



Report on the Minnesota State High School League Fiscal Year 2021

Report to the Legislature

As required by Minnesota Statutes, section 128C.20

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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].” [2019 Minn. Stat. § 28C.20](#)

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 MSHSL and the disposition of these 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.

[2019 Minn. Stat. § 28C.20](#)

Introduction

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

- Correspondence from the board president of the MSHSL.
- Correspondence from the 2019-20 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 to Minnesota Management and Budget (MMB), dated July 19, 2018.
- The State of the Minnesota Office of the State Auditor Management and Compliance Report for the MSHSL for the year ended July 31, 2019.

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 expenditures by, the executive director and the MSHSL and MSHSL staff.

The Minnesota State Auditor's report reviewed the basic financial statements of the MSHSL for fiscal year 2019. In its management, 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 region 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 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, 2A, 4A, 5A, 1AA, 2AA, 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.

Inadequate segregation of duties could adversely affect the regions' ability to detect misstatements in amounts that would be material in relation to the financial statements in a timely period by employees in the normal course of performing their assigned functions.

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 our expertise.

The Office of the State Auditor recommends 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. We further recommend the region committees and the Board and management of the MSHSL continue to implement oversight procedures and monitor these 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 reports. The reports are signed and submitted to the region secretaries along with the tournament revenue.

During review of the tournament review and reports at each of the regions, the following issues were noted:

- Five regions had tournament reports with missing beginning and ending ticket numbers or improper ticket numbers;
- Two regions had a tournament report that was not signed;
- Three regions had tournament reports with ticket numbers that did not reconcile to the revenue received or recorded on the general ledger; and
- One region had a tournament report where the incorrect amount of revenue was recorded in the general ledger.

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 case is that tournament workers do not take proper care to accurately record tournament activity.

The Office of the State Auditor recommends that region secretaries more closely monitor site personnel and tournament managers to ensure that tournament reports are complete, accurate, and submitted for all tournaments. We further recommend 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.

3. The MSHSL's Board of Directors Policy Manual and Guidelines requires the use of an approved special expense form for certain expenses that have been incurred. Among other items, the policy requires those claiming reimbursements to use the current Internal Revenue Service mileage rate, prohibits reimbursement for alcoholic beverages, and requires supporting documentation for expenses claimed.

During review of expenses paid at each of the regions, the following issues were noted:

- Four regions had expenses where a special expense form should have been filled out but was not;
- Two regions had expenses with no supporting documentation;
- One region had an expense requirement where the incorrect mileage rate was used;
- One region had an expense reimbursement that included an alcoholic beverage; and
- One region paid an expense twice in error. The region was eventually refunded the money.

Special expenses are those expenses incurred in connection with official functions of the MSHSL or assigned duties of its employees which are not reimbursable through the regular expense regulations. The MSHSL policy identifies specific expenses which are special expenses. Region committees are charged with paying expenses in accordance with MSHSL policies.

Expenses were not paid in accordance with MSHSL policy because region secretaries did not ensure all expenses had the proper documentation and were allowable to be paid.

The Office of the State Auditor recommends that region secretaries more closely monitor expense requests and supporting documentation before allowing these types of payments.

This was a previously reported item not resolved.

A. Compensation of the MSHSL's Executive Board

According to the Board President, MSHSL staff salaries are based on a range established by the Board of Directors. Since the 1997-98 school year, staff salaries have been based, among other criteria, upon a comparison of similar athletic and activity associations in the states that comprise the Big Ten athletic conference (Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, Ohio, Pennsylvania, and Wisconsin). MMB affirmed the MSHSL's compliance with pay equity laws in a certificate dated July 31, 2018.

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

According to the Board President, during the 2019-20 school year, the Executive Director and his staff were reimbursed a total of \$10,028.00 for statewide travel. Furthermore, the Board President stated that expenses are reimbursed as identified by Board of Director's 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.

Beginning August 1, 2017, a new Transfer Eligibility Review Process was implemented by the MSHSL. This new process was part of the action plan the MSHSL completed following an audit conducted by the Office of the Legislative Auditor.

A. Overview of the Transfer Eligibility Review Requests Processed During the 2019-20 School Year

During the 2019-20 school year, member schools submitted 1,829 Transfer Eligibility Determinations. Of those submissions, school administrators submitted 155 completed Transfer Eligibility Review requests seeking varsity eligibility for those students. MSHSL staff reviewed those submissions and granted varsity eligibility for 73 students. Of the 82 requests that were denied, the families of 20 students requested the opportunity to discuss their transfer eligibility request with the MSHSL Board of Directors Eligibility Committee. The Board of Directors granted 11 requests for varsity eligibility. A total of nine requests were denied by the Board of Directors Eligibility Committee, and the parents of one of those students chose to speak directly to the MSHSL Board of Directors regarding their transfer review.

