REFERENDUM ITEMS - 2017-2018

CONSTITUTION – 2017-2018

ISSUE 1 C – Revise Article 3 –Membership – Initial and Continuing

3-2-4 - The applicant must be able to certify that it has sponsored at least two varsity “recognized sports” (per Bylaw 1-5-1) per sports season in the school year immediately prior to the date of application and that it intends to continue with its sponsorship of these recognized sports upon becoming a member of the OHSAA. **Sponsorship of a varsity recognized sport means that the school conducts competition in a minimum of 50% of the maximum allowable regular season contests in each sport.** Furthermore, the applicant must certify that it intends to and actually shall participate in the OHSAA-sponsored tournaments for each of the sports for which applicant provides sponsorship.

3-3-4 - Subject to Article 3-3-5 below, a member school must continue to sponsor two varsity “recognized sports” (per Bylaw 1-5-1) per sport season in the school year in order to maintain membership in the OHSAA. **Sponsorship of a varsity recognized sport means that the school conducts competition in a minimum of 50% of the maximum allowable regular season contests in each sport.** Exception: Schools that have restricted enrollment due to geographic placement and single gender schools may request an exemption from this sponsorship requirement. The exemption may be granted solely at the discretion of the Executive Director’s office.

**Note:** Schools that were members as of the 2009-2010 school year and did not meet the two-sport per season provision within this article are exempt from this two-sport per season requirement until such time when they do meet the two-sport per season requirement.

**New 3-3-5 (renumber current 3-3-5 as 3-3-6)** If, during the course of any given school year, a member school fails to sponsor a minimum of two varsity “recognized sports” in any sport season, effective immediately in the sport season in which the school fails to meet this minimum sponsorship obligation, the school’s membership shall be placed on probation, and the school’s remaining sports teams/individuals shall be ineligible for participation in any OHSAA sponsored tournaments. Furthermore, as a school on probation, the school will need to reapply for membership in accordance with the initial membership requirements found in Constitution 3-2-4, and failure to do so in a timely manner shall cause the school’s membership to be terminated.

**COMMENTS:**

1. These amendments clarify more precisely that sponsorship of a sport means conducting at least 50% of the maximum allowable contests and participation in the OHSAA tournament.
2. The articles address both initial and continued membership in the OHSAA.
ISSUE 2 C – Revise Article 5 – Board of Directors and 6 – Commissioner

EXECUTIVE DIRECTOR

Article 5 - Powers and Duties of the Board of Directors

5-6-1 The powers and duties of the Board of Directors include but are not limited to:

1. Employ the Commissioner, Associate Commissioners, Assistant Commissioners, Executive Director, Senior Directors, Directors, Assistant Directors and Coordinators.

(new) 2. Employ a Senior Director of Finance who shall render reports as requested by the Board of Directors, and shall cause to be published annually the audited financial report for the past fiscal year.

(re-#ed) 3. Approve or disapprove the appointments . . .

***

(re-#ed) 8. Establish an appeals process by which decisions of the Executive Director’s Office can be reviewed. This process may include holding hearings involving eligibility, qualifications, game contracts and controversies between or among schools and/or participants and officials regarding interscholastic athletics. This process may also include the appointment of an Appeals Panel separate from the Board of Directors for the review of all rulings by the Executive Director’s Office, eligibility decisions affecting student-athlete participation only. If the Board appoints an Appeals Panel, the Appeals Panel shall have exclusive appellate jurisdiction over all rulings by the Executive Director’s Office, those matters which pertain to student eligibility. Appeals decisions, whether rendered by an Appeals Panel or the Board of Directors, shall be final. Neither the Board of Directors nor an Appeals Panel, if one is appointed, has the authority to waive, amend, or set aside any bylaw but rather must apply the bylaws precisely as they are written. The Board of Directors shall make the decision to appoint an Appeals Panel no later than the June meeting of the Board of Directors.

(re-#ed)10. The Board of Directors may make regulations and business rules to promote the purpose of the Association.

