶ 8 In the September 29, 2010, letter authored by the PAC, the PAC responded to an IHSA denial of a FOIA request. In its responsive letter, the PAC opined that "[t]he IHSA is a private, not-of-profit organization and, thus, does not fall within the definition of 'public body' as defined by Section 2(a) of FOIA. 5/ILCS 140/2(a). For this reason, IHSA is not subject to FOIA."

¶ 9 District 230, in response to BGA's complaint against it, filed a section 2-615 motion to dismiss, arguing that IHSA is not a "public body" under FOIA and District 230 is not alleged to possess the requested records. Moreover, District 230 argued that it should not be forced to try to obtain the records in question because they were not public records of District 230 and were not directly related to any alleged governmental function that IHSA may perform on its behalf.

¶ 10 Following oral argument on the motions, the circuit court granted both IHSA's section 2-619 motion to dismiss and District 230's section 2-615 motion to dismiss. In granting IHSA's motion, the circuit court noted that BGA's failure to present a counter-affidavit challenging the

1-15-1356

Hickman affidavit caused the facts therein to be admitted. The court also found that statements made by IHSA in the prior case *Hood v. Illinois High School Ass'n*, 359 Ill. App. 3d 1065 (2005), in which IHSA had sought protection under the Local Governmental and Governmental Employees Tort Immunity Act (Tort Immunity Act) (745 ILCS 10/1-101 *et seq.* (West 2002)) as a “local public entity” under that statute, were factual assertions and not evidentiary admissions applicable to the instant case. Finally, after applying the factors of the test presented by *Rockford Newspapers, Inc. v. Northern Illinois Council on Alcoholism & Drug Dependence*, 64 Ill. App. 3d 94 (1978), the circuit court determined that IHSA was not a subsidiary public body covered by FOIA. In so doing, the circuit court stated:

“In terms of [the] nature of [IHSA’s] functions, yes, perhaps those could be governmental functions. They could be done by government, perhaps in some states they are. But, you know, education is done by private and public entities, that doesn’t make everybody who does education a public actor subject to FOIA. As we all know there are private schools. And there are, as I indicated, a number of private organizations that support the public and private schools and it does not make them all governmental actors.

* * *

This is a function that could be done, as I’ve said now probably five times, by a public entity or it could be done by a private, not-for-profit association. And [in] this case [it] is being done by a private, not-for-profit association for the benefit of both public and private schools.”

Then, in granting District 230’s motion, the circuit court held that section 7(2) of FOIA did not apply because IHSA did not perform a governmental function on behalf of District 230. This appeal followed.

1-15-1356

¶ 11

ANALYSIS

¶ 12 Plaintiff contends the circuit court erred in dismissing its complaint where IHSA is a subsidiary public body as the term is used in FOIA and, therefore, is subject to compliance with the Act. Plaintiff additionally contends that IHSA performs a governmental function on behalf of its member schools, including District 230, and, therefore, District 230 was required to produce the requested documents.

¶ 13

I. Section 2-619 Motion

¶ 14 We first address BGA's challenge to the dismissal of its complaint in favor of IHSA.

¶ 15 A section 2-619 motion to dismiss (735 ILCS 5/2-619 (West 2014)) admits the sufficiency of the plaintiff's complaint, but asserts a defense outside the complaint that defeats it. *Patrick Engineering, Inc. v. City of Naperville*, 2012 IL 113148, ¶ 31. Specifically, a section 2-619(a)(9) motion, like the one filed by IHSA, permits the involuntary dismissal of the complaint where the claim is barred by an "other affirmative matter." 735 ILCS 5/2-619(a)(9) (West 2014). "When ruling on such motions, a court must accept as true all well-pleaded facts, as well as any reasonable inferences that may arise from them [citation], but a court cannot accept as true mere conclusions unsupported by specific facts [citation]." *Patrick Engineering, Inc.*, 2012 IL 113148, ¶ 31. We review the granting of a section 2-619 motion to dismiss *de novo*. *Id.*

¶ 16 As an initial matter, BGA attacks the adequacy of IHSA's section 2-619 motion, as well as that of the Hickman affidavit, arguing that they do not qualify as an "affirmative matter" capable of defeating BGA's complaint. We disagree. An affirmative matter is:

“ ‘[A] type of defense that either negates an alleged cause of action completely or refutes crucial conclusions of law or conclusion[s] of material fact unsupported by allegations of specific fact contained [in] or inferred from the complaint *** [not] merely evidence

1-15-1356

upon which defendant expects to contest an ultimate fact stated in the complaint.’ ” *Smith v. Waukegan Park District*, 231 Ill. 2d 111, 121 (2008) (quoting 4 Richard A. Michael, Illinois Practice § 41.7, at 332 (1989)).

¶ 17 Contrary to BGA’s assertion, IHSA’s motion sufficiently alleged it was not subject to FOIA as demonstrated by application of the relevant test to be discussed herein and as supported by the documents attached to its motion, which constituted “affirmative matters” capable of defeating the complaint. See *Kedzie & 103rd Currency Exchange, Inc. v. Hodge*, 156 Ill. 2d 112, 116 (1993) (“[b]y presenting adequate affidavits supporting the asserted defense [citation], the defendant satisfies the initial burden of going forward on the motion”). IHSA’s motion and accompanying documents were not merely its version of the facts intended to negate the essential allegations of BGA’s cause of action. We, therefore, find that IHSA’s motion properly was considered as a section 2-619(a)(9) motion to dismiss.

¶ 18 Turning to the substance of this appeal, the questions presented require this court to apply the well-known rules of statutory construction. The primary rule of statutory construction is to ascertain and give effect to the intent of the legislature by applying the plain and ordinary meaning of the language of the statute. *Hamilton v. Industrial Comm’n*, 203 Ill. 2d 250, 255 (2003). When the statutory language is clear, courts must apply the statute as written. *Id.* at 256. However, if a statute is capable of being understood by reasonably well-informed persons in two or more different ways, the statute is considered ambiguous. *Solon v. Midwest Medical Records Ass’n*, 236 Ill. 2d 433, 440 (2010). The supreme court has advised:

“If the statute is ambiguous, the court may consider extrinsic aids of construction in order to discern the legislative intent. [Citation.] We construe the statute to avoid rendering any part of it meaningless or superfluous. [Citation.] We do not depart from the plain

1-15-1356

statutory language by reading into it exceptions, limitations, or conditions that conflict with the expressed intent. [Citation.]” *Id.* at 440-41.

¶ 19 The Illinois FOIA is based upon a policy of full, complete disclosure regarding the affairs of government and the official acts and policies of public officials and public employees. 5 ILCS 140/1 (West 2014). FOIA provides, in relevant part:

“Restraints on access to information, to the extent permitted by this Act, are limited exceptions to the principle that the people of this State have a right to full disclosure of information relating to the decisions, policies, procedures, rules, standards, and other aspects of government activity that affect the conduct of government and the lives of any or all of the people. The provisions of this Act shall be construed in accordance with this principle. This Act shall be construed to require disclosure of requested information as expediently and efficiently as possible and adherence to the deadlines established in this Act.” 5 ILCS 140/1 (West 2014).

¶ 20 Section 1.2 of FOIA states that “[a]ll records in the custody or possession of a public body are presumed to be open to inspection or copying.” 5 ILCS 140/1.2 (West 2014).

Moreover, section 3(a) provides that “[e]ach public body shall make available to any person for inspection or copying all public records, except as otherwise provided in Sections 7 and 8.5 of this Act.” 5 ILCS 140/3(a) (West 2014). Section 2 of FOIA defines “public body” as:

“Definitions. As used in this Act:

(a) ‘Public body’ means all legislative, executive, administrative, or advisory bodies of the State, state universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees, or commissions of this State, any subsidiary bodies of any of the foregoing

1-15-1356

including but not limited to committees and subcommittees thereof ***.” 5 ILCS 140/2 (West 2014).

This court has held that a subsidiary public body is itself a public body for purposes of compliance with the Act. *Board of Regents of the Regency University System v. Reynard*, 292 Ill. App. 3d 968, 978 (1997).

¶ 21 The question in this case is whether the IHSA constitutes a subsidiary public body. Subsidiary body is not defined in FOIA. In *Rockford Newspapers, Inc.*, however, the Second District articulated a three-part test for determining whether an entity is a “subsidiary body” as the term is used in the Open Meetings Act (5 ILCS 120/1.02 (West 2014)). Because the definition of “public body” is substantially identical in both statutes, our courts have found no reason to distinguish between the statutes. See *Reynard*, 292 Ill. App. 3d at 976; *Hopf v. Topcorp, Inc.*, 256 Ill. App. 3d 887, 893 (1993). We similarly conclude, and the parties agree, that the *Rockford Newspapers* test applies in this instance for determining whether an entity is a subsidiary body as used in FOIA. The *Rockford Newspapers* test instructs courts to consider: (1) whether the entity has a legal existence independent of government resolution; (2) the nature of the functions performed by the entity; and (3) the degree of government control exerted. 64 Ill. App. 3d at 96-97.

¶ 22 A. IHSA’s Legal Existence Independent of Government

¶ 23 Turning to the first factor in the *Rockford Newspapers* test, IHSA is a voluntary, unincorporated association of member Illinois high schools, both public and private. It has an independent legal existence separate from its member schools where IHSA has independent standing to sue and be sued. See 735 ILCS 5/2-209.1 (West 2014) (“[a] voluntary unincorporated association may sue and be sued in its own name, and may complain and defend in all actions”);

1-15-1356

cf. Jackson v. Village of Rosemont, 180 Ill. App. 3d 932, 937-38 (1988) (finding that a stadium owned and operated by a municipality was not separate from the municipality). IHSA is an established 501(c)(3) charitable organization recognized by the Internal Revenue Service as a separate legal entity that files its own tax returns and has its own federal employer identification number. Additionally, IHSA maintains its own employees for whom it withholds payroll taxes and issues W-2 tax forms annually. IHSA also owns the building in which its offices are housed. These factors demonstrate that IHSA has a separate legal existence, independent from its member schools or any other public body, which BGA conceded at oral argument in this case. See, e.g., *Rockford Newspapers*, 64 Ill. App. 3d at 96.

¶ 24

B. Nature of the Functions Performed by IHSA

¶ 25

Moving to the second factor in the *Rockford Newspapers* test, there is no question that IHSA is an organization that serves the public body by coordinating sporting events for member high schools and that it enhances the students' educational experience. The question is whether those functions are necessarily governmental.

¶ 26

Courts repeatedly have found that there is no property or liberty interest in interscholastic athletic participation. *Jordan v. O'Fallon Township High School District No. 203 Board of Education*, 302 Ill. App. 3d 1070, 1076 (1999) (citing *Clements v. Board of Education of Decatur Public School District No. 61*, 133 Ill. App. 3d 531, 533 (1985)). "Students can need, want, and expect to participate in interscholastic athletics, but students are not *entitled* to participate in them. Football is neither an integral part of a quality education nor a requirement under any rule or regulation governing education in this state." (Emphasis in original.) *Id.* Unlike education, participation in athletics is voluntary. Moreover, no matter the potential exclusion from elite competitions governed by IHSA, participation by member schools in the IHSA also is

1-15-1356

voluntary. IHSA's by-laws do provide a comprehensive framework for both the schools' and the students' participation in IHSA-sanctioned competitions (*e.g.*, eligibility, participation limitations, qualifications of coaches); however, as stated, any school can decide to forego participation in the IHSA to avoid its rules.

¶ 27 Moreover, each member school runs and supervises its own team for those sports falling within the parameters of the IHSA. Indeed, not all interscholastic athletics are governed by IHSA nor are intramural or club sports and activities. IHSA's reach is limited to those interscholastic sports expressly provided for in its by-laws. Similar to IHSA, but at the collegiate level, the Supreme Court has recognized, within the context of the fourteenth amendment, that the National Collegiate Athletic Association (NCAA) does not enjoy "governmental powers" despite its various rules governing its member schools and the authority it has to sanction its members. *National Collegiate Athletic Ass'n v. Tarkanian*, 488 U.S. 179, 196-97 (1988). The mere fact that a private company may be connected with a governmental function does not create a public body where none existed before. *Rockford Newspapers*, 64 Ill. App. 3d at 97 (finding the private, not-for-profit organization funded primarily by government agencies and required to comply with numerous government regulations was not subsidiary body pursuant to the Open Meetings Act).

¶ 28 Based on the foregoing, we conclude that, although a public body *could* perform the same functions of IHSA in developing, supervising, and promoting interscholastic competitions among its member schools, the private, independent, not-for-profit IHSA does not perform public, governmental functions in this case. *Cf. Reynard*, 292 Ill. App. 3d at 977-79 (finding that the university senate, which was a creation of the school board, was a public body pursuant to the Open Meetings Act and FOIA as it was in charge of determining academic policy for the university and that the senate's council was a subsidiary public body pursuant to the Open

1-15-1356

Meetings Act and FOIA as a standing committee that advised the senate on academic policies and all policies governing the university's intercollegiate athletic program).

¶ 29 C. Degree of Government Control Exerted Over IHSA

¶ 30 Applying the third factor in *Rockford Newspapers*, Hickman's affidavit established that IHSA is not owned or controlled by its member schools. As a not-for-profit association, IHSA does not have owners. See, e.g., 805 ILCS 105/106.05 (West 2014) ("A [not-for-profit] corporation shall not have or issue shares. No dividend shall be paid and no part of the money, property or other assets of a corporation shall be distributed to its members, directors or officers ***."). Rather, the IHSA is controlled by its board members. The board is composed of individual principals from the member schools. Of the 10 board seats, 7 represent the 7 divisions of the IHSA and 3, which are elected at-large by the member schools, represent private schools, under represented genders, and racial minorities. The at-large member representing private schools need not be the only private school principal elected to the board. In fact, once an individual principal is elected to the board, he or she remains in that position even if he or she changes schools, so long as he or she continues to meet the requirements for the board seat. See *Rockford Newspapers*, 64 Ill. App. 3d at 96 (organization was run by a board of directors selected pursuant to its own by-laws, not elected or appointed by any government official).

¶ 31 In addition, the Hickman affidavit provided that the day-to-day functioning of IHSA is provided by the executive director and an administrative staff. The executive director and administrative staff are employees of IHSA, not employees of the member schools or any public entity. The executive director and administrative staff are paid by IHSA, are not subject to regulations of public employees, and are not eligible for state retirement or insurance benefits.

Cf. Brentwood Academy v. Tennessee Secondary School Athletic Ass'n, 531 U.S. 288, 300

1-15-1356

(2001) (where the defendant association was considered to be so entwined with the public school officials acting as board members as to be a state actor for purposes of the fourteenth amendment because the public school officials performed all functions but the “purely ministerial acts by which the Association exists and functions in practical terms” and the defendant association’s ministerial employees were eligible for membership in the state retirement system like state employees). The Second District articulated in *Rockford Newspapers* that “the independence of both [a] board of directors and [the] employees from direct government control are extremely significant factors.” 64 Ill. App. 3d at 96 (the board having had full authority to employ or discharge any employee and employees were not subject to state regulatory practices concerning public employees nor were they eligible for state retirement or insurance benefits). We conclude that these factors demonstrate IHSA is not controlled by a government entity to such a degree that it constitutes a subsidiary public body.