B. Description of the Lawsuits Filed during the 2019-20 School Year.

- Doe v. MSHSL, Ramsey County District Court, File No. 62-CV-18-7715, filed November 27, 2018, in state court.

The Plaintiff filed a lawsuit alleging the MSHSL aided and abetted Hill-Murray School in a discriminatory retaliation claim when the MSHSL initially denied the Plaintiff's eligibility to play varsity hockey. The MSHSL filed a Motion to Dismiss on April 26, 2019. A hearing on that motion was scheduled for August 13, 2019, but was cancelled when the Plaintiffs retained new legal counsel who stated they would file a Motion to Amend the

Pleadings. Plaintiff's counsel withdrew from representation in May 2020 and a motion to amend the pleadings was never filed. The MSHSL's Motion to Dismiss preceded, with the Court ordering that a decision would be made solely on written submissions, without oral argument. The Plaintiff did not file anything in response to the MSHSL's Motion to Dismiss, and the Court granted the Motion to Dismiss on September 1, 2020.

- Doe v. MSHSL, United States District Court for the District of Minnesota, File No. 19-CV-02162. Filed on or about July 17, 2019 in state court, but was removed to federal court on or about August 7, 2019.

The Plaintiff filed a lawsuit in Hennepin District Court on or about July 17, 2019. It was removed to the United States District Court on or about August 7, 2019. The MSHSL filed an Answer on August 13, 2019. The case was dismissed with prejudice by Plaintiffs without a settlement agreement on September 20, 2019.

- Shaun'rae McDonald o/b/o minor child v. MSHSL, Minnesota Department of Human Rights (MDHR) Reference No. 71002. Filed on or about September 12, 2019 with the MDHR.

A charge of discrimination was filed with the MDHR, alleging that the Charging Party was denied additional semesters of eligibility due to his race. The MSHSL filed an Answer to the Charge on or about October 3, 2019, denying any discrimination. The parties participated in mediation through MDHR on October 16, 2019, but were unable to reach a resolution. MDHR dismissed the charge with a finding of no probable cause of discrimination in September 2020.

- B.N. v. MSHSL, United States District Court for the District of Minnesota, File No. 20-CV-00360, filed January 27, 2020 in federal court.

The Plaintiff filed a lawsuit in the United States District Court for the District of Minnesota on January 27, 2020, alleging the MSHSL violated the Plaintiff's due process when it denied eligibility as a result of a transfer. After review of the information submitted with the Complainant, the MSHSL determined that an exception to the transfer rule was warranted and granted varsity eligibility on or about January 31, 2020. The lawsuit was dismissed with prejudice on February 4, 2020.

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 conducted in June 2020 and is positive. According to the Board President during the 2019-20 school year:

As President of the Board of Directors of the [MSHSL], one of my duties is to lead a review of the work of our Executive Director. This document was crated with input from members of the Executive Committee and will meet the requirements of his annual review. [Executive Director] is a highly respected member of the staff, and it is my pleasure to submit this evaluation document.

Without a doubt, these are the most difficult and challenging times the MSHSL has ever seen, and this situation is beyond the control of the [MSHSL] staff, including the COVID-19 pandemic and civil unrest throughout our nation. Executive Director and his staff have responded to each new crisis with a prompt response, fortitude, and grace.

[Executive Director's] communication skills have served him well. He has been thoughtful, timely, and transparent in sharing information with board members, [activities directors], administrators, and the media when making sensitive decisions that impact every athletic and activity program in the state this past year. His close work with the [Minnesota] Department of Health, [Minnesota] Department of Education, and the [Office] of the [Governor] has given the [MSHSL] a voice and allowed [Executive Director] and his staff to make well-informed decisions.

This past year, [Executive Director] hired talented and committed staff members at different levels in the organization. He is creating a workplace culture that reflects professionalism and a sense of shared purpose. He also researched and collected information from multiple sources to build a new website that acknowledges the wide audience the MSHSL serves and its mission of the [MSHSL]. Establishing a review of bylaws, policies, and practices have been important to [Executive Director]. Also, he encouraged and supported his staff as they created the LEAD (Leadership, Education, Administration, and Development) network to communicate with activities directors during the pandemic.

