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# **Report on the Minnesota State High School League Fiscal Year 2018**

Report to the Legislature

As Required by Minnesota Statutes, section 128C.20

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As requested by Minnesota Statutes, section 3.197: This report cost approximately \$350 to prepare, including staff time, printing and mailing expenses.

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## Legislative Charge

The Minnesota State High School League (MSHSL) “is a nonprofit corporation that is a voluntary association of high schools ... whose governing boards have delegated their control of extracurricular activities ... to the [MSHSL].” Minn. Stat. § 128C.01, subd. 1

Per state law, each year the Commissioner of Education is required to obtain and review the following information about the MSHSL:

- (1) An accurate and concise summary of the annual financial and compliance audit prepared by the state auditor that includes information about the compensation of and the expenditures by the executive director of the MSHSL and MSHSL staff;
- (2) A list of all complaints filed with the MSHSL and all lawsuits filed against the MSHSL and the disposition of those complaints and lawsuits;
- (3) An explanation of the executive director’s performance review;
- (4) Information about the extent to which the MSHSL has implemented its affirmative action policy, its comparable worth plan, and its sexual harassment and violence policy and rules; and
- (5) An evaluation of any proposed changes in MSHSL policy.

Minn. Stat. § 128C.20

## Introduction

The commissioner has obtained the following sources of data for this report:

- Correspondence from the board president of the MSHSL (board president).
- Correspondence from the 2016-17 president of the MSHSL Board of Directors, which includes an explanation of the executive director’s performance review.
- Notice of Pay Equity Compliance presented to MSHSL by Minnesota Management & Budget (MMB), dated July 15, 2015.
- The State of Minnesota Office of the State Auditor Management and Compliance Report for the MSHSL for the year ended July 31, 2016.

## Analysis

### State Auditor’s Financial and Compliance Audit

The commissioner must obtain and review an accurate and concise summary of the annual financial and compliance audit prepared by the state auditor that includes information about the compensation of, and the expenditures by, the executive director of the MSHSL and MSHSL staff.

The Minnesota State Auditor's report reviewed the basic financial statements of the MSHSL for fiscal year 2016. In its management letter, the state auditor included the following schedule of findings and recommendations:

1. Each region has an administrative secretary who is responsible for the accounting functions. Establishing and maintaining internal control over the various accounting cycles, the fair presentation of the financial statements and related notes, and the accuracy and completeness of all financial records and related information is the responsibility of each regional secretary, each region committee, and the MSHSL. Adequate segregation of duties is a key internal control in an organization's accounting system.

Management of each region and the MSHSL is responsible for the accuracy and completeness of all financial records and related information. Also, management is responsible for controls over the period-end financial reporting process, including controls over procedures used to enter transaction totals into the general ledger; initiate, authorize, record, and process journal entries into the general ledger; and record recurring and nonrecurring adjustments to the financial statements.

Due to the limited number of staff, the management of Regions 1A, 4A, 5A, 1AA, 3AA, 4AA, 5AA, and 6AA requested that the Office of the State Auditor prepare the financial statement information and related note disclosures included in the audited financial report of the MSHSL.

The size of the regions and their staffing limits the internal control that management can design and implement into the organization. Without proper segregation of duties, errors or irregularities may not be timely detected.

During the region audits, the state auditor proposed adjustments to convert five of the regions' financial records to the financial statements as reported. These adjustments increased liabilities and related expenses, which were material to the individual regions.

This arrangement is not unusual for organizations the size of the regions. This decision was based on the availability of the regions' staff and the cost benefit of using the state auditor's expertise.

The state auditor recommended each region committee and the board and management of the MSHSL be mindful that limited staffing causes inherent risks in safeguarding the organization's assets and the proper reporting of its financial activity. The state auditor further recommended that the region committees and the board and management of the MSHSL continue to implement oversight procedures and monitor those procedures to determine if they are still effective internal controls.

This was a previously reported item not resolved.

