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Consent Decree In Gender Equity Litigation Reaffirms MHSAA's On-Going Commitment To Girls' Athletics

EAST LANSING, Mich. – Dec. 17 -- A Consent Decree between the Michigan High School Athletic Association and the plaintiffs in a three-year old-plus court case intended to require the organization to force the public, private and parochial schools in its statewide membership to change the time of the year when they conduct sports seasons, reaffirms existing Association practices and policies.

The Consent Decree was made public today in United States Federal District Court in Kalamazoo, following a decision by Judge Richard A. Enslen in the case which directs the MHSAA to submit a plan to the court of realign sports seasons in the spring of 2002 for implementation during the 2003-04 school year.

The Decree was agreed to by both parties in August, the result of weeks of negotiation which narrowed the focus of the court case to the placement of sports seasons. It was then retained by the District Court for release following Judge Enslen's decision.

"The negotiation of this Consent Decree was a tactical move for the MHSAA," said John E. "Jack" Roberts, executive director of the Association. "It has little substantive effect on the MHSAA, but it set the stage for a trial that focused only on schools' authority to make decisions about sports seasons that they believe are in the best interests of all athletes, decisions which maximize students' opportunities to participate in high school sports.

"What we refused to do during last summer's negotiation was deal away schools' authority to determine their sports seasons. We wouldn't do that; we can't do that, legally or practically. We only committed to what the organization can do itself, and we were already doing most of it. The Consent Decree confirms rather than changes MHSAA operations."

Highlights of the eight areas of the Consent Decree are as follows:

No additional efforts in the areas of publicity and promotion are required, since everything described in the Consent Decree is already standard operating procedure for the MHSAA. "Thanks to a great staff, no athletic association on any level – high school, college or professional – does a better job of

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equalizing treatment for boys and girls final tournament telecasts, printed programs and other promotions,” Roberts said. He pointed to a track record of the Association going to additional measures to televise girls championship events, producing the finest souvenir programs for high school championships for boys and girls in the country, and providing promotions at girls final events that exceed what is done at boys events – with national model programs to stage clinics for female junior high student-athletes and their parents (CHAMPS Clinics), and recognition programs for championship teams of past years (Legends of the Games).

The MHSAA’s long-standing policy of providing Regional and Final Golf Tournaments of the same length for boys and girls was reaffirmed. “We will continue to encourage this same concept for our member schools for regular-season competition,” Roberts said. The MHSAA tournament format for both genders is 18 holes at the Regional level of play in the Lower Peninsula, and a two-day 36-hole Final in the Lower Peninsula. The Upper Peninsula Finals format is 18 holes for both genders. No changes are required by the Consent Decree.

The MHSAA will sponsor two additional girls post-season tournaments, one commencing no later than the 2003-04 school year and the other no later than 2004-05. “For several years, we have been anticipating that existing MHSAA policy would result in several additional MHSAA tournaments, and we expect to beat this schedule,” Roberts said.

A survey to determine the preference of schools for the format of the MHSAA post-season tournament in girls volleyball is being conducted this fall. The survey, which is underway, asks volleyball schools to determine if the Association’s Girls Volleyball Tournament remains a best of three format, or is conducted in a best of five game format next season. “For its entire existence, surveys have been a staple of MHSAA decision-making; and the MHSAA has a long record of operating its tournaments according to the expressed preferences of its membership,” Roberts said. “When it comes to tournament formats, we’re 100 percent membership driven. No change will be made that the majority of schools don’t want. That’s no change in how we operate.”

Roberts added, “That plaintiffs would agree to a binding survey of schools on this matter but refuse to trust a binding survey of schools on the placement of sports seasons demonstrates the inconsistencies of their position.”

The MHSAA’s plans to continue its support of the ongoing efforts to upgrade softball facilities at its Finals venue, Bailey Park in Battle Creek, are reaffirmed by the Consent Decree. An upgrade of the Bailey Park facilities, planned since 1998, entered the first phase in 2001, with additional work to continue

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through 2003. “The Consent Decree requires no results beyond what the MHSAA has already committed to without influence by the legal action,” Roberts said.

At its October 10 meeting, the MHSAA Executive Committee appointed a Baseball/Softball Tournament Site Selection Committee, which will operate as similar committees in girls and boys basketball, girls volleyball, and track and field/cross country. The Baseball/Softball Tournament Site Selection Committee met on December 3. No other changes in policies or procedures are required by the Consent Decree.

The Consent Decree reaffirms the MHSAA’s existing policies and procedures for the selection of sites for the Girls Volleyball Tournament series. No changes are required.

Based on its availability, the Breslin Student Events Center on the campus of Michigan State University will host the MHSAA Girls Basketball Semifinals and Finals during the 2004-05 and 2005-06 school years. A move to the Breslin Center was recommended by Roberts to the MHSAA Representative Council in 1998, and the Breslin Center has been holding for several years the dates of December 2, 3 and 4, 2004 and Dec. 1, 2 and 3, 2005 for the MHSAA’s tournament. Prior to the 2004-05 school year and following the 2005-06 school year, the Representative Council has the sole discretion for selecting the site.

“It was maddening,” said Roberts, “that plaintiffs could make up controversies that didn’t exist and throw them into a lawsuit that shouldn’t have been filed. And it was frustrating that the Court would not hold plaintiffs accountable for facts and truth for more than three years. The Consent Decree allowed us to take those non-issues off the table without harm to the MHSAA or its membership.”

Roberts added that the Consent Decree is independent of further legal action which may still occur in this case. The MHSAA is appealing the Court’s decision to the Sixth Circuit Court of Appeals in Cincinnati, Ohio.

The MHSAA is a private, not-for-profit corporation of voluntary membership by over 1,300 public and private senior high schools and junior high/middle schools which exists to develop common rules for athletic eligibility and competition. No government funds or tax dollars support the MHSAA, which was the first such association nationally to not accept membership dues or tournament entry fees from schools. Member schools which enforce these rules are permitted to participate in MHSAA tournaments, which attract approximately 1.6 million spectators each year.

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