

COA BOARD

MEETING MINUTES

*Marriott Hotel, Anaheim, California
November 18, 2004*

A. CALL TO ORDER

Chair Eva Conrad called the COA Board meeting to order at 10:00AM. Those in attendance included: Rosa Perez, Helen Carr, Ted Martinez, Jr., Jackie Fisher, Sr., Bob Deegan, Kathleen Hodge, Susan Carroll, John Keever, Jan Kehoe, Joanne Fortunato, Stu Van Horn, and Debra Wheeler. Attorney Mary Dowell joined the meeting at 11:00AM.

B. APPROVAL OF OCTOBER 13, 2004, COA BOARD MEETING MINUTES

It was moved, seconded, and carried (MSC) to approve the COA Board meeting minutes of October 13, 2004.

C. COA SPORTS FESTIVAL

Commissioner Joanne Fortunato introduced the COA sports festival concept to the COA Board. The concept was developed after she had seen an article reporting the success enjoyed by the NCAA Division II festival, which is in its inaugural year. Her immediate reaction was, "What a great idea for the COA! This could help to make our championships more financially stable, while also bringing more recognition to the COA."

She then indicated that the concept met a goal identified during the COA Strategic Planning Retreat conducted by professional facilitators and attended by COA Board members January 25-26, 2002, in Dana Point, California. That goal is to make the COA a more visible organization. The introduction of the sport championship festival concept has brought about a positive focus from many organizations. In addition, the concept meets a goal of the Management Council regarding improved site selection for state championships, and is viewed in a positive light by the Management Council subcommittee on site selection.

Looking for a November 19, 2005, launch with the sport of cross country, state championships for nine sports would be included in the fall sport championship festival. COA staff is now working out logistics issues. Asking for Board support of the festival concept, COA staff and the site selection subcommittee are developing recommendations to bring to the Management Council in April 2004 to request its support. Meetings are being held with various convention and visitors' bureaus to request financial support for the festival. It was noted that any contract partnering the COA with a convention and visitors bureau would contain an "out" clause, should the COA, at any time, wish to discontinue the festival.

Stu Van Horn provided an overview of the championship festival schedule. He stated that sports will not be required to move sport season dates or championship dates; however, if women's volleyball would use the second weekend in December to hold its state championship (women's volleyball currently uses the first weekend in December), students participating in the women's volleyball state championship would then be able to participate in some of the proposed activities the festival will provide:

- Opening and/or closing banquet celebration with keynote speaker
- Concert for student athletes
- Adopt-a-team K-12 program
- Bands and/or sponsor exhibits
- Transportation shuttles to/from venues for athletes and fans
- Student athlete game room/video lounge at primary festival hotel headquarters

Chair Conrad noted that, from the students' perspective, the sport championship festival concept creates a sense of celebration and commonality. Student athletes could be included in a closing banquet that will allow students to "connect" across sports. She then asked the COA Board, "Do we want to continue to encourage COA staff to pursue the concept, or should they be asked to halt their efforts in this area?" Noting the importance of staff involvement and staff provision of time and resources into projects about which the COA Board is enthusiastic, the Board indicated support for moving forward with planning the festival.

D. OUT-OF-SEASON COMPETITION

1. PRELIMINARY DISCUSSION

COA Board Chair Conrad summarized out-of-season discussion held during the October 2004 CEO Board meeting. Concerns were focused in the areas of district liability and collective bargaining issues. There was no consensus among the CEO Board members on this issue, with some conveying the need to continue to prohibit out-of-season competition, while others believe that out-of-season competition should be brought under the purview of the district. The CEO Board indicated it would support whatever decision the COA Board formulates. Chair Conrad then challenged the COA Board to analyze the situation, set aside parochial vision, while considering the main issues, identified as follows:

- Liability — is there any way for us to create a situation to remove liability?
- Cost — the current interpretation is that individual district board decisions will determine costs.
- Equity — Potential for colleges that have versus those that have not.... Again, an individual district board decision.
- Student Learning — a complex issue, with arguments that the additional opportunities for competition increase students' physical skills and attention to academic coursework, while others argue that the additional competitive season distracts students from academic coursework.

COA Board Discussion: Numerous opinions were offered on all sides of the complex issue. There is no empirical evidence to support the arguments.

2. INTRODUCTION OF MARY DOWELL

Mary Dowell, attorney for some of the COA Board members present, joined the meeting at this point to answer questions on this topic. She referred to the October 25, 2004, memorandum sent to California community college presidents and athletic directors titled, “Necessary Conversation on Out-of-season Athletic Competition.”

Her opening comment included, “You have good pedagogical and institutional rationale for the COA rule. I philosophically support the rule. From a legal standpoint, the rule may not insure you against liability and may violate insurance JPAs because you have a college-supported activity that you have not identified in the insurance agreement.”

Speaking to the third bullet on page two of the memo under the heading, “Facts on College/District Liability for Out-of-season Athletic Competition” Mary Dowell opened discussion with comments indicating that if a student’s participation in the out-of-season intercollegiate athletic competition private club team is required (spoken or implied) in order for that student to make the college team for the same sport during the season of that sport, the college would definitely be held liable. She also said that to pretend that out-of-season competition is not happening and not insuring that activity puts colleges at risk.