2. Tournament reports are required to be completed by the schools hosting the tournament to account for tickets sold and tournament revenue. The tournament location, activity, date, beginning and ending ticket numbers, and tickets used are to be recorded on the tournament records. The reports are signed and submitted to the region secretaries along with the tournament revenue.

A review of the tournament revenues and reports at each of the regions were noted with the following issues: 1) four regions had tournament reports with missing beginning and ending ticket numbers or

improper ticket numbers, 2) four regions had tournament reports that were not signed, 3) five regions had tournament reports with ticket numbers that did not reconcile to the revenue received or recorded in the general ledger, 4) two regions had tournament reports with revenues recorded in an incorrect spot on the general ledger, 5) one region had a tournament report where the incorrect amount of revenue was received, 6) four regions had tournament reports where the revenue was not deposited in a timely manner, and 7) two regions had tournament revenue that was missing support or proper documentation.

Many tournaments are held at numerous sites statewide. Tournaments are oftentimes staffed with workers who have no prior tournament experience, which effects inaccurate tournament records and reporting of tournament revenues. The cause is that tournament workers do not take the proper care to accurately record tournament activity.

The state auditor recommended the region secretaries more closely monitor site personnel and tournament managers to ensure that tournament reports are complete, accurate, and submitted for all tournaments. The state auditor further recommended that region personnel deposit tournament receipts in a timely manner and accurately record them in the general ledger.

This was a previously reported item not resolved.

#### **A. Compensation of the MSHSL's Executive Board**

According to the board president, staff salaries are based on a range established by the Board of Directors. Since the 1997-98 school year, staff salaries, among other criteria, are based upon a comparison of similar athletic and activity associations in the states that comprised the Big Ten athletic conference (Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, Pennsylvania, and Wisconsin). MMB affirmed the MSHSL's compliance with pay equity laws in a certificate dated July 15, 2015.

#### **B. Expenditures of the MSHSL's Executive Director and Staff**

According to the board president, during the 2016-17 school year, the executive director and his staff were reimbursed a total of \$22,331 for statewide travel. Furthermore, the executive director stated that expenses are reimbursed as identified by Board of Directors' policy and Minnesota Statutes, section 43A.18, subdivision 2, the Commissioner's Plan.

### **Complaints and Lawsuits**

The commissioner must obtain and review a list of all complaints filed with the MSHSL, all lawsuits filed against the MSHSL, and the disposition of those complaints and lawsuits.

State law does not establish a dispute resolution method for the MSHSL, but the MSHSL has established a policy for hearing disputes regarding student eligibility, including hearing and hearing review procedures.

**A. Descriptions of the Hearings Held During the 2016-17 School Year**

- August 31, 2016 – Bylaw 111, Transfer and Residence

Independent hearing officer recommended and the Board of Directors approved the student's ineligibility for varsity competition until January 10, 2017.

- October 18, 2016 – Bylaw 111, Transfer and Residence

Independent hearing officer recommended and the Board of Directors approved the student's immediate varsity eligibility at the new school.

- November 29, 2016 – Bylaw 111, Transfer and Residence

Independent hearing officer recommended and the Board of Directors approved the student's ineligibility for varsity competition at the new school for a period of one calendar year, commencing on the student's first day of attendance or participation in an athletic program, whichever is earlier.

- January 25, 2017 – Bylaw 111, Transfer and Residence

Independent hearing officer recommended and the Board of Directors approved the student's immediate varsity eligibility at the new school.

- March 1, 2017 – Bylaw 111, Transfer and Residence

Independent hearing officer recommended and the Board of Directors approved the student's ineligibility for varsity competition at the new school for a period of one calendar year, commencing on the student's first day of attendance or participation in an athletic program, whichever is earlier.

**B. Description of the Lawsuits Filed during the 2016-17 School Year**

- Z.T. v MSHSL, United States District Court for the District of Minnesota (File No. 16-3821). Filed on October 24, 2016, in state court.

After the plaintiff filed the lawsuit in state court requesting the court require the MSHSL to allow him to compete at the varsity level after the MSHSL determined he was ineligible for varsity competition based on transfer student rules, the lawsuit was removed to federal court on November 3, 2016. The plaintiff's motion for a temporary restraining order was denied on November 18, 2016. According to the MSHSL, the lawsuit was dismissed with prejudice on January 11, 2017.

