

IOWA STATE DEPARTMENT
OF EDUCATION
(Cite as 14 D.o.E. App. Dec. 382)

In re Petition for Athletic Conference Placement :
:

Sioux City Community School :
District and Bishop Heelan High : DECISION
School, Appellants, :

v. :

Central Iowa Metropolitan League :
Athletic Conference : [Adm. Doc.#3877]

The above-captioned matter was heard on July 14, 1997, before a hearing panel comprising Don Helvick, administrative consultant, Division of Financial and Information Services; Ann Marie Brick, J.D., legal consultant, Office of the Director; and Ted Stilwill, director of the Department of Education, who presided over the hearing. Appellant, Sioux City Community School District [hereinafter, "Sioux City"], was present in the persons of Jim Austin, superintendent; Dick Bathurst, assistant superintendent; Valorie Kruse, board member; Rich Vanderloo, activities supervisor, East High School; Bruce Johnson, principal, North High School; Jim Vandeeloo, activities director, North High School. Appellant, Bishop Heelan High School [hereinafter, "Heelan"], was present in the persons of Joe Malsam, acting principal; and Dave Fravel, activities director. Appellants were unrepresented by counsel. Appellee, Central Iowa Metropolitan League Athletic Conference [hereinafter, "CIML"] was represented by William McCollough, principal, Hoover High School, and chair of the CIML Council of Principals; and Dick Doughan, president of the CIML Athletic Activities Directors. Appellee also appeared *pro se*. Council Bluffs Community School District appeared as an interested party at the request of Director Ted Stilwill and was represented by Richard H. Christie, superintendent; and Michael Messerli, activities director.

A hearing was held in accordance with Departmental Rules found at 281 Iowa Administrative Code 37. Appellants petitioned for the director's review of a decision of the Mediation Team established pursuant to 281 Iowa Administrative Code 37.5, which denied them full membership into the CIML.

The presiding officer finds that he has jurisdiction over the parties and subject matter of the appeal before him pursuant to Iowa Code section 280.13 and 281 Iowa Administrative Code 37.3.

I. FINDINGS OF FACT

The Sioux City and Heelan High School have been members of the “Sioux Interstate Conference” for the past 25 years. Until the 1998-99 school year, the Conference includes four Sioux City high schools (East, North, Heelan, and West) and four Sioux Falls, South Dakota, high schools. The Iowa and South Dakota communities are only 70 miles apart and the balance of four schools in each city has provided for effective scheduling, excellent competition, reasonable travel, and long-standing traditional rivalries. (Exh. D-1.)

In the spring of 1997, Appellants learned that the South Dakota State Association decided to dissolve the Sioux Interstate Conference effective for the 1998-99 school year. For reasons not germane to this appeal, South Dakota has decided to close its borders to interstate athletic competition. In addition, the “Sioux Delta Conference,” which had offered athletic competition for girls’ athletics for a number of years, was dissolved in 1997 due to conference realignment. As a result, the Sioux City schools have been forced to seek conference membership in existing Iowa conferences having schools of comparable size.

Immediately, both Sioux City and Heelan petitioned the CIML for membership. Sioux City also applied to the River Cities Conference and the Eastern South Dakota Conference for membership. Sioux City was rejected by the Eastern South Dakota Conference on March 13, 1997. The letter simply stated that “[t]he Eastern South Dakota Athletic Conference is not accepting new members at this time.” (Exh. D-12.) The River Cities Conference is comprised of two Council Bluffs schools (Thomas Jefferson and Abraham Lincoln), four Omaha, Nebraska schools and South Sioux City, Nebraska High School.

On April 10, 1997, both Heelan and Sioux City were advised that the CIML Council of Principals had voted to deny their admission to the Central Iowa Metropolitan League. The letter stated that the requests were discussed in great length. “We have tried to be objective in determining how we could be a part of meeting your needs and yet deliver the best program to the students of the CIML. We do not feel that it is in your, or our, best interest to approve your request.” (Exh. D-8.) Sioux City’s last rejection came on April 25, 1997. That is when Dr. Austin, superintendent of Sioux City, was notified that the “River Cities Conference Board of Control has voted to not accept your application for membership at this time.” (Exh. D-13.)

