January 15, 2009

Michael J. Herbert, Esq.
Herbert, Van Ness, Cayci & Goodell
22 Chambers Street
Princeton, NJ 08542

Re: Proposed NJSIAA Rule Change – Wrestling Tournaments

Dear Mr. Herbert:

Your correspondence concerning a contest rule change regarding the organization of high school wrestling competitions – adopted by the New Jersey State Interscholastic Athletic Association (NJSIAA) on December 1, 2008 – was received in the Department of Education on December 31, 2008.

Upon consideration, the Commissioner disapproves the proposed rule, pursuant to her authority under N.J.S.A. 18A:11-5. The unconditional separation of public school wrestling programs from non-public school programs at the district and regional levels is inconsistent with the principles articulated by the Commissioner – and upheld by the courts – in previous legal decisions concerning the administration of school athletics in New Jersey.

Further, if the NJSIAA determines to submit a future proposal for a rule change regarding the organization of athletic competition, it should be supported by a fully developed record that demonstrates how such an amendment would be in accord with past precedent. See, e.g. The Olympic Conference v. The New Jersey State Interscholastic Athletic Association et al., Superior Court, Appellate Division, A-4986-81T1; decided March 9, 1983.

Sincerely,

Lucille E. Davy
Commissioner of Education
State of New Jersey

C: Rev. Monsignor Michael E. Kelly
Joseph C. Lunengo, Superintendent of Schools
Steven J. Timko, NJSIAA Executive Director

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