

IOWA DEPARTMENT OF EDUCATION
(Cite as 26 D.o.E. App. Dec. 1)

In re Petition to Join Activities Conference :

<i>Petition of Woodward Academy</i>	:	DECISION
<i>for Membership into the West Central</i>		
<i>Activities Conference or</i>	:	[Adm. Doc. 4716]
<i>the Heart of Iowa Conference</i>		

The above-captioned matter was heard on July 26, 2010, before Carol J. Greta, J.D., designated administrative law judge, presiding on behalf of Kevin Fangman, Acting Director of the Department of Education.

This appeal hearing was held pursuant to the provisions of 281—Iowa Administrative Code [IAC] Chapter 37 and Iowa Code section 280.13(2009). Chapter 37 provides for a hearing before the Director of the Department of Education if the mediation process outlined in Chapter 37 fails to resolve a petitioner's request for conference realignment.

Petitioner Woodward Academy was represented by spokesperson Bill Dean, Executive Coordinator of Woodward Academy, and by activities director Cody Cochrane. The West Central Activities Conference ["WCAC"] was represented by spokesperson Mike Wright, who is the superintendent of the Earlham Community School District. The Heart of Iowa Activities Conference ["HOI"] was represented by spokesperson John Kinley, who is superintendent of the Gilbert Community School District. The mediation team was represented by David Anderson, Assistant Executive Director of the Iowa High School Athletic Association.

The mediation team was made up of David Anderson, Assistant Executive Director of the Iowa High School Athletic Association; Mike Dick, Executive Secretary of the Iowa Girls High School Athletic Union; and Bernie Saggau, retired Executive Director of the Iowa High School Athletic Association, serving as chairperson. The mediation team met with the schools and conferences on May 27, 2010, and completed its report on June 29, 2010. The mediation team recommended that Woodward Academy be allowed into the West Central Activities Conference.

FINDINGS OF FACT

The administrative law judge finds that she and the Director of the Department of Education have jurisdiction over the parties and subject matter of the appeal before them. Iowa Code § 280.13(2009); 281—IAC Chapter 37.

After unsuccessfully seeking membership into both the HOI and WCAC, Woodward Academy petitioned this agency pursuant to the administrative rules that govern

extracurricular athletic activity conferences in 281—IAC 37. Mediation did not result in resolution. Accordingly, this hearing was convened.

BACKGROUND

Woodward Academy is a private boarding school/day school for male youth. Most of the young men at Woodward Academy have been adjudicated delinquent. The majority who live in the residential facility offered by Woodward Academy come from outside the State of Iowa; the roughly 55 young men enrolled in the day school come from about 19 different school districts in Iowa. Woodward Academy's most recent BEDS enrollment is 180, of which number approximately 70% are eligible to participate in interscholastic athletics.

Woodward Academy is a member of the Iowa High School Athletic Association¹. For the 2010-11 school year, Woodward Academy offers its students the opportunity to participate in junior varsity baseball and varsity football, cross country, basketball, and track and field. Woodward-Granger Community School District, which is a member of the WCAC, is the district in which Woodward Academy exists. Woodward-Granger shares many of its athletic facilities with Woodward Academy, and has some oversight responsibilities for the academic offerings at Woodward Academy.

Because it offers five sports directly now, Woodward Academy made the decision to seek membership into an activities conference. The advantages of being in such a conference include stability of scheduling, eligibility for conference championships, and individual student eligibility for all-conference honors and recognition.

Woodward Academy has been denied membership by both the HOI and the WCAC. Members of both conferences have consistently expressed the following concerns regarding membership of Woodward Academy:

- Woodward Academy, because it enrolls no females, does not offer girls interscholastic activities, especially girls basketball.
- Woodward Academy does not offer middle school level competitions.
- Woodward Academy does not offer wrestling, golf, or soccer.
- Woodward Academy does not offer its own athletic facilities in all cases.
- Income to the host schools when hosting Woodward Academy will suffer because the average size of gates will be low because Woodward Academy has no community fan base.
- Because the BEDS enrollment of Woodward Academy is 100% male students, it is in reality higher than that of all schools in either conference.
- Scheduling problems will be created if Woodward Academy's membership causes an odd number of schools to be in a conference.