¶ 32 We find further support for our conclusion where IHSA does not receive governmental funding. According to Hickman’s affidavit, although the constitution permits IHSA to charge membership dues, IHSA does not, in fact, charge any of its member schools dues and does not charge schools entry fees for its events. *Cf. Brentwood Academy*, 531 U.S. at 299 (wherein the United States Supreme Court found it relevant that the defendant’s revenue was composed of membership dues paid by the schools and “gate receipts at tournaments among the member schools”). Instead, IHSA contracts with host schools for use of their facilities and compensates the schools by providing minimum guaranteed fees and splitting any profits in excess of those guarantees. These agreements are extended to both public and private schools. In fact, in the 2013 to 2014 season, IHSA held events at private schools 289 times. Lack of government funding notwithstanding, this court has found that the providing of government funds does not

1-15-1356

necessarily cause an entity to be characterized as a subsidiary body. See, e.g., *Rockford Newspapers*, 64 Ill. App. 3d at 96 (“[t]he amount or percentage of governmental funding of a private entity should have no bearing on whether that entity is characterized as a subsidiary”); *Hopf*, 256 Ill. App. 3d at 896-97 (a 50% funding of the corporation by the municipality, in and of itself, did not render the corporation a subsidiary body).

¶ 33 In addition, we are not persuaded by plaintiff’s argument that the number of statutes aimed at regulating the IHSA demonstrates it is a subsidiary body. “The mere fact that a business is subject to state regulation does not by itself convert its action into that of the State ***.” *Jackson v. Metropolitan Edison Co.*, 419 U.S. 345, 350 (1974). In *Rockford Newspapers*, the Second District concluded that the private, not-for-profit organization was not a subsidiary body under the Open Meetings Act and cautioned that:

“Governmental bodies normally contract with private companies to perform services for the public welfare, and these contracts often involve a delegation of some statutory duties to the private party. For governments to insist upon a voice in the general manner in which these services are carried out is not only normal but may be part of their responsibilities to their constituents. Such general supervision does not transform the supervised company into a subsidiary of the government.” 64 Ill. App. 3d at 97.

¶ 34 We recognize BGA’s argument that IHSA is bound by its admissions in the previously decided *Hood* case, such that the local governmental entities “own” the association; local governmental control over the organization is pervasive; the business of the association is public business; the IHSA is an agency of the collective schools of Illinois; and employees of the local entities control IHSA’s governing body demonstrating that IHSA is enmeshed with and under the control of local government. These statements were made by IHSA in its brief on appeal in

1-15-1356

the *Hood* case. We acknowledge that “[a]n admission by a party is substantive evidence admissible as an exception to the rule excluding hearsay. Ordinary evidentiary admissions may be contradicted or explained.” *In re Estate of Rennick*, 181 Ill. 2d 395, 406 (1998) (citing Michael H. Graham, Cleary and Graham’s Handbook of Illinois Evidence § 802.11, at 616 (5th ed. 1990)). However, we find the challenged statements were not evidentiary admissions providing factual evidence that IHSA is controlled by its member schools. Instead, the challenged statements were legal arguments asserted by IHSA in an effort to establish immunity under the Tort Immunity Act. Whether an entity is controlled or has sufficient public ties to be considered a “local public entity” under the Tort Immunity Act are legal questions. Ultimately, in *Hood*, the circuit court determined that IHSA was not a “local public entity” pursuant to the plain language of the Tort Immunity Act where it was not a not-for-profit *corporation*, but rather a voluntary association. *Hood*, 359 Ill. App. 3d at 1069-70. The *Hood* court also found it relevant that IHSA was not “truly local” in terms of protection under the *Local* Governmental and Governmental Employees Tort Immunity Act. Additionally, and even more telling with regard to the facts of this case, the *Hood* court noted that private schools make up a “significant portion” of the organization “and may play a key role in its decision making.” *Id.* at 1070.

¶ 35 We further note that the statements produced in the Hickman affidavit were deemed admitted by the circuit court because BGA did not file a counter-affidavit. See *Piser v. State Farm Mutual Automobile Insurance Co.*, 405 Ill. App. 3d 341, 352 (2010) (“[t]he failure to challenge or contradict supporting affidavits filed with a section 2–619 motion results in an admission of the facts stated therein. [Citation.] Nor may a plaintiff simply rely on the allegations in his own complaint to refute a section 2–619 affidavit.”). In response, BGA argues it raised sufficient questions of material fact to survive IHSA’s motion, relying on IHSA’s

1-15-1356

statements in *Hood*, which we have determined were not evidentiary admissions, but legal arguments. We, therefore, agree with the circuit court that the statements in the Hickman affidavit were admitted. See *id.* at 352-53.

¶ 36 We recognize that the few cases that have considered whether an entity was a subsidiary public body, namely, *Rockford Newspapers*, *Hopf*, and *Reynard*, made their determinations presumably after a period of discovery whereas no discovery was conducted in this case. See *Rockford Newspapers*, 64 Ill. App. 3d at 95 (resolved on summary judgment, silent as to discovery); *Hopf*, 256 Ill. App. 3d at 892-93 (resolved on summary judgment following discovery); *Reynard*, 292 Ill. App. 3d at 971-73 (resolved following a trial on the merits). In this case, however, as stated, the Hickman affidavit statements were unchallenged by BGA and, therefore, were deemed admitted. See *Piser*, 405 Ill. App. 3d at 352-53. Accordingly, BGA did not raise questions of material fact requiring a period of discovery.

¶ 37 In sum, we find, based on the application of the *Rockford Newspapers* factors, that IHSA is not a subsidiary public body as the term is used in FOIA. We, therefore, conclude that IHSA's section 2-619 motion was granted properly.

¶ 38 II. Section 2-615 Motion

¶ 39 We next address BGA's challenge to the dismissal of its complaint in favor of District 230.

¶ 40 A section 2-615 motion to dismiss, like that filed by District 230, tests the legal sufficiency of a complaint. 735 ILCS 5/2-615 (West 2014). "When ruling on such motions, a court must accept as true all well-pleaded facts, as well as any reasonable inferences that may arise from them [citation], but a court cannot accept as true mere conclusions unsupported by

1-15-1356

specific facts [citation].” *Patrick Engineering, Inc.*, 2012 IL 113148, ¶ 31. We review the granting of a section 2-615 motion to dismiss *de novo*. *Id.*

¶ 41 BGA contends its complaint adequately demonstrated that IHSA performs a governmental function on behalf of District 230 and that the requested records directly relate to that function, thus triggering section 7(2) of FOIA.

¶ 42 Again, we must employ the well-known principles of statutory construction to resolve BGA’s contention. As stated, the primary rule of statutory construction is to ascertain and give effect to the intent of the legislature by applying the plain and ordinary meaning of the language of the statute. *Hamilton*, 203 Ill. 2d at 255.

¶ 43 As previously discussed, FOIA requires that a “public body” disclose “public records” upon request, unless the records are exempt. 5 ILCS 140/3(a) (West 2014). FOIA defines “public records” as:

“all records *** pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body.” 5 ILCS 140/2(c) (West 2014).

¶ 44 In 2010, section 7(2) was added to address “public records” that a public body does not physically possess. More specifically, section 7(2) of FOIA provides:

“A public record that is not in the possession of a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body, and that directly relates to the governmental function and is not otherwise exempt under this Act, shall be considered a public record of the public body, for purposes of this Act.” 5 ILCS 140/7(2) (West 2014).

1-15-1356

¶ 45 BGA sought to obtain the requested IHSA records from District 230 *vis-a-vis* section 7(2). Reading the plain language of section 7(2), as we must, the threshold requirement is that the requested documents qualify as a “public record.” The initial question, therefore, is whether the requested records pertained “to the transaction of public business” and were “prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body.” 5 ILCS 140/2(c) (West 2014). We recognize that, in reading section 2(c) in conjunction with section 7(2), the requested documents need not be “in the possession of, or under the control of [the] public body,” in this case District 230, so long as the other elements of section 7(2) are satisfied. See 5 ILCS 140/2(c), 7(2) (West 2014).

¶ 46 In its complaint, BGA simply provided a conclusory statement that the requested records were “non-exempt public records.” Mere conclusions unsupported by specific facts will not be considered by this court as true. *Patrick Engineering, Inc.*, 2012 IL 113148, ¶ 31. Instead, we must look to the requested documents themselves. In its FOIA request, BGA requested IHSA’s contracts for accounting, legal, sponsorship, and public relations/crisis communications services and all licensed vendor applications for the 2012 to 2013 and 2013 to 2014 fiscal years. Based on our prior analysis of whether IHSA is a subsidiary public body under FOIA, we similarly conclude that the requested records did not pertain to IHSA’s “transaction of public business” as IHSA does not engage in public or governmental business. Again, IHSA is a private, independent, not-for-profit that does not perform public, governmental functions. We, therefore, find that BGA did not satisfy the threshold requirement of section 7(2) of FOIA in establishing the requested records were “public records.” As a result, we conclude that District 230 was not obligated to obtain and provide the requested documents to BGA.

1-15-1356

¶ 47 BGA argues that such a reading would render section 7(2) superfluous in violation of the rules of statutory interpretation. We disagree. As demonstrated, sections 2(c) and 7(2) can be read so as not to render either section superfluous. See *Solon*, 236 Ill. 2d at 440-41. Moreover, section 1.2 of FOIA provides that “[a]ll records in the custody or possession of a public body are presumed to be open to inspection or copying.” 5 ILCS 140/1.2 (West 2014). In addition, section 3(a) provides that “[e]ach public body shall make available to any person for inspection or copying all public records, except as otherwise provided in Sections 7 and 8.5 of this Act.” 5 ILCS 140/3(a) (West 2014). Reading these sections as a whole in conjunction with the definition of “public record” pursuant to section 2(c) demonstrates that each public body must make the public records within its possession or control available for inspection or copying. Contrary to BGA’s argument, section 7(2) then extends a public body’s obligation to provide access to public records in the possession of a third party which qualify under the terms of the statute. See 5 ILCS 140/7(2) (West 2014). Simply stated, the statutes can be applied cohesively as written.

¶ 48 In sum, where we have found that the requested records did not meet the definition of “public record” under FOIA, we need not further analyze the elements of section 7(2). We conclude that BGA’s claim against District 230 was dismissed properly.

¶ 49 CONCLUSION

¶ 50 Based on the foregoing, we affirm the judgment of the circuit court in dismissing BGA’s complaint.

¶ 51 Affirmed.

No. 1-15-1356

**IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT**

BETTER GOVERNMENT ASSOCIATION,

Plaintiff-Appellant,

v.

ILLINOIS HIGH SCHOOL ASSOCIATION,
CONSOLIDATED HIGH SCHOOL
DISTRICT 230,

Defendants-Appellees.

Appeal from the Circuit Court of
Cook County, Illinois, Chancery
Division

Circuit Court No. 14 CH 12091

The Honorable Mary Lane Mikva,
Judge Presiding

***DEFENDANT-APPELLEE ILLINOIS HIGH SCHOOL ASSOCIATION'S
BRIEF AND ARGUMENT***

David J. Bressler
Melanie J. Chico
DYKEMA GOSSETT PLLC
4200 Commerce Court, Suite 300
Lisle, Illinois 60532
630/245-0400

ORAL ARGUMENT REQUESTED

POINTS AND AUTHORITIES

	Page
ISSUES PRESENTED.....	1
STATEMENT OF FACTS.....	2
I. PROCEDURAL BACKGROUND AND THE TRIAL COURT’S RULING ..	2
5 ILCS 140/2(a)	2
5 ILCS 140/7(2)	2, 3
735 ILCS 5/2-619	2
735 ILCS 5/2-615	2
II. THE UNDISPUTED NATURE AND OPERATIONS OF THE IHSA	3
A. The IHSA’s Purpose and Scope.....	3
B. The IHSA’s Independent Legal Identity	4
735 ILCS 5/2-209.1	4
C. Sources of Funding for the IHSA	4
D. Governance and Oversight of IHSA	5
E. The Public Access Counselor’s Determination that IHSA is Not Subject to FOIA	8
5 ILCS 140/9.5	8
5 ILCS 140/2(a)	8
ARGUMENT.....	8
I. FACTORS CONSIDERED TO DETERMINE WHETHER AN ENTITY IS A SUBSIDIARY OF A PUBLIC BODY UNDER FOIA.....	9
5 ILCS 140/2(a)	9
<i>Hopf v. Topcorp, Inc.,</i> 256 Ill. App. 3d 887 (1st Dist. 1993)	9, 10, 11

<i>Rockford Newspapers, Inc. v. Northern Illinois Council on Alcoholism & Drug Dependence</i> , 64 Ill. App. 3d 94 (2d Dist. 1978).....	9, 10, 11
5 ILCS 120/1, <i>et. seq.</i>	10
5 ILCS 10/1, <i>et. seq.</i>	11
<i>Hood v. IHSA</i> , 359 Ill. App. 3d 1065 (2d Dist. 2005).....	11
II. THERE IS NO MATERIAL ISSUE OF FACT BECAUSE BGA ADMITTED THE FACTS CONTAINED IN HICKMAN'S AFFIDAVIT ...	12
<i>Piser v. State Farm Mut. Auto. Ins. Co.</i> , 405 Ill. App. 3d 341 (1st Dist. 2010)	12
Rule 2-619.....	12
<i>Glisson v. City of Marion</i> , 188 Ill. 2d 211 (1999)	12
<i>Forest Preserve Dist. of Du Page County v. First Nat'l Bank of Franklin Park</i> , 401 Ill. App. 3d 966 (2d Dist. 2010).....	13
III. IHSA DID NOT MAKE EVIDENTIARY ADMISSIONS IN THE HOOD CASE.....	13
<i>Hood v. IHSA</i> , 359 Ill. App. 3d 1065 (2d Dist. 2005).....	13, 14, 15
745 ILCS 10/2-109	13
<i>Premier Electrical Constr. Co. v. La Salle Nat'l Bank</i> , 132 Ill. App. 3d 485 (1st Dist. 1984)	14
<i>Winnetka Bank v. Mandas</i> , 202 Ill. App. 3d 373 (1st Dist. 1990)	14
<i>Breighner v. MHSAA</i> , 471 Mich. 217 (Mich. 2004).....	14, 15
Fourteenth Amendment	14
745 ILCS 54/1, <i>et seq.</i>	15
<i>Garland v. Sybaris Club Int'l, Inc.</i> , 2014 IL App (1st) 112615.....	15

IV.	IHSA DOES NOT PERFORM GOVERNMENTAL FUNCTIONS	16
A.	BGA Mischaracterizes the Bases for the Trial Court's Ruling	16
B.	Athletics are Not Equivalent to Education	16
	<i>Jordan by Edwards v. O'Fallon Twp.,</i> 302 Ill. App. 3d 1070 (5th Dist. 1999).....	16
	<i>Proulx v. Illinois High School Ass'n,</i> 125 Ill. App. 3d 781 (4th Dist. 1984).....	17
	<i>Kulovitz v. Illinois High School Ass'n,</i> 462 F. Supp. 875 (N.D. Ill. 1978)	17
	<i>Goss v. Lopez,</i> 419 U.S. 565 (1975).....	17
C.	The IHSA's Functions are Private in Nature	18
	Black's Law Dictionary 704 (7 th ed. 1999)	18
	<i>Barry v. Ret. Bd.,</i> 357 Ill. App. 3d 749 (1st Dist. 2005)	18
	<i>Brugger v. Joseph Academy, Inc.,</i> 202 Ill. 2d 435 (2002)	18
	<i>Martin v. Halliburton,</i> 601 F.3d 381 (5th Cir. 2010)	19
	<i>NCAA v. Tarkanian,</i> 488 U.S. 179 (1988).....	19
	<i>NCAA v. AP,</i> 18 So. 3d 1201 (Fla. Dist. Ct. App. 2009)	20
	<i>Rockford Newspapers, Inc. v. Northern Illinois Council on</i> <i>Alcoholism & Drug Dependence,</i> 64 Ill. App. 3d 94 (2d Dist. 1978).....	20
	<i>Mental Health Am. v. Ill. Dep't of Healthcare,</i> 2012 IL App (1st) 112785-U	20
V.	THE IHSA HAS AN INDEPENDENT LEGAL EXISTENCE	21
	<i>Rockford Newspapers, Inc. v. Northern Illinois Council on</i> <i>Alcoholism & Drug Dependence,</i> 64 Ill. App. 3d 94 (2d Dist. 1978).....	21, 23

