

STATE DEPARTMENT OF EDUCATION
(Cite as 20 D.o.E. App. Dec. 197)

<i>In re Petitions for Activities Conference</i>	:	
<i>Realignment</i>	:	
<i>Petitions of Camanche Community School</i>	:	
<i>District for Membership into the Big East</i>	:	
<i>Activities Conference; & In re Petitions of</i>	:	
<i>Dyersville Beckman, Central of DeWitt,</i>	:	DECISION
<i>Maquoketa, and Western Dubuque</i>	:	
<i>Community School Districts for</i>	:	
<i>Membership into the WAMAC Activities</i>	:	
<i>Conference</i>	:	
	:	[Adm. Doc. #s 4413 & 4412]

The above-captioned matter was heard on December 19, 2001, before a hearing panel comprised of Ed Thomas, consultant, Bureau of Instructional Services; Joseph DeHart, consultant, Bureau of Planning, Research & Evaluation; and Susan E. Anderson, J.D., designated administrative law judge, presiding on behalf of Ted Stilwill, Director of the Department of Education.

This appeal hearing was held pursuant to the provisions of 281—Iowa Administrative Code Chapter 37 and Iowa Code section 280.13(2001). 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. The five petitions were consolidated pursuant to 281—IAC 6.10.

Petitioner Camanche Community School District [hereinafter, "Camanche"], was represented by spokesperson Dan Bolte, athletic director. Petitioner Dyersville Beckman High School [hereinafter, "Beckman"], was represented by spokesperson Todd Troutman, athletic director. Petitioner Central Community School District of DeWitt [hereinafter, "Central"] was represented by spokesperson Joe Utter, high school principal. Petitioner Maquoketa Community School District [hereinafter, "Maquoketa"] was represented by spokesperson Lorene Dykstra, high school principal. Ms. Dykstra is also the current president of the Big Bend Activities Conference [hereinafter, "the Big Bend"] and was the designated spokesperson for the Big Bend Conference as well. Petitioner Western Dubuque Community School District of Epworth [hereinafter, "Western Dubuque"] was represented by spokesperson Harold Knutson, superintendent.

The Big East Activities Conference [hereinafter, "the Big East"] was represented by spokesperson Rick Pogemiller, conference secretary, also athletic director of the Bellevue Community School District. The WAMAC Activities Conference [hereinafter, "the WAMAC"] was represented by spokesperson Randy Braden, president, who is also athletic director of the Vinton-Shellsburg Community School District. The Tri-Rivers

Activities Conference [hereinafter, “the Tri-Rivers”] was represented by spokesperson Richard Whitehead, superintendent of the Center Point-Urbana Community School District.

Each of the designated spokespersons presented testimony and other evidence in support of his or her school's or conference's position. In addition, numerous other school administrators attended the hearing and presented their comments. Testimony at the hearing was limited to specific proof that the Mediation Team failed to consider one of the factors listed in 281—Iowa Administrative Code 37.4, or that the Mediation Team was biased, prejudiced or predisposed. The factors found in 281—Iowa Administrative Code 37.1 are as follows:

Membership shall be with other schools of comparable size and within reasonable geographic proximity. . . . Factors to be weighed in reaching will include, but not be limited to, school enrollment figures (current and projected), travel distances, comparability of instructional programs, traditional rivalries, number of existing and proposed schools in the conference and comparability of athletic programs and other school-sponsored programs.

281—IAC 37.4; Order dated 11-29-01.

The Mediation Team was made up of Bernie Saggau, Executive Director of the Iowa High School Athletic Association; Troy Dannen, Associate Executive Secretary of the Iowa Girls High School Athletic Union; and Don Helvick, Mediation Team chairperson. The Mediation Team met with the schools and conferences on October 31, 2001, and completed its report on November 2, 2001. The Mediation Team recommended that Camanche be allowed into the Big East Conference and that the other four Petitioners be allowed into the WAMAC Conference

I. 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. 281—IAC 37; Iowa Code section 280.13(2001).

A. PROCEDURAL BACKGROUND:

These four petitions arose after three of the eight schools in the current Big Bend Conference sought and gained membership in the Tri-Rivers Conference, beginning in the 2003-2004 school year. Cascade, Monticello and Anamosa applied to the Tri-Rivers

Conference because they sought a more equitable competition level. (Mediation Team Rept., p. 6.) They were accepted into the Tri-Rivers beginning in the 2003-2004 school year. All three schools were represented at the appeal hearing. The remaining five schools in the Big Bend Conference are the petitioners in this appeal. The four affected conferences and their current member schools are listed below:

