

Board of Education Regular Meeting

Monday, January 11, 2016 7:00 PM

Conference Room
1501 Front Street
Henderson, NE 68371-8929

Agenda

1. Preliminary Procedures
 1. Call to Order
 2. Public Notice of the Meeting
 3. Roll Call
2. Public Comments on Agenda Items
3. Public Comments on Topics Not on the Agenda
4. Election of Board Officers
 1. Election of Board President
 2. Election of Vice-President
 3. Election of Secretary
 4. Election of Treasurer
5. Reports
 1. Superintendent's Report
 2. Principals' Reports
6. Discussion Items
 1. NSAA Transgender Participation Policy
 2. Summer Projects
 3. Policy Review Meetings
 4. Date for Board/Admin Retreat
 5. NASB Meetings
7. Old Business

1. Board Self-Evaluation
2. Board/Admin Retreat Topics
8. New Business
 1. Executive session to discuss Superintendent's contract
 2. Superintendent's Contract
9. Future Agenda Items
10. Consent Agenda
 1. Approval of Minutes
 2. Approval of Treasurer's Report
 3. Approval of Claims
 4. Financial Reports
 5. Out of State Travel Requests
11. Adjournment

Nebraska School Activities Association – Gender Participation Policy

The Nebraska School Activities Association (NSAA) has developed this policy to address the eligibility and participation of students in NSAA-sponsored athletics based upon gender.

A. Purpose: The NSAA has as one of its central purposes the fostering and maintenance of a level playing field for the students competing in the activity programs of member high schools. The NSAA's rules-making process involves educators who are specialists in the field of fostering, promoting and caring for the safety and best interests of students, and assuring that students participating in school activities are provided a fair chance to participate in a manner that enhances their education. The principle of competitive equity and the maintenance of a level playing field, and the safety and preservation of the personal privacy interests of student athletes are basic values of schools, and our society as a whole, and is clearly a "substantial interest"¹ of activity associations. To such end, this Gender Participation Policy seeks to balance the important goals of:

- Equal Opportunity: Providing equal opportunities in all aspects of school programming for all students is a core value in education.
- Physical Safety of Student: Protecting the health and safety of all students by assuring that female students are protected from physical injury as a result of participation in activities with biological males or androgen-supplemented biological females who are generally stronger and faster than biological females²; and,
- Competitive Equity: Maintaining a "level playing field" is an inherent expectation at all levels of sport competition and a key value of the schools that are members of the NSAA. Maintaining such competitive equity in NSAA-sponsored activities is indispensable in:
 - Preserving Title IX protections for female activities;³ and,
 - Preserving protections of female athletic activities through the contact sport exclusion to Title IX.⁴
- Personal Privacy: Protecting the personal privacy of all student athletes participating in NSAA activities.⁵

¹ See *Clark v. Arizona Interscholastic Asso.*, 695 F.2d 1126, 1131 (9th Cir. Ariz. 1982); citing *Petrie*, 75 Ill.App.3d at 989, 394 N.E.2d at 862 (Redressing past discrimination against women in athletics is a legitimate and important government interest); Neb. Rev. Stat. § 79-2,104; Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g; *Johnston v. University of Pittsburgh*, 2015 U.S. Dist. LEXIS 41823, (U.S. Dist. Court, Western District of Penn.), March 31, 2015.

² See *Clark v. Arizona Interscholastic Asso.*, *Supra* at 1131; *Kahn v. Shevin*, 416 U.S. at 355, 94 S. Ct. at 1737, 40 L. Ed. 2d at 193; *Michael M. v. Sonoma County Superior Court*, 450 U.S. at 469, 101 S. Ct. at 1204, 67 L. Ed. 2d at 442; *Orr v. Orr*, 440 U.S. 268, 280-82, 99 S. Ct. 1102, 1112-13, 59 L. Ed. 2d 306, 319-21 (1979)(The court has recognized average real differences between the sexes).

³ ARTICLE: The Title IX Athletic Regulations and the Ideal of a Gender-free Society, 11 U. Denv. Sports & Ent. Law J. 3, 36. citing *O'Connor v. Board of Education*, 645 F.2d 578 (7th Cir. Ill. 1981).

⁴ *Springs Exempted Village School Dist. Bd. of Education v. Ohio High School Athletic Asso.*, 647 F.2d 651 (6th Cir. Ohio 1981).