<i>Hopf v. Topcorp, Inc.</i> , 256 Ill. App. 3d 887 (1st Dist. 1993)	21
<i>Pope v. Parkinson</i> , 48 Ill. App. 3d 797 (4th Dist. 1977)	21
<i>Mount Carmel High Sch. v. IHSA</i> , 279 Ill. App. 3d 122 (1st Dist. 1996)	21
805 ILCS 5/1, <i>et. seq.</i>	21
805 ILCS 105/2, <i>et. seq.</i>	21
735 ILCS 5/2-209.1	21
<i>Nixon v. Smith</i> , No. 10 C 1382, 2011 U.S. Dist. LEXIS 82317 (N.D. Ill. July 26, 2011)	21, 22
<i>Hall v. Village of Flossmoor Police Dep't</i> , No. 11-CV-5283, 2012 U.S. Dist. LEXIS 13311 (N.D. Ill. Feb. 1, 2012)	22
<i>Jackson v. Rosemont</i> , 180 Ill. App. 3d 932 (1st Dist. 1988)	22
VI. THE IHSA IS NOT CONTROLLED OR OWNED BY THE GOVERNMENT	23
A. The IHSA's Board of Directors is Independent of Any Public Body	23
<i>Rockford Newspapers, Inc. v. Northern Illinois Council on Alcoholism & Drug Dependence</i> , 64 Ill. App. 3d 94 (2d Dist. 1978)	23
<i>Board of Regents of the Regency Univ. Sys. v. Reynard</i> , 292 Ill. App. 3d 968 (4th Dist. 1997)	23
<i>Breighner v. MHSAA</i> , 471 Mich. 217 (Mich. 2004)	23
<i>Hood v. IHSA</i> , 359 Ill. App. 3d 1065 (2d Dist. 2005)	24, 25
805 ILCS 105/106.5	24
B. The IHSA's Day-to-Day Activities are Conducted by the IHSA's Employees	25

	<i>Hopf v. Topcorp, Inc.,</i> 256 Ill. App. 3d 887 (1st Dist. 1993)	25
C.	The IHSA Does Not Receive Any Public Funding	26
	<i>Brentwood Acad. v. Tenn. Secondary Sch. Ath. Ass'n,</i> 531 U.S. 288 (2001)	26, 27
	<i>Breighner v. MHSAA,</i> 471 Mich. 217 (Mich. 2004)	26, 27
	<i>Hopf v. Topcorp, Inc.,</i> 256 Ill. App. 3d 887 (1st Dist. 1993)	26, 27
	<i>Rockford Newspapers, Inc. v. Northern Illinois Council on</i> <i>Alcoholism & Drug Dependence,</i> 64 Ill. App. 3d 94 (2d Dist. 1978)	27
	<i>Pope v. Parkinson,</i> 48 Ill. App. 3d 797 (4th Dist. 1977)	28
VII.	THE ILLINOIS ATTORNEY GENERAL HAS ALREADY DETERMINED THAT THE IHSA IS NOT A "PUBLIC BODY"	28
	5 ILCS 140/2(a)	28
VIII.	BGA IS NOT ENTITLED TO A DISCOVERY FISHING EXPEDITION...29	
	5 ILCS 140/7(2)	29, 30
	<i>Yuretich v. Sole,</i> 259 Ill. App. 3d 311 (4th Dist. 1994)	29, 30
	<i>Piser v. State Farm Mut. Auto. Ins. Co.,</i> 405 Ill. App. 3d 341 (1st Dist. 2010)	29
IX.	THE TRIAL COURT'S RULING THAT SECTION 7(2) OF FOIA DOES NOT APPLY SHOULD BE AFFIRMED	30
	5 ILCS 140/7(2)	30
	CONCLUSION	30

ISSUES PRESENTED

- I. WHETHER THE TRIAL COURT PROPERLY RULED THAT DEFENDANT ILLINOIS HIGH SCHOOL ASSOCIATION IS NOT A SUBSIDIARY OF A "PUBLIC BODY" SUBJECT TO THE FREEDOM OF INFORMATION ACT, 5 ILCS 140/2(A).
- II. WHETHER THE TRIAL COURT PROPERLY RULED THAT DEFENDANT ILLINOIS HIGH SCHOOL ASSOCIATION DOES NOT PERFORM A GOVERNMENTAL FUNCTION ON BEHALF OF DEFENDANT CONSOLIDATED HIGH SCHOOL DISTRICT 230, AND, AS SUCH, ITS RECORDS ARE NOT SUBJECT TO DISCLOSURE UNDER SECTION 7(2) OF THE FREEDOM OF INFORMATION ACT, 5 ILCS 140/7(2).

STATEMENT OF FACTS

I. PROCEDURAL BACKGROUND AND THE TRIAL COURT'S RULING

On July 23, 2014, Plaintiff Better Government Association ("BGA") filed a one-count Complaint against Defendant Illinois High School Association ("IHSA") and Defendant Consolidated High School District 230 ("District 230") alleging that the Defendants violated the Illinois Freedom of Information Act ("FOIA"). (Supp.R.V1, C0004-154). The allegations of the Complaint derive from a written request issued from BGA to IHSA on June 5, 2014 seeking all of IHSA's contracts for accounting, legal, sponsorship and public relations/crisis communications services and all licensed vendor applications for the 2012-2013 and 2013-2014 fiscal years. (Supp.R.V1, C00149). On the same day that BGA sent its request, IHSA responded that it is a non-profit 501(c)(3) charitable organization based in Bloomington, Illinois and is not subject to FOIA. (Supp.R.V1, C00150). Thereafter, on July 2, 2014, BGA issued a request to District 230 for the same records, purportedly pursuant to Section 7(2) of FOIA, 5 ILCS 140/7(2). (Supp.R.V1, C00151). On July 15, 2014, District 230 responded that it does not have any responsive documents. (Supp.R.V1, C00152).

On April 13, 2015, after hearing oral argument, the trial court granted IHSA's motion to dismiss the Complaint pursuant to 735 ILCS 5/2-619 with prejudice and granted BGA's motion to dismiss pursuant to 735 ILCS 5/2-615 with prejudice. (A-2; A-3). The key bases for the trial court's ruling are as follows: (1) by failing to submit a counter-affidavit, BGA admitted all of the facts in the Affidavit of Martin Hickman ("Hickman's Affidavit") provided by IHSA in support of its motion to dismiss (Supp.R.V3, 00064:13-18); (2) applying the relevant factors considered by Illinois courts, IHSA is not a subsidiary of a public body subject to FOIA under 5 ILCS 140/2(a).

(Supp.R.V3, 00065:1-3); (3) BGA was not entitled to discovery because BGA did not seek any discovery and discovery was not necessary for the trial court to decide IHSA's motion (Supp.R.V3, 00018:1-13; 00020:21-24; 00021:1-11; 00024:9-16; 00029:4-11; 00034:16-21; 00050:10-17); and (4) Section 7(2) of FOIA (5 ILCS 140/7(2)) does not apply because IHSA does not perform a governmental function on behalf of District 230 (Supp.R.V3, 00097:9-24; 00098:1-5). On May 11, 2015, BGA timely filed its notice of appeal. (A-13-A14).

II. THE UNDISPUTED NATURE AND OPERATIONS OF THE IHSA

The following facts are taken from IHSA's publicly available governing documents and Hickman's Affidavit, which have been deemed admitted by the trial court based on BGA's failure to submit a counter-affidavit (Supp.R.V3, 0064:13-18):

A. The IHSA's Purpose and Scope

The IHSA is a private voluntary unincorporated association of over 800 private and public high schools located throughout the State of Illinois. (R.V1, C00154). As stated in Section 1.120 of the IHSA's Constitution, the purpose of the IHSA is to "provide leadership for the development, supervision, and promotion of interscholastic competition and other activities in which its member schools engage." (R.V1, C00172). There are high schools in Illinois that are not members of the IHSA and the IHSA does not govern all sports and extracurricular activities engaged in by its member schools. (R.V1, C00171; 00161-165; 00226-239). The sports and activities governed by the IHSA are listed at <http://ihsa.org/SportsActivities.aspx>. For example, the IHSA does not oversee intramural sports, most club sports, and many other after school programs that are provided by Illinois high schools, or any of its member schools' classroom activities. Moreover, the IHSA does not have any authority over the internal decisions of school

districts or member schools such as whether to hire or fire personnel or discipline a student.

B. The IHSA's Independent Legal Identity

As a voluntary unincorporated voluntary association, IHSA has separate standing to sue and be sued pursuant to 735 ILCS 5/2-209.1. It is a recognized 501(c)(3) charitable organization and is listed by the Illinois Attorney General as a registered Charitable Trust in its database. (R.V1, C00154). The Internal Revenue Service also recognizes the IHSA as a separate legal entity because the IHSA files its own tax returns and has its own Federal Employer Identification Number. (R.V1, C00154-155). Further, the IHSA withholds payroll taxes and other required deductions, and issues W-2 forms annually to its employees. (R.V1, C00155). The building that houses the IHSA's offices at 2715 McGraw Drive, Bloomington, Illinois is solely owned in the IHSA's name. (*Id.*).

C. Sources of Funding for the IHSA

IHSA does not receive any government funding, does not charge member schools any membership fees or dues, and does not charge its members entry fees for events. (R.V1, C00154). Rather, IHSA's revenue is generated from the interscholastic events that it organizes¹ and the sponsorships it receives. (*Id.*). Schools do not donate their facilities to IHSA for events. The IHSA instead contracts with host schools and pays for the use of their facilities, including a minimum guarantee. (R.V2, C00328). The host school and IHSA split any profit in excess of the guarantee. (*Id.*). For example, the IHSA provided a \$2,000 guarantee plus 20% of profits after expenses to the host school

¹The IHSA's only revenue-generating events are state tournament events and sectional and regional tournament contests. IHSA does not organize or derive revenue from regular season contests.

and reimbursed the host school for the cost of officials for the 2013-14 Boys Basketball Class 4A Regional. (*Id.*). IHSA frequently holds events at private schools and did so a total of 289 times during the 2013-14 season.² Taking wrestling for example, in 2015, 4 of 16 events were hosted at private schools. (R.V2, C00327).

D. Governance and Oversight of IHSA

Each year, the IHSA's membership adopts its Constitution, By-laws, Terms and Conditions, and Administrative Procedures, Guidelines and Policies, which are published annually in the IHSA Handbook with Illustrations. (R.V1, C00154; 00158-249; R.V2, C00252-275). Pursuant to Section 1.300 of the IHSA's Constitution, the administrative authority of the IHSA is vested in a Board of Directors made up of ten members elected by the general membership. (R.V1, C00175-176). Each member of the Board must be a principal of a member school. (R.V1, C00175). The Constitution provides for the creation of seven Divisions within the state. (*Id.*). One member of the Board is elected from each of the seven Divisions. (*Id.*). In addition, three members of the Board are elected from the IHSA's membership at-large. (*Id.*). Of those three at-large Directors, one Director must be from a private/non-public school, one seat is reserved for under-represented genders, and the third seat is reserved for racial minorities. (*Id.*).

There is no provision that would prohibit the Board of Directors from consisting of a majority of private/non-public school principals. (R.V1, C00154). Indeed, it is entirely possible that all of the Board members could come from private member schools at any given time. (R.V1, C00155). Of note, Division 1, which contains all of the City of

² This figure excludes football and other single contest events which would be hosted by one of the participants. (compiled from www.ihsa.org).

Chicago schools, is overwhelmingly made up of public schools. (*Id.*). However, the last two elected Board members from Division 1 have been from private schools. (*Id.*).

The Directors are not paid a salary for their service on the Board and are not employees of the IHSA. (*Id.*). Importantly, it is the individual principal who is elected to the Board, not the member school. (*Id.*). If a Board member changes jobs and moves to a different member school, he or she does not lose their seat and is not replaced by the new principal at the member school. (*Id.*). This is true regardless of whether the Board member is moving from a public school to a private school or vice-versa, so long as the new member school is located within the Board member's elected legislative Division if they hold a "districted" seat or so long as he or she continues to meet the requirements for their particular "at-large" seat. (*Id.*). Until the recent expiration of his term, James Quaid was an elected Board member who continued to hold his Board position after changing jobs from Marmion High School to Gordon Tech/DePaul College Prep High School. (*Id.*). Mr. Quaid's Board seat did not pass to the new principal at Marmion. (*Id.*).

Sections 1.700 and 1.900 of the IHSA's Constitution detail the legislative process that is used in creating, amending or repealing provisions of the Constitution and By-laws. (R.V1, C00180-183). This process includes the division of member schools into twenty-one election Districts, with one principal from each District being elected to the Legislative Commission. (R.V1, C00180; Section 1.722 of the Constitution). There are also seven at-large Commission members elected by the general membership, one from each of the seven Divisions, as well as seven athletic administrators elected by the general membership, one from each of the seven Divisions. (*Id.*). There is no requirement that any particular number of the thirty-five Legislative Commission members be from

public schools as opposed to private schools. (R.V1, C00156). As a result, as with the Board, it is possible that the Legislative Commission could consist entirely of members from private schools. (*Id.*).

The IHSA's Constitution and By-Laws also set forth very specific legislative proposal and voting requirements. All changes to the IHSA Constitution and By-Laws proposed by the Legislative Commission require the approval of a majority of member schools. (R.V1, C00182-183; Section 1.920 of the Constitution). Each member school is given the opportunity to vote, whether it is a public or private school. (R.V1, C00156). This allows multiple schools within the same school district the opportunity to cast their own vote on any given issue. (*Id.*). There is nothing that would prevent two member schools within the same school district from casting opposite votes on any proposed amendment to the Constitution or By-laws. (*Id.*).

In addition to the Board of Directors, the IHSA is authorized by its Constitution to employ an Executive Director and other administrative staff as necessary to conduct the business of the association. (R.V1, C00176; Section 1.430 of the Constitution). It is the IHSA's Executive Director and other administrative staff that manage the day-to-day operations of the IHSA. (R.V1, C00155). For example, the IHSA's Executive Director has the "authority and responsibility to investigate and decide all matters concerning eligibility, protests, by-laws or rules," which can then be appealed to the Board. (R.V1, C00177-178).

The IHSA's Executive Director and other administrative staff are not government employees, are not paid from government funds, and are not subject to any state regulations regarding public employees. (R.V1, C00155). Moreover, they are not

eligible for any state or local governmental retirement programs or insurance benefits based on their employment with the IHSA. (*Id.*). They are employees of IHSA, are paid by IHSA, and are provided certain benefits as directed solely by IHSA. (*Id.*). The administrative staff reports to the IHSA's Executive Director. (*Id.*).