Big Bend Conference (8) (Since 1987)

Camanche (seeks Big East)

Maquoketa (seeks WAMAC)

Central Clinton, DeWitt (seeks WAMAC)

Western Dubuque, Epworth (seeks WAMAC)

Dyersville Beckman (seeks WAMAC)

Cascade (admitted Tri-Rivers)

Monticello (admitted Tri-Rivers)

Anamosa (admitted Tri-Rivers)

Big East Conference (13)

Andrew

Bellevue

Marquette, Bellevue

Olin

Calamus-Wheatland

East Central, Miles

Lisbon

Midland, Wyoming

North Cedar, Stanwood

Preston

Northeast, Goose Lake

Prince of Peace, Clinton

Bennett

WAMAC Conference (8)

West Delaware, Manchester

Independence

Columbus, Waterloo

South Tama County, Tama

Vinton-Shellsburg

Marion

Don Bosco, Gilbertville

Benton Community, Van Horn

Tri-Rivers Conference (9)

Starmont

Center Point-Urbana

East Buchanan, Winthrop

Maquoketa Valley

Springville

Alburnett

Central City

Edgewood-Colesburg

North Linn, Troy Mills

B. CAMANCHE/BIG EAST CONFERENCE:

At its Board meeting on December 18, 2000, the Camanche Board voted to drop out of the Big Bend because it did not believe that a five-member conference was feasible. On January 3, 2001, Camanche applied to the Big East and was denied by letter signed by Rick Pogemiller, as the Big East Secretary, on April 5, 2001. On September 28, 2001 Camanche petitioned the Department of Education and the state athletic associations to assign Camanche to the Big East Conference. The petition, along with supporting documentation was forwarded to the Mediation Team on October 2, 2001.

Camanche cited the following reasons for applying to the Big East:

1. Distance;
2. Relative size of the schools; and
3. The fact that Camanche already schedules varsity competitions with other schools in that conference.

(Mediation Team Recommendation, November 2, 2001.)

Camanche seeks membership into the Big East, beginning in the 2003-2004 school year. It was denied by a vote of seven in favor to six opposed. Ten votes would have been required for approval into the Big East Conference.

From the evidence presented at the appeal hearing, the Big East members shared two objections to the admission of Camanche into their conference. The two objections were summarized as follows:

1. Distance for some teams and
2. Camanche was larger than any of the schools in the Conference.

The following summarized information was presented at the hearing and was part of the record at the Mediation:

BIG EAST (without Camanche): Total number of Schools – 13
(with Camanche): **14**

<u>Name of School</u>	<u>9-11 BEDS Enrollment</u>	<u>Distance to Camanche</u>
<i>Camanche</i>	220	(One way)
North Cedar	218	51 Miles
North East (Goose Lake)	208	17 Miles
Midland (Wyoming)	185	64 Miles
Bellevue	157	42 Miles
East Central (Miles)	134	29 Miles
Lisbon	134	63 Miles
Calamus-Wheatland	113	34 Miles
Preston	96	24 Miles
Andrew	95	47 Miles
Bellevue Marquette	87	42 Miles
Olin	81	59 Miles
Bennett	62	40 Miles
Prince of Peace	56	5 Miles

Average Enrollment (without Camanche)	125
Average Enrollment (with Camanche)	131
Average Distance (without Camanche)	36.2 Miles
Average Distance (with Camanche)	36.7 Miles

The above enrollment figures show that Camanche's enrollment is not significantly larger (2 students) than the next largest school in the Big East. The average enrollment of the Big East schools would increase by only six students if Camanche were in this conference. Projections indicate that Camanche's enrollment will continue to decline as enrollment in the other schools remains stable or declines slightly.

With its current enrollment of 220, Camanche would be the largest 9-11 enrollment in the Big East. The largest four Big East schools are very similar in size to Camanche. Travel distance figures show that the average one-way travel distances would increase by only one-half mile if Camanche were placed in the Conference.

The Big East Conference has recently experimented within its conference with two divisions of varsity volleyball. When asked at the Mediation Meeting, the Big East representatives stated that if required, it "could accommodate Camanche either by having a fourteen-member conference or by somehow dividing the conference into two divisions." (Mediation Team Rept., p. 6.)

