

Airing It Out

Lessons & Letters
from a Career
in School Sports

John E. (Jack) Roberts



MORNING

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By

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INTRODUCTION

“The chronological sorting of memories is an interesting business.”

Donna Tartt, *The Secret History*

(Note 1)

Nature teaches that almost every creature is a product of its time and place . . . that it’s nearly impossible for a living organism to survive if its surrounding environment is too radically or rapidly altered.

I believe I was a lucky exception to the rule.

Even as change accelerated in all aspects of schools and sports and society, I not only survived, I felt like I thrived . . . acutely aware and appreciative of the fact that I was allowed to bring my passion to work every day. No one I knew professionally or socially talked about his or her work with the same enthusiasm I could speak about mine, week after week and year after year, for more than three decades.

While I cannot relate to his job, I can to his sentiments when Teddy Roosevelt said, *“Nobody ever enjoyed the presidency as I did. While president, I have been president emphatically.”* (Note 2).

Well, I was *emphatically* the executive director of the Michigan High School Athletic Association for 32 years. The enthusiasm I had for the work and mission never allowed me to be satisfied with outcomes. The list of “unfinished business” I kept near me at the MHSAA office was much longer after 30 years than it was after 30 months on the job, and the significance of the listed items was much deeper.

As an athletic administrator, I was a creature of a time when the written word mattered . . . when long-form written works were valued and a hard-copy letter, personally signed and delivered through the United States Postal Service, was the official form of business communication. My respect for and attention to the written word and reliance on letters remained as strong in 2018 at the end of my career as head of the Michigan High School Athletic Association as it was at the beginning, in 1973, when I was an underling in the offices of the National Federation of State High School Associations.

I was the executive director of the MHSAA when the organization purchased its first fax machine which, even in its early sluggish days, was a game-changing device. I was present when the organization secured its first mobile phone . . . we called it a “car phone.” It was the size of a shoe-box and the weight of a bowling ball. I signed the six-figure check when the organization purchased its first computer: a massive IBM AS400 mainframe processor which, by itself, filled most of a 15-by-15-foot room at the MHSAA’s Trowbridge Road offices in East Lansing. Within two years, it was pushed aside by the personal computer revolution.

I was in charge when the organization created its first website . . . and then its second. I was the boss when something called “social media” began to intrude upon all facets of life; when our telling the story of school sports factually, fairly and deliberately would frequently lose out to fast, brief and often erroneous electronic narratives created by people – often anonymous – who had little knowledge of events and no accountability for the words they could spew and spread overnight around the state, nation and world.

I followed Cicero’s admonishment: *“Never act upon a subject until you have first written upon it.”* In other words, don’t just look before you leap; look and *write*. Take time to work out and state clearly what you believe, and have the courage to put what you believe in writing.

Throughout my tenure I wrote regular, modest-length opinion pieces for MHSAA publications, many of which have been collected in two volumes (Note 3); and I occasionally submitted editorials that were requested for national publications. And, when it became apparent that readers were being bombarded by electronic communications and becoming impatient with long-form expository writing, I adapted by posting brief blogs on MHSAA.com twice each week for the last decade of my career. (Note 4)

However, it never changed that the sensitive, serious matters and official decisions of the MHSAA were communicated in letters which were every bit as deliberately researched and written as decades before; but in later years, disseminated digitally, and thus instantly, to all relevant parties.

Without letters, written by hand and carried by horse and rider or rail across land, and by sail or steam across the seas, there would be less appreciation of the obstacles to the founding and forming of America. While far less dramatic and important, no history or accounting of what occurred in educational athletics during the past four-dozen years is complete or accurate without a look at the period’s letters.

The letters included in this volume are often not the first, last or most encompassing involved for the events described. The letters have been chosen because they convey something about the specifics of a situation *and* something about the philosophy and administrative principles of educational athletics.

At the time of my retirement in 2018, I was the longest-serving state high school association CEO in the country: 32 years and a month. One of the essentials for this long career was optimism. I always expected good outcomes. I had a short memory for problems, and I never kept an enemies list. So, it wasn’t a simple matter to choose the topics for this book. Out of the many dozens of especially difficult or insightful situations that might have been described in this book, those actually selected for inclusion in this volume are not only among some of the more instructive, they also tend to be events for which I have personal experience and direct, first-hand knowledge. To quote the song from Act 2 of the hit musical *Hamilton*, I was *“in the room where it happened.”* Sometimes, *“No one else was in the room where it happened.”* Or at least, no one else was in the room who is still living and who had the interests of school sports in mind.

These choices changed the book's voice. When I began this project, I did not intend to insert myself into the story; but after struggling to make any progress at all with an impersonal historical and philosophical manuscript, I shifted gears and wrote what is frequently a first-person narrative . . . not quite a memoir, but clearly from personal experience. Then the floodgates opened and the project came to life.

As a speaker, I was a storyteller. As a leader, I often wore my heart on my sleeve; and I certainly did so as a writer. This book unfolds in the same way: with stories of what actually transpired – and from the heart, from the inside out – often with candor which may have been camouflaged at the time of the controversy, but always with genuine affection for educational athletics and in awe of its humble, lifelong servants.

This is not, to quote Jane Smiley's introduction to the Wallace Stegner novel *The Spectator Bird*, "an old scold fighting lost battles." (Note 5) To the contrary, if ever there was a state high school association executive who felt young at heart, it was I; and if there ever was an idealist in this work, it was I. This is why I've bothered to write this book on high school sports: it's because I still have hope for educational athletics. To borrow a line from Anthony Doerr's brilliant short story, *Mkondo*, "I was made and set here to give voice to this." – both for the work itself and the writing about it – and to write about it now, before all memory and record of these matters are lost. (Note 6)

When Thomas Jefferson sat down to write the Declaration of Independence, he did so in isolation, at a diminutive desk in a small room, with few outside sources at hand. He didn't need a lot of reference books, because what he was about to write would be plain, simple and obvious. His second paragraph began, "We hold these truths to be self-evident . . ." The work required no footnotes citing the source of those truths.

What I write about here is obviously far less important than Jefferson's task; but to my way of thinking about educational athletics, the fundamentals are plain, simple and obvious: self-evident. I trust that some of these principles will emerge clearly to each reader as he or she progresses through the accounts of events where the core values of school sports have been tried and tested.

The approach here is that of a journalist more than a historian. Paragraphs are short and chapter notes are few. As much as the flow will allow, sources are cited within the narrative. When I am the author of a document or was a participant in an event described in this volume, I don't quote the source. High school sports participation numbers are from the National Federation of State High School Associations' annual Sports Participation Survey and the Michigan High School Athletic Association. The MHSAA is the source of all financial data cited or summarized. The MHSAA website and printed *Bulletin* are the sources for meeting minutes of Representative Council, Executive Committee and other MHSAA committees, task forces and study groups.

This volume also relies on files I maintained at the MHSAA offices and even earlier, as well as my personal calendars and telephone logs which I have kept since the 1970s. These records combine to allow me to recall the sequence and content of in-person and telephone conversations as well as my principal projects and correspondence on almost every day of my career in athletic administration; and they assure me I have correct recall of people, places, words and deeds.

Anyone who would write or speak about high school athletics, dare to lead educational athletics or deign to critique those who do, should first read "*The History, Rationale and Application of the Essential Regulations of High School Athletics in Michigan*, the most updated edition of which can be found in the MHSAA website Library.

I am grateful to my former colleagues Rob Kaminski, Geoff Kimmerly and Tom Rashid for taking their personal and family time to provide editorial support, to my 32-year assistant Karen Yonkers for doing the same to polish the manuscript, and to my wife Peggy for her expert proofreading, piercing questions and so very much more.

My hope is that readers will find the sliver of school sports described in these pages to be "*an interesting business*," and that leaders will make it *their* business to provide opportunities for high school girls and boys which justify the prominent place competitive athletic programs have in secondary schools throughout the United States today.

NOTES:

- 1: *The Secret History*, by Donna Tartt. Vintage Books (2004).
- 2: The secondary source for this quote is *The American Spirit: Who We are and What We Stand For*, by David McCullough, during his speech at Dartmouth College, in 1999. Simon and Schuster (2017).
- 3: *Raising Expectations* and *Lasting Impressions*, both volumes by John E. (Jack) Roberts. Michigan High School Athletic Association (2000 and 2010, respectively). Available in the Library of MHSAA.com.
- 4: See "From the Executive Director" at MHSAA.com.
- 5: Introduction by Jane Smiley to *The Spectator Bird*, by Wallace Stegner. Penguin Classics (1990).
- 6: The short story "Mkondo" by Anthony Doerr is included in the collection of stories published under the title *The Shell Collector*. Scribner (2011).

Chapter 1. Wishful Thinking

“Next time, be careful what you wish for.”

Dionysus to King Midas, Greek Mythology

It was a brief, calm meeting in New York City, on a crisp and sunny early summer day of 1978, when the end was sighted to bleak and sometimes stormy years of controversy over American athletes’ participation in international events and governance of the United States Olympic Committee. It was one of the most important days in school sports history that almost nobody involved in school sports knows about today.

I.

Dissatisfaction with performances by United States’ delegations at recent Olympic Games had been growing. It wasn’t just that US athletes sometimes couldn’t match the juiced-up performances of chemically enhanced athletes from countries behind the Iron Curtain. More infuriating was the inept administration and an accumulation of embarrassments by US team officials, epitomized by two US sprinters missing their quarterfinal heats because they were given the wrong starting time by team officials at the Olympic Games in Munich in 1972.

Shortly after the Munich Games, the National Collegiate Athletic Association resigned from the US Olympic Committee, citing in its press release *“an unresponsive and mismanaged USOC,”* and called for a *“thoroughgoing reorganization of our Olympic and international athletic undertaking.”*

While the sprinters’ tardiness and some controversial behavior by other US athletes in Munich pale in comparison to the horrific massacre of eleven Israeli athletes and coaches by Black September terrorists during the Munich Games, it was the United States delegation’s self-inflicted wounds which turned out to be the tipping point toward consensus that the USA’s Olympic program was so hopelessly dysfunctional that those in charge should be replaced and new organizations installed for developing and delivering American talent to international competition.

The school-college athletic community had been preparing for this moment since the mid-1960s, plotting for and then creating individual sport federations for basketball, wrestling and other sports. It was intended that these more representative and democratic sports federations would be alternatives to the cronyism and corruption of the Amateur Athletic Union in overseeing United States athletes in international competition, and that they would challenge and replace the AAU as the representative for these sports on the United States Olympic Committee.

As is typical of elected officials, following the Munich Games, federal legislators rushed into the fray, trying to fix in a few weeks what had been wrong for many years. Of the various proposals, only one – Senate Bill 3500, sponsored by US Senator James Pearson of Kansas – reached the

floor of either chamber of the United States Congress. Among other things, this bill would have established objective and appropriate criteria for an organization to act as a national governing body for a sport, and it would have created a Presidentially-appointed amateur sports board to supervise the procedures by which one organization could challenge another to earn national governing body (NGB) status. This bill passed the US Senate by a wide margin, but no action was ever taken on that bill in the House of Representatives.

Meanwhile (in late 1974), and aware of growing opposition to its operations, the United States Olympic Committee adopted modest changes in standards for its member national governing bodies. However, the USOC failed to provide sufficient mechanisms by which those standards would be upheld or by which one organization might challenge and unseat another as the USOC-member NGB for the sport and thereby become responsible for preparing US delegations for international competitions. (After that effort by the USOC fell flat, and in an environment of increasing distrust of its self-monitoring capabilities, the USOC adopted more meaningful reforms in April of 1977.)

It was the only United States president to never be elected either president or vice-president, and the only president ever from the state of Michigan – former University of Michigan football player Gerald Ford – who brought the prestige of the Oval Office to these issues when he appointed a “President’s Commission on Olympic Sports” in 1975. This so-called “blue ribbon” panel listened to testimony from many entities, including the National Federation of State High School Associations on June 11, 1976, which argued *for* change in United States Olympic Committee governance but *against* conferring too much authority in USOC hands. (At that time, I was an assistant director on the National Federation staff in Elgin, Illinois, and responsible for public, legislative and judicial affairs for this organization that consists of a state high school association in each state and the District of Columbia, representing more than 19,000 schools. It was my job to prepare the National Federation’s written statement to the President’s Commission.)

The Commission provided a public forum for prominent aggrieved or aggravated amateur athletes, as well as others, to vent and pontificate. In January of 1977, the panel issued its report that made several recommendations, including two which, in those days, were sure to fail: that parents should make all international competition decisions and that state high school associations should have an advisory capacity only. Still, there was evidence that Commission members had considered the National Federation’s testimony and understood the need for the National Federation membership’s support. The Commission conceded that school personnel could deny students’ international competition or qualifying events for two reasons:

1. *“To promote the educational welfare of amateur athletes at the school, or*
2. *To maintain and protect established sports programs during the regular season for each particular sport at the high school.”*

The next significant move was the introduction of the so-called “Amateur Athletes’ Bill of Rights Act” (Senate Bill 2036) by US Senator Ted Stevens of Alaska. This bill would have prohibited any

educational institution or sports organization from denying any athlete the privilege of participating in international athletic participation and qualifying events sanctioned by the national governing body recognized by the United States Olympic Committee, which was to enforce the athletes' bill of rights. But the proposed legislation had serious flaws.

S. 2036 met the vigorous opposition of the school-college athletic community led by the National Collegiate Athletic Association and the National Federation of State High School Associations. In testimony before the Senate Committee on Science and Transportation on October 19, 1977, NCAA Executive Director Walter Byers stated that his organization's members have "*no desire for further Federal intrusion into the management of institutions of higher education,*" which the NCAA leadership was aware could be the result of legislative initiatives to fix the country's dysfunctional efforts in the Olympic Games and other international athletic competitions.

Mr. Byers also stated his organization's opposition to having America's domestic sports programs controlled by foreign bodies: "*The NCAA has no inherent objection to the establishment of the USOC, as presently structured, as the coordinating agency for this country's international amateur sports effort. The NCAA is opposed, however, to control over domestic athletics to any 'central' organization, whether the PCOS's (President's Commission on Olympic Sports) central sports organization or the USOC as presently organized, when that organization is controlled by national governing bodies . . . [which] . . . in effect, serve at the pleasure of international federations which are entirely beyond the reach of United States law or public policy.*"

Always sensitive to high school sports, Mr. Byers also questioned the wisdom of spending 20 million taxpayer dollars on the USOC when school sports programs were facing elimination of financing at the local level all across the country. (During the 1970s, increasing numbers of voters across the US expressed their frustration with higher taxes at all levels by voting to lower taxes at the only level over which they felt they had any control – their local property taxes – which, at that time, was the major source of local school funding. Passage of Prop 13 in California in 1978, for example, drew nationwide attention, as so much in that state does, when that state's voters amended the state constitution to limit the property tax rate to one percent of the full cash value of the property.)

Mr. Byers also criticized the scope of the proposed legislation's athletes' bill of rights which had been expanded and "*bears no resemblance either to the terms of S. 3500 – which three years ago passed the Senate by a two-thirds vote – nor to the legislative proposals of the President's Commission on Olympic Sports.*"

In his testimony, speaking directly to the extent of authority that the bill would confer upon the United States Olympic Committee, the new executive secretary of the National Federation of State High School Associations, Brice Durbin, stated bluntly: "*The interscholastic community can support S. 2036 only if this provision and all other implications that the USOC shall direct, coordinate and control domestic amateur athletics are removed from the bill.*"

The National Federation's position mattered because, while it lacked the high-flying profile of the NCAA, its extensive 50-state and 19,000-school constituency included coaches and administrators in every legislator's home district. And, the National Federation staff was already mobilizing its massive grassroots ground game. My phone records show dozens of conversations at that time with NCAA lobbyists and leaders, as well as with state high school association executive directors in the home states of legislators on key Congressional committees; and those directors were contacting school administrators in their respective states, encouraging and equipping them to communicate the high schools' perspective to those legislators. (The process was repeated at an even higher pitch in April and May of 1978 when this piece of legislation was replaced by another.)

The 1977 legislation did not get very far. However, the notion of a "Bill of Rights," at least for international-caliber amateur athletes, was not entirely abandoned. Indeed, as part of a later bill to reorganize the United States Olympic Committee, the USOC was required to assure within its constitution that its so-called "Group A" members – the national sports governing bodies – would embrace and enforce the principles of this bill of rights within their respective organizations. The primary bill sponsor was again Senator Stevens.

This later legislation (Senate Bill 2727), which evolved into "The Amateur Sports Act of 1978," attempted to do more than embed an athletes' bill of rights in federal law. Just as important – and more so to the school-college community – was the legislative intent to reorganize the US Olympic Committee's governance and the administration of amateur athletics at the international level. As the school-college community desperately wanted, the bill intended to remove the Amateur Athletic Union from its monopoly status with respect to international sports and Olympic matters.

The final version of the proposed Act stipulated that no organization could be the USOC's designated national governing body for more than one sport – exactly what the school-college community desired. The proposed Act would demand democratic policies and procedures within each NGB, but it would also confer upon them great authority.

But first, the proposed legislation needed a lot of work. Within a week of the bill's introduction in the Senate, the National Federation's grassroots constituency was back at it, contacting key legislators, while Michael Scott of the NCAA's Washington, DC-based law firm met personally with Senator Stevens on two occasions to detail changes in the bill which would be necessary for the legislation to gain support of the school-college community. Although Senator Stevens expressed concern that an amendment to the bill might invite additional changes from other sports organizations and slow momentum, he allowed his bill to be modified.

Even then, the legislation would have faced an uphill battle had representatives of the school-college community not met at the USOC's soon-to-be-abandoned Park Avenue offices in New York City with USOC staff (most USOC employees were moving to Colorado Springs), as well as with Senator Stevens' staff and representatives of the Athletes Advisory Committee which had grown out of the hearings of the earlier President's Commission on Olympic Sports. The topic of

the meeting was this: Would the vertical top-to-bottom authority of these designated national governing bodies supersede the authority of educational associations to adopt and enforce rules to govern competitive athletic programs for their student-athletes? Would the organizational chart for amateur athletics in the USA place the USOC at the top and provide an uninterrupted straight line of governance over each sport for its member NGBs, or would its top-to-bottom authority be suspended for multi-sport organizations like state high school associations and the NCAA, and then resume for programs involving younger athletes?

The school and college organizations (primarily the National Federation, NCAA, National Association of Intercollegiate Athletics and National Junior College Athletic Association), which had created several of the alternative sports federations, were adamant that the programs and the eligibility and competition rules of educational institutions and their athletic organizations must remain completely outside the jurisdiction of the USOC and national sports governing bodies because school and college sports organizations have purposes other than preparation of athletes for international competition; and they insisted that each USOC-member NGB must minimize conflicts with the regular programming of educational institutions.

This position of the school-college community was articulated at the New York City meeting by the NCAA's legal counsel, Mr. Scott, who offered a carrot: in exchange for the language prohibiting national governing body interference in the programs and policies of schools and colleges, the National Federation's leadership would recommend that language be adopted by each of its 50 state members that would facilitate student-athletes' participation on the national teams of USOC-designated national governing bodies.

When he finished his comments, there was a brief recess. Mr. Scott suggested that he and I remove ourselves from the conference table, so the others – several world-class athletes and staff members from both the USOC and Senator Stevens' office – could talk among themselves if they wished. And we walked upstairs to a balcony which surrounded and overlooked the conference room. On Mr. Scott's mind was this:

The NCAA which he represented, and the National Federation which I represented, generally opposed involvement of the Federal Legislature in the affairs of intercollegiate and interscholastic athletics. Mr. Scott wanted to know: Was I comfortable with, and would the National Federation's member state high school associations accept, this Federal legislation? Did the position we had developed and the message he had just delivered insulate schools and colleges sufficiently from intrusion at a later time by the empowered NGBs, the USOC and the Federal government? Or, might this be the camel's nose under the tent, leading to future intervention by the Federal Legislature in school and college sports? Or, was this a risk worth taking – the best legislation we could hope for – and a unique opportunity to end the AAU's stranglehold on elite international sports and the US Olympic Committee?

Michael said to me, *“This is the best we can get. It doesn’t touch the high school program. It puts the athletes’ bill of rights in the USOC Constitution.”* Mike was implying that the USOC Constitution doesn’t reach high schools and state high school associations because these organizations are not and cannot be USOC members subject to that constitution.

Michael continued: *“All you have to do is have the National Federation promote to its members a change in its recommended minimum eligibility standards.”* That change would encourage more flexibility in state association rules to allow very gifted student-athletes an opportunity to participate in additional non-school competitions during their high school seasons if the events are directly related to qualification for or training by a US national team designated by the sport’s national governing body.

We looked at each other, nodded to one another, and returned to the conference table. Within a few minutes, the meeting ended in agreement, if not enthusiasm, all around. And, within a few months – November 8, 1978 – the “Amateur Sports Act of 1978” was the law of the land.

And, the language which I pledged to promote to the National Federation’s member state high school associations was adopted soon after in many states – including Michigan, by the Michigan High School Athletic Association Representative Council, effective with the start of the 1979-80 school year. (This language, essentially unchanged from 1979, is found in Regulation I, Section 12(D) of the 2019-20 MHSAA *Handbook*.)

The Act’s key provision, from the standpoint of the school-college community, agreed to at that meeting and reiterated at subsequent public hearings regarding the legislation, is this:

“Sec.206. Any amateur sports organization which conducts amateur athletic competition, participation in which is restricted to a specific class of amateur athletes (such as high school students, college students, members of the Armed Forces, or similar groups or categories), shall have exclusive jurisdiction over such competition . . .”

This position was further recognized by Section 202 (a) (2), which states:

“Sec. 202. (a) For the sport which it governs, a national governing body is under duty to – . . . “(2) minimize, through coordination with other amateur sports organizations, conflicts in the scheduling of all practices and competitions;” (Some NGBs, most seriously USA Soccer, have repeatedly failed this statutory duty.)

Months of haggling followed the New York City agreement, mostly regarding additional funding for the USOC; but the *Congressional Record* of public hearings regarding the bill and various proposed amendments demonstrates there was no backtracking on the issues agreed to at the New York City meeting.

The transcript of the hearing of the House Subcommittee on Administrative Law and Governmental Relations (Committee on the Judiciary) provides Senator Stevens’ testimony as a witness

before the subcommittee on June 22, 1978. Here, the author of the Amateur Sports Act memorialized the meaning of the Act. Senator Stevens said, in part, “. . . there is no final control in the USOC over domestic competition that is in the high school-college community, except when those people are, in fact, designated as our representatives in international competition.”

When it awoke to what was happening, the Amateur Athletic Union made a late and inept attempt to resist the provision that would limit organizations to be the USOC-designated and member national governing body for one sport only. The AAU's days of dominance in a dozen different international sports and in USOC governance were now numbered as very few. (It is more than a little curious that James Santini, US Senator from Nevada, was at the point of the AAU's spear during these last-ditch efforts. Nevada, and specifically Las Vegas, later became the mecca for AAU tournaments.)

Some legislators raised concerns that Olympic funding was insufficient, while others complained that financial oversight of the USOC needed to be tightened; and several legislators angled to have Olympic Training Centers located in their districts. (Such is the messy business of making laws in our nation's capital. It wasn't pretty then, nor is it now.)

The debate regarding Olympic funding dragged on even after President Carter signed the bill into law in November of 1978; and it took until 1980 for several of the sports federations to replace the Amateur Athletic Union as the USOC-designated national governing body for their respective sports. But there was never confusion or retreat regarding the compromise sealed at the New York City meeting. Indeed, one legislator's effort to amend the Amateur Sports Act to undermine the supremacy of school and college policies proved unsuccessful in late 1979. And when the Amateur Sports Act was revisited and reauthorized by the United States Congress during 1997 and 1998, the language agreed to in New York City in June, and signed into law in Washington, DC on November 8, 1978, was left undisturbed. (Letter 1.1 at the conclusion of this chapter, dated April 5, 1995, recalls this time.)

The battles of the 1960s and 1970s – most intensely over international team preparation and United States Olympic Committee representation in basketball and wrestling – has affected almost every sport played at the international level today . . . even those like soccer and volleyball, whose sport federations existed prior to the 1960s but which had only a narrow presence in the United States 40 years ago. The single-sport federations which were created in the late 1960s (e.g., basketball and wrestling) and those which were formed following that model after the federally legislated demise of the Amateur Athletic Union (e.g., swimming and track & field), which were eventually installed as the USOC-member national governing bodies around 1980 – and which are responsible for preparing our Olympic teams today – owe their origins, international prestige and place in Olympic governance to the school-college community.

II.

When providing assistance during the 1960s and 1970s that was essential to successfully challenging and ending the Amateur Athletic Union's decades-long stumbling stranglehold over the highest level of amateur sports in America – the United States' Olympic movement – the inter-scholastic athletic community could not know it was helping to lay the groundwork for new and significantly greater problems at the youth sports level one and two generations later.

Today, because of the Amateur Sports Act of 1978, the Amateur Athletic Union is a non-factor at the elite level of most sports and in United States Olympic governance; but it is the nemesis of several school-sponsored sports, as the letter that concludes this chapter suggests. (See Letter 1.2, dated March 19, 1996.)

There is no certainty that even if the Amateur Athletic Union had not been stripped of its authority to dominate the USA's involvement in the international sports scene, it would not have invested in youth sports. But at the time, there was no youth sports market in America. Since the late 1970s breakup of the AAU's international sports monopoly, the youth sports market has been discovered, developed and exploited by thousands of local, state, national and international sports organizations and perhaps just as many entrepreneurs; and the Amateur Athletic Union has been so involved in this growth industry that "AAU" became synonymous for non-school programs, the way "Kleenex" has been for tissues, and "Xerox" is for copiers.

The Amateur Athletic Union's involvement in youth sports wouldn't be such a bad thing if the AAU were not such a do-nothing organization, or worse. The AAU doesn't train and monitor coaches the way USA Hockey does as the national governing body for that sport. It hasn't developed and delivered a comprehensive model for youth sports development that puts health before hockey. The AAU doesn't train and monitor officials the way the US Soccer Federation does as the NGB for that sport. In all its years of dominance, the AAU never developed a system of testing, credentialing and promoting referees from youth to adult as exists in soccer today.

All the Amateur Athletic Union does is collect fees for athletes and teams to register so they gain the privilege to pay even more to enter tournaments which have become as infamous as they are popular. AAU events typically ignore competition limits for youth sports prescribed by sports medicine authorities; and the AAU's basketball events attract agents, handlers, runners, scouts and sporting goods representatives who ignore the regulations of school and college governing bodies regarding recruiting and amateur standing.

The seediness of lower- and mid-level basketball programs affiliated with the Amateur Athletic Union is well known and, unfortunately, widely tolerated. Without oversight by and accountability to state or national AAU governance, nothing better can be expected. But, at the so-called "elite" levels of AAU basketball (and there is an elite level for every age group from eight to 18), behaviors descend past seedy, toward corrupt and criminal.

Sole Influence, the exposé written by journalists Dan Wetzel and Don Yaeger in 2000, describes the corruption in youth basketball resulting from the greed of corporations – mostly shoe companies – and the complicity of basketball junkies, usually in connection to AAU events. (Note 1)

In *Play Their Hearts Out*, published in 2010, author George Dohrmann offers his mostly first-hand view of youth basketball. Much of what he describes is merely obscenely excessive attention to early maturing boys, most of whom stop growing and do not reach the stardom everyone predicted and attempted to pave for them. But, included in Dohrmann's reporting are numerous violations by players of the regulations of school and college governing bodies, and the illegal inducements – bribes, really – provided to AAU coaches to steer the few survivors of AAU basketball to the most elite AAU, prep school and university basketball programs. (Note 2)

During 2018, as indictments were issued and publicized by the Federal Bureau of Investigation charging a shoe company's representatives, intermediaries and college basketball coaches, it became apparent that, even though the Amateur Athletic Union itself had not been criminally charged, AAU events had provided the environment for corrupt tendencies to turn toward criminal actions.

An ESPN "Outside the Lines" investigation in late 2015 reported Amateur Athletic Union revenue of more than \$20 million a year, with half that total coming from individual membership assessments and half from team tournament fees. Yet the AAU has a history of personal and corporate corruption at its highest levels that makes it impossible for the organization to either demand or create an environment of organizational integrity in its grassroots programming. Among the findings of the 2015 exposé by "Outside the Lines" . . .

- The AAU was spending \$500,000 annually on a lavish gala at a private club in New York City.
- In 2014, soon-to-be-president/CEO Roger Goudy charged nearly \$17,000 to his AAU credit card for bar, restaurant and hotel expenses over two weekends of AAU tournaments in Hermosa Beach, California. Goudy spent, as an AAU "volunteer," nearly \$117,000 on travel in 2014 – more than \$2,200 a week – during a time when he held a full-time job in Madison, Ohio.

While these behaviors might occur in the corporate world or in professional sports, the Amateur Athletic Union touts itself as a youth-centered nonprofit organization whose mission is *"to offer amateur sports programs through a volunteer base for all people to have the physical, mental and moral development of amateur athletes and to promote good sportsmanship and good citizenship."*

According to "Outside the Lines," when Robert "Bobby" Dodd resigned the AAU presidency in 2011, he received a \$1.5 million severance payment in spite of allegations that he had molested young basketball players when he had been an AAU coach in Memphis during the 1980s. Dodd had been AAU president since 1992; and before his resignation, Dodd had been drawing an annual salary of between \$225,000 and \$270,000 and was provided free housing.

Writing for ESPN.com on December 11, 2011, ESPN Senior Writer Tom Farrey (who now heads the highly respected Aspen Institute's "Project Play," which is a leading advocate for healthy, broad-based youth sports participation) provided graphic details of allegations made by two former players that included inappropriate touching by Dodd, who they said also provided the players alcohol and filmed naked players. The players who made the allegations did not press charges after the story broke in 2011, citing problems with statutes of limitations and jurisdictional issues for Memphis police.

Bobby Dodd always denied the allegations. He also always opposed having the AAU require background checks as a condition for coaching in AAU programs.

Louis Stout, who had been an assistant commissioner of the Kentucky High School Athletic Association, was named to head the AAU following Dodd's rushed departure. However, Stout died in September of 2012, and with him died much of the AAU's resolve to clean itself up quickly, including mandatory background checks for those associated with AAU programming.

Any doubt that the AAU would revert to its unsavory "business-as-usual" ways was removed when Roger Goudy was elected president and CEO of the AAU in late 2014, and then reelected in September of 2018. Among his "credits" (according to ESPN's "Outside the Lines," and corroborated by others) is that Goudy entered into an agreement with a Chicagoan named Rick Butler, who twice has been banned from coaching by USA Volleyball, the sport's national governing body. The first ban occurred *prior* to Butler coaching a team to a third straight AAU national title. The Goudy/Butler agreement led to the creation of a "Junior Volleyball Association," which became so successful that it vaulted volleyball into second place among revenue-producing sports for the AAU. Butler continued to coach AAU volleyball years after an AAU ethics panel, created in the wake of the Bobby Dodd departure in 2011, had recommended Butler be barred from AAU programming. The ethics panel found he had coaxed three minors into having sex with him during the 1980s, an allegation Butler has denied and for which he has not been charged by law enforcement authorities. He continued to operate the Aurora, Illinois, Sports Performance Volleyball Club which has been the target of lawsuits in 2018 and 2019 under the novel theory that, by his failure to disclose his past conduct and banned status, Butler has defrauded parents and players.

A national organization as crassly commercial as the Amateur Athletic Union, with what appears to have been a series of compromised leaders, is without moral authority or actual ability to cause either affiliated grassroots programs or elite events to promote and protect athletes' well-being. It was a bad situation when the AAU controlled this country's international athletic scene. It's worse now for school-sponsored sports that the AAU was stripped of most international authorities in 1978 and has since reinvented itself to become an organization that in too many places has been and remains a real and present threat to the health and safety of youth sports participants.

III.

In the tsunami-size wake caused by the sexual abuse conviction of a once-celebrated but now-infamous physician from mid-Michigan – who for many years was given totally inappropriate and completely unsupervised access to young girls by starry-eyed parents, coaches and administrators at a local gymnastics club, university gymnastics program and USA Gymnastics training centers and events – Federal legislators undertook another study of the United States Olympic Committee and individual sport governing bodies as it relates to the safety of athletes. In July of 2019, US Senators Jerry Moran of Kansas and Richard Blumenthal of Connecticut released a package of proposals for new laws . . . among them to create a 16-member commission to oversee the USOC's operations. Rather than promoting elite athletes' unfettered right to participate in events, which was the initial thrust of the 1970s legislative efforts, the focus of 40 years later is on the right of all athletes to be adequately supervised and safe.

At the epicenter of a catastrophe which sent tremors worldwide, the mid-Michigan judge who convicted the dirty doctor and, in effect, sentenced him to life in prison, said: *"Athletes cannot thrive in a system that values money and medals over the safety of athletes."*

Indeed. And that is a recurring theme found throughout this book. To its great credit, interscholastic athletics is committed to a very different value system than the pursuits of profits and prizes.

Whether in the 1970s or today, the opposition of schools to having either the United States Olympic Committee or national sport governing bodies control or interfere with school sports policies and procedures has been based on the very real and legitimate worry that those who think mostly or exclusively about elite and international levels of sports tend to be condescending toward the different yet valid philosophies and priorities of school sports. And they are prone to forget, overlook or blatantly challenge the policies and procedures designed with careful intent to accomplish schools' agreed-upon goals and objectives for competitive educational athletics – most of all, that school sports will be a safe, sane and sportsmanlike supplement to school days – which support the educational mission of the sponsoring institutions.

Past and current leaders of educational athletics don't harbor ill will toward the Olympic movement in America; they just want the USOC and its member NGBs to leave school-sponsored sports alone.

NOTES:

- 1: *Sole Influence – Basketball, Corporate Greed, and the Corruption of America's Youth*, by Dan Wetzel and Don Yaeger. Warner Books (2000).
- 2: *Play Their Hearts Out – A Coach, His Star Recruit, and the Youth Basketball Machine*, by George Dohrmann. Random House and Ballantine Books (2012).



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1.1

Michigan High School Athletic Association • 10000 E. Grand River Ave., Suite 100 • William J. Bogg

April 5, 1995

The Honorable Spencer Abraham
United States Senate
SDB-40, Suite 4
Washington, DC 20510

Dear Senator Abraham:

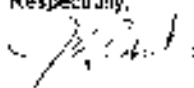
We have read that the Senate Committee on Commerce, Science and Transportation plans to hold hearings on the Amateur Sports Act. Michigan is not represented on that committee, but I hope you will convey the thoughts of this letter to committee members and/or staff for their consideration in planning the hearings.

The Amateur Sports Act, passed in 1978, represents the hard work of Senator Stevens and an important agreement with the school and college athletic community that must be preserved. Basically, the sponsors of the bill initially sought to place all authority for amateur athletics in the hands of the US Olympic Committee. It envisioned a structure where a single governing body for each sport, holding membership in the USOC, would control all aspects of that sport from elite international competition down through the earliest youth programs.

The school/college community, represented primarily by the National Federation of State High School Associations and the National Collegiate Athletic Association, prevailed in having the bill modified before it was passed to preserve the authority of multi-sport organizations (such as the Michigan High School Athletic Association and the NCAA) to apply those standards and requirements of eligibility and competition which were consistent with their purposes without review by or interference from the USOC or any national sport governing body.

If there is any possibility that these relationships will be changed as a result of the review that may be scheduled for the Amateur Sports Act, please alert this office. I participated personally and directly in the 1978 agreement and want to be involved with my counterparts across the country in preserving this agreement.

Thank you

Respectfully,

JOHN F. ROBERTS
Executive Director

JER:kb

cc: Robert Kanagy, Executive Director
National Federation of State High School Associations

Ms. Helen Upton, Assistant Director
National Federation of State
High School Associations
11724 N.W. Plaza Circle, Box 20826
Kansas City, Missouri 64195-0626

Dear Helen,

With an ear toward the folks I represent and with memory of our discussions on the Strategic Planning Committee, I write you this letter regarding some AAU aggravations.

The Amateur Athletic Union gets more blame than it deserves for the non-school athletic programs that conflict with school athletic programs. There are many organizations whose programs encourage or require students to choose a non-school athletic program over school sports or to participate in both programs at the same time.

The MHSAA office has had many requests over many years to prohibit the involvement of schools – in their facilities or by their coaches or students – with the AAU, at least during the school year. Among the problems in acting on such requests are (1) the AAU is not the only organization involved, and (2) there are many schools which allow their facilities to be used for AAU and similar programs, and many school coaches are involved in those programs. How can the MHSAA adopt a policy favored by some schools which would prohibit practices with which other schools seem to have no problem?

This does not mean there are not problems which other schools say are serious and increasing in frequency. Recent examples that are typical of the problems are

- A high school football coach wonders how his athletes can be physically ready for his team and academically ready for school when they are also required to participate in AAU practice and games in another sport.
- A high school volleyball coach gave his team the day off on Monday before it was to participate in the MHSAA Final Tournament, because four team members were exhausted from a six-hour Sunday tryout for an AAU team.

Apparently, competing to be first in order to attract the best kids, non-school volleyball programs are conducting tryouts for high school age girls earlier and earlier – even on the weekends of MHSAA District, Regional and Final Tournaments in the same sport.

Ms. Helen Upton

March 18, 1996

- 2 -

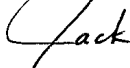
This blatant disrespect for high school volleyball programs, coupled with the chronic disrespect for schools' spring sports seasons and the academic demands on students, has led to a new level of frustration and anger on the part of school people toward non-school programs in general and the AAU in particular.

This is just one of the many areas in interscholastic athletics where little problems are getting worse. And it's another of those areas where I don't think giving in would benefit as much as fighting back.

I don't expect you to do anything, I just thought you might "enjoy" hearing about these frustrations. I know it's helped me to put these thoughts in writing. These are the kinds of thoughts I can't publish in an article, so I bother you with a letter instead.

Thanks for listening.

Cordially,

A handwritten signature in cursive script that reads "Jack".

JOHN E. ROBERTS
Executive Director

JER/ksy

Chapter 2. "Foreign Affairs"

" . . . go and make disciples of all nations . . . "

The Great Commission, Matthew 28:19

In the early spring of 1986, during my first interview to become executive director of the Michigan High School Athletic Association, one member of the five-member MHSAA Executive Committee, a superintendent of schools for a Class C high school in the northern portion of Michigan's Lower Peninsula, said, "*Jack, we have one question especially for you today that we are not asking other candidates: Given your history with the Fellowship of Christian Athletes, how will you handle situations in which nonpublic religious schools may be in violation of MHSAA rules?*"

Maybe a question like that cannot be asked in a job interview today, but I took no exception to the question at the time. I understood it was, most of all, an indicator of the distress over the division between public and nonpublic schools in the MHSAA's membership at that time. I knew it was an issue I would face, and I knew people would be watching how we approached this chronic concern.

Among the MHSAA's member high schools, in any particular year, about 13 percent are faith-based nonpublic schools. They have been some of the best *and* some of the worst member schools regarding compliance with MHSAA rules. Those which ranked among the best were rigorous adherents to eligibility rules and sportsmanship standards and a pleasure to serve; and I spoke at dozens of their assemblies, awards banquets and graduations. Those which ranked among the worst required an inordinate amount of oversight and correction; and they were most exasperating when they would play the "Jesus" card as an excuse for recruiting students to their schools from all over the state, nation or world.

The international student population was attractive to nonpublic schools long before public schools became attentive to "global education" or began to view international students as a source of revenue replacement. For faith-based Christian schools, students in foreign countries not only would help stabilize enrollment (and thus, revenue) during decades of declining secondary school-age population in Michigan, they also might help those schools fulfill "The Great Commission." However, it raised eyebrows and ire when newly enrolled international arrivals were unusually tall or athletically inclined; and the MHSAA was obligated to conduct inquiries to assure that neither profit nor proselytizing by religious schools was allowed to trump the organization's transfer and undue influence rules.

Over a span of more than two dozen years, the international student situation escalated from isolated incidents to increasingly frequent problems, which the MHSAA returned to study more thoroughly and address more effectively during the 2010-11 school year. The problem peaked during the 2013-14 school year, and that surge provided the tipping point in securing schools' support for implementing rule revisions . . . changes that were overdue for solving some problems yet still insufficient for correcting other problems.

During the 2010-11 school year, the MHSAA began working specifically toward rule changes that its leadership hoped might address a trend and a problem.

The *trend* was that international students would prefer the mostly unmonitored F-1 visa route over the better-supervised J-1 visa as the path to enrollment in US high schools. The F-1 avenue had two advantages: it was often less expensive than the J-1 route and, unlike the J-1 route, a student's enrollment period under the F-1 visa was not limited to a maximum of a single academic year.

The *problem* was created by federal laws which treat public and nonpublic schools differently: it allows students with F-1 visas to attend *nonpublic* schools for multiple years, but it limits those students to a maximum of 180 days of attendance at any and all *public* schools. This tended to give nonpublic schools a competitive advantage over public schools, and it increased tensions between these two groups of schools.

For two years, through the 2012-13 school year, MHSAA leadership didn't make great progress to neutralize the favored treatment of F-1 over J-1 visas and of nonpublic over public schools. This was due in part to uncertainty over what other parties would be doing and, in the MHSAA's opinion, *should* be doing to address these concerns. Rather than having each statewide high school association across the country address the inequities individually, the solution should have come from the Council on Standards for International Educational Travel (CSIET) and the United States Departments of State and Homeland Security. (It is not encouraging that it took CSIET until the 2019-20 school year to up its game; but even then, as of this writing, it is just a pilot program of certification, and it is merely voluntary and limited to non-US F-1 visa student placement programs.)

The MHSAA was also uneasy about implementing practical solutions at the state high school association level to what were national problems created by federal law; and there was concern that the actions contemplated by the MHSAA leaders carried some risks of legal challenges.

This was not a small problem. At the time, Michigan led the US in the number of foreign students with J-1 visas enrolled in high schools through CSIET-reviewed and listed student exchange programs. This wasn't because of Michigan's location; the east and west coasts were more convenient for most international students. It wasn't because of Michigan's weather; the brutal climate was the feature which exchange students reported they liked least about Michigan.

The reason for Michigan's popularity among J-1 visa students was the state's well-deserved reputation for having a welcoming atmosphere characterized by many (but not all) well-marketed and administered student exchange programs, accommodating schools, and lenient athletic eligibility rules. However, the MHSAA's leadership began to worry that Michigan's good reputation, combined with toughening of athletic eligibility rules for international students in other parts of the country, plus Michigan schools' needs to raise enrollment and revenue from international student recruitment, would attract an increasing portion of the rapidly increasing number of

poorly vetted F-1 visa students in the US, and that those students would expect to stay beyond the single year of eligibility granted to the bona fide foreign exchange students attending Michigan schools through CSIET-listed exchange programs on J-1 visas.

In 2007, US high schools enrolled approximately 7,000 F-1 visa students; in 2013, there were more than 80,000 F-1 visa students in those secondary schools. Knowledge of this 11-fold increase in international student traffic contributed to the tipping point toward change during the 2013-14 school year when previous hesitations were overcome and adoption of new rules not only became possible, they were a foregone conclusion.

The intent and result of the MHSAA's policy changes were, as much as possible, to give international students – whether on an F-1 or J-1 visa – the same varsity sports opportunity, and to reduce that varsity sports experience at *non*public schools to more closely match the limits imposed by federal law at public schools.

Of numerous problematic situations of the 2013-14 school year in Michigan related to international students, all involved students enrolling at religious schools. Tiny Muskegon Catholic Central High School enrolled a large number of students from its mission field in Vietnam, five of whom sought to play on the Muskegon Catholic Central baseball team which, under MHSAA rules, they could not do at the varsity level as quickly or for as many years as they wished. This created a subdued controversy compared to the following cases which received much more attention from the MHSAA's leadership, and also from both its member schools and the public.

I.

If there was one single incident that had need for in-depth investigative journalism, and perhaps had the makings for a feature movie script, it would be the one which follows. It's a story shrouded in secrecy and suggestions of criminal conduct.

During the summer of 2011, three unrelated minor boys in Nigeria came in contact with the same American man whose identity, they said, remained a mystery to them throughout their ordeal; and if authorities in the US knew the man's identity, they would not divulge it to Michigan High School Athletic Association personnel. This man told each of these boys he could help them get to the United States in order to attend a US high school. In the words of the three boys, the man promised them academic scholarships, promised to take care of all the immigration paperwork, and said he would arrange a place for each of them to live while attending high school provided each of them could obtain a passport and a plane ticket to the US. The American man arranged an F-1 visa for each and said the destination was Jackson, Mississippi.

One youth arrived in Chicago and then boarded a flight to Memphis, Tennessee. The other two arrived in Atlanta before their connecting flight to Memphis. Each had been told that he would be met in Memphis by the American man whose true identity was unknown to the boys then and is still unknown to MHSAA leadership today. That man did not appear at the airport. However, a

friend of this American man, whose identity is also unknown or would not be disclosed to the MHSAA, drove the boys to nearby Jackson, Mississippi, where they lived with what they called a “host family.”

Within a month, the boys were moved to a second family in the Little Rock suburb of Benton, Arkansas, where they lived and attended school until December of 2012. The living situation became threatening to the boys; and recognizing that their immigration papers were not in order – that they were supposed to be attending school in Mississippi, not Arkansas – the three turned themselves in to local police, who contacted US Immigration and Customs Enforcement (ICE), which determined these were unaccompanied alien children (UAC). Federal law mandated that they be transferred to federal custody, specifically to the Office of Refugee Resettlement (ORR), a branch of the US Department of Health and Human Services.

Each of the three boys had entered the United States with a valid, government-issued visa. Each came to be in violation of immigration law by virtue of living and attending school in the wrong state. As a result, all three had to be detained. ICE decided to keep the three boys together; and based on availability in the more than 50 immigrant juvenile detention centers ORR operated across the country at that time, they were sent to Chicago.

Detention center legal staff in Chicago evaluated the three boys simultaneously. It was determined they had no available family or sponsors, and that the three should be placed together in one of the federal foster care programs across the country, two of which are located in Michigan. The Chicago detention center contacted Lutheran Social Services of Michigan (LSSM) to determine if a foster family for all three boys together might be available.

The licensed foster family which was chosen – located near Adrian, Michigan – had registered with and been approved by LSSM to be refugee foster parents before they had knowledge of these three boys. They had two other boys in their home who were already enrolled in Lenawee Christian Schools, which was supportive of and well equipped to serve refugees.

MHSAA staff were hampered in the review of this matter because the advocates for the boys – three immigration attorneys (one for each student) and especially Lutheran Social Services staff – shielded their stories with secrecy; but they hinted that human trafficking was involved. However, based on the disclosed facts – and with hesitation regarding one student who appeared especially mature and whose birth records were questionable – MHSAA staff determined there was no undue influence involved in these students’ foster care placement and enrollment at Lenawee Christian High School. It was by chance, not choice, that they arrived in Lenawee County, Michigan; and Lenawee Christian High School had a passive role in the students’ placement. Because Lenawee Christian was not the closest nonpublic school to the foster home, the students would not become eligible under the MHSAA transfer rule until the start of the second semester of the 2013-14 school year. (Letter 2.1 at the end of this chapter, dated September 5, 2013, summarizes the situation at this point.)

Subsequently, because the foster family had two other children attending Lenawee Christian Schools, and following a long line of precedent for such situations, the MHSAA Executive Committee waived the delay prescribed in the transfer rule and allowed the three boys immediate eligibility for interscholastic athletics at Lenawee Christian.

Due to authorities' concerns for the three students' safety, neither the school nor the MHSAA was allowed to refer to these three students by their last names. Only their first names appeared in MHSAA basketball tournament programs.

With these three additions to their boys basketball roster, Lenawee Christian High School romped through the March 2014 MHSAA Class D boys basketball tournament, angering the oppositions' fans with lopsided victories. Lenawee Christian lost credibility among its small school neighbors that lasted for years, but it didn't suffer a loss in the Class D tournament until the 2014 championship game, a 63-61 defeat at the hands of Southfield Christian High School, a team without any international students but whose nucleus was comprised of an AAU team that played together year-round. It was a game for which neutral observers could not find a favorite. Public school advocates found no pleasure at all in the game.

II.

In the summer of 2013, word first reached the Michigan High School Athletic Association office that a seven-foot student from Italy was or soon would be living with a family in the Forest Hills Northern High School attendance area in suburban Grand Rapids and might be intending to enroll at Grand Rapids Catholic Central High School during the 2013-14 school year. MHSAA staff learned the student was in the US on an F-1 visa, and that Forest Hills Northern would not enroll him for what would be his senior year. Staff confirmed that no listed program of the Council on Standards for International Educational Travel had been involved in the placement of the student with any particular family or high school.

This appeared to be a clear case where the international student would not be eligible for varsity-level interscholastic athletics at an MHSAA-member school that school year, no matter what school might permit his enrollment. It was an open-and-shut case, which experience teaches is *rarely* the case.

During the fall, the administration of Grand Rapids Catholic Central High School began to bend to outside advocacy for the student, who eventually enrolled at Catholic Central on October 9. Within a week, Catholic Central's administration submitted an "Educational Transfer Form" for the student, intending to apply the one-time exception for immediate athletic eligibility for 18-year old students who change residence. To permit immediate eligibility under this exception, however, the form must gain the signed approval of the MHSAA executive director.

That approval was not given, in major part because it was becoming increasingly apparent to MHSAA staff that violations of MHSAA regulations related to undue influence had been involved

in the enrollment of this student. A personal basketball trainer who lived and worked in the Grand Rapids area had facilitated the student's arrival in the US as well as his living arrangements with a family this man knew in the Forest Hills community, intending to enhance the student's prospects for college admission. It was another of the type of situations which were occurring with increasing frequency, and it was undermining the reputation and value of authentic foreign exchange programs. (See Letter 2.2, dated December 3, 2013.)