E. The Public Access Counselor's Determination that IHSA is Not Subject to FOIA

The Public Access Counselor of the Office of the Illinois Attorney General ("PAC") has previously opined that IHSA is not subject to FOIA. In July 2010, IHSA received a request from an individual seeking the identification of the FOIA officer for IHSA. (R.V1, C00156). The IHSA responded to the individual stating that it did not have a FOIA officer because it does not maintain any public records. (*Id.*). The individual then filed a request for review with the PAC pursuant to 5 ILCS 140/9.5. (*Id.*). Pursuant to FOIA, the PAC issued an opinion to the individual and IHSA on September 29, 2010, specifically finding that: (1) no further action was warranted with respect to the individual's request; (2) IHSA does not fall within the definition of a "public body" under 5 ILCS 140/2(a); and (3) IHSA is not subject to FOIA. (*Id.*; R.V2, C00277).

ARGUMENT

In this appeal, BGA seeks to apply FOIA to the IHSA – a private voluntary association – based on the erroneous premise that the IHSA's oversight of certain high school sports and activities equates to oversight of "education" generally and that the potential presence of some public school principals on the IHSA's Board of Directors automatically transforms the IHSA into a subsidiary of the government. BGA ignores the undisputed facts establishing the limited non-governmental functions of the IHSA, the IHSA's separate legal existence apart from the government, the absence of any public

funding received by the IHSA, and the organizational structure of the IHSA, which provides for full participation in decision-making by its private school members and day-to-day administration by the IHSA's non-governmental employees. The trial court applied these facts to correctly conclude that IHSA is not a subsidiary public body subject to FOIA.

BGA's attempted application of FOIA to IHSA goes far beyond the case law interpreting what constitutes a subsidiary public body, goes far beyond the legislative intent behind FOIA, and would lead to a drastic expansion of the types of entities subject to FOIA. Accordingly, this Court should affirm the trial court's ruling that FOIA does not apply to IHSA.

I. FACTORS CONSIDERED TO DETERMINE WHETHER AN ENTITY IS A SUBSIDIARY OF A PUBLIC BODY UNDER FOIA

FOIA only applies to a "public body," which is defined as "all legislative, executive, administrative, or advisory bodies of the State, state universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees, or commissions of this State, any subsidiary bodies of any of the foregoing..." 5 ILCS 140/2(a). Because BGA concedes that the IHSA does not fall within any of the enumerated definitions in 5 ILCS 140/2(a), the critical issue in this case is whether IHSA is a "subsidiary" of a public body.

The two seminal decisions interpreting the meaning of a subsidiary public body are *Hopf v. Topcorp, Inc.*, 256 Ill. App. 3d 887 (1st Dist. 1993) and *Rockford Newspapers, Inc. v. Northern Illinois Council on Alcoholism & Drug Dependence*, 64 Ill.

App. 3d 94 (2d Dist. 1978).³ These cases apply a three-part test to determine whether an entity is a subsidiary of a public body subject to FOIA:

- 1) whether the entity has a legal existence independent of government resolution;
- 2) the nature of the functions performed by the entity; and
- 3) the degree of government control exerted over the entity.

See Hopf, 256 Ill. App. 3d at 892 (citing *Rockford*, 64 Ill. App. 3d at 96-97). BGA argues that the “amount of financial support of the entity from the government” is a separate factor to be considered. (BGA’s Brief, p. 16). While *Hopf* does not list public funding as a separate factor, the amount of governmental financial support is relevant to the degree of control exercised by the government over an entity. However, regardless of whether it is analyzed as a separate factor or subsumed within the governmental control factor, the undisputed facts demonstrate that the IHSA does not receive any financial support from the government.

In *Rockford*, the court determined that a not-for-profit corporation organized to administer drug and alcohol treatment programs was not a subsidiary public body even though the corporation received 90% of its funding from the government and was “required to comply with numerous government regulations.” 64 Ill. App. 3d at 95. In its analysis, the court found that the organization’s “formal legal nature” as a private corporation and the independence of its board of directors and employees were “extremely significant factors.” *Id.* at 96.

³ Although *Rockford* involved the Open Meetings Act (5 ILCS 120/1, *et. seq.*) instead of FOIA, courts analyze the same factors under both statutes in evaluating whether an entity is a subsidiary of a public body. *See Hopf*, 256 Ill. App. 3d at 893.

In *Hopf*, the court concluded that two for-profit corporations organized by the City of Evanston and Northwestern University to develop a research park were not subsidiary public bodies despite the fact that Evanston appointed half of the board members and paid for the operating expenses of the corporations. 256 Ill. App. 3d at 890-91. As in *Rockford*, the court found it significant that the entities were separately incorporated. *Id.* at 894. The court further found that Evanston did not control the day-to-day operations of the corporations even though it appointed half of the board members. *Id.* Here, as discussed in further detail below, the undisputed facts clearly demonstrate that IHSA is not a subsidiary of its member schools or any other public body because IHSA is formally organized as a non-profit voluntary association that performs private functions, it does not receive any public funding, it has its own independent employees, and its Board of Directors could be comprised primarily or even entirely of principals from private high schools.

Perhaps recognizing that application of the *Hopf* factors weigh in favor of finding that IHSA is not a subsidiary public body, BGA argues that Court should consider an additional factor -- the IHSA's previous unsuccessful attempt to obtain immunity under the Tort Immunity Act (745 ILCS 10/1, *et. seq.*) in *Hood v. IHSA*, 359 Ill. App. 3d 1065 (2d Dist. 2005). (BGA's Brief, p. 18). Yet, as BGA acknowledges, there is no support in the case law for adding this additional factor to the analysis. (Supp.R.V3, 00048:20-24; 00049:1-2.). Moreover, for the reasons set forth in Section III below, it would be fundamentally unfair to use the IHSA's statements in the *Hood* case to find that the IHSA is subject to FOIA given that they do not constitute evidentiary admissions and the

IHSA's legal arguments were rejected in *Hood*, where the court refused to grant the IHSA governmental immunity.

II. THERE IS NO MATERIAL ISSUE OF FACT BECAUSE BGA ADMITTED THE FACTS CONTAINED IN HICKMAN'S AFFIDAVIT

Citing *Piser v. State Farm Mut. Auto. Ins. Co.*, 405 Ill. App. 3d 341 (1st Dist. 2010), the trial court ruled that BGA admitted the facts in Hickman's Affidavit submitted by the IHSA in support of its motion to dismiss because BGA failed to submit a counter-affidavit. (Supp.R.V3, 00064:13-18). The *Piser* Court explained that:

The failure to challenge or contradict supporting affidavits filed with a section 2-619 motion results in an admission of the facts stated therein. Nor may a plaintiff simply rely on the allegations in his own complaint to refute a section 2-619 affidavit. If the defendant satisfies its initial burden of proof on a motion to dismiss based on affirmative matter avoiding the legal effect of a claim, the burden shifts to the plaintiff to show that the defense is unfounded or requires the resolution of an essential element of material fact before it is proven. In order to refute evidentiary facts contained in the defendant's supporting affidavits, the plaintiff must provide a counteraffidavit. If the plaintiff fails to do so, the facts of the defendant's affidavits are deemed admitted. *Id.* at 352-353 (internal citations omitted).

BGA makes several arguments in an attempt to escape the import of its factual admissions, each of which is without merit. First, BGA argues that Hickman's Affidavit was improper because it only denied the facts alleged in the Complaint. (BGA's Brief, p. 23). However, rather than denying facts, the trial court found that Hickman's Affidavit provided affirmative evidence and explanations regarding the IHSA's private nature, functions, and operations that refuted the mere legal conclusions contained in the Complaint. (Supp.R.V3, 00029:19-24; 00030:1-3; 00041:1-6). This is a proper purpose for an affidavit submitted in support of a Rule 2-619 motion. *See Glisson v. City of Marion*, 188 Ill. 2d 211, 220 (1999) ("The phrase 'affirmative matter' refers to something in the nature of a defense that negates the cause of action completely or refutes crucial

conclusions of law or conclusions of material fact contained in or inferred from the complaint.”).

Second, BGA argues that Hickman’s Affidavit is insufficient because it only addressed the separate legal existence and government support factors. (BGA’s Brief, p. 23). As an initial matter, BGA waived any objections to the sufficiency of Hickman’s Affidavit because BGA did not object or seek to strike the affidavit in the trial court proceedings. *See Forest Preserve Dist. of Du Page County v. First Nat’l Bank of Franklin Park*, 401 Ill. App. 3d 966, 975 (2d Dist. 2010) (“A reviewing court will not consider arguments not presented to the trial court.”). Even if BGA’s argument is not considered waived, a plain reading of the affidavit demonstrates that the affidavit also addresses how the IHSA’s Board and Legislative Committee are elected and the day-to-day running of the IHSA’s operations by its own employees. (R.V1, C00154-156). These facts are relevant to the degree of governmental control factor. Further, the IHSA’s Constitution and By-laws submitted in support of its motion (and attached to BGA’s Complaint) provide the undisputed factual basis supporting IHSA’s argument that it performs limited non-governmental functions on behalf of its member schools.

III. IHSA DID NOT MAKE EVIDENTIARY ADMISSIONS IN THE HOOD CASE

Third, BGA contends that it was not required to submit a counter-affidavit because the Complaint relied on IHSA’s alleged “evidentiary admissions” in the *Hood* case. In *Hood*, IHSA argued that since the Seventh Circuit has deemed IHSA a “state actor” for purposes of civil rights laws, the IHSA should also enjoy the same immunities as other governmental actors under the Local Government and Governmental Employees

Tort Immunity Act, 745 ILCS 10/2-109 (“Tort Immunity Act”). Notably, the IHSA lost this argument and the *Hood* Court declined to extend the Tort Immunity Act to IHSA.

The trial court properly found that arguments made by the IHSA in *Hood* contending that it “conducted public business” and was owned and controlled by local governmental entities were legal arguments and not factual admissions. (Supp.R.VIII, 00041:1-6; 64:19-22). See, e.g., *Premier Electrical Constr. Co. v. La Salle Nat'l Bank*, 132 Ill. App. 3d 485, 495 (1st Dist. 1984) (“Although the allegation of the existence of a subcontract of a particular scope might appear upon first impression to be an allegation of ‘fact,’ it is more properly an allegation of a legal conclusion, since it is the province of the trial court to determine, based upon properly admitted evidence, the existence and terms of a contract between the parties.”); *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397-398 (1st Dist. 1990) (allegation in plaintiff’s complaint that lease agreement was canceled was a legal conclusion and not a binding admission of fact). Similarly, here, it was within the province of the trial court to determine based on the evidence whether the IHSA performs private or public functions and whether the IHSA is owned or controlled by governmental bodies.

Furthermore, the IHSA’s position in *Hood* is not inconsistent with its present position. As demonstrated by *Breighner v. MHSAA*, 471 Mich. 217 (Mich. 2004), the question of whether the IHSA is a “state actor” for purposes of federal civil rights laws is entirely distinct from the question of whether the IHSA is a subsidiary of a “public body” under FOIA’s enumerated definitions. In *Breighner*, the Michigan High School Athletic Association was found not to be subject to Michigan’s FOIA even though it had previously been ruled a “state actor” for constitutional law purposes. The *Breighner*

court explained that “it is possible for MHSAA to be a state actor under § 1983 and the Fourteenth Amendment without being a ‘public body’ under the FOIAThe Legislature was free to define ‘public body’ in the FOIA as narrowly or broadly as it wished.” *Id.* at 228, n.3. Likewise, the IHSA’s acknowledgement that it is a state actor for purposes of Section 1983 and its unsuccessful argument that it should therefore be entitled to immunity under the Tort Immunity Act does not contradict its position that it is not subject to FOIA and cannot be used as evidentiary admissions against it.

Moreover, legislative action taken after the *Hood* case supports a finding that IHSA is not a subsidiary of a public body. Subsequent to the holding in *Hood* that the IHSA was not a governmental entity entitled to immunity under the Tort Immunity Act, the Illinois legislature passed the Interscholastic Association Defamation Act (745 ILCS 54/1, *et seq.*). Instead of amending the Tort Immunity Act to include IHSA and similar organizations under the definition of “local public entity,” the legislature passed a limited, separate act providing the IHSA with immunity from defamation alone. Such legislation evidences the legislature’s intent to consider IHSA as an entity that is separate from the government. Moreover, it is illogical that the IHSA could be declared a “public body” under FOIA and at the same time not be afforded general immunity as a local public entity under the Tort Immunity Act.

Alternatively, should the Court construe the IHSA’s statements in *Hood* as evidentiary admissions, these statements are not binding and have been further explained by Hickman’s Affidavit and other supporting documents submitted by IHSA to establish that it is not a subsidiary public body. *See Garland v. Sybaris Club Int’l, Inc.*, 2014 IL

App (1st) 112615, ¶ 81 (“An evidentiary admission may be controverted or explained by the party.”) (internal citation omitted).

IV. IHSA DOES NOT PERFORM GOVERNMENTAL FUNCTIONS

A. BGA Mischaracterizes the Bases for the Trial Court’s Ruling

Contrary to BGA’s contention, the trial court did not base its ruling on a finding that education is not a governmental function. (BGA’s Brief, p. 22). This is a red herring that should be disregarded. Instead, the trial court correctly recognized that not every entity that provides services to schools or participates in some aspect of the educational process is a subsidiary of a public body and the fact that a function might be carried out by a governmental entity in certain instances does not make it a “governmental function”.

As the trial court explained:

In terms of the nature of [IHSA’s] functions, yes, perhaps those could be governmental functions. They could be done by government, perhaps in some states they are. But, you know, education is done by private and public entities, that doesn’t make everybody who does education a public actor subject to FOIA. As we all know there are private schools. And there are, as I indicated, a number of private organizations that support the public and private schools and it does not make them all governmental actors. (Supp.R.V3, 00065:6-17) (emphasis added).

The trial court further stated: “This is a function that could be done, as I’ve said now probably five times, by a public entity or it could be done by a private, not-for-profit association. And [in] this case [it] is being done by a private, not-for-profit association for the benefit of both public and private schools . . .” (Supp.R.V3, 00097:18-24).

B. Athletics are Not Equivalent to Education

BGA’s argument on this point is fundamentally flawed because it conflates the IHSA’s oversight of interscholastic athletic competition with oversight of “education.” Courts in Illinois and elsewhere throughout the country have consistently distinguished

athletics from education and held that the right to education does not include any right to participate in sports. *Jordan by Edwards v. O'Fallon Twp.*, 302 Ill. App. 3d 1070, 1076 (5th Dist. 1999) (“Students can need, want, and expect to participate in interscholastic athletics, but students are not entitled to participate in them. Football is neither an integral part of a quality education nor a requirement under any rule or regulation governing education in this State.”); *Proulx v. Illinois High School Ass’n*, 125 Ill. App. 3d 781, 786 (4th Dist. 1984) (“[T]he relationship of education to athletics is far from clear. If the ‘right’ is to find a basis for protection, it must be on due process of law... We believe that the better reasoned authorities find no such interests.”); *Kulovitz v. Illinois High School Ass’n*, 462 F. Supp. 875, 878 (N.D. Ill. 1978) (“The educational process is a broad and comprehensive concept with a variable and indefinite meaning. It is not limited to classroom attendance but includes innumerable separate components, such as participation in athletic activity and membership in school clubs and social groups . . . We do not read [the Supreme Court’s decision in *Goss v. Lopez*, 419 U.S. 565 (1975)] to establish a property interest subject to constitutional protection in each of these separate components.”) (citing *Albach v. Odle*, 531 F.2d 983, 985 (10th Cir. 1976)). Therefore, although sports may “provide enrichment to the educational experience,” as established by the authority cited above, interscholastic athletics and other activities are not equivalent to education itself. (R.V1, C00172).