¹ Woodward Academy is also a member of the Iowa High School Music Association, and provides vocal and instrumental music opportunities for its students.

The parties agree that there is no other activities conference with whom membership of Woodward Academy is reasonable. In convening the mediation team, IHSAA executive director Richard Wulkow also acknowledged this. "I have gone back to our maps and don't see any other conference that would be better geographically or school enrollment than the Heart of Iowa or the West Central conferences for Woodward Academy." (Letter of May 14, 2010.)

The two appropriate conferences and their current member schools are listed below, along with the schools' most recent BEDS enrollment (and half the BEDS average, assuming that the ratio of males to females is 50:50) and mileage from Woodward Academy:

West Central Activities Conference (10)

<u>School</u>	<u>BEDS</u>	<u>Mileage from Woodward Academy</u>
Coon Rapids-Bayard	106	38.7
Des Moines Christian	164	24.8
Earlham	145	35.8
Guthrie Center	135	40.7
Madrid	132	6.0
Ogden ²	190	20.7
Panorama, Panora	173	33.7
Van Meter	149	34.2
West Central Valley, Stuart	185	45.7
Woodward-Granger	160	0
Average BEDS enrollment	154 (half = 77)	
Average distance to Woodward Academy		28.0

Heart of Iowa Conference (11)

<u>School</u>	<u>BEDS</u>	<u>Mileage from Woodward Academy</u>
Bondurant-Farrar	276	35.9
Colfax-Mingo	201	48.5
Collins-Maxwell-Baxter	222	25.5
Gilbert	261	34.7
Grandview Park Baptist, DSM	92	31.7
Jefferson-Scranton	251	34.9
Nevada	335	33.5
North Polk, Alleman	263	21.2
PCM, Monroe	250	62.5
Roland-Story	245	41.0
South Hamilton, Jewell	176	51.7
Average BEDS enrollment	234 (half = 117)	
Average distance to Woodward Academy		38.3

² Ogden was admitted to the WCAC at the same meeting when WCAC declined to admit Woodward Academy. Ogden did not take part in any vote regarding Woodward Academy.

MEDIATION TEAM ACTIVITIES

All members of the WCAC and the HOI were invited to participate in a meeting to mediate the conference membership requested. The mediation team met on May 27, 2010, in Boone, Iowa. Nine schools of the HOI and four schools of the WCAC were represented. Also present were officials from Clarinda Academy and from the Corner Conference. Clarinda Academy is an institution similar in nearly every way to Woodward Academy but for the fact that females have been enrolled in Clarinda Academy for the past five or six years. It is a member of the Corner Conference in southwest Iowa; its membership preceded the admission of female students to Clarinda Academy.

On behalf of the Corner Conference, Allen Stuart, Essex High School Principal, stated that Clarinda Academy had good fans, and there were no conduct concerns. Because very few of the Clarinda Academy students are from the southwest Iowa region, Clarinda Academy provides transportation so that many of its students can travel to Corner Conference events to support their peers and to provide a better gate for the host schools. Those WCAC schools present at the mediation whose basketball, cross country, and track and field teams had had competitions with Woodward Academy acknowledged that there had never been any problems with Woodward Academy students or fans.

The task of the mediation team was to consider the factors listed in 281—Iowa Administrative Code 37.4, which are as follows:

- School enrollment figures (current and projected)
- Travel distances
- Comparability of instructional programs
- Traditional rivalries
- Number of existing and proposed schools in the conference
- Comparability of athletic programs and other school-sponsored programs.

On June 29, 2010, the mediation team unanimously recommended to this agency that Woodward Academy be placed in the WCAC, commencing with the 2011-2012 school year. In its written report, the mediation team cited similarity in enrollment, geographic considerations and current competition between member schools as the rationale for its recommendation.

Mr. Anderson expanded upon the mediation team's reasoning at the hearing. He explained that the team also took into account the fact that more WCAC members voted to accept Woodward Academy into their conference than did HOI members; that Woodward-Granger (one of the schools of the WCAC that voted to offer membership to Woodward Academy) shares some of its athletic facilities with Woodward Academy; and that the team had a general sense that the WCAC would provide the better fit for Woodward Academy.

