

# COA BOARD

## MEETING MINUTES

*COA Office, Sacramento, CA*

*June 9, 2004*

### **A. WELCOME AND CALL TO ORDER – TOM CROW**

The meeting was called to order at 10:00AM, those in attendance were: Tom Crow, Chair; Stan Arterberry, Ellie Bewley, Helen Carr, Eva Conrad, Robert Deegan, Jackie Fisher, Sr., Rosa Perez, Joanne Fortunato, Stu Van Horn, Debra Wheeler, Dave Eadie, and Judith Centlivre. Susan Carroll, Jan Kehoe, Denise Whittaker, and Kenneth Yglesias were unable to attend.

### **B. REVIEW OF APRIL 2, 2004, MINUTES**

It was MSC to approve the April 2, 2004, meeting minutes. The minutes are on the COA website at [http://www.coasports.org/meetings/board\\_mins040204.pdf](http://www.coasports.org/meetings/board_mins040204.pdf).

### **C. REPORTS**

1. **COA Board Chair, Tom Crow** provided the history of the organizational structure and indicated that the COA Evaluation Committee would be meeting on June 17.

He also reviewed the decisions resulting from the discussions on out-of-season competition at the last meeting and reminded members that the issue needs to be resolved by June 2005, and it should be requested that the matter be placed on the CEOCCC November meeting.

The legislation passed in April with regard to Bylaw 6.13.1 and 6.13.4, Onsite Protest Committees, was discussed. The Board directed staff to contact the originator (Jerry White) to request that he bring forward (due in COA Office by September 1) a Form 5 to address the penalties to be imposed for noncompliance with the requirements pertaining to the onsite protest committee legislation.

It was MSC to accept the nomination of William Andrews of Porterville College, representing the Central Valley Conference, Kathleen Hodge of Fullerton College, representing the Orange Empire Conference, and John Keever of Moorpark College and the 2004-05 chair of the Management Council, as new members of the Board. The Board also approved the proposed responsibilities of the Board members.

The goals for the State Commissioner and the Board were provided and a copy of the long-range plan developed at the Board retreat in 2002 will be mailed to the Board members.

Proposed meeting dates for 2004-05 were reviewed and the accepted schedule will be posted on the COA website.

2. **State Commissioner Joanne Fortunato** gave a brief review of the Form 3 project and Sports Information Director Dave Eadie distributed print screens providing a visual of the prototype. He indicated that it is ready for the second round of testing and a teleconference will be scheduled this summer to collect information and suggestions from the participants in the testing. Approved changes and suggestions will be incorporated. The system is on target to launch in the fall 2004.

Commissioner Fortunato informed the Board of the winners of the Pepsi/NATYCAA Cup and indicated that a formal awards presentation would be made to Sierra College, Mt. San Antonio College, and Long Beach City College on June 11 at the NATYCAA Convention in Dallas Texas.

It was MSC to accept the Bay Valley Conference's request to restructure and form a second conference which will consist of 10 of the 17 colleges in the current Bay Valley Conference. The seven remaining colleges will continue as the Bay Valley Conference. This reformation will be effective July 1, 2005.

Commissioner Fortunato brought the Board up to date on various issues, including the City College of San Francisco legal action and the COA insurance coverage. The COA will provide guidance to the conference commissioners in their search for insurance for the conferences. At this time, the Commissioner also requested input from Board members with regard to the prospect of revising *Constitution and Bylaws* Article 2 which addresses the composition of the COA Board. Her suggestion is to include a seat on the Board which would be held by a conference commissioner. The Board approved and agreed that the matter should be further discussed at the organization evaluation meeting on June 17, 2004.

Commissioner Fortunato provided a copy of a letter received from the Western Nevada Community College requesting to be considered for membership in the Bay Valley Conference. The Board directed her to forward the matter to the Bay Valley Conference for review and action, if any.

- 3. Associate Commissioner Stu Van Horn** reported that the 2004 convention was the first annual convention to sustain a loss. Due to room block requirements of the contract not being met with lower registration numbers, penalties were incurred. The sponsorship was exceptional for a 2-day event however, and had it not for been for the penalties imposed a balanced financial statement would have been reported. He reminded the Board that the reduced format had been approved and an agreement was signed for the 2005 convention. Staff will meet with the presidents of the affiliate organizations in July to address their needs and concerns for the 2005 convention and hopefully boost attendance for this professional development opportunity.

Income charts of the corporate partnership program were provided in the Board packet and Associate Commissioner Van Horn touched on highlights of that information also.

- 4. Management Council Representative Ellie Bewley** gave background information on Article 7 of the COA Constitution and Bylaws and information discussed at the Constitution Committee teleconference, as well as information received from the conference commissioners' teleconference. The Board discussed the recommendations and noted that Article 7 was initially written by the COA's attorney rather than the membership and, upon the advice of legal counsel, the changes should be made. The Board agreed that matters of due process should be handled by those with expertise in the area and it was therefore MSC to accept the revisions made to Article 7 of the COA Constitution and Bylaws. The draft proposal of Article 7 indicating those revisions is incorporated and shall become a part of the minutes of this meeting.