Because of the size of the Sioux City schools¹, no other existing conferences provide a viable solution. In response to these rejections, Sioux City and Heelan filed complaints with the director of the Department of Education under the provisions of 281 IAC 37.3, which provides in pertinent part as follows:

A school or school district that believes it has been unfairly excluded or prevented from obtaining membership in an athletic activity conference that would provide the opportunity for participation of its students in athletic events or contests with students from other schools or school districts of comparable size and within reasonable geographic proximity may file a complaint stating this concern with the director of the department of education. The complaint shall set forth in a plain and concise manner the reasons the school or school district believes the director should intervene in conference alignment decisions and the specific relief requested by the school or school district. ...

(Id.)

After a complaint is filed, the chapter 37 procedure requires the director to designate a mediation team to meet with the complainant(s) and representatives of other affected schools or school districts. On May 16, 1997, an athletic conference mediation team met with representatives from Sioux City and Heelan. The mediation team also included representatives from the CIML. The complaints filed by Appellants only requested “assistance in obtaining athletic conference membership.” In scheduling the mediation meeting, however, the assumption was made that both complaints related to denial by the CIML for the schools’ membership in that athletic conference. (Mediation Tm. Recommendation, p. 1.)

During mediation, the position of Sioux City was that they wanted to become part of a conference in which they had full participation for both boys’ and girls’ *activities*, not just boys’ athletics. (Mediation Tm. Recommendation, p. 3.) In contrast, the Heelan representatives indicated that if the only viable recommendation of the mediation process was that they be placed as full members of the CIML, they were not sure that they would accept such action. Heelan was basically interested in obtaining assistance in the development of a schedule for football. Since their size designation is a 3-A school, they have options to join other activity conferences that are much closer to them than the CIML. If possible, however, they want to maintain the competitive level they have

¹ The three Sioux City high schools are classified as 4-A. 4-A status is determined differently by the Boys’ Association and the Girls’ Union and depends upon the sport. Heelan is classified as 3-A but has competed in 4-A football in the Sioux Interstate Conference for some time.

developed through the years in 4-A football. (*Id.*) The CIML's position was that full membership of the three Sioux City schools in their conference was not reasonable. The distances involved would be too costly in both student travel time and transportation expenses. "While some assistance in the development of a football schedule might be possible, they felt a complete reworking of the activity schedules for the eighteen schools [in CIML] for the start of the 1998-99 was not a reasonable possibility." (*Id.*)

On May 22, 1997, Dave Bechtel, on behalf of the Mediation Team, notified Director Stilwill that the Team had been unable to obtain a mediated resolution of the complaints. However, he listed several recommendations for the Director's consideration. This was done pursuant to 281 IAC 37.5, which states in relevant part:

... If no resolution is reached within 50 days of the start of the mediation process, the mediation team shall make a recommendation to the director as to the best resolution of the complaint. Copies of this recommendation shall be given to all affected schools and school districts. The director shall establish a time for a hearing on this recommendation within 45 days of the receipt of the mediation team's recommendation.² ...

(*Id.*)

...

In reaching a decision on the complaint, the director shall consider information gathered by the mediation team and its recommendation as well as the written and oral testimony from the hearing. In addition, the director or the director's designee may consult with other individuals, organizations, or conference representatives able to provide input on a decision. ... A final decision on the complaint shall be made by the director. **The decision may affect conference realignment or direct other appropriate relief to remedy the complaint.** The director shall make a decision within 60 days of the hearing, and copies of the decision shall be provided to all affected parties.

(281 IAC 37.6.) (Emphasis added.)

The Mediation Team's recommendations are summarized below:

² Because of scheduling conflicts, the parties waived the 45-day time limitation and the hearing was held 49 days after receipt of the Mediation Team's recommendations.