- C.K.M. v. MSHSL, United States District Court for the District of Minnesota (File No. 16-4148). Filed on December 13, 2016.

The plaintiff filed suit requesting the court require the MSHSL to allow her to compete at the varsity level and barring the MSHSL from taking any disciplinary action against any public school for allowing her to participate in interscholastic activities, including varsity athletics, after the MSHSL determined she was ineligible for varsity competition based on transfer student rules. A temporary

restraining order hearing was held on December 21, 2016. On December 27, 2016, the magistrate judge issued a report and recommendation that the motion for a temporary restraining order be denied. The court adopted the magistrate judge's report and recommendation on January 11, 2017, and formally dismissed the case on April 20, 2017.

- R.E. v. MSHSL, Lakeville South High School et al., United States District Court for the District of Minnesota (File No. 17-1040). Filed on April 4, 2017.

The lawsuit was settled almost immediately without a hearing and before responsive pleadings were filed. The case was formally dismissed on June 5, 2017.

### **Executive Director's Performance Review**

The commissioner must obtain and review an explanation of the executive director's performance review. The annual evaluation of the executive director was completed in May 2017 and is positive. According to the board president during the 2016-17 school year:

[Executive Director] provides exemplary leadership and the MSHSL is a better organization because of his leadership style and techniques. . . . [He] is fair, honest, and a person of the outmost integrity; all attributes that he has modeled for many years. . . .

[Executive Director] is an effective communicator. He is a gifted speaker and has outstanding writing skills as well. [He] addresses items extemporaneously with amazing skill and also has the ability to prepare material with complete clarity, fact, history, and foresight. He presents with confidence and conviction in all venues, with a wide array of an audience . . . [He] provides clear, concise, and timely information to the Board of Directors helping Board members sift through materials and make decisions that are in the best interest of member schools.

[Executive Director] is a respected, professional, and highly effective leader. His influence has been tremendous for many years, not only in Minnesota, but nationwide. . . .

It has been an absolute pleasure and honor for me to have worked with [Executive Director]. . . . We are fortunate to have a man with such high moral character traits leading the MSHSL. . . .

### **MSHSL Program Implementation**

The commissioner must obtain and review information about the extent to which the MSHSL has implemented its affirmative action policy, its comparable worth plan, and its sexual harassment and violence policy and rules.

According to the board president, the Board of Directors' affirmative action policies ensure that jobs within the MSHSL are equally accessible to all qualified persons. The board president informs that staff follows Minnesota Statutes, section 128C.15, subdivision 2, when employment opportunities become available. In addition, employment information is placed on the MSHSL's website and communicated directly to the member schools.

According to the board president, the MSHSL's comparable worth plan was originally adopted in the fall of 1988. Subsequently, the Board of Directors employed a consultant to evaluate jobs and assign pay grades. The comparable worth plan the consultant submitted was approved by the Board of Directors on August 14, 1997. The MSHSL completed and filed its most recent Pay Equity Report with MMB and the Notice of Pay Equity Compliance was received and dated July 15, 2015.<sup>1</sup>

According to the board president, the MSHSL's Sexual, Racial and Religious Harassment and Violence and Hazing Policy was adopted as a bylaw, and it is published statewide in the MSHSL Official Handbook and on the MSHSL webpage. The MSHSL has shared the vision of the harassment/hazing policy with all of the states in the National Federation of State High School Associations. The MSHSL also provided information relative to the "bullying bill" during the 2013 legislative session.

Furthermore, the MSHSL's TeamUP program provided a digital versatile disk (DVD) for all member schools regarding hazing, titled "Hazing; The Painful Truth." The DVD was developed by the Rochester, Minnesota, school district in conjunction with the Rochester, Minnesota, Police Department. The MSHSL staff also conducted area meetings throughout the state and has addressed recordkeeping ideas for activity directors when students have indicated that they have been bullied.