⁵ See *Johnston v. University of Pittsburgh*, 2015 U.S. Dist. LEXIS 41823, (U.S. Dist. Court, Western District of

B. Definitions: The following definitions apply to this policy:

1. “Gender” means the state of being male or female.
2. “Transgender” means having a gender identity or gender expression that differs from societal expectations based on gender assigned at birth.
 - a. Female-to-Male (FTM) transgender person means one who was born with a female body but who identifies as a boy or man.
 - b. Male-to-Female (MTF) transgender person means one who was born with a male body but who identifies as a girl or woman.
3. “Gender identity” means an innate sense of one’s own gender.
4. “Gender expression” means external appearance, characteristics or behaviors typically associated with a specific gender.

C. Gender Based Participation:

1. **Gender Eligibility:** A student’s gender for purposes of eligibility for NSAA-sponsored athletic activities shall be determined by the sex noted on the student’s birth certificate.⁶

2. **Cross-Gender Participation:** Girls may participate on boys’ teams when there is no girls sport or comparable sport (e.g., softball and baseball) or team offered in that sport by the member school. Boys are not allowed to play girls sports or on girls teams even when there is no corresponding boys sport.⁷

D. Transgender Student Participation: The NSAA Gender Participation Policy only addresses bona fide transgender students and does not alter the foregoing cross-gender participation rule.

1. **Privacy Statement:** As stated under the “Purpose” section of this policy, it is a fundamental tenant of the NSAA to protect the personal privacy of all student athletes participating in NSAA activities. Pursuant to such Purpose, protecting the privacy of transgender student athletes must be a priority for all athletic departments and affiliated school personnel. Information regarding a student’s transgender status, legal name, or gender assignment at birth may constitute medical information. All medical information

Penn.), March 31, 2015; and, *Grimm v. Gloucester County School Board*, 2015 U.S. Dist. LEXIS 124905 U.S. Dist. Court, Eastern District of Virginia), September 17, 2015.

⁶ Neb. Rev. Stat. § 71-604.01 (2005). “Upon receipt of a notarized affidavit from the physician that performed sex reassignment surgery on an individual born in this state and a certified copy of an order of a court of competent jurisdiction changing the name of such person, the Department of Health and Human Services Finance and Support shall prepare a new certificate of birth in the new name and sex of such person in substantially the same form as that used for other live births. The evidence from which the new certificate is prepared and the original certificate of birth shall be available for inspection only upon the order of a court of competent jurisdiction.”

⁷ *Saint v. Nebraska School Activities Association*, 684 F. Supp. 626 (1988), holding that the NSAA was restrained from refusing to permit female student from wrestling on boys’ wrestling team.

shall be kept confidential in accordance with applicable state, local and federal privacy laws. All discussions and documentation at each level of the process by the member school, Gender Identity Eligibility Committee and the NSAA shall be kept confidential unless the student and family make a specific request otherwise.

2. Procedures: The following procedures shall apply to participation by a transgender student in NSAA activities:

a. Notice to the School: The student and/or parent shall contact the member school administrator or athletic director, in writing, indicating that the student is a transgender individual, having a consistent gender identity different than the sex on the student's birth certificate, and list the NSAA sport(s) in which the student would like to participate.

b. Member School Determination: The member school shall determine if the student meets the activity eligibility standards for participation established by the NSAA and whether the student meets the requirements of participation established by the member school.

c. Application for Participation to the NSAA: Upon receipt of notice from the transgender student and/or parent of a transgender student wishing to participate in interscholastic sports in a manner consistent with his/her gender identity, the member school, if the member school determines that the student meets the requirements for initial eligibility under standards of participation established by the member school, shall file an application for participation in NSAA activities by the transgender student (Transgender Student Application) on a form provided by the NSAA, providing the information required by this policy. The member school shall be responsible to pay all costs related to the Transgender Student Application, ~~including the costs of the NSAA Gender Identity Eligibility Committee.~~

d. Review and Required Approval by NSAA Gender Identity Eligibility Committee: Upon receipt of such notice the NSAA shall take the following actions:

(1) Gender Identity Eligibility Committee: The NSAA shall convene the Gender Identity Eligibility Committee (Committee) specifically trained to respond to gender identity eligibility inquiries to review the Transgender Student Application. The Committee shall make written findings and determinations approving or disapproving the Transgender Student Application to be set forth in writing and delivered confidentially to the member school and the Executive Director of the NSAA. The eligibility of the student to participate in NSAA activities must be approved unanimously by the Committee considering the Transgender Student Application. This Committee will be comprised of the following persons:

- i. Physician with experience in transgender health care.
- ii. Psychiatrist, psychologist, or licensed mental health professional.