The situation also added to the evidence that – both under the rules and in their aggressive attitudes – nonpublic schools had an advantage over public schools with respect to international student enrollment. And while personnel at the school which ultimately enrolled this student did nothing egregious, a middleman – a “basketball guy” – poisoned the prospects for this seven-footer to play high school basketball in Michigan, and probably hurt more than helped this foreign student's readiness for college athletics and academics. He also contributed to the divide between the MHSAA's public and nonpublic school members.

III.

It was this very same “middleman” who was involved in a messier matter involving an international arrival at another nonpublic school in the Grand Rapids area.

In December of 2013, Michigan High School Athletic Association staff members were alerted to the fact that this “basketball guy” had been involved in the transfer of another nearly seven-foot basketball player, this one from Senegal, to Grand Rapids NorthPointe Christian High School. That school's administration had made MHSAA staff aware of the transfer the previous June; but the MHSAA only learned of the conduit in December. Looking more deeply into this situation, the MHSAA found, compared to the Grand Rapids Catholic Central case, an even stronger factual basis for a determination that this student should be ineligible for interscholastic athletics at any MHSAA member school.

During the 2012-13 school year, this student had attended the well-known basketball-oriented prep school Oak Hill Academy in Virginia where, before becoming a basketball trainer in the Grand Rapids area, this middleman was an alumnus and had once served on staff and as a volunteer basketball coach. He was himself a native of Senegal, and he knew this student's cousin. He helped direct the student to Michigan and specifically to a family with ties not just to NorthPointe Christian High School but also to two Division I intercollegiate men's basketball programs in the state. It was clear that this student was enrolling in a Michigan high school to facilitate his path to playing college basketball in Michigan.

NorthPointe Christian High School appealed the decision of ineligibility to the MHSAA Executive Committee, which had no difficulty seeing this situation for what it was – undue influence – and upheld the determination that the student was ineligible for his senior year. (See Letter 2.3, dated June 23, 2014.)

While the student did not garner a minute of high school basketball playing time in Michigan, he ultimately gained a basketball scholarship to play at Western Michigan University in Kalamazoo, choosing the “local” school over offers from several other “mid-major” intercollegiate basketball programs across the US. Not coincidentally, Western Michigan University is the alma mater of one of NorthPointe Christian’s basketball coaches at the time.

IV.

Austin Academy Catholic High School would seem to be one of the least likely schools in the Michigan High School Athletic Association’s membership to be involved with the transfer of tall and potentially talented basketball players from another country. Austin Catholic didn’t even have its own basketball team in 2013-14.

However, Austin Catholic was the secondary school in a jointly-sponsored cooperative program in boys basketball with New Haven High School, which had been starting to make a big name for itself among mid-sized high school boys basketball programs in Michigan.

The two Nigerian students in question came to Austin Catholic after University of Detroit Jesuit High School turned them away . . . due to the fact that U of D Jesuit was enrolling two *other* Nigerian transfer students and, well, *four* new international students joining the same basketball team at the same time might be a bit unseemly.

All four of these especially tall international students were in the US as the result of the same two men: one – Clarence Womble – who had business interests in Nigeria as well as club, school and college basketball interests in Detroit, including friendship with the New Haven High School boys basketball coach; and the other man – Ronald Thomas – who was the father of an up-and-coming player on the U of D Jesuit boys basketball team. Mr. Thomas also conducted business in Nigeria.

During the MHSAA’s approximately six-week inquiry, it was learned that these two men not only facilitated the students’ journey from Nigeria to Michigan, the men also were collaborating to provide the students’ housing and pay a portion of their tuition and fees to attend Austin Catholic. In fact, the students lived for a brief time with Mr. Womble and then with the New Haven High School boys basketball coach. As a result, the two transfers to Austin Catholic were ruled ineligible for one calendar year, the maximum period of ineligibility that could be assessed under MHSAA rules at that time. (See Letter 2.4, dated December 17, 2013.)

V.

It was the same outcome for the other two transfers from Nigeria, the two who enrolled at University of Detroit Jesuit High School. The 6-foot-10 and 6-foot-9 transfers had come to Michigan with the assistance of the same two people, and Michigan High School Athletic Association staff

determined they were ineligible as a result of undue influence for the same length of time – one calendar year – the maximum penalty that could be imposed by staff at that time.

Mr. Thomas had provided to the MHSAA staff investigator details of the housing support and tuition assistance he was supplying to this pair of players; so, this was not a close call for MHSAA staff, who rarely find such candor in those who are recruiting student-athletes.

Nevertheless, there was an appeal by the administration of U of D Jesuit. That appeal was denied by the MHSAA Executive Committee. In fact, the affidavit of Mr. Thomas, submitted by lawyers on behalf of the two transfer students, intending to strengthen the students' case to the Executive Committee, actually provided Mr. Thomas' admissions – in writing and under oath – describing the role he had in arranging for these and other students to enroll in US high schools, which of course served to further solidify the conclusion that a violation of MHSAA undue influence rules had occurred. The father of a player is de facto at least indirectly associated with that player's school and, pursuant to MHSAA rules, has the same restrictions on recruitment as a coach or administrator of that school.

This was not the end of the drama. The tall tandem attracted attention while they sat in street clothes and U of D Jesuit basketball team jackets on the team bench as the U of D Jesuit boys basketball team made it to the Semifinals of the MHSAA Boys Basketball Tournament at Michigan State University's Jack Breslin Student Events Center in late March of 2014. Things took a turn toward the melodramatic in June when there were proceedings in Oakland County Circuit Family Court related to Mr. Thomas' status as the students' legal guardian and his threats to withdraw his son and the two Nigerians from U of D Jesuit High School to enroll them at West Bloomfield High School because of his dissatisfaction with the conduct of the U of D Jesuit boys basketball program.

So, if there was ever hesitation about Mr. Thomas' influence with respect to these international transfers, doubt remained no longer.

Ultimately, Mr. Thomas' son transferred from U of D Jesuit – not to West Bloomfield but to North Farmington High School – while the two Nigerian students remained at U of D Jesuit. After serving their one year of ineligibility during the 2013-14 school year, they got playing time and contributed significantly to the school's basketball success, including the MHSAA Class A Boys Basketball Tournament championship in March of 2016. They combined for 21 rebounds and 18 points in the championship game . . . a 69-49 drubbing of . . . wait for it . . . North Farmington, whose leading scorer, with 23 points, was none other than Mr. Thomas' son Billy. However, Billy Thomas was bettered that day by U of D Jesuit's Cassius Winston (31 points), whose presence at U of D explains more than anything else why Mr. Thomas wanted his son transferred out of the U of D program.

Cassius Winston, of course, became the captain and celebrated point guard at Michigan State University, basking in bright lights. Meanwhile, there was an announcement in the summer of 2016 that Mr. Thomas' son had signed to play basketball at Oakland University; but he was never

on the Golden Grizzlies' roster. He attended Moberly Area Community College in Missouri during the 2017-18 school year, and produced a YouTube highlight video of his basketball season there; and then he played for Indian Hills Community College in Ottumwa, Iowa, during the 2018-19 season when he again compiled a YouTube video of his highlights, apparently still in search of an opportunity to be a part of an NCAA basketball program at a four-year university.

One of the towering transfers from Nigeria received a scholarship to play basketball at Marquette University, but he saw no playing time as a redshirt freshman during the 2018-19 season. He was listed as a redshirt sophomore on Marquette's 2019-20 roster under a variation of his real name, but he was subsequently determined to be medically unable to continue playing basketball due to back surgeries in both 2018 and 2019. The other received a scholarship to the University of Illinois; but in spite of getting playing time in 30 games for the Illini, he transferred to Northeastern University in Boston during the summer of 2018 and had to sit out the 2018-19 season under the transfer rule of the NCAA for men's basketball. He was listed as a redshirt sophomore on Northeastern's 2019-20 roster and was beginning to add scoring punch to his rebounding prowess until his playing time dropped off by mid-season.

There was never any doubt that these students were brought to America because of their potential to play basketball, and for that reason, they were given special assistance. More than any other situation, it is this one that caused the MHSAA Representative Council to increase the maximum penalty for undue influence from one to four school years. One school year of ineligibility was not sufficient in this case, nor would it be in most cases where students – either domestic or foreign – transfer to an MHSAA member school as a 9th or 10th-grader as a result of special attention and benefits.

(The MHSAA's letter summarizing facts, conclusions and penalties in this matter so closely parallels the letter to Austin Catholic that it is not published here.)

VI.

From almost my first day on the job with the Michigan High School Athletic Association, I recognized that the controversy between public and private schools was not about the legal status of these schools, but more fundamentally about two other matters.

First, it was about *winning*. Public school advocates didn't complain about *all* 10 dozen private high schools in the MHSAA's membership; they were upset about the 10 percent of those non-public schools which captured MHSAA championships. And even then, they were far more concerned about boys tournaments than girls, and about basketball, football and ice hockey more than tournaments for other sports.

Second, it was about *transfers*. The public-private divide was often driven by transfers of prominent or promising student-athletes from the public school system to private schools. As state laws changed to promote "schools of choice," and increasing numbers of public schools adopted

at least limited choice, and an increasing percentage of transfers were from public school to public school, the transfer debate was quieter; but it never was silenced.

Sometimes the most significant actions to address a problem of school sports go unobserved; and two significant early moves to reduce the divide in the MHSAA family were almost entirely overlooked by media and the membership:

- In 1987, the MHSAA transfer regulation was revised to limit the number of nonpublic schools where a transfer student would have immediate eligibility after a complete change of residence by the student's family. From the early 1980s through the 1986-87 school year, this student was eligible at the single public school which served the new residence or *any* nonpublic school in the state. With the 1987 change, immediate eligibility at nonpublic schools was limited to the geographically *closest* school to the new residence. One public school option; one nonpublic school option. A huge change, but generally unnoticed outside the most attentive observers of school sports in Michigan.
- In 1992, the MHSAA narrowed the definition of a boarding school, establishing strict enrollment requirements before a school could claim it was a boarding school for purposes of the MHSAA transfer regulation. The immediate effect was to disqualify from boarding school status the nonpublic school, Detroit Country Day School, which at the time was the target of much criticism by other schools and many investigations by the MHSAA (see Chapters 7 and 8). Later, this tightened policy served to prohibit very small religious schools and some very large public schools from claiming boarding school status to facilitate immediate eligibility for transfer students.

As of this writing, among the MHSAA's 750-plus member high schools, there are only five schools that qualify as boarding schools under MHSAA requirements. All are nonpublic schools, and three are religious-based. Michigan Lutheran Seminary in Saginaw usually has the highest number of residential students. There have been no concerns related to its interscholastic athletic program. At the opposite extreme is Orchard Lake St. Mary's Preparatory School. Traditionally, it has had a small number of residential students; but the enrollment of those students has sometimes created big controversy, and it may do so again.

In 2004 and 2005, St. Mary's boarded two students who had been members of an elite national junior ice hockey team in Poland; and, unsurprisingly, St. Mary's championship run in the 2005 MHSAA Division 3 Ice Hockey Tournament generated much criticism. That outcry didn't cause much self-reflection, however, as St. Mary's coach and nucleus of players led the USA Midwest Team to an ice hockey tournament in the Czech Republic the following August, raising concerns under several MHSAA regulations.

At the same time, St. Mary's was attracting an inordinate number of prominent student-athletes from Detroit St. Martin De Porres High School, which was closing. Meanwhile, the principal of University of Detroit Jesuit High School filed allegations with the Catholic High School League of

Detroit, charging that St. Mary's was guilty of undue influence in the transfer of a talented student-athlete from U of D Jesuit to St. Mary's which, after a succinct inquiry, the CHSL director did not confirm.

Fifteen months later, St. Mary's ice hockey program was again on the MHSAA's radar following an article in *Hockey Weekly* which described a newly initiated mentoring program between St. Mary's ice hockey players and a local youth ice hockey program. The MHSAA required that program to be immediately discontinued.

Then followed a decade of relative calm.

At the start of the 2018-19 school year, St. Mary's enrolled two students from two different schools in Nigeria, assuming that they would become eligible at the start of the second semester. (In a previous tightening of the transfer rule for boarding schools – again missed by most media and member schools – the MHSAA had eliminated for boarding schools the exception to the transfer rule which permits first-time 9th graders to be eligible for interscholastic athletics without any delay.)

However, when MHSAA staff learned that these two tall transfers had been started on their path to Michigan by one of the same men involved with the Austin Catholic and U of D Jesuit transfers five years earlier – Clarence Womble – MHSAA staff imposed the maximum penalty for undue influence . . . which had been increased from one year to four years since the troubles of the 2013-14 school year.

Administrators and governing board members of St. Mary's challenged the breadth of the MHSAA's interpretation of undue influence and the length of the period of ineligibility imposed. In fact, it was the school's position that if there was any undue influence at all, it wasn't the result of any actions by any persons associated with St. Mary's, and that should immunize the students against MHSAA sanctions.

The MHSAA's position was that the same middleman with a basketball background in southeast Michigan who had caused periods of ineligibility for other students was involved here, now operating in Nigeria on behalf of "Greatly Blessed Outreach Ministries," he claimed. He had even helped to facilitate the students' interviews with St. Mary's admissions personnel.

It didn't help St. Mary's case that its story kept changing. Initially, both the school and Mr. Womble claimed he hadn't been involved in basketball matters for many years. When the MHSAA proved that wrong and showed that he was even currently engaged with the basketball community in Michigan, the school claimed he had no involvement with these two students. When that was also shown to be incorrect, the school said the man had no involvement with St. Mary's. At one point, St. Mary's said the man was present for one student's school interview and set up the other interview. Later it was said he was not present for either interview; but text messages between Mr. Womble and the school demonstrated that probably wasn't true.

It didn't help either the facts or appearances related to undue influence that the St. Mary's varsity head basketball coach was the chief executive officer for Orchard Lake St. Mary's Schools and a member of its board of regents, and that both were involved in determining school policies regarding admissions and financial aid. However, unlike the earlier transfers involving Mr. Womble, it did not appear that Mr. Womble was involved in supplying any part of the students' tuition or housing.

To its credit, St. Mary's had declined to enroll any of the four students who ended up at Austin Catholic and U of D Jesuit High Schools in 2013. Pressures to increase enrollment, especially of residential students, apparently caused the school to be more open this time around. (Further evidence of these pressures may be complicit in the school's decision in the fall of 2019 to begin enrolling female students in 2020.)

Even-handed application of the rules meant one thing to St. Mary's personnel (the *same* penalty others received five years earlier, at most, one year of ineligibility), and it meant another thing to the MHSAA staff (the *maximum* penalty, which had increased from one year to four years since it was last applied to Womble-influenced transfer students from Nigeria to Michigan). In that difference of opinion was the heart of this dispute.

Most personnel associated with St. Mary's were not seriously concerned over the students' loss of eligibility as raw 9th-graders. They were satisfied to have these students' maturing basketball skills for three seasons *after* 9th grade, which was precisely the problem which concerned MHSAA leaders – the multi-year enrollment advantage which nonpublic schools had over public schools with respect to international students. Four years of tuition and three years of athletic eligibility was a satisfactory outcome from St. Mary's administration's point of view, regardless of what opposing schools might think two or three years later when these players might be performing at a very high level for a very highly rated St. Mary's basketball team.

In the end, as a result of months of appeals and negotiations, these students got off more lightly than they should have: a period of ineligibility in line with the old rule, not the newer policy which guided the letter at the end of this section. (See Letter 2.5, dated November 8, 2017.)

This case highlighted not only the advantages of nonpublic schools over public schools but also of residential nonpublic schools over other nonpublic schools with respect to enrollment of transfer students in general and international students in particular. Both disparities strike bad chords in the harmony the MHSAA seeks between its public and nonpublic school members. The dissonance will persist as long as some nonpublic school administrators remain tone deaf and continue to pursue international students and enroll them beyond a single academic year.

VII.

In August of 2011, as the Michigan High School Athletic Association's leadership was refocusing on international student eligibility issues, a historical and philosophical document was prepared

as a backgrounder for the MHSAA Representative Council's deliberations, which included the following:

"The problems related to under-regulated participation by international students in interscholastic athletics are real and repetitive and have been witnessed not only in higher profile sport of basketball, but also in individual sports like swimming, tennis, and track & field in many states."

Cited was an already decade-old *Dayton Daily News* examination during 2000 and 2001, well in advance of the surging enrollments by international students in US secondary schools, which included 450 interviews in ten foreign countries and 13 US states and territories. The study found that *"American schools have been used as little more than training grounds for foreign athletes and their agents."*

One needs only to look at the increasing number of international players on rosters of intercollegiate men's basketball programs and National Basketball Association teams today to appreciate that the abuses discovered during the 2000 and 2001 investigation, and noted in 2011, are very likely much worse today.

And, one needs only to look at the list of schools that the MHSAA has investigated to see that people associated with faith-based schools have been disproportionately active or tolerant compared to other MHSAA member schools with respect to these unsavory behaviors.

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September 19, 2013

Mr. Jim Brown, Principal
Mr. Jeff Aymond, AD
Adrian-Lenawee Christian High School

Dear Colleagues:

I have received lengthy written and oral reports from Tom Rashid about the enrollment of the three boys from Nigeria who have been placed with a foster family in Cement City and have been enrolled since March 4, 2013 at Lenawee Christian High School.

There is ample evidence to believe that the three students who now find themselves at Adrian-Lenawee Christian High School were recruited to the United States to play basketball, but there is no evidence to link any person directly or indirectly involved with Lenawee Christian High School to any act of recruitment toward any one of the three students.

The only question we have that relates to the conduct of Lenawee Christian High School is the 100 percent reduction in tuition being paid for one of the three students. While the tuition reduction for family of emergency is customary, and the policy of extending the additional tuition reduction for large families to children placed by authorities in the residence of a large family is reasonable, the elimination of all tuition for the third of the three boys, and the late date of this decision, raise concerns for undue influence under Regulation I, Section 10 that should be eliminated before the MHSAA finalizes its decision in this matter.

As for the transfer regulation (Regulation I, Section 9), the three students are ineligible until Jan. 20, 2014 because they are not enrolled at the nonpublic school closest to the home in which they have been placed. However, because that family has had two of their own children enrolled in Lenawee Christian Schools, there is a basis for the MHSAA Executive Committee to approve a waiver of the transfer regulation and permit eligibility before Jan. 20, 2014, should the schools' admit or make that request. The Executive Committee's next meeting is Sept. 10.

While there is no evidence (beyond the one issue raised above) of inappropriate actions on the part of persons directly or indirectly involved with the Lenawee Christian School community, there is ample evidence that other people acted inappropriately in facilitating these students' departures from Nigeria and arrivals in Mississippi and Arkansas. There are strong indications that persons with interests in basketball at the AAU and/or intercollegiate level are behind the recruitment and mistreatment of these students.

However, it is not the role or responsibility of the MHSAA to fix blame and seek punishment of people on other levels of sports and in other states and nations. Our obligation has been to work as rapidly as we could, and be as thorough as our limited time and resources permit, to consider the status of these students in MHSAA institutions.

- 2 -

We are appreciative of the cooperation received by those associated with the school and those advocating for the students in Michigan, with the exception of Lutheran Social Services of Michigan. A lack of information from LSSM and a lack of reliable information about events in other states and in Nigeria leave many unanswered questions, among which are:

1. What is the identity of any person or persons in Nigeria who made contact with these students, and who were/are their connections in the US?
2. What, if any, is Sam Grier's (or Greer's) connection to AAU or intercollegiate basketball programs in the US?
3. Can the paperwork (visas, etc.) that was in the boys' possession when they arrived in the US be produced for inspection?
4. Can Form I-90s for these students for the US schools these students attended in other states be produced for inspection?
5. Can reliable information be gathered about the so-called host families for these students in other states?
6. What can be discovered about the school and non-school basketball coaches these students encountered in other states?

It is unlikely the answers/documents would have any bearing on MHSAA decisions and we are not suggesting that it was or is the responsibility of Lenawee Christian High School to address these questions. The answers/documents responding to these and other questions should be pursued by Federal agencies which have responsibilities of oversight for the entry and continued residence of unaccompanied minors to the United States. Except for foreign exchange students on J-1 visas attending US schools through programs listed by the Council on Standards for International Educational Travel (CSIET), oversight is sorely lacking.

This situation adds to the importance of completing efforts, previously begun, to tighten transfer rules dealing with international students and to lengthen penalties for violations of undue influence.

Please respond as quickly as you are able to the tuition matter of paragraph three and the transfer matter of paragraph four above.

Respectfully,



JOHN E. ROBERTS
Executive Director

JER/ky



December 3, 2013

Mr. Trevor Hinshaw, Athletic Director
Grand Rapids-Catholic Central High School

Dear Trevor,

Thank you for so readily assisting Tom Nashd in his inquiry regarding the international student who has been enrolled at Grand Rapids-Catholic Central High School.

For the following reasons, we find that student Enrico DeCoste is not eligible:

1. Under the MHSAA transfer regulation and in the absence of a completed Educational Transfer Form there are two reasons the student is ineligible during the 2013-14 school year:
 - a. the student enrolled after the fourth Friday after Labor Day, and
 - b. Grand Rapids-Catholic Central is not the closest nonpublic school to the student's residence in the Forest Hills Northern attendance area.
2. In addition, questions exist regarding the number of semesters in which this student has been enrolled since his first enrollment in the equivalent of your 9th grade. Thus, the student also may be ineligible under the maximum enrollment/participation sections of the eligibility regulation.
3. Finally, there are several indicators that this student was identified because of his basketball performance and/or potential and placed with a family in Michigan to enhance his potential and future opportunities as a result of that potential. Under the undue influence section of the eligibility regulation, the result is that the student would be ineligible for up to one year.

Because there is no evidence that GRCC had anything other than a passive, even second-choice role in the enrollment of this student, the school is not being placed on probation at this time as the undue influence section would normally require. We ask only that you make efforts to both educate and caution Mr. Abdo Oume regarding the undue influence regulation. If he has anything to do with the identification or enrollment of a student at any MHSAA member school, that student will be assumed to be ineligible for interscholastic athletics for one year, based on this recent experience and Mr. Oume's ongoing role as a personal basketball trainer.

Sincerely,

JOHN E. ROBERTS
Executive Director

JER/xy

June 23, 2014

Mr. Scott Truckaby, Athletic Director
Grand Rapids-NorthPointe Christian High School

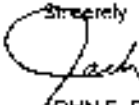
Dear Scott,

Last week I quickly and without defensiveness expressed regrets to Mr. Baker and then to both you and Todd. However, as you continued to press during your call, and then pressed again minutes later by email, I became sorry for saying I was sorry.

In fact, the circumstances surrounding the student at your school were as unsavory as any we dealt with during 2013-14.

- Yours was the only situation where the host father's business associate (a former MSJ basketball player) called to lobby me for the student's eligibility.
- Yours was the only situation where we received a confidential email from one who we believe is an insider at NorthPointe Christian who indicated this was all about better basketball and commended the MHSAA for staying on this case and reaching the decision we did.
- A second religious-based school which enrolled an international student connected to the same adult as your student, saw immediately that this was about basketball, not the "Great Commission," and did not seek eligibility at all, much less press as hard as your school did. They identified the sponsor as a "basketball guy."

It still stuns us that you do not see what others see so clearly: a student who previously attended a basketball prep school in the East, moves with a former coach and employee of that school who becomes a basketball trainer in your area, and moves into the house of a man who has a son who plays basketball on a prominent AAU team and for your school. It didn't matter if the student was originally from another state or another country, undue influence occurred as a result of the relocation and enrollment, and it has not let to us that your school handled the matter as well as you apparently do. While there were cordial communications between MHSAA staff, NorthPointe Christian and Mr. Baker, my blog actually (and intentionally) understates our dislike of how this situation has played out.

Sincerely,

JOHN E. ROBERTS
Executive Director

JER/ky

December 17, 2013

Mr. Janet Coopers, Ph.D.
Austin Academy Catholic High School

By email only

Dear Janet,

For approximately six weeks the MHSAA has been inquiring into the enrollment of four international students, two at Austin Catholic (Jerry Ben and Innocent Nowok) and two at U of D Jesuit (Gregory Enagho and Douglas Eke).

The MHSAA investigator's opinion is that a violation of undue influence has occurred in each case, and he has recommended that it be confirmed that each student is ineligible for one year. With respect to the schools, the investigator tentatively recommends less than the penalty prescribed by Regulation I, Section 10, but he also has provided me with many still unanswered questions that the schools should have answered before assuming the students might be eligible for interscholastic athletics. These answers will have a bearing on our final decision regarding Austin Catholic High School.

Austin Catholic has reported that Mr. Womble, with assistance from Mr. Thomas, is responsible for tuition and fees for both young men. That Mr. Thomas brought these students to the US, and in collaboration with Mr. Womble provides their housing and living arrangements and pays a portion of their fees and tuition all constitute violations of the clear wording of Regulation I, Section 10.

Regulation I, Section 10 refers to persons directly or indirectly associated with the school or its athletic program who secure or encourage attendance of a student because of athletics. By your own admission Mr. Clarence Womble, who collaborated with Mr. Ron Thomas in the enrollment and residency of Jerry Ben and Innocent Nowok, is a childhood friend and colleague of the New Haven basketball coach whose team is in a cooperative program with Austin Catholic in basketball.

Support for this determination comes in part from phone conversations between by Mr. Ron Thomas, you and Tom Rashid from December 2-10, 2013 and includes but is not limited to the following admissions:

- Mr. Thomas and his business partner have a history of bringing Nigerian students to the US and Canada who have played basketball in college.
- Mr. Thomas has paid thousands of dollars in expenses for these students already.
- Mr. Thomas is well versed in local basketball and states that "hundreds of coaches" have asked him to bring Nigerian students to their teams.
- Mr. Thomas attempted to facilitate all four students' enrollment at U of D Jesuit where his son pays varsity basketball.
- When U of D Jesuit would only accept two of the Nigerian students, Mr. Thomas collaborated with Clarence Womble to direct two students to Austin Catholic. Mr. Womble has a basketball coaching history and a close relationship to the basketball coach at New Haven High School, which sponsors a cooperative program in basketball with Austin Catholic.

Continued

- 2 -

The penalty, as to the students, is ineligibility for one calendar year from the day of their first enrollment (attendance in at least one class) at Austin Catholic. As you are aware from discussions with Tom Rashid (communicated in email to him yesterday) both U of D Jesuit and Austin have reversed their previously stated plans to assess ineligibility on its own.

By his own words, Mr. Thomas has admitted that other schools have asked him to provide them with players. Should that happen or should others communicate with Mr. Womble in the same manner, those students will be ineligible and those schools will be penalized.

Because the information at this time appears to indicate that the roles of coaches and administrators may have been passive, we will only censure Austin Catholic's boys basketball program as a recording mechanism and not yet place the program on probation, as Regulation I Section 10 prescribes, provided the information requested below is satisfactory and Austin's administration submits to the MHSAA the following by Jan. 7, 2014:

1. Report the first day of attendance in class of each student.
2. Report the specific timeline, including content, of contacts among Mr. Thomas and contact with Mr. Clarence Womble and coaches at New Haven High School regarding any of these students.
3. Report how, when, by whom and upon what criteria it was determined which of the four students were to attend U of D Jesuit and which were to attend Austin Catholic.
4. Report the efforts being made to formally educate and caution Mr. Clarence Womble regarding undue influence.

It is the privilege of Austin Catholic High School to appeal these penalties to the MHSAA Executive Committee by written notice to me within 14 calendar days of this date.

Feel free to contact Tom Rashid or me if a discussion would assist.

Respectfully,



JOHN E. ROBERTS
Executive Director

P.S. Tom Rashid reports that he has had three calls from Mr. Bill Joiner, New Haven Athletic Director, regarding these students. We here restate your and Tom's mutual understanding that eligibility is in the student's school of enrollment and not with the school with which it is in a cooperative agreement. As to the questions involving the New Haven Basketball Coach, we anticipate New Haven administration will continue its involvement and fully cooperate as an MHSAA member school in upholding MHSAA regulations. If such is not the case, please contact Tom Rashid.



michigan high school athletic association

2.5

John E. Roberts, Executive Director

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November 8, 2017

Mr. George Porritt, Athletic Director
Mr. Cormac Lynn, Headmaster
Orchard Lake-St. Mary Preparatory High School

Dear Colleagues,

Thank you for your recent visit and prior communications regarding the enrollment and boarding student status of two 9th-grade students associated with Mr. Clarence Womble.

It is unfortunate, but there are individuals who, for prestige and/or profit, work to channel to US schools and colleges those who might be high performing basketball players. Mr. Womble is one who has been on our radar since 2013. He has been associated with the Michigan Select basketball program; in fact, his Twitter handle is still @Mchiganselect. He has coached basketball. He has been associated with college basketball recruits, including at Central Michigan University.

During an investigation in late 2013, the MHSAA learned that a man named Ron Thomas had made a commitment to bring four basketball players to Michigan. He attempted to enroll four at Orchard Lake-St. Mary but was denied. Then U of D Jesuit agreed to accept two of the students. Then arrangements were made for the other two to enroll at Austin Catholic and reside with Clarence Womble, after two other students he had been arranging to come to Michigan from abroad through a company in New York fell through (they may have ended up going to school in Alabama).

Austin Catholic administration reported to the MHSAA that Mr. Womble, with assistance from Mr. Thomas, paid the tuition for these two students. The two students eventually moved from Mr. Womble's residence to that of the boys basketball coach at New Haven High School, which sponsored a cooperative program in boys basketball with Austin Catholic.

As a result, these two students were ruled ineligible for the maximum period allowed at that time, one calendar year. Austin Catholic was censured and directed to take several actions, including some aimed specifically at Mr. Womble.

My letter to the principal of Austin Catholic on Dec. 17, 2013 stated: "By his own words, Mr. Thomas has admitted that other schools have asked him to provide them with players. Should that happen or should others communicate with Mr. Womble in the same manner, those students will be ineligible and those schools will be penalized."

Four years later, Mr. Womble has returned, now operating under the banner of "Greatly Blessed Outreach Ministries" which has no web presence. He made the connection to St. Mary for two more foreign students, and was present to arrange the Skype interview between one of those students and St. Mary administration.

-2-

Interpretation 115 under Regulation I, Section 10 is on point: "It is an undue influence violation for a person directly or indirectly associated with a school or for a person whose activities are related to athletics to arrange, secure or encourage the arrival or residency of a student into a school district or the enrollment of a student into a school based on athletic ability or potential . . ."

Regulation I, Section 10 calls for a period of ineligibility for students of up to four years. The elastic feature of the penalty is intended to avoid a situation where a student is ineligible for a time when his/her skills are less developed but eligible after his/her skills are better developed. A one-year period of ineligibility is not a sufficient deterrent for a student who enrolls before the 12th grade and is of almost no consequence if the student first enrolls in the 9th grade of an MHSAA member school.

In this case, the students are ineligible for all interscholastic scrimmages and contests in all sports during 2017-18; and they remain ineligible for varsity competition (including MHSAA tournaments) in the sport of basketball during the 2018-19, 2019-20 and 2020-21 school years. The students may participate at any level of any other sports beginning in 2018-19. At this time, we see no reason to direct any penalty toward St. Mary Preparatory High School.

A member school, through its administration, may make a written request to the MHSAA Executive Committee to appeal decisions of MHSAA staff. Such request must be addressed to the MHSAA executive director and received within 14 days.

Sincerely,

JOHN E. ROBERTS
Executive Director

JER/ky

cc: Vic Michaels

Chapter 3. "Sportsmanship as a Way of Life"

"I never thought about losing, but now that it's happened, the only thing is to do it right."

Boxer Muhammad Ali, 1971

During the closing remarks of my final interview before the full 19-member Michigan High School Athletic Association Representative Council in late spring of 1986, I said *"I don't want to move my family from Missouri to Michigan and alter my career path on the basis of a 10 to 9 vote."* I told the Council, *"If I don't have your overwhelming support, don't offer me the job."*

I knew there would be too many old problems to overcome together and too many new projects to undertake together to have a divided team. I wasn't looking for a job (I already had a very good one); I was looking for a "mission mandate" . . . for permission to proceed with an agenda I described like this:

*"There will be many times when challenges are presented to us and demand our almost complete attention. But even in those times, and especially in the more peaceful times, my leadership will focus on four fundamentals – four S's that are core values of school sports: **Scholarship** (keeping athletics subordinate to and supportive of schools' academic mission), **Sportsmanship** (insisting upon an environment that is compatible with that academic mission and a precursor to good citizenship), **Safety** (placing the health and welfare of participants above all other considerations) and the **Scope** of school sports (adopting reasonable, rational limits necessary to assure the other three S's are supported)."*

The MHSAA's attention went first to sportsmanship, which we sought to improve with three types of initiatives: **Education** (campaigns to explain what good sportsmanship is and is not), **Encouragement** (awards and recognition), and **Enforcement** (new rules and penalties). The MHSAA's efforts were quickly recognized as over and above the norm, and at the conclusion of the 1988-89 school year I was given a national platform in Florida during a general session of the Annual Summer Meeting of the National Federation of State High School Associations to describe our large vision of sportsmanship. I concluded as follows:

"Sportsmanship has the potential of elevating humanity in times and places and peoples we don't even know through the students we are teaching and coaching today. As we affect them for good sportsmanship, they have the potential of carrying good sportsmanship to all races, creeds and walks in life — far distant from the high school athletic arena.

"Good sportsmanship is not merely a campaign; it is the essence of what we are about in interscholastic athletics. Good sportsmanship should be in our thoughts in every practice and every game, and in every situation that has anything to do with our programs.

“It is our challenge – and our unique and precious opportunity – to create this far-reaching understanding of sportsmanship in our schools and communities and to raise even higher the standards of sportsmanship of the people we serve.”

This led to my busiest period ever for out-of-state travel for public speaking as statewide groups across the country invited me to share the successes, and remaining challenges, in Michigan. And, to address those continuing challenges, the MHSAA strategy gradually became more local, trading statewide summits for regional meetings as well as mini-grants for even more local initiatives. Thanks to the MHSAA’s younger staff and the MHSAA Student Advisory Council, the strategy also became increasingly student-focused and social media driven. It’s now highlighted by the annual “Battle of the Fans” which has created a resurgence of student attendance at schools’ events, increased school spirit throughout the student body and school year, and generated greater awareness of what sportsmanship is and is not throughout the entire community – and neighboring towns – where schools have entered “The Battle.”

Even if there had been no improvements observed – even if sportsmanship was just unchanged – Michigan’s efforts must be considered successful, because sportsmanship on all other levels of sports, and civility throughout society, are in decline. But school sports in Michigan didn’t just tread water. The improvements we saw in sportsmanship by players, coaches and spectators at regular season and MHSAA tournament events were immediately evident and long-lasting. Leagues mimicked MHSAA efforts; local schools adopted league plans. Sportsmanship summits were conducted at every level: local, league and statewide. . . including the nation’s largest high school sportsmanship meeting ever, with more than 1,350 people at the Lansing Center in 2000. Local print and broadcast media, especially in Michigan’s smaller markets, helped deliver the message that the environment at school sports events must have a different standard of sportsmanship than at all other levels. . . a *higher* standard.

It was not always a steady march to improved sportsmanship. There was occasional backsliding, particularly in the mid-1990s, which necessitated that the MHSAA adopt additional initiatives, which gave birth to the statewide sportsmanship summits during the 1997-98, 1998-99 and 2000-01 school years, the most prominent part of a package of proposals approved by the Representative Council in May of 1997.

Even before it became part of every playing rules code promulgated by the National Federation of State High School Associations, the MHSAA adopted the “next-day disqualification” rule for all of the sports the MHSAA served. This was a key element of the MHSAA’s “enforcement” initiative. In brief, it meant that players or coaches disqualified for an unsportsmanlike act in one day of competition – regular season or MHSAA tournaments – would be disqualified also for the next day of competition in that sport. It was the enforcement prong of our sportsmanship efforts, and particularly the next-day disqualification rule, which made for some “interesting” times.

I.

When one considers the number of 9th-grade, junior varsity, and varsity contests which take place between member schools of the Michigan High School Athletic Association each year in the 28 tournament sports the MHSAA attempts to serve (that's about 330,000 contests over 10 months, attracting several million spectators), it's a statistically insignificant number of events – a fraction of a fraction of all events – where sportsmanship breaks down. And it's an even smaller fraction which endangers participants or spectators. The worst such occasion during my tenure was a varsity football game between two schools which at that time had long, storied histories in Michigan high school sports.

On Friday of the eighth weekend of the 1995 football season, Flint Northern High School traveled to Muskegon's venerable and historic Hackley Stadium to play the Big Reds. It was a bad night for football, and driving rain had turned portions of the Hackley turf to mud. And bad conduct turned to worse.

Trailing 6-0 late in the fourth quarter, and with Muskegon running out the clock, several Flint Northern players lost what was left of their cool on a frigid and frustrating night. Muskegon's quarterback was leveled after taking a knee, the collision caused by a chain reaction of late and unnecessary hits. Cited by game officials to be among the leaders of the unnecessary roughness was Flint Northern's Mateen Cleaves – the very same person who would lead Michigan State University to the NCAA men's basketball championship in 2000.

Flint Northern's bench players spilled onto the field and joined the fray, and quickly Muskegon's bench players did the same. Officials allowed the last minute of the fourth quarter to be run off the clock; and before they hustled off the field to safety, the officials recorded as many numbers of fighting players as they could.

By rule, all of the players cited by the officials for unsportsmanlike conduct and disqualification would also be suspended from their team's game the following week. Furthermore, by rule, all players on both teams who left their respective team bench area – which was almost every player on both rosters – were to be suspended by their schools for their next game.

Flint Northern administration took quick action the following Monday, forfeiting its next game against rival Flint Central High School, and indicating the intention of penalizing more players and coaches than the officials had cited. And then things turned really interesting.

That same day, East Kentwood High School, Muskegon's ninth-week opponent, announced that it had cancelled its season-ending game with the Big Reds. But Muskegon needed that last game, and a victory in it, to have a chance to qualify for the MHSAA football playoffs. Muskegon asked the MHSAA to declare the game a forfeit-loss by East Kentwood and a win for Muskegon. However, the MHSAA determined the game to be "No Contest" and therefore, neither a win nor loss for either team.

This caused Muskegon High School to obtain, without other parties present, a preliminary injunction and temporary restraining order from a local court which attempted to require that the game between East Kentwood and Muskegon be played as previously scheduled. The court order was sought on Tuesday, October 24, obtained on Thursday the 26th, but actually dated the 27th. . . the day on which the game was to have been played. East Kentwood administration advised its counterparts at Muskegon High School that it would not comply with the court order because the team had ended its season and collected equipment from players, including more than 30 seniors who had the last home game of their high school football career eliminated, suggesting how difficult this decision had been for East Kentwood administration.

East Kentwood's team had not engaged in any practice that tumultuous week, and the court was powerless to enforce its order which, contrary to law, had been issued without giving either East Kentwood or MHSAA personnel an opportunity to be heard. And even the court could see that it would be foolish to require a football team to play a game a week after it had discontinued practices.

While too late to affect the current season, Muskegon High School administrators sought an audience with MHSAA staff and then with the MHSAA Executive Committee, both of which occurred on November 8, 1995.

At the crux of Muskegon High School's concerns was the published football rules of the National Federation of State High School Associations, which the MHSAA adopts to govern member school contests. The particular rule at issue penalizes with disqualification of all coaches and players who leave the bench area during an altercation on the field. The rule does not differentiate between those who are trying to incite more trouble and those who may be trying to restore order.

During the November 8 meetings, Muskegon High School representatives directed criticism toward the competency of the game officials, the conduct of Flint Northern coaches and players, East Kentwood's action to cancel the game with Muskegon, and the National Federation rule involved as well as the MHSAA's inability to modify or waive the rule in extraordinary circumstances such as this situation.

The Executive Committee pointed out that the game officials, a veteran and highly rated crew, had been hired by Muskegon High School itself; and it was within the school's power to not hire those officials in the future if they were convinced that they were at fault in this matter.

The Executive Committee advised that Flint Northern administration had acted very promptly in terminating its season but had not yet completed its internal actions with respect to its own personnel, and the MHSAA would take no action with respect to Flint Northern until it had completed its work and was given the same opportunity to meet with the MHSAA that Muskegon representatives had been given.

The Executive Committee's concern for East Kentwood's decision was not for cancellation of the varsity game, which made good sense, but the decision to also cancel the junior varsity and 9th-

grade games. By canceling the varsity game, it became unnecessary for Muskegon to play junior varsity members in the varsity game, and both the JV and 9th-grade games could have been played as scheduled. Those two cancelations, however ill-advised from the MHSAA's perspective, had no effect on the MHSAA football playoffs.

As for the National Federation rule involved, the Executive Committee asked MHSAA staff to report these events and concerns to the National Federation with a request that the rules involved, and their applications, be studied by that National Federation Football Rules Committee.

The letter which closes this section (Letter 3.1, dated January 10, 1996) is a status report written two months after Muskegon High School's day with MHSAA staff and Executive Committee.

Mateen Cleaves moved on from this football fiasco to his senior season of high school basketball, and then to an NCAA championship banner-winning basketball career at MSU. But arguably, his greatest contribution to the Michigan State vs. University of Michigan basketball rivalry was unintentional. During his recruiting visit to the University of Michigan in February of 1996, Cleaves was a passenger in an expensive SUV that had a late-night rollover accident. This turned out to be the first tug on a thread which eventually exposed the scandal that brought down booster Ed Martin as well as several of the University of Michigan's Big Ten basketball championship banners at Crisler Arena (see Chapter 7).

II.

The next-day disqualification rule was subjected to legal challenges on two other occasions: In northwest Michigan's Emmet County in 1991 involving a student enrolled at rural Alanson Littlefield High School, and in southeast Michigan's Oakland County in 1999 involving a student enrolled at suburban Milford High School.

The first incident involved the sport of boys basketball where it was argued that the student would be irreparably harmed in terms of damage to his reputation and dampened enthusiasm by college basketball recruiters. The second incident to escalate to judicial proceedings was in the sport of wrestling when a defeated competitor argued the official was wrong to declare him pinned. In neither case did the local judge grant injunctive relief or issue a written opinion, but the Oakland County Circuit Court judge made an interesting observation from the bench.

In that second case, plaintiffs did not disagree that the wrestler threw his shoe; but they argued the wrestler didn't hit the official – or anybody else, for that matter – and therefore, shouldn't have been ejected and thus barred from the next round of the MHSAA wrestling tournament. In issuing her ruling, Circuit Court Judge Alice L. Gilbert said, *"It is the act, not the aim, that was penalized."*

Among the facts of life of athletic administration are that, (1) integrity cannot be legislated; (2) bad motives alone cannot be penalized; and (3) pure motives cannot excuse bad actions. Sports

organizations have rules to penalize bad behaviors because enforcers cannot require participants, parents, coaches and administrators to always have good intentions and act accordingly. It is difficult to maintain integrity at all times in a win-at-all-costs society. But, in any event, the rules must address what the regulators or witnesses actually see people do, not what those people may be thinking, or what they say they were intending, when rules were broken.

All of this will sometimes mean that bad things happen to good people. That students will be adversely affected by penalties assessed to adults. That next year's team will be adversely affected by penalties assessed for violations by this year's team.

Time and time again, contest officials see and penalize the player who retaliates, not the player who initiates. That's *not* the fault of the officials. And they *must* penalize that retaliation.

All this can seem unfair to people, just as life itself can seem unfair. Which is one of the reasons competitive sports participation is good for young people. Even when bad things happen – perhaps *especially* when bad things happen – athletes must keep going. It's one of schools' best laboratories for learning; it's preparation for real life.

January 10, 1998

Mr. Arlyn Zack, Principal
Muskegon High School
60 West Southern Avenue
Muskegon, MI 49441

Dear Mr. Zack:

Here are the actions which Flint-Northern took within a week and without prompting following the October 20, 1995 football game against Muskegon:

1. The school canceled and forfeited both its varsity and junior varsity games against Flint-Central on the ninth week of the season.
2. The six players identified and listed by game officials to have engaged in fighting were suspended from school for one week.
3. The superintendent held a citywide meeting of athletic staff to address this situation and future expectations.
4. Flint-Northern's administration conducted a meeting with the football staff and learn regarding same.

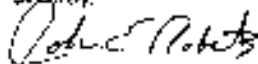
That the school district may allow the head coach to continue in that capacity is a disappointment. The MHSAA does not have the authority to require coach dismissal, but Muskegon High School does have the prerogative to decline to schedule this or any other team which it believes is coached by persons who may be disrespectful with the effort to provide a safe, educational atmosphere for students.

If this office is successful in arranging a meaningful dialogue with Flint-Northern High School and anything substantive comes out of it, we will report what we are able to you or Mr. Schulze.

We are reluctant to devote our limited time to complicated matters for which member schools have not given the MHSAA authority. However, we have spent many hours of staff time drafting proposals and discussing what parts of the MHSAA Constitution might be changed by vote of member schools and which Regulations or Interpretations might be modified by Representative Council action so that the MHSAA staff and/or Executive Committee might have more effective intervention in sportsmanship matters without leading to the result of displacing schools as the primary actors to investigate and penalize when poor sportsmanship occurs.

In addition, the MHSAA staff will help prepare Muskegon High School's proposal to the Representative Council for a limited appeal process to the next game disqualification rule as applied to coaches under certain circumstances.

Sincerely,



JOHN E. ROBERTS
Executive Director

JER/kay

Chapter 4. "Who's Kidding Whom?"

**"But who's kidding, who's kidding who
Doing everything but facing the truth."**

Singer/Songwriter Sylvia Jane Hutton (Sylvia), *"Who's kidding who?"*

Wounds, I discovered, were still raw in Michigan school sports as I planned my family's relocation to the state to begin my tenure with the Michigan High School Athletic Association in August of 1986.

After his team fell in the MHSAA Class B Boys Basketball Tournament's championship game the previous March - when the opposing team's three-quarter court, last-second, desperation heave found nothing but net - Flint Beecher High School's head boys basketball coach let the runner-up trophy fall to the floor. He showed his disgust during the postgame awards ceremony by dropping the trophy, doing so in full view of a packed Crisler Arena at the University of Michigan. Spectators showed their displeasure with that coach's behavior, as boos descended from seats.

Weeks later, in media interviews after the announcement of my selection as MHSAA executive director, almost every caller to my home or office in Kansas City asked my opinion for how to respond to this boorish behavior.

Later that spring, as I searched for our family's new home in highly recommended Okemos, Michigan, I heard repeatedly how upset folks of that community and school district remained over a decision the MHSAA leadership had made years before I was a part of the organization.

During the 1980 football season, Okemos allowed a student to participate in three regular-season football games who the school discovered, *after* the football season, had been competing beyond the limit of eight semesters of enrollment in high school. Okemos had finished runner-up in the 1980 MHSAA Class B Football Playoffs.

All the games in which this ineligible student participated were turned to forfeits, which meant Okemos would not have qualified for that year's tournament; and Okemos was required to return the runner-up trophy. The school district argued that this penalty was excessive, and it made three separate formal appeals to the MHSAA over the span of a year to try to have the decision changed.

When those efforts failed, the school district sought a formal opinion from the Michigan Attorney General in an attempt to impose limits on MHSAA's authority. This effort was also unsuccessful at the time; and four years later, on April 8, 1986, nearly coinciding with my selection as the new MHSAA executive director, the Attorney General issued Opinion #6352 that was opposite the position advanced by Okemos school district lawyers in 1982. The AG determined:

- The MHSAA is not an agency or instrumentality of the state;
- MHSAA tournaments are private corporate activities of the MHSAA;
- The MHSAA may establish whatever conditions and requirements it sees fit for participation in its tournaments and may condition eligibility for and participation in the tournaments on compliance with its rules and its determinations concerning rules violations and the penalties to be imposed; and
- MHSAA Executive Committee and Representative Council meetings are not subject to the provisions of the Michigan Open Meetings Act.

While not his purpose, Attorney General Frank Kelly's published opinion provided me a nice "Welcome-to-Michigan" gift. This fresh, formal written opinion that the MHSAA was independent of the State of Michigan, and its tournaments were the MHSAA's own business to run, was a very useful tool for administering school sports in increasingly combative times to come.

I.

While I inherited some problems and hard feelings, as well as some widespread and strongly held opinions about how school sports should operate in Michigan that would consume me – for example, the maximum age rule for athletic eligibility (see Chapter 9) and the scheduling of sports seasons (see Chapter 10) – I was also the beneficiary of the fighting spirit and persistence of earlier leadership for Michigan school sports.

The most sudden and significant evidence of my predecessors' enduring efforts came during my first month as Michigan High School Athletic Association executive director when the Michigan Court of Appeals decided in the MHSAA's favor in its defense of the transfer regulation.

The brief facts of the case were that in 1985, a student who had transferred from a nonpublic school to a public school participated in football games contrary to MHSAA rules but pursuant to restraining orders issued October 3, 1985. The MHSAA leadership had appealed . . . and then waited.

Finally, on August 18, 1986 (less than three weeks into my tenure), in the case of Berschback v. Grosse Pointe Schools (Note 1), the Michigan Court of Appeals found in the MHSAA's favor. In doing so, the three-judge panel issued an opinion that made five conclusions which have been crucial to maintaining the integrity of school sports against people of privilege and their lawyers. They are . . .

- Athletic cases, at least in the Michigan system, are not moot with the passage of time as they involve issues of significant public importance and are capable of repetition.
- Under traditional equal protection analysis where classifications do not involve a suspect class or a fundamental right, once legitimate regulatory purposes have been identified, the only question remaining is whether the rule makers reasonably believe that use of the challenged classification would promote that purpose. Therefore, a rule will be upheld against an

equal protection challenge if it contains a classification rationally related to a legitimate governmental interest.

- Participation in interscholastic athletics does not constitute an exercise of a fundamental right.
- The right to a public education does not create a right to participation in interscholastic sports such that participation in interscholastic sports is a protected interest which may be abridged only through due process of law. Since there is no property or liberty interest in participation in interscholastic sports, there exists no due process right to a hearing or opportunity for review before the MHSAA.
- The courts are not the proper forum for making or reviewing decisions concerning the eligibility of students in interscholastic athletics; therefore, change of eligibility rules and the application of those rules must be through the political rather than the judicial process.