## **D. Board Committee Reports**

- 1. Gender Equity Committee.** Chair Rosa Perez reported on the Title IX NCAA conference in Chicago in May and noted some of the highlights, including discussions pertaining to the issue of cheerleaders and pep clubs, fundraising as it relates to gender equity, and also reported that the focus of 2004/05 will be the use of Prong 3 in Title IX. She also indicated that a new template manual became available on June 1, and that the COA Gender Equity Self Review Manual would need to be revised and sent to the member colleges. The committee's goals for the upcoming year, which were included in the Board packet, were also reviewed and approved.

2. **Affiliate Associations Relations Committee.** Chair Bob Deegan reported that the committee met in fall 2003, and was instrumental in the combined affiliates meeting at the COA convention in April. The next meeting will be held in the fall 2004.
3. **Finance Committee.** Commissioner Fortunato, in Chair Martinez' absence, reviewed the budgets included in the Board packet and it was MSC to accept the Operations Budget as presented.
4. **Constitution Committee.** See *C. Reports 4. Management Council.*

## **E. ELECTION OF 2004-05 CHAIR OF THE COA BOARD**

It was MSC to accept the Nominating Committee's recommendation to elect Eva Conrad as the COA Board Chair for 2004-05.

## **F. CLOSED SESSION / ADJOURNMENT**

The Board adjourned the public portion of the meeting and convened to a closed session for the evaluation of the Commissioner at 12:25PM.

Respectfully submitted,

Joanne A. Fortunato, Ph.D.  
State Commissioner

## ARTICLE 7

### The COA Constitution and Bylaws

#### 7.1 Authority

- 7.1.1 The *Constitution and Bylaws*, together with the Sport Guides, constitute the policies and procedures of the COA Board, which govern the administration of California community college intercollegiate athletics.
- 7.1.2 The *Constitution and Bylaws* governs the conduct of the COA Board, the Office of the State Commissioner, the MC, the conference commissioners, affiliate organizations, conferences, member colleges, college staff, student-athletes, and all other persons or groups specified by this document.
- 7.1.3 The *Constitution and Bylaws* is intended to be consistent with appropriate federal, state, and/or local laws.
- 7.1.4 All policies and procedures of the *Constitution and Bylaws* prohibited to member institutions are also prohibited to the officers, agents, and employees of the member institutions and their related athletic associations. Any authority not vested in the COA is reserved to the Conferences.
- 7.1.5 Any violation of the *Constitution and Bylaws* by any officer, agent, or employee constitutes a violation by the member institution.
- 7.1.6 An agent is any person (high school coach, relative of a staff member, alumni, booster, etc.) who represents the college.
- 7.1.7 A college is responsible for the actions of any person acting as an agent of the college.

#### 7.2 Amendments to the *Constitution and Bylaws*

- 7.2.1 The *Constitution and Bylaws* may be amended by a vote of the majority of the COA Board and/or the MC members present.
- 7.2.2 The *Constitution and Bylaws* may be amended for emergency purposes by a three-quarters ( $\frac{3}{4}$ ) vote of the COA Board and/or the MC members present ~~at the meeting~~.
- 7.2.3 Amendments to the *Constitution and Bylaws* will be considered by the COA Board and the MC at the fall (~~October~~) and spring (~~March~~) statewide meetings of the COA.
- 7.2.4 Proposed amendments to the *Constitution and Bylaws* must be submitted to the Office of the State Commissioner, which will annually distribute a schedule of deadlines for such submittals. The Office of the State Commissioner will prepare the proposal for consideration by the MC, which, in turn, will make a recommendation to the COA Board on policy issues and for information on operational issues.

7.2.5 The proposed amendment will be distributed to the appropriate committee, to the conferences, and to, the member colleges for their comments before it is acted upon.

7.2.6 The COA Board may request the advice of the Constitution Committee before approving the final language of the amendment. A decision by the Constitution Committee that language only clarifies or corrects to comply with existing intent of rules within the *Constitution and Bylaws* does not require any notice to the members and may be approved by the COA Board.

7.2.7 When the COA Board approves an amendment, it will also indicate the effective date of the new language.

### **7.3 Amendments to Sport Guides**

7.3.1 COA sport guides may be amended by a vote of the majority of the MC.

7.3.2 COA sport guides may be amended for emergency purposes by a three-quarters (¾) vote of the MC members present ~~at the meeting~~.

7.3.3 Amendments to the COA sport guides will be considered by the MC at the fall (~~October~~) and spring (~~March~~) statewide meetings of the COA.

7.3.4 Proposed amendments to COA sport guides must be submitted to the Office of the State Commissioner, which will annually distribute a schedule of deadlines for such submittals. The Office of the State Commissioner will prepare the proposal for consideration by the MC.

7.3.5 The proposed amendment will be distributed to the appropriate committee, to the conferences, and the member colleges for their comments before making a decision.

7.3.6 When the MC approves an amendment, it will also indicate the effective date of the new language.

### **7.4 Sanctions**

7.4.1 Each member college of the COA is expected to apply and enforce the *Constitution and Bylaws* and the policies and procedures of its conference. Sanctions will be applied to a member college when it fails to fulfill these obligations.