During the mediation, the Big East Conference members were instructed to caucus in another room in the building for further discussion, giving main emphasis in their discussion to two points:

1. Reconsideration of Camanche's application, including discussion on how the league would handle it if Comanche [sic] was to be assigned into the league.
2. Suggestions as to where the Camanche school should be placed if not in the Big East Conference.

(Mediation Team Rept., p. 3-4.)

The Big East Conference then returned to report on their caucus. They reported that the conference could accommodate Camanche either by having a fourteen-member conference or by somehow dividing the conference into two divisions. However, they made no change in their position of not approving the application. (Mediation Team Rept., p. 6.)

C. WESTERN DUBUQUE (Epworth), CENTRAL OF DEWITT, DYERSVILLE BECKMAN, and MAQUOKETA/WAMAC CONFERENCE:

The four above-listed Petitioners, along with Camanche, make up what would be left of the Big Bend Conference in the fall of 2003. These four Petitioners felt that a membership of five schools was not adequate to operate a viable athletic conference and applied for membership into the WAMAC Conference. At its Board meeting in October 2000, the WAMAC Conference voted to deny entry to all four Petitioners. The vote was one in favor; seven opposed; six favorable votes were needed for approval. Petitions dated September 26, September 27, and September 28, 2001, were received by the Department of Education on October 1, 2001 and October 2, 2001. The petitions, along with supporting documentation, were forwarded to the Mediation Team on October 2, 2001. The WAMAC opposed the entry of the four schools, for the following five reasons:

1. Enrollment. Because of the size of the requesting schools, the Conference fears the loss of Don Bosco.
2. Travel Distance. Because of the increased travel distances with the four schools admitted, the Conference fears the loss of South Tama.
3. Traditional rivalries. The WAMAC schools do not currently compete on a very high level with the requesting schools.
4. Loss of academic time. WAMAC schools use block scheduling and the increased loss of academic time will harm an athlete's opportunity to participate in hands-on activities.
5. Comparability of athletic programs. The conference maintains that not many schools in the conference would have the facilities to host a conference event with 10 or 12 teams.

(Mediation Team Rept., pp. 4-5.)

The following summarized information was presented at the hearing and was part of the record at the Mediation:

WAMAC (without Petitioners):	Total number of Schools –	8
(with Petitioners):		12

(WAMAC Conf.) Name of School	9-11 BEDS Enrollment
<i>Western Dubuque</i>	583
West Delaware	544
<i>Central of DeWitt</i>	463
Benton	430
Marion	427
Independence	420
<i>Maquoketa</i>	419
Vinton-Shellsburg	418
South Tama	407
Columbus (Waterloo)	354
<i>Dyersville Beckman</i>	265
Don Bosco	147
<hr/>	
Average without Petitioners	428
<i>Average with Petitioners</i>	406

In the above chart, the four Petitioners' enrollment figures are shown, along with the current members of the WAMAC Conference. Although Western Dubuque and Central of DeWitt would be two of the larger schools in the Conference, the average enrollment drops by approximately 20 students when the Petitioners are placed within the current Conference. The addition of Dyersville Beckman would actually give Don Bosco one school in the WAMAC much nearer to Don Bosco's size.

The following summarized information was presented at the hearing with regard to the approximate travel distances among the current and proposed WAMAC schools:

WAMAC Conference School Name	Average One-Way Distance among current WAMAC Members	Average One-Way Distance with Petitioners Added
South Tama	56 Miles	81 Miles
Vinton-Shellsburg	40 Miles	55 Miles
Waterloo Columbus	38 Miles	58 Miles
Don Bosco	36 Miles	54 Miles
Benton	38 Miles	57 Miles
Independence	38 Miles	52 Miles
Marion	44 Miles	49 Miles
West Delaware	54 Miles	55 Miles

The above chart shows that the average one-way travel distances for all current WAMAC schools would increase if these four Petitioners were added to the conference. The average one-way distance among current WAMAC schools is 45.6 miles; this average would increase to 63.2 miles if the four Petitioners were added to the WAMAC.

At the Mediation meeting, the WAMAC Conference submitted the following two alternatives to Petitioners' requests, according to the Mediation Team Recommendation:

1. The formation of a seven-team Big Bend Conference to include Western Dubuque of Epworth, Beckman of Dyersville, Central of DeWitt, Anamosa, Monticello and Cascade and Maquoketa; or
2. Keep the Big Bend as a five-team conference. Honor the 2001 conference schedules plus one more year.

At this point, the WAMAC Conference members were instructed to caucus in another room for further discussion, giving main emphasis in their discussion to two points.