Mr. Anderson also testified that no member of the mediation team entered into the process with a preconceived determination as to which conference would make the better home for Woodward Academy.

CONCLUSIONS OF LAW

The administrative rules in chapter 37 became effective on December 11, 1991, as a result of legislative concerns that some procedure be put into place that "would guarantee each high school membership in an athletic conference." *In re Petition of Williamsburg Community School District for Membership into the Eastern Iowa Hawkeye Conference*, 17 D.o.E. 247 (1999). This concern is reflected in 281—37.1 as follows:

It is the purpose of this chapter to provide a procedure ensuring that a public school or accredited nonpublic school desiring to be a member of a conference providing extracurricular athletic contests and competitions for students is granted this opportunity. Membership shall be with other schools of comparable size and within reasonable geographic proximity.

The procedure begins with the filing of a complaint by a school board member with the director of education who then schedules a mediation session involving the complaining school and representatives of the schools in the desired conference(s). The director establishes a mediation team including the executive director of the Association or designee and the executive secretary of the Girls' Union or designee.

[T]he important phase of this process is mediation. In that setting, all evidence, reasoning, and arguments should be made by all parties. If a mediated settlement is not reached, ... great weight [will be placed] on the mediation team's ensuing recommendation, so much so that the burden of persuasion will thereafter be placed at hearing on the school or schools who oppose the recommendation. In the absence of convincing proof that the mediation team failed to consider one or more of the factors laid out in the rules, or was otherwise biased, prejudiced, or predisposed, the mediation team's recommendation will be implemented.

See, In re Petition of Williamsburg Community School District for Membership into the Eastern Iowa Hawkeye Conference, 17 D.o.E. 247 (1999); *In re Petition of Carroll Community School District*, *supra* at 254-255(1992).

It is important to note that the hearing in this matter was neither contentious nor adversarial. The parties represented all agree that Woodward Academy must be allowed into membership into an activities conference, and they agree that the only logical conference choices are the HOI or the WCAC. As Superintendent Wright stated, there is no strenuous "resistance" to Woodward Academy's membership request. Rather, the HOI members believe that the WCAC is the better conference home for Woodward Academy, and the WCAC believes that the HOI is the better fit for Woodward Academy.

Previous conference realignment decisions by the Director have set forth the standard for reviewing a mediation team's recommendation: "In the absence of convincing proof that the mediation team failed to consider one or more of the factors laid out in the rules, or was otherwise biased, prejudiced, or predisposed, the mediation team's recommendation will be implemented." *In re Iowa Lakes Athletic Conference Realignment*, 12 D.o.E. App. Dec. 340, 345 (1995); *In re Petition of Williamsburg Community School District for Membership into the Eastern Iowa Hawkeye Conference*, 17 D.o.E. App. Dec. 247, 257(1999).

There is no proof that that the mediation team failed to consider one or more of the factors in the rules. Nor did anyone argue that the mediation team was biased, prejudiced, or predisposed. The mediation team itself acknowledged that this was a "close call."

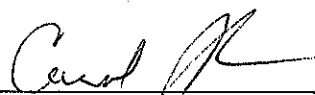
We agree with the conclusion of the mediation team that the WCAC is the more appropriate conference for Woodward Academy. While the enrollment sizes of the HOI schools are more comparable to that of Woodward Academy (but only when taking into consideration male students only), the difference is negligible. The athletic program offered by Woodward Academy is more compatible with the overall programs of the smaller WCAC schools. We also find it compelling that the facility sharing and academic sharing between Woodward Academy and the Woodward Granger Community School District tip the balance toward membership of Woodward Academy to the WCAC.

DECISION

After consideration of the information gathered by the mediation team and its recommendation, as well as the testimony and evidence given at the hearing, it is the decision of the undersigned that the recommendation of the mediation team is to be followed. Woodward Academy shall be admitted to the West Central Activities Conference, effective with the 2011-2012 school year.

7.28.10

Date



Carol J. Greta
Administrative Law Judge

It is so ordered.

July 28, 2010

Date



Kevin Fangman
Acting Director