- iii. School administrator from a non-appealing school.
- iv. NSAA staff member.

(2) Information to be provided to the Committee: The following information shall be provided by the member school to the Committee with regard to the Transgender Student Application:

- i. Current school registration information;
- ii. A written statement from the student and parent(s)/guardian(s) affirming the consistent gender identity and expression to which the student self-relates;
- iii. Documentation from individuals such as, but not limited to, parents, friends and/or teachers, affirming the actions, attitudes, dress and manner and demonstrate the student's consistent gender identification and expression;
- iv. Written verification from an appropriate health-care professional (physician, psychologist) of the student's consistent gender identification and expression;
- v. Medical documentation of hormonal therapy, sexual re-assignment surgery, physiological testing, counseling, and other medical or psychological interventions on behalf of the student.
- vi. Any other relevant documentation or information provided by the member school or the student or the student's parents or guardians.

(3) Review Criteria: The following review criteria should be used by the Committee to review and determine whether to approve or disapprove the Transgender Student Application:

- i. For the Committee to approve the Transgender Student Application the information presented must establish to the members of the Committee that the transgender student has met each of the following criteria:
 - (a) That the transgender student affirms and exhibits the consistent gender identity and expression to which the student self-relates;
 - (b) That there has been submitted credible documentation from individuals such as, but not limited to, parents, friends and/or teachers, affirming the actions, attitudes, dress and manner and demonstrate the student's consistent gender identification and expression;

(c) That there has been submitted credible written verification from an appropriate health-care professional (physician, psychologist) of the student's consistent gender identification and expression; and,

(d) For a transgender female (or Male-to-Female) (MTF) student only, that there has been submitted credible medical documentation of hormonal therapy, sexual re-assignment surgery and physiological testing; such documentation must establish that the transgender female has either completed a minimum of one year of hormone treatment related to gender transition⁸ or undergone medically confirmed gender reassignment procedure, and, demonstrated to the Committee through a medical examination and testing and physiological testing that the transgender female student athlete does not possess physical (bone structure, muscle mass, and/or testosterone hormonal levels, etc.) or physiological advantages over genetic females of the same age group.

(4) Further Policies:

i. Hormone supplementation/suppression therapy under supervision of a licensed physician when taken as prescribed does not violate the NSAA Performance Enhancing Supplement policy.

ii. In any case where a transgender student athlete is taking hormone treatment related to gender transition, that treatment must be monitored by a physician, and the NSAA must receive regular reports about the athlete's eligibility according to these guidelines.

iii. Once a student is approved as a transgender student athlete in an NSAA sport(s), the student may not return to his/her gender identified on the birth certificate for athletics participation purposes unless another evaluation is undertaken by the NSAA Gender Identity Eligibility Committee because of a change in circumstances. A transgender female (Male-to-Female or MTF) student may participate on a boys' team pursuant to paragraph C.2. above [e.g. when there is no girls sport or comparable sport (e.g., softball and baseball) or team offered in that sport by the member school]. A transgender male (Female-to-Male or FTM) student who has been approved for participation on male teams under this policy shall not be eligible for participation on female teams pursuant to paragraph C.2. above.

iv. If the student is denied participation as a transgender student athlete in an NSAA sport(s), the student's eligibility remains with the school's teams as determined by the individual's birth certificate.

v. Nothing in this policy shall be construed to encourage parents and guardians of students or the students themselves to undergo sex

⁸ See, World Professional Association for Transgender Health, "Standards of Care for the Health of Transsexual, Transgender, and Gender Non-Conforming People", 2012 Edition, pages 36-38.

reassignment surgery, hormone treatment or other medical treatment resulting in change to the student's gender, as such treatments have obvious physical, psychological and social implications.