Article 6 – Commissioner

EXECUTIVE DIRECTOR

Renumber and replace all references to “Commissioner” throughout the Constitution and Bylaws

6-1-4 The Commissioner shall serve as the Chief Financial Officer of the Association, render reports as requested by the Board of Directors, and shall cause to be published annually the audited financial report for the past year and shall be responsible for the minutes of the Board of Directors’ meetings.

6-1-4 The Commissioner’s Office shall serve as the Chief Financial Officer of the Association, shall render reports as requested by the Board of Directors, shall provide the Board of Directors with business rules and other data pertinent to any phase of the Association’s work and perform duties as directed by the Board of Directors, shall cause to be published annually the audited financial report for the past fiscal year and the Executive Director shall be responsible for the minutes of the Board of Directors’ meetings.

COMMENTS:

1. This Constitutional issue in Article 5 removes from the Executive Director the duties that have been the primary responsibilities of the Senior Director of Finance. The rewriting of 6-1-4 creates a separate position of Senior Director of Finance, thus reassigning the financial duties previously allocated to the Executive Director to the Senior Director of Finance.
2. 5-6-1 (2) not only established the position of Senior Director of Finance but also provides a direct line for communications/reporting certain financial matters to the Board. Notwithstanding these reporting duties, the SDF will work directly under the supervision of the Executive Director.

3. Business rules that complement the bylaws of the OHSAA are essential and must be approved by the Board of Directors.

4. 5-6-1 #8 has been revised to place authority with the Appeals Panel, if one is appointed, to hear and render decisions concerning all rulings made by the Executive Director’s Office.

BYLAWS - 2017-2018

ISSUE 1 B – Revise 1-2-1 - Sponsorship

1-2-1 – All practices, games, previews and other interscholastic athletic contests must **shall** be under the direct or indirect sponsorship and supervision of the schools involved and shall be the financial responsibility of such schools. Please see Bylaw 3-2-1, School’s Responsibility When Hosting a Contest and Bylaw 8-2, Selection of Officials for additional information relative to this obligation.

COMMENTS:
1. There has been continual confusion and conflict created by this bylaw in terms of the meaning of “indirect” sponsorship and supervision of athletic contests.
2. The philosophy of education-based athletics requires that all contests be under the direct supervision of school personnel, which is how this bylaw was originally written.
3. New Bylaw 3-2-1 supports this concept of direct supervision and reads, … “the host school shall appoint a site director/manager or administrator-in-charge for every contest or event…”
4. In addition, Bylaw 8-2 requires administrative oversight regarding the selection of an contracting of contest officials.

ISSUE 2 B – Revise Bylaw 1-6 – Team Membership

Section 6. Team Membership

1-6-1 Girls may play on a boys team, if there is no girls team or if the overall opportunities for interscholastic competition are less for girls. A female to male (FTM) transgender student may participate on boys teams as long as he is compliant with the OHSAA transgender policies. Please see the OHSAA policies on the Transgender Student here at http://www.ohsaa.org/Portals/0/Eligibility/OtherEligibiltyDocs/TransgenderPolicy.pdf

1-6-2 A girl or transgender male (FTM) who is compliant with the OHSAA transgender policies and who is a member of a boys team shall follow all contest rules and regulations regarding the sport as specified for the boys.

1-6-3 Boys may not play on girls teams unless the overall opportunities, as referenced in the 1979 US Department of Education’s Title IX Policy Interpretation in accordance with Part 1 of the three part test, for interscholastic competition for boys are less than for girls and the competing schools mutually agree. A male to female (MTF) transgender student may participate on girls teams as long as she is compliant with the OHSAA transgender policies. Please see the OHSAA policies on the Transgender Student here at http://www.ohsaa.org/Portals/0/Eligibility/OtherEligibiltyDocs/TransgenderPolicy.pdf

COMMENTS:
1. These bylaws have been rewritten to comply with current policy and practice.
2. Reference to the 1979 Policy Interpretation of Title IX and to the OHSAA transgender policy should assist in clarifying these opportunities.
3. Part one of the Three-Part Test stipulates that the number of male and female athletes (using the duplicated count) is substantially proportionate to their respective enrollments in that school.
ISSUE 3 B – Revise 1-7-1 – Team Competition Between Sexes