1. Reconsideration of the applications of the four schools.
2. Suggestions for accommodating the four schools in other conferences.

The WAMAC Conference returned and reported the following:

1. The Conference remained resolute in denying the applications for membership from the four schools;
2. The Mediation Team could recommend that the Big Bend Conference be required to stay as it currently is; or
3. Dyersville Beckman could be placed in the Tri-Rivers Conference, Maquoketa and Central DeWitt placed in the Southeast Five Conference and Western Dubuque placed in the Northeast Iowa Conference.

(Mediation Team Rept., p. 6.)

Randy Braden, spokesperson from the WAMAC Conference, testified at the hearing that the members didn't feel that a twelve-member conference was as feasible as the eight-member conference. Mr. Braden contended that the following five factors were not adequately considered by the Mediation Team:

1. Increased travel distances. ...Average round trip mileage doubled for six of the schools.
2. Few traditional rivalries. Competition with schools petitioning membership is primarily limited to district football assignments. The documentation submitted clearly indicates that there is virtually no competition with these schools in other sports.
3. Negative educational impact due to increased travel time. ... The impact of block scheduling, used in all WaMaC schools, would magnify the effects of missing class periods. Long bus trips mean students will be arriving home late at night and fail to get the rest they need for good classroom performance.
4. Local Control by the current WAMAC schools. ... It is the position of WaMaC schools that the mediation paid little attention to the fact that an overwhelming number of schools opposed allowing the petitioning schools to be admitted to the WaMaC conference.
5. Smaller gate receipts. ...The recommended conference realignment will force schools to schedule other athletic events with neighboring schools on Tuesday nights. Tuesday night games are typically smaller gates. Friday nights will likely be used for longer trips. Gate receipts for Friday night games will be smaller because of poor following from schools with longer driving distances.

(Braden Letter, December 19, 2001.)

The Petitioners' response is summarized by spokesperson Lorene Dykstra as follows:

I understand the WAMAC's not wanting to upset a system that is apparently working fairly well. I know that's how nearly all of us in the Big Bend felt, too; but population shifts leading to inequities in competition are inevitable. Indeed, even the WAMAC may face that problem fairly soon; we heard today that DonBosco [sic] has looked at other options even before there was any discussion of new schools joining their conference.

...

Schools with a block schedule often have, as we do, a DST, or some other structure for student study time, etc. We simply move this to the end of the day to nearly eliminate loss of direct instructional time. Furthermore, when students do miss some time under the block, it accounts for a smaller proportion of direct instructional time in any given class than under traditional schedules. ...

I believe that a cursory examination of travel involved in placing any of our 4 schools in either the Northeast or Southeast conferences would lead one to rule them out. While I also acknowledge that our placement within the WAMAC would increase their travel time a little, I am also cognizant that at least our roads are far better than they were when we were in the original WAMAC. Again, 2 divisions would be an ameliorating factor.

(Dykstra Letter, October 31, 2001.)

Upon completion of the hearing, the administrative law judge requested information from the Mediation Team regarding the number of Iowa conferences and the number of members per conference. Below is the information received:

NAME OF CONFERENCE	# OF MEMBERS	NAME OF CONFERENCE	# OF MEMBERS
Big Bend	08	North Iowa	08
Big East	12	N. Iowa Cedar (2 divisions)	17
Bluegrass	11	North Star	09
Boyer Valley	08	Northeast Iowa	07
CIML (3 divisions)	18	Northwest	09
Cornbelt	07	Pride of Iowa	08
Cornbowl	08	Raccoon River (2 divisions)	12
Corner	10	Rolling Hills	07
Eastern Iowa Hawkeye	11	Siouxland	06

NAME OF CONFERENCE	# OF MEMBERS	NAME OF CONFERENCE	# OF MEMBERS
Hawkeye 10	10	South Central	06
Heart of Iowa (2 divisions)	12	South Iowa Cedar	11
Iowa Star	07	Southeast 5	05
Lakes	09	S.E. Iowa Superconf. (2 div.)	19
Little Hawkeye	08	Tri-Rivers	09
Maple Valley	12	Twin Lakes	07
Mississippi Athletic	10	Upper Iowa	10
Mississippi Valley	07	WAMAC	08
Mississippi Valley—Valley	07	War Eagle	10
Missouri Valley	06	West Central	08
North Central	10	Western Iowa	08

The above lists show that of the forty conferences, seven of them have memberships of twelve or more schools; five of those seven conferences have two or more divisions. The average membership in all Iowa conference is between nine and ten schools.