5. Appeal Process: If the initial Committee review results in a disapproval by the Committee of the Transgender Student Application, the member school on behalf of the student may seek review of the student's Transgender Student Application for eligibility for participation by an Appeals Committee through the following appeals procedure. The member school shall be responsible to pay all costs related to the appeal of the disapproval of the Transgender Student Application, ~~including the costs of the Appeals Committee.~~

i. The student will be scheduled for an appeal hearing before a second NSAA Gender Identity Eligibility Committee (Appeals Committee) specifically trained to hear gender identity appeals. The NSAA shall schedule a hearing as expeditiously as possible, but in no case later than five (5) school business days prior to the first full interscholastic contest that is the subject of the petition, or within a reasonable time thereafter in cases of emergency, including, but not limited to, any unforeseeable late student enrollment.

ii. The Appeals Committee will be comprised of the individuals identified in subparagraph D.2.d.(1), provided, at least two of the individuals chosen must not have been on the Committee that initially considered the student's Transgender Student Application.

iii. The Appeals Committee shall be provided all information provided to the initial Committee along with the determination of the initial Committee, and such additional information that the member school or the student through the member school wishes to provide the Appeals Committee.

iv. The Appeals Committee shall apply the same review criteria as utilized by the initial Committee, and shall make written findings and determinations approving or disapproving the Transgender Student Application to be set forth in writing and delivered confidentially to the member school and the Executive Director of the NSAA. The eligibility of the student to participate must be approved unanimously by the Appeals Committee considering the Transgender Student Application for participation. The student/student's family and the school on whose sports team the student would be participating will be notified of the Appeals Committee's decision in writing within forty-eight (48) hours once that decision has been reached.

v. Upon completion of the appeal to and through the Appeals Committee, the student will have exhausted all administrative remedies available to him/her. No further appeals with or through the NSAA exist at that point. However, due to the nature of these issues, the same student may have her/his case revisited by the

NSAA as the facts and circumstances of the student evolve or change. The NSAA would not anticipate revisiting a case without a sufficient lapse of time such that the circumstances of the case have changed significantly.

E. Use of restrooms and locker rooms at NSAA athletic contests based upon student gender: It is the purpose of this policy to allow all students to participate fairly and equally in high school athletics and activities, while also upholding the basic principles of privacy and personal dignity held by each student.⁹ While accommodations may be necessary to meet the unique needs of individual students, it is the goal that all students will be able to comfortably participate while respecting the privacy rights of others.

The NSAA acknowledges that many member schools' facilities have been outfitted with changing areas and locker rooms, including restrooms and showers, separated by gender. It has been widely recognized that restrooms and locker rooms are places where students have an expectation of privacy.¹⁰ Maintaining separate restroom and shower facilities for each gender is a cost effective way to retain the reasonable expectation of privacy that students have while using the restroom and changing and showering before and after physical activity.¹¹

A transgender student who has been granted permission by the NSAA to participate in activities of the gender with which the student identifies, but has not undergone sex reassignment surgery, shall at NSAA-sponsored contests be permitted to use the restrooms and locker rooms associated with their birth sex or shall be assigned private toilet, locker and shower room facilities appropriate for the student's gender identity, as appropriate and available.

Coaches are encouraged to use spaces outside the locker room for team meetings or other events where important information is shared with the team. When a member school is traveling, school representatives should identify safe spaces to accommodate a transgender student's need for restrooms and locker rooms and privacy.

⁹ *Iowa Civil Rights Commission v. Burlington Area Community YMCA*, (Administrative Decision) Iowa Department of Inspections and Appeals; *Goins v. West Group*, 635 N.W. 2d 717 (Minn. 2001).

¹⁰ See *Koeppel v. Speirs*, 808 N.W. 2d 177, 181 (Iowa 2011), *Stuart v. Metropolitan Government of Nashville*, 679 F. Supp. 2d 851, 859-60.

¹¹ See *State v. Dennison*, 2012 WL 1580610 (Ohio App. 2012).

**Minutes for
Heartland Community Schools
Board of Education Regular Meeting**

December 14, 2015 7:00 PM
Conference Room

MISSION STATEMENT: Heartland Community Schools - Henderson/Bradshaw is dedicated to educating all students by providing challenging opportunities to learn according to individual needs.