1-7-1 – Teams of the opposite sex shall not compete against each other in any interscholastic athletic contests. **However, the Executive Director’s Office may waive the prohibition of this bylaw on a case-by-case basis provided the administrators of the proposed competing schools follow the procedures for obtaining such a waiver as prescribed by the Executive Director’s Office.**

COMMENTS:

1. Because schools have requested some relief in terms of this prohibition, the revisions would permit such competition on a case by case basis as determined by the Executive Director’s Office.
2. The provisions will allow the Executive Director’s Office to establish a waiver procedure, not at all unlike the procedures for waiving rules for uniform deviation, religious apparel or the use of prosthetic devices already in place.
3. The Executive Director’s Office will weigh such factors as safety of the participants, rationale for the waiver request, contest limitation issues and the like in determining whether to waive these prohibitions.
4. This competition between sexes should be clearly designated on all contest contracts to permit oversight by member school principals.

ISSUE 4 B - Section 2. – Create New Section and Bylaw - **School’s Responsibility When Hosting A Contest**

3-2-1 (New)

**The host school has the responsibility to ensure that a contest or event is administered in a manner which emphasizes the educational values inherent in interscholastic athletics. It is the host school’s responsibility to remove any individual(s) who disrupts the educational goals of the contest or event.**

Likewise, the host school is ultimately responsible for the safety of all participants (players, coaches, officials, spectators, etc.) in the interscholastic contest immediately before, during and immediately after each contest or event. Therefore, the host school shall appoint a site director/manager or administrator-in-charge for every contest or event. The host school shall ensure that the site director/manager or administrator-in-charge is aware of the school’s emergency action plan and how to adjust it to meet the needs of the particular contest or event.

Included in the emergency action plan shall be procedures to deal with emergencies, crowd management and health and safety protections. The plan shall also include procedures to ensure that unauthorized personnel are kept from the playing field; to provide safety and security for the visiting team(s), their spectators and the contest officials, and to provide safety and security for parking areas related to the contest or event.

Penalties for violation of this bylaw shall be imposed by the Executive Director’s Office as specified in Bylaw 11.

Section 3. School Representative Must Accompany Team
3-3-1 Pickup current Bylaw 3-2-1
3-3-2 Pickup current Bylaw 3-2-2
Renumber Sections 3-6 as 4-7 accordingly and the bylaws contained therein.
COMMENTS:
1. The OHSAA believes that the member schools should have codified guidance within the bylaws for ensuring that all interscholastic contests are conducted as safely and efficiently as possible.
2. This new bylaw addresses the core values of the OHSAA and places emphasis on the appointment of personnel who can oversee the safe and sound practices that will assist in making the event an educational experience.

### ISSUE 5 B – Revise Bylaw 3-3-1 – School Representative Must Accompany Team

3-2-3-1 – The principal or representative(s) authorized by the principal, in addition to the coaches, shall be present throughout all varsity football, and **boys and girls** varsity basketball games, **home and away**. It is highly recommended that a school administrator be present for all interscholastic contests, **home and away**, especially in the sports of **boys and girls soccer and ice hockey**. In all other sports, the host school shall appoint a site director/manager, who could be a coach, or administrator-in-charge, for every contest or event.

COMMENTS:
1. This bylaw will still require the principal or his/her representative to be present at all varsity football and varsity boys and girls basketball games both home and away. Stipulating that the provision is present for both boys and girls varsity contests and both home and away addresses many questions on these topics.
2. The second sentence adds emphasis to the need for a school administrator to be present at all contests, particularly soccer and ice hockey, as these sports have higher occurrences of concussion than others. School administrators play a vital role in the administration of the concussion protocols as prescribed in law.
3. In addition, and in keeping with new language in Bylaw 3-2-1, another representative designated as the site director or manager or administrator-in-charge shall be appointed by the host school for every interscholastic contest. This individual could be the head coach of the host school. This is important for several reasons, not the least of which is the administration of the school's emergency action plan.

