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TO: Superintendents
High School Principals
Athletic/Activities Directors
School Board Presidents

FROM: Billy Strickland, Executive Director

DATE: March 1, 2022

RE: Proposed Bylaw/Policy Amendments— Article 4

The Alaska School Activities Association (ASAA) Board of Directors proposes to amend Association bylaws at its meeting on April 25-26, 2022. Preceding the amendment is a short explanation of the proposal.

In amending the Bylaws, the Board of Directors will be using the following procedure:

Article 18, Bylaw Amendment, Section 1, Method, states:

“These Bylaws may be amended by a simple majority vote of the Board of Directors sitting in regular session provided that at least 30 days advance notice has been mailed to the general membership.”

Section 2, Effective Date, states:

“Unless otherwise specified, amendments to these Bylaws take effect 30 days after their filing.”

Please review these proposed changes and if you wish, provide written comment by letter or email billy@asaa.org, to the ASAA office prior to the meeting.

Explanation

Students, parents, and member schools have the right to appeal the Executive Director’s decision to deny a waiver to the ASAA Eligibility bylaws. They also have the right to request an expedited and/or oral hearing. However, many only do so due their being “nothing to lose”. This results in ASAA having to convene its Board of Directors to act as the Appeals Board. This results in a significant loss of time for the Board. By requiring a fee to appeal, ASAA feels some of these needless appeals would not happen. ASAA is also needing to add language that the actions of the Board of Directors are not allowed to be appealed.

Proposed Amendment:

ARTICLE 4 - APPEAL PROCEDURE

Section 1 - Appeals from Executive Director Decisions to Appeals Board

A. Within twenty-one (21) calendar days of receipt of a decision of the Executive Director, a member school or an individual may appeal such decision by requesting, in writing, that the case be presented to the Board of Directors, which shall act as the Appeals Board. When requested by an individual student or by the parent or guardian of the student, the student's school shall submit the student's appeal to the Appeals Board.

B. The written appeal shall specifically set forth the grounds for the appeal, and include all relevant factual matters and citations to applicable provisions of the Association's Constitution and Bylaws, and to State or Federal statutes or constitutions.

C. The Appeals Board shall not be bound by the provisions of this section in an appeal of a game suspension of a player, or of a coach, when the suspension resulted from a game ejection which was based on the judgement call of a contest official. The Appeals Board will hear an appeal of a game suspension under this section, only, if the game ejection which caused the suspension, was a result of a misapplication of a rule. A misapplication of a rule which results in a game ejection, must be reported to ASAA by the contest official, by no later than noon of the next business day following the end of a contest, with a subsequent follow-up in writing.

Section 2 - Appeals Board Procedures

A. Upon receipt of an appeal, the Executive Director shall promptly transmit to Appeals Board members a copy of the Executive Director's decision from which the appeal is taken, all relevant documents upon which the Executive Director's decision was based, copies of the applicable provisions of the Association's Constitution and Bylaws, State or Federal statutes or constitutions upon which the Executive Director's decision was based, and copies of all written materials provided by the appellant in support of the appeal. The Appeals Board may receive additional evidence not considered by the Executive Director. All additional evidence submitted by the appealing party, including evidence submitted in response to any requests by the Appeals Board for additional information pertaining to the appeal, shall be promptly supplied by the affected student, member school or school personnel.

B. The Appeals Board may review the appeal and render a decision thereon on the basis of only the written materials provided to it in connection with the appeal. Oral hearings are not a matter of right, but may be granted, in the discretion of the Appeals Board, upon request by the appellant student or school, by the Executive Director, or by the Appeals Board itself, for good cause shown. A hearing, if granted, will be held during the next regular meeting of the ASAA Board of Directors, unless an expedited hearing is granted.

C. The appellant may request that the Board of Appeals conduct an expedited **(add) and/or** oral hearing. Such a request will be promptly reviewed by the Chair of the Appeals Board, who will approve or deny the request. If approved, an expedited **(add) and/or** oral hearing will be scheduled at the earliest available time consistent with the requirement that a quorum of the Appeals Board be present. An expedited hearing may be conducted by teleconference. When an expedited hearing is requested, the Appeals Board **(add) will assess the member school \$250 fee to cover expenses. (delete) may assess the costs of the appeal against the member school or individual. Assessable costs may include travel, telephonic and copying costs, including teleconferences, and other related expenses.** If the decision of Executive Director is overturned by the Appeals Board, **(add) the fee will be reimbursed. (delete) these costs may be waived.**

D. All hearings conducted by the Appeals Board will be held in executive session, **(delete) (unless an open public session is requested by the school or by the individual bringing forth the appeal.** Audio recordings of hearings will be made by the Association. Deliberations of the Appeals Board following hearings will be in executive session, which will not be recorded.

E. The Executive Director will participate in the hearing for the purpose of providing information but will be excluded from participating in deliberations. Once the Appeals Board has reached its decision, it may invite the Executive Director to join the Board prior to moving out of Executive Session, if the Board decides that it needs assistance with the wording of the decision.

F. In considering evidence provided in favor of or in opposition to the appeal, including written documents, and, if applicable, testimony at any hearing, the Appeals Board shall not be bound by the technical rules relating to evidence and witnesses. Relevant evidence will be considered if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule that makes improper the admission of the evidence over objection into civil action. Issues regarding consideration of evidence will be resolved by the Chair of the Appeals Board, unless a member of the Board objects to the Chair's ruling, in which case the evidentiary issue will be resolved by majority vote of the Appeals Board. Any such ruling pertaining to evidence or testimony submitted at a hearing shall be made during the hearing.

G. Following its deliberations, the Appeals Board shall make a written decision setting forth its findings of fact, conclusions based on the Association's Constitution, Bylaws and/or any other relevant Federal or State law, and shall include any resulting order. Such findings, conclusions and order shall be entered no later than twenty-one (21) calendar days after the Appeals Board's receipt of all materials and any additional information submitted in response to a request by the Board, and shall be signed by the Chair or, in the Chair's absence, by an alternate Chair selected by the Appeals Board.

H. All decisions of the Appeals Board will be promptly transmitted by facsimile to the affected school and mailed to the home addresses, as provided by the school, of the affected student and the student's parent or guardian. The decision shall contain an express notice that it constitutes a final decision of the Appeals Board and that any party wishing to appeal the decision to the Superior Court for the State of Alaska must file such an appeal within thirty (30) days from the date of the decision.

Section 3 - Appeals Concerning Students in Alternative Education Programs:

For purposes of Article 4 and appeals procedures, references to the “student’s school” or the “affected school” shall include the public school, or the private or religious school wherein an alternative education program student participates in interscholastic activity pursuant to Article 12, Section 2 (C).

(add) Section 4 - Appeals from Board of Directors Actions:

Actions taken by the Board of Directors are not subject to the appeal procedure in Article 4. Actions taken by the Board of Directors includes, but is, not limited to, adoption of new policies, changes to policies, adoption of schedules and calendars, and amendment of the Bylaws. Individuals or Schools wishing to change an action taken by the Board of Directors are encouraged contact their Board Representative.