Attendance Taken at 7:00 PM:

Present Board Members:

Mr. Kent Allen
Mr. Gary Braun
Mr. Paul Brune
Mr. Glenn Larson
Mr. Glen Ott
Mr. Boyd Stuhr

1. Preliminary Procedures

- 1.1. Call to Order**
- 1.2. Public Notice of the Meeting**
- 1.3. Roll Call**

2. Public Comments on Agenda Items

3. Public Comments on Topics Not on the Agenda

4. Reports

4.1. Superintendent's Report

Discussion:

Mr. Best briefly reviewed his written report. He also pointed out a large number of gifts in the board room which have been purchased by our staff and will be distributed to many families in the community.

4.2. Principals' Reports

Discussion:

Mrs. Houck reviewed her written report focusing on 3rd grade activities. Also, MAP testing has begun. Mr. Carr reviewed his written report. He also introduced Riley Trambley, a senior speech student, presented a TED talks speech on "Love".

5. Discussion Items

5.1. Board Self-evaluation

5.2. Board/Admin Retreat

Discussion:

Mr. Best presented about 18 potential topics for the retreat to be held in February. He will send out a survey to narrow this down to 3-4 topics and to determine a date to hold the retreat. Results will be reviewed at the January meeting.

5.3. Policy Review Dates

Discussion:

Mr. Best reported that the NASB is ready to meet and discuss updating our policies. Board consensus was to meet as a whole board to review the potential policy changes in special meetings to begin in late January. These meetings will be open to the public.

5.4. Annual Report to Patrons

6. Old Business

6.1. Gymnasium AC Information

Discussion:

General consensus is to not proceed with the gymnasium AC project at this time. Electrical service panels are 40+ years old and will need updating prior to any further discussion of AC installation.

6.2. Approval of the Fiscal Audit

Motion Passed: To approve the fiscal audit for 2014-15 as presented passed with a motion by Mr. Kent Allen and a second by Mr. Glenn Larson .

Mr. Kent Allen	Yes
Mr. Gary Braun	Yes
Mr. Paul Brune	Yes
Mr. Glenn Larson	Yes
Mr. Glen Ott	Yes
Mr. Boyd Stuhr	Yes

7. New Business

7.1. Enrollment Option Request

Motion Passed: To approve the enrollment option request as presented passed with a motion by Mr. Paul Brune and a second by Mr. Glenn Larson .

Mr. Kent Allen	Yes
Mr. Gary Braun	Yes
Mr. Paul Brune	Yes
Mr. Glenn Larson	Yes
Mr. Glen Ott	Yes
Mr. Boyd Stuhr	Yes

7.2. April Meeting Date

Motion Passed: To move April's regular board meeting to Wednesday, April 13th passed with a motion by Mr. Kent Allen and a second by Mr. Paul Brune.

Mr. Kent Allen	Yes
Mr. Gary Braun	Yes
Mr. Paul Brune	Yes
Mr. Glenn Larson	Yes
Mr. Glen Ott	Yes
Mr. Boyd Stuhr	Yes

7.3. 2016-17 Negotiated Agreement

Motion Passed: To approve the negotiated agreement with the teachers for the 2016-17 school year as presented passed with a motion by Mr. Paul Brune and a second by Mr. Boyd Stuhr.

Mr. Kent Allen	Yes
Mr. Gary Braun	Yes
Mr. Paul Brune	Yes

Mr. Glenn Larson Yes
Mr. Glen Ott Yes
Mr. Boyd Stuhr Yes

7.4. Local Substitute Request

Motion Passed: To approve Valarie Scheil as a local substitute passed with a motion by Mr. Paul Brune and a second by Mr. Glenn Larson .

Mr. Kent Allen Yes
Mr. Gary Braun Yes
Mr. Paul Brune Yes
Mr. Glenn Larson Yes
Mr. Glen Ott Yes
Mr. Boyd Stuhr Yes

7.5. Superintendent's Evaluation and Contract

Discussion:

President Braun declared executive session closed at 8:31 pm

Motion Passed: To enter closed session at 8:09 pm to discuss the superintendent's evaluation and contract passed with a motion by Mr. Boyd Stuhr and a second by Mr. Kent Allen.