### ISSUE 6 B - Enrollment and Attendance – Amend Bylaw 4-3-1 Exception 4

Exception 4: A student enrolled in a **non-traditional (alternative, magnet, career-oriented, digital, specialty, etc.)** school that is sponsored by a Board of Education or similar governing board is eligible to participate at the member school, operated by the district sponsoring the alternative non-traditional school. However, the alternative non-traditional school does not sponsor interscholastic athletics and the student is counted on the EMIS report for the member high school. **Each student will be counted on the EMIS report for the member high school where that student's eligibility is vested.** Students who attend non-traditional schools that are sponsored by a multiple high school public school district shall be assigned for interscholastic athletics to member schools within the district based on the business rules for participation that have been adopted by the Board of Directors. [Insert link to business rules here]

The business rules for this exception will be included in the Handbook once approved by the Board.

COMMENTS:
1. The word “alternative” refers, in accordance with the ORC, to a specific type of school that services students at risk for dropping out of school.
2. Initially, when this bylaw was first drafted, the term “alternative” was designed to represent all kinds of non-traditional schools sponsored by a Board of Education with the purpose of providing an athletic opportunity at one of the member high schools within that school district which sponsors the school.
3. To improve clarity, the use of the word “non-traditional” is more representative and includes many types of schools that would be sponsored by a member school.
4. Students attending these non-traditional schools shall be recorded on the EMIS counts for the member schools where they participate in athletics.
5. The business rules for assigning students in non-traditional high schools to a high school in a multiple high school public school district have been approved by the Board of Directors and shall be published for the membership to review.
6. This exception does not apply for home educated students, community school students, STEM school students or non-public school students participating at the school located in their parents’ district of residence in accordance with the ORC. These students are covered in exception 6 to Bylaw 4-3-1 and these students are NOT counted in a school’s EMIS report.

**ISSUE 7 B - Scholarship – Amend Note 2 of Section 4. Scholarship**

Note 2: For students who attend community/vocational/\textit{non-traditional} schools sponsored by a school district, \textbf{students who are involved with STEM, College Credit Plus and other educational options} and students who are home educated, the immediately preceding grading period determination shall be the grading period of the school for which the student wishes to compete.

**COMMENTS:**
1. Adding this phrase further memorializes that all students who are receiving their education outside the brick-and-mortar school building shall be required to use the grading period of the school for which the student wishes to compete.

**ISSUE 8 B - Transfer – Revise Bylaw 4-7-2 Exception 1**

\textbf{EXCEPTION 1}: If, as a result of a bona fide legal change of residence made by BOTH PARENTS (biological, adoptive or stepparents) from one public school district into another school district whether from outside the state of Ohio or within Ohio, the student is compelled to transfer to another high school, the \textbf{Executive Director’s} Office may waive all or part of the 50 percent period of ineligibility for one or more sport/sport seasons. The requirement that “both parents” make the move may be waived by the \textbf{Executive Director’s} Office if the marriage of the parents has been or is in the process of being legally terminated or if the parents were never married. In addition, the \textbf{Executive Director’s} Office, in its sole discretion, may extend conditional eligibility for up to 90 days \textit{immediately following the date of the student’s transfer} in cases where parents are making a bona fide move into a residence that is more than 100 miles from their former residence, and there are extenuating circumstances that are presented which prevent one of the parents from making the move immediately. This 90-day conditional provision may be extended for up to 90 more days ONLY in the case of medical or military obligations that prevent one of the parents from making the move at the same time as the other parent.