BGA’s attempt to characterize the IHSA’s rules as “pervasive” in the lives of Illinois high school students also misses the mark because the IHSA’s functions are quite limited. (BGA’s Brief, pp. 6-9). The IHSA simply provides the framework and rules for participation in the activities it oversees. Just as rules of competition are inherent to

participation in a sport (and indeed reflect the participants' agreement on what rules to play under), the IHSA's various rules are simply the agreed upon rules of participation which can easily be avoided by choosing not to play. No one would consider the rule-making authorities for the game of baseball to be governmental entities by virtue of the fact that schools field baseball teams and agree to follow their rules; the IHSA's rules are no different. Individual member schools run and supervise their own teams. Moreover, there are numerous student activities such as club sports and other extracurricular programs that are not governed by IHSA. The IHSA also does not control the internal decisions of school districts or schools relating to education, such as staffing decisions or student discipline. Thus, while IHSA can establish coaching qualifications and bar teachers or others from coaching an IHSA event for violation of the rules, that bar only extends to the IHSA related events. Similarly, the IHSA has no say in student discipline other than as it pertains to eligibility for events the IHSA oversees. It cannot suspend a student, fire a teacher, or prevent them from teaching in the classroom or engaging in any other activities at the school.

C. The IHSA's Functions are Private in Nature

Further, the functions performed by the IHSA – *i.e.*, organization of sports and activities – are not functions that are typically performed by the government. “Black's Law Dictionary defines ‘governmental function’ as ‘a government agency's conduct that is expressly or impliedly mandated or authorized by constitution, statute, or other law and that is *carried out for the benefit of the general public.*’” *Barry v. Ret. Bd.*, 357 Ill. App. 3d 749, 779-780 (1st Dist. 2005) (quoting Black's Law Dictionary 704 (7th ed. 1999)) (emphasis in original). *See also Brugger v. Joseph Academy, Inc.*, 202 Ill. 2d 435, 438 (2002) (under the Tort Immunity Act, “‘public business’ requires the pursuit of an

activity that benefits the entire community without limitation.") (citations omitted). The IHSA's limited functions are not carried out for the benefit of the general public, but only apply only to participants. While the public might have an interest in those activities (*i.e.*, because their child participates or as a matter of civic pride), that interest does not convert the IHSA's activities to government functions.

Nor are the IHSA's functions "so intimately related to the public interest as to mandate performance by Government employees." *Martin v. Halliburton*, 601 F.3d 381, 384 (5th Cir. 2010) (defining "governmental function" pursuant to an Army regulation). In fact, the functions performed by IHSA are often performed by private entities having no nexus to governmental entities. Examples of such private leagues and associations abound at both the amateur and professional level, including private governing bodies, such as USA Volleyball (www.teamusa.org/USA-Volley), USA Hockey (www.usahockey.com), Little League (www.littleleague.org), the National Football League, Major League Baseball, and NASCAR, all of which are non-governmental entities. Given that the IHSA's role in organizing and regulating athletics is the same as the role played by those purely private organizations, the IHSA's functions are not governmental in nature. Furthermore, the IHSA's employees who govern the daily administration of the IHSA indisputably are not government employees. (R.V1, C00155).

The United States Supreme Court has recognized that even though the National Collegiate Athletic Association ("NCAA") developed various rules and had the authority to sanction its members, no governmental function had been transferred from the public body to the NCAA and the NCAA did not enjoy any "governmental powers." *NCAA v.*

Tarkanian, 488 U.S. 179, 196-97 (1988). The NCAA performs exactly the same non-governmental functions in organizing and regulating athletic competition at the collegiate level as the IHSA does for high school athletics in Illinois. At least one court has held that records of the NCAA “are not generally subject to public disclosure.” *NCAA v. AP*, 18 So. 3d 1201, 1204 (Fla. Dist. Ct. App. 2009). The same should be true for an organization such as the IHSA that merely organizes sports and activities for high schools.

As the trial court recognized, BGA’s argument would set a dangerous precedent whereby any private organization that provides services to public schools could be construed as performing a government function and therefore deemed subject to FOIA. (Supp.R.V3, 00060:13-24; 00061:1-14). The legislature could not have intended FOIA to apply to voluntary organizations that provide after school reading programs or a for-profit corporation that provides school lunches. In *Rockford*, the court specifically cautioned against such an interpretation of the Open Meetings Act:

Governmental bodies normally contract with private companies to perform services for the public welfare, and these contracts often involve a delegation of some statutory duties to the private party. For governments to insist upon a voice in the general manner in which these services are carried out is not only normal but may be part of their responsibilities to their constituents. Such general supervision does not transform the supervised company into a subsidiary of the government. Nor does the fact that the private company’s acts may be connected with a governmental function create a public body where none existed before. If it were to do so most parties contracting with the State would be subsidiaries. 64 Ill. App. 3d at 97 (emphasis added).

See also *Mental Health Am. v. Ill. Dep’t of Healthcare*, 2012 IL App (1st) 112785-U, ¶ 19 (“[T]he mere delegation of some duties to a private party does not render an entity a ‘public body.’”). For the same reasons, the tangential relationship between education and

the IHSA's oversight of athletic competition does not transform the IHSA into a public body.

V. THE IHSA HAS AN INDEPENDENT LEGAL EXISTENCE

Next, in determining whether an entity is a subsidiary of a public body, courts must analyze whether the entity has a "formal legal nature" distinct from any public body. *Rockford*, 64 Ill. App. 3d at 96; *Hopf*, 256 Ill. App. 3d at 894. *See also Pope v. Parkinson*, 48 Ill. App. 3d 797, 799 (4th Dist. 1977) (finding that committee appointed to advise the university's chancellor was not a public body "because it is not formally appointed by, or accountable to, any public body of the State. . . . No statute creates the Committee or defines the limits of its authority."). BGA admits that the IHSA was not created by a state statute or any directive of a local governmental entity or public body. As this Court previously recognized, the IHSA "is a voluntary, non-profit, *private* association made up [of] more than 700 [now more than 800] Illinois public and private high schools located throughout the State." *See Mount Carmel High Sch. v. IHSA*, 279 Ill. App. 3d 122, 123 (1st Dist. 1996) (emphasis added).⁴

In addition, it is undisputed that IHSA has an independent legal existence separate and apart from its member schools because it has separate standing to sue and be sued. *See* 735 ILCS 5/2-209.1 ("A voluntary unincorporated association may sue and be sued in its own name, and may complain and defend in all actions."). In *Nixon v. Smith*, No.

⁴ The entities at issue in the *Hopf* and *Rockford* cases involved corporations organized under the Illinois Business Corporation Act (805 ILCS 5/1, *et. seq.*) and a not-for-profit corporation organized under the General Not for Profit Corporation Act (805 ILCS 105/2, *et. seq.*), respectively. However, the same rationale used by the courts in those cases to find that the entities were not public bodies subject to FOIA also applies here. Namely, like a corporation, the IHSA has standing to sue and be sued, its own Constitution and By-laws, separate tax status, and recognition as a 501(c)(3) charitable organization and Charitable Trust, thereby having a "formal legal nature" separate from any public body.

10 C 1382, 2011 U.S. Dist. LEXIS 82317, at *5 (N.D. Ill. July 26, 2011), the court explained that “[u]nder Illinois law, a party to litigation must have a legal existence, either natural or artificial to sue or be sued.” The court further found that “[a]s a general matter, departments within a governing unit lack the requisite separate legal existence to be sued. . . . On the other hand, if pursuant to statute the defendant operates under its own control and authority, it will be considered a separate suable entity.” *Id.* at *6 (internal citations and quotations omitted). *See also Hall v. Village of Flossmoor Police Dep’t*, No. 11-CV-5283, 2012 U.S. Dist. LEXIS 13311, at *5 (N.D. Ill. Feb. 1, 2012) (holding that a police department has no separate legal existence from the municipality it served); *Jackson v. Rosemont*, 180 Ill. App. 3d 932, 937-38 (1st Dist. 1988) (holding that a stadium owned and operated by a municipality was not separate from the municipality). As an entity with the independent capacity to sue or be sued, the IHSA is not a mere division, department, or “subsidiary” of its member schools or any public body, and thus has a separate legal existence.

IHSA is also recognized as a 501(c)(3) charitable organization, and the Illinois Attorney General Secretary of State shows IHSA as a registered Charitable Trust in its database. (R.V1, C00154). The IRS recognizes the IHSA as a separate legal entity because it files its own tax returns and has its own Federal Employer Identification Number. (R.V1, C00154-155). IHSA withholds payroll taxes and other required deductions, and issues W-2 forms annually to its employees. (R.V1, C00155). IHSA also owns its headquarters building solely in its own name. (*Id.*). The above is further evidence that the IHSA has a separate legal existence, independent from its member schools or any public body.

Contrary to BGA's contention, the IHSA is not a creation of the government simply because certain Illinois statutes mention IHSA. (BGA's Brief, pp. 24-26). Many industries and professions are governed by statute in Illinois, including insurance companies, attorneys, and doctors. Statutes recognizing or imposing duties on these industries or professionals do not make them public bodies subject to FOIA. *See Rockford*, 64 Ill. App. 3d at 95 (entity that was "required to comply with numerous government regulations" was found not to be a subsidiary of a public body). Indeed, if the IHSA was considered by the legislature to be a subsidiary public body, then it could be more easily governed through the regulatory process rather than through the passage of multiple statutes outlining how it should carry out various responsibilities.

VI. THE IHSA IS NOT CONTROLLED OR OWNED BY THE GOVERNMENT

A. The IHSA's Board of Directors is Independent of Any Public Body

The independence of an entity's board of directors and employees are "extremely significant factors" in analyzing whether an entity is under direct governmental control such that it meets the definition of a subsidiary public body subject to FOIA. *Rockford*, 64 Ill. App. 3d at 96. *See also Board of Regents of the Regency Univ. Sys. v. Reynard*, 292 Ill. App. 3d 968, 977 (4th Dist. 1997) (characterization of an entity as a "public body...depends primarily upon organizational structure"); *Breighner*, 471 Mich. at 224 (Michigan High School Athletic Association was not a "public body" subject to Michigan's version of FOIA in part because the Association was governed by its board of directors and not the individual member schools).

Hickman's Affidavit establishes that the IHSA is not owned or controlled by public schools. First, as a not-for-profit organization, the IHSA does not have any

owners.⁵ *See, e.g.*, 805 ILCS 105/106.5 (Not-for-profit corporation shall not issue shares and no dividend, property or part of the money or assets shall be paid to members). Nor do the IHSA's members have any economic rights in the event the IHSA is dissolved. The members' only rights exist by virtue of the IHSA's Constitution and By-laws, which each private and public member school adopts as its own. (R.V1, C00173-174).

Second, BGA's assertion that the IHSA is subject to government control simply because a majority of IHSA's membership is comprised of public schools is unfounded. It is critical that individual principals are elected to the Board, not any particular member school or school district. (R.V1, C00155). As such, an elected Board member can change jobs during his or her tenure so long as the person continues to meet the requirements of his or her seat. (*Id.*). While the Board is responsible to the membership, the Board does not report back to and is not beholden to any particular school or district. In other words, Board members are autonomous and act in an individual capacity. The *Hood* court placed great emphasis on the fact that the IHSA is "controlled by a Board that is chosen from member schools (not school districts) from across the state, not by units of local government." *Hood*, 359 Ill. App. 3d at 1070.

Moreover, private schools are afforded the opportunity to fully participate in the governance of the IHSA. Each school, whether private or public, has a vote to elect the Executive Board. While there is a requirement that at least one Board member be from a private school, there is no limit on the number of Board members who come from private

⁵ To the extent IHSA argued in *Hood* that it was owned by its member schools, such argument was clearly legally inaccurate, providing further support that IHSA's unsuccessful arguments in that case were legal in nature and not binding factual admissions.

member schools as opposed to public schools. (R.V1, C00175; 00154-155). As such, there is no provision that would prohibit the majority or even all of the Board or Legislative Committee from consisting of principals from private schools. (R.V1, C00154-155). *See Hood*, 359 Ill. App. 3d at 1070 (“[A]lthough public schools form the bulk of the IHSA’s membership, private schools still make up a significant portion of the organization and may play a key role in its decision making...”). Under the Constitution, all schools – both public and private – have the right to vote on any proposed changes to the Constitution or By-laws. (R.V1, C00156). The foregoing undisputed facts belie BGA’s conclusory assertion that the presence of some public school principals on the Board means that the government is controlling the IHSA.

B. The IHSA’s Day-to-Day Activities are Conducted by the IHSA’s Employees

Additionally, there is no “day-to-day supervision” over the IHSA by the government as BGA contends. (BGA’s Brief, p. 17). BGA’s unsupported conclusion is directly contradicted by Hickman’s Affidavit, which establishes that the day-to-day decisions are made by the IHSA’s Executive Director and administrative staff, all of which are IHSA employees, and not the employees of any school or school district. (R.V1, C00155). In this case, as in *Hopf*, the IHSA has “full control over its employees and has the right to dismiss them and to hire additional employees,” the IHSA’s employees are paid out of the IHSA’s funds, they are not subject to state regulations regarding public employees, and they are not eligible for state retirement or insurance benefits. 256 Ill. App. 3d at 890. Accordingly, there is no “direct government control” over the IHSA’s operations.

C. The IHSA Does Not Receive Any Public Funding

BGA cites *Brentwood Acad. v. Tenn. Secondary Sch. Ath. Ass'n*, 531 U.S. 288 (2001) for the proposition that the IHSA receives governmental financial support because it holds competitions at public school facilities and receives money via ticket sales and sponsorships. (BGA's Brief, p. 24). However, the undisputed record establishes that the IHSA does not receive any public funding. The IHSA does not charge any dues to its member schools⁶ and it does not charge schools any entry fees to its events. (R.V1, C00154). Also, schools do not donate their facilities to the IHSA. IHSA contracts with host schools and compensates them for the use of their facilities by providing a minimum guarantee and splitting any profit in excess of the guarantee. (R.V2, C00328). As the trial court observed, the IHSA is no different than any other organization that rents space to hold events in schools. (Supp.R.V3, 00025; "But schools do all – make their facility available to all sorts of organizations without charging market rent. And I do not believe that turns all of the organizations into governmental actors."). The IHSA also holds many events that are hosted at private schools – 289 times during the 2013-14 season.

Brentwood is distinguishable because, unlike the IHSA, the Tennessee athletic association received dues from its member schools. *Brentwood* is further distinguishable because the association's employees were eligible to participate in the state's retirement system. 531 U.S. at 290-291, 299. Cf *Breighner*, 471 Mich. at 227 (finding that, like here, the Michigan high school association was not a recipient of public funding because it did not charge dues to schools and it paid fees for using host facilities); *Hopf*, 256 Ill.

⁶ The IHSA Constitution permits the IHSA to charge membership dues, but the uncontroverted evidence establishes that it does not do so.

App. 3d at 897 (finding that corporations were not subsidiaries of a public entity subject to FOIA, in part because Evanston sold land to the corporation instead of donating it). In contrast to *Brentwood*, the IHSA's member schools are not "giv[ing] up sources of their own income to their collective association." 531 U.S. at 299. The IHSA undertakes the financial risk and provides a guarantee to host schools regardless of the revenue generated. It is only through the IHSA's administration that schools are able to collectively compete in such events. *See Breighner*, 471 Mich. At 228-29 ("Without the MHSAA's *leadership* and organizational effort, no revenue from tournament games would be generated for any entity, including MHSAA member schools. In short, MHSAA creates its own 'market' and revenue therefrom that would otherwise not exist without its effort.").