This decision of the Court of Appeals, later affirmed by the Michigan Supreme Court, turned transfer rule litigation from the almost monthly occurrence it had been over the previous three years into a relatively rare experience for the next 30 years. And the MHSAA never again lost a legal challenge to its transfer rule.

This did not mean people were happy with the transfer rule. It didn't mean MHSAA leadership was satisfied with the transfer regulation and its interpretations. The rule has always been, and remains, a work in progress in an attempt to keep pace with changes in schools, sports and society.

II.

Prior to 1982, local school principals were allowed to make most determinations about transfer students, that is, which transfer students would have immediate eligibility for interscholastic athletic participation and which would have a one-semester wait. Principals themselves, and the Michigan Association of Secondary School Principals, became dissatisfied with this approach which invited inconsistent application in an era of decreasing stability and increasing mobility of families.

Beginning in 1982, the Michigan High School Athletic Association's newly adopted transfer rule stated that all transfer students were ineligible for one semester unless their circumstances fit one of 12 described exceptions (later expanded to 13, 14 and then 15 exceptions). This tended to move the MHSAA to the center of decision-making and, prior to the 1986 *Berschback* ruling, made the MHSAA the target of more litigation in four years than in total during the previous four decades. (It was this rush of litigation more than any other factor that caused my predecessor, Vern Norris, to retire).

Gradually, dissatisfaction with this rule grew among coaches and administrators as students became increasingly involved in non-school sports programs with kids and coaches affiliated with other schools, and parents became more emboldened by school-of-choice legislation to enroll

their children in schools outside their neighborhoods. The existing transfer rule was not an adequate deterrent to transfers for athletic purposes.

Recognizing the inadequacies of the existing rule in the changing world, in 1996, the MHSAA Representative Council adopted a regulation which doubled the period of ineligibility for students whose circumstances complied with the MHSAA *Handbook* definition of an athletic-motivated transfer. While this rule got closer to the heart of the problem educators were trying to solve, at least when a change of residence by the family was not involved, it required administrators of the school which lost the student to make and document the allegation that the transfer was motivated primarily by athletics.

That trigger – a member school's formal, documented allegation of an athletic-motivated transfer – was required before the MHSAA office could investigate, weigh the information provided by both schools and render a decision that could keep a transfer student out of all sports for two semesters, which was double the basic period of ineligibility under the transfer regulation at that time. In theory, the trigger was completely appropriate and made perfect sense. However, in practice, school administrators were reluctant to pull this trigger, not wanting to negatively affect relations with the transfer students' families or with personnel of other school districts. As in the early 1980s, school administrators wanted the MHSAA to be the heavy and take the heat.

During the 2017-18 school year, one MHSAA member school's administrative team *did* invoke the rule in the case of a high-profile player transferring to a high-profile basketball team. One of the most mean-spirited controversies of my tenure ensued.

An 18-year-old senior-to-be, moved on his own during the summer of 2017 to a condominium in the Clarkston High School attendance area. His parents continued to reside in the student's previous public school district, Chippewa Valley Schools, where the student previously had attended Macomb Dakota High School. The student enrolled at Clarkston High School, the defending MHSAA Class A boys basketball championship team whose senior-to-be point guard had been the transfer student's Amateur Athletic Union basketball teammate. (In November, both players signed letters of intent to play college basketball at Michigan State University.)

Because the student had moved to Clarkston without a full and complete change of residence by his family, he was ineligible for one semester under the MHSAA's basic transfer rule. He could not qualify for immediate eligibility under the exception for 18-year-old students because the principal of Macomb Dakota High School would not sign the necessary Educational Transfer Form which requires for such transfers that the change of schools not be significantly related to or motivated by athletics.

Then the administration of Chippewa Valley Schools and Dakota High School took the next logical although not typical step, formally alleging to the MHSAA that the student's transfer was an athletic-motivated transfer which, if confirmed by the MHSAA executive director, would extend the period of ineligibility from one semester to two . . . including this senior's full final high school basketball season.

Claiming “*He’s our kid*” – although the student had only found Clarkston High School after 11 years of public education elsewhere – the superintendent of schools for Clarkston Community Schools took up this student’s cause with zealotry I had not witnessed before, and with unfiltered condemnation for everyone associated with both Chippewa Valley Schools/Dakota High School and the MHSAA. He made multiple appeals and two appearances at meetings of the MHSAA Executive Committee. He maligned MHSAA staff and called for the firing of Chippewa Valley Schools’ superintendent. He riled up several Michigan legislators. He served as the lawyers’ primary source of information in the family’s lawsuit against Chippewa Valley Schools and the MHSAA.

Ultimately, every attack on the MHSAA and the rule failed. Proposed legislation to gut the MHSAA transfer rule failed to get out of committee, shot down by members of both political parties during a single hearing. The United States District Court for the Eastern District of Michigan dismissed the family’s lawsuit filed by two Detroit lawyers who spent more time on press releases disparaging people than on legal briefs citing relevant points of law, however lean they were in support of their case. The superintendent of schools for Chippewa Valley Schools retained his job; Clarkston’s superintendent of schools did not.

This was, in fact, one of the clearest cases of an athletic-motivated transfer I was ever asked to investigate and decide. More than once, I heard people say, “*Who’s kidding whom? This is about basketball. It could not be more obvious.*” The parents offered several different stories to make an alternative case for the transfer, but their son’s transfer was always about past Amateur Athletic Union basketball teammates and future Michigan State University basketball teammates joining for their senior season when Clarkston High School would be the prohibitive favorite to repeat as MHSAA Class A boys basketball champion . . . with or without this additional transfer talent.

Some overzealous and partisan Michigan State University basketball backers complained that, no matter the transfer student’s motive, the MHSAA ruling was too harsh a penalty for a good kid . . . by which they meant a prized prospect for their beloved MSU Spartans. Others opined that Dakota High School teams had benefited from athletic transfers in the past and thus lacked the moral high ground to block this student’s eligibility for even one semester, much less to make the allegation that would lead to two semesters of ineligibility.

In fact, if athletic-motivated transfers to Macomb Dakota occurred but went unchallenged by other schools in past school years, it was the fault of those other schools. It is they who failed to act previously who lacked the moral high ground to object to Dakota’s actions during the 2017-18 school year.

(Letter 4.1 at the end of this chapter, dated December 8, 2017, is a mid-controversy summary.)

///.

Many months prior to the Clarkston controversy, in late May of 2017, I made the decision to retire from the Michigan High School Athletic Association staff at the end of the 2017-18 school year, telling no one but my wife, who advised that we should keep this to ourselves for a while to allow me to be certain of my decision. This appealed to me because I did not want to be a lame duck for any length of time, and I wanted no ceremony regarding my retirement. I wanted to sprint to the finish line, and to delay announcing my personal intentions until late April of 2018 – after a series of National Federation and NFHS Network board meetings in Indianapolis – that I would depart in late August. I needed to be able to speak with full voice and effectiveness for as long as possible on both state and national matters.

Prior to that final year, during the summer of 2017, I coordinated a series of meetings for MHSAA staff during which we attacked several of the pressing problems before the Association. I brought in reams of background documents and several whiteboards, and I facilitated several multi-hour sessions. One of the most troubling of the eight topics was the MHSAA transfer regulation: how again to make it tougher on transfers for which athletics was the principal motivation, and how to do that without unleashing an avalanche of attacks in the judicial and legislative arenas.

We developed some new approaches and we gradually widened the circle of transfer rule discussants to include particularly engaged members of the MHSAA Representative Council. Next, Associate Director Tom Rashid took the surviving concepts to August and September league meetings of high school athletic directors, and then to October Athletic Director In-Service meetings, while I took the proposals to MHSAA Update meetings for school administrators across the state. We did onsite and online surveys of our constituents. We presented the proposed transfer policy to the Representative Council in December and, with slight revision and even more constituent input, again in March. We kept communicating the key concepts to school personnel during every MHSAA meeting of coaches and/or administrators conducted at the MHSAA office and across the state. Overwhelmingly, there was support for the idea that if a student played a sport one year, that student would be ineligible for that sport during the following school year after a change of schools where none of the listed exceptions applied that would allow for immediate eligibility.

I finally announced my retirement at the regularly scheduled MHSAA Executive Committee meeting on the morning of April 24, 2018, and we notified MHSAA schools and the media that same afternoon. Thirteen days later, at its regularly scheduled May meeting, the MHSAA Representative Council handed the MHSAA's top job – the best such job in the USA – to MHSAA Assistant Director Mark Uyl. The Council also handed him the strongest rule to regulate transfers in the history of Michigan school sports.

The new transfer rule certainly will need tweaking and toughening over changing times; but its initial genius is that it *eliminates* the loss of eligibility in sports a transfer student had *not* played during the previous year, leading to immediate eligibility for hundreds of transfer students whose participation bothers no one; but the new rule *increases* the period of ineligibility in any

sport which a transfer student *did* play during the previous year, which are often the transfers which aggravate almost everybody. Getting out of the way of transfer students who have no recent history of participation in a specific sport, while being tougher in more situations when there has been recent participation in a particular sport, was the intended purpose.

NOTES:

1: 154 Mich App 102, 397 NW2d 234 (1986)

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December 8, 2017

Dr. Rod Rock, Superintendent
Clarkston Community Schools

Dear Rod,

This intends to respond to the questions you posed in Thursday's email, in approximately the order you presented.

1. The MHSAA Representative Council is obligated to conduct one meeting each year but it routinely schedules three meetings, each scheduled six or more months in advance to assure that the busy school administrators who serve on the Council can keep the dates clear and participate in the meeting. The remaining meetings for the 2017-18 school year are in March and May. It is not the role of staff to schedule additional meetings.

2. Your email of Dec. 7 identifies correctly and demonstrates understanding of the two aspects of the Transfer Regulation that are at issue in this matter. You are correct to not mention undue influence as those allegations were not sustained by the information provided to the MHSAA and no violation was found. The school's Nov. 14 letter acknowledged this.

Coach Fife's comment in the school district's statement Thursday evening continues to characterize this matter as an attack on his integrity. Nothing in the MHSAA's findings, conclusions or communications permits that characterization. Your statement at the press conference today that the MHSAA charged Clarkston personnel with undue influence is not accurate.

3. Section 9(b) states that actions following the allegations of an athletic-motivated transfer cannot correct the situation. "Even if the student's circumstances subsequently satisfy one of the conditions of Section 9(a) that would normally allow a transfer student immediate eligibility, the student shall remain ineligible for 163 scheduled school days at this or any other MHSAA member school."

Therefore, even if the previous school principal would sign the Educational Transfer Form under duress now, or if the parents were to relocate to the Clarkston School District and reside with their son, the student's eligibility status would not change.

4. An Educational Transfer Form is completed for approximately 250 students each year. About ten percent are completed under the exception that allows for the eligibility of 18-year-olds relocating without parents or guardians. Because the MHSAA office is the third step in the process, the MHSAA office will not often be made aware of situations where the principal of the previous school does not sign the form and the student involved either did or did not complete the change of schools.

The Educational Transfer Form emphasizes that the principal is certifying that "the transfer is in the best educational interest of the student and the transfer is not significantly related to or motivated by athletics." (Bold face is on the original form, not added here for emphasis.)

- 5. When one of the seven listed defining characteristics of an athletic-motivated transfer exists and is unrefuted, a finding of an athletic-motivated transfer is presumed. It is conceivable that the MHSAA executive director or, on appeal, the MHSAA Executive Committee could be convinced by other factors that the transfer was not primarily motivated by other factors than athletics. Clarkston High School has already attempted, unsuccessfully, to convince the executive director and then the Executive Committee that athletics – particularly basketball – was not the primary motivation for this student’s transfer, and specifically for the student’s transfer to Clarkston High School. If there is evidence to the contrary, the appeal to the Executive Committee was the place to present it.

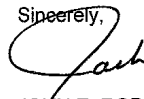
If there is **significant additional information not previously provided to the Executive Committee**, and it is provided to the Executive Committee promptly, the Executive Committee has the discretion to take this matter up at a subsequent scheduled meeting (e.g., Jan. 10, 2018).

- 6. This office is not made aware of countless situations where students participate on out-of-season sports teams and either do or do not change schools thereafter. If they don’t change schools, or if they do change schools but satisfy one of the 15 stated exceptions to the transfer rule, the MHSAA office is rarely informed.

There are many students who participate together in non-school sports and don’t change schools, and others who do transfer to a teammate’s school. If the school from which the student has transferred does not make an allegation of an athletic-motivated transfer, the MHSAA cannot conduct an inquiry. If the former school does make the allegation, the MHSAA must examine the matter. Often, discussion with the student regarding the athletic-motivated (Section 9[E]) and athletic-related (Section 9[F]) transfer rules will serve as a deterrent to students who are considering a transfer, and those occurrences are not usually reported to MHSAA staff.

- 7. Promptly upon my receipt of the written allegations from Dakota High School administration, those materials were forwarded to Clarkston High School administration with an invitation to respond. That response was provided promptly to Dakota for reply; and that reply was also sent to Clarkston for its response. This sequence is described in the MHSAA’s report of Oct. 31. I facilitated these exchanges personally. The only report I requested from Mr. Rashid was a brief listing of his communications to and from both schools and the parent.

From this report and other sources, it is clear that the student and his parent were advised by Dakota High School, MHSAA staff and others that the only assurance he had to be eligible for his senior season was to remain at Dakota.

Sincerely,


JOHN E. ROBERTS
 Executive Director

JER/ky

cc: Gary Kaul, Principal

Chapter 5. Fault Lines

“The fault, dear Brutus, is not in our stars, but in ourselves . . .”

Cassius to Brutus in Shakespeare’s *Julius Caesar*, Act I, Scene II

The published minutes of the January 24, 1992 meeting of the Michigan High School Athletic Association Executive Committee conclude with the following final statement of business: *“Update was provided to the Executive Committee regarding three schools where the MHSAA has been attempting to obtain more institutional control of interscholastic athletics.”*

That was not a throwaway, feel-good line. Promoting “institutional control” – local school administrators and boards of education demanding that both their constituents and opponents comply with all the rules all the time and always demonstrate good sportsmanship – was an ever-present, underscoring aspect of my 32-year tenure with the MHSAA. It was my prejudice that this was a more achievable objective than attempting to police school sports always and everywhere from a central office, which is patently impossible. This sentence from the January 24, 1992 minutes provides just a hint of what the MHSAA’s leadership was dealing with at that time, just five and one-half years into that tenure.

I.

One of the three schools referenced but unnamed in the published minutes of January 24, 1992 was Murray-Wright High School of the Public School League of Detroit.

While far from the first time a team was barred because of rules violations from Michigan High School Athletic Association postseason tournament play, the 1991 case of the Murray-Wright girls basketball team had all the ingredients for controversy, and a court appearance. The team was good — to some, it was the No. 1 ranked Class A girls high school basketball team in Michigan that season. A deep tournament run was anticipated. However, after winning both District and Regional titles, the team was prohibited from advancing to the Quarterfinal round of the MHSAA Girls Basketball Tournament.

That basketball program had made waves the previous March as a result of transfers by talented players from other schools. One was an 11th-grader from Detroit Mumford High School who beat the enrollment deadline so that she would be eligible at Murray-Wright High School without delay under the MHSAA transfer rule at the start of the 1991-92 school year. She had made a published “all-city” basketball team on the basis of her performance at Mumford the previous season. The other transfer student was only slightly less accomplished as a basketball player, and also an 11th-grader, who made a similarly well-timed switch to Murray-Wright, she from Detroit Mackenzie High School.

Because both transfers were between schools of the same district (the Detroit Public Schools), other schools of the district directed most of their complaints to that school district's administrators, and the MHSAA's role was as counselor to those administrators. Their inquiry into allegations of undue influence, directed primarily toward Murray-Wright's head girls basketball coach, did not compile hard evidence of recruiting, but it did spray toxins into the atmosphere surrounding girls high school basketball in Detroit.

The Murray-Wright girls basketball team romped through the next regular season (fall, 1991), losing just once. The team won the MHSAA District tournament with 87-24 and 80-56 victories over Detroit Mackenzie and Detroit Northwestern High Schools, respectively. The two transfer students scored a combined 23 points in the first-game rout and 39 points in the tighter second win.

The next week, the team captured the MHSAA Regional tournament with 69-66 and 76-49 wins over Livonia Franklin and Dearborn Fordson High Schools, respectively. That's when it was discovered by local tournament management, and reported to the MHSAA office, that Murray-Wright played two students whose names did not appear on its master eligibility list submitted with entry materials prior to the first level of the tournament, which is a violation of MHSAA policies.

For the Regional tournament, Murray-Wright's coach submitted a different eligibility list than had been submitted at the District tournament the previous week, one to which a name had been added by hand, not type. To make matters worse, a second student played who was not on either version of the team's eligibility list, possibly because she was the beneficiary of having a grade she earned in June changed in September.

At this point, the problems within the Murray-Wright girls basketball program transcended an intra-district squabble – it now was affecting schools across the state that were participating in the MHSAA tournament – and MHSAA staff became directly involved.

The two students now at issue – not the same two who had transferred the previous winter and were now leading the team in scoring, but two other students – had been added to the team's tournament roster without proper approvals; and they were getting playing time in tournament games. One of these students was a recent 12th-grade transfer from Flint Northwestern High School who scored 35 of Murray-Wright's 69 points in the team's close Regional win over Livonia Franklin.

There were questions if these students qualified to play under MHSAA eligibility rules. There were also allegations of undue influence. And, there were strong indications that the players' names had been added to an amended tournament eligibility list over the forged signature of the school principal.

A meeting of district and school administrators and the team's basketball coach was hurriedly convened by the MHSAA and resulted in the team's withdrawal from the tournament by the

school and the district. The MHSAA immediately cancelled the Quarterfinal game in which Murray-Wright had been scheduled to play, and advanced that opponent (Farmington Hills Mercy High School) to the next round. But there was still more controversy to come.

Parents associated with Murray-Wright High School sought and received a temporary restraining order signed by a Michigan Third Circuit judge purporting to compel Murray-Wright's participation in the Quarterfinal game that same evening . . . the game previously cancelled by the MHSAA. Murray-Wright's girls basketball team showed up in uniform for the game at the venue, Southfield High School, but nobody else did: no crowd, no officials and no opponent.

At a hearing the following morning, the court was persuaded that its order of the previous day was not binding on the MHSAA or Mercy High School, which had not been a party to the proceedings. The court did not attempt to interfere further in the conduct of the MHSAA tournament.

Subsequently, and in response to the letter that ends this section (Letter 5.1, dated December 17, 1991), the Detroit Public Schools superintendent suspended the Murray-Wright girls basketball coach for a year. Games were forfeited. Trophies were returned.

A season that had begun under the cloud of questionable transfers ended with disruption of the MHSAA tournament and disgrace upon a member school. The swift and strong action of the district's superintendent, athletic director and legal counsel was the bright light in this otherwise dismal situation.

II.

Overlapping the Murray-Wright girls basketball story, and overshadowing it in some ways, were issues involving Detroit Cooley High School's boys basketball team. As in the case of Murray-Wright's problems, the head coach was in the eye of the storm.

In early March of 1990, when *Sports Illustrated* published a 10-page photo and text spread gushing with praise for this coach, Cooley High's boys head basketball coach was already the subject of uncomplimentary rumor on the street in southeast Michigan and a target of informal allegations by and to Detroit Public School District administrators. The *Sports Illustrated* article – ironically titled “A Lesson in Survival” – provided the ammunition necessary for the MHSAA to enter the fray.

The article reported the coach's admissions that he had “*instructed his players to cheat*” during the 1987 MHSAA Boys Basketball Tournament championship game by having better shooters step to the free throw line in the place of poorer shooters, which seems impossible but which video of the game proved to have happened on at least two occasions. The article also reported the coach's admission that he drove players to a summer basketball camp, which would violate MHSAA out-of-season coaching rules; and his admission that he had given his players shoes,

other clothing and spending money, which would violate MHSAA amateur standing and awards rules.

Within a few days of the article's publication, the MHSAA requested that Cooley High School administration conduct an inquiry. Within a week, the MHSAA received the school's report, which MHSAA staff found to be insufficient in detail, inaccurate in its facts and inadequate as to remedy and penalty. MHSAA staff proposed tougher penalties, including that the coach could not be present for the following year's MHSAA Boys District Basketball Tournament.

This led to a flurry of meetings within the district, some with MHSAA staff involved and some without.

As is often the case in matters such as these, the longer the coach denied and the school appealed, the more questionable practices came to light.

In follow-up to allegations received before publication of the *Sports Illustrated* article, MHSAA staff accepted an invitation from a district administrator to conduct a review of the high school transcripts of students on Cooley's boys basketball team since the 1986-87 school year. This confirmed suspicions harbored by other school district personnel that several students had been members of the Cooley High School boys basketball team for one or more semesters when they might have been eligible by MHSAA minimum academic standards but were not eligible under the higher 2.0 minimum grade point average required by the Detroit Public School District for its student-athletes.

Because no MHSAA rules were involved, this particular discovery could not result in additional MHSAA-imposed penalties; but it added to the concerns that the Cooley High School boys basketball program was being inadequately monitored and controlled by the school and school district. (Most MHSAA member schools have voluntarily forfeited contests when even a single student was found to have participated while ineligible pursuant to a local school district's higher academic standing requirement. Cooley High School did not.)

Lacking support from the school district's athletic director, general counsel and both area and general superintendents, Cooley's coach resorted to asking the Basketball Coaches Association of Michigan to plead his case to the MHSAA and promote his cause to the public. Letter 5.2, dated February 1, 1991, which concludes this chapter, was the MHSAA's answer, intending to distinguish facts, dispel rumors and demonstrate that the coach had received lengthy and substantive due process which was acceptable to the leadership and legal counsel of the Detroit Public Schools, which subsequently implemented the MHSAA-prescribed penalties.

///.

Allegations regarding violations of Michigan High School Athletic Association rules flow to MHSAA leadership in almost limitless ways, including from media, disgruntled parents and partisans of

rival schools. Least credible are anonymous allegations. Most credibility is afforded to allegations from member school administrators and coaches, especially when they report face to face and with names, dates and other details.

That's what happened in 1991 when several attendees at an early-season MHSAA Soccer Rules Meeting in southeast Michigan reported to the MHSAA staff member in charge of the meeting that soccer coaches of several MHSAA schools were involved in summer soccer programs where coaches' activities gave at least the appearance of attempting to recruit players to their schools. Three non-public schools were singled out in these reports; and the concerns were reported promptly by MHSAA staff to the administrators of those three schools. One of the three – Detroit Country Day School – responded in a combative rather than in the collaborative way that the MHSAA had suggested which was designed to correct the situation and reduce even the appearance of violations by member schools' coaches.

The summer soccer program was called an "Olympic Development Program," and Country Day was employing coaches for its school soccer teams who were also employed by the ODP, a practice the MHSAA said should be stopped by the end of that calendar year. This brought a response from Country Day's headmaster which, by this time in his tenure, had become predictable – a "*How dare you?*" and "*What about the other guy?*" reply. The MHSAA's letter of October 28, 1991 that concludes this chapter (Letter 5.3) intended to clarify the issues and help the school see itself as other schools viewed it.

In fact, this is a major task of effective leadership of school sports: helping to convey the point of view of one constituent group to another group which has had different experiences and formed different perspectives about what is positive and possible. For example, the opinions of large schools to small schools and vice versa, of urban schools to rural schools and vice versa, of public schools to non-public schools and vice versa, of coaches to officials and vice versa, of administrators to coaches and vice versa.

Leaders of school sports must attempt to represent both those who *are* and those who *are not* in the room. They must try to know and articulate the feelings and ideas of both those who have a seat at the table and those who do not. Leaders must listen not only to the loudest or most litigious voices: the "haves." Leaders must seek out and hear the "have nots." For the sake of fairness in a diverse organization, they must *forge* consensus more than merely follow it.

This is a tough task, especially in an organization as diverse as the MHSAA . . . where there are big differences between schools with respect to financial resources, where some MHSAA member schools are one hundred times larger than others in the organization, and where some member schools are located further west than St. Louis, Missouri, while others are closer to the Atlantic Ocean than they are to other schools in the organization.

IV.

Failures in school sports administration are not inevitable or unavoidable. It is not fate. The fault, almost always, is lack of appreciation of the purposes of educational athletics and weakness of character or resolve which causes a person or group to act in inappropriate ways. The devil didn't make them do it, nor did anyone else force the offender's hand.

The instinct to look around and blame others for problems really doesn't work in the management of school sports. Such culprits would not be convincing to those who take the time to study the design and history of interscholastic athletics. They would learn that the core operating principle of educational athletics is "institutional control" and that the absence of adequate internal control in the management of local athletic departments has been the root cause of every problem incurred, and the primary cause of any controversy that followed.

Walter Byers, the first and longest-serving chief executive of the National Collegiate Athletic Association (1951 to 1988), was often criticized for usurping power from his member institutions. But I know from my personal conversations with him – and with his friend and colleague and my boss, Clifford B. Fagan, the executive secretary of the National Federation of State High School Associations in the mid-1970s – that Mr. Byers never sought the power he amassed. He felt forced by the inattention or inaction of university presidents to fill a local-level leadership vacuum that began to emerge by 1960 and became a gaping hole in years that followed.

Today, the lapse in local leadership of intercollegiate athletics is as frequently filled by powerful college conference commissioners as by the NCAA itself; and local institution administrators appear to take less responsibility every year. They seem to exert more energy to fight oversight than to provide it. And the good NCAA staff members who have conducted investigations for the NCAA under tight ethical and professional restrictions have often been no match for the seamy scoundrels in and around major college football and men's basketball programs who have played by nobody's rules but their own. (Note 1)

Cliff Fagan had similar concerns for his level of sports, lamenting in talks with me in the 1970s that superintendents and principals were removing themselves from day-to-day involvement in the competitive athletic programs of their schools. He believed these administrators would eventually see their programs drift away from their educational moorings . . . not as fast or far as intercollegiate athletics had wandered, but Mr. Fagan predicted that without his plans for intervention (and maybe in spite of those plans), interscholastic athletic pursuits would become sufficiently separated from academic purposes that abuses and excesses would become increasingly common and contentious.

It was largely in response to these concerns that, under Mr. Fagan's leadership, the National Federation of State High School Associations began programs and services for local athletic administrators in the 1970s — an annual national conference, a quarterly professional journal and a national professional association for high school directors of athletics. He wanted these administrators to look to their state high school associations for direction on philosophy and policy, rather

than toward the American Association of Health, Physical Education and Recreation which, during the early and mid-1970s, was wooing local school athletic directors to its conferences while taking positions opposite of state athletic organizations on federal legislation and national tournaments for high school teams.

For the next two decades, schools trended toward the appointment of full-time directors of athletics who managed every aspect of the interscholastic athletic program, which was growing rapidly in terms of sports, participants and complexity. During more recent decades, however, and due mostly to diminishing financial resources for schools, local boards of education and superintendents have reduced their support for the athletic director position even though there was no corresponding reduction of programs, participants, problems or pressures. Increasingly, the athletic director is becoming a part-time position added to the duties of another administrator or a teacher who, in either scenario, is without adequate training and sufficient assistance for the multitude of clerical tasks and events that must be supervised.

And all of this has been a prescription for problems of increasing frequency and controversy in the management of interscholastic athletics.

Some member institution administrators and some media – each without an informed sense of history, but both with understandable feelings of urgency and occasional self-righteousness – have been known to call for dictatorial top-down school and college athletic governing organizations; but they have blamed those organizations as frequently for their overreach as for being too weak.

Neither the NCAA nor any state high school athletic association was created or purposed to be the policing agency that those who are calling for larger enforcement staffs and tougher penalties would like to see. These organizations could never access subpoena and other powers necessary to do the job.

Sometimes there have been calls for tougher penalties than Michigan High School Athletic Association's democratically developed and adopted rules prescribe. Sometimes the association has been criticized for failure to assess penalties even when no MHSAA policy, procedure, rule or regulation is applicable to the conduct involved; for example, for violations of society's laws rather than school sports rules which, with intent, the MHSAA avoids. I watched without surprise as courts of law removed one penalty after another that had been assessed by the National Collegiate Athletic Association against Penn State University following the abhorrent behavior of one of its assistant football coaches and the cover up by many of his colleagues and supervisors, reaching all the way to the university's president. Many of the NCAA's punitive actions exceeded even the expansive authority which its member institutions have given to the NCAA to govern matters related to intercollegiate athletics. Enforcing the laws of a civilized society, courts eventually sent several Penn State people to prison, while other courts have removed NCAA sanctions after finding that the NCAA's punitive action had exceeded its authority to enforce established

rules of intercollegiate athletics. Athletic organizations are formed to enforce the rules of competitive sports; they wander from their field of expertise and legal authority when they attempt to be the enforcer of the laws of a civilized society.

On the other hand, as often as not, those whose conduct has made them or their school a target of MHSAA sanctions complain that the penalty imposed upon them does not fit the crime or penalizes kids for the errors of commission or omission by adults. The complainants — coach, administrator, fan or member of the professional media or the decidedly unprofessional social media sphere — are often those who previously had been critics of MHSAA inaction or of penalties they said were too weak, but change their tune when they find themselves or their favorite team the subject of inquiry and stiff penalty.

The naked truth is that statewide high school athletic associations could never employ enough investigators and enforcers to police the breadth and depth of school sports adequately . . . which means applying all the rules to all the sports in all the schools. The more enforcement staff put in the field, the less responsibility local school staff would take to know and follow the rules and enforce the penalties. Even with a billion-dollar budget, the NCAA has learned it cannot do the job; and in recent years, it has been the Federal Bureau of Investigation that has done the dirty work of investigating corruption in major college men's basketball.

No high school athletic association has subpoena power, and never will. None can perform wire-taps, and never will. The most essential responsibility of all high school athletic associations — the necessary role of every one of these organizations — is to create an environment where institutional control is nourished in the new people and treasured by the long-tenured.

Governing boards are to establish the policies and penalties which will promote institutional control. And staff, they are not to police; they are to persuade member school administrators and coaches to do what they agreed to do when their schools became association members, which is to enforce the rules as to their own operations and inform other schools and the MHSAA office when they observe what they believe are violations by those schools. (Note 2)

It is leadership of the best kind: by influence more than force; through education and encouragement more than enforcement and embarrassment; by moral imperative, not by messy investigations and mountains of interrogatories.

Postscript

In 1995, the member schools of the MHSAA voted 755 in favor and 30 opposed in support of an amendment to the MHSAA Constitution which was intended to be a reminder of and a reinforcement for the principle of institutional control. The adopted provision, which is Section 3 of Article II of the MHSAA Constitution today, reads as follows:

“For a school to become a member of this organization, its board of education/governing body must complete the annual Membership Resolution stating that the board of education/governing body has adopted the organization’s rules as its own and agrees to primary enforcement of such rules as to its own schools. Failure to implement required effects of policies and procedures promulgated by the organization to govern eligibility, competition and tournaments shall require that members of the administration and board of education/governing body appear before the Representative Council or Executive Committee to show cause why the school is not in violation of the terms of its Membership Resolution.”

One has to wonder what the 30 voters in opposition to this policy were thinking . . . or worse, what they were doing.

NOTES:

- 1: *Unsportsmanlike Conduct – Exploiting College Athletes*, by Walter Byers with Charles Hammer. The University of Michigan Press (1995)
- 2: The Michigan High School Athletic Association *Handbook* states (page 13) that, as part of the annual contract between the MHSAA and schools,

“The expectations of member schools include:

- **Educating** student-athletes and other personnel about MHSAA rules and procedures.
- **Monitoring** compliance year-around.
- **Investigating** possible violations and reporting findings.
- **Administering** penalties.”

December 17, 1991

Dr. Deborah McGriff
Superintendent
Detroit Public Schools
5057 Woodward
Detroit, Michigan 48202

Dear Dr. McGriff:

The Michigan High School Athletic Association is very appreciative of the actions taken during the week of December 2 with respect to participation by Murray-Wright High School in the 1991 MHSAA Girls Basketball Tournament. This was a difficult time, handled beautifully by the area superintendent, the district's director of health, physical education and safety, and your general counsel.

Withdrawal of the school from the tournament was appropriate, given the fact that (1) there was one player added to the Master Eligibility List after the District level tournament began, which is not allowed and, in this case, was done without the written approval of the school principal or district superintendent; and (2) another student played in both the District and Regional levels of the tournament whose name does not appear on either the original or revised eligibility list. Moreover, there are serious questions that either of these students would have satisfied the rules of eligibility, and some indication that their eligibility violations were the intentional acts of school personnel. It was disturbing to see the school principal, athletic director and girls basketball coach supporting by word and deed the legal action of parents against the school district and association.

Given all of this and the fact that Murray-Wright High School has been penalized on nine previous occasions in the past 4 1/3 school years (see Appendix "A"), it is evident that there is a lack of sufficient institutional control. While we very much value the school district, the events of the past few years and especially the past week call into question the commitment of this individual school to the conditions and responsibilities of MHSAA membership, as accepted by the Detroit Public Schools Board of Education.

Therefore, it is appropriate that the school be made to show cause why it should remain a member with full privileges in the MHSAA. A report of the school district's internal action with respect to Murray-Wright High School to assure adequate institutional control is requested by December 31, 1991; after which I will prepare a report for the MHSAA Executive Committee regarding my recommendations for additional actions, if any, which should come from the MHSAA. These additional actions might include suspension of the school from membership or from one or more MHSAA tournaments for one or more years.

Dr. Deborah McGriff

December 11, 1991

2

Thank you for your support of educational and ethical interscholastic athletics. It is a privilege to serve you.

Cordially,



JOHN F. ROBERTS
Executive Director

JER/kb

February 1, 1984

Mr. Tom Purvey, Executive Secretary
 Basketball Coaches Assn. of Michigan
 100 East Main Street
 Midland, Michigan 49701

Dear Tom:

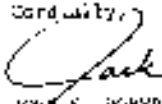
Thank you for the prompt by the MBSAA of opportunity to respond to an editorial which the BCAM Board of Directors has proposed for publication in your February Newsletter. It probably would have been more appropriately presented for the sake of "fairness" in some issue the editorial purpose to be written, to have given the MBSAA the opportunity to address the Board in advance of the article's publication, or to have approached the MBSAA in a private rather than public forum.

It is our first wish that you print neither your editorial nor this response. The public discourse is set aside for the coach, school, school district, MBSAA, MCAA, or high school basketball. But if this appeal not to publish the editorial is unavailing, you need to know the following:

1. The violations listed in the BCAM editorial are vastly incomplete and factually incorrect. The letter you examined was preliminary to the longer memorandum of findings and conclusions which was given to the coach; and the letter is inaccurately paraphrased, apparently to fit a bias, not the actual words of the letter. The coach is not cited because "he gave a winter coat to one of his players".
2. The videotape showing what the coach claims it shows. When the coach's tape is compared to an unedited version provided by the television producer, it reveals that the videotape supplied by the coach is incomplete, leaving the final shot preceding one of the two violations when the white player took after player's spots at the free throw line.
3. The school principal has admitted the violation that the coach used a school vehicle to transport athletes to summer camp. It has never been contended by the school or the coach that he opened the van. It has been stated that the coach may have opened the door.
4. The provision of a single used seat to a single athlete has never been the crime. The forfeited quota, amounting to thousands of dollars and providing summer school fees for hundreds of players, represent serious violations which do not when compared with, justice and integrity in intercollegiate athletics our league.

- 5. No private investigators have been hired or assigned by the MHSAA and none is acting with MHSAA knowledge or authority.
- 6. Abundant due process has been offered the subjects of this investigation. The school principal was given three opportunities to investigate allegations, but he failed to do so fully. Subsequently, the area superintendent was given two opportunities to assist the investigation, but she did not respond. The MHSAA conducted independent inquiries and the executive director provided a written report of the allegations, findings, conclusions, and penalties. The coach, principal and area superintendent then were provided an opportunity to meet to discuss that report. Following that meeting, a second written report restated allegations, findings, conclusions, penalties, and the opportunity to appeal. The second report also provided conditions which, if met by September 15, 1990, would have reduced the length of the principal's probation and the coach's suspension and might have assisted the effectiveness of appeals by the schools; but no effort was made to meet the mitigation conditions.
- 7. On three occasions -- October 11, 1990 and January 6, 1991 and January 18, 1991 -- the MHSAA Executive Committee has complied with requests to review procedures, findings and penalties. The Executive Committee has found the association's process to have been patient and thorough, its findings to have been accurate, and its penalties to have been lenient. No penalties have been assessed that directly impact student eligibility or participation.
- 8. It is not a "technicality" that is involved here, but multiple failures to conduct adequate internal investigations and make timely responses to external findings, conclusions and penalties.
- 9. The general counsel for the Detroit Public Schools has determined that the "MHSAA has provided the school district with a fair opportunity to be heard in this matter". The supervisor of athletics for the Detroit Public Schools concurs with the accuracy of the findings and the appropriateness of the penalties.

Every coach in the state of Michigan should indeed take notice ... notice that the MHSAA (in significant contrast with others) has backed this matter with professional thoroughness, great patience and restraint, and without public ridicule of people's motives or character.

Conductivity,

 JOHN E. ROBERTS
 Executive Director

JER/ob

October 28, 1991

Mr. Gerald Hansen, Headmaster
Detroit Country Day School
22305 West 13 Mile Road
Birmingham, Michigan 48010

Dear Mr. Hansen:

We are in receipt of your letter of October 24, 1991, which is indicated to be a response to our letter of October 2, 1991, regarding conflict of interest by your coaches. So that nothing gets lost in the shuffle, let me clarify that our September 26 letter dealt with the conflict of interest issue and requested a response by January 1; while our October 2 letter dealt with Detroit Country Day promotional literature and requested a response by November 1.

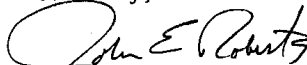
If Detroit Country Day is being singled out with regard to the activity of its coaches in conjunction with conflict of interest, it is because they and not others have been the subject of complaints. We have the authority to inquire when such complaints are received, and you have the responsibility to respond.

There is a tendency to allow the "Olympic development program" label to cover a multitude of programs, many of which have no relation whatsoever to the Olympics. MHSAA rules define and allow some latitude for Olympic development programs under Regulation I, Section 12.

Certainly you must appreciate how inappropriate it looks to others to see Detroit Country Day soccer coaches at youth games to watch and evaluate players. There will always be suspicion, and violations are virtually inevitable. The reputation of your school is at stake; and if you won't take the steps to do what would remove the doubt, I see no reason to keep defending your program.

Your response to this concern over a conflict of interest by coaches, as well as your response (still due) to the suggestion of your promotional literature that financial aid is available to students on the basis of athletic talent and participation, will be reported to the MHSAA Representative Council for its consideration prior to the mailing of MHSAA Membership Resolutions to schools for 1992-93.

Sincerely,



JOHN E. ROBERTS
Executive Director

JER/kb

Chapter 6. “Wrestling with the Law”

“Once you’ve wrestled, everything else is easy.”

Wrestler/Coach Dan Gable

The Michigan High School Athletic Association was the nation’s first among statewide high school associations in the United States to operate without membership dues, tournament entry fees and sports sponsorship assessments, one or more of which have been typical funding sources for other statewide high school associations across the country. Forgoing these reliable revenue streams was an intentional, strategic decision of MHSAA’s leadership. This approach assures that the MHSAA does not burden member schools with any costs (in fact, the flow of funds is from the MHSAA to member schools, not vice versa), and that the MHSAA operates independently of any and all levels of government.

One of the basic operating principles of the MHSAA which is in sharp contrast to major college sports tournaments is that teams are not rewarded financially for winning. Unlike the huge financial incentives to qualify for college football bowl games and the NCAA’s “March Madness,” there is nothing to be gained monetarily when qualifying for or advancing in any MHSAA tournament. In fact, and not unintentionally, many schools incur unreimbursed expenses for their MHSAA tournament participation, and more so the further they advance in the tournament. There is a financial *disincentive* to cheat in order to win.

Another intentional feature of MHSAA tournament finances that reflects a philosophy that is different from more commercially-designed athletic programs is the MHSAA’s efforts to reimburse host schools for their work in conducting the event to a greater degree than the MHSAA attempts to reimburse the schools which actually participate in the tournament. Moreover, the earlier tournament rounds when more member schools are hosting receive a greater percentage of gate receipts than later rounds when fewer member schools are hosting.

High school sports events, including MHSAA postseason tournaments, are among the least expensive forms of family entertainment. As inexpensive as its tournament ticket prices are, the MHSAA has still been able to rely on revenue from ticket sales at its District, Regional and Final tournaments to provide the financial means for just about everything else the MHSAA is able to do. For most of its history, it has been District, Regional and Final-level tournaments which have combined to contribute more than 90 percent of the revenue for the organization’s budget.

These tournaments have also caused about 90 percent of the association’s controversies; and occasionally, a controversy has escalated to litigation which threatened to interrupt the progress of an MHSAA tournament. Two such occasions stand out.

I.

On February 15, 1995, during the bus ride home from their assigned Michigan High School Athletic Association Team Wrestling District Tournament, the coaches of the Lake Fenton High School wrestling team discovered that the team which had defeated them, defending MHSAA Class C champion New Lothrop High School, had allowed a 157-pound competitor to participate at the 185-pound weight class. That's above the highest weight class where he was certified to wrestle under the MHSAA weight monitoring program designed to promote safe competition by matching participants of approximately equal (and healthy) weights. New Lothrop had nipped Lake Fenton 32-31 in the District Semifinal match and then defeated Burton Bentley 54-18 in the District Finals, with the ineligible wrestler scoring victories in both matches.

This discovery excited the Lake Fenton wrestling team into thinking that, since New Lothrop had to forfeit that match, then Lake Fenton should advance to participate in the Team Wrestling Regional Tournament at Goodrich High School the next week. Lake Fenton's enthusiasm was not diminished by the fact that Lake Fenton was not even the last team New Lothrop had defeated in the tournament.

Lake Fenton's finding was correct: there was a rule violation. But its conclusion was wrong: defeated schools do not get a second chance in MHSAA tournaments. (See Letter 6.1, dated February 17, 1995.)

For many years, it had been MHSAA policy to *not* advance a team to the next contest in a tournament after the discovery that the team which had defeated it had allowed an ineligible student to participate and was withdrawn from the tournament. There were no exceptions made.

I actually had to apply the "non-advancement" policy when I was just trying to be a spectator at a Team Wrestling District Tournament at Holt High School where my son's team violated the same weight monitoring rule in the first round of the District meet. East Lansing's head wrestling coach came to me in the bleachers, and I confirmed the policy to him (in exactly these words: "*East Lansing High School forfeits, but Okemos High School [the team East Lansing defeated] doesn't advance.*")

This policy makes abundant good sense in educational athletics on both practical and philosophical levels. With nothing to gain by waiting until after an event, schools will be more inclined to tell each other *before* the competition begins that they believe an ineligible player is scheduled to compete. It encourages schools to work together and to communicate to prevent problems, rather than scheme to trap schools after an event with information they had before an event.

And, what happens when the violation is discovered two or three events into the tournament series? Does the last team to be vanquished have the best claim on advancement? Why not an earlier victim which had a much better record or higher ranking?

While found in writing in other places and reaffirmed twice in preceding years' published minutes of MHSAA Representative Council meetings, the "non-advancement" policy was one of dozens of published tournament "Terms and Conditions" which was referred to generally but not stated explicitly in the published MHSAA *Handbook* at that time. Lake Fenton wrestling parents, and then administrators and school board members, seized upon this absence. They took their cause to a local court for some home cooking.

And on February 22, 1995, the evening of the Regional tournament at Goodrich High School, 38 minutes after the Regional Semifinals had concluded, and one minute into the first weight class of the Regional Finals, with a match score of 2-0, a single piece of paper signed by a Genesee County Circuit Court judge arrived at the site. It was handwritten, frayed, wrinkled and undated. It stated, "*Lake Fenton Community School may wrestle in the Regional Tournament at Goodrich High School.*"

At that point, the MHSAA staff person onsite paused the wrestling action and telephoned me at my home to report the contents of the document and the status of the Regional meet. I determined that, no matter what the document said or how unofficial it appeared, the document had arrived too late. The Regional tournament was already in its final round; Lake Fenton had missed the Semifinal round by more than 30 minutes. I directed the MHSAA staff member and the onsite tournament manager to complete the Regional Finals without further delay.

Plaintiffs returned to the Genesee County Circuit Court, asking that the MHSAA be held in contempt for ignoring the court order. On February 27, the court held a hearing at the Genesee County Courthouse in Flint. It was the only time that I left home for work during more than four decades when I can remember my wife telling me, with nervous humor, "*Don't forget your toothbrush!*"

The hearing in Flint went badly, but I got home safely that evening. On March 9, the Circuit Court issued its ruling, holding the MHSAA to be in civil contempt for violating its order, and directing the MHSAA to pay a fine of \$250 as well as Plaintiffs' trial court costs. However, the Circuit Court judge did not attempt to interfere further with the progress of the tournament.

Within days, the MHSAA gave notice of appeal to the Michigan Court of Appeals. During the summer months, the parties submitted their briefs and replies. Oral argument occurred in September. In late November, in an unpublished opinion, a three-judge panel affirmed the Circuit Court's orders.

The MHSAA's request for a rehearing in light of contemporaneous opinions in related cases was denied without comment by the same three-judge panel. But even then, the MHSAA wasn't finished grappling with Lake Fenton and the courts. The MHSAA promptly prepared an appeal to the Supreme Court of Michigan.

This took persistence . . . and about three years' worth of patience.

The MHSAA's appeal to the Michigan Supreme Court received fuller attention and finally resulted in a better outcome: a published unanimous 23-page decision on November 3, 1998 . . . 45 months after the initial filing in this case. The Supreme Court reversed the lower courts on both the injunctive relief and contempt citation. The Supreme Court cited proofs and expressed no doubts that the MHSAA "non-advancement" tournament policy had been in existence for many years, and the Supreme Court's opinion was condescending toward the trial court's suggestions to the contrary. But, more importantly, the Supreme Court recognized the necessity for an organization in the MHSAA's role to have very broad authority that goes beyond explicit written policies.

The Supreme Court's unanimous opinion reads like a manifesto on MHSAA tournament administration authority. It states, in small part – and referencing the annual Membership Resolution which must be approved by the board of education of every MHSAA member school – that *"the schools have agreed that tournaments will be run by the MHSAA. Inevitably, this agreement empowers the MHSAA to deal reasonably with situations outside its rule book as they arise . . ."*

"Here, the MHSAA exercised its authority in the course of such governance, and made a ruling that has no fundamental flaw. Hence, its decision should be upheld."

Regarding the contempt citation against the MHSAA, the Supreme Court stated: *"Making the decision by telephone, Executive Director Roberts concluded correctly that it was not possible to grant participation at the semifinal level in a regional tournament where the finals had already begun."*

"Thus, we also set aside the order holding the MHSAA in contempt." (Note 1)

II.

One year after the Lake Fenton High School litigation nearly upset the progress of the Michigan High School Athletic Association Team Wrestling Tournament in 1995, litigation involving the Mt. Pleasant High School wrestling team actually did cause a delay.

On February 20, 1996, without providing the MHSAA an opportunity to be heard, an Isabella County Circuit Court issued a temporary restraining order to require that Mt. Pleasant High School be allowed to participate in the next day's Team Wrestling Regional Tournament at Gaylord High School, irrespective of the MHSAA's ruling after the previous week's District tournament that Mt. Pleasant High School had allowed two ineligible transfer students to participate in the District tournament, must forfeit its District tournament title, and must withdraw from the MHSAA Team Wrestling Regional Tournament.

The two ineligible students had moved from the residence of their mother in Bay City to the residence of their father in Mt. Pleasant; but, contrary to the exception that allows for immediate eligibility, the students' parents were not divorced. The MHSAA made its ruling based on this

straightforward admission by the school's athletic director; but other school administrators and parents attempted to tie up the MHSAA in the process of paperwork and appeals long enough for its wrestling team to advance in the MHSAA tournament.

The Circuit Court scheduled a hearing for February 28 to show cause why a preliminary injunction should not be issued restraining the MHSAA from interfering with the plaintiff's right to have its wrestling team participate in the MHSAA-sponsored Team Wrestling Regional Tournament . . . the 28th being a week *after* Regional tournaments were being contested elsewhere in the state, and just two days before the MHSAA Team Wrestling Finals were scheduled to begin in Battle Creek.

The MHSAA rescheduled the Regional tournament at Gaylord High School – involving Menominee, Mt. Morris and Petoskey High Schools – from Wednesday the 21st to at least Thursday the 22nd; and an attorney for the MHSAA attended an emergency hearing at the Isabella County Courthouse on the afternoon of the 21st. The MHSAA's motion to set aside the TRO was denied, and the Circuit Court judge granted a preliminary injunction. Furthermore, the Circuit Court judge said he would monitor Mt. Pleasant's appeal within the due process rules of the MHSAA to make sure it wasn't a "sham."

The MHSAA then sent a motion for an emergency appeal to the Michigan Court of Appeals; and for a second time, the MHSAA postponed the Gaylord Regional Team Wrestling Tournament – this time indefinitely – while the tournament progressed in all other divisions and in all other but the Gaylord Regional of the Division 2 tournament.

On Thursday, February 29, the Michigan Court of Appeals, in a unanimous decision of the three-judge panel, granted the MHSAA's request for immediate appeal, vacated and reversed the preliminary injunction issued by the Circuit Court, and stayed all lower court proceedings.

The Court of Appeals issued its decision on the 29th; and later that same day, Petoskey, Mt. Morris and Menominee High Schools met in Gaylord to complete their Regional competition. Delayed but undaunted, Petoskey prevailed.

The MHSAA Team Wrestling Finals were contested as scheduled on the next two days, Friday and Saturday, in Battle Creek. And Petoskey High School prevailed once again . . . winning three straight matches to earn the 1996 Division 2 Team Wrestling Championship . . . its wrestling team displaying as much perseverance on the mats as the MHSAA's legal team had in the courts.

Letter 6.2, dated April 12, 1996, closed the file on this matter.

///.