It is recommended that the complaint of the Sioux City District be denied. We do not see the assignment of the three Sioux City schools to full membership in the CIML as reasonable or viable for the District or the member schools of the CIML. ... It is our position that Heelan would be far better served through requesting membership in the Iowa Lakes Conference. If it desires to continue participation in 4-A football even though it is classified as a 3-A school, this should be arranged if possible with the three Sioux City public schools. It is not our recommendation that the CIML be required to provide a football schedule for Heelan. ... While the Team has recommended that you deny the Sioux City complaint, we feel you could provide other "appropriate relief" to assist the district. This would be to direct the CIML to work with the three Sioux City schools to ensure they have a full football schedule for the start of the 1998-99 school year. ... The Team feels that a conference relationship of Sioux City and Council Bluffs schools is a far more realistic goal than a long-term Sioux City/CIML relationship. You should be aware that the IGHSAU and IHSAA stand ready to provide waiver [s] of game limitation requirements for schools willing to assist Sioux City in athletic contest scheduling.

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

Neither Appellants nor the CIML were satisfied with the Team's recommendations. On June 27, 1997, the Department of Education received a petition for relief from the athletic conference mediation's team disposition of their complaint, which was jointly filed by Sioux City and Heelan. One of the specific objections stated to the Team's recommendations was that they were contrary to the spirit and intent of Chapter 37 of the Iowa Rules because the Team did not provide Sioux City or Heelan with any "conference alignment." The Sioux City District specifically requested that the Director grant them the following relief:

1. that Sioux City's petition to join the CIML be granted or that another conference be created in which the District may be a full participating member;
2. that Sioux City's membership in a conference (existing or created) should equally protect both male and female programs and activities;
3. that all three district high schools be placed in and participate in the same conference; and

4. that conference membership should be with schools of comparable size to allow a proper level of athletic competition.

At the appeal hearing held on July 14, 1997, representatives of Sioux City, Heelan, the CIML, and the Council Bluffs School District appeared to present their cases. Each party's position is presented below in the order in which it was presented at the hearing:

SIoux CITY:

Sioux City objected to the Mediation Team's recommendations primarily because they did not provide any relief to the District. Sioux City clarified its position that it wants full conference alignment with the CIML or a created conference that would provide an appropriate level of competition for all students. The District includes all activities as well as male and female sports in its request for conference alignment. It is Sioux City's position that by directing the CIML to "work with" the District to create a football schedule effective for 1998-99, the Mediation Team denies the District conference alignment and forces it to endure the "ills of independent status" that Chapter 37 was designed to alleviate. In response to questioning by the Director, the District acknowledged that it was seeking a conference relationship that has never existed in Sioux City in the past because the girls' and boys' athletic programs were in two separate conferences. Now, however, the Superintendent feels that full conference membership for girls and boys in all extracurricular activities is the most desirable response to the needs, both athletic and academic, of the students in the Sioux City School District. Sioux City made it clear that it is not seeking a solution that is "football driven." The only alternative is for the District to either join the CIML or have another viable conference alignment.

HEELAN:

Heelan acknowledged that it is classified as a 3-A school, but prefers 4-A competition in football. Because of its 3-A status Heelan has options for conference alignment which are not available to Sioux City. However, Heelan and Sioux City have traditionally competed in 4-A football and want to preserve this traditional rivalry between their schools. Even though Heelan is a smaller school than the others involved in 4-A competition, it has historically provided a high level of football competition for its students and wants to continue to do so. It is Heelan's position that it is time for the western part of the State to respond to the needs of the Sioux City area. Heelan maintains that absent this response from western Iowa, the Sioux City students will not be afforded the level of competition which they deserve. Instead the Sioux City schools will be forced to endure

exorbitant demands on their travel time and budget in order to compete with schools of comparable ability. Although Heelan was unwaivering in its desire to maintain a traditional rivalry with the Sioux City District in 4-A football, it does not appear that Heelan is prepared to accept full conference alignment in the CIML to preserve this tradition.³

CIML:

The CIML position is clear: its membership objects to full conference alignment for either Sioux City or Heelan. The CIML is presently comprised of 16 teams divided into an American Division and a National Division. In the 1998-99 school year, they will have to accommodate two additional schools, Ottumwa and Johnston. The Metro-American Division contains the Des Moines high schools of East, Hoover, Lincoln, Roosevelt, and North. Indianola, Southeast Polk, and West Des Moines Dowling are also in this American Division. These teams are not accustomed to traveling for the purpose of competition. The Metro-National Division has more travel time because its teams include Ames, Ankeny, Ft. Dodge, Marshalltown, Mason City, Newton, Urbandale and West Des Moines Valley. If Sioux City schools were added, CIML representatives testified that the Des Moines District would have to budget an additional \$38,000 just for transportation costs – an amount that is certain to have an adverse effect on educational programs.