**COMMENTS:**
1. Adding the phrase “immediately following the date of the student’s transfer” more clearly defines the current business practice that has been followed since the inception of this provision.
2. We do not want students “saving” their 90-days for the specific sport in which they wish to compete (i.e. they move in the fall but want to use their 90 days for a spring sport). Memorializing this requirement makes it clear that the 90 days can only be extended immediately after the student transfers when one parent is delayed from making the move.
**ISSUE 9 B - Transfer – Revise Bylaw 4-7-2 Exception 1 “Note”**

Note: Please refer to Bylaw 4-6-1 for a definition of bona fide residence. Also, the student and the student’s parents must reside in this new residence for a period of one year from the date on which this exception was applied to a given student. The school district will have a continuing duty to monitor compliance with the residency requirements during this one-year period. Exception one permits the choice of the public high school in the parents’ new public district of residence (any public school in the parents’ new district of residence in a multiple high school district), or any non-public high school. If, however, the new residence into which the family has moved is more than 100 miles from the residence from which the family moved as determined by mapquest.com or such other navigational system as adopted by the Board of Directors at its August meeting (using the most direct route), the student shall have the option to enroll contemporaneously with this move into any public high school.

**COMMENT:**

1. Adding this phrase memorializes the current business practice that the Executive Director’s Office permits the choice of any high school under exception 1 when a family moves into a multiple high school district.

**ISSUE 10 B - Transfer – Bylaw 4-7-2 – Revise Exception 7**

Exception 7 - If a student is a victim of harassment, intimidation or bullying as those terms are defined at ORC §3313.666 (A)(2) which harassment, intimidation or bullying has been documented to the school district in accordance with the ORC, and as a result of this documented harassment, intimidation or bullying, the student is compelled to transfer, the Executive Director’s Office, in its sole discretion, may waive all or part of the 50% period of ineligibility for one or more sport/sports seasons provided;

1) The District’s Anti-Harassment, Anti-Intimidation, Anti-Bullying policies and procedures adopted in accordance with ORC §3313.666 have been strictly substantially followed and complied with; and

2) The District provides the Executive Director’s Office with a copy of the duly adopted policies and procedures; and

3) The District secures the appropriate releases from the student/student's parents authorizing the District to provide a complete record of the events and circumstances on which the policies and procedures were initiated including:
   a) A specific, detailed report of the prohibited incident(s);
   b) An outline of the procedures used to respond to and investigate the reported incident(s);
   c) A copy of the findings that were a result of the complaint process and investigation;
   d) A specific, detailed disciplinary procedure for any individual found guilty of harassment, intimidation or bullying;
   e) All reports of notification to parents or guardians of any student involvement in the incident(s);
   f) A report of the intervention strategies and remedial action the school has undertaken to assist the student and redress the complaint.

4) The District provides the Executive Director’s Office with all of the above-referenced records.

5) In concurrence with ORC §3313.666 (A)(2), this exception cannot be used for any isolated incidents or alleged incidents of harassment, intimidation or bullying, nor can this exception be used in cases where there has been no contemporaneous reporting of the alleged bullying, harassment or intimidation.
COMMENTS:
1. Changing the word “strictly” to “substantially” will assist in complying with this exception.
2. Adding item #5 reflects the concept found within the law and stipulates within the exception that the Executive Director’s Office will not entertain consideration for isolated, undocumented incidents.

ISSUE 11 B - Transfer – Revise Bylaw 4-7-2 – New Exception 11

EXCEPTION 11 - If a student has experienced a death of an immediate family member (parent, grandparent, legal custodian, sibling) with whom the student was residing at the time of death, and because of this loss it becomes necessary for the student to transfer, if the transfer occurs within a reasonable time after the death, the Executive Director’s Office, in its sole discretion, may waive all or part of the 50 percent period of ineligibility for one or more sport/sports seasons. In order to assist the Executive Director’s Office in determining whether the transfer was necessary as a result of the death of the family member, the Superintendent of the school district from which the student transferred must certify to the Executive Director’s Office that the transfer was necessary to protect the student’s physical and/or mental well-being. Absent such certification from the Superintendent, the Executive Director’s Office may not use this exception.

COMMENT:
1. The appeals panel asked us to look at creating an exception for such a scenario. Please remember that the superintendents’ agreement within 3313.64 (F) 12 already has a provision to transfer a student whose physical and/or mental well-being needs safeguarding by the transfer. However, the superintendent’s agreement cannot be used between public and non-public districts or between non-public and non-public districts.