That the two cases detailed in this chapter involve the sport of wrestling is no coincidence. Wrestling is a sport that invites controversy.

Wrestling is hard to watch. My wife, who has always been mellow about sports, would grip my arm or leg until it turned purple while she was watching either one of her two precious sons compete in a high school wrestling match. We contorted our bodies as we helped our sons gain takedowns, escapes and reversals . . . and, most of all, to avoid getting pinned. In the first moments after most matches, my wife would nearly be weeping with relief that our son did not get hurt. No sport takes spectators – especially parents – to such extremes of highs and lows.

Wrestling isn't much fun, and it requires great courage. It's a sport where competitors work very hard, eat very little, and compete one-on-one in hand-to-hand combat. Wrestlers look emaciated most of the time, and their faces display cuts, bruises and abrasions throughout the season. For wrestlers, there is nowhere to hide and no teammate to blame. As a result, competitors and their parents tend to blame officials for bad breaks and blown calls. And, with everyone in close proximity to each other, bad tempers can quickly provoke bad actions.

If, as I have heard, "*Sports is life with the volume turned up,*" then competitive wrestling is life with a blaring loudspeaker. This isn't merely a contact sport; it's a *combat* sport. Conflict, controversy, and court appearances are inevitable. And the cases which have been described in this chapter are just two of a dozen involving wrestling that have tested the MHSAA's authority to oversee the eligibility of wrestlers and their conduct during competition.

There is, I suppose, a kind of poetic justice here. For, if there is one man who deserves the title "*Father of high school wrestling in America,*" it was my dad. He was a two-time undefeated state high school wrestling champion in Iowa, and two-time Big Ten wrestling champion at the University of Wisconsin. He started the high school wrestling program in Stevens Point, Wisconsin, and coached the team to one state championship and two runner-up finishes in the program's first six seasons. Then he started the wrestling program at Central State College in Stevens Point (now the University of Wisconsin at Stevens Point) when it was primarily a teacher education institution. Many of his college wrestlers graduated and began high school teaching jobs where they, too, initiated wrestling programs.

Dad was named executive secretary of the Wisconsin Interscholastic Athletic Association in 1957 and served for many years as the high schools' representative to the National Collegiate Athletic Association's Wrestling Rules Committee. When the National Federation of State High School Associations decided to prepare and publish wrestling rules apart from the NCAA, Dad was the chair of the rules writing committee for many years. In total, he was the ranking authority in the United States for high school wrestling for more than a quarter-century.

As wrestling spread to high schools across the country – including to states which were lacking wrestling rules expertise – Dad would be called on to travel to those states, and all around those states, to conduct rules meetings for coaches and officials. He chaired the technical committees for the National Federation's first several wrestling rules films.

Before my father's death in late December of 2012, he had been inducted into two state Halls of Fame for wrestling: in Iowa and Wisconsin. And of the 11 other local, state and national Halls of Fame into which he had been inducted, the majority cited his lifelong wrestling contributions, especially at the high school level. He was the Scholastic Wrestling News and United States Wrestling Federation "Man of the Year" in 1981.

More than anyone else, it was Dad who brought wrestling to the nation's high schools and made the sport better where it already existed. While I was growing up, Dad made sure we had wrestling mats in the basement; and he often taught me wrestling moves that put me well ahead of the curve as a 7th and 8th-grade wrestler. But when I was a high school student, I chose basketball over wrestling for my winter sport.

So it's only fitting that John Roberts' son would have to grapple frequently with the sport of wrestling during his career with the MHSAA.

NOTES:

- 1: Kirby v. The Michigan High School Athletic Association, Inc., 459 Mich 23, 585 NW 2d. 290 (1998).

February 17, 1995

Mr. Gary Fulks, Athletic Director
Mr. Richard Ruddy, Wrestling Coach
Lake Fenton High School
11425 Torrey Road
Fenton, Michigan 48430

Gentlemen,

This responds to the letter faxed to this office this morning.

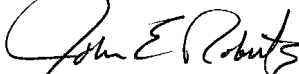
Yesterday I advised New Lothrop High School that there could be no further appeal on their part, and it obviously would not be appropriate to grant further appeal to other parties involved.

The MHSAA HANDBOOK is clear (Regulation V, Section 4[B]) that use of ineligible players by a school shall require that team victories are forfeited, not just individual matches.

For important reasons that have led to the policy being applied uniformly in the past and that an exception in this case would prohibit our applying in the future, teams which are defeated in tournaments by an opponent which has allowed an ineligible athlete to participate are not advanced in that tournament. If this were not the case, we would see more schools fail to help one another avoid rules violations, that is, they would bring violations to attention of opponents only after being defeated by them.

In December of 1991 and January of 1992, the MHSAA Representative Council reviewed the long-standing policy of not advancing defeated teams and made no change in the policy. Staff does not have the authority to make one exception to policy that has been reviewed by Council and uniformly applied.

Sincerely,



JOHN E. ROBERTS
Executive Director

JER/kb

April 12, 1996

Mr. Jeff Phillips
Athletic Director
Mt. Pleasant High School
1155 S. Elizabeth Street
Mt. Pleasant, MI 48858

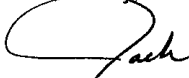
Dear Jeff,

Following your meeting with the MHSAA Executive Committee on April 11, 1996, there was some sentiment expressed by Executive Committee members that the school is being let off too easily for failing to fulfill the obligations of its Membership Resolution to abide by the rules, regulations and interpretations of this voluntary association. It was acknowledged that while the school has the legal right to file suit against the MHSAA, it had the responsibility not to do so but to administer the rules, even in a difficult situation.

However, it was also the sentiment of the Executive Committee members that the two students involved not be the focus of an association's frustration with a member school, if indeed the two students and their parents and the school itself did nothing of deception that led to the students' participation while ineligible under MHSAA regulations. I believe it to be the case that there was no intention on anybody's part to violate MHSAA regulations, although that opinion may not be universal.

In any event, with respect to Brandon and Kyle Bandlow, it will not be required that they remain ineligible after the conclusion of the 1995-96 school year so long as they are attending Mt. Pleasant High School or attending another school if they are living in that school district with their father. However, if the students should relocate from the residence of their father to the residence of their mother in a different school district, the students would not be eligible until they'd been in attendance at their new school for one full semester. This would be true even if a court gives a final decree of divorce, because the Educational Transfer Form may no longer be used in the case of these students who used it once (although inappropriately) to participate in interscholastic athletics without the required semester of ineligibility.

Cordially,



JOHN E. ROBERTS
Executive Director

JER/ksy

P.S. - Please remember it is required by Regulation V, Section 4(B) that the MHSAA Team District Wrestling trophy be returned to this office.

Chapter 7. “Follow the Money”

“Ed Martin became Chris Webber’s personal ATM.”

Carl Martin (Ed’s Son), *The Booster*

March of 2004 came in more like a lamb than a lion, according to the weather reporters; but it was a stormy start to that month for the Michigan High School Athletic Association.

I.

On the last day of February 2004, the MHSAA released minutes of its Executive Committee meeting of February 25 in which it was reported that, in spite of comprehensive and compelling multi-agency evidence confirming that its star player, Chris Webber, had received benefits from auto-worker-turned-hustler Ed Martin that violated the MHSAA amateur and awards rules, Detroit Country Day School would not be required to return the MHSAA trophies its boys basketball teams received while that player was on those squads 13, 14 and 15 years earlier and competed in MHSAA tournaments in March of 1989, 1990 and 1991.

The Executive Committee directed that all MHSAA tournament statistics of that individual player be removed from MHSAA tournament historical records, but the school’s three consecutive team titles would not be edited out of MHSAA annals, and the trophies would not have to be returned to the MHSAA office.

Detroit Country Day School’s publicists put a happy spin on the pronouncement, claiming vindication; but no one else viewed the situation quite that way. In fact, comments from member schools, the public and media were quite one-sided: most critical of Country Day for not doing the right thing voluntarily, some critical of the MHSAA for not requiring Country Day to do the right thing, and another group wondering why everyone was expending so much energy and emotion on something that had occurred so many years earlier.

For several preceding years, as numerous investigations by both law enforcement and college sports entities moved in and out of the media and on and off the public’s radar, people wondered what the MHSAA might do about the gifts which Ed Martin – a retired Ford Motor Company electrician, numbers runner and basketball junkie – was rumored to have lavished on select high school basketball players in Detroit and then on college players at the University of Michigan. And especially, *“What is the MHSAA going to do about amateur status violations by a member of the high school team which had won three consecutive MHSAA boys basketball championships in 1989 through 1991?”*

The MHSAA’s interim position was that there would be no comment until the investigations were completed by those with far greater resources than the MHSAA – the University of Michigan, the

National Collegiate Athletic Association and others, including the federal government – and that the MHSAA could not and would not duplicate such investigations.

When the University of Michigan and NCAA issued their findings in May of 2003, and the legal proceedings were winding down with plea agreements, MHSAA staff gathered promptly the publicly available documents and read them. Prior to this, MHSAA leadership was of the opinion that there would be nothing found to implicate the high school level.

That predisposition turned out to be incorrect, for it was the finding of the NCAA – based on information assembled by its own investigators and those of the University of Michigan – that of the four student-athletes involved in the University of Michigan situation, two were in MHSAA member high schools at the time they received “valuable considerations” which violated MHSAA amateur status regulations. There was no ambiguity. The NCAA Division I Committee on Infractions Report stated: *“There was universal agreement with regard to the facts of this finding.”*

MHSAA staff reported these findings and conclusions promptly to the two member high schools identified in the reports.

The second MHSAA member school involved, Detroit Murray-Wright High School, provided a stark contrast to Country Day. When provided the same information from the exhaustive outside investigations that Country Day’s administration rejected, indicating its star player – Robert Traylor – had received the same kind of benefits as Country Day’s star, Murray-Wright’s administration forfeited all of its varsity boys basketball games of the 1994-95 season. The school did so without debate or delay. According to Carl Martin in *The Booster* (Note 1), Murray-Wright’s star, Robert “Tractor” Traylor, was one of the few players who received Ed Martin’s largesse and later repaid him in full.

Detroit Country Day School characterized the findings of the University of Michigan, NCAA and law enforcement organizations as innuendo, rumor and speculation; and the school argued there was no evidence that was credible to a court of law that proved certain items of valuable consideration were received by their student-athlete and/or his family during the years he was a Country Day student.

The MHSAA executive director urged the school, partly through the letter that ends this chapter (see Letter 7.1, dated November 5, 2003), to forfeit contests of the three basketball seasons involved and told the school that the MHSAA would delete from its boys basketball records for the years involved any reference to this team and this individual student.

Not surprisingly, given its history, the school appealed the executive director’s decision. Before meeting with the MHSAA Executive Committee, Country Day conducted its own investigation. This included interviews with the student’s parents and lawyer. And, to prepare its analysis of the situation and response to the executive director, the school retained a law firm which it characterized as independent but which had a partner whose son had played on one of the tainted teams.

Country Day's appeal focused on process: that MHSAA staff did not provide to the school copies of the widely-disseminated public documents on which the executive director was basing his decision, that the MHSAA did not conduct its own investigation independent of the college organizations and law enforcement agencies, and that (in spite of judicial holdings which establish that it is not required of a voluntary membership organization like the MHSAA) the MHSAA failed to meet standards for a court of law with respect to evidence and testimony.

After Country Day presented its case on February 25, 2004, the MHSAA Executive Committee determined that the much more thorough and independent inquiries of the University of Michigan and National Collegiate Athletic Association were far more compelling than the information or opinions of those with vested interests on whom Country Day was relying for its appeal. Following the appearance of Country Day administrators and legal counsel, the MHSAA Executive Committee upheld the executive director's finding that there were violations of the amateur status regulation and that references to the individual student would be deleted from MHSAA basketball records. The Executive Committee asked the school to forfeit contests for the seasons involved, as Murray-Wright had already done, and to return MHSAA tournament trophies.

The Executive Committee requested that the school take these actions voluntarily – without consequence if it did not – because the Executive Committee did not want to prolong controversy over events that had occurred so many years earlier. Country Day refused to do so.

Carl Martin's account of events, as published in his 2018 book, added to the heavy weight of evidence accumulated by the University of Michigan, NCAA and Federal government in 2003 and 2004 that proved Country Day's star, and his parents, were receiving gifts both large and small – and often in cash – throughout this player's high school basketball career 15 years earlier.

Carl Martin wrote: *“Is there a luckier brother on the face of the earth? Webber has led a charmed life ever since he rejected the Detroit Public School League to play his high school ball in the cushy suburbs of Detroit Country Day School. After three state championships, he was recruited to the University of Michigan where he became the marquee-player of the Fab Five, the most famous recruiting class in college basketball history . . .*

“Webber was indicted for perjury, but before his trial could begin, Dad died. And without him (Ed Martin) as the key witness, the case (against Chris Webber) fell apart. He (Webber) pleaded guilty to a lesser charge to avoid prison time, paid a fine, did some community service, and walked away clean. It's fair to say that nobody benefitted more from Ed Martin's death than Chris Webber.”

And, it's probably just as true that no high school player in Michigan benefitted more from his generosity while Ed Martin was *alive*.

The author of *The Booster* described how often and how lavishly Ed Martin provided cash, clothes, shoes and other tangible benefits to Chris Webber, and increasingly assumed Webber family financial obligations, beginning early in Webber's high school career. The son (Carl) quoted

the father (Ed) as saying, *"I just started taking care of him (Webber) and made sure he had money every day. And if there was anything he needed, I gave it to him."* Carl Martin writes that his father *"would provide the Webber family expensive meals, trips, home appliances, and cash."*

Carl Martin reported in his book, *The Booster*, that Chris Webber confidently and specifically asked for this assistance, for both himself and his family. Martin reports that Webber later was as unapologetic in denying the truth as he had been as a 16-year-old in making the requests.

According to the author, Carl Martin: *"A spoiled, entitled, supremely gifted man-child (Chris Webber) crossed paths with a star-struck, compulsive, deep-pocketed benefactor (Ed Martin). It was a toxic mix."*

II.

This sense of privilege which oozed from many Detroit Country Day School representatives involved in the sad saga of these amateur rule violations was evident throughout the late 1980s, the entire 1990s and into the new century. It was part of what caused people associated with Country Day to operate frequently at the edges of what Michigan High School Athletic Association rules allowed. Wealthy, well-connected parents and their lawyers did not easily accept rules imposed by local administrators, much less rules of a voluntary nonprofit athletic association.

Rules have limitations. Athletic organizations keep adopting more and more rules in school sports, but there is no evidence that behavior ever improves as a result of those rules . . . and there is some evidence that behavior gets worse. People cede personal responsibility for ethical behavior. They seem to think, *"Well, if it isn't expressly prohibited, then it must be okay."*

That mindset, coupled with money and a sense of privilege, was at the core of conflict between Detroit Country Day School and its surrounding schools, both public and private, and caused Country Day School to receive more of the MHSAA's attention than any other member school received over a span of two decades – an unflattering achievement.

In the 1980s, before Michigan laws were changed to encourage school shopping and hopping, the enrollment of a Detroit resident in a suburban school was not common. So, when the Webber family decided to enroll their tall, talented son in a suburban private school in 1987, it was quite a story.

Many people expressed their disappointment to the MHSAA, and later their tone turned to disgust when it became known that this student's family had qualified for many thousands of dollars in financial aid at this suburban private school. Public school advocates complained that this demonstrated how non-public schools had an unfair advantage over public schools; and many non-public schools complained that this particular private school had recruiting practices and financial aid packages which not only could they not match, but also were outside their understanding of the letter and spirit of MHSAA regulations.

This placed a spotlight on Detroit Country Day School. But there was much more griping and grumbling than filing of formal complaints with specific allegations and substantial evidence.

An early exception was the administration of Royal Oak Shrine High School which documented activities that occurred at 1987 summer football camps conducted at Detroit Country Day School facilities by those who were not employees of, but who had close connections to, Country Day School. It was alleged that certain participants were encouraged to consider applying for enrollment and financial aid at Country Day. Shrine administrators were of the opinion that there was “tampering” with students who were enrolled elsewhere, including at Shrine High School and University of Detroit High.

The MHSAA’s inquiry lasted three months and the result was not entirely satisfactory to any of the schools involved, or to the parent of one student involved, or to the MHSAA staff. The November 30, 1987 letter that appears at the end of this chapter (Letter 7.2), written near the close of this episode, is one of the earliest of substance to this Country Day administrator from the MHSAA. It reveals arguments that Country Day would invoke frequently and frustratingly over the next two decades, namely, that if there isn’t a specific rule or a precise prohibition against what they were doing – or if the rule was both present and clear but there wasn’t sufficient evidence to meet a judicial standard for conviction of a violation – then no penalty should be assessed.

The position of Country Day leadership was that failings were never theirs but were deficiencies in the rules themselves or in the procedures of the MHSAA. Country Day leaders consistently arranged for or allowed lawyers to argue for their causes using standards required for courts of law – standards which courts themselves do not require for due process within a voluntary not-for-profit association of schools.

But eventually, in this early case, Country Day accepted the MHSAA’s decision, without appeal.

///.

On January 21, 1994, the Michigan High School Athletic Association office received the written and specific allegations of a Center Line St. Clement High School administrator that personnel of Detroit Country Day School had made contacts with a St. Clement enrolled student-athlete which were in violation of MHSAA regulations and published interpretations of those regulations regarding undue influence (aka, recruiting students on the basis of athletic potential or performance). Six days later, those allegations were outlined in writing by the MHSAA to Country Day administration.

St. Clement had reported to the MHSAA that shortly after an October 14, 1993 girls basketball game between St. Clement and Country Day, hosted at St. Clement, one of its better underclass

players reported to St. Clement coaches that she had visited Country Day School and spoken with Country Day's head girls basketball coach about transferring to Country Day.

The school's allegations included that this student-athlete reported that Country Day's coach had called her at her home and, during this call, cited examples of players in other programs who had failed to get the recognition and college scholarships that Country Day players receive. The student said she had several other conversations with this Country Day coach. Even before Country Day made a request to St. Clement for her records as part of its admissions process, the student was told that her tuition would be one-tenth the normal cost, and half the cost of the required tuition at St. Clement. These allegations were communicated in writing to Country Day's administration.

Country Day's response was a strident blanket denial, and an attack on the reporting school. This resulted in the first of five substantive letters from the MHSAA to Country Day's leadership. A month later, the MHSAA provided Country Day with a second letter, a progress report, which brought only indignation from Country Day administration, and no information to substantively assist the school's case. This led to a third letter (Letter 7.3, dated March 21, 1994) – the briefest and most blunt of the five letters – and then to a meeting between leadership of Country Day and the MHSAA. A fourth letter outlined the results of that meeting. Country Day finally submitted, without appeal, to the executive director's sanctions and required remedial actions set forth in a final letter. This concluded the matter.

Well . . . not entirely. There was a period of criticism suggesting that the MHSAA had let the school and its girls basketball coach off the hook much too easily. In hindsight, that criticism was deserved.

IV.

The greatest predictor of success in school sports is money. There are exceptions to the rule, of course, but it is generally true that those with money tend to have more success than those who do not.

Affluent parents of both public and nonpublic schools fund summer camps, club memberships, travel teams and private lessons that improve their children's skills. They take their children skiing in the Rockies and the Alps. They take them on winter vacations to play golf and tennis in southern states. Affluent schools build facilities with fabulous amenities, and that attracts students with special talents. Money matters, and it's reflected on scoreboards and in record books.

Because money matters, the financial aid packages offered to students by nonpublic schools have mattered to loyalists of public schools, even as they have been blind to the fact that there is as great a disparity between the financial status of public schools as there is between public and private schools. There are poor, struggling private schools as well as poor, struggling public schools. There are affluent schools, both public and private.

Even though all students attend public schools with financial aid (the free public education afforded every child), when a non-public school lowers tuition (or in rare cases involving only the most affluent private schools, waives most of the cost) and the school does so for a student who plays on its sports teams, public school backers complain that things aren't fair in school sports . . . and less endowed non-public schools make the same complaint.

As a result, Detroit Country Day School has been a target of criticism by both public schools and other non-public schools. The frequent allegation has been not only that Country Day recruited student-athletes, but also that Country Day provided certain of them reduced costs to attend Country Day. That was an undercurrent of each case described previously in this chapter, and this was the core of a 1996 case involving the enrollment of a male soccer player from Troy.

It was alleged in early autumn of 1996 that the student, the son of a partner in a Bloomfield Hills law firm, received \$15,000 in financial aid for the 1995-96 school year prior to his graduation from Country Day in June of 1996. The allegations were submitted to Country Day's administration; and when a response was received from the attorney/father and not the school, Michigan High School Athletic Association staff countered with the letter of November 7, 1996 (Letter 7.4) at the end of this chapter.

There is a tendency of parents and their children to exaggerate "offers" or scholarships related to athletics that they claim to have received from colleges, and we see it also in their boastfulness about financial aid to high school. However, in this particular case, it was found that there was indeed financial aid – and for *two* school years, not just one – but the amount was lower than what was alleged, and it was consistent with the financial aid formula applied to all other students.

The problem, some might have said at the time, was that the financial aid formula was so generous for Country Day students – both athletes and non-athletes – that it exceeded what other schools could match and provided Country Day an ongoing competitive advantage over almost every other school in the MHSAA's membership. The still greater problem may have been that Country Day had demonstrated in other matters an operating principle that held that if something is not expressly prohibited, then it is permitted and cannot be penalized. Applying that mindset to recruitment of students and financial aid, there might be no end to the games Country Day could be playing, and how tilted the playing field was in its favor.

V.

Suspicion that Detroit Country Day School was not playing by the same rules as other schools was exacerbated by events of the 1996-97 school year when the school was twice more under extraordinary scrutiny by the Michigan High School Athletic Association. In one case, it was discov-

ered that a member of Country Day's boys basketball team participated in violation of the transfer regulation of the MHSAA. In the other case, it was shown that Country Day had made special efforts in at least one situation to recruit an athletic-minded middle school student.

The transfer student was a tenth-grade basketball player from Nouvel Catholic High School in Saginaw in December of 1996. He was allowed to participate without delay at Country Day under the boarding school student exception to the transfer regulation. However, it was subsequently learned that Country Day did not qualify under MHSAA regulations for the boarding school exception, and that the student's reason for transferring had less to do with academics than athletics. The student had previously participated in AAU basketball with Country Day players, and the student's father was questioning a coaching change at Nouvel.

Country Day was required to forfeit every basketball game in which this student participated during the first semester of the 1996-97 school year, and the student was ruled ineligible for the first eight games of the 1997-98 boys basketball season.

During December of 1996, the MHSAA also received allegations from a member school administrator that an 8th-grader at a Lutheran school in Utica was contacted by Country Day to attend an "open house" there, which the student did attend and where he met Country Day's head boys basketball coach. This 8th-grader was 6-foot-8.

True to form, Country Day made clear its intentions to fight the allegations. However, during a meeting between MHSAA and Country Day administrators, MHSAA staff played a cassette tape recording of the telephone call made by Country Day to the student's mother. Country Day's participants in this meeting recognized the caller as one of their staff, who said she was calling on behalf of Country Day's director of admissions. This time, the evidence was impossible for Country Day to refute and fight.

The June 12, 1997 letter which ends this chapter (Letter 7.5) summarizes both situations, and it highlights Country Day's tenuous status as an MHSAA member in good standing during the 1990s.

VI.

There actually may be an inverse relationship between the size of the Michigan High School Athletic Association Handbook and the commitment to follow its rules. While Detroit Country Day School leaders were certainly charter members of this thinking, there seems to be an increasingly popular attitude – especially among non-faculty coaches and part-time athletic administrators – that if something isn't specifically prohibited, then it's permitted. The question more often becomes "Is it legal?" and less often "Is it right?" It is technical integrity rather than ethical integrity.

There may not be more rule breakers today than years ago, but there certainly seems to be more rule benders – people at the borders of what is allowed, nipping at the edges, testing limits.

Which leads to an even longer *Handbook* as efforts are made to plug the holes and fill the gaps.

Which is a temptation to resist, for nobody can keep it up. Like a dog chasing its tail, those responsible for leading school sports will discover themselves going in circles. Getting dizzy. Losing a sense of what is important. Majoring on minor matters, rather than focusing on fundamental issues of educational athletics.

Dov Seidman writes in *How: Why HOW We Do Anything Means Everything*: “We can’t write enough rules to get the behaviors we want for every situation we can imagine, much less for all the ones we can’t.” (Note 2.) Furthermore, excessive rulemaking breeds contempt; or as philosopher Jean-Jacques Rousseau wrote in the 18th Century: “The more laws are multiplied, the more they are despised” (*A Discourse on Political Economy*).

The MHSAA is an organization which cares deeply about young people but also recognizes its limitations, both legal and practical. The MHSAA has neither the legal authority nor the resources to be involved in regulating young people and coaches in all things, at all times, and in all places. In the area of sports, and especially within the limits of the season and the boundaries of the field of play, the MHSAA does have an important role – an essential role – and that is, to help promote an environment in voluntary competitive athletics that is consistent with the educational mission of schools . . . programs that are safe, sane and sportsmanlike . . . programs that are as healthy for the participants and as fair to the teams as humanly possible.

The interscholastic athletic program needs rules, of course; but more than that, it needs a commitment to the principle of self-governance. No number of rules and no amount of external oversight will ever compensate for a failure of institutional control.

NOTES:

- 1: *The Booster – How Ed Martin, The Fab Five and the Ballers from the ‘hood Exposed the Hypocrisy of a Billion-Dollar Industry*, by Carl Martin with Jim McFarlin. M4Q Books (2018)
- 2: *How – Why HOW We Do Anything Means Everything*, by Dov Seidman. John Wiley & Sons (2007, 2011)

November 5, 2003

Mr. Jerry Hansen, Headmaster
Detroit Country Day School
22305 W. 13 Mile Rd.
Beverly Hills, MI 48025

Dear Jerry,

I was disappointed to learn on Oct. 29 that the administration of Detroit Country Day School was without information regarding gifts from Ed Martin to Chris Webber while the latter was a student at Country Day.

When a student-athlete who has graduated from an MHSAA member school is the subject of dozens of media reports, legal proceedings and investigations about behavior during his years of high school athletic participation, the administration of that school is expected by the public to be attentive and is obligated by the MHSAA Membership Resolution to take appropriate action.

There is no statute of limitations on MHSAA violations. If a member school has knowledge of infractions of any kind, the school's Membership Resolution requires that it self-report those violations, no matter how old, and take appropriate actions. It is not unusual for the MHSAA office to receive notice from a member school that it has discovered information that indicates an ineligible student participated in an earlier year and for that school to forfeit contests of that year.

Neither the MHSAA office nor its member schools has the resources to investigate allegations of violations in previous years, but the MHSAA must act when evidence is placed in front of us by organizations which have conducted independent investigations and have done so in a manner far more thorough than anything the MHSAA would be able to do.

In addition to dozens of media reports, many of which have corroborating testimony in other sources, staff of the MHSAA have reviewed numerous public documents, including but not limited to the following:

- Joint Inquiry Reports by the Big Ten Conference and University of Michigan, June 27, 1996, Feb. 7, 1997 and March 4, 1997.
- University of Michigan Report of Self-Investigation, Oct. 9, 1997.
- United States Attorney's indictment filed in U.S. District Court, March 20, 2002.
- The NCAA's Official Inquiry, Oct. 25, 2002.
- University of Michigan Response to NCAA Official Inquiry, Nov. 7, 2002.

- 2 -

- University of Michigan Public Infractions Report, released by NCAA Division I Committee on Infractions, May 8, 2003.
- Plea Agreement between the United States and Eddie Martin dated May 28, 2002, and the transcript of the proceedings of the U.S. District Court related to that Plea Agreement.
- Plea Agreement between the United States and Mayce Edward Christopher Webber III dated July 14, 2003, and the transcript of the proceedings of the U.S. District Court related to that Plea Agreement.

The efforts of the media, U.S. Government, University of Michigan, Big Ten Conference and National Collegiate Athletic Association, as well as the admissions of people involved, have placed in front of us evidence that is convincing to a reasonable person and clearly sufficient for a private, voluntary nonprofit association of schools. Without need for further inquiry, the overwhelming evidence is that of the four student-athletes who were involved in the University of Michigan/Ed Martin matter, two were in violation of amateur status rules when enrolled in MHSAA member schools, including Chris Webber at Detroit Country Day School.

As to Chris Webber, the evidence is plainly in front of us that during at least some of his high school years, 1987-88 through 1990-91, because of his athletic ability, he and his family members received loans or gifts amounting to as much as \$280,000. The NCAA's Official Inquiry to the University of Michigan dated Oct. 25, 2002 and the University of Michigan Public Infractions Report released by the NCAA on May 8, 2003, provide those conclusions and do not require additional inquiry by the MHSAA. Mr. Martin admitted in Federal Court that money and other gifts were provided to Chris Webber and his family beginning no later than 1988, and Mr. Martin signed a Plea Agreement attesting to the same. Furthermore, Chris Webber admitted in Federal Court that he was not telling the truth when he said he did not receive such money; and he admits that he repaid \$38,200 in cash to Mr. Martin in 1994. Moreover, Chris Webber admitted to a grand jury in 2000 that he accepted "pocket money" from Martin while Webber was in high school.

Some of the pages from some of the pertinent documents are enclosed, certainly sufficient to substantiate the findings and conclusion.

The amateur rule of the MHSAA and Detroit Country Day School prohibits a student from receiving money or other valuable consideration from any source for participating in athletics. Ed Martin provided such to students he deemed were good basketball players, and the best he gifted most.

The NCAA's University of Michigan Public Infractions Report (May 8, 2003) states: "The provision of the amounts of money seen in this case compromises the principles of amateurism . . . The student-athletes . . . knowingly accepted large sums of illegally obtained cash in clear violation of their amateur status."

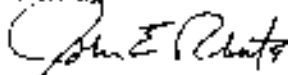
Mr. Jerry Hansen

November 7, 2003

- 3 -

As discussed Oct. 20, we expect that Detroit Country Day School will acknowledge the violations by Chris Webber, which occurred in more years of high school than college, and take appropriate action. If this fails to occur quickly – not later than Dec. 1, 2003 – that is, if Detroit Country Day School takes no action or action which is insufficient – the MHSAA will announce its action publicly shortly thereafter.

Sincerely,



JOHN E. ROBERTS
Executive Director

JER:ay

Enclosures

November 30, 1987

Mr. Gerald Hansen, Headmaster
Detroit Country Day School
22305 West Thirteen Mile Road
Birmingham, Michigan 48010

Dear Mr. Hansen:

We are in receipt of your letter of November 23, 1987.

Within the tradition of the Michigan High School Athletic Association and past precedent, censure is not reserved for an intentional action where a person knowingly violates a rule or regulation, but is considered the least severe penalty which is assessed. The penalties outlined in Regulation V, Section 4 of the Handbook are progressive, censure being the first listed and at the opposite extreme of expulsion.

I have no other options available to me. Moreover, I am now being confronted by critics who say it is incredible when I suggest that it is possible Detroit Country Day School was unaware of these long-standing interpretations. Some have asked for the same kind of investigation into Detroit Country Day's basketball program as we have just completed with respect to the football program. We could use your support more than your criticism at this time.

I do agree with you that the MHSAA Handbook is lacking in written specifics, a shortcoming I have been working to take care of even before any incidents regarding Detroit Country Day had come to light. Moreover, I have been seeking for several months an opportunity to meet with the athletic administrators of the private independent schools to review with them the same materials and interpretations that have been prepared for and reviewed with the Catholic League schools in the past.

If you desire to have the penalty I have imposed reviewed by the MHSAA Executive Committee, it is your privilege to make this request. However, with such review comes more public reporting of the actions taken; and I believe it is in your best interest to accept the penalty of censure, which at this point remains in strict confidence.

Cordially,



JOHN E. ROBERTS
Executive Director

JER/kb

March 21, 1994

Mr. Gerald Hansen, Headmaster
Detroit Country Day School
22305 West Thirteen Mile Road
Beverly Hills, MI 48025-4435

Dear Mr. Hansen:

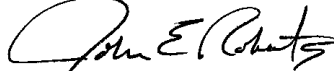
As has been the case in previous inquiries in which I have participated with respect to your institution, your letter of March 16, 1994 attempts to turn the reporting school into a violating school and/or the investigator into the investigated, which we will not allow.

We have previously sent you a letter which details the written allegations of a member school. It is not necessary that we provide you the actual letter from that school.

We have previously provided you a "tentative chronology", and herewith is a more updated (2/28/94) chronology. It is not necessary that we provide you notes which the chronology attempts to organize and summarize.

If the only response to my letter of March 7, 1994, is your letter of March 16, 1994, then I will apply the full penalty prescribed in the HANDBOOK for the violations known to have occurred when the telephone calls were made by your girls basketball coach to the parent of a student of another school, as was admitted by your coach in your presence. If there will be no effort to reduce the appearance of violations by your institution, there will be no effort by me to reduce the penalty for violations known to have occurred.

Sincerely,



JOHN E. ROBERTS
Executive Director

JER/kb

Enclosure

November 7, 1996

Mr. Gerald Hansen, Headmaster
Detroit Country Day School
22305 West Thirteen Mile Road
Beverly Hills, Michigan 48025-4435

Dear Mr. Hansen:

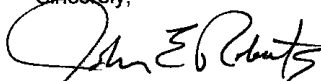
We were disappointed when Detroit Country Day School allowed Mr. Charboneau to do its bidding with respect to the inquiries of our October 9th letter, so your letter of October 25th is a positive development toward fulfillment of the role the school accepted when it approved the MHSAA Membership Resolution.

There was nothing inappropriate about our inquiry. When a person informs an MHSAA staff person face to face that a parent of a Country Day soccer player said to him face to face that his son was receiving the financial aid he described, no more evidence was needed, and there is a duty for us to inquire promptly and for you to respond fully. If these circumstances are repeated, you can count on the same inquiry being made again.

Your response is insufficient to allow a determination if the financial aid on behalf of this student is disproportionate to that received on behalf of other students. It is necessary for you to demonstrate that \$9,430 (67% of the total cost) is consistent in comparison to other students by the same criteria, and that athletic considerations were not factors in the determination of financial aid. Specifically, we request (1) a description of the formula for determining financial aid; (2) documentation that demonstrates that all who qualify for financial aid by the described formula actually receive that amount of aid (no less or no more) from Detroit Country Day; and (3) a description of the process that assures that those who determine financial aid are unaware of the name and athletic background of each financial aid applicant.

This information is requested by November 25, 1996, and thereafter we will determine if additional documentation is necessary.

Sincerely,



JOHN E. ROBERTS
Executive Director

JER/ksy

June 12, 1997

Mr. Gerald Hansen, Headmaster
Detroit Country Day School
22305 West Thirteen Mile Road
Beverly Hills, MI 48025-4435

Dear Mr. Hansen:

The purpose of this letter is to review the status of Detroit Country Day School at this time and to assure no necessary follow-up is overlooked that could jeopardize the school's MHSAA tournament participation or membership status.

Detroit Country Day School has been found to be in violation of Regulation I, Sections 9 and 10. The Country Day athletic program has been placed on probation through the 1997-98 school year without loss of privileges of participation within MHSAA programs, except that for the school to enter the 1997-98 Basketball Tournaments of the MHSAA, the following actions are required:

1. Send letters of forfeiture to schools against which Colin Dill participated during the first semester of the 1996-97 school year, with copies to the MHSAA office. (On June 4, Mr. Keener said this would be done immediately, but as of this date, we don't know that this has been accomplished.)
2. Withhold Colin Dill from contests during the first semester of the 1997-98 school year.
3. Determine how Rosella Davis was asked to telephone the Steven Green residence, and report those findings and internal actions necessary to correct policies, procedures and personnel.
4. Submit to the MHSAA office the Master Eligibility Lists for all levels of the Country Day boys and girls basketball programs for 1997-98.
5. Cause to have sent to the MHSAA office the rosters and coaches of all AAU basketball teams on which any Country Day student is involved between March 26 and August 11, 1997.
6. Withhold from MHSAA Basketball Tournaments during 1997-98 any Country Day student who associated with AAU basketball programs involving Country Day coaches, students or parents and who enrolls at Country Day from March 26, 1997 through the 1997-98 school year.

Mr. Gerald Hansen

June 12, 1997

- 2 -

Based on a meeting between Country Day and MHSAA administration on June 4, 1997, item #3 was added and item #5 was revised from the original conditions stipulated by the MHSAA Executive Director on March 26, 1997. On June 5, 1997, Glen Shilling withdrew Country Day's request to appeal to the Executive Committee on June 11, 1997, and indicated the school might like to meet again with the Executive Director. Should those requirements which are possible to be completed remain unfinished at the time of the MHSAA Executive Committee's August 12 meeting (and if #1 is not accomplished by June 23, 1997), or if substantial additional concerns are presented to the MHSAA about these or other students, such will be reported by the Executive Director to the Executive Committee. For these reasons or others, the MHSAA Executive Committee may require the school to appear at its September 11 meeting or subsequently to show cause why Country Day is not in violation of its MHSAA Membership Resolution.

Sincerely,



JOHN E. ROBERTS
Executive Director

JER/ksy

Chapter 8 – “There’s a Ford in Your Future”

“The car made Detroit and the car unmade Detroit.”

Journalist and Detroit native Charlie LeDuff, *Detroit – An American Autopsy*

It was the advertising agency J. Walter Thompson Company which coined the phrase, “There’s a Ford in Your Future,” but the inspiration was clearly from the founder of the Ford Motor Company, Henry Ford himself. More than any person, Henry Ford created the middle class in mid-America. He built cars that his workforce could afford to buy, and he gave them a workweek and year with sufficient time off that they had opportunity for weekend excursions and summertime vacations in those cars.

Henry Ford was a contradiction of prodigious proportions. He was said to admire Adolf Hitler, but the jeeps and tanks and U-boats his factories produced were instrumental in halting Hitler’s horrific march across Europe. He lured workers from the south to the north for the United States’ best-paying factory jobs, which he would later eliminate through mechanization that plunged people from the promise of middle class into poverty. No job market in America suffered more than Michigan – obviously in Detroit and Flint, but also in dozens of communities across the state where parts were produced to feed the voracious appetite of the monstrous motor vehicle industry in those factory towns.

Southeast Michigan’s dependence on the automobile industry during the 20th Century was as complete as any place in America has ever been on any single industry. The subsequent collapse of the domestic automobile industry affected almost everyone in the region – those employed in the big assembly plants, those working in smaller factories where automotive parts were made, those selling, shipping, and servicing the vehicles, and those depending on all those workers to purchase goods and services. (Note 1)

As southeast Michigan’s automobile industry not so slowly declined, so did almost every corner of the economy of southeast Michigan. And the population of most of the region’s cities, towns and villages was decimated . . . as was the enrollment of public schools in those places, which, because of Michigan’s system of per-pupil funding, caused the operating funds of those school districts to be depleted, and burdensome deficits to be created.

And, coincident to all of these declining demographics, some of southeast Michigan’s public high school athletic programs descended from among the state’s most proud to some of its most penalized. Here are profiles of three which provided several lessons for school sports leadership.

I.

None of Michigan's high school districts benefitted more from the "Great Migration" of southern workers to northern jobs than did the public school district in the city of River Rouge, which clings to the southeast tip of Detroit like an inflamed appendix. It became home to the most massive automobile plant in the world.

Construction on the Ford Motor Company Rouge Complex began in 1917; and when it was completed in 1928, it was the largest factory of any kind on the planet: more than 90 buildings totaling 16 million square feet and covering a land mass that was 1.5-miles long by 1-mile wide. It contained nearly 100 miles of railroad tracks, its own electrical power plant, and its own docks on the Rouge River. Even during Depression era years, the plant employed in excess of 100,000 workers.

Unlike Chrysler and General Motors, the Ford Motor Company avoided both bankruptcy and the federal government's TARP bailout funding of 2009. But it was still a victim of most of the same forces that had beset those car companies as well as Dodge, Hudson, Packard, Studebaker and others before and after them; and the communities surrounding Ford plants were victims as well. The population of River Rouge steadily declined to one-third of its peak years. The school district's enrollment also dropped by two-thirds from its record high, before experiencing a "turnaround" in 2015 with an influx of students from other auto-industry-dependent school districts which were faring even worse, especially Highland Park (see Section II of this chapter).

Riding the wave of jobseekers, River Rouge's population swelled to over 20,000 in 1950, the school district's enrollment surged, and the high school's trophy cases filled with Michigan High School Athletic Association awards in a variety of sports, including MHSAA state championships twice in boys swimming and diving (1932 and '47) and three times each in boys track and field (1939, '63 and '65) and boys cross country (1954, '55 and '57). And no school in the annals of the Michigan High School Athletic Association has ever dominated boys basketball as River Rouge did: 12 MHSAA Class B championships over a span of just 18 years, including back-to-back championships in 1954 and '55; five straight MHSAA titles in 1961, '62, '63, '64 and '65; and four straight in 1969, '70, '71 and '72.

Tarnishing this illustrious history are unflattering incidents of more recent years, especially during the 1995-96 through 1997-98 school years. It began with little things, but there were *a lot* of little things.

During the 1995-96 school year alone, there were four different violations by the school for failure to rate contest officials and two different violations for failure to attend required rules meetings. The following school year, there were three different violations each for failure to rate officials and failure to attend required rules meetings. As a result, by the 1997-98 school year, the school had been placed on probation with its unrestricted MHSAA tournament participation privileges dependent on demonstration of a violation-free record.

Beginning in the fall of 1997, questions were being raised in the community and beyond about irregularities in school district and athletic booster club expenditures. Of particular concern to MHSAA leadership was participation by River Rouge students and faculty in out-of-state summer basketball tournaments and how that was funded, and the eligibility of several students who had participated in one or more of those summer tournaments with River Rouge High School players and thereafter transferred to River Rouge from nearby school districts.

The result of the MHSAA staff's inquiry and recommendations and the school district's appeal, followed by the Executive Committee's final decision, was that River Rouge was required to submit to seven steps of MHSAA oversight aimed at eliminating numerous program-wide problems or, if not, forfeit its privilege of participating in the 1998 MHSAA Boys Basketball Tournament. Among other actions, the school district was required to separate the jobs of athletic director and child accounting coordinator for the school district; and school district personnel were prohibited from attending out-of-state summer basketball events and were given reduced limits on interaction with students at in-state summer basketball competitions.

The MHSAA's headline-grabbing action was the directive that neither the head coach nor the assistant coach – who was also the school's athletic director – was allowed to coach the River Rouge High School team during the 1998 MHSAA Boys Basketball Tournament, and two members of that team who transferred to River Rouge at the beginning of the 1997-98 school year were barred from playing in that tournament. Those two players (both eleventh-graders) had participated on a squad called "Team Michigan" in a tournament during the summer of 1997 in Las Vegas. They had traveled with six other members of the 1997-98 River Rouge High School basketball team where the River Rouge head boys basketball coach and the assistant coach/athletic director were in attendance – an MHSAA violation. The trip was partially financed with \$7,200 from a school booster club – another MHSAA violation – the funds being dispersed by the athletic director himself.

Of course, the suspension of the coaches and players was challenged in court; but in an unpublished ruling, Wayne County Circuit Court Judge Pamela R. Harwood denied the request for a temporary restraining order, citing prior judicial rulings which upheld the MHSAA's "*broad jurisdiction*" over athletic eligibility issues.

The MHSAA's penalties and prescriptions had little effect on the outcome of the MHSAA Boys Basketball Tournament: River Rouge captured the Class B title in 1998 anyway, and it did so again in 1999. However, the experience did lead to an extended period of operations that was freer of MHSAA violations by River Rouge High School.

That does not mean to suggest that River Rouge School District was operating beyond reproach. During the course of MHSAA investigations, several individuals reported that there had been off-the-books expenditures directed to the high school's boys basketball and football programs, and some locals suggested that the MHSAA's inquiry into misappropriated funds by athletic department officials had spied only "*the tip of the iceberg*" of what was happening in the athletic department and beyond.

Indeed, in October of 2002, the River Rouge Board of Education suspended four school district employees for financial irregularities. Those four were the school district superintendent (who was not superintendent during the MHSAA's inquiry four years earlier); the director of school and community relations; the same athletic director whom the MHSAA had disciplined in 1998; and the district's chief financial officer who had been the high school principal during the MHSAA inquiry in 1998 and the recipient of the letter at the end of this chapter (Letter 8.1, dated February 25, 1998).

Eventually, this suspended and ultimately dismissed River Rouge Public Schools superintendent pled guilty to charges that he extorted money in exchange for favorable performance evaluations for employees; and in a plea deal, he agreed to testify against former school contractors with whom he had made arrangements for kickbacks. Only when these dealings came to light did it begin to become clear why River Rouge School District administration at that time were so willing to accept the MHSAA's findings and conclusions and to settle matters in 1998, and why they were so intent on seeing the particular wording in the final paragraph of the letter (8.1) at the end of this chapter. They knew what the MHSAA did not – that there was more going on than the MHSAA had yet discovered – and they wanted a promise that student-athletes' future eligibility would not be any further affected even if more school district improprieties which occurred *prior* to February, 25, 1998, would become known *after* that date.

II.

Although Ford's River Rouge Complex produced most of the parts for the Model T Ford, actual assembly during the first years of this wildly popular model occurred at the Ford Motor Company's smaller assembly facility in Highland Park. Geographically, Highland Park is the hole in the donut of Detroit; and this plant, opened in 1908 and just a dozen miles away from the Rouge facility, was the first factory to produce cars using the moving "assembly line" system. At its peak, more than 200,000 cars a year were being finished here, but it was accomplished with many fewer workers than employed at the Rouge plant – fewer than 10,000 in the highest year – perhaps foreshadowing that things would not always be so rosy for autoworkers. Eventually, auto assembly was relocated to the Rouge Complex.

Over the years, Highland Park's product line changed from cars to tanks to trucks; but the Highland Park plant was entirely out of the motor vehicle business by the mid-1970s and mothballed for most other purposes by the mid-1990s. Highland Park's population, which grew to over 52,000 in 1930, has fallen steadily ever since and is under 11,000 today. The enrollment of the School District of the City of Highland Park followed suit, dropping to fewer than 1,000 students in 2012, and then declining even further during a series of State of Michigan-appointed "Emergency Managers," the last of whom (Steve Schiller) laid much of the blame on the former board of education president (Robert Davis), who was jailed for embezzling as much as \$446,000 from school district coffers.

But, more to the point, as the factory ran out of cars, the city ran out of residents and the school district ran out of students.

During school years 2012-13 through 2014-15, what was formerly Highland Park High School operated as Highland Park Renaissance High School, one of several unsuccessful charter school experiences of the Leona Group. Today, there is no high school operating within the city of Highland Park.

The Highland Park High School athletic program rarely realized the success of the Detroit Public Schools which surround the city, but it did capture two very early Michigan High School Athletic Association titles in boys swimming and diving (1928 and 1929) and two Class A boys basketball championships, in 1952 and 1975, which stand like bookends to the intervening period of dominance enjoyed by River Rouge in the MHSAA's Class B tournament.

Since the turn to the 21st century, Highland Park's athletic program gained few glories but was at the center of many inglorious incidents, most of which involved the school's wrestling program. During no eight-year period ever did any MHSAA member school accumulate for a single sport the number of complaints amassed by Highland Park High School wrestling. Participant, coach and spectator misconduct was the subject of numerous constituent complaints which led to multiple MHSAA inquiries between 2003 and 2010. Wrestlers and coaches were disqualified by officials during meets; coaches and an administrator were subject to MHSAA actions that extended beyond next-meet suspensions.

After the 2006-07 wrestling season, Highland Park wrestling coaches were discovered to be coaching Highland Park athletes during out-of-state summer competitions in violation of MHSAA out-of-season coaching rules. The school district attempted to circumvent those summer rules by issuing coaches contracts that did not include the summer months, and then the district would rehire those same individuals for the next school year without regard to their activities during the summer. MHSAA staff ruled that the school district's practice was unacceptable and barred the two individuals from coaching wrestling at Highland Park High School during the 2007-08 school year.

Highland Park made a stormy appeal to the MHSAA Executive Committee in June of 2007 with its board of education president and future felon, Robert Davis, threatening litigation if the MHSAA followed through on the suspension of Highland Park's two wrestling coaches. When it was discovered that one coach each at Plymouth Canton and New Boston Huron High Schools had violated the same rule (but without the intentional contract contrivance used by Highland Park), the MHSAA Executive Committee determined that there may have been a general lack of awareness of applicable rules . . . and as a result, the penalty was reduced by the MHSAA Executive Committee to prohibition from coaching in the MHSAA postseason tournaments only in 2008.

But the MHSAA's point was made then and for the future: neither Highland Park at that time nor any MHSAA member school since could ignore the out-of-season conduct of its coaches, even if the specific coaching contract did not extend to any period of time before or after the season.

Coaches are subject to MHSAA regulations year-round if they wish to coach an MHSAA member school team during the MHSAA-defined season. (See Letter 8.2 at the end of this chapter dated May 3, 2007.)

III.

Just 20 miles separate Inkster from Highland Park, and it's less than half that distance between Inkster and River Rouge. While it did not have a huge factory within its boundaries, Inkster – just west of Detroit's city limits – was every bit as much a company town, and it was rare that conversation between its townspeople did not include talk about the work that almost everyone had in common.

For many decades, these conversations might also have been about the local high school's athletic teams and how the boys basketball team's path to the Michigan High School Athletic Association finals in East Lansing was always blocked by River Rouge High School, which was landing so many talented sons of new autoworkers. Inkster managed to earn three consecutive MHSAA Class B boys track and field championships in the 1950s (1954, '55 and '56), but it was River Rouge which owned the road to the state finals in Class B boys basketball.

Inkster's population plummeted like almost every other community in southeast Michigan. From a high of nearly 40,000 in 1960, the population has dropped every year since, to approximately 24,000 today. The School District of the City of Inkster was decimated. Its enrollment dropped to nearly 900 students and its financial deficit ballooned to the point (\$15 million) that the school district was dissolved in 2013 with its remaining students dispersed to neighboring school districts in four directions: to Romulus Community Schools, Taylor School District, Wayne-Westland Community Schools, and Westwood Community Schools.