7.4.2 Sanctions for violation of the *Constitution and Bylaws* or conference policies and procedures may be imposed upon member colleges, coaches, student athletes, college employees, and/or college representatives. In compliance with the due process procedures of the *Constitution and Bylaws*, such sanctions may be imposed by the colleges, conference commissioners, conferences, ~~appeals boards~~, and/or by the COA Board.

7.4.3 Sanctions may include:

- A. The violating member college's athletic department may be placed on a one (1)-year probation for the sport or sports that were involved in the

violation. Supervision of the probation shall be by the college president and the Conference Commissioner.

- B. Games and/or matches may be forfeited.
- C. Players and/or coaches may be suspended or banned from participation.
- D. PC may be restricted.
- E. Violating sports programs may be terminated.
- F. Other penalties may be imposed by the conference commissioners, conferences, ~~hearing board~~ and/or the COA Board.

7.4.4 The Office of the State Commissioner, on behalf of the COA Board or the conference, will assist the violating member college in its efforts to achieve full compliance with all rules and regulations.

## **7.5 Due Process Procedures**

7.5.1 The purpose of the COA Due Process, Appeals, and Penalties Program is to eliminate violations of COA rules and impose appropriate penalties or sanctions should violations occur. The program is committed to fairness of procedures and the timely and equitable resolution of infractions cases. The achievement of these objectives is essential to the conduct of a viable and effective Due Process, Appeals, and Penalties Program. Further, an important consideration in imposing penalties is to provide fairness to uninvolved student athletes, coaches, administrators, competitors, and other institutions.

7.5.2 As a member institution of the COA, the college and their representatives contract to resolve disputes regarding rule violations and penalties through the appeals process. As the COA is a voluntary membership organization, member colleges will conduct the appeals process without legal counsel. The decision of binding arbitration is final.

7.5.3 Colleges that do not abide by the due process procedures as enumerated in this Article, or that support a student, coach, or other entity for failing to abide by the due process procedures are responsible for all ~~legal~~ expenses incurred by the conference and the COA.

7.5.4 ~~All appeals must have the support of the member college as indicated by the signature of the college president.~~ All appeals must be signed by the college president indicating support of the appeals process. This includes appeals brought forth by students, coaches, and college representatives. Individuals are afforded due process through their college procedures.

7.5.5 Each college, as a member of the COA and on behalf of the college, its officers, employees, agents, governing bodies and associated persons, agrees that any action or proceeding brought by a college(s) and/or its employees, representatives, or agents against the COA or the CCLC, or any of their employees, officers, directors, or agents regarding the subject matter of this *Constitution and Bylaws*, or other rules and regulations relating to intercollegiate athletics shall be commenced and tried in the County of Sacramento, unless all the defendants/respondents agree in writing to a different venue. In the event that

such a court action or proceeding is filed in a court located outside of the County of Sacramento, the plaintiff/petitioner agrees to immediately have the matter transferred, at no cost to the COA or its affiliates, to a court located in the County of Sacramento which has jurisdiction over the matter.

#### 7.5.6 RESPONSIBILITY FOR RULES IMPLEMENTATION

7.5.6.1 The primary entity responsible for the application and implementation of COA rules, regulations, and procedures is the member college. The next level of enforcement of the rules, regulations, and procedures is the responsibility of the conference commissioner.

7.5.6.2 The role of the State Commissioner is to interpret COA rules and invoke statewide penalties ~~when requested by the conference commissioner(s)~~. The State Commissioner will rule on disputes of interpretation between conference commissioners.

7.5.6.3 When a conference commissioner and the State Commissioner disagree on a rule interpretation, the decision of the State Commissioner shall prevail if and until such time an appeals board or the Binding Arbitration Panel rules on the violation question.

7.5.6.4 The State Commissioner will interpret COA rules and regulations to all interested parties. When an appeal is requested, the State Commissioner will refer the interested party to the appropriate appellate level. When an alleged violation is brought directly to the State Commissioner, the State Commissioner will refer the complaint to the conference commissioner for an investigation and ruling.

#### 7.5.7 APPEALS PROCESS

7.5.7.1 An appeal is a written request by the college president to the appropriate appellate body requesting an interpretation of the rules and/or the administration of a penalty. The appellate process is as follows: (*except Disabilities Board, see Article 7.5.~~11~~15*).

- A. Member college upon which the penalty is applied.
- B. Conference commissioner.
- C. Conference ~~hearing~~ appeals board.
- D. COA appeals board.
- E. COA Board
- F. Binding Arbitration Panel (*See Article 7.5.~~13~~12*.)

7.5.7.2 Hearings are defined as:

- A. CLOSED HEARINGS—the appellate body rules based on submitted materials.
- B. OPEN HEARING—after a vote by the board, the appellate body invites the parties to present evidence in person. Open hearings shall be allowed only at conference ~~hearing~~ appeals boards and binding arbitration.