Mr. Kent Allen Yes
Mr. Gary Braun Yes
Mr. Paul Brune Yes
Mr. Glenn Larson Yes
Mr. Glen Ott Yes
Mr. Boyd Stuhr Yes

8. Future Agenda Items

9. Consent Agenda

Motion Passed: To approve the consent agenda as presented passed with a motion by Mr. Paul Brune and a second by Mr. Glenn Larson .

Mr. Kent Allen Yes
Mr. Gary Braun Yes
Mr. Paul Brune Yes
Mr. Glenn Larson Yes
Mr. Glen Ott Yes
Mr. Boyd Stuhr Yes

9.1. Approval of Minutes

9.2. Approval of Treasurer's Report

9.3. Approval of Claims

9.4. Financial Reports

9.5. Out of State Travel Requests

10. Adjournment

Discussion:

The next scheduled meeting to be held on January 11, 2016 at 7:00 pm

Motion Passed: To adjourn the meeting at 8:53 pm passed with a motion by Mr. Glenn Larson and a second by Mr. Glen Ott.

Mr. Kent Allen	Yes
Mr. Gary Braun	Yes
Mr. Paul Brune	Yes
Mr. Glenn Larson	Yes
Mr. Glen Ott	Yes
Mr. Boyd Stuhr	Yes

Board President

Board Secretary

HEARTLAND COMMUNITY SCHOOLS FUND ACCOUNT BALANCES

	December 30, 2014	December 30, 2015
General Fund	3,535,397.01	3,823,444.47
Activity Fund	99,549.44	79,655.16
School Lunch Fund	7,784.24	10,632.31
Depreciation Fund	1,123,081.85	1,421,424.01
Unemployment Fund	2,962.24	2,965.21
Qualified Capital Purpose Fund	44,341.60	161,589.16
Special Building Fund	423,821.02	262,096.82

HEARTLAND COMMUNITY SCHOOLS-HENDERSON/BRADSHAW

General Fund Treasurer's Statement for

Month Ending November 30, 2015

CORRECTED

	CHECKING ACCT	SAVINGS ACCT	TOTAL
Balance Nov 1, 2015	1,235,226.47	2,866,346.42	4,101,572.89
Receipts:			
York, Fillmore & Hamilton Co. TAXES	93,973.15		93,973.15
State of Nebraska:			
Medicaid (MAPPS)			0.00
MEDICAID (MIPPS)	0.00		0.00
Title I & Title II Funds	0.00		0.00
State Aid	0.00		0.00
Other:			
Interest	258.06	1,285.78	1,543.84
Preschool Tuition	2,212.50		2,212.50
Rental of facilities	55.00		55.00
ESU Stipend Reimbursements	747.54		747.54
York County Courthouse (Jury Duty)	35.00		35.00
Liquor License	300.00		300.00
TOTAL:	97,581.25	1,285.78	98,867.03
Transfer to MMA			
Total Amount Available	1,332,807.72	2,867,632.20	4,200,439.92
Disbursements	365,132.96		365,132.96
Balance, November 30, 2015	967,674.76	2,867,632.20	3,835,306.96

HEARTLAND COMMUNITY SCHOOLS-HENDERSON/BRADSHAW

General Fund Treasurer's Statement for

Month Ending December 31, 2015

	CHECKING ACCT	SAVINGS ACCT	TOTAL
Balance Dec 1, 2015	967,674.76	2,867,632.20	3,835,306.96
Receipts:			
York, Fillmore & Hamilton Co.			
TAXES	23,699.76		23,699.76
State of Nebraska:			
Medicaid (MAPPS)	3,593.27		3,593.27
MEDICAID (MIPPS)	1,862.35		1,862.35
SPED Reimbursement	34,161.00		34,161.00
State Aid	8,437.91		8,437.91
Title 1 & IDEA Funds	147,269.00		147,269.00
Ward of the State Payment	139,605.68		139,605.68
Other:			
Interest	222.99	1,329.24	1,552.23
Preschool Tuition	1,565.00		1,565.00
Rental of facilities	124.00		124.00
ESU 6 Receipts	0.00		0.00
TOTAL:	360,540.96	1,329.24	361,870.20
Transfer to MMA			
Total Amount Available	1,328,215.72	2,868,961.44	4,197,177.16
Disbursements	373,732.69		373,732.69
Balance, December 31, 2015	954,483.03	2,868,961.44	3,823,444.47