The first indicators that the school's interscholastic athletic program might be trending toward dysfunctional occurred in 1993 with the discovery by the MHSAA that a member of the school's wrestling team was participating beyond the maximum number of semesters allowed during high school enrollment. Other indicators accumulated over a dozen years during which Inkster High School earned the most severe penalties assessed during my tenure.

By August of 1997, the number of administrative violations (e.g., failure to attend rules meetings and rate officials) had mounted to the point that MHSAA staff flagged the school's 1997-98 MHSAA Membership Resolution for scrutiny by the MHSAA Executive Committee. The school was placed on probation for 1997-98 without loss of tournament participation privileges, and the school's probationary status was reviewed annually – an unprecedented rigor imposed by the MHSAA on any school at that time – and continued through the 2001-02 school year.

Participation by an ineligible transfer student caused three varsity football forfeits during the 2000 season. When the school allowed that same ineligible student to participate in a fourth game, MHSAA staff suspended the school from all of its tournaments for the remainder of that

school year and the next. When the school appealed this action, the MHSAA Executive Committee opened the door to reducing the tournament ban to one year if Inkster could show evidence of improved compliance during the first year.

Nevertheless, in November of 2000, an action was brought in the Circuit Court of Wayne County by one of the Inkster High School girls basketball team captains seeking relief from even the one-year, school-wide tournament ban. The case was decided in the chambers of Judge Louis F. Simmons who examined Inkster's record, called it "*reprehensible*," and dismissed the complaint with prejudice.

But, there were indications things might be going from reprehensible to worse at Inkster. In the summer of 2000, Inkster School District hired a girls basketball coach who was known for on-court success but off-court shenanigans. He previously had created waves in the Catholic High School League of Detroit and Amateur Athletic Union basketball circles through a non-school employer's charitable gift program that appeared to be helping student-athletes pay their tuition at non-public schools. He had been suspended from coaching girls basketball at his previous school as a result of MHSAA actions.

In August of 2001, the MHSAA Executive Committee allowed Inkster's return to all MHSAA tournaments except girls basketball, delaying action regarding that sport until more information could be received and reviewed. Among the MHSAA's continuing concerns were that the new girls basketball coach, who was also made athletic director, had been placed on probation by the MHSAA for actions related to undue influence at the previous school where he had worked (Redford Bishop Borgess) and further, that Inkster's girls basketball team had attracted five transfers from Bishop Borgess just prior to his being hired. In all, Inkster had attracted nine recent transfer players to its girls basketball program. And until stopped by the MHSAA's investigation, this coach/athletic director was transporting some players from their homes to school and back . . . an MHSAA violation.

In spite of all this, and without the 20/20 vision that hindsight would offer, at its meeting in October of 2001, the MHSAA Executive Committee made the unfortunate decision to allow Inkster's return to MHSAA Girls Basketball Tournament participation later that fall. It required little time for the team to see success, capturing the MHSAA Class C girls basketball championship title just 14 months later.

But by autumn of 2003, Inkster High School's girls basketball program was back before the MHSAA Executive Committee, and it would remain there for several years, eventually resulting in suspensions of this coach by the MHSAA and then his dismissal as athletic director and girls basketball coach at Inkster High School.

In October of 2003, the allegations were once again of undue influence in the recruitment of players to the girls basketball program and of coaches providing transportation to some of the players recruited from outside the Inkster School District. Among the evidence reviewed by the MHSAA staff was a police report of a car fire intentionally set by a student who was angry because

this coach had reneged on a promise to provide transportation to school. The MHSAA staff inquiry was completed after the District level of the 2003 Girls Basketball Tournament had begun, and the penalty imposed was to bar this coach from attending any further contests involving Inkster High School during the 2003 Girls Basketball Tournament.

In the fall of 2004, the MHSAA was again investigating Inkster High School's girls basketball program, this time focusing on specific allegations by Romulus High School administration that this coach had made contacts with a Romulus student-athlete which are not permitted under MHSAA rules and, yet again, dealing with reports that the coach was promising to assist with transportation of players to school. This reopened old wounds and reignited earlier inquiries. Eventually, the penalty imposed by MHSAA staff this time was to place Inkster High School on probation through the 2005-06 school year with a variety of conditions, including that this individual was prohibited from coaching the Inkster varsity girls basketball team during the 2005-06 school year and also barred from coaching in any MHSAA tournament for any other MHSAA member school during the 2005-06 school year. The loophole that had allowed this coach to escape sanctions for violations while at Bishop Borgess High School and coach without delay at Inkster High School was closed this time.

And, something else was different this time. When the school appealed the penalty applied by MHSAA staff – in fact, it appealed *twice* (in April and June of 2005) – the MHSAA Executive Committee did not reduce or otherwise modify the penalty. Even after the vice president for Edison schools, who was at that time running Inkster schools, dismissed this person from both his coaching and athletic director roles at Inkster High School, the Executive Committee maintained the penalty that had been imposed by MHSAA staff. (See Letter 8.3, dated October 27, 2004.) The Executive Committee had seen enough; and if any criticism is justified in this sad story, it was that the Executive Committee had been too patient and trusting for far too long.

NOTES:

1. For more on Detroit and its automobile addiction, see:

“Automobile in American Life and Society – From Motor City to Motor Metropolis: How the Automobile Industry Reshaped Urban America,” by Thomas J. Sugrue. autolife.umd.umich.edu.

Detroit – An American Autopsy, by Charlie LeDuff. The Penguin Press (2013)

February 25, 1998

Ms. Marie Miller, Director
Curriculum/Federal Programs
River Rouge High School
1411 Coolidge
River Rouge, Michigan 48218

Dear Marie,

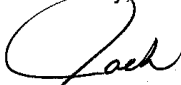
Enclosed is the announcement that is being released late this afternoon. Thank you for making it possible to convey this as a joint decision.

Because of your concern, we stayed consistent with our policy to not name students. That may create some calls to you; but it's most respectful of them and of the school's relationship to them.

Whether or not the withheld coaches and students may attend the tournament games should be controlled by existing MHSAA policy for disqualifications: coaches may not be present anywhere at tournament game sites, while athletes may attend as spectators and may even sit on the team bench if space and school policy allow.

While there is much to be done by the school district to assure the school's membership in 1998-99, there will be no actions by the MHSAA affecting the eligibility of any basketball student-athlete for events to this date, no matter what might be found in the future about the past. Of course, all students will be subject to penalties if violations occur in the future.

Cordially,



JOHN E. ROBERTS
Executive Director

JER/ksy

Enclosure

May 3, 2007

Mr. Jared Davis, Principal
Highland Park High School
15900 Woodward
Highland Park, MI 48203

By mail and fax (313) 252-0421

Dear Mr. Davis,

The response that it is the practice of Highland Park High School for coaches to resign so as to coach out of season is unacceptable as a defense for violating the regulations Highland Park High School agreed to in their annual membership resolution.

The practice of resigning, violating any rule at any time while under resignation (including prohibitions against involvement in national high school championships or out of season coaching limitations) would create a trail of paper lawlessness that would not serve schools, students or coaches well in any way.

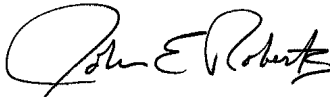
If the rules permitted a coach to resign at seasons end and become rehired so as to coach year round it would become common practice; it is not. Year round school coach conducted competition and practice would be the norm and harmful to the educational mission of schools. It appears that while many Michigan 12th-grade students participated and forfeited eligibility, only the coaches from one MHSAA school were coaching in that event; those of Highland Park High School.

In accordance with the regulations, Highland Park Wrestling Coaches Glenn Washington and Jamar Whitfield may not coach wrestling at Highland Park High School for the 2007-08 school year and the wrestling program shall be placed on probation until the end of the 2007-08 school year. Failure on the part of the school to prohibit their coaching at practice or their presence at a site where Highland Park High School is wrestling in competition will result in the school team and individuals not being allowed to participate in the 2007-08 MHSAA team or individual wrestling tournaments and may result in the suspension of Highland Park High School's membership in the MHSAA.

MHSAA staff has shown cooperation and understanding in recent previous encounters with the school even though the school has yet to appoint an athletic administrator and rules violations including officials ratings continue to occur. We believe this is an appropriate action which the school should accept. However, in accordance with the MHSAA procedures, you are being informed that Highland Park High School may appeal this decision to the Executive Committee which next meets May 5 and then again on June 13, 2007. Please see the MHSAA Handbook on page 22, Item 6 where it is noted that the school must notify the Executive Director within 14 days of its desire to appeal a decision.

If you would like to discuss this matter please contact Tom Rashid. A written response from Highland Park High School would be appropriate to close the file on this matter.

Sincerely,



JOHN E. ROBERTS
Executive Director



michigan high school athletic association

8.3

John E. Roberts, Executive Director

1661 Ramblewood Drive • East Lansing, MI 48823-7392 • 517-332-5046 • Fax 517-332-4071 • Web mhsaa.com or mhsaa.net

October 27, 2004

Inkster

Mr. W. Howard Morris
State Appointed Financial Mgr.
Inkster Public Schools
29115 Carlisle Ave.
Inkster, MI 48141

Dear Mr. Morris:

Thank you for your letter of Oct. 15, 2004.

On the basis of that letter, we conclude there has been a violation of *MHSAA Handbook Regulation I, Section 10 (Undue Influence)*. This conclusion is based on the admission (page 2) that Mr. Mann did in fact call the parent of an 8th-grade student and did discuss athletic matters. It is a violation of *Handbook Interpretations #98 and 99*. It is irrelevant that the parent was an Inkster High School graduate and former staff member; and both the subject and the timing of the call were inappropriate for any coach, much less one who, because of previous situations, is under suspicion and scrutiny.

It is not accurate (page 4) that "At no time has Inkster High School been found to be in violation of the undue influence rule." On Nov. 21, 2003, Inkster High School was placed on probation and Mr. Mann was suspended from coaching in the 2003 MHSAA Girls Basketball Tournament for violation of the Undue Influence regulation. The school was removed from probationary status in April of 2004 in large part because of the school's commitment to oversight and the addition of page 21 of the Inkster Athletic Handbook whereby coaches agree to dismissal if they violate undue influence rules.

What we have here is another example of Mr. Mann's inability to follow MHSAA regulations and what we believed were the explicit instructions of Inkster High School. It is our intention, therefore, to return the school to probationary status for one year beginning April 15, 2005, and pursuant to the regulation, prohibit Mr. Mann from coaching for one year beginning April 15, 2005.

We urge you not only to accept this action but also to take additional internal action. If, however, you wish to appeal this application of the *Handbook* required action, you may do so in writing within 14 calendar days of the date of this letter.

Sincerely,

JOHN E. ROBERTS
Executive Director

JER/ky

Chapter 9. Rules of Engagement

“The major problem with communication is the illusion that it has occurred.”

Playwright George Bernard Shaw

Communication is the key to any successful enterprise of significance; and a conscious, consistent and constant narrative was central to the culture within the Michigan High School Athletic Association offices and across the organization’s diverse and far-flung constituency. However, this very intentional “message management” became more difficult as traditional media unraveled and fragmented, and it was almost impossible as social media became ubiquitous and filled every information gap, however brief. Two protracted episodes, occurring approximately a dozen years apart, reveal the change.

I.

I have always found it odd that some people think that public school classrooms are not suitable for their children, but that public school locker rooms and playing fields are okay. I have always found it absurd for some people to argue that because they pay taxes to a state’s treasury, their children should qualify for sports teams at state schools where their children are not enrolled as students. Yet, as certain as sunrises, and nearly as frequent as full moons, parents and their lawyers and legislators have challenged rules that restrict interscholastic athletic eligibility to students who are enrolled in the schools they represent in competition.

It’s the most basic rule of athletic eligibility . . . in fact, the very first section of the eligibility regulation of the Michigan High School Athletic Association: be a student in good standing at a school before you represent that school in sports.

On three occasions during the 1996-97 school year, a member of the Michigan House of Representatives attempted unsuccessfully to generate sufficient votes from his colleagues to attach amendments to various bills being considered by that body, the intent of the amendments being to force the MHSAA to permit home-schooled students to participate on school-sponsored competitive sports teams. That Republican legislator from a conservative district in Macomb County, Michigan, tried several approaches . . . for example, prohibiting schools from joining an organization that barred home-schoolers’ participation, and reducing state aid to any school which prohibited home-school students on its sports teams.

While he had the support of the Governor’s office, this legislator never was able to generate support from a sufficient number of his colleagues in the House of Representatives, a sizable majority of whom had heard from their constituents that each school’s competitive athletes should be limited to each school’s enrolled students.

To assure this message was heard, the MHSAA not only relied on its usual allies – the Michigan Association of School Boards, Michigan Association of School Administrators, Michigan Association of Secondary School Principals, Michigan Interscholastic Athletic Administrators Association, Michigan Catholic Conference, Michigan Association of Nonpublic Schools, and the state’s various coaches associations – the MHSAA also reached out to the Michigan Parent Teacher Association whose members were particularly effective in delivering the message that they did not want their children bounced from a starting spot or dropped from team roster positions because of unenrolled children who dropped in after the classroom school day to participate on after-school sports teams.

In addition to direct contact with legislators by members of these organizations, the multi-client legislative lobbying firm retained by the MHSAA since 1985 had face-to-face interaction with every legislator within days of each new legislative effort being introduced; and the MHSAA reinforced the PTA’s theme in MHSAA souvenir tournament programs, on video boards at MHSAA tournament venues, and in messages during the radio and television productions of MHSAA tournaments. Supporting the principle that members of school teams should be students first and athletes second, the slogan – *“They got their uniform the old-fashioned way . . . they earned it”* – was seen or heard thousands of times over the six months that this issue was on the agenda of the Michigan Legislature.

The MHSAA-controlled narrative carried the day, and it had staying power. When the issue re-emerged in the Michigan Legislature in 1999, there were only three votes favoring the proposal to permit unenrolled students to have access to interscholastic athletic programs of the public schools in the districts in which those children reside.

Nevertheless, buried in the proposed School Aid Bill in 2003 was another effort which was reported out at the sub-committee level of the Michigan Senate, but failed to garner enough votes in the full Senate Appropriations Committee. The MHSAA’s usual allies – especially the Michigan Interscholastic Athletic Administrators Association and the Michigan Catholic Conference – were again prompt and persuasive in delivering the message to the Senate committee members.

In an article profiling a 6-foot-3 16-year-old girl and her 6-foot-2 14-year-old brother and the effort of their parents to gain legislative support so their children could take their basketball skills from their local home school team in Pinckney, Michigan, to the nearby public high school, *Time* magazine (September 27, 1999) described the MHSAA’s control of the narrative this way:

“.....proponents of a bill forcing the change were no match for . . . the Michigan High School Athletic Association, the nonprofit that writes the rules for athletic eligibility, rules adopted by almost every school . . . When the (Michigan Governor) Engler-backed bill came up in the state senate in June, it got just three votes.”

Having repeatedly failed in the court of public opinion, a group of parents resorted to courts of law in 2003. However, in *Reid v. Kenowa Hills Public Schools* (Note 1), the Michigan Court of Appeals sided with the MHSAA membership and allies. The court ruled that there is no participation

right, that participation in extracurricular activities is a *privilege* afforded students who meet certain requirements, and that the requirements in Michigan are applied equally to *all* students, regardless of their educational setting. Home-school students were *not* being singled out. (See Letter 9.1, dated Sept. 7, 1995, at the end of this chapter.)

II.

Until the turn to the most recent century, sports writing about interscholastic athletics was primarily by employees of local media outlets, not freelancers. Stories were usually assigned by and reviewed by editors before they were published. These sports editors were often professionals with long experience, great feel for their local community and significant institutional knowledge about school sports in general.

I think especially of the “small” markets, where school sports received as much ink as college and professional levels. Like Sports Editor Jack Moss as well as Del Newell at the *Kalamazoo Gazette*. Sports Editor Bob Becker, Prep Sports Editor Jane Bos and the deep bench of prep sports reporters at the *Grand Rapids Press*. Sports Editor Steve Klein, Prep Sports Editor Bob Gross and John Matlak at the *Lansing State Journal*. Sports Editor Cindy Fairfield and staff at the *Muskegon Chronicle*. Sports Editor Nick Edson and Denny Chase at the *Traverse City Record-Eagle*. Brad Emons, Sports Editor for the *Observer Eccentric* in suburban Detroit. And veteran professionals at the *Escanaba Daily Press* (Dennis Grall), *Midland Daily News* (Chris Stevens), *Saginaw News* (Hugh Bernreuter), *St. Ignace News* (David Latva) and *Flint Journal* (Bill Khan).

For many years, whenever there was a complicated or potentially controversial decision affecting a school in a particular coverage area, it was natural for Michigan High School Athletic Association staff to place personal telephone calls to these people to provide them a heads-up as well as background information; and while they would not always agree with the association’s actions, they would be fair and accurate in their reporting. None wrote with the condescension characteristic of some of the coverage from big-city media; none claimed to have knowledge and sources superior to MHSAA staff; few confused editorializing for reporting with the frequency that some big city journalists were apt to do; and of that group, only Bob Becker displayed a mean streak, although not very often and always with a polite warning.

In sharp contrast, coinciding approximately with the start of this century – and more so every year since in the contemporary world of dwindling local coverage of prep sports – people we had never heard of (and some people who had never before heard of the MHSAA or the school involved) made electronic postings of poorly researched, factually inaccurate and unjustifiable commentaries, some of which went worldwide overnight, with no editorial oversight.

In this unfiltered, “anything goes” environment since the demise of local print newspapers, it is much more difficult for any enterprise to establish and stick to a coherent narrative. And it is in this changed environment that a challenge came to the maximum age limit for high school athletic participation sponsored by MHSAA member high schools.

As 2009 turned to 2010, the father of a student with Down syndrome turned his attention to the maximum age for football and basketball eligibility at Ishpeming High School in the Upper Peninsula of Michigan. Discovering that his son would be too old to play high school sports in 12th grade as a result of being delayed in his elementary school education, this father addressed both his local high school administration and the MHSAA staff with requests to change the maximum age rule. When he learned that this was not a rule within the authority of a single school or the MHSAA's leadership to change, but required passage by a two-thirds vote of MHSAA member schools, he prevailed upon Ishpeming High School's administration to ask the MHSAA Representative Council to authorize a vote by MHSAA member schools that would allow the Representative Council to waive the maximum age rule, at least for students with Down syndrome.

Such a request was made to and denied by the MHSAA's Representative Council in both March and December of 2011, the Council's position being that it should not pass the buck, that is, that it should not shuffle off to the membership the task of defeating a proposal that the Council itself did not support and knew schools themselves did not support. Petitioned once again – given a *third* opportunity to pass the buck to member schools – the Council rejected another request from the father through the local high school to submit an amendment proposal to all member schools in March of 2012. It was then that the student's aunt took to social media and drove the story to contacts she made in professional media, all of which drove passionate emails to the MHSAA office and distorted versions of the story to Michigan's legislators in Lansing and Washington, DC. (See Letter 9.2, dated May 1, 2012, at the end of this chapter.)

Eventually, some of the more strident state legislators threatened Michigan schools with the loss of state funding if they did not allow a student such as this to play schools sports, regardless of age. This got the attention of the top two officials (and the MHSAA's best two allies and friends) within the Michigan Department of Education who met privately with me at an East Lansing restaurant on May 3, 2012, to discuss a strategy to extract the MHSAA from the middle of what was becoming a nasty battle between stubborn school administrators and stoked state legislators, some of whom were novices under Michigan's term limits and more of whom were becoming increasingly irrational due to the factually inaccurate but emotionally charged social media narrative.

To the MHSAA, pressure to change the maximum age rule was old news. The Association had defended the rule successfully at every turn, including twice before the Michigan Department of Civil Rights (1979 and 1989), and unanimously in both Michigan and Federal courts.

Even as it had defended the age rule without a single defeat, the MHSAA had kept the rule under the microscope. For example, in 1987, a study group, convened by the MHSAA and consisting of representatives of the state's superintendents' and principals' organizations, circled the subject. The study group suggested no change in the basic rule for high school students, but it proposed an innovative "eligibility advancement" provision for over-age students on the middle school level to play with their chronological peers of their affiliated high schools. No longer would those

students need to be withheld from participation at the middle school level, as well as at the high school level four years later.

In 2002, a broader group, including legal counsel, was charged by the Representative Council to study waiver procedures for students with physical disabilities. That group ultimately determined that no changes in current policies and procedures were needed or desirable.

These studies and several surveys allowed MHSAA leadership to know exactly where its member school administrators stood on the issue, which was in adamant opposition to relaxation of a hard-and-fast maximum age standard.

I met personally with the father of this Down syndrome student in Marquette in the fall of 2011. I spoke with him several times by phone. We corresponded. I was honest about the purpose of the existing rule and the energy the MHSAA had expended to defend a rule for which member schools had shown their very strong survey support time and time again.

To our face and in correspondence, every legislator with whom we visited about this student and the maximum age rule was complimentary of the association and expressed support for strong rules to govern school sports. Every one of them said their interest in this matter was not an attack on the MHSAA. They usually said, *"I just want a way for THIS student to play."*

These legislators admitted that writing laws for individual citizens and exceptional cases is poor public policy; but shriveling under the growing social media barrage, that's just what they wanted the MHSAA to do with the organization's rules in this case.

Meanwhile, the more we talked about the issues with MHSAA member school administrators, the less support we found for changing current policy. MHSAA constituents favored uniformly applied rules generally, and many superintendents spoke of being battered at the local school level with mounting mandates to accommodate individual students with complicated and under-funded services for students with special needs.

Typical of attitudes was an Upper Peninsula league meeting in April of 2012. An Ishpeming High School administrator brought a box of green t-shirts which read on the front, *"Let 'em Play."* He left with as many shirts as he had brought. Not one other person at that meeting supported his cause.

This meant the MHSAA's leadership had to keep under wraps a proposal we had been preparing for many weeks for the Representative Council's consideration in May of 2012 to be submitted soon after to schools as a proposed amendment to the MHSAA constitution . . . a proposal that some called a process for *"limited and specific"* waivers and others described as a *"narrow gate"* for eligibility.

When the Representative Council considered this proposal at its May 7, 2012, meeting, it spent very little time on the actual wording, which had been carefully crafted by MHSAA staff and legal

counsel over several weeks prior to the meeting. Instead, Council members spent a lengthy period discussing strategies for assuring the proposal would achieve support of the two-thirds of voters necessary for passage of an amendment to the MHSAA Constitution; and they gave assignments and talking points to one another for contacting constituents during the few days before the proposal and ballots were received by MHSAA member schools following the Representative Council meeting.

When we fully unwrapped the proposal for the membership's consideration, we found that it was universally praised by advocates for a change in MHSAA policy, even if it was not embraced enthusiastically by member school administrators. Many administrators had to be convinced to vote "Yes" on this change to the MHSAA Constitution that, in limited circumstances, would allow the maximum age rule to be waived up to one year for a student through a thorough application process and majority vote of the five-member MHSAA Executive Committee, or if not, majority vote of the full 19-member Representative Council.

During my tenure, the MHSAA Representative Council had never submitted a Constitutional amendment proposal to the membership that the Council did not want to be adopted. As a result, such proposals always gained member schools' support with well over a 90-percent majority of more than 800 voting schools. In contrast, for this proposal, while the voting margin was a solid 661 in favor and 40 opposed, the 661 affirmative votes was the smallest during my tenure to support any change in the MHSAA Constitution. Another 43 ballots were submitted by schools without any vote at all. Although the amendment passed by a wide margin of actual votes cast, there was a sense that the amendment was not warmly embraced by local school voters, many dozens of whom declined to cast any vote at all.

In fact, in this case, many incredulous callers questioned the Representative Council's recommendation that the amendment should pass. Some callers, and other administrators contacted during the Council's "campaign," stated they would rather not return their ballot than cast a vote against either the Council's recommendation for change or at odds with their personal conviction that there should *not* be change with respect to this issue. It is possible, even likely, that the low number of ballots sent in – and the unprecedented number of ballots submitted without a "Yes" or "No" indication – reflected greater dissatisfaction with the change than the 661 to 40 Yes/No voting margin.

Following the vote, there was relief among the MHSAA's leadership that the amendment proposal passed, but there was also a sense of realism that this had not eliminated controversy so much as delayed it and potentially increased it. Even with authentic resolve to make this new rule work, both staff and Council members recognized that, now that waiver *can* be approved, when it is *not* approved, controversy will follow . . . more often in the future, all feared, than in the past.

As for the new rule, I was satisfied; and the rule has survived the years since with only a few minor tweaks. What most bothered me at that time, and still concerns me today, is that the MHSAA had always served the schools: what *they* wanted, we would deliver. For example, when

schools wanted their sports seasons defended, their organization fought for them . . . for nine years! The unsettled feeling I had was that the membership didn't *direct* this change in the age rule, and didn't want it. It was top-down, not bottom-up. I was uncomfortable with the process more than the result.

While the MHSAA membership preferred a "bright line" for the maximum age rule, the final result was the next best thing . . . better than any existing rule of other states that was suggested as the answer at that time, and certainly better than a law cobbled together by committees staffed by inexperienced legislative aides under the influence of social media.

While there were other times when social media made a mess of our days on the job, this was the only time social media affected the actual outcome of an eligibility case. And the irony was not lost on me.

For my entire career, I have championed the unheralded over the elite, and I've written and spoken so much about letting everyone play and about the greater educational value of subvarsity programs than varsity programs, that I've been criticized for promoting mediocrity in school sports. So, this case hurt on a personal level: being portrayed as uncaring about underdogs, when that's the exact opposite of who I have been as athlete, coach and administrator. I was a slow, undersized athlete who worked his way to playing time as a college football player, a coach who found practice and game time for players who were like me, and an administrator who advocated for those whom others might overlook. But modern-day, unprofessional media often attack those in positions of authority without regard for facts, the complexity of issues or nuances of circumstances.

Traditional media followed social media to this story; and the student's father told a *Sports Illustrated* columnist in early April of 2012, "*I wish I could have them (MHSAA officials) come to a game so they could watch what it does for Eric and what he does for the crowd.*"

Well, MHSAA officials *did* see a game . . . Ishpeming's stunning 20-14 win over Detroit Loyola High School in the championship game of the MHSAA Division 7 Football Playoffs at Ford Field on the Saturday after Thanksgiving in 2012. What they saw was this student on the arena floor – eligible to participate as a result of the new waiver procedure, but standing alone, often behind and to the side of the team bench, detached from the proceedings, paying little attention to either the game or the crowd. He had so little effect on anything that day that it made me question what all the fuss had been about . . . by his dad, media, legislators, and the MHSAA.

It was also at this time that I began to question seriously the limits of constituent surveys. In the sports seasons litigation (see Chapter 10), survey results may have served more to entrench thinking than enlighten leadership. And here, with respect to the maximum age rule, it seemed to have happened again: reinforcing our thinking rather than allowing us to quickly find re-imagined thoughts.

The following July at the summer workshop of the Michigan Interscholastic Athletic Administrators Association, I said during my report to my good colleagues in attendance: *“In my position, I’m supposed to have enough perspective and experience to anticipate difficult situations and to navigate the membership around them. That’s ultimately what happened in the case of our maximum age rule, but not quickly and smoothly enough. I should have seen the troubled water sooner and placed alternative ideas on the table more quickly.”* The MHSAA’s leadership should have stopped *following* consensus and started *forming* it much sooner.

III.

People love to hate rules. Social media exalts the exception and excoriates the enforcer. Yet, while rules are not the soul, they often provide the spine of a civilized society. And a framework of at least some rules is essential to the success of school sports. The challenge is to locate the “Goldilocks Solution” where there are neither too few rules so as to invite anarchy nor so many rules as to make people reliant on the association rather than themselves to keep things honest and fair.

Participation in competitive athletics sponsored by schools is not inherently good. It’s the rules – the standards – which bestow much of the value on participation in interscholastic athletics. It is not merely participation in school sports that is the objective, but it is *teaching* young people *through* their participation that we pursue and prize. It is through the standards required *for* participation that much of the value *of* participation is made manifest. When leaders raise the standards of eligibility and conduct, they tend to increase the value of participation for the students, their schools and society. When leaders lower the standards, they tend to decrease the value that may accrue through participation.

A line by the owner of the Village Blend Coffeehouse in the 2003 installment of Cleo Coyle’s coffeehouse mystery series, *On What Grounds*, strikes the correct chord: “. . . when we lower our standards, we lose our soul – not to mention our returning customer base.” (Note 2)

A program that is open to anyone – regardless of enrollment, age, number of semesters in school, and conduct – does not provide the same value for young people as does a program that has conditions which must be met to earn the privilege of participation. There are many other reasons for rules: for example, they tend to provide more fair and equitable competition (a more level playing field) and they tend to promote healthier preparation and safer competition. But most importantly, rules help bring educational outcomes to education-based programs.

NOTES:

- 1: 261 Mich App 17 (2004)
- 2: *On What Grounds*, by Cleo Coyle. Berkley (2003).

September 7, 1995

Mr. Thomas Bock, President
Zeeland Board of Education
P.O. Box 110
Zeeland, Michigan 49464

Dear Mr. Bock:

Thank you for the opportunity to respond to the concerns of the Zeeland Public Schools Board of Education.

We have found there is very little interest among the administrations of the public, private and parochial schools which are members of the Michigan High School Athletic Association for a home schooled student to participate on a high school team without being enrolled in and passing at least 20 credit hours of work at that high school. On last October's Update Meeting Survey, only 53 of 794 respondents (6.7%) favored revision of applicable regulations.

As we listen to those who voted against change, we hear them say that it makes no sense for young people who have no relationship or accountability to a school to represent that school in its uniform, and that is hypocritical of parents to insist that a school's classrooms are not good enough for their children but the school's locker rooms are. We also hear them say that traditional full-service public schools are under attack and that one of the tools they have to compete with private schools (including home schools) and charter public schools is the extracurricular program they go to great effort to create and administer. They don't want to give that opportunity to people who have abandoned them.

Nevertheless, current MHSAA regulations do not prohibit categorically home schooled students from interscholastic athletic participation. Under MHSAA rules, students who are educated at home may be eligible for interscholastic athletics at a high school if ...

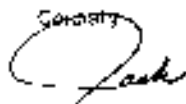
- a. The student is taking and passing at least 20 credit hours (usually four full-credit subjects) at that high school; or
- b. The student is enrolled at the high school and receiving credit for at least 20 credit hours on that school's transcript regardless of the facility in which the courses are actually taken. Of course, local schools may (and usually do) have additional requirements, and local schools make the final decisions regarding eligibility.

Because of their competitive nature and spectator appeal, extracurricular interscholastic athletics have need for regulation which classroom courses and curriculum-related activities do not. The Michigan Supreme Court in Snyder v. Charlotte Public Schools held that non-essential elective courses which are offered to public school students must also be offered to resident nonpublic school students; but extracurricular competitive interscholastic athletics is not provided as an example. Interscholastic athletics is not a "course". It is extracurricular and without credit. Courts have established there is no right to participate in extracurricular competitive interscholastic athletics.

-OVER-

See also Attorney General v. East Jackson Public Schools, 143 Mich App 634, 636-372 NW2d638 (1985), aff'd 424 Mich 852 (1986); so-called interscholastic athletics fall under the heading of extracurricular activities rather than curricular offerings.

So, at present, it appears the sentiments of MHSAA member schools and the precedent of our courts support the status quo.


JOHN E. ROBERTS
Executive Director

JER:sy

May 1, 2012

Senator Tom Casperson
Michigan State Senate
PO Box 30038
Lansing, MI 48909-7538

Dear Senator Casperson:

Thank you for your letter of April 26. As is the case with almost any issue of substance, there are differing points of view regarding the maximum age rule, and at the present time we find ourselves searching for that "sweet spot" which serves member schools without upsetting people outside that membership who may not fully appreciate a policy that has been and remains important, many say essential.

The MHSAA consists of approximately 1,100 junior high/middle schools and senior high schools, both public and private. No tax dollars support the organization. The MHSAA is a private association which provides funding to local schools through sharing of revenue from postseason tournaments, gate receipts and non-tournament sources such as royalties, broadcasting and sponsorships.

Under rules which have been adopted by the local boards of education of MHSAA member schools, a student who turns 19 prior to Sept. 1 of a school year is not eligible for interscholastic athletics. Michigan is one of approximately 40 states which use the maximum or have a younger age limit.

Under a 1979 change in the MHSAA's Constitution, which can only be modified by a two-thirds vote of the superintendents and principals of MHSAA member schools, the maximum age limit cannot be waived. Michigan is in the majority of states which do not allow exceptions to the maximum age and among those fewer states that do allow waiver, many have never actually done so.

Any member school can initiate a change to the MHSAA Constitution by petitioning the Representative Council or going directly to other member schools and gathering signatures from one-third of the members.

The maximum age rule has a year of grace built into it – a student who starts school one year late or who starts kindergarten on time but is delayed a year during early schooling, will still be over-age in 12th grade.

Furthermore, when students are over-age by more than this one year, there is a provision which allows students who are too old for 7th and 8th grade competition to begin playing with their age group in the high school program. Thus, no student need be denied four full years of high school participation. An average of 40 students have utilized this eligibility advancement provision each year since the 1987-88 school year.

- 2 -

You can see that the MHSAA is hardly as out of step or inflexible as some media are portraying the organization. The MHSAA actually was among the first to provide the eligibility advancement provision. And maximum age rules, without waiver, are prevalent in all forms of youth sports, from Youth baseball and football to the age groupings of US National Sports Governing Bodies for basketball, gymnastics, ice hockey, soccer, swimming & diving, track & field, wrestling, volleyball and other sports.

Any characterization that the MHSAA's recent age rule review processes have been superficial or slanted is misinformed and can be refuted by hundreds of individuals who actually participated in the process, including 17 meetings at 12 sites across Michigan between May and October of 2011.

We are aware that there will always be students with exceptional circumstances that do not appear to fit the important reasons for an essential rule, and we are aware of the responsibility to balance the needs of an increasingly diverse student population where the diagnoses of disabilities are exploding as the definitions of disabilities are expanding. We believe these trends explain why local school administrators have continued to request a bright line with respect to the maximum age rule.

Nevertheless, we are guiding the Representative Council through a comprehensive review of this topic that will resume next week, and we will keep you informed of that process.

Respectfully,



JOHN E. ROBERTS
Executive Director

JER/ky

Chapter 10. Seasons Disorder

“For everything, there is a season . . .”

Ecclesiastes 3:1 (ASV)

I.

Two generations after most university physical education departments and career physical education professionals were criticizing competitive athletic programs for females and succeeding in relegating girls sports to “play days” in high schools across America, competitive athletics for girls returned to America’s high schools with a vengeance, circa 1970.

Still, when Title IX of the Education Amendments of 1972 was adopted by the United States Congress, there was no mention of athletics. None. The application of Title IX to school and college sports – which first appeared in the draft regulations released by the US Department of Health, Education and Welfare in 1974 and then in the final regulations published in June of 1975, which only became fully enforceable in 1978 – are as much the *result* of growth in girls athletics as the cause of that growth.

Even then, the application of Title IX to interscholastic athletic programs remained in doubt for another 10 years. In fact, in 1984, the United States Supreme Court ruled that, as written, Title IX did not apply to programs and activities (such as competitive sports teams) which did not receive federal funds directly. It wasn’t until 1988 that the United States Congress passed legislation that extended Title IX’s coverage to every program of institutions that receive federal funds, even if a particular program was not the direct beneficiary of such funds.

It didn’t matter; school sports for girls was back, bigger than ever. Dads, moms and the girls themselves would have it no other way.

During no seven-year period – either before or after – was there greater growth in the actual number of female participants (nearly 1.8 million), or faster percentage growth (more than 600 percent), than during these seven years *before* the final regulations to implement Title IX were first enforceable. No other seven-year period comes close to matching this explosion in participation by girls on high school sports teams that occurred from the 1970-71 school year through the 1977-78 school year.

Acting in advance of colleges, most other state high school associations and the enactment of both state and federal laws, the Michigan High School Athletic Association was a catalyst for some of this growth and a rapid responder to other growth in Michigan schools.

In October of 1971, the MHSAA’s all-female Girls Athletic Advisory Committee recommended that the MHSAA “*sponsor Regional meets in gymnastics, track and field, golf and tennis; and that girls committees be established for each of the sports for the purpose of evaluating the meets and*

tournaments and to make recommendations for future meets and tournaments.” That December, the MHSAA Representative Council decided to conduct *both Regionals and a State Girls Gymnastics Meet* and to conduct a survey of member schools *“to determine the desires for similar meets and tournaments in other sports that could occur during the 1972-73 school year.”*

The following March, at its regular meeting, the MHSAA Representative Council approved a statewide swimming and diving as well as regional and state tennis tournaments for girls to be conducted that fall, plus regional and state track and field meets for girls the following spring.

At its regularly scheduled meeting the following May, the Representative Council added state meets for girls (as well as for boys) to the schedule of regional competition that already existed for each gender separately in alpine skiing, and the Council authorized regional and state tournaments in girls golf.

In other words, within seven months of the Girls Athletics Advisory Committee’s recommendation for *four* tournaments for girls on the *regional* level only, the Representative Council had approved *statewide* meets for *seven* sports. *More* sports, culminating at *higher* levels, accomplished on a *faster* schedule than the all-female advisory committee had recommended. And all of this preceded any talk that Title IX might apply to school sports.

In every case, schools sponsored the sports on the local level before the Michigan High School Athletic Association began to sponsor statewide tournaments for those sports; and the MHSAA placed its tournaments at the end of the season that had been chosen previously by schools for the conduct of their local programs. If there was a difference of opinion, where schools in some parts of the state sponsored a particular sport at one time of year and schools in other parts of the state sponsored the sport at a different time of year, then the MHSAA surveyed the schools and placed its season-ending tournament at the time of year that served the greater number of schools.

It was never a secret that schools scheduled seasons in ways they knew would make optimal use of their local facilities and personnel. If boys and girls seasons were conducted at different times of the school year, there would be more facility space available to both genders (especially for sports played indoors) which would encourage larger squads and multiple subvarsity teams, which is why Michigan always ranked much higher in terms of high school athletic participation than its high school-age population rank among the states. Schools argued that the alternative scheduling also meant that their better coaches wouldn’t have to choose but could coach both genders, and that the pool of registered contest officials would be spread less thin, allowing each gender to receive the benefit of better officiating.

What school leaders, coaches, participants, parents and the media saw as good planning – often placing the new seasons for girls at a different time than the previously existing seasons for boys – a federal court eventually determined was illegally disparate treatment.

Even earlier, beginning in 1966, the Michigan High School Athletic Association's leadership signaled the organization's intention to conduct a Girls Basketball Tournament. For the sake of competitive equity, there was need to have a defined season at approximately the same time and of the same length for all schools which might wish to participate in that tournament. How it happened that the MHSAA Girls Basketball Tournament landed in late fall is the most complicated and contentious of the sport scheduling stories.

Some high schools, especially in small towns and rural areas across America, never gave up on girls athletics, especially basketball, which often was played before enthusiastic local support. In Iowa, attendance for the girls game, played under six-player rules, exceeded attendance at most boys games. In Michigan, many schools that were sponsoring girls competitive basketball teams – especially the Catholic high schools of Detroit – were conducting programs that began in the fall and extended through the winter. Many public schools of all sizes and in a wide variety of Michigan locations were conducting girls basketball in the fall alone, including Athens, Bellaire, Escanaba, Greenville, Grosse Pointe North, Ionia, Kalamazoo Central, Manistee and St. Johns.

These and a great many other MHSAA member schools communicated their support for a fall girls basketball season and MHSAA tournament to best utilize their facilities and coaching staffs. However, the MHSAA Girls Athletics Advisory Committee went on record to oppose the fall schedule.

That might have been the end of it, and avoided 40 years of controversy and costly litigation, had not the Michigan State Board of Education, to whom the MHSAA reported at that time, not gotten involved. (Following a change in the Michigan Constitution in 1963 which moved the supervision of interscholastic athletics from the Superintendent of Public Instruction to the State Board of Education, the State Board exercised selective oversight of the MHSAA, doing so with increasing heavy-handedness until the Michigan Legislature removed any and all supervision of interscholastic athletics from the State Board's authority by passage of Senate Bill 1082 which was signed into law on January 31, 1972.)

At its meeting in September of 1971, the State Board of Education rejected the MHSAA's winter season for girls basketball and mandated that the MHSAA permit girls basketball seasons at any time of the year in order to allow school districts the flexibility needed to best utilize their facilities. (Note 1)

That change was then approved by the Attorney General's Office, the Legislative Services Bureau and the Joint Committee on Legislative Rules before it returned to the State Board of Education for final approval, which it received in February of 1972. And during the 1972-73 school year, the MHSAA put plans in place to conduct its first Girls Basketball Tournament in the fall of the 1973-74 school year.

Two more girls tournament series were initiated in 1975 – softball that spring, and volleyball in the fall. And 23 years later, the Michigan High School Athletic Association was sued, primarily over the placement of girls basketball and volleyball tournaments.

II.

The Michigan High School Athletic Association might be forgiven for its ascending appeals in federal courts over six years as it defended the preferred sports seasons scheduling of MHSAA member schools in what, for Michigan schools, was a landmark lawsuit filed in June of 1998. After all, for other issues litigated in both state and federal courts, the MHSAA had often suffered from home cooking by a local judge whose decision was overturned on appeal. Moreover, at whatever level of appeal where courts ultimately and always found in the MHSAA's favor, the association not only gained more pervasive legal precedent, that is, of higher and wider authority, the MHSAA also often gained judicial approval for more profound and powerful legal principles. For example:

- After a string of early 1980s losses in lower courts regarding the Association's toughened transfer rule, in the *Berschback* case (see Chapter 4), the Michigan Court of Appeals told state courts in 1986 that they are not the proper forum for making or reviewing decisions concerning the eligibility of students to participate in interscholastic athletics. That was for schools to decide, and they had done so through their voluntary association, the MHSAA.
- *Cardinal Mooney High School v. MHSAA* (Note 2) began in 1987 as a challenge to the maximum age rule embedded in the constitution of the MHSAA by vote of its member schools. But the case ended in 1991 with the Michigan Supreme Court holding that the MHSAA's "restitution rule," which allows the MHSAA to assess penalties after a court order permitting play is reversed or vacated by a higher court, is a valid provision reasonably designed to rectify the competitive inequities that would result if plaintiffs on behalf of ineligible students could, with impunity, file for injunctive relief to gain access to events and then drop the lawsuit after the competition is completed. Furthermore, the Supreme Court reversed the Court of Appeals' assessment of damages against the MHSAA for what the Court of Appeals said were "vexatious" appeals by the MHSAA, that is, appeals taken without any reasonable basis (in the Court of Appeals' opinion). The MHSAA's leadership believed there was a meritorious issue to be determined on appeal, and the Supreme Court ultimately agreed with the MHSAA. The Michigan Supreme Court stated that the restitution rule:

“. . . is reasonably designed to rectify the competitive inequities that would occur if schools were permitted without penalty to field ineligible athletes under the protection of a temporary restraining order, pending the outcome of an ultimately unsuccessful legal challenge to one or more eligibility rules . . . Furthermore, compliance with MHSAA rules on the part of student athletes is an appropriate and justifiable condition of the privilege of participating in interscholastic athletics under the auspices of the MHSAA.”

- In *Sandison v. MHSAA* (Note 3), the United States Court of Appeals for the Sixth Circuit in 1995 held that neither Section 504 of the Rehabilitation Act of 1973 nor the Americans With Disabilities Act required the Michigan High School Athletic Association to make accommodations for over-age students with disabilities; and because the plaintiffs themselves had an interest

in not having their team's victories and their own performances erased, the Court also found that the MHSAA's "restitution rule" prevented that case from becoming moot.

"Removing the age restriction injects into competition students older than the vast majority of other students, and the record shows that the older students are generally more physically mature than younger students. Expanding the sports program to include older students works a fundamental alteration . . . It is plainly an undue burden to require high school coaches and hired physicians to determine whether these factors [chronological age, physical maturity, athletic experience, athletic skill level, and mental ability to process sports strategy] render a student's age an unfair competitive advantage . . . It is unreasonable to call upon coaches and physicians to make these near-impossible determinations . . . The plaintiffs are excluded from participating in interscholastic track and cross-country competition 'solely by reason of' age, not disability. Furthermore, waiver of the 'necessary' age restriction does not constitute a 'reasonable accommodation' . . . the record contains no hint that the age restriction disproportionately excludes members of the class of disabled students."

- In McPherson v. MHSAA (Note 4), the Sixth Circuit Court of Appeals, sitting en banc in 1997, reversed lower courts which had ignored the holding of Sandison with respect to the application of the Rehabilitation Act and ADA as well as the validity of the restitution rule. In McPherson, the full panel of the Sixth Circuit held that a student's graduation from high school does not render a legal controversy moot, which would otherwise bar the association from seeking justice, tending to tilt the field of fair play toward those who might prolong litigation to get what they want without concern for the merits of their case. While the Sandison case dealt with the maximum age rule which, under the MHSAA's constitution, could not be waived, McPherson dealt with the maximum semesters rule which could be waived by MHSAA Executive Committee or Representative Council action. But the Sixth Circuit's full panel held that just because a rule may be waived, it does not necessarily follow that it *must* be waived for students with disabilities under either the Rehabilitation Act or ADA.

"The plaintiff would have us require waivers for all learning-disabled students who remain more than eight semesters. That, of course, would open the floodgates for waivers . . . Having one student who is unfairly advantaged may be problematic, but having increasing numbers of such students obviously runs the risk of irrevocably altering the nature of high-school sports."

- In Frye v. MHSAA, in an unpublished decision, the Sixth Circuit went still further in late 1997, applying the reasoning of McPherson to a case where, instead of graduating, the student just failed to return to and complete high school. The restitution rule kept the controversy alive, allowing the MHSAA to appeal to higher courts and ultimately penalize a school for the use of ineligible students who participated under the temporary protection of an injunction.

- In the *Kirby* case (see Chapter 6), the Michigan Supreme Court in 1998 did not merely uphold the rule in question – MHSAA’s policy to not advance a defeated team in a tournament after another team has been removed from that tournament for a rules violation – the court also upheld the authority of the MHSAA generally to deal reasonably with situations as they arise, even when they are outside its published rules and regulations.
- In the *Reid* case (see Chapter 9), the Michigan Court of Appeals in 2004 upheld the MHSAA’s enrollment regulation in the case of home-school students whose parents claimed MHSAA rules discriminated on the basis of religion; and the court made an important distinction between *extracurricular athletics*, which are a *privilege*, and *core courses* of schools for which students may have a participation *right*.
- *Breighner v. MHSAA* (Note 5) started in 2001 as a case challenging the tournament qualification policies for the MHSAA Alpine Ski Tournament – specifically, compliance with the MHSAA limited team membership rule which restricts the number of non-school events in which a student may participate during the high school season. When the Michigan Supreme Court finished with the case in 2004, the decision stood for the proposition that the MHSAA is not a public entity subject to the Michigan Freedom of Information Act. The Supreme Court held that the MHSAA is not primarily funded by or through state or local authority, has not been created by state or local authority, and is not an agency of schools.

“The MHSAA, a private, nonprofit organization having a wholly voluntary membership of private and public schools, is not a ‘public body’ within the meaning of FOIA and is therefore not subject to FOIA’s provisions.”

These accumulating and ever-expanding rulings regarding the MHSAA’s independent, non-governmental status and its reasonable governance of interscholastic athletics were the result of the organization’s operating principle that all adverse legal decisions are to be appealed immediately and without need for specific Representative Council approval. To avoid or at least reduce frequent and capricious lawsuits and to bar litigants from using easy-to-obtain temporary restraining orders and preliminary injunctions to gain eligibility through the duration of a tournament or even a complete high school career, the MHSAA leadership wanted all potential litigants to know before they ever filed an action that any legal battle with the MHSAA would not be a brief exhibition; it would be a 15-round heavyweight battle that could extend even years beyond a particular student’s graduation.

With this feisty and never-failing litigation history attesting to the MHSAA’s privately funded and independently operated status, as well as volumes of surveys and both statistical and anecdotal evidence supporting the current seasons setup, the MHSAA was prepared for battle to preserve Michigan high school sports seasons even before a judge was assigned to the case. And when it was announced that the veteran, famously activist jurist, Judge Richard J. Enslin, would preside over the case in the Western District of Michigan in Kalamazoo, MHSAA leaders and lawyers merely said, *“Bad draw. Let’s assume we will have to appeal.”*

III.

By the time sports seasons litigation came to Michigan, more than a dozen states had already changed their girls basketball seasons from the fall to the winter. One state after another changed at least their girls basketball and volleyball seasons in spite of the preferences of their member schools, usually throwing in the towel without much of a fight because the organization lacked the resources to sustain the necessary judicial battle. By 1998, only in Hawaii and Michigan was girls high school basketball a fall sport. And girls high school basketball participation numbers had *declined* in every state that had made the recent change from a fall to winter season.

But Michigan had been down this road 25 years earlier . . . in the United States District Court for the Eastern District of Michigan in an action brought by a group with a name similar to the plaintiffs of 1998. In 1973, the plaintiff was “Committee to Ensure Equal Opportunity in High School Athletics;” the lead plaintiff in 1998 was “Communities for Equity.” In the 1973 case, the federal court dismissed for no cause of action under the US Constitution or Title IX plaintiffs’ complaint over the scheduling of girls basketball and swimming and diving in the fall. Another of the judges of the Western District of Michigan advised Michigan High School Athletic Association lawyers in 1998 that if the current case had been assigned to his court, he would have done the same: he would have granted the MHSAA’s motion for summary disposition and dismissed plaintiffs’ complaint.

The outcome of Michigan’s sports seasons case may not have turned out as anyone had hoped. Certainly, it wasn’t what MHSAA member schools wanted. If it had been plaintiffs’ desire to switch the girls volleyball season from winter to fall and the girls basketball season to winter, then they accomplished that. However, the lawsuit they actually filed in 1998 went further: it sought to align *all* high school seasons with college seasons. And that’s a messy proposition that even Judge Enslin wouldn’t mandate.