7.5.8 APPEALS PROCESS—THE CONFERENCE COMMISSIONER

7.5.8.1 All requests for formal interpretation of the *Constitution and Bylaws* and/or appeals shall be submitted in writing to the conference commissioner. The request for an appeal must state if the appellant is seeking an “open hearing.” The decision to hold an open hearing is however, the sole providence of the appeals boards. All appeals of rulings by the conference commissioner must be submitted in writing and must include pertinent support information such as up-to-date transcripts, factual medical records, sport schedules, and records of previous rulings. All appeals are to be submitted first to the conference commissioner who will see that all submitted appeal materials and rulings by the conference are submitted to each level of appeal. The State Commissioner will be responsible for all material submitted to the Binding Arbitration Panel. Each Panel will decide upon original materials as submitted. No additional materials may be provided to a higher authority. Should either party believe that additional materials are required in order to obtain a just decision, that party will request a return to the previous level with a written request to the conference commissioner. The question of a re-review of the issue shall be put to the last ruling panel. A decision not to re-review the matter is not appealable and is final.

7.5.8.2 Alleged conference or *Constitution and Bylaws* violations shall be reported to the conference commissioner within two (2) working days upon discovery of the alleged violation. Failure to report alleged violations may result in the imposition of penalties on the school or individual who failed to report.

7.5.8.3 The conference commissioner shall interpret and rule on the provisions of the *Constitution and Bylaws* for colleges, students, college administrators, and employees of member schools in his/her conference.

7.5.8.4 The conference commissioner is responsible for the first level interpretation, ruling, and enforcement of this *Constitution and Bylaws*.

7.5.8.5 The conference commissioner *shall not* modify, extend, waive, or disregard any provision of the *Constitution and Bylaws*. His/her ruling may be appealed to the conference ~~hearing~~ appeals board for modification, reversal, or ratification, except for injury illness waivers, ~~or reporting error waivers,~~ and dropped sports waivers.

7.5.8.6 Reports of alleged violations ~~shall be accepted from~~ that occur after the end of the regular season but prior to the end of the PC in that sport and involving a team that is participating in PC, ~~will~~ shall be resolved by the conference commissioner, chair of the respective appeals board, and the State Commissioner by majority vote.

7.5.9 APPEALS PROCESS—THE CONFERENCE ~~HEARING~~ APPEALS BOARD

7.5.9.1 Each conference shall establish a ~~hearing~~ appeals board. The ~~hearing~~ appeals board shall be composed of ~~the administrative~~ a representative from each college in the conference. However, a conference may establish a different ~~hearing~~ appeals board membership composition with the approval of the COA Board. This approval shall be for the ~~hearing~~ appeals board’s operation for the following year. The COA Board must act on the request for a change in the composition of

a hearing appeals board by its final meeting of the year preceding the year that the new composition would go into effect.

7.5.9.2 The function of the hearing appeals board shall be to consider:

- A. ~~Written appeals from of the rulings of by the conference commissioner.~~
- B. ~~Conference matters referred to it by the conference commissioner.~~
- C. ~~All rulings by the conference commissioner that modify, extend, waive, or disregard any provisions of the *Constitution*, except for injury illness waivers.~~

7.5.9.3 A member college, a student of the member college, or employees of the college shall have the right to appeal decisions rendered by the conference commissioner. Appeals shall be made to the hearing appeals board of the conference in which the college, student of the college, or employee of the college is a member. (See Appendix C, Appeals Flow Chart.) All such appeals must be submitted to the conference commissioner in writing and signed by the college president within ten (10) days of the conference commissioner's ruling. Within three (3) working days, the conference commissioner shall inform the hearing appeals board of the appeal of the conference commissioner's ruling. All materials to be the basis of the appeal shall be submitted with the written request to the conference commissioner. There shall be no direct contact with any member of the appeals board. Direct contact shall result in automatic denial or approval of the appeal.

7.5.9.4 Appeals directed to the hearing appeals board must be made in writing and signed by the college president within ten (10) working days of receiving the conference commissioner's ruling. After receiving an appeal, the hearing appeals board shall review the appeal within ten (10) working days. However, if the hearing appeals board deems votes to hold an open hearing is necessary, the appellant shall have five (5) working days notice of the hearing.

7.5.9.5 The hearing appeals board may, at its discretion, declare a hearing closed, call for testimony from those it deems appropriate, and seek other information as necessary. The hearing appeals board shall reach its decisions by a majority vote conducted by secret ballot. In case of a tie vote, the appeal is denied. The hearing appeals board shall deliver its decision in writing. If the hearing appeals board schedules an open hearing, the appellant shall have the right to:

- A. Appear and be heard.
- B. Present all relevant information, which may, at the discretion of the hearing appeals board, include other persons' statements.
- C. Require the attendance of any student or school employee to testify at the hearing, but the appellant does not have legal recourse to mandate his/her attendance.
- €. D. Question any witnesses.

7.5.9.6 The college or individual requesting an open hearing will bear all direct costs associated with convening the hearing appeals board. An individual may appeal to the State Commissioner for consideration of a waiver of the open hearing costs. The individual must show just cause for the waiver.