From a management perspective, [Executive Director] had a vision, but he was also able to pivot and adjust to circumstances created by the pandemic. Earlier in the year, he helped implement a fee structure to establish a more stable source of funding for the [MSHSL]. If not for the pandemic, the [MSHSL's] finances would have a solid foundation. With the impending crisis, [Executive Director] quickly took a proactive approach to seek the assistance of an outside financial institution to expedite the process of obtaining a PPP loan (Paycheck Protection Program) to maintain the [MSHSL's] financial obligations. Due to the situation, [Executive Director] has worked closely with Assistant Director to anticipate the outcome of multiple scenarios and their impact on the feasibility of holding fall state tournaments, with or without fans present, or the possibility of not having a fall season.

As a leader, [Executive Director] is outstanding. His tireless commitment, calm and strong presence, and passion for the mission and beliefs of the MSHSL are admirable. He also has made hard decisions and accepts all responsibility for them. He has formed cooperative relationships such as his involvement with the Twin Cities Dunks organization, his communications with executive directors from other states, and his work on the Governor's Task Force on youth sports. [I] have been in a unique position to serve two years as president of the board. In that time, I've seen him build trust and respect within his staff, and I have watched as they look to him for direction and confidence.

This coming year will be filled with challenges the MSHSL has never seen before. It will take courage, grit, empathy, and creativity to face these unprecedented times. [Executive Director] possesses these qualities, and the MSHSL is fortunate to have him at the helm.

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 Director's 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 more recent Pay Equity Report with MMB and the Notice of Pay Equity Compliance was received and dated July 19, 2018.

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 Office Handbook and on the MSHSL website. All members of the Board of Directors, MSHSL staff, and region secretaries review the policy annually. The MSHSL staff was trained on this policy on July 10, 2018, by the legal representation of the MSHSL. The MSHSL has shared the vision of the harassment/hazing policy with all of the states in the National Federation of the State High School Associations. The MSHSL also provided information relative to the "Bullying Bill" during the 2013 legislative session.

According to the Board President, 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, Athletic Director conferences, and coaches' workshops. The initiative has also been endorsed by the National Football League and has been shared in eighteen states thus far. All eighteen states are implementing this information into their coach and activities director training. The MSHSL has partnered with the Minnesota Vikings in August 2019 and is entering into their second year of the partnership designed to engage coaches and activities directors in the InsideOut Initiative, which is a nonprofit organization working to reclaim the educational purpose of sports.

According to the Board President, as of June 2020, the MSHSL has participated in two years of engagement with the newly formed Principals Advisory Committee. In partnership with the Minnesota Association of Secondary School Principals (MASSP), this Committee was formed to further the mission of the MSHSL, enhance the focus on educational experiences and provide additional review of MSHSL bylaws, policies, and practices. The Committee evaluated the experience of the past two years and affirmed the desire of the MASSP to continue forward with the Principals Advisory Committee, while several members of the Committee have requested to continue as members and serve a full term on the Committee.

According to the Board President, the MSHSL launched the first phase of a new website in July of 2020. The website was developed by GravityWorks of Lansing, Michigan, and planning and design work on the new site began in December 2019. The new website completely replaced the previous MSHSL website and provides member school administrators, coaches, region secretaries, MSHSL staff, and public users access to information about our schools, MSHSL-sponsored activities, section and state tournaments, and other MSHSL news. Member schools use the site to manage a variety of administrative tasks related to their membership and activities. Additional phases and features of the website will be introduced over the next several months.

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 and changes to the bylaws which have been approved by the Board of Directors and will be presented to the Representative Assembly in November 2020:

- MSHSL Activity Advisory Committee Process: Modified the term “athletic director” to “activities director” and added the Principal Advisory Committee as a body that will provide recommendations to the Advisory Committee
- MSHSL Tournament Classification Guidance: Modified the guidance regarding the activities that are eligible to appeal a classification determinations to include Dance Team and One Act Play and to remove Lacrosse.
- MSHSL Bylaw 110 – Semester Eligibility – Removing and clarifying requirements for students to apply for additional semesters of eligibility beyond the 12 consecutive semesters of eligibility for students beginning in seventh grade
- MSHSL Bylaw 403 – Cooperative Sponsorship – Updating the list of information school districts must provide to the MSHSL to engage in a cooperative sponsorship.
- MSHSL Bylaws 503.03 and 501.00 – Badminton Contests – Increasing the maximum number of allowed badminton contests in a season from 16 to 18.
- MSHSL Bylaw 510.3 – Girls’ Gymnastics – Increasing the maximum number of allowed gymnastic events from 16 to a 17 for the purpose of determining an inter-conference or intra-conference champion.
- MSHSL Bylaw 520 – Volleyball – Adding Boys’ Volleyball to the list of MSHSL-sanctioned activities

Conclusion

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