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**Assembly Committee on Education  
Testimony on Assembly Bill 1034  
Application of the Public Records and Open Meetings Laws to Interscholastic Athletic  
Associations  
February 7, 2024**

Thank you Chairman Kitchens, and members of the Assembly Committee on Education for holding a hearing on Assembly Bill 1034, relating to participation in interscholastic athletics and application of the public records and open meetings laws to interscholastic athletic associations.

Imagine a quasi-governmental organization that's shrouded in layers of bureaucracy and budgeting. Taxpayer dollars flow into it from various sources, but with zero accountability. It makes rules, enforces rules, and decides when you've violated rules. It exacts revenge on anyone who speaks out against it. It tells no one about how a meeting is conducted or why decisions are made. If you're brought before its tribunal, you have no rights beyond what they grant you.

This is how Wisconsin's premiere interscholastic athletic association operates. This should tell you everything you need to know about why this bill is important.

Unlimited power in the hands of limited people most often leads to unfairness and prejudice. And that's exactly the truth I hear from parents and school administrators when I ask them about how they have been treated under the current system. You're going to hear from some of them in a few minutes.

The WIAA is an interesting organization. You might hear it described today as a private, membership-service organization. That's true. But its membership is comprised of schools, mostly public schools, that are generally subject to public records and open meetings laws. It's a quasi-governmental body that has legislative, executive, and judicial functions that impact students and school districts. In 2021-22, these school districts received more than \$14 billion in taxpayer dollars. Some of these taxpayer dollars went to maintain football, baseball, softball, and soccer fields. It went to basketball courts and equipment. Without these taxpayer-funded facilities, the WIAA could not sponsor any of its sporting events. Their entire existence is dependent on taxpayer funded facilities, yet we allow them to control all of the events played on them. For some reason, we became comfortable with an unaccountable organization running all of this. We can do better.

This legislation is very simple, and it really boils down to two things:

- 1) transparency, and
- 2) exceptions for referee and pupil records.

First, let's talk about transparency. There's an old adage that says, "sunlight is the best disinfectant." The bill requires that if a school district is going to participate in an interscholastic athletic association, that association must abide by Wisconsin's public meetings laws and open records laws.

The WIAA does not have to change their constitution, bylaws or guidelines to comply with these laws. But if they don't, the reality is that school districts will not be able to be members.

Remember, the decisions made by governing bodies for student athletics can have long-lasting consequences on student athletes including mental health, scholarships, and the opportunity for students to go to college. Pride in your school felt by students and the community can be at stake. It's not too much to ask that decisions and the rationale for those decisions be made in daylight.

Second, let's talk about the exceptions to transparency. I'm a fan of sunlight, but nobody likes sunburn.

Legislators have already asked me about records relating to student transfers, 504 plans, and other concepts that would impact student privacy. They've asked about officials' rankings and comments made by coaches in evaluations. They're concerned about the recruitment and retention of referees.

I understand those concerns and want to let you know that this legislation cannot be more clear. Section 3 of the bill exempts referee and student records. Other states have models that simply incorporate these organizations into state government as state agencies, and that is always an option to explore. They are able to account for privacy concerns at the agency level, but this bill strikes the right balance between privacy and transparency while preserving the current institution.

I've talked to too many parents and student athletes who feel they didn't get a fair shake from the WIAA. School districts can and should do better to expect transparency from an organization that ultimately represents them.

Thank you for your time and attention. I'm happy to answer any questions you might have.



## WISCONSIN INTERSCHOLASTIC ATHLETIC ASSOCIATION

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Chairman Kitchens and Members of the Assembly Committee on Education:

Thank you for considering my testimony today. I am Stephanie Hauser, Executive Director of The Wisconsin Interscholastic Athletic Association. The WIAA stands as a cornerstone in the realm of education-based athletics, playing a pivotal role in coordinating and overseeing interscholastic athletics across the state. As a private, non-profit association, WIAA works for its diverse membership of 515 public and private high schools, serving tens of thousands of student-athletes across the state of Wisconsin as well as licensing thousands more sports officials.

I am here today because the WIAA opposes AB 1034, a bill that would subject the WIAA to open records law even though it is a private organization and a not-for-profit business.

Two years ago, when I was selected by the Board of Control as the Executive Director, our staff took intentional steps to recommit to the mission of service and to better inform others of the WIAA's purpose, processes and rule-making procedures. One of the points of emphasis was coming to Madison to invite legislators to do a Meet and Greet with us. Over the past 2 years, 31 lawmakers have sat down with us to open the lines of communication and to learn more about the WIAA's membership-driven governance, and we thank you for that engagement! Today is another opportunity. An opportunity to provide insight and education about the organization of the WIAA with all of you, and I am appreciative and honored to be able to do so.