Furthermore, under Illinois law, an entity may receive government funds and still not be considered a "public body" subject to FOIA. For example, in *Hopf*, the court found that the corporations formed by the City of Evanston and Northwestern were not subsidiaries of public bodies subject to FOIA even though their operating expenses were paid for by the government. 256 Ill. App. 3d at 891. In *Rockford*, the entity's receipt of 90% of its funding from the government was found to be insufficient to characterize it as a public body. 64 Ill. App. 3d at 95. If entities like those at issue in *Hopf* and *Rockford* are not subject to FOIA despite their receipt of significant government funds, then the IHSA, which receives no public funds at all and is functioning without governmental control, clearly cannot be subject to FOIA.

Finally, in analyzing whether an entity receives public funds, courts have considered whether the dismissal of the entity's committee members would impact the

public tax burden. *See Pope*, 48 Ill. App. 3d at 799 (no public funding received because “[i]n the event of such a dismissal [of a committee member], the public tax burden will be neither increased nor decreased.”). Here, the removal of a member of the Board of Directors or an IHSA employee would not impact the public tax burden because Board members do not receive any compensation and IHSA employees are paid only from IHSA funds generated through ticket sales and sponsorships. (R.V1, C00155).

VII. THE ILLINOIS ATTORNEY GENERAL HAS ALREADY DETERMINED THAT THE IHSA IS NOT A “PUBLIC BODY”

On September 29, 2010, the PAC issued an opinion to an individual who sought administrative review after the IHSA denied his FOIA request. The PAC specifically found that the IHSA does not fall within the definition of a “public body” contained in 5 ILCS 140/2(a) and that the IHSA is not subject to FOIA. (R.V1, C00156; R.V2, C00277). Although it is not binding on the court, the PAC’s September 29, 2010 opinion should be considered persuasive authority and the IHSA reasonably relied on this opinion in denying BGA’s FOIA request.

First, the nature of the IHSA’s business and the interscholastic activities that it organizes for its member schools have not changed from September 2010 to the present. The IHSA continues to carry out the same functions and has substantially the same organizational structure and Constitution today as it did in September 2010. The IHSA did not receive public funds in September 2010 and it does not receive public funds presently. The IHSA did not meet the definition of a “public body” as defined in Section 2(a) of FOIA in September 2010 and it continues not to meet that definition today. As a result, there have been no changes in the IHSA’s business from September 2010 to the present that would change the FOIA analysis.

Second, the IHSA was entitled to rely in good faith on the PAC's opinion in responding to BGA's request for information as the opinion was not limited to a particular set of records or facts. Rather, the opinion stated unequivocally that the IHSA did not meet the definition of a "public body" under FOIA and was therefore not subject to FOIA. Thus, IHSA relied on the opinion in good faith in responding to BGA's FOIA request.

VIII. BGA IS NOT ENTITLED TO A DISCOVERY FISHING EXPEDITION

BGA argues that dismissal of its Complaint was inappropriate because it was entitled to discovery. Again, BGA mischaracterizes the trial court's ruling. The trial court did not generally state that no discovery should be allowed in a FOIA case as a matter of policy. (BGA's Brief, p. 11). Instead, the trial court indicated that BGA waived this issue here because it never served discovery on IHSA or otherwise indicated during the briefing on the motion to dismiss that discovery was necessary to respond to Hickman's Affidavit. (Supp.R.V3, 00018:1-10; 00050:10-17).

The trial court also found that discovery would be futile because it already had sufficient factual information to decide the motion. (Supp. R.V3, 00034:16-24). *See Yuretich v. Sole*, 259 Ill. App. 3d 311, 317 (4th Dist. 1994) ("A discovery request may properly be quashed where the trial court has before it sufficient information upon which to decide defendant's motion to dismiss."). Not only did the court have enough facts to decide IHSA's motion, the facts presented by IHSA were undisputed and deemed admitted because BGA did not submit a counter-affidavit. *See Piser*, 405 Ill. App. 3d at 352-53.

When questioned by the trial court during oral argument, BGA could not articulate how discovery could possibly assist in demonstrating that IHSA is a subsidiary

public body pursuant to FOIA. (Supp. R.V3, 00020:21-24; 00021:1-24; 00022:1-16; 00037:20-24). "A plaintiff must possess a minimum level of information indicating defendant is liable to him before he commences litigation and forces defendant to undergo discovery. Otherwise plaintiff is engaged in a 'fishing expedition,' a recognized form of litigation abuse. . . It is no justification that a fishing expedition might result in worthwhile information; the possibility of success must be sufficient to justify the inconvenience or expense to the opponent." *Yuretich*, 259 Ill. App. 3d at 316-17.

Moreover, much of the information explained in Hickman's Affidavit is set forth in IHSA's Constitution and By-laws, which are publicly available through the IHSA's website. As such, the trial court did not err in granting the motion to dismiss prior to allowing discovery because the facts are not exclusively within the knowledge of IHSA. (*Id.* at 317).

IX. THE TRIAL COURT'S RULING THAT SECTION 7(2) OF FOIA DOES NOT APPLY SHOULD BE AFFIRMED

The IHSA adopts and incorporates the arguments made by District 230 in its Appellate Brief and requests that the Court affirm the trial court's determination that IHSA does not perform a governmental function on behalf of District 230 and Section 7(2) of FOIA (5 ILCS 140/7(2)) does not apply to the IHSA's records.

CONCLUSION

WHEREFORE, Defendant-Appellee, Illinois High School Association, respectfully prays that this Court affirm the trial court's orders granting its Rule 2-619 motion to dismiss with prejudice and granting Defendant-Appellee, Consolidated School District 230's, Rule 2-615 motion to dismiss with prejudice.

November 6, 2015

Respectfully submitted,

By: Melanie Chico
One of the Attorneys for Defendant-
Appellee, Illinois High School
Association

David J. Bressler – ARDC #6182549
Melanie J. Chico – ARDC #6294469
DYKEMA GOSSETT PLLC
4200 Commerce Court, Ste. 300
Lisle, Illinois 60532
(630) 245-0400

No. 1-15-1356

**IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT**

BETTER GOVERNMENT ASSOCIATION,

Plaintiff-Appellant,

v.

ILLINOIS HIGH SCHOOL ASSOCIATION,
CONSOLIDATED HIGH SCHOOL
DISTRICT 230,

Defendants-Appellees.

Appeal from the Circuit Court of
Cook County, Illinois, Chancery
Division

Circuit Court No. 14 CH 12091

The Honorable Mary Lane Mikva,
Judge Presiding

CERTIFICATE OF DEFENDANT-APPELLEE

I certify that this Brief conforms to the requirements of Rules 341(a) and (b). The length of *Defendant-Appellee Illinois High School Association's Brief and Argument* is 31 pages.

Respectfully submitted,

By: Melanie Chico
One of the Attorneys for Defendant-
Appellee, Illinois High School
Association

David J. Bressler – ARDC #6182549
Melanie J. Chico – ARDC #6294469
DYKEMA GOSSETT PLLC
4200 Commerce Court, Ste. 300
Lisle, Illinois 60532
(630) 245-0400
CHICAGO\4609318.4
ID\MJMI - 111213\000003

No. 15-1356

IN THE
APPELLATE COURT OF ILLINOIS
FOR THE FIRST DISTRICT

Better Government Association,

Plaintiff-Appellant,

v.

**Illinois High School Association;
Consolidated High School District
230,**

Defendants-Appellees.

Appeal from the Circuit Court
of Cook County, Illinois, Chancery
Division

No. 2014 CH 12091

The Honorable Mary L. Mikva,
Presiding

**BRIEF OF DEFENDANT-APPELLEE
CONSOLIDATED HIGH SCHOOL DISTRICT NO. 230**

Vanessa V. Clohessy—6206288
Jeffrey C. Goelitz—6292892
Hodges, Loizzi, Eisenhammer, Rodick & Kohn LLP
3030 Salt Creek Lane, Suite 202
Arlington Heights, Illinois 60005
Tel: 847-670-9000
Fax: 847-670-7334
vclohessy@hlerk.com
jgoelitz@hlerk.com

ORAL ARGUMENT REQUESTED

No. 15-1356

IN THE
APPELLATE COURT OF ILLINOIS
FOR THE FIRST DISTRICT

Better Government Association,

Plaintiff-Appellant,

v.

**Illinois High School Association;
Consolidated High School District
230,**

Defendants-Appellees.

Appeal from the Circuit Court
of Cook County, Illinois, Chancery
Division

No. 2014 CH 12091

The Honorable Mary L. Mikva,
Presiding

**BRIEF OF DEFENDANT-APPELLEE
CONSOLIDATED HIGH SCHOOL DISTRICT NO. 230**

Vanessa V. Clohessy—6206288
Jeffrey C. Goelitz—6292892
Hodges, Loizzi, Eisenhammer, Rodick & Kohn LLP
3030 Salt Creek Lane, Suite 202
Arlington Heights, Illinois 60005
Tel: 847-670-9000
Fax: 847-670-7334
vclohessy@hlerk.com
jgoelitz@hlerk.com

ORAL ARGUMENT REQUESTED

POINTS AND AUTHORITIES

I.	ISSUES PRESENTED FOR REVIEW	1
II.	STATEMENT OF FACTS	1
III.	STANDARD OF REVIEW.....	2
	• <i>Oliveira v. Amoco Oil Co.</i> , 201 Ill. 2d 134 (2002).....	2
	• <i>People v. Johnson</i> , 208 Ill. 2d 118 (2003).....	2
IV.	ARGUMENT	2
	• 5 ILCS 140/7(2)	3-4
	• 5 ILCS 140/2, 3, 7.5	3
	A. The outsourcing rule only applies to “public records” in someone else’s possession, which is not the case here.....	4
	• <i>People v. Chenoweth</i> , 2015 IL 116898.....	4-5, 7
	• <i>State Farm Mutual Auto. Ins. Co. v. Univ. Underwriters Group</i> , 182 Ill. 2d 240 (1998).....	5
	• <i>People v. Olsson</i> , 2011 IL App (2d) 091351	5
	• <i>Beecher Med. Ctr., Inc. v. Turnock</i> , 207 Ill. App. 3d 751 (1 st Dist. 1990).....	5, 6-7
	• <i>City of Champaign v. Madigan</i> , 2013 IL App (4th) 120662.....	5
	• <i>Quinn v. Stone</i> , 211 Ill. App. 3d 809 (1 st Dist. 1991)	5
	• Illinois Public Act 96-0542	6
	• 5 ILCS 140/2, 3.....	6, 7
	B. District 230 has not contracted with the IHSA to perform a governmental function.....	8
	• <i>Demos v. Pappas</i> , 2011 IL App (1st) 100829	8
	• Black’s Law Dictionary (7th ed.1999)	8
	• Pub. Access Op. 13-018.....	9
	• Pub. Access Op. 13-012.....	10
	• Pub. Access Op. 14-005	10
	• Ill. Const. 1970, art. X, § 1	8

• Illinois <i>School Code</i> , 105 ILCS 5/1-1, <i>et seq.</i>	8
• Ill. Admin. Code tit. 23.....	8
• 105 ILCS 5/27-24.2.....	8
• 105 ILCS 5/27-12.....	8
• 105 ILCS 5/27-22(e).....	9
• 105 ILCS 5/27-6	9
• 105 ILCS 110/3.....	9
• 105 ILCS 5/27-3	9
• 105 ILCS 5/27-13.3	9
• 105 ILCS 5/27-13.2	9
• 105 ILCS 5/27-23.3.....	9
C. Even if the IHSA is performing a governmental function, it is not doing so “on behalf of” District 230.	11
• Garner’s Dictionary of Legal Usage (3 rd ed. 2011)	11
D. The IHSA records that were requested by the BGA are not “directly related” to a governmental function performed for District 230.	13
• <i>People v. Chenoweth</i> , 2015 IL 116898.....	13
• <i>Hood v. IHSA</i> , 359 Ill. App. 3d 1065 (2 nd Dist. 2005)	14
E. If the Court determines that the IHSA <i>is</i> subject to FOIA, District 230 should not be obligated to obtain records the BGA could obtain directly from the IHSA.	16
V. CONCLUSION	17

I. ISSUES PRESENTED FOR REVIEW

1. Does Section 7(2) of the Illinois *Freedom of Information Act* ("FOIA") require District 230 to attempt to obtain the IHSA's own marketing, legal, or other contracts from the IHSA, where any of the following apply: (1) the documents do not qualify as "public records" of District 230; (2) the IHSA is not contracted to perform a governmental function; (3) the function performed by the IHSA is not "on behalf of" District 230; or (4) the documents are not "directly related" to any such function?

2. If the IHSA is itself subject to FOIA, does District 230 have any obligation to obtain and produce IHSA records in response to a FOIA request, where the FOIA requester could obtain them via a FOIA request submitted directly to the IHSA?

II. STATEMENT OF FACTS

The Illinois High School Association ("IHSA") is a membership organization consisting of more than 800 public and private high schools in Illinois. (C00154 ¶ 4.) The IHSA performs a number of roles, all related to organizing and regulating the conduct of interscholastic competitions between high schools. (C00005-06 ¶¶ 9, 13-25.) Consolidated High School District 230 ("District 230") is a three-high-school district, and its high schools are members of the IHSA. In 2014, the Better Government Association ("BGA"), a government watchdog organization (C00004 ¶ 5), submitted a FOIA request to the IHSA for (1) IHSA contracts for accounting, legal, sponsorship and public relations/crisis communications services; (2) IHSA

sponsorship agreements, such as those with Nike, Gatorade, and Country Financial; and (3) the IHSA's licensed vendor applications for companies the IHSA licensed. (C00008 ¶ 39.) The IHSA denied the request on the grounds that it is not subject to FOIA—*i.e.*, that it is not a “public body.” (C00008 ¶ 40; C00090.)

The BGA then submitted a FOIA request to District 230, requesting the same IHSA documents. (C00009 ¶ 41; C00092.) District 230 denied the request on the grounds that it did not have any of the requested records and that it was not obligated to obtain them from the IHSA under Section 7(2), FOIA's outsourcing rule. (C00009 ¶¶ 44, 46; C00098.)

The BGA challenged both denials by filing a lawsuit in Cook County Circuit Court. (C00003-11.) The IHSA filed a motion to dismiss under Section 2-619 of the *Illinois Code of Civil Procedure* (C00134-275), and District 230 filed a motion to dismiss under Section 2-615 (C00116-131). Judge Mikva granted the IHSA's and District 230's respective motions to dismiss, with prejudice. (C00336-337.) This appeal followed.

III. STANDARD OF REVIEW

The Court's review of a trial court's 2-615 dismissal is *de novo*. *Oliveira v. Amoco Oil Co.*, 201 Ill. 2d 134, 147-48 (2002). The Court may affirm the trial court's ruling on any basis. *People v. Johnson*, 208 Ill. 2d 118, 128 (2003).

IV. ARGUMENT

The BGA ignores the plain language of FOIA and cannot establish that Section 7(2) of FOIA—the outsourcing rule—compels District 230 to attempt to

obtain the IHSA's own records in response to the BGA's FOIA request. Section 7(2) of FOIA, 5 ILCS 140/7(2), was added in 2010 to clarify the circumstances under which public bodies in Illinois have to obtain public records from governmental contractors so as to disclose the records to a FOIA requester. This outsourcing rule is the primary issue in this case, as District 230 does not believe it is obligated to attempt to obtain the requested records of the IHSA. The circuit court agreed.

Under FOIA, "public bodies" are required to disclose "public records" upon request, unless the records are entitled to exemption under the law. 5 ILCS 140/1.2, 3, 7-7.5. "Public bodies" are defined as:

all legislative, executive, administrative, or advisory bodies of the State, state universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees, or commissions of this State, any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees thereof...