3. QUESTIONS POSED BY THE COA BOARD TO MARY DOWELL

- a. ***Does the college eliminate its liability if the out-of-season intercollegiate athletic competition is organized as a club that is independent of the college’s financial support, even though the same players and coach participate?***

Answer: It depends on how independent the club is and in what ways it is independent. If the college has a club for the out-of-season athletic activity, it will be subject to the intercollegiate club counsel, will have a faculty sponsor, and is a college activity. Such a *college club* is subject to the college’s regulations and may be added as a college activity for insurance.

However; if the coach, as a totally independent and freestanding citizen, organizes an *independent club* in his/her free time, the club is initiated independently of the college, and players may or may not participate *as they choose*, then this scenario may create a “wall” shielding the college from liability. This club would purchase insurance independent of the college.

She noted that whether or not such independent organizations set up the activity and purchase insurance, if the athletes are required (stated or implied) to be members of the club in order to participate on the college’s team during the season of sport, then a court will likely conclude that the district would be identified as one of the “deep pockets.”

Can participation on a club team be a “perceived” requirement since most coaches stress the importance of athletes maintaining conditioning throughout the year? Answer: If it isn’t in writing but everyone “knew” that an athlete would not play on the college team if not a member of the independent club, the college would be found liable.

Is there some sort of waiver that could be developed, which if signed by the student would distance the college? Answer: A form could be devised—and would be advised—to document that students are informed in writing and put on notice what is or is not expected of them. However, the institution must also abide by that form. If the team is a *college club* under the umbrella of the college and similar to other campus clubs and activities, such as the chess club or debate club, the college would regulate the club's insurance and travel.

Can a college or the district deny the independent baseball team access to rent the college's facilities under the civic center act? Answer: No. Beyond the conditions cited in the Civic Center Act, you cannot deny such an independent club access to facilities.

- b. ***If the COA regulations were changed to be permissive about out-of-season intercollegiate athletic competition, would a college be required to provide the same safety precautions as it does for the season of sport?***

— ***Specifically, would the college be advised to provide transportation to other colleges for the out-of-season intercollegiate athletic competition as opposed to student-owned transportation?***

— ***Would the college be advised to provide a trainer for the out-of-season competition?***

Answer: It depends...If the college allows participation in out-of-season competition, it should provide the same precautions as during the season of sport.

Should the college provide transportation for the teams to the competitive events?

Answer: If team members are asked to meet at the location of the competition, the college is not liable for accidents occurring during students' self-transportation.

Should the college provide a trainer for out-of-season competition? Answer: If it is a college club, the college is not obligated to provide a trainer. To provide a trainer, the club may apply for extra-curricular funding as other clubs, or raise funds, or find a trainer who will volunteer.

Can clubs charge fees? Answer: A review of student handbooks is needed. The COA cannot authorize the charging of such fees.

Can students be made to take a specific number of course units in order to participate in a club? Answer: A review of Title 5 regulations is needed to verify this point.

Chair Conrad suggested that a matrix of pros and cons be developed to the best alternative among the options of a *college club* versus an *independent club*.

- c. ***If the COA chooses to retain the current "out-of-season intercollegiate athletic competition" rule, how could the current rule be changed to be stronger to protect the COA? To protect the colleges/districts?***

Answer: No. The COA is best protected by eliminating Bylaw 3.18.3.G. (Insurance: No insurance purchased by the college may be used for injuries that occur to individuals on out-of-season teams.)

- d. ***Could the out-of-season competition liability issues be minimized by organizing the activities as physical education classes with field trips?***

Answer: Many California community colleges already have collegiate classes for out-of-season sports. If students and coaches join independent club teams for competition, such classes could be combined with college club teams.

- e. ***If out-of-season activities were organized as club activities, could salary costs and potential collective bargaining issues be minimized?***

Answer: Since this is within collective bargaining agreements, this will vary from district to district. Some districts might pay stipends or grant load credit, while others may not compensate for club supervision.

How will changes in the regulation impact athletic trainers? Answer: Again, this is a collective bargaining issue. Coverage may be accomplished through overtime or flex work weeks, such as Tuesday through Saturday. The answers are up to the individual districts.

4. CONCLUSION

Mary Dowell was thanked for her participation in the meeting.

Chair Conrad asked direction from the COA Board regarding the COA presentation to the CEO Board at its meeting later that afternoon. The COA Board directed Chair Conrad to review the questions, summarize Mary Dowell's responses, and report that the COA Board would meet soon to develop legislation that will be considered at the March COA meeting.

E. NEXT COA BOARD MEETING

A COA Board meeting will be convened for discussion of this topic only. The meeting will be held at Long Beach City College, with a recommended start time of 11:30AM and a recommended length of three hours. Dates being considered are: January 20, or 21, or 27, or 28, 2005. COA Board members will be polled to determine the best possible date.

F. ADJOURNMENT

There being no further business to come before the COA Board, the meeting was adjourned at 12:00PM.