The WIAA was the first state interscholastic athletic association in the country, founded in 1896, to develop and administer consistency and integrity for the rules of interscholastic athletics in Wisconsin. It is distinct from government agencies or public institutions, in that it receives no public tax dollars from the State of Wisconsin. In addition, the 20 dedicated employees of the WIAA are not eligible for public retirement nor other such benefits. Public and private member schools voluntarily join the WIAA and pay no dues to be a member. The membership is governed by its own set of bylaws and regulations, providing a framework for its operations.

In this testimony, we argue against proposal AB 1034 with emphasis on the unique characteristics of the WIAA as a private entity and the potential consequences that open records laws will impose on its ability to fulfill its mission effectively.

There have been multiple instances in recent years where the legislature has tried to insert authority into WIAA operations. Both Governor Walker and Governor Evers have vetoed such attempts, specifically objecting to the legislature inserting itself into a private organization's decision-making process.

The rules and policies of the WIAA are developed and implemented by the membership, either through membership vote for constitutional issues or through a membership-elected committee structure for sport seasons regulations. This organizational structure ensures extensive review by various advisory committees that provide the member schools and the elected members of the Board of Control with continued guidance. Therefore, ownership of the membership's rules and regulations, as well as the responsibility of compliance with them, lies with each member school.

There are many other education-related private organizations in the state, yet only the WIAA is being targeted in this proposed legislation. The application of public records and open meeting laws to a private organization sets a dangerous precedent and holds potential implications for numerous other similarly-organized associations and businesses that work closely with private and public schools. Subjecting the WIAA to open records laws will absolutely blur the line

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between public and private entities, potentially infringing on this private organization's autonomy and ability to operate efficiently.

While transparency is a hallmark of good governance, private organizations must balance it with the need for operational efficiency. All WIAA committee meetings and Board of Control meeting dates are published on the webpage. Members of the media frequently attend and even share social media posts live from the meeting. The WIAA's Annual Meeting is open to the public and is streamed live for those who are not able to attend in person. In fact, our office routinely sends invitations to legislators, especially those on Education Committees. The Annual Meeting minutes, which include WIAA financial statements, are published in the Annual Yearbook. Moreover, the WIAA routinely provides information to member and non-member requesters, even though it is not legally obligated to do so.

The WIAA, in its role as a coordinator of interscholastic athletics, must navigate a myriad of issues, from eligibility disputes, to fan ejections, venue contract negotiations, to scheduling conflicts. An open records exemption allows the WIAA to make informed decisions swiftly and effectively and in the best interests of student-athletes and member schools. The WIAA as a private entity, should be able to operate with agility and responsiveness. Open records laws will encumber the organization with time-consuming processes and legal obligations, hindering its ability to adapt swiftly to the ever-evolving landscape of education-based athletics.

Previously, both Gov. Walker and Gov. Evers reflected this in their comments:

Gov. Walker stated in his 2015 veto message:

*"I object to this provision because I do not believe State statutes should stipulate the participation and membership requirements of a private athletic association."*

Gov. Evers stated in his 2021 veto message:

*"I am vetoing this bill in its entirety because I object to the legislature's insertion into the decision-making process of a private, member-driven organization."*

In conclusion, the WIAA operates within a framework that emphasizes self-governance, innovation, and adaptability. Imposing open records laws will needlessly compromise and jeopardize these principles, hindering the organization's ability to act in the best interests of student-athletes, member schools and the communities they serve.

Legislators should carefully consider the unique nature of the WIAA and the potential consequences of subjecting it to open records laws. Preserving the autonomy of private, not-for-profit entities like the WIAA is crucial for ensuring that education-based athletics in Wisconsin continue to thrive, providing enriching experiences for student-athletes and contributing positively to the broader educational community.

Thank you for the opportunity to speak with you today, and I would welcome any follow-up questions that you may have.



Stephanie Hauser  
Executive Director of the Wisconsin Interscholastic Athletic Association



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## competitive balance

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Draft To: Ryan Vanderloop <coachryanv@gmail.com>

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The competitive balance initiative put forth by the WIAA is going to create havoc in cross country and negatively alter what our student athletes understand as competition and success. The plan was not vetted to catch the failings it is going to create and the most difficult thing to swallow as a parent is that with a loud resounding sentiment focuses on pausing and rethinking competitive balance in cross country, the WIAA and WIAA competition committee has met our concerns with deaf ears, heels dug in the sand and incoherent answers when we ask them to justify the program in the face of its flaws.

My child should not be moved from division II to division I based on success rooted in athletes who are off to college and no longer on the team. Furthermore the competitive balance program forces our team to accept being dominated by larger teams from larger schools from larger communities in division I for a few years then maybe face relegation back to division II - the successful division I teams face no consequence for their success - but its ok for us to play the yo-yo? Our community is a 10,000 person land and lake locked community, our high school is 500 students or so...and we can't get bigger, we will never exist on the scale of the 2000 student plus schools and communities tens of thousands of people larger than ours. We are penalized for success at division II for having a good coach and a community that produces talented young runners. Why isn't the WIAA showing division II and III schools how to get better, train coaches, consult on roadmaps to creating successful cross country programs? Instead they designed a plan that pushes success out of the way and jams them into division I to become mediocre against much larger programs...and as I stated before, likely be demoted back down after a few years!