5 ILCS 140/2(a). "Public records" is a specifically defined term under FOIA. "Public records" are:

all records...pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body.

5 ILCS 140/2(c). When FOIA was amended in 2010, a new Section 7(2) was added to address "public records" that a public body does not physically possess:

A public record that is not in the possession of a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body, and that directly relates to the governmental function and is not otherwise exempt under this Act, shall be

considered a public record of the public body, for purposes of this Act.

5 ILCS 140/7(2). The outsourcing rule draws within FOIA's reach certain records of companies to which a public body has outsourced one or more of its governmental functions.

The rule requires the following five elements to be met for a contractor's record that is not in a public body's possession to be considered a "public record" of the public body and be subject to disclosure under FOIA: (1) the record must qualify as a "public record" under FOIA's definition; (2) the third party must have been contracted to perform a governmental function; (3) the governmental function must be performed "on behalf of" the public body; (4) the record must "directly relate" to the governmental function; and (5) the record must not otherwise be exempt. If any element is not established, the outsourcing rule does not apply, and the record is not subject to FOIA via the public body. If even one of these elements is not met, the BGA cannot prevail against District 230.

District 230's obligation under the outsourcing rule was not triggered because the BGA's request did not satisfy any of the first four elements. Alternatively, even if the outsourcing rule applies and the IHSA is found to be subject to FOIA, District 230 should not be responsible for obtaining records that the BGA could obtain from the IHSA directly.

A. The outsourcing rule only applies to "public records" in someone else's possession, which is not the case here.

The primary object in construing a statute is to ascertain and give effect to the intent of the legislature. *People v. Chenoweth*, 2015 IL 116898, ¶ 21. The most reliable indicator of legislative intent is the language of the statute, given its plain and

ordinary meaning. *Id.* (omitting citations). Further, *when a statute defines the very terms it uses, those terms must be construed according to the definitions contained in the statute. Id.* (construing statutory phrase “discovery of the offense”) (emphasis added); *State Farm Mutual Auto. Ins. Co. v. Univ. Underwriters Group*, 182 Ill. 2d 240, 244 (1998) (construing statutory terms “motor vehicle liability policy” and “Act”); *People v. Olsson*, 2011 IL App (2d) 091351, ¶ 6 (construing statutory terms “sexual predator” and “sex offender”). Those definitions furnish “official and authoritative evidence of legislative intent and meaning and should be given controlling effect.” *Beecher Med. Ctr., Inc. v. Turnock*, 207 Ill. App. 3d 751, 754 (1st Dist. 1990) (construing statutory term “Director”).

A court must view the statute as a whole, construing words and phrases in light of other relevant statutory provisions and not in isolation. *Chenoweth*, 2015 IL 116898, ¶ 21. *Each word, clause and sentence of a statute must be given a reasonable meaning, if possible, and should not be rendered superfluous. Id.* (emphasis added) A court may consider the reason for the law, the problems sought to be remedied, the purposes to be achieved, and the consequences of construing the statute one way or another. *Id.* Also, a court presumes the General Assembly, in its enactment of legislation, did not intend absurdity, inconvenience, or injustice. *Id.*

Particularly in the FOIA context, courts have declined to ignore explicit statutory language. *See, e.g., City of Champaign v. Madigan*, 2013 IL App (4th) 120662 (analyzing whether private communications between individual city council members met the statutory requirements that a requested record be a “public record” of a “public body”); *Quinn v. Stone*, 211 Ill. App. 3d 809 (1st Dist. 1991) (analyzing under the prior FOIA statute whether an individual alderman qualifies as a “public body”).

Section 7(2) of FOIA, the outsourcing provision, reads in relevant part, “A *public record* that is not in the possession of a public body but is in the possession of [someone else]¹ shall be considered a public record of the public body...” 5 ILCS 140/7(2) (emphasis added). The plain language of the outsourcing rule is that the requested record has to be a “public record.” Although Section 3(a) of FOIA contains a general requirement that public bodies provide access to “all public records,” the legislature apparently believed an amendment was necessary to clarify the right of access to “public records” in the possession of government contractors, and it added Section 7(2). (P.A. 96-0542.) In the absence of legislative history on this issue, it is reasonable to assume this clarification was needed because some public bodies were denying FOIA requests for records that were being held by contracting entities rather than the public bodies themselves. It is particularly notable that, in clarifying this issue, the legislature did not give access to *any* record in the contractor’s possession, only to *public* records in the contractor’s possession.

The BGA ignores the legislature’s use of a specifically defined term, “public records,” and chalks the wording up to poor legislative draftsmanship (Supp.R.VIII, 80:3-8). Rather than viewing the statutory reference as the “official and authoritative evidence of legislative intent and meaning” and giving it controlling effect, *Beecher Med. Ctr., Inc. v. Turnock*, 207 Ill. App. 3d 751, 754 (1st Dist. 1990), the BGA’s reading would render the word “public” superfluous, even though it is part of a defined term under FOIA. We must presume the legislature meant what it said when it used the

¹ There are additional conditions that apply to the “someone else,” and the conditions are addressed in detail below. In this section, the focus is solely on whether the documents at issue were “public records,” as defined by FOIA.

defined term. *People v. Chenoweth*, 2015 IL 116898, ¶ 21; *Beecher Med. Ctr., Inc.*, 207 Ill. App. 3d at 754.

Indeed, the fact that access is given only to “public records” is a meaningful limitation on the scope of the outsourcing rule. It means that even if all the other conditions of Section 7(2) are met, FOIA requesters are not given *carte blanche* access to contractors’ records. Instead, they only have access to contractors’ records that were “prepared by or for, or [were or are] being used by, received by, in the possession of, or under the control of” a public body. 5 ILCS 140/2(c). Put differently, the outsourcing rule does not change *what* public bodies are obligated to disclose to requesters; the obligation still only applies to “public records.” But the rule clarifies *where and under what circumstances* public bodies have to look beyond documents in their own possession in responding to FOIA requests.

In this case, the IHSA documents requested were not prepared by or for, used by, received by, in the possession of, or under the control of District 230. Since the requested documents did not meet the statutory definition of being a “public record” of District 230, the outsourcing rule was not triggered. District 230 therefore had no obligation to attempt to obtain the records from the IHSA.

Finally, even if the BGA is right about the “public record” reference in Section 7(2) being a result of poor legislative draftsmanship, if the BGA believes the legislature intended something different, it can advocate for a legislative clarification. In the meantime, it is not the Court’s job to rewrite the law or District 230’s obligation to guess the legislature’s intent.

B. District 230 has not contracted with the IHSA to perform a governmental function.

A second critical requirement of FOIA's outsourcing rule is that a contracting entity is performing a "governmental function." Indeed, Illinois courts have not set forth a definitive standard to determine what is a "governmental function" (Appellant's Brf. at 17), particularly in the FOIA context. Illinois courts have looked to Black's Law Dictionary for guidance and defined a governmental function as "[a] government agency's conduct that is expressly or impliedly mandated or authorized by constitution, statute, or other law and that is carried out for the benefit of the general public." *Demos v. Pappas*, 2011 IL App (1st) 100829, ¶ 25 (quoting Black's Law Dictionary 704 (7th ed.1999)).

Whether education is a governmental function may depend on who is doing the educating, as both public and private entities operate schools. But that issue is beside the point, because the IHSA does not provide education. The IHSA's role is *related* to education only because its members are all high schools. But it is not providing education. Rather, it is providing a framework for interscholastic competition.

In Illinois, extensive legal requirements for education can be found in the Illinois Constitution (Ill. Const. 1970, art. X, § 1), the *School Code* (105 ILCS 5/1-1, *et seq.*), and regulations of the Illinois State Board of Education (Ill. Admin. Code tit. 23). Legislative requirements for education are comprehensive and extensive; the *School Code* currently exceeds 800 pages. Under the legislative scheme, high schools are required to provide driver's education (105 ILCS 5/27-24.2); character/citizenship education (105 ILCS 5/27-12); language arts, writing,

mathematics, science, social studies, music, art, foreign language, and vocational education (105 ILCS 5/27-22(e)); physical education (105 ILCS 5/27-6); health class (105 ILCS 110/3); instruction on "American patriotism and the principles of representative government" (105 ILCS 5/27-3); instruction on Internet safety (105 ILCS 5/27-13.3); instruction, study, and discussion of effective methods by which pupils may recognize the danger of and avoid abduction (105 ILCS 5/27-13.2); and instruction on preventing use of steroids (105 ILCS 5/27-23.3), to name a few.

Glaringly absent is any requirement that high schools provide voluntary interscholastic competitive programs, let alone that they participate in competitions operated by the IHSA. Nothing in the law requires high schools to become members of the IHSA, and students are not even required to participate in the interscholastic competitions it organizes and regulates.

A more appropriate question is whether, by forming a voluntary membership organization to coordinate and regulate interscholastic activities statewide, the IHSA is performing a governmental function. Though not binding on this Court, the Public Access Counselor ("PAC"), which is charged with enforcing FOIA at an administrative level, has analyzed this issue in three opinions. In all three, the PAC determined whether a governmental function is being performed by looking at whether the function falls within a statutory function assigned to the public body.

In Public Access Opinion 13-018,² the City of Martinsville, Illinois, contracted with an engineer to design and oversee a city sidewalk and curb improvement project. The PAC noted that the Illinois *Municipal Code* assigns to

² Available at: <http://foia.ilattorneygeneral.net/pdf/opinions/2013/13-018.pdf>.

municipalities the task of “improv[ing] streets [and] sidewalks” and concluded that the engineer’s design and oversight of a city sidewalk/curb improvement project was a governmental function. In Public Access Opinion 13-012,³ the United Neighborhood Association (“UNO”), a private, not-for-profit entity, contracted with vendors to design and construct charter school buildings. UNO then leased the buildings to a subsidiary entity, UCSN, which then contracted back to UNO the role of overseeing and managing the charter schools. The PAC acknowledged that the operation of public charter schools is a statutorily designated function under the *Illinois Charter Schools Law* and concluded that UNO’s operation of such schools was a governmental function. Finally in Public Access Opinion 14-005,⁴ the Illinois Department of Lottery contracted with a private company to serve as its statutory Lottery manager, which in turn contracted with other companies to provide marketing and advertising services for the Lottery. The PAC looked to the *Illinois Lottery Law*’s grant of authority to operate the Lottery. Importantly—and unlike the relationship between the IHSA and District 230—the *Lottery Law* expressly directs the Department of Lottery to operate the Lottery via a private Lottery manager. 20 ILCS 1605/2. The PAC therefore concluded that the entities that contracted with the Lottery manager were performing a governmental function in marketing and advertising for the Lottery.

In this case, the IHSA’s functions do not share the same type of statutory authority. Unlike the Lottery opinion, high schools are not statutorily directed to use the IHSA to offer extracurricular athletic or academic programs or to engage in

³ Available at: <http://foia.ilattorneygeneral.net/pdf/opinions/2013/13-012.pdf>.

⁴ Available at: <http://foia.ilattorneygeneral.net/pdf/opinions/2014/14-005.pdf>.

interscholastic competitions. And the IHSA's role is not as quintessentially governmental in nature as building city roads and sidewalks or constructing and operating public schools. Rather, the IHSA performs a role that individual governmental entities are not well-suited to perform. It is noteworthy that similar interscholastic governing authorities—in Illinois, the National Collegiate Athletic Association (“NCAA”) and the Illinois Elementary School Association (“IESA”)—are private, not-for-profit organizations, belying the argument that their functions are governmental in nature.

The IHSA also argues that its function is non-governmental, and District 230 adopts those arguments by reference. The IHSA does not perform the nebulous function of “education” just because it influences one aspect of the operation of high schools. Rather, it is acting as an umbrella membership organization to provide a framework and enable a competitive uniformity among all public *and private* high schools that wish to participate. That function is not governmental in nature, and FOIA's outsourcing rule therefore is not triggered.

C. Even if the IHSA is performing a governmental function, it is not doing so “on behalf of” District 230.

According to the BGA, if the IHSA is performing a governmental function, that is the end of the inquiry. It is not. To trigger FOIA's outsourcing rule, the contracting entity must do more than perform a role that could be considered a governmental function. Based on the explicit language of Section 7(2), the governmental function has to be performed “on behalf of the public body.” “On behalf of” means “as agent [or] representative of.” Garner's Dictionary of Legal Usage 106 (3rd ed. 2011). In other words, the contractor has to be performing a

governmental function *that the public body otherwise would perform itself or through its representative*. Thus, it is not enough to analyze whether a governmental function is being performed. If the contractor's function is not one the public body would otherwise perform, the outsourcing rule does not apply.

In this case, the IHSA's role—regardless of whether it is considered governmental in nature—is not one that any Illinois high school or school district would or could perform. Imagine, for example, if District 230 or one of its individual high schools tried to develop, monitor, and implement a statewide system of interscholastic competition that applied to any public or private high school that wished to join. The logistics of District 230 undertaking such an effort would be challenging, and the expenses enormous. Moreover, it would be unrealistic to expect high schools from around the state, some of whom might compete against District 230 schools, to voluntarily submit to the rulemaking authority of District 230.

That is why the current system is more logical. A neutral, independent organization sets the rules of competition for all member schools. That is the model at every level of interscholastic competition, from the IESA to the IHSA to the NCAA. These entities provide a function that is uniquely independent and that realistically could not be performed by a single school or school district. It does not compute to say the IHSA is acting “as a representative of” District 230, when District 230's high schools are but three of the hundreds of represented members of the IHSA.

The IHSA is therefore not performing a governmental function *on behalf of* District 230, and the FOIA outsourcing rule does not apply.

D. The IHSA records that were requested by the BGA are not “directly related” to a governmental function performed for District 230.

FOIA’s outsourcing provision requires not only that the contractor is performing a governmental function on behalf of a public body, but also that the requested records “directly relate[] to the governmental function.” As always, the Court is to look to the language of the statute and give each word and phrase meaning. *People v. Chenoweth*, 2015 IL 116898, ¶ 21. In this analysis, it is important to accurately state the scope of the governmental function being performed on behalf of the public body, if there is one.

District 230 does not believe the IHSA is performing a governmental function on its behalf. But even assuming it is, the BGA relies on “education” as the governmental function the IHSA performs. (Appellant’s Brf. at 27.) Framing the governmental function this way suits the BGA, allowing it to argue that *everything* the IHSA does is related to education and is therefore a governmental function, and that all records of the IHSA are “directly related” to this governmental function. (C00284, 286.) The BGA’s expansive interpretation should be rejected, as it is contrary to the legislature’s intent and reads the “directly related” requirement out of existence.

Clearly this requirement is designed as a limit on Section 7(2)’s application. The legislature was careful not to bring *all* records of a contractor within its scope. Otherwise, it would not have added the “directly related” requirement at all. Yet the BGA’s interpretation would require just that result.

A number of examples can be offered to illustrate the proper limitation of Section 7(2). Bond transcripts for a school district that are in the possession of a

district's bond counsel are "directly related" to the bond counsel's function, as are school construction bid documents in the possession of a district's architect. When school districts contract with a private bus company, incident reports about the district's students, mileage reports for district routes, and bus inspection records are all "directly related" to the function the company provides for the district. The same logic applies to food service records of a school food service vendor and cleaning records in the possession of an outsourced custodial agency. But to be meaningful, the "directly relates" requirement must have limits. Without such limits, every bus company record related to busing would be subject to FOIA, regardless of the district served by the company, as would every architect record related to architecture and every food service record related to cafeterias or school meals.