- 7.5.9.7 A hearing appeals board member who is affiliated with the college involved in the appeal shall not participate in the hearing appeals board's deliberation or cast a vote.
- 7.5.9.8 The hearing appeals board shall have the right to take the following action:
- A. Grant or deny the appeal.
  - B. Modify, reverse, or ratify decisions of the conference commissioner. ~~where he/she has modified, waived, extended, or disregarded the~~ Constitution.
  - C. ~~Invoke penalties for disciplinary action. Require the attendance of any student or school employee to testify at the hearing but the appeals board does not have legal recourse to mandate his/her attendance.~~
  - D. ~~Invite witnesses to attend the hearing, but the hearing board does not have legal recourse to mandate their attendance. Question any witness.~~
- 7.5.9.9 The decision of the hearing appeals board shall be distributed by the conference commissioner in writing to the appealing party, the ~~its~~ appellant school's athletic director, appellant school's college president, and the State Commissioner.
- 7.5.9.10 If a decision of the hearing appeals board ~~is~~ appears to modify, extend, or disregard any provision of the Constitution and Bylaws, that decision shall be forwarded through the Office of the State Commissioner to the appropriate appeals board for modification, reversal, or ratification. No decision by the appeals board is final until reviewed by the appropriate appeals board if the decision appears to modify, extend, or disregard any provision of the Constitution and Bylaws. The determination of whether an appeals board decision modifies, extends, or disregards any provision of the Constitution and Bylaws shall be solely determined by the State Commissioner.
- 7.5.9.11 ~~No~~ In no event, shall additional eligibility shall be granted to a student athlete until the hearing appeals board's decision is modified, reversed, or ratified by the appropriate hearing appeals board, with the exception of injury/illness and reporting error decisions by the conference commissioner. A student athlete shall not be allowed to participate in intercollegiate competition until the appeals board issues its ruling.
- 7.5.9.12 Decisions of the hearing appeals board are final unless appealed to the State Commissioner or the Northern or Southern Appeals Board as set forth hereafter.
- 7.5.10 APPEALS PROCESS—NORTHERN AND SOUTHERN APPEALS BOARDS (APPEALS BOARDS)
- 7.5.10.1 Three (3) appeals boards shall be established by the COA Board. Northern and Southern appeals board members and alternates shall be appointed by the COA chair~~person~~. Each appeals board shall consist of three (3) members of the COA Board. At least two (2) alternate members shall be appointed to each appeals board by the COA Board chairperson. Alternates shall be used only when a member is from a college appealing a decision by the hearing appeals board, conference commissioner, or State Commissioner; or when an appointee is unavailable to participate in an appeal's hearing in a timely manner. A minimum

of three (3) individuals will rule on appeals. (*Disabilities Board: see Article 7.5.115*)

The Northern and Southern Appeals Boards shall only hear appeals from rulings by conference appeals boards. All appeals shall be based upon the materials presented to the conference hearing board as submitted to the State Commissioner by the conference commissioner. No additional materials or information shall be allowed. There shall be no direct contact with any member of an appeals board. Direct contact shall result in automatic denial or approval of the appeal.

- 7.5.10.2 Each appeals board shall meet as needed during COA meetings. Special meetings may be called upon reasonable notice by the appeals board chair~~person~~ or the State Commissioner. The appeals board chair~~person~~ shall be appointed by the COA Board chairperson. The appeals board may conduct business by the following means: telephone, teleconference, videoconference, e-mail, mail, or in person.
- 7.5.10.3 The appeals board may seek other information as necessary. The appeals board shall reach its decisions by a majority vote. The appeals board shall deliver its decision in writing to the State Commissioner.
- 7.5.10.4 The appeals boards shall have the power to consider any matter concerning the *Constitution and Bylaws*, including, but not limited to:
- ~~A. Appeals by colleges and/or conferences.~~
  - ~~B. A. Appeals from an hearing appeals board.~~
  - ~~C. B. Appeals of interpretation of the State Commissioner.~~
  - ~~D. C. Matters referred to the appeals board by the State Commissioner.~~
- 7.5.10.5 An appeals board member who is affiliated with the college involved in the appeal shall not participate in the appeals board deliberation or cast a vote.
- 7.5.10.6 An appeal to the appeals board must be presented in writing to the State Commissioner within ten (10) working days of notification of denial of an appeal by the ~~hearing- conference appeals~~ board. All communications from the conference or any appealing party must be initiated through the conference commissioner, the State Commissioner, and then the State Commissioner to the appeals board. ~~with the appeals board must be initiated through the State Commissioner.~~
- 7.5.10.7 Using Form 4A, or 4B, Request for Appeal, as a cover page, such appeal shall briefly state the factual basis for the appeal. This statement should include all information pertinent to the case including, if relevant, transcripts, medical records, copies of schedules, confirming statements by the student and athletic director, and any other materials that will assist the appeals board to act.