The present composition of 16 teams in the CIML is governed by a “council of principals”, who meet on a regular basis to schedule activities among the schools. As this has occurred over the years, a relationship among the principals has developed which extends beyond athletics or extracurricular activities. According to the Chairman of the Council, the principals often share curriculum ideas as well. It was expressed that this relationship cannot be entertained with schools that are geographically as distant as Sioux City is from Des Moines. In addition, the student travel time would negatively impact student learning. Not only would teachers and chaperones be tired from late night bus trips, but also the students would be unable to “do business” in their class rooms the next day. CIML representatives emphasized that full conference alignment entails more than just athletic competition. The geographical proximity of the members of a conference such as the CIML allows exchanges between the schools that go beyond athletics and embrace academics as well. Although the members of the CIML are sympathetic to Sioux City’s plight, they feel the solution lies in western Iowa, not in Central Iowa.

³ On August 29, 1997, the Department of Education received Heelan’s request to formally withdraw its request for admission into the CIML.

COUNCIL BLUFFS:

Council Bluffs is presently a member of the River Cities Conference. The River Cities Conference is comprised of two Council Bluffs high schools, four Omaha high schools and a high school in South Sioux City, Nebraska. Superintendent Dick Christie testified that he understood the frustration of the Sioux City District because Council Bluffs had been in that position a few years ago. At that time, Council Bluffs worked very hard to put together a conference that was based on the same philosophical principles concerning the need for balance in academic and athletic extracurricular activities. Although the Council Bluffs schools may be larger than some of the schools in Omaha, Superintendent Christie testified that the level of competition is not a function of size in those schools and the level of competition has been very satisfactory.

Because of the geographical proximity of Omaha and Council Bluffs, their conference relationship affords more than just athletic competition. The schools have enjoyed more of an academic exchange. Superintendent Christie maintains this fact is very important to the Council Bluffs schools. Basically, Council Bluffs likes its position as a member of the River Cities Conference. Like the members of the CIML, Council Bluffs feels that conference alignment entails more than the scheduling of football games. Council Bluffs feels that the relationships it has worked so hard to cultivate with the River Cities Conference would be jeopardized by a realignment with the Sioux City schools.

At the conclusion of the hearing, Director Stilwill reserved the right to seek additional input from “other individuals, organizations, or conference representatives able to provide input on a decision” as allowed by 281 IAC 37.6. Following the hearing, individual meetings were held between the hearing panel and representatives of CIML, Council Bluffs, Sioux City, Heelan, and representatives of both the Iowa High School Athletic Association and the Iowa Girls High School Athletic Union.

II. CONCLUSIONS OF LAW

Chapter 37 of the Iowa Administrative Code is a relatively recent limitation on the freedom of choice that has traditionally been the way conference alignments have been drawn. These rules became effective on December 11, 1991, as the 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 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 extra-curricular 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 IAC 37.1)

This statement of policy rests on the assumption that there are advantages to students to be drawn from conference membership that cannot be enjoyed if a school has “been unfairly excluded or prevented from obtaining membership in an athletic activity conference.” (281 IAC 37.3.)

The advantages of conference alignment have been alluded to in other appeals decided under chapter 37. In the absence of conference alignment, a school is an “independent.” In athletics, being an “independent” means scheduling nine football games or 20 plus basketball games individually. It means traveling long distances and playing irregular schedules on “off-nights.” It means hours and hours of time on the telephone spent by athletic directors who, in most schools, are required to perform other duties, sometimes in addition to teaching. Being an independent also means that a school’s students do not have an opportunity to win certain awards, honors, or recognition in a conference. It may mean relying on the local press to “hype” your outstanding scholars, athletes, debaters, or musicians. It could also mean fewer scholarship offers for those students. It almost invariably means begging for contests and matches as well as long hours on the bus and more time spent away from school for students, teachers, and student-fans. In re Petition of Carroll Community School District, *supra* at 255. In fact, everyone agrees that full conference membership is a positive thing. It provides opportunities for students to participate in academic, music, as well as athletic competitions. Individuals have the opportunity to be recognized as “all-conference” in a sport. Students develop healthy rivalries and the life-long relationships that come from such rivalries. Conference membership promotes a sense of “belonging” that is absent when schools are independent and have to scramble to schedule competitions over long distances.