The outsourcing rule is more narrowly tailored than the BGA's interpretation. It requires that the requested records are directly related to the governmental function a contractor is performing on behalf of the public body. Ignoring the proper balancing of that test leads to absurd results.

For example, in the *Hood v. IHSA* case cited by the BGA, a basketball coach at a private high school in Rockford was alleged to have violated IHSA's recruiting rules and was barred from coaching at any IHSA member school for a year. *Hood v. IHSA*, 359 Ill. App. 3d 1065, 1066-67 (2nd Dist. 2005). There was an initial letter from the IHSA finding the coach guilty of the recruiting violations, though the allegations at some later point were found to be untrue. *Id.* at 1067. Under the BGA's interpretation of the outsourcing rule, an individual could make a FOIA request of District 230, in Orland Park, for a copy of the letter to the private school in Rockford regarding Coach Hood. But the Hood investigation and violation letter

were not *directly* related to anything the IHSA was doing *on behalf of* District 230. District 230 therefore should have no obligation to attempt to obtain such a letter from the IHSA.

The issue of direct relatedness applies to entities other than the IHSA, too. For example, an educational consultant might be considered to perform a governmental function on behalf of schools,⁵ including District 230, but records about the consultant's work with *other* school districts or about his or her marketing efforts would not directly relate to his or her function on behalf of District 230. The Illinois Association of School Boards ("IASB"), a membership organization offering various resources and professional development opportunities to school boards, might be considered to perform a governmental function on behalf of schools, including District 230, but records about the IASB's work with *other* school districts or about its statewide initiatives would not directly relate to its function on behalf of District 230. A professional services provider who works with school districts, such as an architect, engineer, auditor, or attorney, might be considered to perform a governmental function on behalf of schools, including District 230, but records about the professional's work with *other* school districts or her company's corporate status or vendor contracts would not directly relate to its function on behalf of District 230. The same analysis applies to district-appointed hearing officers, the PTA, textbook providers like Houghton Mifflin, school-focused technology companies like Edmodo, and the Illinois Municipal League, to name just a few.

⁵ District 230 does not concede that any of the organizations or individuals listed in this paragraph performs a governmental function on any public body's behalf. It is merely assuming that point for purposes of argument, so as to focus on the issue of whether the organization's or individual's records are directly related to their function.

Here, the BGA is looking for the IHSA's accounting contracts, legal contracts, sponsorship contracts, public relations/crisis communications services agreements, and licensed vendor applications. (C00008 ¶ 39). Those records are not *directly* related to any governmental function, let alone one the IHSA performs on behalf of District 230. District 230 therefore had no obligation to attempt to obtain the records from the IHSA.

E. If the Court determines that the IHSA *is* subject to FOIA, District 230 should not be obligated to obtain records the BGA could obtain directly from the IHSA.

Finally, and in the alternative, if this Court were to conclude that the IHSA *is* performing a governmental function and thus is a public body subject to FOIA, the onus to produce the records in this case should fall solely on the IHSA. District 230 does not have the records requested by the BGA, and regardless of the outsourcing rule in FOIA, District 230 should not be obligated to request and gather the records of another entity that already is subject to FOIA.

Requiring Public Body B to obtain records from Public Body A in response to a FOIA request would impose an unnecessary burden on Public Body B without furthering any public interest. In such a situation, if Public Body A has already denied a FOIA request for the records, the requester has a means of challenging the denial, either through an appeal to the Attorney General's office or a FOIA lawsuit in court. There is no need to involve and expend the resources of Public Body B in that situation.

FOIA is not designed and should not be interpreted to require one public body to obtain records from another public body. If the Court here determines that the IHSA is a public body and subject to FOIA, then the dismissal of the claim

against District 230 should be affirmed. District 230 should not be compelled to act as a conduit for access to records that could be obtained directly from the IHSA.

V. CONCLUSION

The real dispute in this case is between the BGA and the IHSA. District 230 is caught in the middle. It is not trying to protect or hide anything from the BGA, but nor does it believe its obligations under FOIA extend so far as to require it to obtain the requested documents from the IHSA. If the IHSA is directly subject to FOIA, then District 230 should have no further obligation to obtain the IHSA documents. If the IHSA is *not* subject to FOIA, the threshold requirements of FOIA's outsourcing rule have not been met, and District 230 still has no obligation to attempt to obtain the IHSA documents. The BGA's claim is therefore legally insufficient, and the trial court's dismissal under Section 2-615 of the claim against District 230 should be affirmed.

Respectfully submitted,

**CONSOLIDATED HIGH SCHOOL
DISTRICT NO. 230**

Date: November 6, 2015


By: 

One of Its Attorneys

Vanessa V. Clohessy—6206288
Jeffrey C. Goelitz—6292892
Hodges, Loizzi, Eisenhammer, Rodick & Kohn LLP
3030 Salt Creek Lane, Suite 202
Arlington Heights, Illinois 60005
Tel: 847-670-9000
Fax: 847-670-7334
vclohessy@hlerk.com
jgoelitz@hlerk.com

CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 17 pages.



Jeffrey C. Goelitz

Date: November 6, 2015

Vanessa V. Clohessy—6206288
Jeffrey C. Goelitz—6292892
Hodges, Loizzi, Eisenhammer, Rodick & Kohn LLP
3030 Salt Creek Lane, Suite 202
Arlington Heights, Illinois 60005
Tel: 847-670-9000
Fax: 847-670-7334
vclohessy@hlerk.com
jgoelitz@hlerk.com

CERTIFICATE OF SERVICE

I, Jeffrey C. Goelitz, an attorney, certify that a true and correct copy of the foregoing **Brief of Defendant-Appellee Consolidated High School District No. 230** was served upon all counsel of record, as indicated below, on November 6, 2015, by Federal Express overnight delivery, delivery charge fully prepaid, deposited at 3030 Salt Creek Lane, Arlington Heights, Illinois, by 5:00 p.m., addressed as follows:

David J. Bressler
Melissa L. Mitchell
Melanie J. Chico
Dykema Gossett PLLC
4200 Commerce Court, Suite 300
Lisle, Illinois 60532

Matthew Topic
Loevy & Loevy
312 North May St., Suite 100
Chicago, Illinois 60607



Jeffrey C. Goelitz

Vanessa V. Clohessy—6206288
Jeffrey C. Goelitz—6292892
Hodges, Loizzi, Eisenhammer, Rodick & Kohn LLP
3030 Salt Creek Lane, Suite 202
Arlington Heights, Illinois 60005
Tel: 847-670-9000
Fax: 847-670-7334
vclohessy@hlerk.com
jgoelitz@hlerk.com

322594_3

INDEX TO COMMON LAW RECORD**VOLUME 1 OF 2**

Placita.....	C00001
Civil Cover Sheet.....	C00002
Complaint, Filed on July 23, 2014.....	C00003
Blank Page	C00012
Exhibit A – Form 990 with Schedules (2012)	C00013
Blank Page	C00030
Exhibit B – By-Laws and Constitution of IHSA	C00031
Blank Page	C00069
Exhibit C – <i>Hood v. IHSA</i> et al., No. 2-05-141, 359 Ill. App.3d 1065	NO PAGE ID
Blank Page	C00075
Exhibit D – <i>Hood v. IHSA</i> et al., Brief of IHSA & Hickman	C00076
Blank Page	C00087
Exhibit E – FOIA Request via email, June 5, 2014.....	C00088
Blank Page	C00089
Exhibit F – FOIA Response via email from Marty Hickman , June 5, 2014.....	C00090
Blank Page	C00091
Exhibit G – FOIA Request via email, July 2, 2014	C00092
Blank Page	C00093
Exhibit H – FOIA Response via email from Carla Erdey, July 15, 2014.....	C00094
Blank Page	C00095
Exhibit I – FOIA email from Robert Herguth (BGA) to Carla Erdey, July 15, 2014.....	C00096
Blank Page	C00097

Exhibit J – FOIA email from Carla Erdey to Robert Herguth (BGA), July 21, 2014	C00098
Summons	C00099
Appearance by Dykema Gossett, August 21, 2014	C00101
Notice of Filing, August 21, 2014	C00102
Routine Order, August 6, 2014	C00103
Motion for Further Extension to Answer or Otherwise Plead, September 11, 2014	C00104
Notice of Filing, September 11, 2014	C00107
Agreed Order, September 12, 2014	C00108
Appearance by Hodges, Loizzie et al., September 30, 2014	C00109
Notice of Motion, September 30, 2014	C00112
Notice of Filing, September 30, 2014	C00114
School District 230's Motion to Dismiss, September 30, 2014	C00116
Notice of Filing, September 30, 2014	C00119
Memorandum in Support of School District 230's Motion to Dismiss, September 30, 2014	C00121
Spindled Motion Form	C00132
Motion Slip	C00133
IHSA's Motion to Dismiss Pursuant to 735 ILCS 5/2-619(A)(9), September 30, 2014	C00134
IHSA's Memorandum of Law in Support of Motion to Dismiss Pursuant to 735 ILCS 5/2-619(A)(9), September 30, 2014	C00138
Exhibit A – Affidavit of Martin Hickman, Ed.D.	C00153
Exhibit B – By-Laws and Constitution of IHSA	C00157
Certification Page	C00250

INDEX TO COMMON LAW RECORD**VOLUME 2 OF 2**

Placita.....	C00251
Exhibit B Continued	C00252
Exhibit C, Letter from Attorney General's Office, September 29, 2010.....	C00276
Briefing Scheduling Order.....	C00278
Plaintiff BGA's Response to Defendant District 230's Section 2-615	
Motion to Dismiss.....	C00279
Exhibit A – Board of Directors	C00290
Exhibit B – Letter from Attorney General's Office, July 3, 2013	C00292
Exhibit C – Letter from Attorney General's Office, December 3, 2013	C00307
IHSA's Reply in Support of its Motion to Dismiss, December 11, 2014.....	C00318
Exhibit A – 2015 Wrestling Schedule	C00327
Exhibit B – 2013-14 Boys Basketball Invoice.....	C00328
Notice of Filing, December 11, 2014.....	C00329
Notice of Filing, December 11, 2014.....	C00331
Notice of Filing, December 11, 2014.....	C00332
Hearing Date Order, December 15, 2015	C00334
Agreed Order, Date Unknown	C00335
Order Granting IHSA's Motion to Dismiss, April 13, 2015.....	C00336
Order Granting Consolidated High School Dist. 230's Motion to Dismiss	C00337
Notice of Appeal, May 11, 2015.....	C00338
Request for Preparation of Record on Appeal, May 13, 2015.....	C00340
Certification Page.....	C00341

INDEX TO COMMON LAW RECORD**SUPPLEMENTAL RECORD, VOLUME 1 OF 3**

Placita.....	C00001
Stipulation, August 3, 2015	C00002
Complaint, Filed on July 23, 2014.....	C00004
Exhibit A – Form 990 with Schedules (2012)	C00013
Exhibit B – By-Laws and Constitution of IHSA	C00046
Exhibit C – <i>Hood v. IHSA</i> et al., No. 2-05-141, 359 Ill. App.3d 1065	C00121
Exhibit D – <i>Hood v. IHSA</i> et al., Brief of IHSA & Hickman	C00127
Exhibit E – FOIA Request via email, June 5, 2014	C00149
Exhibit F – FOIA Response via email from Marty Hickman , June 5, 2014.....	C00150
Exhibit G – FOIA Request via email, July 2, 2014	C00151
Exhibit H – FOIA Response via email from Carla Erdey, July 15, 2014.....	C00152
Exhibit I – FOIA email from Robert Herguth (BGA) to Carla Erdey, July 15, 2014	C00153
Exhibit J – FOIA email from Carla Erdey to Robert Herguth (BGA), July 21, 2014	C00154
Plaintiff BGA’s Response to Defendant IHSA’s Section 2-619 Motion to Dismiss.....	C00155
Exhibit A – Letter from Attorney General’s Office, July 3, 2013	C00170
Exhibit A from Complaint (Original)	C00185
Exhibit B from Complaint (Original)	C00218
Certification Page.....	C00250

INDEX TO COMMON LAW RECORD**SUPPLEMENTAL RECORD, VOLUME 2 OF 3**

Placita.....	C00251
Exhibit B from Complaint (Original) Continued.....	C00252
Exhibit D from Complaint – <i>Hood v. IHSA et al.</i> , Brief of IHSA & Hickman	C00287
Reply in Support of School District 230’s Motion to Dismiss	C00309
Certification Page.....	C00315

INDEX TO COMMON LAW RECORD**SUPPLEMENTAL RECORD, VOLUME 3 OF 3****(Report of Proceedings)**

Placita.....	00001
Hearing, April 13, 2015 re: Motion to Dismiss	00002
Judge Mikva Granting IHSA’s Motion to Dismiss.....	00064
Judge Mikva Granting District 230’s Motion to Dismiss	00098

Judge Mary L. Mikva

Attorney Matthew Topic representing Plaintiff, Better Government Association

Attorney Jeffrey C. Goelitz representing District 230

Attorney David J. Bressler representing Illinois High School Association

No. 121124

IN THE SUPREME COURT OF ILLINOIS

BETTER GOVERNMENT ASSOCIATION,	)	Appeal from the Appellate
	)	Court, First District, No. 15-1356
)	
Plaintiff-Appellant,)	
)	
-vs-	)	There on appeal from the Circuit Court of
	)	Cook County, Chancery Division, Illinois
	)	No. 14 CH 12091
)	
ILLINOIS HIGH SCHOOL ASSOCIATION;)	
CONSOLIDATED HIGH SCHOOL)	
DISTRICT 230,	)	Hon. Mary L. Mikva, Judge Presiding
)	
Defendants-Appellees.)	

NOTICE OF FILING

TO:

David Bressler
Dykema Gossett PLLC
4200 Commerce Court, Suite 300
Lisle, IL 60532
dbressler@dykema.com

Jeffrey Goelitz
Hodges Loizzi Eisenhammer Rodick & Kohn LLP
3030 Salt Creek Lane, Suite 202
Arlington Heights, IL 60005
(847) 670-9000
jgoelitz@hlerk.com

Please take notice that an electronic copy of the brief was submitted to the Clerk's Office for filing on December 2, 2016. On that same date, three copies were mailed to opposing counsel for Defendants Illinois High School Association and Consolidated School District 230, in an envelope deposited in the mailbox located on the southwest corner of Morgan Street and Fulton Market in Chicago, Illinois, 60607. The original and twelve (12) copies of the brief will be sent to the Clerk of the Supreme Court upon receipt of the electronically submitted filed stamped brief.

/s/ Matthew Topic ***** Electronically Filed *****

121124

12/02/2016

Supreme Court Clerk

MATTHEW TOPIC
Attorney for Plaintiff-Appellant

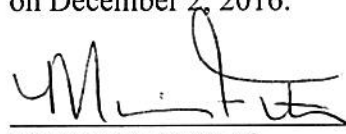
CERTIFICATE OF FILING/SERVICE

STATE OF ILLINOIS)
)
COUNTY OF COOK)

The undersigned, being first duly sworn on oath, deposes and says that s/he personally had mailed three copies of the attached Brief and Argument to opposing counsel for Defendants Illinois High School Association and Consolidated School District 230, by placing the briefs in an envelope deposited in the mailbox located on the southwest corner of Morgan Street and Fulton Market in Chicago, Illinois, 60607. An electronic copy of the brief was submitted to the Clerk's Office for filing on December 2, 2016. The original and twelve (12) copies of the brief will be sent to the Clerk of the Supreme Court upon receipt of the electronically submitted filed stamped brief.



SUBSCRIBED AND SWORN TO ME
on December 2, 2016.



NOTARY PUBLIC