- 7.5.10.8 Within five (5) working days of receiving a written appeal, the State Commissioner shall notify the appropriate appeals board chairperson of the appeal. A written decision shall be provided to the interested parties within ten (10) days of the review.
- 7.5.10.9 Within ten (10) working days after the appeals board chairperson receives notice of the appeal; the appeals board shall review the appeal.
- 7.5.10.10 The appeals board shall have the right to take any of the following actions:
- A. Grant or deny the appeal.
  - ~~B. Render *Constitution* interpretation.~~
  - ~~C. Impose penalties on the involved college(s), its employee(s), and/or its student(s).~~
  - ~~D. B.~~ Refer the matter to the COA Board for review.
  - ~~E. C.~~ Waive any provision of the *Constitution and Bylaws*.
  - ~~F. D.~~ Take other action, which it considers necessary or appropriate.
- 7.5.10.11 Each decision of the appeals board shall be made within ten (10) working days of the date of the hearing and shall be in writing. ~~The written decision shall be sent by the State Commissioner~~ shall send the written decision to the appealing party, the involved conference commissioner, and the hearing appeals board. The decision of an appeals board shall be final, unless the provision of Article 7.5.4211 is implemented.
- 7.5.415 STUDENTS WHO QUALIFY UNDER THE AMERICANS WITH DISABILITY ACT
- 7.5.415.1 A Disabilities Board shall be established by the COA Board. Members and alternates shall be appointed by the COA chairperson. The Disabilities Board shall consist of five (5) members, none of whom shall be required to be members of the COA. Members shall, however, be individuals who either have had or shall immediately receive training concerning member school's obligations under Title II, who shall be familiar with how students with learning disabilities are taught and how curriculum is developed and some understanding of how to predict academic success in a community college for students with learning disabilities and who are familiar with Section 504 of the Rehabilitation Act of 1973. At least two (2) alternate members shall be appointed. Alternates shall be used only when a member is from a conference that is submitting a request to the Disabilities Board or when an appointee is unavailable to participate in a hearing in a timely manner. A minimum of three (3) members shall rule on all issues. ~~The chairperson of the Disabilities Board shall be appointed by the COA chairperson.~~ The COA Board chair shall appoint the chair of the Disabilities Board.
- 7.5.415.2 The Disabilities Board shall meet as needed. Meetings may be called upon reasonable notice by the Disabilities Board chairperson or the State Commissioner. The Disabilities Board may conduct business by the following means: telephone, teleconference, videoconference, e-mail, mail, or in person.

- 7.5.4+15.3 The Disabilities Board may require any information reasonably required to reach a decision. Decisions shall be by a majority vote. All final decisions shall be in writing and shall be delivered to the State Commissioner within seven (7) days of a vote.
- 7.5.4+15.4 The Disabilities Board shall have the power to create eligibility for any student for one semester only by allowing modification, extension, waiving, or disregarding any of the provisions which does not adversely effect the purpose behind the provisions or which is reasonably necessary for operation of the COA.
- 7.5.4+15.5 A request for a hearing before the Disabilities Board must be presented in writing to the State Commissioner within ten (10) working days of endorsed notification from a conference commissioner on a form 4C. All communications with the Disabilities Board shall be initiated through the State Commissioner.
- 7.5.4+15.6 The State Commissioner shall notify the Disabilities Board within five (5) working days of the receipt of an endorsed notification from a conference and the Disabilities Board shall meet and act within seven (7) working days of notification from the State Commissioner.
- 7.5.4+15.7 All decisions of the Disabilities Board are final unless the student/institution requests to implement the provisions of Article 7.5.42.11.

7.5.42 11 APPEALS PROCESS—COA BOARD

- 7.5.42 11.1 The COA Board may affirm, overrule, or modify any decision of an appeals board.
- 7.5.42 11.2 The appealing party ~~will forward all information~~ shall send a request for review to each COA Board member the conference commissioner who shall notify the State Commissioner within ten (10) working days including a cover letter requesting the appeal and signed by the college president, and all the material that the appealing parties have previously presented to the conference commissioner or the hearing and appeals boards. No new material is acceptable. (see Article 7.5.4).
- 7.5.42 11.3 The State Commissioner shall distribute ~~additional~~ all of the information presented to the appeals board by the parties if necessary. There shall be no direct contact with any member of the COA Board. Direct contact shall result in automatic denial or approval of the appeal.
- 7.5.42 11.4 A ballot will be mailed to each COA Board member, along with the distribution of materials, requesting the decision of each member to be returned to the State Commissioner's office within 18 working days.

7.5.43 12 BINDING ARBITRATION

- 7.5.43 12.1 A Binding Arbitration Panel (Panel) shall be established. The panel shall be the final judge for appeals to actions that come from rulings involving the *Constitution and Bylaws*. The panel shall include 12 individuals who are familiar with the California community colleges, their procedures, and programs. The panel members shall be selected by the State Commissioner and the CCLC Executive Director. Panel members will be appointed for three (3)-year terms in a rotating manner so that there is an ongoing availability of panel members.