ISSUE 12 B - Transfer – Amend Bylaw 4-7-3

If a transfer takes place during the sport season in which the student has participated in a regular season interscholastic contest in a sport, the student is ineligible in that sport for the remainder of that sport’s season in the school into which the student has transferred. A student may not use any of the exceptions to Bylaw 4-7-2 or 4-7-4 to circumvent this bylaw except if the parents make a bona fide move into a new public school district as referenced in, the student is approved for transfer eligibility under the requirements of Exception 1 of Bylaw 4-7-2 AND the school building into which the student transfers is more than 50 miles from the school building from which the student transfers as determined by mapquest.com, or such other navigational system as adopted by the Board of Directors at its August meeting, using the most direct route. For purposes of this bylaw, “sport season” shall be determined by the sports regulations for that sport, beginning with the first date on which coaching may begin and concluding on the date when the season ends.

COMMENT:
1. Adding that the student has to be approved under Exception 1 to Bylaw 4-7-2 further enforces that the student is ineligible for the remainder of the season UNLESS the Executive Director’s Office is able to determine that the requirements of exception 1 to Bylaw 4-7-2 have been met.
ISSUE 13 B – Transfer– Add Note to Bylaw 4-7-6

If a student transfers to a high school within the same public school district within which the school from where the student transferred is a part, the student may have his/her eligibility restored by the Executive Director's office provided the following conditions have been met:
1) The student has been reassigned to the high school by the school district as a result of redistricting or a specific change of program the details of which shall be clearly stipulated in writing to the Executive Director's office; and
2) The transfer takes place prior to the beginning of the school year; and
3) The District petitions the Executive Director's office for the restoration of eligibility for the student no later than 15 school days after the beginning of the school year; and
4) The student is ineligible until ruled eligible by the Executive Director's office.

NOTE: This exception will have no application for seniors who are requesting a “specific change of program.”

COMMENT:
1. Adding this note memorializes the current business practice that the Executive Director’s Office will not entertain consideration for a “specific change of program” for a senior who is likely too far into his/her academic career to reap any benefits from this reassignment, making the intention behind the bylaw moot.

ISSUE 14 B – Transfer– Add Note to Bylaw 4-7-7

If a student transfers to a high school located within the jurisdiction of a non-public multiple high school system (e.g., Catholic Conference of Ohio, Ohio Association of Independent Schools, Association of Christian Schools International or other category as denoted by the State Department of Education) from another high school within that same system, the student may have his/her eligibility restored by the Executive Director's office provided the following conditions have been met:
1) The student has been reassigned to the high school by the superintendent or other administrative authority of that school system as a result of a specific change of academic program the details of which shall be clearly stipulated in writing to the Executive Director's office; or a material change in economic circumstances so as to create a hardship; or a material change in transportation circumstances so as to create a hardship; and
2) The transfer takes place prior to the beginning of the school year; and
3) The superintendent or other administrative authority of the system petitions the Executive Director's office for the restoration of eligibility for the student verifying in detail the specific reason for the transfer in accordance with item #1 and certifying that the transfer is not for athletic reasons no later than 15 school days after the beginning of the school year; and
4) The student is ineligible until ruled eligible by the Executive Director's office.

NOTE: This exception will have no application for seniors who are requesting a “specific change of academic program.”

COMMENT:
1. Adding this note memorializes the current business practice that the Executive Director’s Office will not entertain consideration for a “specific change of academic program” for a senior who is likely too far into his/her academic career to reap any benefits from this reassignment, making the intention behind the bylaw moot.

ISSUE 15 B – International and Exchange Students– Amend Bylaw 4-8-1 Exception 1

EXCEPTION 1: An international student may be declared eligible if the student's parents have made a bona fide legal change of residence into Ohio and the international student is enrolled and attending an Ohio member school. The student is ineligible until ruled eligible by the Executive Director's office.
Note #1: This exception requires that both parents make the move into Ohio. If, however, the international student is moving with parents into Ohio from another high school within the United States, an affidavit of bona fide residence in support of transfer bylaw 4-7-2 exception one is required.