Ultimately, Judge Enslin determined that there were “*advantageous*” and “*disadvantageous*” seasons; and he based his determination as to which was which on existing seasons of the National Collegiate Athletic Association . . . except that he ignored his own definition for the sport of golf (the NCAA championship season is in the spring, but Judge Enslin opined that fall might be better).

Of course, it made no legal or logical sense to have NCAA tournaments define what is appropriate or beneficial at the high school level; the interscholastic level was years ahead of the NCAA in embracing, organizing and regulating women’s athletics at the intercollegiate level.

Be that as it may, all Judge Enslin eventually required of the MHSAA was to switch girls basketball and volleyball seasons and then to schedule other seasons so that the number of boys sports would equal the number of girls sports assigned to what he defined as the advantageous and disadvantageous times of the year. He didn’t require that the MHSAA count noses (participating students) . . . only that it count sports. Over plaintiffs’ objections, Judge Enslin approved the switch of boys and girls golf and tennis seasons in the Lower Peninsula and the switch of boys

and girls soccer seasons in the Upper Peninsula to accomplish equity as Judge Enslin had defined it.

That scheduling would not have been the MHSAA staff's choice, and even today, the Lower Peninsula high school golf and tennis communities and the Upper Peninsula high school soccer community are unhappy about it. But schools returned surveys to the MHSAA which demonstrated that these scheduling changes were the clear choices of MHSAA member schools which were trying to make the best of a bad hand.

This lawsuit was not supposed to be about money. In September of 2000, plaintiffs sought to strike their jury demand, desiring that Judge Enslin decide the case, not a west Michigan jury of their peers. Plaintiffs knew Judge Enslin's leanings; and they had to figure that a jury representative of folks in west Michigan would think about this the same way every MHSAA survey had indicated. By having a bench trial, plaintiffs could have the benefit of Judge Enslin's inclinations, but then they could not request money damages. The MHSAA opposed the plaintiffs' motion; but US Judge Magistrate Ellen Carmody granted plaintiffs' motion. The case would be in Judge Enslin's hands.

And, ultimately, Judge Enslin rewarded plaintiffs handsomely anyway. Federal law would not permit him to award monetary damages, but he did order the MHSAA to pay plaintiffs' attorney fees; and over the objections of the MHSAA, he approved fees for plaintiffs' *one* lead attorney that were far more than *double* what was spent by the MHSAA's *two* lead lawyers combined (which had been paid by two MHSAA insurance policies). In addition, through a provision of law almost unique to Michigan, Judge Enslin ordered the MHSAA to pay interest on the *total* fees, starting from the date the lawsuit was filed in 1998, compounded annually with an interest rate that was adjusted semi-annually. The meter kept running and the interest kept accumulating through months of delays by plaintiffs' lead attorney to care for her mother. And the meter kept running through several years of MHSAA appeals.

By the time all legal options were exhausted, the amount the MHSAA was ordered to pay exceeded \$4.5 million, plus more than \$3 million in interest. The total exceeded the assets of the association at that time, which created a brief public relations nightmare for the association and a few fitful nights of sleep for its executive director. This was followed by five months of negotiations during which the total amount remaining to be paid from MHSAA funds was reduced by one-half. And this was followed by the best five years of financial performance in MHSAA history when nearly \$5.5 million was added to the MHSAA's fund balance, elevating the MHSAA's reserves to much higher levels than when the litigation began.

Out of the worst experience of my professional life followed what I later could see was the best experience for me, both personally and professionally, and operationally for the MHSAA. But there is no escaping that this was a strange and stressful time.

IV.

If the sports seasons litigation had been a roller coaster ride, then receiving word of Judge Enslin's assessment of fees and interest was the lowest point. Word actually came to me on March 31, 2008, in two calls, an hour apart. The first call from the Michigan High Scholl Athletic Association's lead attorney took me out of a staff meeting and informed me of the fee judgement. Bad as it was, we could appeal; and, if that was unsuccessful, the MHSAA had the means to cover those costs. I returned to the staff meeting a bit shaken, but participants in that meeting remarked later that I didn't skip a beat and stayed focused on the subject at hand, which was the MHSAA's planning to launch online rules meetings for coaches and officials.

Shortly after that meeting adjourned, I was rocked by a second call when I was advised of the interest component, which would take the total costs to the limits of the MHSAA's assets or beyond. Later, a third call took me to this extended episode's nadir when I was counseled to consult with bankruptcy attorneys to arrange for legal protection against any preemptory efforts to seize the association's assets.

Contrast that horrible day with May 2, 2005, when during a regularly scheduled Representative Council meeting in Rothbury, Michigan, word was received that, in response to our appeal, the US Supreme Court had remanded a decision adverse to the MHSAA back to the Sixth Circuit Court of Appeals for reconsideration in light of recently decided cases. We cheered in the Council meeting and acted cautiously optimistic during a statewide press conference originating from a Muskegon hotel conference room late that afternoon. Later that day, MHSAA Communications Director John Johnson learned that when this Supreme Court decision was announced at a girls high school soccer game on the state's east side, members of both teams and spectators cheered. Everyone's initial thought was that the tide had turned and the state's sports season schedule would be saved.

Of course, additional analysis of the principal case which the Supreme Court wanted the Sixth Circuit to consider made it less certain that either court would ultimately find in the MHSAA's favor. But, for a time – certainly on that first Monday of May 2005, and a few days later – hopes were as high as they had ever been since the case was filed in June of 1998.

One of the most bizarre episodes of this period was the proposal by community activist (and now, ex-convict) Robert Davis of Highland Park, who offered to pay the MHSAA \$6 million in exchange for giving him complete control of the organization. (Davis later served 10 months in an Alabama prison for embezzling at least \$194,000 from the Highland Park School District for which he had served as board of education president. See more in Chapter 8.)

Thinking the MHSAA had been badly weakened, if not mortally wounded, by the federal court's order, Davis created an alternative association he called the Amateur Athletic Association of Michigan (AAAM), and he began to contact schools with an invitation to join his new organization. He said the new group would promote national travel and telecasts which MHSAA policies discouraged.

When he saw that no school was joining his new organization, Davis contrived a lawsuit, with himself as his lawyer and without any evidence, alleging that the MHSAA was threatening Michigan schools which would otherwise join his organization and claiming that the annual membership resolution which the MHSAA requires of each member school unlawfully forces school districts to relinquish authority and decision-making.

The Wayne County Circuit Court not only denied Davis' motion for declaratory judgment in his favor, the Court also ordered this compulsive litigator to pay the MHSAA's attorney fees (\$6,076.60) for filing a frivolous lawsuit. Undaunted, Mr. Davis appealed to the Michigan Court of Appeals, which found against him on all issues in an unpublished decision filed January 21, 2010.

The final twist in this matter is that Mr. Davis, who had voluntarily offered to buy the MHSAA for \$6 million in 2008, never made the court-ordered payment of \$6,076.60 he still owes the MHSAA today.

(Letter 10.1, dated June 5, 2008, at the end of this chapter, wisely declined Mr. Davis' purchase offer.)

V.

The state's sports-oriented media, which almost without exception sided with schools and opposed plaintiffs' campaign to change sports seasons, covered the main events in the sports season struggle – for example, the major orders issued by the District Court, the Sixth Circuit Court of Appeals and the US Supreme Court – and they often quoted local coaches and athletes who opposed any change of seasons; and the media frequently editorialized in schools' favor. None of this did Judge Enslin permit into evidence. However, media were mostly silent on Judge Enslin's refusal to permit any of the volumes of media coverage into the record, as well as on the matter of plaintiffs' inflated attorneys' fees; and there were many other significant developments which overworked local media appeared to have slighted in favor of their more important mission: providing coverage of local school events. For example:

- Media missed the tragic death of the first magistrate assigned to deal with the week-to-week details of the case. Just like one of the Michigan High School Athletic Association's attorneys who found that he could not stand to be in the same room with plaintiffs' lead counsel, US Magistrate Judge Doyle A. Rowland found himself unable to perform his duties objectively in her presence. An employee of the US District Court informed an MHSAA attorney that Judge Rowland met with Judge Enslin on February 29, 2000, and asked to be removed from the case. Judge Enslin refused his request. Later that same day, the car which Judge Rowland was driving collided with a bridge abutment, and he was killed. No other vehicle was involved.

- Media missed that in September of 2000, Judge Enslin allowed the United States Department of Justice the unusual status of what came to be called “participating amici.” The Justice Department was not only allowed to file briefs as *amicus curiae* at various stages of the proceedings, Justice Department staff were also permitted to attend and actively participate in all stages of the case – including discovery, pretrial hearings and conferences, trial, and any court-supervised mediation and negotiations – sometimes softening plaintiffs’ lead counsel’s sharp edges and at other times supplementing her seemingly disheveled but ultimately effective tactics. Thereafter, at every stage of the case, there were two to four times as many lawyers on plaintiffs’ side of the table as on the MHSAA’s side.
- Media missed Judge Enslin’s class certification for this class action case, which was so nebulous and expansive as to be unquantifiable . . . a class certification so unorthodox that Judge Enslin’s order on this matter is now the subject of university law school classes all across the USA. According to one of the MHSAA’s lawyers at the time, the class certification appears to have included any female at any time in the past or in the future, in any place, and in any activity, including those sports over which the MHSAA has never had any jurisdiction.
- Media missed that the MHSAA’s Motion for Disqualification to remove Judge Enslin from this case was twice denied. The basis for this request was that in 1983 Judge Enslin had recused himself from a case in which the MHSAA had filed suit against the US Department of Education and Office of Civil Rights for the purpose of seeking a declaratory judgement in a matter materially the same as the current case in terms of legal issues presented, factual allegations made and the parties and interests represented. In 1983, Judge Enslin stated that his “*impartiality might be reasonably questioned.*” The MHSAA submitted the motion to disqualify Judge Enslin in December of 2000 when the case against the MHSAA was to be a jury trial; and the MHSAA submitted the motion a second time in May of 2001, immediately after plaintiffs’ motion was granted to strike its jury demand, placing the District Court’s decision entirely in Judge Enslin’s hands. This second effort was bolstered by a court memorandum of August 23, 1983, which had been missing from the case file but was finally located in storage in Chicago, which quotes Judge Enslin’s words as the reason for recusal in the 1983 case. That memo stated his “*impartiality might be reasonably questioned.*”
- Media missed the last-minute pro bono appearance of an attorney from the high-powered law firm of Piper, Marbury, Rudnick & Wolfe of Baltimore, who diminished the involvement of plaintiffs’ abrasive lead counsel at trial and added more gravitas to plaintiffs’ cause. (William Marbury, an ancestor of three generations of Marburys with the firm, received his judicial appointment from US President John Adams the day before turning the government over to newly elected Thomas Jefferson. William Marbury sued President Jefferson’s secretary of state, James Madison, to force the Jefferson administration to honor the Adams appointments. The US Supreme Court ruled in Marbury’s favor in the landmark case of Marbury v. Madison in 1803.)
- Media mostly gave Judge Enslin a pass on his hypocritical approach to MHSAA surveys. He ignored many years of surveys that revealed constituents’ strong support for the seasons

scheduling that the MHSAA was defending; but, after he had determined that scheduling to be discriminatory, he complimented the MHSAA for its extensive survey efforts and community meetings to seek constituent opinions when forming the scheduling plan to comply with his order; and Judge Enslin referred to and depended on the MHSAA's work as he denied challenges to the compliance plan, first by the plaintiffs and then on behalf of state's high school tennis and golf communities.

- Media never knew, or at least never reported, that Michigan legislative leaders contacted the MHSAA with serious and specific offers of assistance to pass state legislation designed to thwart what they believed would be damaging developments in Judge Enslin's chambers and courtroom. (The MHSAA did not solicit or accept any involvement of the Michigan Legislature.)
- As negotiations were occurring to settle the exorbitant fee assessment against the MHSAA, the media never knew the content of the talks to settle the court-ordered payment of plaintiffs' fees and interest. Neither, for that matter, were other MHSAA staff or the Representative Council aware. Aided by two Detroit attorneys who until that time had been uninvolved in this case, I negotiated for the MHSAA with complete authority to make on-the-spot decisions for the MHSAA. At one point during the four months of back-and-forth negotiations - and apparently to grow the pot and extract as much embarrassment and discomfort as possible - plaintiffs' position was that the MHSAA should settle the debt by assessing every MHSAA member school \$11,000. The MHSAA countered that it did not require dues or tournament entry fees from its member schools, had defended schools' preferred sports seasons at no cost to member schools, and would settle any debt that defense created at no cost to those schools. And the MHSAA opined that plaintiffs were asking for at least 35 percent more than what even a generous payoff should be. Plaintiffs eventually grasped that holding out for unrealistically high numbers, and driving the MHSAA to file for Chapter 11 protection in a courtroom where Judge Enslin would not be presiding, would reduce significantly the amount of their settlement and result in long delays in plaintiffs receiving any money at all.

Media didn't learn of the final settlement terms, or if they did, never reported on it. After the MHSAA itself announced that it had happened, some media made brief note of the MHSAA's final payment (\$2.71 million); but the full amount of the settlement, the reductions for early payments, and the extent of the MHSAA's insurance coverage - which further reduced the MHSAA's net outlay - went unreported. (For the record, the initial tab of between \$7.9 and \$8.25 million - depending on who was doing the calculations - was reduced through negotiations in August of 2008 to a maximum of \$6 million which, after early payment incentives and insurance, reduced the MHSAA's actual payout to nearly \$4 million. The MHSAA settled the debt in less than 18 months without missing any financial obligations to its schools, vendors or staff, and without raising MHSAA District or Regional Football or Basketball Tournament ticket prices then, or during more than a decade thereafter.)

- Media never knew that if this had not been the result, two organizations were lined up – one in-state and the other out-of-state – to float the MHSAA interest-free loans for whatever might be needed to meet the organization’s essential financial obligations.
- Media never knew that one of Grand Rapids’ most prominent citizens and businessmen put in writing an offer to subsidize the MHSAA’s remaining financial obligation if the MHSAA would move its headquarters to a building he owned in Grand Rapids, right in the backyard of the two women who had initiated the lawsuit in 1998 . . . an offer I declined.

What most media did *not* miss was the damage being done by the change of seasons – those statistics, and visuals, were impossible to ignore. During the first girls volleyball season in the fall, participation in that sport was down more than 3 percent compared to the previous winter season. Lower Peninsula girls golf dropped 9 percent compared to the previous school year when that sport was in the spring. And Lower Peninsula boys tennis declined 11.5 percent compared to the previous school year when it was a spring sport. But girls’ overall participation in fall sports was up 1 percent, buoyed by a more than 15 percent increase in girls cross country participation. Girls wanted to participate, and they found a way to do it.

However, the first winter season was more stressful and less successful. Girls’ participation in winter sports declined 5 percent overall, with girls basketball participation down nearly 4 percent compared to the previous school year’s fall season. Boys’ participation in winter season sports also declined: 2.5 percent overall, including 2 percent in basketball. Attendance and revenue suffered a steep drop at MHSAA basketball tournaments, down 10 percent for the girls tournament and 12.5 percent for the boys tournament. The consensus of school personnel and media was clear: there were just too many basketball games for fans to attend, officials to cover, media to publicize and athletic directors to supervise to maintain the previous high levels of interest by participants and spectators.

A decade later, neither participation nor attendance had bounced back. And ticket revenue to schools and the MHSAA from Boys and Girls Basketball Tournaments *averaged* approximately \$400,000 per year *less* during the decade after the change of the girls basketball season compared to the decade before the change . . . in total, approximately \$4 million less Basketball Tournament ticket revenue over the first 10 years of the seasons change.

VI.

On April 2, 2007, my day began at a Michigan High School Athletic Association Captains Clinic for the Macomb Area Conference at the Macomb Intermediate School District’s modern Educational Services Center. I spoke to nearly 400 student-athletes and some of their coaches and athletic directors about the challenges of leadership which face team captains.

I was about to face one of my own most difficult leadership challenges.

After I finished my brief talk and for a while observed student-athletes interact in smaller groups, I went to my car to await a call from our lawyer at the Washington, DC, office of the mega-firm Latham and Watkins. This was the morning when it would be announced if the US Supreme Court would take another look at the MHSAA's appeal of the Sixth Circuit's refusal to reverse the US District Court in Kalamazoo which had determined that the sports seasons schedule for boys and girls in Michigan violated various state and federal laws.

Maureen Mahoney, who had prepared the MHSAA's two appeals to the US Supreme Court and argued the MHSAA's case in the Sixth Circuit Court of Appeals in Cincinnati, placed the call. She said to me:

"The Supreme Court did not take up our case. I'm disappointed and a little stunned. Many Supreme Court observers predicted this court would want to do so.

"This wasn't just any case for me, Jack; and I know it wasn't for you. I'm sorry."

Already knowing the answer, I asked anyway: *"Is there any other course of action available to us?"* Hearing that there was not, I thanked Maureen for her care and expertise, and we ended the call.

Before me was an almost 90-minute drive to East Lansing for a press conference at the MHSAA building. Beside me in the car were two folders . . . notes I had prepared for two presentations to the state's media that day: one if the Supreme Court had granted the MHSAA's petition; the other if it did not. I rehearsed as I drove.

My remarks that afternoon to the media present at the MHSAA building and to MHSAA member school personnel and the public via a video stream on MHSAA.com included my sincere belief that Michigan schools would respond to this change of seasons like no other state. Unlike all the other states which had seen participation decline following the change of seasons, I trusted that our constituents would not let that happen in Michigan. I said:

"It is extremely important now that our schools remember who we are in Michigan. We are the schools which decided to maximize high school sports participation; and we are the schools which, more than in any other state, have accomplished that mission. We are eighth in the nation in high-school-age population but fourth in the nation in girls high school athletic participation, including third in the nation in girls high school volleyball and tennis participation. In every sport at issue in this case, our national rank in girls sports participation is sixth or better, not eighth or worse.

"In a nearly bankrupt state, with many nearly bankrupt school districts, and declining enrollment in rural towns and urban centers, in spite of this, Michigan schools have amazed everybody and continued to maximize participation.

“So the challenge now – and it’s a huge one – is to do in Michigan what no other state has done: to avoid decreasing participation in the wake of seasons changes. Some states saw double-digit drops in girls and boys basketball participation and girls volleyball participation following the change of seasons. We must do better.

“Michigan schools must continue to avoid easy choices, including plans convenient for adults. We must continue to seek and implement creative plans that will maximize participation for students.

“The goal that has guided this association of schools like no other in America has been maximizing participation. It must be our continuing passion.

“The job just got harder. But blame and pity will not help. Imagination and energy are what we need, now more than ever.

“Michigan schools, and especially their young women, may have lost their special seasons. That’s bad. But it will be worse if schools lose sight of their special mission: maximizing participation.

“We will keep working, and we believe our colleagues in Michigan schools will do the same, to continue to realize that goal.”

Sadly, I was wrong. Participation declined in Michigan . . . just as it had in every other state that had changed seasons before us.

VII.

Coaches make dozens of decisions in an athletic contest, and they make them so fast that they don’t have time to second-guess themselves. A court case is much like that: lots of decisions, many of which are quickly forgotten as one moves on to the next decision and the next. Looking back now, I can see that during the course of this litigation, I was wrong about a number of things, but two decisions stand out most.

One was the initial decision to depend on our local lawyers. They were oblivious of the potential for Michigan’s Elliott-Larsen Civil Rights Act to nearly bankrupt the Michigan High School Athletic Association even in a case where federal statutes blocked the judge from awarding monetary damages. The MHSAA’s legal team was intimidated and outgunned by the plaintiffs’ eccentric counsel, the US Department of Justice and the famous firm from our nation’s capital which took over during the two-week trial in Kalamazoo in 2001. It wasn’t until we retained Maureen Mahoney that the MHSAA had a lawyer with the mind, manner and moxie needed to make this a fair fight. But by then, we were well behind, it was late in the contest, and we had been battered by a judge who had a preconceived notion of what justice meant in this matter and was being enabled by a biased, if not corrupt, clerk. I waited too long to call on an ace relief pitcher.

The second decision came near the end, after Judge Enslen had approved a compliance plan and schools were beginning to develop their 2007-08 boys and girls basketball schedules. Because the MHSAA had never dictated to schools when to play their regular season contests (in fact, a point argued before the District Court was that the MHSAA lacked any authority to tell schools when to play regular season games), the MHSAA didn't mandate how schools must schedule boys and girls games to comply with the court order. The MHSAA declined to do so, even though many schools and some leagues were asking that the MHSAA mandate at least the general approach.

The MHSAA's leadership believed that boys and girls should play on different nights of the week and that schools should not schedule boy/girl doubleheaders or, worst of all, schedule boys and girls on the same nights at opposite venues (e.g., boys at home and girls away). The MHSAA believed that by playing boys and girls on different nights, overall season totals for attendance would be maximized and revenue would be greatest. The MHSAA put its money where its mouth was and scheduled its postseason tournaments in this fashion; boys and girls did not play on the same nights. But the MHSAA did not require that schools or leagues schedule regular-season contests according to the preference of MHSAA's leadership.

Leagues met independently to determine how they would schedule their regular-season contests. Even though girls volleyball had been played on winter-season Saturdays in the past, athletic directors generally did not want to schedule any basketball games on Saturdays. This shortened the scheduling week from six days to five; and by ruling out Saturdays, there were not enough days remaining in the week for leagues to schedule boys and girls games on different nights.

The result of avoiding Saturday basketball games was reduced participation. It reduced available facilities for multiple teams to practice on weekdays. It reduced attendance. Rather than having revenue all fall for girls varsity games and all winter for boys varsity games, schools were either consolidating crowds for single-night doubleheaders (and arguing whether the boys or girls should play first), or splitting crowds by causing boys and girls varsity teams to be playing at the same time at different places. Everybody lost out.

And, this put in motion the inevitable slump in participation to almost the same levels as every other state which had moved girls basketball from its own place in the fall to simultaneous scheduling with boys in the winter. Perhaps if the MHSAA had gambled that it had the authority to mandate the use of Saturdays and to prohibit scheduling boys and girls games on the same nights (either doubleheaders or home and away), Michigan could have avoided the participation slide that every other state had experienced before us.

I thought we would do better in Michigan; but the decision to not mandate regular season scheduling to match the MHSAA tournament model (boys and girls on separate nights only) probably contributed to the significant decline in participation.

Today, the damage is visible almost every winter night in almost every high school gym in Michigan. To squeeze into crowded facilities and avoid Saturday basketball games, schools have consolidated basketball squads from three teams for each gender (varsity, junior varsity and 9th grade) to two teams (varsity and subvarsity); and the benches are shorter now on each of the two squads than each of the three benches a decade ago – for both genders, but especially for girls.

This decline in basketball and volleyball participation is not due entirely to the change of seasons. Veterans of school sports administration often complain that there are other things going on here, one of the most impactful of which has to do with changing attitudes among high school athletes – a reluctance to be a part of something unless you are the star of that thing. Many parents and coaches with a non-school orientation may not be doing well conveying to their children and student-athletes the important lessons to be learned by being a part of a team and of practicing hard to make their teammates better. And, frankly, many coaches are not being courageous or creative enough in giving more of their players meaningful practice and playing time.

There is also burnout. As youth basketball, volleyball and other sports specialization intensifies at earlier ages, boys and especially girls drop out earlier . . . before they ever reach the high school level. When I started this work, 13 was the average age for youth to drop out of organized sports. In 2019, the average sports dropout age is 11.

School sports never gets a chance with those kids.

And school sports has no future without those kids.

NOTES:

- 1: Minutes of the State Board of Education meeting, September 21, 1971.
- 2: 437 Mich 75, 468 NW2d 21 (1991).
- 3: 64 F.3d 1026 (6th Cir. 1995).
- 4: 119 F.3d 453 (6th Cir. 1997).
- 5: 471 Mich 217, 683 NW2d 639 (2004).



Michigan high school athletic association

John F. Roberts Executive Director

1415, Woodward Drive • East Lansing, MI 48824-0002 • (517) 332-0645 • Fax: (517) 332-4271 • Website: mhsaa.org

June 5, 2008

Mr. Robert Davis
FAX: 313 964-0230

Dear Mr. Davis,

This is to acknowledge that your letter dated May 30, 2008 was received by fax at the MHSAA on the afternoon of June 2, and that its contents have been thoroughly reviewed.

MHSAA member school administrators have made us aware of your efforts to recruit schools to the organization you seek to create, and by all indications we have, these administrators are unreceptive to the policies and procedures that the new organization is promoting. Therefore, we conclude it would not serve Michigan schools' best interests to transfer the MHSAA's leadership and support role to that organization and that such an action would not be acceptable to MHSAA member schools.

The MHSAA will continue to provide independently the policies and programs which student-athletes, coaches, administrators, contest officials and others want, need and depend on.

Sincerely,

JOHN F. ROBERTS
Executive Director

JER/ky

Chapter 11. "Damned if You Do . . . or Don't"

"All animals are equal, but some are more equal than others."

Author George Orwell, *Animal Farm*

Equality, we have learned, does not mean the same thing to every person, nor does it mean treating every person the same. In addition to the sports seasons litigation, two other episodes have brought this lesson home to leaders of school sports in Michigan.

I.

Statewide high school associations across the US are best known for the postseason tournaments they conduct for the students of their member schools. In Michigan, it's now 14 tournaments open to both boys and girls playing together – they are called "boys" tournaments – and another 14 tournaments are exclusively for girls and are termed "girls" tournaments.

That girls can participate in Michigan High School Athletic Association tournaments for boys is old news, resolved by litigation in 1973 when a female student sued for the privilege of playing on the boys tennis team of her school. The Sixth Circuit Court of Appeals required this for non-contact sports only; the MHSAA has allowed it in all sports; and since 1976, Michigan law has permitted female students to try out for boys' teams even in sports where the school sponsored a separate team for girls. (Note 1)

The fact that boys may not participate on girls' teams in MHSAA tournaments is the result of a rule adopted in 1977, and creates some ongoing drama that is still news today.

This rule was adopted by the Michigan High School Athletic Association after a team of four boys from Dixon High School won the girls state bowling championship sponsored by the Illinois High School Association in 1975. And rather than fielding fewer questions about or challenges to the rule each passing year, the opposite is occurring, even though the library of legal opinions supporting the policy has been continuously enlarging.

One reason for this increasing attention to the girls-only tournament policy has been the MHSAA's efforts to overcome historically lower participation numbers for female students by creating new and even unique opportunities for girls, such as girls competitive cheer in 1993, which now ranks eighth in school sponsorship among MHSAA tournament sports for girls.

A second reason may be that gender identity lines have been blurring and males are becoming bolder about participating in sports that traditionally have been thought of as girls sports.

A third reason is that some people believe gender equity in high school sports has arrived and that it's time to remove all preferential treatment of females that might have been necessary to

overcome fewer opportunities and lower participation for girls in the past. Whether or not perfect equity exists, we are certain girls would lose ground if boys would be able to challenge for the roster spots and playing positions on high schools' competitive sports teams designated for girls alone.

The MHSAA has wrapped its defense of the girls-only tournament policy in the federal regulations to implement Title IX, regulations which the school-college community helped to shape during the years 1975 to 1978, when it lobbied strenuously, and successfully, that schools and colleges could continue to conduct separate athletic programs for males and females . . . that separate teams for each gender would serve both genders best . . . that the "separate-but-equal" approach which was appalling when applied to race and academics was in fact appropriate when addressing gender and competitive athletics.

At that time, the National Federation of State High School Associations provided proofs to the Department of Health, Education and Welfare, which was tasked with finalizing the Title IX regulations, that even the fastest female runners and swimmers would not place in the high school championships of its member associations' state track and swimming meets for males. The National Federation provided comparative statistics on average height, weight and strength of high school age male and female athletes, and the effect those factors have on girls' opportunities to earn roster spots and awards.

The conclusion was obvious: that except in athletic activities like diving and women's gymnastics, where balance and flexibility are emphasized over speed and strength, boys would dominate competitive single-gender athletic teams and would tend to relegate girls to junior varsity squads, or eliminate girls' opportunities entirely, if schools were not permitted to designate female-only competitive sports teams.

Without a policy prohibiting boys from displacing girls from positions on teams or from getting meaningful playing time if girls made those competitive teams, athletic opportunities for girls would have been and still would be in serious jeopardy, as many courts examining this issue have decided. The overwhelming majority of federal and state courts have concluded that the "no-boys-on-girls-teams" rules are lawful and necessary. These cases stand for the proposition that maintaining and promoting athletic opportunities for girls and redressing past discrimination against females in athletics are important and valid objectives. These courts hold that excluding boys from girls' sports teams – even if girls may participate on boys' teams – is substantially related to that important interest.

Case law provides two separate explanations, each of which, standing alone, establishes the legitimacy of the rule. First, having all-girl teams creates or maintains opportunities for females that would otherwise not exist, thereby providing females opportunity to develop programs equal to boys. Second, because there are recognized, innate physiological differences between the genders that give boys inherent advantages in most athletic events, to permit boys to participate on girls teams – irrespective of the sport – would displace girls from competition to a substantial extent, thereby diminishing female opportunity in athletics. For example:

- The Sixth Circuit of the United States Court of Appeals wrote in a Tennessee case in 1977: *"[it] takes little imagination to realize that were play and competition not separated by sex, the great bulk of females would quickly be eliminated from participation and denied any meaningful opportunity for athletic involvement."* (Note 2)
- The Ninth Circuit of the United States Court of Appeals wrote in an Arizona case in 1989: *"If males are permitted to displace females . . . even to the extent of one player . . . , the goal of equal participation by females in interscholastics is set back, not advanced."* (Note 3)

The MHSAA policy to protect and preserve girls-only teams applies specifically to its postseason tournaments. However, as a result, almost every member school has in almost every incidence adopted a similar approach to the regular season. Schools have found this easier to do in some sports than others. For example, in volleyball, the published rules of the sport stipulate that the height of the net is higher for coed than female-only competition. When a competition is scheduled and designated for "girls volleyball," and officials have been hired to work a "girls volleyball" match, the net height is 7-feet-4 1/8 and boys may not participate, even when the school does not also sponsor a coed or boys volleyball team (for which the net height is 7-feet-11 5/8). On the other hand, the rules of girls competitive cheer were written for girls only (not also for coed or boys competitive cheer), and the rules do not include rule variations for coed competition, which raises more questions.

For almost 40 years, MHSAA member schools have been successful against legal challenges when they have prohibited boys from playing on girls' teams. For example, in a 1979 case, an Ingham County Circuit Court vacated a restraining order that would have allowed a boy to participate on the Lansing Everett High School girls volleyball team. In a 2006 case, a Washtenaw County Circuit Court denied injunctive relief for a boy who sought to participate on Ann Arbor Pioneer's girls field hockey team.

Thirty years after the school-college community was at odds with the Women's Sports Foundation over the proposed regulations to implement Title IX, both sides found that using the final regulations would advance their agendas . . . and the most solid common ground has been the policy which permits girls to try out for boys' teams but does not allow boys on girls' teams. (Note 4)

Various divisions of the Office for Civil Rights of the United States Department of Education have issued letters upholding policies which bar boys from playing on girls' high school sports teams. (Note 5) Nevertheless, in 2015, OCR's Cleveland office directed a complaint to the MHSAA regarding the MHSAA policy which prohibits boys from participation on girls competitive cheer teams. The MHSAA replied in a timely fashion, objecting to OCR's jurisdiction in the matter and its overbroad requests for information. OCR did not respond until February 4, 2020, stating, *"There is insufficient evidence to conclude that MHSAA is in violation of the Title IX regulations as alleged."*

The Michigan Department of Civil Rights had already taken a look at the policy which bars boys from participating in MHSAA Girls Competitive Cheer tournaments. MDCR ultimately dismissed in November of 2013 a complaint which had been filed in March of 2012, brought by a parent who had made a point of telling MHSAA staff in her first contact with the MHSAA office in December of 2011 that her son was gay . . . as if that should be a basis for making an exception for this student.

In 2006, the American Civil Liberties Union took an unsuccessful run at the MHSAA for its girls-only policy for participation in the MHSAA Girls Competitive Cheer Tournament. The ACLU's legal director in Michigan threatened litigation – and received coverage on ABC's "Good Morning America" – if the MHSAA would not change its female-only tournament policy. Michigan's local media resoundingly supported the MHSAA's position, as did both the leadership and rank-and-file membership of the state's competitive cheer coaches. The ACLU and some 600 petitioners somehow thought the female-only tournament policy was something new in 2006, when in fact, the policy had a 30-year history in Michigan and had been a part of MHSAA girls competitive cheer since its inception in 1993. The MHSAA called the ACLU's bluff in 2006, made no changes in its policy then or later, and has heard nothing since from the ACLU. (See Letter 11.1, dated August 25, 2006, at the end of this chapter.)

When the Michigan High School Athletic Association established its girls competitive cheer program in the early 1990s, it was acknowledging that in many schools at that time, girls had fewer opportunities for interscholastic athletic participation than boys, and fewer opportunities for girls in the winter season than girls had during the fall or spring seasons. In establishing girls competitive cheer, the MHSAA was attempting to effectively accommodate the interests and abilities of the gender which is less represented in interscholastic athletics, especially during the winter season, and girls competitive cheer became the fastest-growing high school sport among MHSAA member schools over the next dozen years.

When the Commission on Opportunity in Athletics established by the US Secretary of Education issued its 2003 report, only one state high school association in the country was cited for positive efforts in that 60-page report. It was the Michigan High School Athletic Association, and it was for these efforts to create and conduct the sport of girls competitive cheer. (Note 6)

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Some may argue that in the Michigan High School Athletic Association's world – as in George Orwell's world – all student-athletes are equal, but female athletes are more equal than male athletes. In fact, MHSAA leadership has lived in the *real* world where it's been necessary to continue to promote policies that protect girls' opportunities in competitive athletics; and the MHSAA has been consistently successful in defending those policies. However, in another arena – where individuals have asserted religious rights – the MHSAA is still struggling for answers.

For much of its history, Michigan High School Athletic Association season-ending tournaments avoided Sundays. This scheduling was consistent with Michigan's culture and traditions and with the structure of life for the vast majority of citizens in Michigan. Sundays were for church and family, not for high school sports. So faithful to this faith-based scheduling was the MHSAA that, if a district or region or state-level tournament was postponed on Saturday, it was rescheduled on Monday, not Sunday. As the number of Christian schools increased in the MHSAA's membership, pressure built to also avoid scheduling in conflict with Wednesday evening worship services.

Nevertheless, MHSAA's leadership was alert to two forces that recommended reducing these accommodations for Christian schools, even though the voices of those Christian schools had been gaining strength in the MHSAA's membership.

One factor was the increasing scope of school sports. It might have been possible to avoid MHSAA tournament scheduling on Wednesday nights and all day Sunday when the interscholastic athletic program was just for boys, and only for a half-dozen sports. However, by the mid 1970s, the interscholastic athletic program had doubled in sports offerings for boys and it was being duplicated for girls; and scheduling conflicts with Christian observances were becoming unavoidable.

The second factor was the increasing religious diversity of Michigan. Not only was the population of regular churchgoers contracting, the number of persons with non-Christian religious beliefs and customs was expanding. Sabbath days of Michiganders who practiced their faith were not limited to Sundays, and religious holidays were being observed all across the calendar, and not just for the birth, death and resurrection of Jesus of Nazareth. Furthermore, the Catholic High School League of Detroit was scheduling some of its premier events – even its football “Prep Bowl” – on Sundays *because* it was a family-friendly day . . . a healthy faith-, family- and football-themed event.

Gradually, and without fanfare, the Michigan High School Athletic Association evolved two tournament scheduling policy adjustments which it believed were right and fair even if not warmly embraced by a portion of the MHSAA's Christian school constituents:

- By the 1990s, the MHSAA was no longer instructing its local tournament managers that they must try to avoid Wednesday evening when planning MHSAA tournaments.
- By early in the 2000s, the MHSAA was no longer mandating that the makeup date for most tournaments postponed on Saturday must be the following Monday, unless all teams agreed to play on Sunday. The policy was flipped, stating that the makeup date for Saturday postponements would be the following day (Sunday) unless the host objected or the designated facility was not available or if *all* the participating schools, including the host, agreed to wait until Monday to resume the tournament and both the facility and host school staffing were available that day.

The MHSAA had already tapped Sunday as a popular day for conducting meetings. Its East Lansing building was often busy on Sundays, frequently with MHSAA Coaches Advancement Program sessions and meetings of coaches and officials associations. It was most convenient for these constituents to convene on Sundays because that would keep them from having to be away from their jobs on a school day.

For the same reason, scheduling postponed tournaments on Sundays began to make more sense to more Michiganders. Doing so reduced conflicts with classroom instructional time for students and teacher-coaches.

There has always been an overwhelming consensus among the MHSAA's statewide constituency that MHSAA tournaments, as much as possible, should be weekday evening and weekend events. That hasn't changed. It's when most parents are not working and can be available to see and support their children's participation, and it's when students can both participate and attend as spectators without loss of classroom instructional time. As a result, from almost the earliest MHSAA tournaments, Saturday was the default day for scheduling MHSAA tournaments.

By the early 2000s, while allowing participating schools to decide for themselves if it should be Sunday or Monday, the MHSAA office staff had begun to advocate for using Sunday as the makeup day for Saturday postponements, noting that as an educational organization, the MHSAA's responsibility was to promote and protect the academic schedule of its member schools rather than the Sabbath schedule of any particular religion.

MHSAA tournaments occurring at the end of the spring season have so many school-related conflicts – including year-end exams and graduation ceremonies – that many managers of MHSAA spring sport district and regional tournaments will only accept the hosting assignment if they are allowed to establish the schedule themselves and stick to it, without the expectation that they accommodate the desires of every other school or the interference from MHSAA office staff. And it is in this environment that one school's rights have been asserted over other schools' needs.

Jewish Academy of Metropolitan Detroit (JAMD) – later known as Frankel Jewish Academy – first signaled its desire to become a member school of the Michigan High School Athletic Association when, on December 12, 2001, its governing board approved and its board secretary signed the 2001-02 MHSAA Membership Resolution. The form was received in the MHSAA office on January 4, 2002.

This form has been deemed by various courts of law to be a contract between each school and the MHSAA, requiring both the school and the MHSAA to live by its terms. The form submitted by JAMD was the same form that was required to be submitted by the governing board of every other high school for its initial year of MHSAA membership as well as for each and every school year thereafter that the school sought to remain a member of the organization.

The introduction to the MHSAA Membership Resolution stated (in part) as follows: *“The association sponsors statewide tournaments and makes eligibility rules with respect to participation in*

such Michigan High School Athletic Association sponsored tournaments in various sports. Each Board of Education/Governing Body that wishes to host or participate in such meets and tournaments must join the MHSAA and agree to enforce the MHSAA rules, regulations and qualifications concerning eligibility and tournament procedures."

The MHSAA Membership Resolution signed and submitted by all schools, including Jewish Academy, for the 2001-02 school year concluded: ". . . it is hereby agreed that schools which host or participate in the association's meets or tournaments shall follow and enforce all tournament policies and procedures." Those same words appeared in the Membership Resolution for 2002-03, JAMD's probationary year when it was not eligible to enter MHSAA tournaments, and in the Membership Resolution for 2003-04 when the school would have its first opportunities to participate in MHSAA tournaments.

During the MHSAA staff's onsite tour and interview with the school on April 17, 2002 – a procedural step required of each school when it seeks to join the MHSAA for the first time – the schedule of MHSAA tournaments was discussed and school administrators were made aware of the expectation that no school will enter a tournament that it knows it cannot complete. The 2001-02 MHSAA *Handbook*, which the school had adopted by virtue of the MHSAA Membership Resolution it had submitted, listed all MHSAA tournament dates in a "quick reference" format for the 2001-02 and 2002-03 school years as well as in a more comprehensive format for school years 2001-02 through 2007-08.

The administration of JAMD was aware that MHSAA tournaments on every level – District, Regional and Final – routinely concluded on Saturdays in every sport except alpine skiing (where commercial ski facilities required a weekday rather than busy weekend day for the MHSAA's event). JAMD's administration was also aware that a school does not remain an MHSAA member in good standing if it does not complete a tournament it begins. Attesting to this knowledge and promise during the school's first year of MHSAA tournament eligibility, the school's athletic director at the time, Bob Shoemaker, wrote the following in his February 4, 2004, letter to the MHSAA: ". . . *The Jewish Academy of Metropolitan Detroit will not compete in the Girls Volleyball District No. 107 held at Our Lady of the Lakes High School due to the tournament being held on the Jewish Sabbath (sundown Friday to sundown Saturday). We understood when we joined the association that if this situation occurred, we would respectfully decline the invitation.*"

All of that was ignored when the son of the school's baseball coach, who was also the incoming president of the JAMD executive committee, became a pitcher on the school's varsity baseball team which won a firstround district game on Tuesday, June 1, 2004. This earned the team the privilege of playing the following Saturday in the semifinals and finals of the MHSAA District Baseball Tournament at Southfield Christian High School – as always, on the first weekend of June 2004.

After unsuccessfully pleading with the schools to voluntarily make a change or for the MHSAA to mandate the change, Jewish Academy sought judicial intervention, naming in a lawsuit the three other member schools assigned to the tournament – Inkster High School, Novi Franklin Road

Christian High School and the host school, Southfield Christian High School, which, because of disruptions that would occur to Friday's academic schedule at that school, declined to reschedule the tournament so that it would end before sundown on Friday. The lawsuit also named the MHSAA, which declined to overrule the host school's refusal to conduct the tournament early in the day on Friday or move the games to the Monday rain date. Southfield Christian High School had the same staffing and facility issues on Monday as it would have had on Friday or any other school day, plus final exams were scheduled to begin on Monday at Southfield Christian High School; while Monday was the preparation day for final exams at Inkster High School.

Oakland County Circuit Court Judge Rae Lee Chabot granted an emergency, ex-parte restraining order at 4:05 p.m. on Friday, June 4, 2004, requiring that Southfield Christian postpone the games scheduled for the next day (Saturday, June 5) and conduct those games the following Monday, notwithstanding the express wishes of the three other participating schools. . . especially the host school, Southfield Christian High School, but also Inkster High School and Franklin Road Christian High School. The Judge cited no legal authority for her decision.

On that Monday, Jewish Academy defeated Inkster High School 17-2, but then lost 11-1 in the District Final to Southfield Christian, which earlier in the day had defeated Franklin Road Christian 8-1. While that ended the threat of continuing disruptions in the MHSAA's 2004 Division 4 baseball tournament, it did nothing to diminish hard feelings among the other three schools involved. Administrators and others at those schools were displeased not only with the hardships the imposed rescheduling had created for them, but they also were upset with misrepresentations to the court by the attorney for Jewish Academy who, they said, had "*taken some liberty with the facts*" during the judicial proceedings when describing the positions of the three other schools involved. MHSAA leaders sensed that this was just the start of a controversy which had the potential to continue for many years and expand to several other sports and anger many more schools.

Perhaps also sensing this, and knowing the MHSAA's track record to move legal matters to the Michigan Court of Appeals as quickly as possible, the circuit court retained jurisdiction over the case and refused to issue a final order which the MHSAA could take to the Michigan Court of Appeals. This forced the MHSAA to play a different card. The MHSAA declined to accept the school into MHSAA membership for the 2004-05 school year because of its demonstrated refusal to abide by the terms and conditions of the MHSAA Membership Resolution during 2003-04 and due to demands JAMD's lead lawyer was adding to the school's Membership Resolution for 2004-05, namely, that the MHSAA have alternative dates, and venues if necessary, for every MHSAA tournament which JAMD should choose to enter during the 2004-05 school year.

On September 21, 2004, another member of JAMD's legal team sent a letter to the MHSAA's counsel objecting specifically to the scheduling options for the upcoming Boys Regional Golf Tournament in October. MHSAA tournament policies permitted a range of dates – in this case, October 7 through 9 – which allowed the host school to work with golf course ownership and management to secure course availability. None of these dates worked for JAMD: October 7 and

8 conflicted with a Jewish holiday, and October 9 was the Jewish Sabbath. The MHSAA's response is letter 11.2, dated September 23, 2004, at the end of this chapter.

Jewish Academy returned to Judge Chabot, who issued an order on October 27, 2004, enjoining the MHSAA from terminating the membership of Jewish Academy. In fact, the MHSAA did not "terminate" the school's membership but declined to accept its renewal of membership for 2004-05 due to the school's demand to establish alternative dates for all rounds of all MHSAA tournaments to accommodate orthodox Jewish observances of the Sabbath and holy days. . . which was an impossible proposition because the MHSAA membership had already established tournament dates for the upcoming seasons and several school years beyond and, in many cases, had written contracts with competition facilities (e.g., arenas, natatoriums, golf courses and tennis centers).

However, this court order finally enabled the MHSAA to make an appeal to the Michigan Court of Appeals, with request for immediate consideration. With only days, or at most a few weeks' notice, the MHSAA was facing the prospect of having to change tournament dates for girls basketball, boys and girls cross country and girls swimming and diving, and the potential domino effect of having to change district, regional and even state final venues.

Nevertheless, the Michigan Court of Appeals did not see this as an emergency. On November 5, 2004, the MHSAA's application for leave to appeal was denied "*for failure to persuade the Court of the need for immediate appellate review.*" And having made that determination, the MHSAA's Motion for Stay of the Circuit Court's order was denied as moot.

Of course, in the MHSAA's world, the prospect of having to change dates and venues in sport after sport and season after season, or having litigation prior to most of the MHSAA tournaments which Jewish Academy would decide to enter, was inevitable, and proof that the matter *needed* immediate appellate review and was *not* moot. And while the MHSAA did attempt to work with Jewish Academy and balance the interests of other schools hosting or assigned to district and regional tournaments in which Jewish Academy was a participant, some of the school's demands were unreasonable to accommodate and ongoing litigation was unavoidable.

These worries were quickly and then repeatedly realized.

When, the following winter, schools would not accommodate JAMD's conflicts with district tournaments in both girls volleyball and boys basketball, JAMD returned once again to the Oakland County Circuit Court, which again responded with an order to reschedule district tournaments in those sports but again placed no rationale for doing so on the record. The court ordered that either Oakland Christian School must reschedule the District Girls Volleyball Tournament from Saturday to Friday – and conclude before 5:00 p.m. – or the MHSAA must designate another host school which would do so. The court also told Oakland Christian School to reschedule its District Boys Basketball Tournament Finals from Friday night to Thursday.

As the years have passed, the conflicts have become more frequent and they have reached beyond the district level to regionals and even MHSAA Finals; and the accommodations have become more extensive and expensive to facilitate. The affected sports – far more often for JAMD's boys teams than girls teams – most frequently have included basketball, bowling, golf, soccer and tennis.

- JAMD athletes have bowled and played golf at times and places where no other schools' athletes have been present in order to have scores to compare with teams that will compete at the regularly scheduled date and time for the District, Regional or MHSAA Final tournament in which JAMD was entered. (Because it is patently unfair to have individuals compete for the same prize under different conditions on different days, the MHSAA has not awarded any fewer trophies and medals to teams and individuals who have competed on the published day of the tournament. If, on their days of solitary performances, JAMD athletes would turn in scores that matched a medal-winning performance on the correct day, the JAMD athletes would receive additional awards, but that would not displace awards for any athletes who competed on the day agreed to by all other schools.)
- Tennis tournaments have been suspended for the matches involving JAMD students while matches continued into Friday night or Saturday for all the flights in all the divisions where JAMD students were not participants. Opponents have grumbled about having to make a return trip on another day. (The MHSAA has made special in-school award presentations to any athlete or team that could not receive MHSAA awards because they were contingent on results of the delayed matches involving JAMD students.)
- Onsite tournament managers have complained about extra time and expenses for hosting tournaments to which JAMD is assigned. (The MHSAA office has borne most of the additional hard costs but is unable to compensate for the human costs, especially borne by parents and other spectators who miss employment to watch their children on weekdays or make return trips to venues where competition could not be completed before the start of the Jewish Sabbath or religious holiday.)
- The continuing interventions into MHSAA tournaments have cooled the interest of member schools in JAMD's locale to being hosts for MHSAA District tournaments if JAMD might be assigned to that District. It has caused other Class D or Division 4 schools in that area to request that they be assigned to districts where JAMD would not be assigned so they will have a schedule that is more dependable and compliant with their academic schedule than JAMD's religious observances. (The MHSAA did not honor any of those requests during my tenure.)

While JAMD leaders have been coy about what they might expect if the school's boys basketball team qualifies to play before a big advance-ticket-sale crowd on Saturday morning during the MHSAA Finals at Michigan State University's Breslin Center, with live television and a statewide radio network, they have kept pushing the envelope as to what they believe is reasonable and fair at other levels of MHSAA tournaments and for other sports . . . which makes everyone nervous.

JAMD's key legal argument has been that its students would suffer "irreparable harm" by being forced to miss MHSAA tournaments to practice their religious observance. However, the school regularly undercut this argument by failing to enter teams in many MHSAA tournaments and "opting out" of others for failure to have a complete or competitive team. These inconsistencies bothered on-the-ground athletic administrators but were given little or no judicial notice during the half-dozen years of litigation. These were not the only inconsistencies that irked people.

- At the same time that JAMD was pursuing MHSAA membership in the fall of 2004 and, in this regard, making demands that the MHSAA change dates and, if necessary, even sites of any tournaments which might conflict with the Jewish Sabbath and holidays, JAMD was making application for membership in the Catholic High School League of Detroit. But JAMD did not make the same rescheduling demands for Catholic League events that it made for MHSAA tournaments. In fact, a JAMD student participated in a Catholic High School League girls swimming meet on a cooperative team jointly sponsored by JAMD and Royal Oak Shrine High School . . . on the Sabbath – Saturday, November 13, 2004.
- It didn't help to observe that some of the very same athletes whose rights JAMD told the court it was protecting -- who the school said could not participate in MHSAA tournaments on their Sabbath -- were participating in other recreational and sporting events on those days. In fact, the Jewish Community Center near JAMD was full of activity on Saturdays; and on Saturday, November 6, 2004, a sign in the Jewish Community Center, located at 6800 West Maple Road in Bloomfield, listed athletic activities scheduled for the previous Friday night after sundown and all day Saturday. JAMD was located at 6600 West Maple Road.