- 7.5.~~43~~12.2 The panel will serve without salary, except for the reimbursement of any agreed upon expenses, which will be paid by the appealing party.
- 7.5.~~43~~12.3 Neither the panel nor those seeking to appear before the panel shall use the services of legal counsel.
- 7.5.~~43~~12.4 Those wishing to use binding arbitration shall notify the State Commissioner of their wishes in writing within five (5) working days of the denial of an appeal by the COA Board.
- 7.5.~~43~~12.5 Those using binding arbitration shall present a factual written statement of their appeal at the time of notification.
- 7.5.~~43~~12.6 Within five (5) working days after receiving a request for arbitration, the State Commissioner shall notify the COA chair~~person~~ and the president of the appealing college of the request for binding arbitration. Simultaneously, the pool of arbitration panelists shall be presented to the COA chair~~person~~ and the appealing college president.
- 7.5.~~43~~12.7 From the pool of arbitrators, the COA chairperson and the president of the appealing college shall, within five (5) working days, reduce the arbitration panelist's pool to a panel of three (3) who will hear the case. If three (3) individuals cannot be agreed upon, then each party shall select one (1) individual from the list. Those two (2) selected panelists shall select one (1) person from the list to be the third member of the panel. Within five (5) working days, the three (3) panelists shall select a chair~~person~~.
- 7.5.~~43~~12.8 The three (3)-person panel shall meet to hear the appeal no later than 18 working days after the Panel chairperson is selected.
- 7.5.~~43~~12.9 The Panel may, at its discretion, declare the hearing closed, call for testimony from those it deems appropriate, and seek other information as necessary. The Panel shall, at its sole discretion, decide if it wishes any material in addition to that which has been previously submitted by the parties. There shall be no direct contact with any member of the Panel. Direct contact shall result in automatic denial or approval of the appeal.
- 7.5.~~43~~12.10 The Panel shall reach its decision by majority vote conducted by secret ballot. In case of a tie vote, the appeal is denied. The Panel shall deliver its decision in writing.
- 7.5.~~43~~12.11 If there is a hearing, the appellant shall have the right to:
- A. Appear and be heard.
  - B. Present all relevant information, which may, at the discretion of the Panel, include statements from other persons.
  - C. Question witnesses in attendance.
- 7.5.~~43~~12.12 The Panel shall have the right to take the following action:
- A. Grant or deny the appeal.
  - B. Take other action it considers necessary or appropriate within the limits stated in this *Constitution and Bylaws*.

7.5.4312.13 Decisions of the Panel shall be provided in writing within ten (10) working days following the conclusion of the hearing. Decisions of the Panel shall be final.

7.5.4312.14 Those who are unwilling to accept the decision of any of the due process procedures provided by this article shall be responsible for the payment of all costs incurred by all parties in any resulting litigation.

#### 7.5.4413 PENALTIES

7.5.4413.1 Penalties for violation of the *Constitution and Bylaws* may be imposed on colleges, students, conferences, coaches, or other college employees. Such penalties may be imposed by a college, conference, conference commissioner, ~~appeals board~~, or the COA Board. Each penalty shall be enforced by the conference and Conference Commissioner or, in the case of penalties against a conference, by the State Commissioner.

7.5.4413.2 Disciplinary actions may include, but are not limited to, the following penalties: loss of right to participate in scheduled games, meets, or matches; loss of eligibility; forfeiture of contests; return of any awards won during periods of forfeiture; probation, suspension, exclusion from participation in any COA-sanctioned sport or postconference competition; and may recommend exclusion from a coaching assignment.

7.5.4413.3 The penalty for the participation of an ineligible athlete in any contest shall include, but need not be limited to, the forfeiture of the contest(s) (game, meet, or match) in which the athlete participated. (*See Bylaw 1.*)

7.5.4413.4 A conference commissioner may, ~~by a vote of the member colleges~~, place a college(s) on:

A. PROBATION—A conference college may be placed on probation ~~by a majority vote of conference members~~ for failure to abide by COA and conference rules and regulations. Probation may include appropriate sanctions, including loss of eligibility for PC.

7.5.13.4.1 A conference may, by a vote of the member colleges, place a college on:

~~B.~~ A. SUSPENSION—A conference may suspend a member college by a three-quarters (3/4) vote of conference members for willful failure to abide by COA and conference rules and regulations. Suspension shall mean the loss of participation rights in one or more sports. (*See Bylaw 5.7*)

~~C.~~ B. EXPULSION—A conference may recommend expulsion from the conference according to the provisions of the following subsection.

7.5.4413.5 A conference may recommend to the COA Board expulsion of a member college by a three-quarters (3/4) vote of the member colleges for continual willful failure to abide by COA and conference rules and regulations. Such a recommendation shall be made to the COA Board through the State Commissioner. Expulsion may only be recommended following a period of either probation or suspension for the college in question. (*See Bylaw 5.7*)

- 7.5.4413.6 In each case of expulsion, the COA Board shall act only after having taken testimony from the college proposed for expulsion and having received the report and the recommendation of the State Commissioner. The COA Board shall act at its next regularly scheduled meeting. Such a decision is final and may not be appealed.
- 7.5.4413.7 When the COA Board approves expulsion of a college from a conference, that college shall not be eligible for membership in another conference for the period of time from the date of the expulsion through the end of the succeeding academic year. (See Bylaw 5.7)
- 7.5.4413.8 For purposes of voting, as in Article 7.5.4413.5, each member college shall have one (1) vote. For purposes of determining how many votes equal a three-quarters (3/4) majority, the minimum number of votes to equal or exceed an absolute numerical three-quarters (3/4) shall be required.
- 7.5.4413.9 Each conference, in applying the sanctions listed above, shall provide due process procedures.
- 7.5.4413.10 Penalties for violation of any Bylaw may be imposed on colleges and their coaches, students, employees, and/or college representatives. Such penalties may be imposed by the college, the conference commissioner, conference, ~~appeals board~~, or the COA Board.
- 7.5.4413.10.1 Probation penalties shall include:
- A. The violating college athletic department shall be placed on a minimum one (1) year probation for the sport(s) concerned. Supervisors of the probation shall be the college president and the conference commissioner.
  - B. The conference commissioner shall write a letter of notification to the college and forward it to the college president.
  - C. The college on probation shall develop a written policy statement on the violation activity(ies) to be presented by the college president at the first scheduled conference meeting following the penalty ruling.
  - D. The college shall provide the conference commissioner with a monthly written report summarizing the college's activities in the area of the rules for which the penalty was invoked. If a recruitment rule has been violated, this report shall include all out-of-recruiting area first-contact reports.
  - E. The conference commissioner shall review the college's compliance with the sanctions of the probation at least twice during the probation year. At the end of the probation, the conference shall vote to terminate or extend the probation.
  - F. The college may receive further penalties, including but not limited to the loss of postconference competition, imposed by the conference commissioner, the conference, ~~the appeals board~~, or the COA Board, in accordance with Article 7.5 (Due Process Procedures) of the *Constitution and Bylaws*.