In December 2012, the MSHSL Board of Directors approved the WHY WE PLAY initiative, which requires coaches to develop a Purpose Statement and post it on their Coaches' Clipboard on the MSHSL website. In addition, the WHY WE PLAY program has been presented at the Minnesota School Board Association Leadership Conference, National Federation of State High School Associations' Summer Meetings, at athletic director conferences, and at four coaches' workshops during the summer. The initiative has also been endorsed by the National Football League and is currently being provided in Texas and Colorado. Teams are now being trained in Massachusetts and California.

### **Evaluation of Proposed Changes in League Policy**

The commissioner must obtain and review an evaluation of any proposed changes in MSHSL policy. The board president provided a copy of policies that were developed and revised by the Board of Directors, a change to the bylaws which were approved by the Representative Assembly, a proposed constitutional amendment, and amendments to the Minnesota Statutes affecting the MSHSL:

- MSHSL Bylaw 111: MSHSL Transfer Eligibility Appeal Policy Provision for *Special or Unusual Circumstances* – Outlining the MSHSL alternative review process for transfer eligibility of students based on special or unusual circumstances.

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<sup>1</sup> Such a report of compliance is required "no more frequently than once every three years." Minn. Stat. § 471.999

- MSHSL Bylaw 403.1-2B – Cooperative Sponsorship – Outlining the criteria for designating cooperative sponsorship arrangements among schools for MSHSL Sponsored Activities as Class A or Class AA for purposes of appropriate competitive section classification.
- MSHSL Bylaw 208.5 – Non-School Competition and Training (Team and Individual Sports) – Revising policy to permit high school students to tryout or audition for college or university athletic programs while maintaining their eligibility to participate in high school athletics.
- MSHSL Bylaw 403.00 – Cooperative Sponsorship – Revising the previous bylaw changes set forth above by outlining the criteria for designating cooperative sponsorship arrangements among schools for MSHSL Sponsored Activities as Class A or Class AA for purposes of appropriate competitive classification. Also outlines application and review procedures for schools wishing to enter into a cooperative sponsorship arrangement for MSHSL Sponsored Activities.
- MSHSL Bylaw 504.1-2 – Baseball – Updating the start date of the baseball season and outlining the policy and intentions of baseball practice prior to the first contest.
- MSHSL Bylaw 518.3 – Tennis – Boys’ & Girls’ – Outlining the type and maximum number of contests allowed for the boys’ and girls’ tennis seasons.
- MSHSL Bylaw 521.3A – Wrestling: sixteen events/45 competitions – Outlining the type and maximum number of events and competitions allowed for the wrestling season.
- MSHSL Baseball Pitch Count Policy – Outlining the baseball pitch count, tracking, and violations rules. Also includes recommendations for schools to follow regarding safety practices for pitchers.
- MSHSL Tournament Classification and Process/Procedure for an MSHSL Member School to Appeal Their 2017-2019 Tournament Classification in TEAM SPORTS/ACTIVITIES – Outlining the tournament classification and appeal process/procedure for the biennial tournament classifications for post-season play in MSHSL-sponsored sports and fine arts activities.
- Proposed Constitutional Amendment – Proposing a new guaranteed position on the MSHSL Board of Directors for one Class A and one Class AA school superintendent who will represent paired administrative regions. The proposed constitutional amendment failed on November 14, 2016.
- Minnesota Statutes, section 128C.24 – League Funds Transfer – Outlining creation, funding, and use of a nonprofit charitable foundation by the MSHSL for the purpose of promoting high school extracurricular activities. The legislative amendment was signed by the governor of the State of Minnesota on May 30, 2017.
- Minnesota Statutes, section 297A.70, subdivision 11a – Minnesota State High School League tickets and admissions – Outlining tax exemptions for the MSHSL. The legislative amendment was signed by the Governor of the State of Minnesota on May 30, 2017.

## Conclusion

Minnesota Statutes, section 128C.20, subdivision 1, requires the commissioner of MDE to conduct an annual review of the MSHSL. This report documents the required review.