D. THE MEDIATION TEAM'S RECOMMENDATION:

All members of the Big Bend Conference, the Big East Conference, and the WAMAC Conference were invited to participate by letter dated October 10, 2001, in a meeting to mediate the conference realignments requested. The members of the Tri-Rivers and representatives from the three already-accepted schools were also notified and participated in the mediation. The Mediation Team met on Wednesday, October 31, 2001, in Anamosa, Iowa, with all the parties to discuss possible resolutions. No resolution was reached during the mediation process.

The Mediation Team's Recommendation of November 2, 2001, states:

After much deliberation and a thorough consideration of all options presented, the team is of the opinion that there are only two viable recommendations:

1. Order that the Big Bend Conference continue as it is now, and deny Anamosa, Cascade, and Monticello the right to enter the Tri-Rivers Conference.
2. Approve the assignment of Comanche [sic] to the Big East Conference and Maquoketa, Central DeWitt, Dyersville Beckman, and Western Dubuque to the WAMAC Conference.

The mediation team feels that Option 1 is rife with problems.

First and foremost, does the director have the legal authority to issue such an order? In the opinion of the team, the language of the code is not clear.

Secondly, the team feels that this option might set a precedent that could cause problems in other similar situations.

Therefore, since the team was unable through mediation to reach a resolution to the complaints filed with you, it is our recommendation, as provided by IAC 281—37.5[sic], that the best resolution of the complaint is for the Director of the Department of Education to assign Camanche to the Big East Conference and Central DeWitt, Maquoketa Dyersville Beckman and Western Dubuque to the WAMAC Conference.

(Mediation Team Recommendation, p. 7.)

II. CONCLUSIONS OF LAW

Chapter 37 of the Iowa Administrative Code is a limitation on the freedom of choice that has traditionally been the way conference alliances have been drawn. These rules became effective on December 11, 1991, as a result of legislative concerns that some procedure be put into place that "would guarantee each accredited 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); *In re Petition of Carroll Community School District*, 9 D.o.E. App. Dec. 251, 254(1992). The premise of Chapter 37 is stated 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.

281—Iowa Administrative Code 37.1.

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 independent school and representatives of the schools in the desired conference. 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.

The principles guiding both the Mediation Team and the director of education are stated in the rules:

Membership shall be with other schools of comparable size and within reasonable geographic proximity.

281—IAC 37.1

Factors to be weighed in reaching resolution will include, but not be limited to, school enrollment figures (current and projected), travel distances, comparability of instructional programs, traditional

rivalries, number of existing and proposed schools in the conference, and comparability of athletic programs and other school-sponsored programs.

281—IAC 37.4.

...

[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).

The evidence presented at the hearing, as well as the documents presented for consideration by the Mediation Team, support the recommendation of the Mediation Team in line with the principles outlined in 281—IAC 37.4. We conclude that the Big East and WAMAC conferences would provide the opportunity for participation of Petitioners' students in athletic events or contests with students from schools of comparable size and within reasonable geographic proximity as provided by 281—IAC 37.3. School enrollment figures place Petitioners' comparably within the Big East and WAMAC conferences; there is comparability of the athletic programs, as well as the instructional programs between the schools and the travel distances for competition between the schools, although greater, will not be unreasonably increased because of the admission of Petitioners. We note that declining student population in Iowa may make longer travel distances among conference schools inevitable in the foreseeable future.

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). We conclude that the schools opposing the Mediation Team's recommendation provided no convincing proof that the Mediation Team failed to consider

one or more of the factors in the rules. There was also no proof that the Mediation Team was otherwise biased, prejudiced, or predisposed. Therefore, the Mediation Team's recommendation shall be implemented.

Any motion or objections not previously ruled upon are hereby denied and overruled.

III. DECISION

After consideration of all the information gathered by the Mediation Team and its Recommendations, as well as the testimony and evidence given at the hearing, it is the decision of the administrative law judge and the Director that the recommendations of the Mediation Team is to be followed and should be implemented at the beginning of the 2003-2004 school year. These conference realignments are binding on Petitioners, on all members of the Big East conference, and on all members of the WAMAC Conference for a four-year period, through the end of the 2006-2007 school year, pursuant to 281—Iowa Administrative Code 37.7.

DATE

SUSAN E. ANDERSON, J.D.
ADMINISTRATIVE LAW JUDGE

It is so ordered.

DATE

TED STILWILL, DIRECTOR
DEPARTMENT OF EDUCATION