7.5.14.10.2 Penalties for additional violations, which would result in probation, by a college, which occur during the year of formal probation or within three (3) years following the probation year, shall include:

- A. The college shall be again placed on probation or its probation extended and shall be banned from participation in any postconference competition in one, some, or all intercollegiate sports of the college.
- B. The commissioner or the conference shall ~~recommend~~ notify in writing to the college president ~~of the immediate reassignment of or other severe disciplinary action against~~ names of those administrators and/or staff members who are believed to be responsible for repeated violations ~~of this Bylaw~~. Colleges are urged to reassign repeat offenders.
- C. The conference shall, upon the call of the commissioner, meet to evaluate ~~the imposition of additional penalties listed in Article 7.5.14 (Penalties) of the Constitution~~ and consider recommending the suspension and/or expulsion of the college from the conference.
- D. Other penalties as shall be imposed by the conference commissioner, the conference, or the COA Board.

7.5.14 FORM A: DUE PROCESS PROCEDURES

7.5.14.1 The following procedure is to be used by the Office of the State Commissioner involving cases initiated by the use of a Form A, Request for Investigation Form:

- A. Initiators will use Form A, Request for Investigation. ~~Form A must be submitted to the State Commissioner by the athletic director and president of the college making the request. The athletic director and president of the college making the request must submit Form A to the State Commissioner.~~ Attached with the form must be an objective explanation reporting the exact dates, times, location, and names of those people involved. Any other pertinent information should be included.
- B. Upon receiving the Form A and its attachments, the State Commissioner will send copies of the materials and procedures to the president of the college against whom the allegation has been made and the Conference Commissioners involved.
- C. The college will be given 48 hours to respond verbally to the State Commissioner with respect to the allegations.
- D. At that time, it will be the responsibility of the State Commissioner to use one or more of the following options:
  - 1. Accept the college's proposal for responding to the allegation.
  - 2. ~~Call upon~~ Refer the matter in its entirety to the conference commissioner to provide advice and background information for action.
  - 3. Appoint an investigator to establish and/or clarify the facts of the case.

4. Establish a date for a visit by the State Commissioner with those identified as being involved in the case. The State Commissioner may wish to interview all parties including students, staff, and any other individuals involved in the case.
- E. Upon completion of the investigation, the State Commissioner will report the findings and recommendations directly to the ~~appropriate appeals~~ COA Board. The ~~appeals~~ COA Board may:
1. Grant or deny the recommendation of the State Commissioner.
  2. Render its own interpretation.
  3. Impose penalties on the involved college(s), its employee(s), and/or its student(s).
  4. Refer the matter to the ~~COA Board~~ conference for review.
  5. Waive any provision of the *Constitution and Bylaws*.
  6. Take other action which it considers necessary or appropriate. Throughout the process Article 7 will be used. Whenever possible, problems should be resolved at college and conference levels.

**APPEALS PROCESS FLOW CHART**

<b>STEP</b>		
1) Form 4A & 4B	CONFERENCE COMMISSIONER	Ruling; appeal resolved
2) Or appealed to	CONFERENCE APPEALS BOARD	Appeal resolved
3) Or referred to	STATE COMMISSIONER	Who directs
4) Appeal to	NORTHERN OR SOUTHERN APPEALS BOARD	Appeal resolved or
5) The appeal may be reviewed by the COA Governing Board at its discretion		Appeal resolved or
6) Request binding arbitration		

Board Member Responsibilities 2004-2005

William Andrews	Northern Appeals Board Finance Committee
Stan Arterberry	Finance Committee Eligibility Committee, Chair
Helen Carr	Competition Committee, Chair Northern Appeals Board, Alt Out-of-Season Competition Committee
Susan Carroll	Awards Committee, Chair Northern Appeals Board
Eva Conrad	COA Board Chair Out-of Season Competition Committee
Jeff Cooper	Southern Appeals Board, Chair Out-of-Season Competition Committee
Bob Deegan	Affiliate Organization Relations, Chair Southern Appeals Board
Kathleen Hodge	Southern Appeals Board, Alt Finance Committee
John Keever	Management Council Chair
Jan Kehoe	Southern Appeals Board Finance Committee
Ted Martinez, Jr.	Finance Committee, Chair Out-of-Season Competition
Rosa Perez	Gender Equity Committee, Chair Northern Appeals Board, Alt Finance Committee
Denise Whittaker	Constitution Committee, Chair Southern Appeals Board, Alt