It appeared that JAMD's leadership and/or lawyers were singling out the MHSAA to provide accommodations that were not important to their own constituents and were not being requested by the school of other entities.

Ultimately, the MHSAA was unsuccessful before Michigan courts in this case. It's one of just two losses out of 80 cases in state and federal courts involving the MHSAA between August of 1986 and September of 2018. While the unsuccessful defense in the seasons case (see Chapter 10) might be blamed on under-staffing the MHSAA's legal defense team, in this case, the error may have been in over-reaching with the MHSAA's legal position.

MHSAA lawyers argued from the earliest hearings and briefs in this case that the court did not have subject matter jurisdiction over this dispute – that the matters involved should be decided by the voluntary member schools of the private association, not courts. While the MHSAA had not lost a case (the seasons case was on appeal at that time) and had consistently utilized this argument of subject matter jurisdiction, the MHSAA's legal counsel had not pressed as hard or appealed as high with this argument as the central tactic. The MHSAA's new co-counsel in the case, who was just being introduced to the MHSAA's work, suggested that the MHSAA soften this argument and supplement it with additional arguments, while the MHSAA's veteran counsel,

whose record of success was unblemished, thought this was the case to go for the definitive victory on this legal principle.

The MHSAA's executive director had to choose between these differing approaches to the MHSAA's appeal, and I chose wrong. I went with the undefeated veteran lawyer. But it turned out that Michigan courts did not want to hear that a case like this was outside their jurisdiction, with the implication that it was none of their business.

On February 6, 2008, the Oakland County Circuit Court finally issued a 32-page opinion – most of which regurgitated the testimony of witnesses, much of which was factually inaccurate and little of which addressed the defendants' points of law. The same judge who had ruled against the MHSAA every step of the way ruled against the MHSAA here, stating that MHSAA scheduling practices with respect to the Sabbath and holy days observed by Jewish Academy violated state and federal anti-discrimination laws. The Judge wrote that the MHSAA was “*penalizing*” JAMD students for their religious beliefs.

Believing that the circuit court missed entirely the points of law raised by defendants, the MHSAA appealed. But on June 16, 2009, the Michigan Court of Appeals affirmed the lower court; and it did so without addressing the substantive issues. Twice in 2010, the Michigan Supreme Court denied the MHSAA's application to appeal.

Plaintiff's counsel admitted to the MHSAA's new counsel after the litigation ended that he hadn't anticipated prevailing and that the MHSAA's uncompromising legal arguments were “*a gift*.” Unfortunately, it's a gift that keeps on giving headaches to MHSAA staff and hardships for tournament managers and many other constituents of many other MHSAA member schools.

In hindsight, MHSAA leadership may have been hindered by its belief that what is fair and just would ultimately prevail. We had seen many students of Jewish and other faiths who attended either public or nonpublic schools who would follow their faith and voluntarily withdraw from regular season or MHSAA tournament events when scheduling conflicts arose. We could not imagine that our state's judicial system would demand that the MHSAA make exceptions and accommodations for students of one faith at the expense of students of other faiths, or show more deference to one faith's Sabbath day than another faith's observance, or determine that one group of students' Sabbath was more important than other students' test schedules or graduation ceremonies.

This reminded us for a second time in just a few short years that courts can sometimes be more bound to personal agenda or prejudice than to common sense; and it seemed to make the MHSAA less confident about the outcome of most legal skirmishes that followed. And, an association that is afraid to fight is not an organization that hard-working, rule-abiding member schools need and deserve.

NOTES:

- 1: Michigan Compiled Laws, Chapter 380. School Code of 1976, Section 380.1289.
- 2: Cape v. Tennessee Secondary School Athletic Association, 563 F.2d 793 (1977).
- 3: Clark v. Arizona Interscholastic Association, 695 F.2d 1126 (1982).
- 4: "Co-ed Participation – Issues Related to Girls and Boys Competing With and Against Each Other in Sports and Physical Activity Settings: The Foundation Position," Women's Sports Foundation, 2008.
- 5: For example, on May 14, 2007, the Southern Division issued a letter confirming that the policy of the University Interscholastic League of Texas which prohibited boys on girls high school competitive sports teams was Title IX compliant.
- 6: "Open To All – Title IX at Thirty," Commission on Opportunities in Athletics, February 23, 2003.

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August 25, 2006

Mr. Michael J. Steinberg, Legal Director
American Civil Liberties Union of Michigan
60 W. Hancock
Detroit, MI 48201

By Fax & Mail: 313-578-8811

Dear Mr. Steinberg:

Mr. Sikorski has suggested I provide you the following information.

1. It had been our intention to take to the MHSAA Executive Committee on Aug. 14, 2006 the suggestion that the MHSAA survey its member schools if a fall to determine the level of support for a coed division in the MHSAA Competitive Cheer Tournament and/or for allowing males to participate in what previously has been a tournament limited to female student-athletes. However, shortly before Aug. 14 we sensed a lack of commitment that the Plymouth-Canton Community Schools would be able to live by the results of the survey, and your letter of Aug. 10 created the impression that your organization might not be bound by the results as well. Therefore, the letter on which we thought Dr. Ryan and I had agreement to send to you, outlining plans for the Aug. 14 Executive Committee meeting was put on hold, and while the Executive Committee discussed some of the issues on Aug. 14, no action was taken. Enclosed are pertinent portions of the Executive Committee meeting minutes.

We have not determined there will not be a survey. As we advised Dr. Ryan on Aug. 16 the matter could be scheduling for the next meeting of the Executive Committee on Sept. 7, or subsequently, if we believe there is a mutual commitment to the survey results. To require that the MHSAA act unilaterally and in the midst of the ongoing issues (as evident in your Aug. 10 letter) is not a reasonable approach to bilateral resolution.

2. A school may not designate a team as a "club" and thereby be exempt from rules. If a school sponsors its students in competition against teams consisting of participants who are not enrolled in that school, the result is an interscholastic team, not an intramural team or club program.

MHSAA Handbook Interpretation 155 states the following: "Schools cannot conduct, support, or recognize club teams in any sport under MHSAA jurisdiction other than those that compete strictly on an intramural basis. A team shall not be defined as a club team simply because it is funded with other than school finances. Informal descriptions of school teams such as club, non-varsity, etc. do not change the school's responsibility to follow the regulations for interscholastic athletics for sports in which the MHSAA sponsors a postseason tournament as agreed to in the school's annual Membership Resolution."

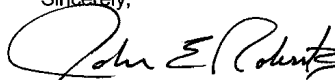
- 2 -

MHSAA rules apply to member schools' involvement in MHSAA tournament sports and those activities so closely related that the MHSAA membership considers them the same activities that, if they were left unregulated, could lead to competitive inequities. For example, schools cannot sponsor interscholastic 3-on-3 basketball or indoor soccer teams which exceed day, week or season competition maximums or travel limitations, nor can they sponsor coed volleyball teams or coed cheerleading teams in interscholastic competition. The stunts and skills of coed cheerleading are similar enough to be considered the same as MHSAA competitive cheer, regardless of the presence of males, music or props and the number or length of routines; and Page 58 of the 2006-07 *MHSAA Handbook* states: "All school-sponsored cheerleading competition must be in the MHSAA format."

On the other hand, it is not required that member schools apply MHSAA rules to sports for which the MHSAA does not sponsor a tournament in anything similar. Common examples are field hockey, water polo and equestrian. This was the case with boys and girls lacrosse until two years ago.

It is evident that there continues to be a lack of understanding of MHSAA policies and procedures which have been established by schools and adopted by those school districts which choose to be members of this association. I am agreeable to meeting if it could be beneficial. I worked very hard to obtain understandings and agreements with Plymouth-Canton administration; but the district's last-minute questions and equivocations, and your letter, which appeared to raise additional issues, required that the Executive Committee delay action. I have twice since Aug. 14 initiated communication with Dr. Ryan to see if any progress has been made to obtain sufficient support from his constituents, and I am doing so again today. I continue to hope he can succeed.

Sincerely,



JOHN E. ROBERTS
Executive Director

JER/ky

Enclosure

cc: Ed Sikorski



Michigan High School Athletic Association
1000 Woodward Drive, East Lansing, Michigan 48824-1500

1000 Woodward Drive, East Lansing, Michigan 48824-1500

Senior by 73, 2004

Rabbi Lee Blockman, Principal
Jewish Academy of Metropolitan Detroit
8100 St. Maple
West Bloomfield, MI 48322

Dear Coach Huckman:

I had hoped to speak with you directly about these matters, but it turns out that only my attorney will communicate with the office.

The Michigan High School Athletic Association is a voluntary association of schools. Nothing mandates that a school join the MHSAA, many don't. Nothing requires that member schools enter MHSAA tournaments, many don't. But member schools are required by their MHSAA Membership Agreements to adhere to the requirements of tournaments should they choose to enter these tournaments.

The governing board of Jewish Academy of Metropolitan Detroit has twice accepted these terms of membership (for the 2002-03 and 2003-04 school years). As recently as last February, the school's athletes directly participated in the understanding and acceptance by Jewish Academy of MHSAA tournament schedules and policies, confirming that the school would not enter MHSAA tournaments if it might not be able to complete. Subsequently, the school broke its contract with the MHSAA and its assurances to abide by tournament schedules or elect not to enter these tournaments.

The letter of Sept. 21, 2004 from attorney Samuel S. Herrman to MHSAA general counsel Fithian, likewise, continues to place conditions on the MHSAA-05 MHSAA Membership Resolution of your school. Therefore, the school cannot at this time be a member of the MHSAA for 2004-05.

Of course, your school may still conduct a program of intercollegiate athletics, and the opponents may include MHSAA member schools. The MHSAA is not asking the school to choose between MHSAA membership and termination of its religious beliefs; rather, the MHSAA is asking the school to reconfirm its promise that it will not enter tournaments if a conflict arises because dates conflict with its religious beliefs, thereby disadvantaging defeated opponents who cannot advance.

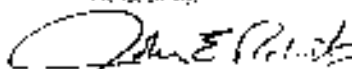
The Sept. 21 letter from Mr. Herrman, like the June 30 letter from Mr. Cohen, offers suggestions that are not fair or reasonable. For example:

- Most Regional golf competitions will be Oct. 7 (rain day Oct. 8) and Oct. 8 (rain day Oct. 9). Mr. Herrman proposes that the golfers of your school qualify on different days and under different conditions (e.g., temperature, wind, humidity, etc.) than all other student athletes are qualified to their Regionals, which does not foster equity in competition. And this proposal does not solve the problem of the next round of competition.
- Mr. Cohen proposes that the MHSAA arrange back-up dates for the MHSAA Events for all sports sponsored by your school. The MHSAA cannot reserve back-up dates without paying huge sums of money for these dates to be held even if not used, and facilities like the Pontiac Silverdome, The Palace of Auburn Hills, Compuware Arena, Wayne University Arena, MSU's Breslin Student Events Center would not be available to us all if it were required to be held vacant for our private use the following week. There are too many other high paying events wanting to use the space (e.g., concerts and/or games) and too many entities with more authority than the MHSAA controlling access (e.g., the NBA, NFL, NHL, Big Ten, MAC, and the professional leagues and universities themselves).

- 2 -

And even if these facilities were available and affordable, when they are used only once, moving tournament games to other dates would disrupt schools and academic schedules, coaches and athletes' fans, families, friends, newspapers, radio and television personnel, general spectators, officials, tournament workers. A suitable schedule is required for this large and diverse constituency.

Respectfully,



JOHN L. ROBERTS
Executive Director

JLR:ky

Chapter 12. Next-Level Nonsense

**“Well, if I had one wish for you in this godforsaken world, kids,
It’d be that your mistakes will be your own . . .”**

Singer/Songwriter Bruce Springsteen, *“Long Time Comin”*

During my career in athletic administration, for every invitation I accepted, I declined dozens more opportunities to attend college and professional sporting events. Friends, acquaintances and colleagues assumed I would enjoy attending college and professional sporting events. After all, I worked in sports, so I must love sports, right? And admire the famous people? And be excited to see the celebrated teams, venues and events?

Not really.

One reason I declined most invitations was that I did not wish to be obligated to people whose arenas might later be bidding to host Michigan High School Athletic Association tournaments or whose business interests might someday conflict with the MHSAA’s best interests. But an even more compelling reason to decline such invitations was in play.

Because I worked in *school* sports every day, I came to dislike attending major college and professional sporting events. It wasn’t just that I was getting too much of sports and needed some diversions. It had more to do with my coming to view the so-called “next levels” of sports as adversaries of school sports, because the values and operating principles of those levels were so often and so dramatically at odds with the essentials of educational athletics.

To look up at a scoreboard at Ford Field in Detroit – a single scoreboard which cost more than the entire annual sports budget for the Detroit Public Schools – angered me. To see luxurious suites surrounding the University of Michigan’s “Big House” or Michigan State University’s Spartan Stadium, when the surrounding public school districts were unable to fund middle school sports, infuriated me. To read of multi-million-dollar annual salaries for professional players and college coaches, when most school districts could not afford certified athletic trainers, drove me nuts. So, I tended to stay away.

To finance these excesses, college and professional sports fill almost every time slot of every day with commercial telecasts. No longer is Friday night reserved for high school football in the fall. No longer are Tuesday and Friday nights reserved for high school basketball, and Wednesday night for church services. College and professional football and basketball programs have saturated television schedules with broadcasts dominated by commercials for beer, the product most closely associated with college academic failures and dropouts, as well as physical assaults. It’s unjustifiable.

Over the years, I also came to realize a disturbing pattern, which is that a disproportionate number of college sports stars whom citizens were celebrating had been a pain in the neck during

their high school playing days. Or, more often, their parents had been problems. What I knew about these players or parents made it difficult for me to be their fan or to support their “next-level” dreams.

This one example below, unique in some features, represents dozens of others.

I.

After leading East Grand Rapids High School to the Michigan High School Athletic Association Division 3 Football Championship in 2002 and 2003 and setting a half-dozen MHSAA records, Kevin Grady, Jr. went on to have a solid if not spectacular football career at the University of Michigan, completing his eligibility during the 2009 season . . . a career he started early by graduating from high school after the first semester of his senior year and enrolling immediately at the University of Michigan. While this is common now, it was groundbreaking for Michigan in 2005.

To be sure, this was a precocious athlete . . . until he wasn't.

In 2008, Grady was detained for intoxicated driving. He avoided jail time, until he violated the terms of his probation in 2009. In November of 2010, he was stopped again and jailed on a drunk driving charge.

For the Grady family, this was just its first legal difficulty, which seems to run in the family.

Kevin's younger brother Kelvin was talented enough to play two sports at the major college level, initially playing point guard on the University of Michigan's basketball team and then switching to the Wolverines' football team. In both sports at the intercollegiate level, he performed admirably, if not with “All-American” statistics.

In 2013, the Kent County Circuit Court seized Kelvin Grady's 2011 Gator Bowl ring to help pay a settlement to a Grand Rapids area realty company resulting from a dispute over closing costs on a property sale. The ring brought a robust \$860, but a far cry from the \$45,000 settlement the Grady family had been court-ordered to pay.

Since 2017, Kelvin Grady has been defending himself against both misdemeanor and felony drug charges related to marijuana possession and the operation of a “drug house” in Grand Rapids.

Clearly, the interscholastic athletic program did not prepare these talented youths to be responsible men. But the program may have found it impossible to overcome the sins of their father.

It's said, “*The apple doesn't fall far from the tree,*” and the Grady family tree tends to prove the aphorism. In June of 2012, Kevin and Kelvin's father – Kevin Grady, Sr. – was ordered to pay more

than \$3 million and sentenced to 14 years in federal prison related to a multi-million-dollar mortgage scheme.

The MHSAA knew years earlier that the elder Grady was trouble. In 2005, the MHSAA concluded a lengthy inquiry into allegations that Kevin Grady, Sr. was using rental properties he owned or controlled in the East Grand Rapids High School attendance area as a means of relocating from other districts into the East Grand Rapids School District several promising basketball players he knew through his Amateur Athletic Union basketball coaching. Students of the Grand Rapids Public Schools were prime targets, and that district's administrators tried to address these issues with the administration of East Grand Rapids High School before seeking the MHSAA's assistance.

The MHSAA determined that, as the father of a student-athlete at East Grand Rapids who was frequently on the grounds of East Grand Rapids High School, Mr. Grady was at least indirectly associated with that school and therefore was subject to MHSAA rules which prohibit undue influence, including arranging for two families with transferring students to live in a rental home he owned in the East Grand Rapids attendance area.

As a result of Mr. Grady's actions, East Grand Rapids High School was placed on probation with the condition that its teams would be barred from MHSAA tournaments during the 2005-06 school year if it failed to take several remedial actions, including additional procedures for processing transfer students, and severe restrictions on Mr. Grady's access to East Grand Rapids High School events and facilities.

East Grand Rapids takes MHSAA tournaments seriously, having won more statewide or Lower Peninsula MHSAA championships than any other MHSAA member school – 128 and counting, in 16 different sports. Not surprisingly, and with our appreciation, East Grand Rapids administration was swift to accept the MHSAA's decisions in this matter; and the letter that concludes this chapter is the MHSAA's response to the school district's action plan for the probationary year. (See Letter 12.1, dated April 26, 2005.)

//

It is difficult to believe that the leaders of modern-day intercollegiate athletics can deny with a straight face that the highest levels of intercollegiate men's basketball and football have offered free college educations to an inordinate number of individuals whose character did not deserve that largesse, but whose potential to improve the short-term athletic reputation of an institution was of greater value to that institution than the potential for that questionable admission to improve the long-term human condition of our state, nation or world. It's actually a bigger story today to see a hyped male athlete do *well* in later life than to see him trip, stumble and fall prey to excessive use of alcohol and drugs, have abusive interpersonal relationships or suffer financial ruin.

Among the worst things school sports leaders can do is focus on **college** sports. To think of high school sports as preparation for or prelude to college sports participation is to diminish the value of the experience for the 98 percent of high school student-athletes who will never play one day of college sports. Moreover, most who will play college sports will do so for just one year, and they will do so without any financial aid based on athletics. College sports participation is a fantasy for most high school student-athletes, and banking on a college athletic scholarship is a bad investment. (Note 1)

Those who see high school sports as a step to the next level of sports create an inordinate share of problems for high school sports, which is a program intended for the 98 percent of high school student-athletes who will never again play highly-organized and competitive sports after their high school graduation. It's the other 2 percent of student-athletes, or their parents, who create 98 percent of the problems in school sports.

School sports are not about preparing students for college athletics, but helping students succeed in high school academics today and then college life or the working world.

Also, among the worst things school sports leaders can do is fawn over the **stars**. The high school athletic program is for *sub-varsity* players as much as varsity, for *reserves* as much as for starters, for *non-spectator* and *non-revenue-producing* sports as well as for crowd-pleasing and cash-cow programs.

Our heroes are not the "big men on campus" who almost inevitably implode from excessive entitlement . . . from an inflated or false sense of their own importance which is the result of too much coddling and praise. Our real heroes are the boys and girls who attend every practice, follow every rule and cheer for every teammate. The genuine heroes are those who might be starters in one school sport but substitutes in others and who play a third school sport just for the fun of it and to be with friends.

Everything else is just noise. It's nonsense.

During my 32-year tenure as its executive director, and in spite of our organization's planned and persistent efforts to communicate common sense, the MHSAA's voice was often hard to hear above the "next-level" noise; and when the voice of reason was heard, it was routinely misunderstood or maligned as promoting mediocrity. The unhyped, statistically accurate common sense of low-profile educators got lost in the fantasies promulgated by self-promoting club coaches, agents, recruiters, runners and bloggers.

What is also lost in all of this is how *low* the expectations have become for adolescent and teen males. While girls assume the majority of leadership opportunities in our nation's schools, too many boys settle for sports alone. Parents seem satisfied if their sons focus on sports alone. Relieved that that their sons aren't abusing alcohol or experimenting with more exotic drugs, parents often fail to urge their sons to experiment with speech, debate, drama, vocal or instrumental

music, student government, yearbook or school newspaper, or immerse themselves in some other school, church or community activity.

For more than three decades, I attended senior awards nights for high schools as well as scholar-athlete events for high school leagues and conferences where I have been the speaker. As the awards were being handed out, I kept a tally. Unless the awards program required an equal number of males and females to be honored, the number of girls who were recipients of the honors outnumbered boys at least two to one – every time – and frequently, the female dominance was even more lopsided.

These results really shouldn't be surprising. For longer than these three decades, there have been local, state, national and international groups advocating for girls and, correctly, campaigning for girls to seize all of life's opportunities. Meanwhile, the voices on behalf of boys have been intimidated and subdued, rarely stimulating boys to take on new challenges; more routinely saying lamely, *"Just play sports and stay out of trouble."*

This is not a minor matter. It extends far beyond athletic awards banquets. Hundreds of sources (including the publications referenced in the notes to end this chapter) document that boys are far more likely than girls to have discipline problems at school and drug problems in life. They're far more likely to drop out of high school. Those who do reach the 12th grade will have average scores on standardized tests for reading and writing that are double digits lower than the average score for girls. The percentage of male college undergraduate studies declined by a quarter between 1970 and 2000, and it has continued to drop during the succeeding two decades.

The American Psychological Association (APA) has issued guidelines for treating what that association terms *"male pathology."* Behind the guidelines are findings and conclusions suggesting that males are inherently reckless and violent and much more likely than females to drop out of high school, land in prison or die at an early age, in part because males are entrapped in *"traditional masculinity,"* which is a model of manhood characterized by *"emotional stoicism, homophobia, not showing vulnerability, self-reliance and competitiveness."* (Note 2)

It's a "tough-guy ideal" according to *New York Times* columnist Ross Douthat in a January 2019 article entitled "In Search of Non-Toxic Manhood." Citing the APA report, Mr. Douthat wrote that this manhood model encourages *"aggression and violence as a means to resolve interpersonal conflict."*

In *"The Rise of Women: The Growing Gender Gap in Education and What it Means for American Schools,"* professors Thomas DiPrete of Columbia University and Claudia Buchmann of Ohio State University report that girls are not necessarily smarter than boys, but boys are more inclined to settle for a "C" when a grade of "A" would have been possible. Male attitudes about masculinity – the "guy culture" – and males' higher (but increasingly less realistic) expectations about their prospects in the future job market may contribute to this complacency, this "settling" by male students. The authors focus on four-year college completion as the measure of male and female achievement and they cite broadly-defined "environmental factors," not innate differences in

boys and girls, as the reason that females are adjusting and achieving more successfully than males. (Note 3)

What I wonder is, how much of this sinister “settling” syndrome has little to do with nature and is nothing more complicated than the result of low expectations for boys by their parents, coaches and administrators . . . relieved that their boys chose sports rather than drugs, and reveling in the glory when their boys brought them championships and scholarships rather than headaches and heartbreaks. I wonder if more thoughtfully designed and intentionally delivered interscholastic athletic programs could be part of a comprehensive solution that would expose what may be an unintentional but still insidious conspiracy which tends to lure males toward complacency and capture them in mediocrity.

But there certainly is more going on here.

Numerous studies have been released and books have been published which argue that schools are actually biased against boys – that every year, rambunctious boys show up at elementary schools which are designed to tame the spirited child, reward quiet conformity, and benefit most those whose verbal skills develop earliest (girls). Those are among the messages of Christina Hoff Sommers’ *“The War Against Boys”* and of one chapter of Hanna Rosin’s *“The End of Men: And the Rise of Women.”* In *“boys adrift,”* author Leonard Sax describes five factors behind “an epidemic” of underachieving boys and young men, and he suggests changes that are needed in schools which are hostile to the nature of boys. (Note 4)

In response to the dismal and declining performance by males in schools, experiments in all-male schools or classrooms have been launched (and attacked) in hundreds of schools across the country, including in Chicago, New York City and Washington, D.C., and in a diverse display of school districts in Michigan (e.g., Birmingham, Dearborn Heights, Fennville, Lansing, Pellston, St. Clair Shores and Waterford). In many cases, experiments in single-sex classrooms or schools have faced criticism from a wide array of groups (including the APA), as well as threats of litigation from the American Civil Liberties Union, the National Organization for Women and others. It is not clear if this strategy of separating genders for academic pursuits can avoid unintended negative consequences and be an entirely positive part of a comprehensive long-term solution for elevating low expectations and under-achievement in some segments of the male population from preschool through high school. Additional or alternative strategies are needed.

“The Boy Crisis” by Warren Farrell and John Gray not only makes a comprehensive and nuanced examination of the many challenges facing boys today, the 2019 book also provides multiple examples of ways that parents, educators and others might help boys navigate the modern world. Sports weave in and out of their text. Among the heart-stopping statistics cited by the authors are that 93 percent of America’s prison population is male and that high school aged boys are four times more likely to commit suicide than high school aged girls. These and other startling statistics justify the use of the word “crisis” in the title; it is not mere sensationalism. (Note 5)

In light of such dramatic data (and it goes on and on), only the most narrow-minded and strident advocate for girls would take issue with simultaneous efforts to address these glaring deficiencies in the readiness of boys for school and society, even if those efforts are designed for and delivered to boys alone.

It is not a coincidence that the great majority of eligibility and conduct cases which require the MHSAA's attention and discipline involve males. That's where the major problems have been and are – manifestations of low expectations for boys in anything other than athletics, in over-emphasizing the importance of sports for boys, and in over-indulging boys and too readily excusing the misbehaviors of boys with athletic ability.

It doesn't help that television advertisements frequently treat males as Neanderthals or idiots. An unflattering caricature of any other segment of the population elicits a gasp and firing; toward males, you get a laugh and a pass.

A constant refrain of the literature is the importance of male mentoring programs. For example, "Coaching Boys Into Men" is a highly polished but loosely organized 50-state and even international mentoring initiative which focuses on male athletes. (Note 6) There are many other smaller scale mentoring programs operating under the radar of national reporting; and I suspect the most effective programs are the most local.

"Take Your Daughter to Work Days" are needed, but sons need this love as much as daughters. "Dads with Daughters" commercials and Facebook groups are fine, but sons need this attention as much as daughters.

In any event, our government – as well as groups which have advocated special efforts on behalf of girls – must become more tolerant of initiatives designed especially or even exclusively to help meet the needs of adolescent and teen boys. It should not be considered politically incorrect to advocate for boys; and efforts to establish promotions, programs, curriculum, classrooms and entire schools to improve opportunities for boys when and where they are underrepresented in enrollment and achievement statistics should not be attacked as discriminatory. In fact, the United States Constitution and Title IX of the 1972 Education Amendments demand that these things happen.

But regardless of what others do or say or think, the core values of educational athletics require that the interscholastic athletic program contribute to assuring that participants – both girls and boys – are not only invited to participate in competitive sports, but also are able to do so in a safe and healthy way. During the past three-plus decades, the MHSAA was keenly focused on the physical wellbeing of student-athletes: for example, improving the collection and communication of athletes' health histories, reducing and responding better to head injuries, identifying and treating sudden cardiac arrest more quickly, and eliminating heat illness and death altogether. Removing unhealthy weight-loss practices in wrestling and imposing stricter limits on baseball pitchers are two examples of many sport-specific initiatives addressing the physical risks of school sports participation.

The challenge going forward is to do no less in addressing such important issues of student-athletes' *physical* wellbeing while learning how school sports might do more to bring sharper focus on student-athletes' *emotional* health. School sports leaders must become more aware of how competitive sports programs may, on the one hand, *endanger* student-athletes' emotional health and might, on the other hand, be utilized more effectively to *improve* emotional health. School sports may be both part of the problem and part of the solution of emotional health. And, being part of the solution may require that the leaders of educational athletics do some things differently for boys than they do for girls.

The MHSAA launched a statewide Women in Sports Leadership Conference in 1990 that continues on an every-other-year schedule today. It's the oldest and largest event of its kind in America, intending to equip girls and women to pursue careers in coaching, athletic administration, officiating, athletic training, sports medicine and sports media. Sportsmanship summits and captains' clinics have been conducted for two dozen years for both boys and girls. *Specialized* programming targeting the unique needs of *male* student-athletes is overdue. Simply listening to boys is overdue. (Note 7)

Above all, coaches' education is key – not instruction in X's and O's, but deep, interactive, practical education about what makes boys and girls tick; what motivates them, what *differentiates* them, what's the most effective way to correct them. Much about philosophy and pedagogy, and nothing about the "next level."

The MHSAA's one-of-a-kind, face-to-face, multi-level "Coaches Advancement Program" – once designed for schools' non-faculty coaches, one of the first two levels of which is now required of all first-time head coaches at MHSAA member schools – is exactly the kind of training all coaches need . . . every coach, every year . . . to help assure that the interscholastic athletic program contributes in all ways to the health and welfare of both female and male student-athletes.

I have always believed that the number one thing that thoughtful parents want when they sign up their child for school sports is not that their child makes the first team, plays all the time, scores the most points and wins every game. What these competent, caring parents really want most of all is that their child is kept safe in school sports' care. Increasingly, this means that administrators and coaches must promote not just physical health, but also student-athletes' *emotional* wellbeing, and also that administrators and coaches understand how different approaches to working with boys and girls are not only appropriate but necessary.

If the interscholastic athletic program really does this – if it nurtures physical health and emotional maturity and teaches respect and responsibility in *both* genders – then it achieves its greater goal of contributing positively to the environment of our schools and the fabric of our society. For many years, school sports did not do a good job of meeting the needs of girls. Today, in different ways, the program is inadequately meeting the needs of boys.

NOTES:

- 1: National Collegiate Athletic Association. See ncaa.org and ncaa.com.
- 2: American Psychological Association. See apa.org.
- 3: *The Rise of Women: The Growing Gender Gap in Education and What it Means for American Schools*, by Thomas A. DiPrete and Claudia Buchmann. Russell Sage Foundation (2013).
- 4: *The War Against Boys: How Misguided Policies are Harming Our Young Men*, by Christina Hoff Sommers. Simon and Schuster (2000, 2013, 2015).

The End of Men: And the Rise of Women, by Hanna Rosin. Riverhead Books (2012, 2013).

Boys Adrift: The Five Factors Driving the Growing Epidemic of Unmotivated Boys and Underachieving Young Men, by Leonard Sax, MD, Ph.D. Basic Books (2007, 2009).
- 5: *Why Our Boys Are Struggling and What We Can Do About It*, by Warren Farrell, Ph.D and John Gray, Ph.D. Ben Bella Books (2019).
- 6: See coachescorner.org. “Coaching Boys into Men” is a registered trademark of “Futures Without Violence.”
- 7: See, for example:

Real Boys: Rescuing Our Sons from the Myths of Boyhood, by William Pollack. Henry Holt and Company (1998).

Real Boys’ Voices, by William Pollack with Todd Shuster. Random House (2000).

April 26, 2005

Dr. James Morse, Superintendent
East Grand Rapids Public Schools
2915 Hall St., SE
Grand Rapids, MI 49506-3111

Dear Jim,

Our response to your letter of April 20, 2005, has been delayed while we compared the revised protocol for processing transfer students with the former protocol, examined the letter of April 20 to Mr. Grady, and observed the public response of the school district.

The third and fourth paragraphs of your letter state the opinion that the protocol cannot legally restrict enrollment for students who meet the legal requirements for attendance. That is not our concern; but what is of concern is that your school district provide advance notification to the athletic department of the previous school of the incoming student and at least temporarily withhold the privilege of participation for that student if any issues of recruitment are raised by the contact.

Otherwise, we find the revisions in the protocol to have made the document significantly stronger for dealing with potential recruitment and undue influence. Thank you for making those changes.

The letter to Mr. Grady is satisfactory, except in its representation that most of the allegations relate to situations of which the district had little or no knowledge. We did not find that to be the case in our conversations with East Grand Rapids School District personnel.

As for public comments, we urge you to remove from your public defense of the district that the school district doesn't need to recruit; it has won 98 MHSAA championships. That is not at all helpful, in fact it is inflammatory in the minds of many who wish the MHSAA to reopen this inquiry, pursue all allegations, and penalize the East Grand Rapids School District further.

We will monitor these matters closely through the 2005-06 school year, hoping that they are more effective for the school district's dealings with Mr. Grady in the future than in the past and will not require further involvement of the MHSAA.

Sincerely,

JOHN E. ROBERTS
Executive Director

JER/ky

Chapter 13. One of a Kind

“We need to talk sense, to speak the truth, to work harder and stay faithful to our fundamental beliefs.”

Historian David McCullough, *The American Spirit*
(Note 1)

In the current age, when conventional wisdom is widely criticized and advocating for change is made to seem smarter and sexier than supporting the status quo, it is perilous to pay respects to those who gave early form and focus to educational athletics in America. But long before our present times, there were pioneering and prescient leaders of schools and school sports who were bold, leading-edge administrators, in many ways far ahead of others of their own time and an inspiration for our times. For example:

- It was fair-minded, forward-thinking leaders in Michigan, before all other states, who first conducted high school athletic tournaments for schools in separate classifications based on the enrollment of schools.
- It was they who, 25 years before that, helped transform the brutal sport of American football, promoted by gamblers and dominated by over-age semi-pros, by transferring control from communities and colleges to high schools . . . and then caused Michigan’s association to become the first statewide school sports organization in the country to require that helmets must be worn by all players at all times during interscholastic games. And then, they abolished spring football practice for high school teams, as most state organizations eventually did, to reduce injuries and to encourage students to participate in baseball and track and field.
- And it was they, these early leaders in Michigan – with leaders of three dozen like-minded state high school associations across the US – who challenged the status quo and brought a stop to national high school tournaments in basketball and other sports.

In the 1920s, the most prestigious of several national basketball tournaments was conducted at the University of Chicago. It was for boys only, and mostly for large city schools. However, the 1920s closed with two actions that signaled the coming end of this and other national tournaments.

First, the Detroit Public Schools announced its schools would no longer participate in so-called national championships – not in basketball, nor in national track and swimming championships. Their travel would henceforth be limited to Michigan (and, for a time, only to Detroit). V. S. Blanchard, director of health education for the Detroit Public Schools, stated in 1929:

“Detroit has not participated in the national basketball championship in Chicago for some time, believing such a championship is detrimental to the health of the boy; that it places a false emphasis on the real value of athletics; and that it disturbs school routine seriously. Consistent with this policy, it has seemed best to withdraw also from any further participation in track and swimming championships. These latter probably do not work so much injury to the health of the individual but do place

false emphasis and do disturb the schoolwork of the boy. Detroit has never felt that such trips were in any way educational, as some have contended. The only educational feature connected with them is the fact that they are conducted by educational institutions intent upon educating the boy to the advantage of attending that particular college or university.”

Second, on Feb. 25, 1929, the National Council of the infant National Federation of State High School Associations went on record *opposing* national basketball tournaments. The resolution contained this prophetic preamble:

“WHEREAS, Our high school athletics are constantly being exploited by agencies and for purposes generally devoid of any educational aims and ideals, specifically, for purposes of advertising, publicity, community, institutional and personal prestige, financial gain, entertainment and amusement, the recruiting of athletic teams and other purposes, none of which has much in common with the objectives of high school education; and

“WHEREAS, This exploitation tends to promote a tremendously exaggerated program of interscholastic contests, detrimental to the academic objectives of the high schools through a wholly indefensible distortion of values, and, in general subversive of any sane program of physical education; . . .”

Opposition to national high school championships was embedded in the creation of the National Federation of State High School Associations by the statewide interscholastic athletic organizations of Illinois, Iowa, Michigan and Wisconsin which formed the organization in the early 1920s, and in the expansion and maturation of the National Federation during the later 1920s and early 1930s. (This organization was called the “Mid-West” Federation of State High School Athletic Associations from its inception in 1920 until 1923, and the word “Athletic” was dropped from the National Federation’s name in 1970.)

The young National Federation took on and eliminated every one of the national-scope high school athletic tournaments of that early era. Most were conducted by universities; and the premier events were conducted at the prestigious University of Chicago under the leadership of none other than Amos Alonzo Stagg himself, an already-famous football coach and athletic director at the university when it was a sports powerhouse. That was before this university’s leaders determined in 1939 that big-time college athletics – especially football – had no place at a big-time academic institution. (Note 2)

i.

Throughout its entire history, leaders of the Michigan High School Athletic Association have been outspoken in opposition to national-scope events for high school athletes; and that candid criticism led to litigation in 1994 when the promoter of a national high school championship sued the

MHSAA and its executive director personally for libel, slander, defamation of character, intentional infliction of emotional distress, and more.

The event in question was a national high school wrestling championship which intended to draw the champions from each state high school association's tournaments to a meet in April at Bucknell University in Pennsylvania. The lawsuit was filed in Lycoming County, Pennsylvania.

The litigation did not focus only on the Michigan High School Athletic Association's decision that such participation would violate its rules and jeopardize the future interscholastic status of Michigan athletes and coaches who participated, because that was true also in several other states. The complaint alleged that, beyond applying the rules in place for Michigan schools, the MHSAA executive director was doing harm to the event organizer: the wrestling coach at Bucknell University, who was now trying to organize high school wrestling coaches nationally and conduct national tournaments for high school wrestlers.

In an effort to keep this problem from coming back year after year, I sent a letter to selected college wrestling coaches with whom I had some relationship, requesting their assistance in deterring the event organizer. The letter opined that the Bucknell University wrestling coach was creating problems for high school athletics, and by doing so, was giving college wrestling a "black eye." The letter urged these college wrestling coaches to seek the assistance of the National Collegiate Wrestling Coaches Association and the National Collegiate Athletic Association to force their collegiate coaching colleague, the event organizer, toward compliance with more ethical practices of the college coaching profession. Copies of the letters – one of which appears at the end of this section (Letter 12.1, dated January 14, 1994) – were sent to those organizations and to the athletic director at Bucknell University.

During the pretrial conference, the judge suggested that there is "*the need for individuals to have tougher skin.*" In its written ruling granting our motion for summary disposition, the court stated that use of the phrase "black eye" in my letter was not defamatory, but a statement of opinion using "*rhetorical hyperbole,*" and that the plaintiff had no proof of slander nor was there evidence of injury of any kind.

That ended this case. However, the need to keep battling promoters of national high school championships, as well as other national-scope events for participants who are representing high schools, is as great today as when the Michigan High School Athletic Association battled this wrestling promoter in Pennsylvania in 1994 and 1995, and when the pioneers of the National Federation of State High School Associations battled Amos Alonzo Stagg in Chicago six decades earlier. Stagg's events were eliminated because National Federation leaders were unambiguous, and state high school associations put up a united front to oppose Stagg. The wrestling event continues because more recent leaders of the National Federation and some of its state members have been sending mixed messages.

II.

The “rhetorical hyperbole” that the Pennsylvania court cited was a characteristic of my communications throughout my career. No subject attracted more of it than national-scope competition; and no entity was the target of it more often than the very same organization whose first order of business had been to abolish national events in the 1920s and ‘30s – the National Federation of State High School Associations.

I worked on the staff of the National Federation just long enough (January of 1973 to August of 1980) to feel the lure of sponsoring national events. State tournaments provided energy – both the prestige and the problems – for the National Federation’s state association members. National office staff coveted the role and responsibilities that state offices enjoyed (and sometimes just endured). Tournament sponsorship brought state organizations the attention that the national office enterprise was often missing. And when Clifford Fagan was succeeded by Brice Durbin as the National Federation’s CEO in 1977, I was put in charge of examining formats for national tournaments and seeking potential sponsors who might underwrite participant expense (a common criticism of national events expressed by state associations and their member high schools) and who might also contribute to the operating funds of the national organization. It was heady work for an almost 30-year-old.

But it was a bad idea. And it didn’t take me long to sense that the first-ever national high school record book I was assembling and the plans for national tournaments I was developing were unsatisfying assignments. The notion of national championships was particularly grating against my core beliefs. So I was attracted to other employment for six years.

When I returned to state high school association work in Michigan in 1986, opposition to national events for high school students had become bedrock for my philosophy of educational athletics; and it was expressed frequently, both in writing and in speeches. “Rhetorical hyperbole” became an effective tool to help forestall successive National Federation CEOs who, in my opinion, appeared more focused on creating a “national presence” for the National Federation office than they were interested in providing essential services to the member state organizations that were in keeping with the core principles of educational athletics and the basic needs of secondary schools across the nation.

Attempting to overcome one criticism of national events after another, National Federation leaders have taken several different tacks since the late 1970s to gain a foothold for national championships; and the Michigan High School Athletic Association has objected to every attempt to allow the camel’s nose under the tent.

More than once, there have been proposals for national championships in the individual sports of golf and tennis during the summer because, advocates said, *“this won’t result in any loss of classroom instructional time.”* For a time in 2003 and again in 2011, there were proposals by which Nike would underwrite a national high school cross country championship that *“won’t cost*

states a dime." For a briefer time in 2018, there was a staff-driven proposal for a national championship in track and field, *"because track and field is sponsored during the spring in every state."*

In 1998, the National Federation's leadership took a stab at national basketball competition, advancing a "Best-of-States" summer basketball tournament which would have involved all-star teams from participating states, because *"everybody else is doing it."* For the life of me, I will never understand how any thoughtful and honest person could ever believe that we would make school sports better by doing ourselves that which we have criticized others for doing.

Demonstrating the same illogic, in 2002, the National Federation's leadership used a sub-committee of a Strategic Planning Committee to set in motion what was ultimately a failed attempt to generate support for five "Sectional Showcase Basketball Camps" in July of 2003 to *"emphasize and accentuate the national presence of the organization"* – that organization being the National Federation of State High School Associations.

In 2003, the Naismith Memorial Basketball Hall of Fame and a marketing firm got in the act by proposing a partnership with the National Federation for a national high school basketball concept that ultimately went nowhere.

But perhaps the two most egregious actions of the National Federation on this topic are these:

- In 2002, the National Federation ignored its own constitution and endorsed a national high school championship in cheerleading, because *"cheerleading is not considered a sport by all states"* – even though the National Federation's very own *Handbook* included cheerleading among (1) the sports listed in the National Federation's annual Sports Participation Survey, and (2) the sports sponsored by its member state high school associations.
- In 2006, the National Federation signed an agreement with a sponsor to conduct four years of December four-team national invitational basketball tournaments, because *"this is voluntary; your state doesn't have to participate if it doesn't want to."*

In both cases, the National Federation made these moves without approval from its 51-member National Council. Moreover, in the case of the national basketball invitational events, the National Federation Board of Directors actually voted in April of 2006 to amend its previously adopted 2005-2008 Strategic Plan so that the National Federation's involvement with these events would not be at odds with the terms of the existing Strategic Plan.

In 2007, the National Federation moved to protect and federally register the phrase "National High School Championships;" and to demonstrate active usage of the phrase, the National Federation listed all of its member associations under a website page heading that read: "BE THERE for this year's NATIONAL HIGH SCHOOL CHAMPIONSHIPS ®, state by state across America!" Of course, this did nothing but confuse corporations and constituents about where the National Federation and its member organizations actually stood on this founding issue of the national organization.

Given the varying eligibility rules and competition limitations, the multiple state champions in each state, as well as differences in weather and season scheduling among the states, there is considerable doubt that the National Federation could ever conduct bona fide national high school championship tournaments, especially in team sports. Given the lack of spectator and sponsor support that have accompanied others' efforts to conduct national championships, there is also doubt that these events would be successful in attracting sufficient interest and corporate funding to survive any longer than a long list of national events which have come and gone quickly for high-school-age athletes over the past 30 years.

What the corporate world is most interested in is a national high school basketball championship – which some people believe has always been the ultimate objective of several National Federation office leaders – and a national high school football bowl series. However, most advocates for national events stop short of advocating national championships in either basketball or football. Others reject national high school championships in any *team* sport. Others object to national high school championships in *any* sport. Still others object to the National Federation's involvement in conducting, sponsoring or endorsing *any athletic events at all* – sectional or national – citing conflicts with the National Federation's own constitution and bylaws.

But even if national-scope competition *could* be conducted, there are serious reservations – shared by many leaders of local schools and statewide high school associations as well as state and national organizations for principals, superintendents and school boards – that such events *should* be conducted. Aside from deeply held philosophical objections and myriad practical operational problems, national high school championships would invite into school sports the kinds of excesses and abuses that the National Collegiate Athletic Association has been unable to corral. Even with a headquarters staff of 600 and a billion-dollar budget, the NCAA has been unable to avoid a cesspool of corruption in intercollegiate men's basketball and football, which also surrounds Amateur Athletic Union tournaments (see Chapter 1), and which exists just below the surface of high school basketball and football in many parts of the country.

In short, national events in high school sports assure a worsening of current problems and invitation to new problems in exchange for the possibility of few positive benefits.

///.

The National Federation of State High School Associations had its 100th anniversary in 2019, and it could celebrate many positive contributions the organization has made to its member associations and their member schools and their constituents. Four stand out:

- During the late 1920s and the 1930s, the National Federation's leadership influenced the end of national high school sports tournaments. First four, then a dozen, and then more than 30 very young state high school associations, through their even younger National Federation, successfully challenged prestigious universities (like the University of Chicago) and the biggest

names in college sports (like Amos Alonzo Stagg) who conducted national high school tournaments.

- During the next decades, and one sport at a time, the National Federation assumed from the colleges and non-school organizations the responsibility for writing the playing rules for high school level competition, intentionally crafting rules that promoted greater participant safety and much more ease of understanding and enforcement by contest officials. There was a special burst in this rules-writing activity in the 1970s when the National Federation initiated rule codes separate from the National Collegiate Athletic Association and other entities in the sports of basketball, football, track and field, and wrestling, and prepared rule codes for the first time for field hockey, ice hockey, soccer, softball, swimming and diving, and volleyball. The National Federation now releases about 40 publications each year, serving 16 different sports.
- At the start of the new millennium, the National Federation began its march to emerge as the nation's most prolific provider of online education for coaches. The National Federation now has more than 70 different online courses available, including more than 30 free courses; and at this writing, approximately 10 million courses have been delivered.
- In 2013, the NFHS Network was launched to provide a digital broadcast home for state high school association tournaments and the School Broadcast Program. As of late 2019, with more than 12,000 local school and state high school association events being produced each month, evenly divided between boys and girls events, this is far and away the most genuine and effective platform in National Federation history for promoting the excitement, diversity and values of local school-sponsored sports. During the 2019-20 school year, the network will air 10,000 events from Michigan alone, about half at the subvarsity level.

It is the National Federation's equivocation and backpedaling on the earliest of these great contributions that has invited Michigan High School Athletic Association's outspoken criticism and has required very many occasions to "talk sense and speak the truth" about national-scope sporting events for interscholastic athletes and teams as well as the particular and precious niche which local school-sponsored athletic programs enjoy in American education and society.

One of those occasions was on June 26, 2006. In response to the 2002 and later endorsements by the National Federation of the national high school cheerleading championships, and the national invitational basketball tournaments, the MHSAA delivered a statement to the National Council meeting of the National Federation in Orlando, Florida – host city for the cheerleading event. The statement said, in part:

*“Even with the severe editing of the historical portions of the National Federation Handbook after 1990-91, the current National Federation Handbook still retains the emphatic statement, ‘**National championships cannot be sanctioned**’ – and later: ‘**Sanction shall not be granted for any tournament, meet or other contest to qualify for and/or determine a national high school championship.**’*

“When our National Federation moved to endorse national high school cheerleading championships, it skipped right over these inconvenient policies established and reaffirmed by this Council.

“And it defended this action with disturbing disingenuousness, saying: ‘Cheerleading isn’t considered a sport in many states.’

“Where does one find that exclusion in the historical record and published National Council policy? Where, especially when the National Federation in its own Handbook listed cheerleading as a sport? When even in 2006, a National Federation news release states: ‘The sport is evolving, and cheerleaders are becoming skilled athletes . . .’ [emphasis added]?”

“How, in view of our history and this Council’s stated policy, how could we be endorsing a national high school championship?”

“The response to this kind of criticism is that it’s an overreaction, that the world didn’t come to an end. No catastrophe has occurred, we’re told.

“Frankly, nothing cataclysmic was expected. The worry always was, and still is, erosion: slow undermining of principles and policies. And that has happened, and not even with subtlety.

“With big money again in sight, the next step has been for the National Federation to coach T-Mobile to a proposal for national invitational basketball tournaments. All the Federation had to do was, again, eat its own words: this time, amend its own ‘Strategic Plan’ that said it would not do such things. How embarrassing. And how frustrating to states like ours which, in good faith, contributed our busy staff to the Strategic Planning Committee . . .

“Last month in Lansing, Michigan, there was an induction of the first class into the Michigan Walk of Fame. The first person in the first class of inductees was Helen Thomas, the 86-year-old White House correspondent who has been a pain in the neck to president after president. Ms. Thomas said upon receiving her award: ‘I don’t live in the past; but I remember it, and the purposes and processes that made us great.’

“The National Federation has survived and served nearly nine decades because it has paid close attention to its purposes and processes. The Michigan High School Athletic Association, a founding member of this Federation, recalls the National Federation to its roots in how it operates and what it believes. We are not now operating as this organization was intended and serves best.”

Overreaction or not, “rhetorical hyperbole” or not, Michigan’s leadership had to be seen and heard talking sense and speaking the truth about these and other attempts to thrust national

events of all kinds upon school sports, but most especially those athletic competitions endorsed, sponsored or conducted by our own creation, the National Federation of State High School Associations. I did so relentlessly for three decades, working harder when the heat was hotter, and staying as faithful as I knew how to our fundamental beliefs, to which MHSAA publications and website attest.

A decade through my time with the MHSAA, a member of the staff of the National Federation of State High School Associations – Helen Upton – said to me as we sat alone after a task force meeting on policies for reviewing interstate meets, *“If you were to support NFHS national tournaments for high schools, it would happen.”* That did nothing but remind me how important it was to work even harder and stay even more faithful to the fundamental beliefs of educational athletics. To my deep disappointment, I observed three of my counterparts in other states – who also were opponents of national events – soften their stance for a time as they positioned themselves to become president of the National Federation Board of Directors for a year, after which they returned to their previous stance, more outspoken than ever in opposing National Federation sponsorship of national events.