By insisting on full conference membership for the Sioux City schools, Dr. Austin is trying to achieve what is unquestionably in the best interest of the students in the Sioux City District. By demanding that the students of Sioux City be afforded the same benefits of conference alignment as the students involved in the CIML or the River Cities Conference, Dr. Austin has forced us to examine what those benefits are. In so doing, it has become apparent that the benefits of conference membership extend beyond football schedules and involve the whole range of extracurricular activities. As we have gathered input on the governance and practical aspects of conference member-

ship, it has become apparent that in order for a student to achieve his or her full educational potential, there must be a balance in the school between the expression of athletic competition and the academic mission. An example of this approach is the Principal's Council, which governs the CIML. The focus is on activities, not just athletics. When the principals gather to schedule and discuss "activities," they have the opportunity and the benefit of exchanging curricula and management strategies as well. This is an outcome that results from frequent interaction among the members of the governing body of the conference. That's one of the reasons why conference alignment should be arranged with schools not only of comparable size, but in geographical proximity as well. Indeed, the rules promulgated to guide the resolution of conference alignment disputes direct that "[m]embership shall be with other schools of comparable size and *within reasonable geographical proximity*. (281 IAC 37.1.) (Emphasis added.)

Sioux City's petition for full conference alignment with the CIML is a two-edged sword. By convincing us that full conference alignment is necessary to achieve the best interest of the students in the Sioux City District, we are forced to the inescapable conclusion that full conference alignment with the CIML cannot obtain the desired benefits that Sioux City seeks. That is because Sioux City is *not within reasonable geographical proximity* to the CIML. Ironically, the same reasons that compel the provision of full conference alignment for Sioux City require that its petition for conference alignment with the CIML be denied.

III. DECISION

A decision rendered under the provisions of chapter 37 "may affect conference realignment or direct other appropriate relief to remedy the complaint." (281 IAC 37.6.) Any decision requiring conference realignment must "be made with deference given to existing contracts and commitments." (281 IAC 37.7.)

In particular, this decision must address the need for a long-term solution for Sioux City, while respecting the contracts and scheduling commitments that have already been made by the affected parties. This decision recognizes that it will take time to develop a lasting solution to this problem. However, the decision must also acknowledge the fact that both Sioux City and Heelan have immediate scheduling needs that have to be met on a short-term basis. The following decision is an effort to satisfy both of these competing interests:

1. The petition by Sioux City for full conference alignment in the CIML is hereby denied.

2. The administrators of the IGHSAU and IHSAA are directed to assist the Sioux City public schools in developing a two-year schedule for boys' and girls' athletic competition beginning in the Fall of the 1998-99 school year, and pursuant to the authority granted by 281 IAC 37.6 and 37.7, member schools are directed to cooperate with the IGHSAU and IHSAA in the development of this schedule.
3. The administrators of the IGHSAU and IHSAA are authorized to begin immediately to develop a new activities conference for western Iowa. The western Iowa conference will include schools of comparable size that are located within reasonable geographic proximity to one another. This conference will become active in the fall of the school year 2000-01 and shall include the Council Bluffs public schools (Abraham Lincoln and Thomas Jefferson).
4. In order to achieve the optimum benefits of full conference alignment, the IGHSAU and IHSAA are directed to establish guidelines to assist the conference in the development of its Constitution and By-laws. These guidelines shall reflect the principles that have guided successful conference associations and shall include guidelines regarding the conference members' expectations of sportsmanship. See, e.g., Mississippi Valley Conference Constitution and By-laws, §13; Mississippi Athletic Conference, Constitution By-laws and Guidelines, August 1997(p. 8).

IT IS SO ORDERED.

DATE

TED STILWILL, DIRECTOR
DEPARTMENT OF EDUCATION