My heart goes out to division II teams who have a single coach for the girls and boys programs. With competitive balance, one squad could be forced into a different division. Can the school afford this? it certainly breaks up team culture. The logistical obstacles come fast and furious when the WIAA says you have to split up your program between different divisions.

Looking at the math the WIAA has employed in competitive balance, a team can win their division II sectional, place outside the top 10 at state in division II and III and if they do that 2-3 years in a row they will be forced to division I where they probably won't go to state and if they do they will be outside of the orbit of at least the top 25 or 30 schools. Again, we are seeing the math work out and it isn't fair or logical. Again, none of the division I schools move, the field just gets really, really crowded. And in division II, some sectionals could be won by incomplete teams, the state meet would lose its competitive quality and edge.

In competitive balance my son is going to lose his perspective on the definition of competition. You should work hard to compete and not have the playing field changed beneath you in the middle of your high school career if you succeed. As a coach laid out for me, "this current program give me pause to think about situations where taking 2nd instead of trying your best for the win keeps you in division II...do we try our hardest and in a few years kids get swallowed up in division I or strategize how to avoid getting the points to be forced to move up?" That coach raises an interesting point that again points to the flaws of competitive balance in cross country.

Finally, at the wisconsin cross country coaches conference, a vote was held and roughly 250 wisconsin cross country coaches voted no confidence in the competitive balance program. Those coaches were from all divisions, including division I. I understand a single coach did not vote against the program. Doesn't it cause pause to think about what is happening if a nearly unanimous body of significant size of coaches disagree with a plan for their sport? The coaches aren't against a concept of competitive balance, but they are in disagreement with the current plan being implemented. Why doesn't the WIAA help smaller, lower division programs learn to improve? Why doesn't the WIAA work to balance the competition in sectionals? Why doesn't the WIAA add a division to create better competitive balance? Cross Country has the fewest divisions of many if not all of the WIAA sports. Why dont they use their educated and invested coaches, probably their biggest asset to come up with a competitive balance plan?

I hope with the help of our coaches, administrators, peers and legislators we can get the WIAA to stop fighting us, ignoring rational thought, open their eyes and ears and pause or stop competitive balance in cross country as it is designed and work toward a better solution to serve our kids.

Sincerely  
Ryan Vanderloop

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To Whom It May Concern:

I am writing this letter to question the reasoning for the implementation of "Competitive Balance." As I read more about this initiative, the more I become convinced that this is a "solution for a problem that doesn't exist," and furthermore a "solution" that benefits no one.

From what I understand one of the reasons for "Competitive Balance" is to allow different teams the opportunity to go to State by literally removing the historically successful teams from their Sectionals, for all Divisions except for Division 1.

I understand that the teams who move up a Division still have the opportunity to compete for a State Championship, but, the logic of removing the historically successful (or, recently successful) programs would parallel the NCAA not allowing Georgia to compete in the College Football Playoffs in 2023 after winning the Championship in 2021 and 2022, or, the NFL removing the New England Patriots from the playoffs in 2020, after they went to the Super Bowl in 2017, 2018, and 2019. It's removing teams from the equation due to recent success to allow other teams to have the chance to win, which runs counter to what competition should be.

Again, I understand that those two comparisons are flawed, as WIAA teams who move up a Division will still compete, but conceptually it's the same – these are moves who penalize the recently successful teams with a goal of allowing others to win. The absurdity of the NCAA removing Georgia from the playoffs or the NFL removing the Patriots from the playoffs is clear, yet this is what "Competitive Balance" does to the teams moving up a Division in Wisconsin.

I am admittedly biased, as my son is on a team affected by this move (Shorewood Cross Country), so my reasons for my disagreement are likely clear, but as I try to put myself into the shoes of an athlete or a parent who is *not* moving up a Division, I cannot help but think that the athletes on the teams who happen to win Sectionals or State next year, when they are no longer competing against the 'best' (recently successful teams), will look at their medals for the rest of their lives knowing that yes, they won the medal, but, the medal they won was largely 'manufactured' via Competitive Balance. To take away the opportunity for an athlete to look proudly at his or her medal, knowing that they beat the best, is what strikes me as the most flawed reasoning for this initiative. Similar to how an NFL player's Super Bowl Ring would be less meaningful if the Patriots were not allowed to play in the Super Bowl due to their recent success, Competitive Balance is making all lower Division Sectional and State medals and trophies much less meaningful. It's essentially adding an asterisk to all of those medals and trophies, as the athletes and coaches will forever know they didn't beat the best to win.

Sincerely,

Joel Nagle