Note #2: Please be advised that students who transfer into an Ohio high school under this international exception must adhere to an exception to the transfer bylaw 4-7-2 or be prepared to sit out of all contests until the first 50% of the maximum allowable regular season contests have been competed in any sport that they played in the 12 months immediately prior to the transfer.

COMMENT:
1. Since a student needs to be eligible under each section of Bylaw 4, if an international student has participated in sports at the HS level within the 12 months immediately preceding the transfer then this student shall also require a ruling under Bylaw 4-7, Transfer. This is the same language we use for transfers under Bylaw 4-6-3, Out of State, and would provide more consistency amongst our bylaws.

**ISSUE 16 B – 4-9-7 RECRUITING**

4-9-7 Any violation of the recruiting prohibitions as set forth in this bylaw shall cause the recruited student-athlete to be ineligible upon enrollment. *If it is determined by the Executive Director’s Office that a student-athlete was recruited in violation of these prohibitions, the Executive Director’s Office may deny the student-athlete from participation (which may include participation in the OHSAA tournament) in the sport or sports for which the student-athlete was recruited.* Furthermore . . .

COMMENT:
1. This revision codifies the practice of denial of participation for students who have been found to be recruited by a member school

**ISSUE 17 B – Revise 7-1-7; New 7-1-8 - Contracts for Athletic Contests**

7-1-7 If contractual obligations *game contracts* cannot be fulfilled by reason of weather, strike, force majeure or similar such circumstances, the contracting school should may:

a) Void the contract by mutual consent of the parties *schools* involved, or

b) Attempt to reschedule the contest at another date a mutually agreeable to all parties *convenient time and date to all schools*. If the contest in question is a varsity football contest, if the schools are unable to mutually agree to rescheduled date to take place within 72 hours of the cancelled contest, the contract shall be considered null and void.

c) Refer the matter to the Executive Director’s Office for resolution.

7-1-8 If a school which has entered into a game contract cancels or attempts to cancel a game contract without the consent of the other school, or otherwise breaches the terms of the game contract, the schools shall:

a) Attempt to resolve their contract dispute by and between themselves; or

b) The non-breaching school may invoke the liquidated damages clause as set forth in its game contract; or

c) Determine the financial loss to the non-breaching school and make a financial settlement; or

d) Refer the matter to the Executive Director’s Office for binding resolution. In arriving at a binding financial resolution, the Executive Director’s Office shall consider the financial records (attendance, gate receipts, concession sales, others) of past games previously played to ascertain damages to the non-breaching school.

In addition to the foregoing remedies, the Executive Director’s Office is authorized to sanction the breaching school with a full array of sanctions as set forth in Bylaw 11 including, but not limited to, denial of participation in the OHSAA tournament in the sport in which the contract disputed occurred.
COMMENTS:
1. There is a major difference between contract obligations that cannot be fulfilled by reason of weather, strike, force majeure etc. (no fault situations) and those where one school simply unilaterally cancels a contract.
2. Separating these contract issues into two bylaws improves clarity for each type of breach.
3. Football is different insofar as “rescheduling is nearly impossible during the same season.”
4. The current “damage clause” provision addresses only the unilateral breach situation.
5. Providing a broad array of penalties, including the ability to remove a team from the OHSAA tournament, should be an effective deterrent for what we are seeing as an increase in the number of schools choosing to void contracts.

ISSUE 18 B – 11-1-2 – PENALTIES

11-1-2 Penalties include: suspension of membership, suspension of eligibility, forfeiture of games, forfeiture of championship rights, probation, reclamation of expenses for the conduct of investigations and all other fees/expenses associated therewith, public censure, denial of participation in post season tournaments (applicable to administrators, coaches and student-athletes), fines not to exceed $10,000 per occurrence or such other penalties as the Executive Director’s Office deems appropriate.

COMMENTS:
1. These revisions more clearly define “suspension” to include both membership in the association as well as a student’s eligibility.
2. Denial of participation for post-season, OHSAA tournaments has been a remedy used to penalize students and coaches. This amendment codifies that process.