



Open Letter From The NAGAAA Executive Board

It's over!

We are pleased to announce that after a series of court rulings in favor of NAGAAA, the parties have reached a final settlement in a lawsuit that had questioned the legality of NAGAAA's rules regarding the Gay Softball World Series (GSWS). The Court has vindicated NAGAAA's First Amendment right to determine for itself how to fulfill the organization's mission.

NAGAAA's mission is to serve the LGBT community and to send a message through the annual Gay Softball World Series that athletes can play competitive team sports as openly gay, lesbian, bisexual, and transgender individuals. In order to fulfill its mission, NAGAAA has adopted a rule that the majority of players on teams competing at the annual Gay Softball World Series must be athletes who identify as members of the LGBT community. Any individual player can play in the Gay Softball World Series, regardless of sexual orientation or gender identity, but team rosters must comply with various eligibility rules, including Rule 7.05 of the NAGAAA Softball Code, which limits the participation of non-LGBT players to only two per team.

The lawsuit involves three players whose team was the subject of a Protest Hearing during the 2008 Series in Seattle. The protest was based on other competitors' belief that more than two members of the San Francisco D2 team were heterosexual, and therefore the team roster violated Rule 7.05.

In April 2010, the National Center for Lesbian Rights filed a lawsuit in federal court challenging the legality of Rule 7.05, and asserting various discrimination and privacy claims against NAGAAA. Plaintiffs asked the Court to bar NAGAAA from enforcing Rule 7.05 in any future Gay Softball World Series.

On May 31, 2011, United States District Court Judge John Coughenour dismissed plaintiffs' claim seeking to eliminate NAGAAA's rule. The Court also found that NAGAAA is protected by the First Amendment, and that its expressive purpose would be burdened if it were prohibited from limiting its membership.

On November 14, 2011, Judge Coughenour again ruled in favor of NAGAAA, and dismissed plaintiffs' discrimination claims. The Court found that "it is reasonable that an organization seeking to limit participation to gay athletes would require members to express whether or not they are gay athletes," and ruled that "the First Amendment protects NAGAAA's membership policy from Washington's public-accommodation law." Plaintiffs' remaining individual claims, which sought damages for alleged invasion of privacy and emotional distress, were set for trial in December, but the parties have now reached a settlement agreement resolving the lawsuit.

The three plaintiffs did not identify themselves as bisexual during the 2008 Protest Hearing, in their appeal to the NAGAAA Commissioner, in their complaints to the Washington Human Rights Commission, or in their complaint suing NAGAAA. Nevertheless, all three players have now identified themselves as

bisexual. NAGAAA recognizes that some individuals who were present in the room during the 2008 Protest Hearing apparently did not have the same understanding of NAGAAA's definitions, as they applied to bisexual players, that NAGAAA's leadership had. The Protest Committee voted Plaintiffs to be believed to be heterosexual, subjected them to the participation limit imposed by NAGAAA's Rules, disqualified their team, and expunged their participation from the 2008 GSWS. The Protest Hearing included questioning and a voting procedure that Plaintiffs found to be offensive.

NGAAA has since adopted new definitions that make clear that bisexual or transgender players are not subject to NAGAAA's roster limits. NAGAAA recognizes that disqualifying Plaintiffs' team and expunging their participation from the 2008 GSWS was not consistent with NAGAAA's intention of being inclusive of bisexual players and conducting its Protest Hearings in a manner that does not cause undue offense. NAGAAA regrets the impacts the 2008 Protest Hearing process had on Plaintiffs and their team and confirms that its records will be amended to reflect the participation of the Plaintiffs and their team in the 2008 GSWS, including the results of all games played by D2, and that D2 is recognized as a second place winner, and will be awarded a second place trophy, for that Series. The Plaintiffs have acknowledged the positive changes that NAGAAA has implemented, and its commitment to the LGBT community as a whole.

As a result of the lawsuit, NAGAAA has been forced to vigorously defend not only its protest procedure, but also its First Amendment right to choose its own mission, without interference from outside groups. NAGAAA believes it is important to encourage inclusion and diversity. It is one of our core values. It is also important to maintain the unique experience that LGBT players experience at the GSWS as a community of openly LGBT athletes. NAGAAA has determined that the best way to accomplish both of those goals is to welcome the participation of non-LGBT athletes, but to limit their numbers to two per team.

We recognize some may question the rule's continuing value, even within our own membership. However, we believe that NAGAAA has the right to define our organization's mission and to determine for ourselves how best to fulfill that mission. We are pleased that the Court has recognized NAGAAA's First Amendment rights, and that the parties have been able to resolve their remaining disputes and put this matter to rest.