IV.

It is not just criticism of national-scope events that has been and remains necessary. It has also been imperative that there be a constant stream of messages about the niche – the unique place – which school sports enjoy in schools and in American society, and how the infatuation with national events and other forms of elitism and excess threaten that special place. School sports is a “one-of-a-kind” program of competitive athletics, where a whole host of considerations are more important than starters and all-stars or prizes and profits. If the interscholastic athletic program loses its fundamental distinguishing features – such as the preeminence of scholarship, sportsmanship, safety and a sane and sensible scope of programming that nurtures these outcomes – then there is no reason for competitive athletics to be a part of school programming.

In “Enough is Enough,” published in the April 2003 MHSAA *Bulletin*, I wrote:

“We do not have to be like every other program. We do not have to be like the AAU to keep up with the AAU; we don’t have to be like youth soccer to keep up with youth soccer; we don’t have to be like youth hockey to keep up with youth hockey. We don’t need to commercialize, professionalize or nationalize school sports. In fact, if we do these things, we will lose our place.”

In “The Purple Cow” (a title borrowed from Seth Grodin’s book) published in the September/October 2003 MHSAA *Bulletin*, I wrote:

“We are the ‘purple cow’ in a pasture full of black and white cows that are otherwise indistinguishable, one from another. We are the remarkably different athletic program, the noticeable one. If we try to compete with the glitz and glamor of college

and professional sports, we fail miserably. If we try to be like every other community program that travels the nation or globe but gets barely a blurb in our local newspapers, we will lose our place altogether.

“With cheerleaders, pep bands, yellow buses and motorcades, pep assemblies and comprehensive coverage on radio and television – and none of this found in non-school sports – we have the upper hand by far. Unlike every other sport program that seems to have another level after the state title, there is nowhere to go after the high school championship. It’s the top, the end . . . the qualifier to nothing else . . . the pinnacle of what a high school team can do. Why would we give up all of this for a national high school tournament?”

“We need to be the purple cow. We need to be the remarkable program, the one different from all the others. That is our charm, that is our place, and that is our future.”

An October 5, 2012 blog titled “Thinking Inside the Box” ended with this:

“If school sports will secure a victory for its future – meaning, school sports continue to be a tool for schools to reach and motivate young people in an educational setting – it will not occur from out of bounds. It will occur because we stayed within prescribed boundaries: local, amateur, educational, non-commercial, sportsmanlike and physically beneficial.”

And while there were very many more reasons and opportunities to describe the abuses rampant in much of youth sports and defend the worthy attributes of school-sponsored programs, I end with this blog of April 1, 2018:

“What is our greatest asset in school sports?”

“If your answer is the kids, or the long hours devoted to teaching them by low-paid staff, it would be hard to argue.

*“But my answer for the greatest asset – the unique strength we have, our edge, our advantage? It is the **culture** of school sports.*

*“We have marching bands and homecomings, which **non**-school youth sports do not have.*

*“We have pep assemblies and pep bands and spirit weeks, which **non**-school youth sports lack.*

*“We have letter jackets, spectator buses, cheerleaders and pompon squads which are missing from most **non**-school youth sports programs.*

*“On a Friday night in the fall or winter in most parts of Michigan, I can find several high school games on the radio. I can find competing high school score and highlight shows on TV after the local news. Never is any of this found for **non**-school youth sports.*

*“On Saturday mornings in the fall or winter, there are dozens of radio talk shows with local high school coaches reviewing the previous game and previewing the next. Never is this a part of **non**-school youth sports.*

*“On radio, television and daily and weekly newspapers all school year long, I can find ‘High School Teams of the Week.’ Rarely, if ever, is there a **non**-school youth sports team of the week.*

*“School sports enjoy a standing in our communities and a status in our local media that non-school sports can’t come close to. The AAU and travel teams are a culture that disses the school and community. Ours is a culture that **defines** the school and community.*

“We are local, amateur, inexpensive and educational; and we have almost everything going for us. We need to promote and protect these things – the culture of school sports.”

NOTES:

- 1: *“The American Spirit – Who We Are and What We Stand For,”* by David McCullough. Simon and Schuster (2017). The quote is from his speech at Union College in 1994.
- 2: For more on the early years of the National Federation of State High School Associations and the earliest of state high school athletic organizations, see . . .

Administration of High School Athletics, first four editions by Charles E. Forsythe; subsequent three editions by Charles E. Forsythe and Irvin A. Keller. All editions published by Prentice Hall, Inc. (Seventh edition in 1984).

Administration of Physical Education, by Charles E. Forsythe and Ray O. Duncan. Prentice Hall, Inc. (1951).

Association Work: Whitten, Porter and the Course of Interscholastics, by Scott Johnson. Illinois High School Association and National Federation of State High School Associations (2018).

Athletics in Michigan High Schools – The First Hundred Years,” by Lewis L. Forsythe. Prentice Hall, Inc. (1950).

From Chicago to Indy – The First 100 Years, by Bruce Howard. National Federation of State High School Associations (2019).

More Than a Game, by Matt Otte. Wisconsin Interscholastic Athletic Association and Palmer Publications (1997).

The Rise of American High School Sports and the Search for Control – 1880-1930, by Robert Pruter. Syracuse University Press (2013).

University Interscholastic League – An Illustrated History of 100 Years of Service, by Bobby Hawthorne. University Interscholastic League (2010).

January 14, 1994

Mr. Dale Bahr, Wrestling Coach
University of Michigan
1000 South State Street
Ann Arbor, Michigan 48109

Dear Coach Bahr:

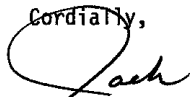
We would like to enlist your personal assistance and that of your colleagues in intercollegiate wrestling to confront one of your colleagues who is presenting problems for high school athletics and giving college wrestling a black eye in the process.

Bob Ferraro, wrestling coach at Bucknell University, has announced plans for a festival of national competition for high school students during the school year. In spite of his claims to the contrary, participation by students and involvement by school personnel in these events violates established rules of many state high school associations, including those of the Michigan High School Athletic Association.

We urge you to contact Coach Ferraro to request abandonment of his plans; and should he refuse your counsel, we urge you to seek the assistance of the National Collegiate Wrestling Coaches and the NCAA to force compliance by this individual with ethical practices of your profession and the best interests of educational athletics.

Thank you for your help.

Cordially,



JOHN E. ROBERTS
Executive Director

JER/kb

cc: Rick Hartzell, Athletic Director, Bucknell University
Robert Kanaby, National Federation of State High School Assns.
Martin Benson, National Collegiate Athletic Association
Leslie Anderson, Executive Director, Nat. Wrestling Coaches Assn.

CLOSING

“At its best, leadership is a labor of love.”

Authors Heifetz and Linsky, *Leadership on the Line*

(Note 1)

The rapid pace of the work of athletic administration often prohibits the reflection necessary to evaluate what really happened. The next situation steals time that should have been devoted to analyzing the previous situation. What were the lessons to be learned? What could have been done differently? What might be done to avoid or capitalize on a similar situation in the future? What was the *meaning* of what we just went through? It was difficult to find time to focus on those kinds of questions during the frenetic pace of the work.

This book, written over more than a year’s time, and after delaying the start of the project for nearly a half-year, provided the space and pace necessary for reflection and preparation.

During the many months I spent refreshing my memory regarding the past four-plus decades and writing about it for this volume, I would often put the project aside for many weeks at a time so I could focus on the present. I traveled more and, especially, took longer and more leisurely trips than I was able to enjoy during my “working” years. I traveled more thoughtfully, and I posted blogs about where I traveled and what it was teaching me. (Note 2)

When people asked me if I was doing any long-form writing, I said, not entirely in jest, *“I’m writing a book in which you might not want your name to appear.”*

You see, when you focus on the truly teachable moments of more than four decades of experience, as this volume tries to do, you cannot help but consider the critical issues and irritating conflicts . . . or the problems which created the heat to forge important lessons. Obviously, I could not have survived so long in this work and loved so much of the experience if *all* I could think about were problems and if I had overlooked the abundant potential of the interscholastic athletic program to do good things for students, schools and society. It was my sincere affection for school sports, not my disaffections, that propelled this project.

Fortunately, my career in athletic administration was blessed to have had the early mentorship of Clifford B. Fagan (see Chapter 5) who, when I knew him, was executive secretary of the National Federation of State High School Associations where he served from 1957 to 1977, as well as the lifelong model of my father, John Roberts (see Chapter 6), who succeeded Mr. Fagan at the Wisconsin Interscholastic Athletic Association and served as its executive director from 1957 to 1986.

Just as important to me as these two giants has been a “cloud of witnesses” to the high principles of voluntary competitive educational athletics which motivated me. Here are some of these dedicated people, to whom this book is dedicated:

MHSAA Staff

It has surprised me to discover that, of all I have missed since retiring, I most miss the MHSAA staff I left behind. I miss the spirited, friendly greeting of Laura Roberts – our “director of first impressions” who, by the way, is not my daughter, sister, wife or mother; she’s just the best “receptionist” on the planet.

I miss the endlessly patient telephone assistance of Tricia Wiefelich, Faye Verellen, Jamie Van-DerMoere, Paige Winne and Camala Kinder. I miss the quiet brilliance of Cole Malatinsky who always returned projects to me faster and in more detail than I requested. I miss our incomparable webmaster, Rob Kaminski, and our unflappable accounting manager, Peggy Montpas, who improved everything she touched. Now, working from home, I miss more than ever Information Systems directors Tony Bihn, Jordan Cobb and Adam Ryder who pushed us forward at some times and protected us from ourselves at other times.

And I miss especially Karen Yonkers, the only MHSAA staff member at the time of my retirement whom I had not hired. She could type faster than I could think. And could find everything I thought I had lost.

I supervised MHSAA administrative staff the way I had liked to be supervised earlier in my career: with consistency but without micro-management. I allowed executive staff to administer their sport responsibilities without my interference, believing we could accomplish more if assistant directors did their thing and I did mine. I liked and I really miss Nate Hampton, Cody Inglis, Dan Hutcheson, and my chosen successor: Mark Uyl.

John Johnson was the first communications director hired by the MHSAA, one of the first half-dozen communications directors hired anywhere in the country by a statewide high school athletic association. His first day on the job was April Fool’s Day of 1987, and I told him that if it didn’t work out, I would claim his hire was an April Fool’s Day joke.

Creating this new position was central to my thinking about high school association work: that communication was at the heart of everything . . . that good communications (like good coaches) could redeem any bad decisions we would make as leaders along the way. John made the association and me look good . . . better than we actually were. John evolved from the leader of the sports information-style communications directors across the country to a specialist in broadcast communications, a position found in too few high school associations across the country today.

John has done thousands of good things for the MHSAA over the past three-plus decades; but I’m reminded over and over of one thing especially. It is John who coined this tag line: “*The MHSAA . . . Promoting the Value and Values of High School Sports.*” That may be the briefest and best description ever of the MHSAA’s mission.

That phrase captures the essence of the high school brand; and another unique feature of the MHSAA team is its attention to the uniqueness of that brand. For most of two decades, Andy Frushour has been the MHSAA staff person most attentive to and intentional about the MHSAA brand. As brand manager, another unique position among high school athletic associations across the USA, Andy has worked to weave scholarship, sportsmanship, safety and a student-centered focus through all the little and large actions of the MHSAA. His “brand management” team including, among others, “Second Half” website editor Geoff Kimmerly and social media manager and assistant director Andi Osters, who are both best in their fields, think about educational athletics as I do, with a wholistic approach: *everything* we do matters because it *all* shapes our message.

My indebtedness to Assistant Director Kathy Vrugink Westdorp has no limits. Like a great volleyball player, Kathy will dive and skin her elbows and knees to assure no ball hits the ground . . . that no administrative detail falls through the cracks. For example, the nation’s most comprehensive and longest-running statewide high school concussion reporting system would not have been successful without Kathy’s tenacity to assure it would not fail. It was my dream, but she delivered it.

Kathy was hired to do more than humanly possible, and she produced. Above all, as a passionate educator, she accepted the challenge to modernize and expand the MHSAA’s coach education program. The MHSAA’s “Coaches Advancement Program” is the nation’s finest and most far-reaching face-to-face coaching education program; and because coaches are the delivery system of safe, sane and sportsmanlike school sports, *no* initiative of the MHSAA is more important.

My closest confidant of the second half of my tenure at the MHSAA was Associate Director Tom Rashid who, along with Kathy, prolonged my tenure by a half-dozen years. Tom and I are proof that opposites attract. We each had gaps that the other filled . . . deficiencies for which the other compensated. One loud, the other more quiet. One verbose, the other more reticent. One more comfortable on the phone, the other more at ease with the pen. One who had no idea what to do with apostrophes, the other an English major/teacher and grammarian who would always correct the errors. One spontaneous, the other a nonstop strategist who planned for meetings ten or twelve months in advance. Together, we made almost one complete, full-service executive director.

One of the lessons I learned by the middle of my tenure at the MHSAA was the value of making one more call before enforcing MHSAA rules. Sometimes that “one more call” uncovered a piece of information that changed the outcome of an investigation. On other occasions, that last call softened the blow of a decision, and kept a cordial relationship from collapsing. Tom relished in making those last calls, which he performed brilliantly.

There was a joke among my colleagues in the high school associations of neighboring states that Tom was just too perfect . . . that he couldn’t possibly be a real person . . . that I made him up and he didn’t really exist . . . for Tom never traveled to regional or national meetings and was

never seen by my colleagues. He was, in fact, the ideal associate director, always seeking to assist me. A bachelor who hated to travel, Tom lives nearest to the MHSAA office building and is always available. Member school athletic directors have his cell phone number on their speed dials and think nothing of calling him at any time of the day and on any day of the week.

While they retired before I did, there are four individuals I hired to the MHSAA executive staff who deserve special mention for their professional support and personal friendship: Randy Allen, Gina Mazzolini, Tom Minter and the late Jerry Cvengros.

The Representative Council

I have served on many boards of directors over the years, and I have learned what distinguishes the good experiences from the bad. I have most enjoyed the board experiences where I was asked to discuss and decide a small number of large topics, not become inundated with a long list of mindless minutiae. I have been most energized by board experiences which were learning experiences . . . so much so that I disciplined myself to ask this question before entering every meeting of every board on which I served: I whisper to myself, *“What can I learn from this volunteer experience here today that will help me in my full-time job tomorrow, or in my development as a person?”*

As a result, and increasingly year after year, I spent time reducing the topics and expanding the information on each topic that was submitted for action by the MHSAA Representative Council. Philosophical and practical arguments were presented; surveys were conducted and summarized. Potential motions were drafted to avoid protracted on-the-spot wordsmithing that wasted board members’ time. I wanted the Council to be thinking and talking about how to counteract sports specialization . . . about why and how the MHSAA should be more engaged in junior high/middle school programs. I wanted their attention on health and safety, not halls of fame. On sportsmanship, rather than seeding. On the principles of educational athletics more than end-of-season playoffs.

It was important to me that the MHSAA’s board members – the 19 individuals who serve at any one time on the MHSAA Representative Council – knew it was my job to prepare them for issues and their job to vote, and to do so on the basis of internal preparation, not outside pressures.

Our attention to this preparation and to the integrity of this process contributed to extending my “honeymoon” as executive director to the full 32 years of my service at the MHSAA. Trust and mutual respect grew to the point that, even in the dark days of a potential bankruptcy in 2008, there was no finger-pointing. We had made decisions together; we were on the same team.

I am grateful that 32 years of Representative Councils not only allowed staff innovation, they encouraged it . . . and budgeted for it. To have been the chief executive of an organization where its governing board consisted of good-hearted people with a will for excellence has been one of the greatest blessings of my life.

The Cloud of Witnesses

I have always had the highest regard for constituents with the lowest profiles. For assistant coaches, junior varsity level coaches and junior high/middle school coaches. Just as I admire most those student-athletes who are a star in one sport and a substitute in another, I most admire coaches who are a head coach one season and an assistant coach another, and thus, are more apt to see their team members more as students than simply athletes.

I've always held in highest regard those officials who work lower level and often sloppy contests, which actually require more, not less, officiating skill and interpersonal relationship savvy. I admire to the point of tears our athletic directors who work such long hours out of the spotlight which shines on head coaches. I'm in awe of volunteers who continue to help local school sports programs years after their own children have graduated.

I have every confidence that these unsung heroes of school sports agree with the core values of educational athletics, which this book describes and defends.

During the last two years of my tenure, I appointed and worked directly with a Task Force on Multi-Sport Participation whose purpose was to better understand the forces that are driving children to specialize more and more at younger and younger ages, and to develop strategies and tools for school coaches and administrators to help nurture the physically, mentally and socially healthier whole-child approach to athletics which multi-sport participation tends to promote. While this experience caused me to see better how daunting a battle this is for thoughtful educators and parents, the task force members themselves inspired me. I was impressed with their professionalism and commitment to lifelong learning about physical education, athletic administration and coaching.

Kevin Guzzo, Scott Przystas, Brian Swinehart, Jason Mellema, Jason Stariha, Anna Britnell, Meg Seng, Mike Thayer, Jean LaClair, Patti Tibaldi, Scott Dane, Todd Cheney, Matthew Joseph, Anika McEvans, Keith Guy and Jason Kasparian educated me with their scholarship and personal experiences, and they encouraged me with their passion and commitment.

Throughout my career, I drew strength from many other colleagues who were laboring at the local level of school sports in Michigan, including most especially Chris Ervin, Marc Hage, Gary Hice, Greg Lattig and Mark Mattson. Ken Dietz and Mary Jason were remarkable for their concern for my personal welfare and for my family, often extending well wishes on my wife's birthday which so often coincided with MHSAA basketball tournaments and our wedding anniversary which frequently occurred during the spring meeting of the Representative Council.

Midway through my tenure in Michigan, I traveled by air to a national conference for high school athletic directors. Seated next to me on the plane was an athletic administrator from Texas who was happy to boast about school sports in the Lone Star State. Upon arrival, as we were gathering our possessions and preparing to de-plane, my seatmate said, *"I hope you'll send one of your teams down to play us here in Texas."*

Overhearing that invitation, and before I could say anything, one of two local school athletic directors from Michigan who were also on that flight and were standing in the aisle next to us said, *“We don’t do that in Michigan. We’re opposed to national travel and tournaments.”* The other AD said, *“Don’t need ‘em; don’t want ‘em.”*

Those two Michigan school administrators were Mike Roy and Mike Garvey. From that day on, when I was not certain about the right thing to do regarding almost any subject, I would ask myself, *“What would Mike and Mike want me to do?”*

Two Final Observations

First . . . After former National Basketball Commissioner David Stern died in January of 2020, New York Times writer Marc Stein wrote that Stern would be “sorely missed,” and it would be for this reason, Stein wrote: *“He [Stern] wanted everyone who had anything to do with the NBA to care as deeply as he did.”*

Basically, that is all I ever wanted for us – for MHSAA staff, Representative Council and member schools – for everyone involved with Michigan school sports to care as deeply as I did.

Second . . . Since the most recent cheating scandal in Major League Baseball – this one by the Houston Astros – MLB Commissioner Rob Manfred has been on the hot seat for his tepid response. Some say he hasn’t taken the issue seriously enough . . . that he’s failed to demonstrate sufficient *“reverence”* for the game. Former MLB Commissioner Faye Vincent has said: *“The [MLB] commissioner has to be a bit of a romantic. The commissioner has to believe in the mythology of baseball.”*

Well, in Jack Roberts, school sports in Michigan had a “romantic” . . . someone who looked upon our mission with reverence . . . a leader who truly believed in all the good things he talked about and wrote about.

NOTES:

- 1: *Leadership on the Line – Staying Alive through the Dangers of Leading*, by Ronald A. Heifetz and Marty Linsky. Harvard Business School Press (2002).
- 2: Follow me at <https://alloverthemap.blog>.

“Lies, Damn Lies and Statistics”

(The Michigan Interscholastic Athletic Administrators Association gave me the rare and exciting opportunity to deliver the opening address at its annual conference scheduled for March 21, 2020. Of course, that event – like so many others during March and later – was cancelled because of the Covid-19 pandemic. What follows is most of the presentation planned for that occasion. Readers are reminded that this text was intended to be delivered orally, and therefore is neither as tight nor linear as would be expected of a written manuscript.)

The most recent book by historian David McCullough, author of 1776, John Adams, The Path Between the Seas and others, is a collection of his speeches entitled, The American Spirit. It’s about the challenges of citizenship in America. Included is a speech at Union College in New York State in 1994, in which Mr. McCullough said: *“We need to talk sense, to speak the truth, to work harder, and stay faithful to our fundamental beliefs.”*

That’s my challenge to athletic administrators of Michigan. It is what I challenged myself to do for more than three decades; and it’s precisely what I’m challenging myself to do today. For one thing, I intend to be candid about my own performance as the Michigan High School Athletic Association’s executive director: I’m going to *“speak truth,”* if you will. With the advantage of hindsight, I’ll confess some of my disappointments and shortcomings, which perhaps we *all* can learn from.

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It is commonly believed that the phrase “Lies, damn lies and statistics” originated with Mark Twain, the pen name for Samuel Clemens. But that’s wrong; that itself might be a lie. The originator of the phrase is unknown, but its appearance in literature predates Mark Twain’s career, and Samuel Clemens’ life, by at least 100 years.

I start here because I submit that much of what we read or hear about sports these days falls into one of these three categories: a lie, damn lie or statistic.

I also start here because many of the decisions made on behalf of school-sponsored sports over the years – especially since the advent of social media – have tended to be shaped by lies, damn lies or statistics, when what *really* should be shaping the decisions is a *small* number of **staples** (as in fundamentals) and a *large* number of **stories** . . . *our* stories . . . with the precious, poignant and powerful charm of local, amateur, educational athletics and totally devoid of glitz, glamor and complexity.

An alternate title for this presentation could be, “Keep It Simple, Stupid” – KISS – meaning, the simpler the better – which has been the mantra of system designers since the dawn of the industrial revolution. However, increasingly – and now unceasingly – marketing departments have

promoted the very opposite of simplicity for the products we consumers buy. They hype extra-neous features, as if bells and whistles were the entire essence of the enterprise.

We see the effects almost *everywhere* and in almost *everything* . . . including automobiles, home appliances, electronics, tools, credit cards and more . . . marketing that urges us to purchase the packaging without looking under the hood – to buy features we didn't really know we needed, and will rarely use, and which will readily malfunction.

A case in point is the car I purchased 18 months ago, picking it up at the factory in Gothenburg, Sweden on the third day of my retirement. I still don't know how to use the vast majority of features on this Volvo; and I never will.

Among simpler modes of transportation during my first year of retirement was a classic dhoni in the Indian Ocean.

While fancier and faster boats passed by, my wife Peggy and I enjoyed this modest wooden craft as we explored The Maldives, those low-lying islands (average elevation just four meters above sea level) which are soon to be submerged by global warming. It is from this boat that I had my first ocean dives, shortly after I had obtained my SCUBA training in Greg Lattig's frigid swimming pool at Mason High School.



Peggy and I also rode simple three-wheeled, two-stroke engine tuk-tuks in Sri Lanka, the almond-shaped island country off the southeast coast of India.



It is my hope that all of you have these three things in your life: (1) **good work** (and if you are engaged in school sports, I think you have that); (2) **good health** (and, in view of the recent pandemic, we may never take our health for granted again); and (3) **love**. After those three things, for the Grand Slam of life, I hope you can travel internationally . . . or at least read about such travel. The world needs sane and sensible people from one part of the world who are willing to learn about the cultural differences and the character similarities of people in other parts of the world. The survival of a civilized planet depends on this cultural interaction.

Of course, I'm well aware that as the MHSAA's leader, I had a reputation for being hard on the athletic eligibility of international students; but that's because I believe so strongly in the benefits of international student *exchanges* and I support so staunchly the bona fide, one-year student *exchange*. I didn't want to see carefully controlled, one-year maximum, genuine exchange programs for students with J-1 visas jeopardized by a tsunami of F-1 visa transfer students arriving here unvetted, in unlimited numbers, and staying and playing an unlimited number of school years.

F-1 visa transfer students expecting extended eligibility at non-public schools generally, and residential schools particularly, are a threat to competitive equity in school sports across the US. In Michigan, since 2015, we have leveled this particular playing field significantly; but the issue bears continuing close scrutiny. **I support exchange programs for foreign students. I'm very suspicious of transfers by foreign students.**

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Wherever I've traveled over the years, I've stayed alert for metaphors that would help me understand and explain work and life; and 2019 delivered to me a sequence of metaphors which are the best I've ever encountered for understanding what school sports is and is not.

In Singapore, I saw the most spectacular hotel complex in all my experience. The hotel has three separate towers of rooms, and those three towers support an even larger hotel with the dimensions of a sleek ocean liner. It's truly spectacular, and impossible to miss – even on the Singapore skyline – which is dominated by gigantic, super-modern buildings.



Fancy structures such as this really do capture people's attention.

But in Italy, in picturesque Portofino harbor – certainly among the most famous and beautiful harbors in the world, often crowded with extravagant mega-yachts for the rich and famous – it was a simple wooden rowboat that caught my eye.



Too often, what's fancy catches our attention while that which is simple, straight-forward and fundamental – like this little rowboat we found anchored near several huge, ostentatious yachts – might look drab in comparison and might be mischaracterized as out of date or maligned as out of touch by those who don't have the same value system we do.

This little wooden boat? This is a metaphor for school sports. Plain . . . polar opposite of glamorous . . . powered by the people who actually sit in the boat. THIS is school sports.

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Just like consumers, leaders of school sports are not immune from temptations to focus on what's fancy, as opposed to what's plain yet perfectly functional. But leaders of educational athletics might be better served – and I know they would serve better – if they would just look away. Look away from professional sports, intercollegiate sports and youth-level club and travel team sports. Look away, except perhaps to see what NOT to do.

I suggest we keep our own counsel and take none that comes from other levels.

For example, there is a college basketball coach in this state who, when it has affected his recruits, criticized MHSAA transfer and travel rules as being too tough or out of touch.

This college coach has railed against transfers for years. He has said that *“allowing kids to change schools without sitting out a year teaches kids not to persevere.”* He said: *“I've never been in favor of the (immediate) transfer.”* He said: *“I've never been in favor of the transfer portal.”*

But then he criticized the MHSAA when we ruled one of his recruits ineligible for his senior season of high school basketball. And then he criticized the NCAA when it ruled a transfer from Marquette University (his recruit) ineligible for a year. Like so many, he talks tough on transfers . . . until it's *his* transfer. We've got to look away from this nonsense, away from such hypocrisy.

Think about it. Who's got this wrong and who's got this right? Forty percent of Division 1 college men's basketball players transfer by the end of their sophomore year . . . two of every five, within two years. Colleges have a transfer mess; they do not have any transfer answers for us.

And as for travel, we should refuse to take advice about our travel rules from college personnel who routinely schedule their teams to play in any state in the nation, on any night of the week, at any time of the night.

Michigan schools already have the unrestricted opportunity to play any school in Michigan and six surrounding states and provinces. That's more than 4,000 high schools and nearly 700,000 square miles, and there are a couple thousand more potential opponents within the 600-mile round-trip travel limitation for schools located in non-adjacent states. In educational athletics, where academics still come first and funds are limited, that's more than enough room to roam. It's *way* more than enough. Only our most wealthy or booster-driven schools might afford a wider range of travel; so, relaxing our travel rules would widen the gap between the "haves" and the "have-nots" of our membership (a concern to which I will return several times).

Furthermore, travel and trouble are linked: violations and abuses are prone to accompany long-distance travel. The messiest recruiting problems in college basketball have occurred when high school players and college recruiters have been far from home . . . at the big camps and tournaments in Las Vegas and other faraway places.

So, look away from college sports on both transfers and travel rules, except to cite their hypocrisy.

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As a leader, there were two things I didn't like to hear:

- (1) "*We've always done it this way.*" I didn't care for that.
- (2) "*Everybody else is doing it.*" I disliked that even more.

And as the MHSAA's leader – perhaps to a fault, some might say – I was especially alert to proposals that came from the haves at the expense of the have-nots . . . proposals that would tend to help the "*rich get richer*" and place new obstacles between everybody else and the possibility they might have any tournament success.

Tournament seeding – made popular at the college and professional levels where, unlike high schools, post-season tournaments are open only to highly-ranked teams – provides an instructive example:

I felt we shouldn't *avoid* seeding for a sport just because we'd never done it before; but I felt we shouldn't *advance* seeding just because everybody else was doing it.

What I believed we should do is determine if seeding is fair or unfair. Does a particular seeding plan make it even tougher for the haves-nots to win a District trophy, much less a Regional crown? And is that right? Is that *just*? I wanted people to face up to and answer those questions honestly before they went along with the crowd.

And I didn't want people to think that tournament seeding was the panacea for problems. And clearly, school-sponsored basketball has serious problems.

During the last decade of my tenure, high school basketball was in decline by all of three important measures:

- (1) *Participation* was down;
- (2) *Attendance* was way down; and
- (3) *Revenue* was way, way down.

Nevertheless, during that decade, many among Michigan's high school basketball coaches fixated on formulas for seeding the MHSAA tournament. They obsessed over *post*-season tournament seeding while they offered little to fix what was fundamentally wrong within their sport and was shortening team benches and ticket lines of most *regular*-season basketball programs across the state. This inaction bothered me because, historically, when we've really been focused on solving problems, this state has proven it can be very productive . . . in fact, the nation's leader in solving big problems.

For example, during the late-1980s through mid-1990s, this state was successful like no other state in addressing declining sportsmanship. The MHSAA released nation-leading sportsmanship initiatives. Like no other state . . .

- (1) we pushed *education* (kits and campaigns);
- (2) we provided *encouragement* (incentives and awards); and
- (3) we promoted *enforcement* (additional rules and tougher penalties).

MHSAA Communications Director John Johnson worked tirelessly to tell our story of a higher ideal of sportsmanship for educational athletics, and he did so better than anyone had ever done for school sports in America. We were given forums all across the US to share our successes and continuing challenges.

Everyone got on board in Michigan: MHSAA, MIAAA, coaches associations, officials organizations, leagues, schools and the media. As a result, Michigan was the undisputed "national champion" in uplifting sportsmanship in educational athletics in America. We focused on a fundamental – sportsmanship – and we had fantastic success.

Likewise, and more recently, this state was successful in fast-tracking the *first-in-the-nation free-of-charge concussion care insurance* for *all* athletes in *all* sports in grade 7 (and then 6) through

grade 12. And, Michigan was also the *first* state in the nation to have a high school **concussion reporting requirement** for *all* sports. Of all the many advancements during that decade regarding this fundamental of participant health and safety, it was these two initiatives with respect to head injuries which did the most, and did it fastest, to change the narrative about Michigan. We went from playing defense against critics' attacks to playing with a high-powered offense, fielding compliments for what we *were* doing rather than criticisms for what we were *not* doing.

And John Johnson was again our chief storyteller, but now with more help from expanded MHSAA headquarters communications and branding teams which included Andy Frushour, Andi Osters, Geoff Kimmerly, Rob Kaminski and others.

In contrast to this unprecedented progress with sportsmanship and safety, in the face of high school basketball's problems (its decade of decline), we were unable to stimulate the high school basketball community to be effectively focused on and mobilized against the threats to the high school game. All prominent coaches wanted to talk about was *seeding* the MHSAA basketball tournament.

I could both then and now articulate arguments, both for and against seeding; but doing so for too long would obscure my main point. What has always bothered me more than the fact of seeding was the fixation on seeding. By blaming the MHSAA tournament, many coaches seemed to feel absolved from building their own local programs – programs with multiple levels of teams, each with large rosters and widely distributed playing time – where students really can see that being a substitute is as valued and full of educational potential as being a star . . . where the whole child, not just the basketball player, is developed.

Imagine what might have been accomplished if all stakeholders in school-sponsored basketball had spent the last decade devoted not to seeding the MHSAA's season-ending tournament but to spending the *whole time* on the *whole child* . . . to strengthening local regular-season programs . . . to maximizing participation . . . to rebuilding basketball from the ground floor (basic fundamentals) on up. We might have changed the narrative, as we did with sportsmanship and safety. We might have a different story to tell than the one we have now which is, sadly, that school-sponsored basketball is in a long, slow decline and shows no sign of reversing course.

For 80 years, the major breadwinner for school sports – basketball – the sport that built state high school associations – is now in its second depressing decade of decline.

Seeding may be more than a fad, but it is not a fundamental of educational athletics, and therefore, not even close to where the limited resources of school sports should be focused. **Season-ending tournament seeding can do little to reverse the declining metrics in regular-season high school basketball. One of my professional disappointments is that I did not try hard enough to get basketball coaches to understand this. Many who are high school employees get it; however, a growing number of non-faculty, drop-in coaches do not.**

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The situation has been similar for high school football.

During the past decade, football has been in the emergency room. Bad publicity about head injuries on other levels of football has been turning the public against football on our level. But, during the majority of that decade, some of the haves among our state's football programs demonstrated a passion for proposals to modify the MHSAA football playoffs while they offered only suspicious support of MHSAA efforts to modify football practices and were slow to join the MHSAA's efforts to promote the remarkable safety record of the school-sponsored game, which no one in America promoted as persistently and well as our John Johnson and Rob Kaminski.

The football coaches association has eventually come to the party . . . Scott Farley and Mark Uyl deserve some credit for that . . . but we must be careful about others at our table: like USA Football. Just a few years ago, USA Football's executive director was pressuring me to have the MHSAA relax our safety rules: specifically, to allow Michigan players to participate in full-contact games in winter and spring, and to permit Michigan players to attend full-contact camps in the spring and summer. USA Football was pressuring us to permit *more* contact; it wasn't lobbying for less contact.

Michigan was way ahead of the safety curve with its policies which USA Football tried in vain to have us change . . . before public criticism of the game changed USA Football's agenda from merely promoting competition to the much more important promotion of participant safety. The country is moving in Michigan's direction: away from contact camps. Others are changing; there's no reason for Michigan to back pedal on safety. **Full equipment/contact camps are yesterday's news, not today's need. They're on the wrong side of history. Worse, they're on the wrong side of football safety.**

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I went to college as a math major but graduated with a degree in English, so I may have a bias here; but I think there is too much math involved in high school sports today: too much attention on formulas and too little on fundamentals . . . too much focus on stats and too little on stories.

Stories can help save school-sponsored football; new formulas for the football playoffs will not.

Stories can help overcome the problems of school-sponsored basketball; seeding the post-season tournament will not. In fact, if seeding helps the haves at the expense of the have-nots, seeding may actually contribute to the further decline of high school basketball. . . a further descent toward the AAU culture.

In his 1971 inaugural address as governor of Georgia, Jimmy Carter got it right. He said, "*The test of a government is not how popular it is with the powerful,*" (the haves); "*but how honestly and justly it deals with the many who must depend upon it*" (the have-nots).

Passionate but impartial leaders of school sports must always keep the have-nots in mind. Partisans never will.

I would have supported the proposal of two-plus years ago to revise the football playoff point formula, except for its bias for the haves and against the have-nots. It had a disparate negative impact on rural schools, remote schools and City of Detroit schools . . . unfortunate features that I was able to demonstrate existed. I said I would not support the plan as long as that bias continued to exist.

I don't know about the upcoming change in the playoff point system; I no longer receive and evaluate the data. But I sure hope you folks are looking out for the have-nots – generally the rural, remote and urban schools of this state – which are grossly under-represented at conferences such as this, as well as in coaches association leadership and even MHSAA committee membership, and whose interests are far too often overlooked.

Remembering and representing the people who are not in the room is one of the essentials of responsible school sports leadership. Looking out for the little guy and the quiet voice is not one of the most popular roles athletic leaders play, but it is one of the most important tasks for leaders of our brand of sports, for educational athletics.

It often seemed to me that the proposals of coaches associations and the work-product of MHSAA committees helped most those who needed help least . . . benefited the haves more than, or at the expense of, the have-nots. I felt I had to stand in opposition to proposals which had that bias. And, looking back over the 32 years, I wish I had sometimes stood in even stronger opposition to the haves and even longer advocacy for the have-nots. **There was a void I should have filled more readily and resourcefully. I was known to do so, of course; but I also know in my heart that I could have done this even more . . . protected the have-nots even more powerfully from the tyranny of the haves.**

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It's too simple and a bit lazy to base decisions on survey results alone, as we've become prone to do. "Consensus" is not a force that leaders follow blindly. It's something that real leaders forge; it's a force they create by blending conflicting interests together. Dr. Martin Luther King, Jr. said, *"A genuine leader is not a searcher for consensus but a molder of consensus."*

We should not merely go along with our constituents. We must bring people along to do those things which might conflict with their limited (and advantaged) situation, but would benefit the whole. And often because it's less sexy, the hardest consensus to build and to hold is the resolve not to change something that should not be changed.

I am aware, of course, that it is I who brought a culture of surveying to the MHSAA. I started it! But, after we had computers to tabulate results quickly, and even later when we could survey anything and everything electronically, surveying got out of hand.

We must not mistake survey results for that which is fundamentally fair and just. Surveys can be a crutch . . . a substitute for real leadership. At most, surveys should guide further research and discussion; the results should never be accepted as gospel.

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No one is as smart as they think they are; and no subject reveals this better than the football playoffs.

Everyone – and I mean no less than 99.9 percent of everyone – believed we had the answer in 1999 when we lengthened the football playoffs one week to double the number of qualifiers and assure that every team with six wins would qualify. This meant that some one-loss teams would no longer be left out of the playoff field. It meant that schools could schedule some really tough teams, suffer a loss or two or even three, and still qualify for the playoffs.

“Brilliant,” is what some people said. *“Scheduling problem solved,”* others said. Even media, some of whom picked on the playoff system later, praised the new system in 1999. What many came to see as a bad feature (*“six wins and in”*) was considered the best feature then. If there was any complaint at all back then, it was that we had *“watered down”* the playoffs. The criticism was that we were including too many teams, not too few.

I fear there are too few coaches and athletic directors involved today who were present back then . . . too few who remember where we have come from. If you’ve been around long enough, you know: doubling the number of qualifying teams in the playoffs actually quadrupled the complaints about the playoffs. I presided over two doublings of the football playoffs and the addition of the eight-player tournament, first in one division and then two – altogether a 350 percent expansion in qualifying teams.

What I have learned through all of this is that we are not nearly as smart as we think we are: definitely not in 1999 when everybody said we had a “brilliant” plan; probably not in 2019 when some people said they had a better plan.

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The MHSAA Team Wrestling Tournament provides another cautionary tale. We may have outsmarted ourselves. By seeding the eight teams qualifying to the Finals venue in each division, we have experienced some unintended negative consequences. We now have a Final tournament of first-round mismatches on Friday, where spectator attendance is way down compared to the earlier unseeded tournament; and we have Saturday Semifinals and Finals with most of the same teams competing every year.

Largely due to seeding, the Team Wrestling Tournament is now *“predictable.”* And that’s the last word you want to hear to describe school sports. Absence of predictability is our product. Lack

of predictability is our brand. Surprise is our charm: young athletes on fire one day and completely out of it the next.

What we don't want is predictability. Not in team wrestling or boys lacrosse as we have in those tournaments now. Not in basketball and soccer which we could have after a decade of seeding those tournaments.

Some people will say, *"But Jack, we're only seeding the top two teams in each basketball and soccer District, not the whole field. What's the big deal?"*

That's right, and I'm glad; and I also like that seeded teams get no special consideration for hosting or for byes. Good call! But I caution: *"Be wary of the tyranny of small decisions."* That's a quote from scientist/environmentalist/author Aldo Leopold who was lamenting how a lot of little decisions have led to large, irreversible damage to our natural world.

It has been said, *"You can lose the principles of an institution on an installment plan as easily as by a coup d'état."* **A series of small, incremental changes can take us where we never dreamed we would go. If 32 years has taught me anything at all, it has taught me that.**

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It is vitally important for school sports administrators to have both a long perspective and a little humility. We are never as dumb as some critics say we are; but we are not nearly as smart as we think we are either. It's imperative to have deeper/broader/longer perspective, and some humility . . . to consider that what we think is a solution may create worse problems, that today's "shiny object" is likely to create tomorrow's "stinky problem."

As executive director, I witnessed many MHSAA committees come up with complicated but half-baked recipes for the Representative Council's consideration . . . proposals full of potential problems. Many times, the fatal flaw was that a proposal was just too darned complicated. The proposals lacked simplicity . . . they were mega yachts, not rowboats. Even sincere proponents, blinded by a lack of history and humility, could not anticipate future problems. And our sport committees lacked the time and background to properly vet the notion they had to vote on.

One of the most unfortunate examples of this is the way some sport committees have proposed that regular-season contests are counted. We stopped counting every contest as a contest. Instead, we started counting three shortened contests as only two. And we said a team could do this some of the time but not too any times in a season. And we said they could do this on certain days of the week but not every day of the week.

Of course, this would lead to mistakes, especially by new or part-time athletic directors, and new or non-faculty coaches.

Of course, these mistakes would cause some teams to misapply the complicated rules, and miscount the number of contests, and exceed the maximum number allowed, and be removed from the MHSAA tournament.

Of course, some of these teams would be strong teams . . . teams whose fans came to think even more highly about themselves because, darn it, we seeded them No. 1!

And it was not when I was in charge, and it is not now that Mark Uyl is in charge, an easy process to unwind bad feelings toward the MHSAA where these mistakes occurred because good people got snagged by badly designed rules . . . rules that were too complex . . . rules with too many exceptions . . . rules that lacked the essential ingredient of simplicity.

I pay scant attention to the American Association of Retired Persons; but recently I read an interview with its CEO. She said: *“One of my greatest gifts is my ability to simplify what needs to be done so that everybody understands their roles and responsibilities.”* That is exactly what the MHSAA should be doing: simplifying things, and certainly not complicating matters.

Critiquing my turn at leadership of the MHSAA, this is not one of the responsibilities where I excelled. **Proposals of coaches associations and recommendations of MHSAA committees too often failed the “simplicity” test, creating more problems than solutions. I often could see problems developing. I should have said “no” even more than I did, and upset more people more often. That’s not pleasant; but frankly, that’s the job: regardless of the criticism, “talking sense.”**

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I do recognize that some things change, although I hope that it will always be the *wrapping* of school sports that changes and not the *precious gift* of educational athletics itself. I recognize that there can be credible differences of opinion regarding transfer and travel rules, and football camp restrictions, and tournament seeding, and the qualifying formula for the football playoffs, and how contests are counted in soccer and lacrosse.

But for Pete’s sake, *don’t just go along to get along*. Don’t blindly follow consensus. Instead, guide consensus to simple, sensible, fair, inclusive conclusions. Submit every proposal for change to a **“simplicity test”** and a **“humility test.”** Consider the possibility that an idea is just too complicated to work. Consider the possibility that proponents might not know what they are talking about or what the future will hold. And, evaluate every proposal for change on the basis of what it will do **TO** the many have-nots among the membership, not just what it will do **FOR** the haves.

Stand up. Speak up. Talk sense. Speak truth. Work harder on the basics. Keep faith in the fundamentals. **Put less time and energy into proposals addressing MHSAA tournaments. Put more time and energy into proposals addressing practices and the regular season. Put more time and energy into maximizing participation; into promoting multi-sport participation; into promoting scholarship, sportsmanship and leadership; into nurturing the health and safety of participants.**

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The worst threat before us is that in all the clutter – all the bad advice and shiny objects – we might lose our “touchstones,” our reasons for being, our reasons why we do what we do. That, under pressure to copy others, we forget why school sports exist . . . forget what students, schools and communities will lose if school-sponsored sports are lost, if educational athletics are irrevocably changed and become unrecognizable.

And, to fight and win this most important battle of all, much like a threatened tribe of indigenous people, it is imperative we tell our **stories** . . . essential that we pass on what’s important through a conscious narrative with symbols that capture and continue the essence of our culture.

Like the story of a still-growing 6-foot-2 9th-grade basketball player at a Lansing area school who decided it might be fun to go out for cross country last fall, but then was criticized by a basketball coach who said cross country developed the long muscles, not the short muscles he said are needed for quickness on the basketball court. The kid ignored this basketball coach, and eight weeks into his first cross country season, this young man was able to dunk a basketball for the first time in his life.

His father, a Lansing lawyer, told me his son gained speed, endurance, new friends, new confidence, and “*some serious lift.*” His dad said to me, “*Jack, this is what you always said, and it’s true. Kids really do need to play multiple sports.*”

Author Richard Powers wrote in his Pulitzer Prize-winning novel *The Overstory*: “*The best arguments in the world won’t change a person’s mind. The only thing that can do that is a good story.*” Like that one.

Our stories need to be about **students** who are both starters and substitutes, both stars and scrubs. About both high- and low-profile sports, both varsity and sub-varsity levels. About multi-sport athletes and scholar-athletes. About athletes who sing in the choir, act in the school play and perform with the band and orchestra. About the good sports and the team players. Stories about all the kids who contribute to the rich diversity of our constituency.

Remember, every kid we include in our story today is likely to be our ally tomorrow; while every kid we cut becomes a critic. Every student we ignore in the present becomes a parent who will ignore us in the future. They will argue tomorrow that our entire program is an extravagance or frill if we fail to make them a part of our story today.

Our stories need to celebrate character-building **coaches**, even if they are not championship-winning coaches. Still resonating with me 31 years later is the statement I heard from a coach in May of 1989. He said: “*The joy of teaching and coaching is to discover new minds and bodies eager to learn and improve.*” That’s what we must be looking for. That’s what we should be striving toward and celebrating.

Our stories need to be about **officials**, about the long-time **volunteers** of our schools, about the **parents** who get it right . . . who remember the program is designed to present adversity and growth as well as gratification for their child.

And our stories need to be about the many **athletic directors** who have served so well and so long. The MIAAA needs to be churning out items which daily and weekly newspapers and local radio and television stations can drop into their publications and programming . . . stories about the awards you earn, the committees you chair, the presentations you make, the levels of accreditation you achieve; your milestones, your meetings, your message.

One of the reasons the MHSAA hired Geoff Kimmerly years ago was that we could see that local newspapers were dying and there were fewer local prep sports writers to tell the positive stories of high school athletics. Every week of every school year and beyond, Geoff and his stringers across the state are trolling for and telling stories, often with video, on the MHSAA's "Second Half" website.

Each of you has stories. Lots of stories. Powerful stories. Mission-defining and affirming stories. People in every community need to see the interscholastic athletic program for the breadth of its reach and the depth of its impact. Our story is not just about starters and stars, not just about the varsity level and highly visible sports; it's about all sports and all levels. Not just about today, but also tomorrow. Not just about sports skills, but more importantly, about life skills.

Some of you have heard me say many times: *"Your job is not so much event management as it is MESSAGE management."* I am certain that the future of school sports has much more to do with managing the message of school sports than managing the money of school sports. Message first; money follows. There must be a constant stream of stories about the niche – the unique place – which school sports has earned and enjoys in your schools and in American society.

School sports is a one-of-a-kind program of competitive athletics where a whole host of considerations are more important than starters and stars or prizes and profits. We do not have to be like every other program . . . don't have to be like the AAU to keep ahead of the AAU . . . or like youth soccer to keep up with youth soccer . . . or like youth hockey to keep up with youth hockey. We don't need to specialize, professionalize, commercialize or nationalize school sports. In fact, if we do those things, we will lose our place.

We are the remarkably different athletic program, the noticeable one . . . the "purple cow" in a field of black, brown and white cows. If we try to compete with the glitz and glamor of college sports, we will become invisible. If we try to be like every other community youth sports program that travels the nation or globe but gets barely a blurb of local media coverage, we lose our place altogether. With cheerleaders, pep bands, pep assemblies, and local and even state media coverage – and none of that found in non-school youth sports – we have the upper hand, by far.

The unique strength that we DO have, our edge, our advantage, is the **culture** of school sports. We have marching bands and homecomings, which non-school youth sports do not have. We

have letter jackets and spirit weeks which non-school youth sports do not have. On a Friday night in the fall or winter as I travel in most parts of the state, I can find at least one radio broadcast of a high school game, and I can find at least one high school scores-and-highlights show on television. Never is any of this found for non-school youth sports. On Saturday mornings in the fall and winter, there are dozens of radio talk shows with local high school coaches reviewing the previous week's game(s) and previewing the next week's schedule. Never is any of this a part of non-school youth sports. All year long, local newspaper, radio and television feature high school "Teams of the Week." Rarely, if ever, is this done for non-school youth sports.

School sports enjoy a standing in our communities and a status with our local media that non-school youth sports can't come close to. **AAU and travel teams are a culture that disses the school and community. Ours is a culture that helps *define* the school and community. We are local, amateur, inexpensive, education based. We have almost everything going for us. We need to copy no one. We need to protect and promote these things, the culture of school sports.**

These are the things I want you all to speak up and work for. These are the fundamentals worth fighting for. This is our story. And I, for one, am sticking with it.

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About the Author

John E. (Jack) Roberts retired from his position as executive director of the Michigan High School Athletic Association in August of 2018. At the time, his 32-year tenure was the longest among the active CEOs in the 51-association membership of the National Federation of State High School Associations, for whom Mr. Roberts served as assistant director in charge of public, legislative and judicial affairs from 1973 to 1980. He served on the national staff of the Fellowship of Christian Athletes from 1981 until 1986, including as FCA's executive vice president the final two years.



Mr. Roberts participated in football, basketball and baseball as a high school student in Wisconsin. Mr. Roberts attended Dartmouth College where he played in every football game of his sophomore through senior seasons; and he sang in the Dartmouth Glee Club and with its touring close harmony group.

In 1985, Mr. Roberts was co-author of *More than Winning* with University of Nebraska icon Tom Osborne. The Michigan High School Athletic Association has published two volumes of his essays, and his articles have been published in local, state and national publications for 46 years, during which time he has spoken in nearly every state and most Canadian provinces. His topics have almost always been the important values of educational athletics for students, schools and society when those programs are properly administered . . . and the threats to safe, sane and sportsmanlike interscholastic athletic programs when they are not.