



**2004 Report on the
Minnesota State
High School League**

December 2004

**Report
To the
Legislature**

**As required by
Minn. Stat. §
128C.20**

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Upon request, this report can be made available in alternative formats.

ESTIMATED COST OF PREPARING THIS REPORT

This report provides information that is maintained and published by the Department of Education as a part of its normal business functions. Therefore, the cost information reported below does not include the cost of gathering the data but rather is limited to the estimated cost of actually analyzing the data, determining recommendations and preparing this report document.

Special funding was not appropriated for the costs of preparing this report.

The estimated cost incurred by the Minnesota Department of Education in preparing this report is \$350.00.

REPORT ON THE MINNESOTA STATE HIGH SCHOOL LEAGUE

Purpose of the Report

Minnesota Statute §128C.20, Subdivision 1, requires the Commissioner of Education (Commissioner) to conduct an annual review of the Minnesota State High School League (MSHSL). The 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. Minnesota Statute §128C.20, Subdivision 1, specifically directs Commissioner to obtain and review the following information:

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, 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.

The Commissioner has obtained the following sources of data for this report: correspondence from the President of the MSHSL Board of Directors (Board President), Department of Employee Relations notice to MSHSL of compliance with Local Government Pay Equity Act dated June 26, 2001, MSHSL policy change on Public Comments at Board Meetings, Addendum A, dated 11/20/03, MSHSL policy change on Complimentary Tickets, Addendum B, dated 1/22/04, MSHSL Representative Assembly Process, Addendum C, dated 3/9/04, MSHSL Activity Advisory Committee Process, Addendum D, dated 3/9/04, MSHSL Representative Assembly Process Voting Results dated December 16, 2003, MSHSL Representative Assembly Ballot dated 10/10/03, MSHSL 2003-2004 Annual Report, the Annual Financial Report and Management Letter completed by the state auditor for the year ended July 31, 2003, the MSHSL Annual Financial Report 2002-2003 year ended July 31, 2003.

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 2003. In its Management Letter, the state auditor included the following schedule of findings and recommendations:

1. It is the responsibility of the MSHSL and each region committee to continue to be aware of the risks associated with limited segregation of duties. The MSHSL and region committees should

continue to monitor and provide oversight in this area. This was a previously reported item not resolved.

2. Region secretaries are employees and, as such, are subject to MSHSL policies and guidelines. The MSHSL's *Board of Directors Policy Manual and Guidelines* requires the use of special expense forms to document prior approval and authorization of expenses incurred in connection with official functions of the MSHSL that do not fall under regular expense and travel policies. In seven regions, special expense forms were not consistently used to document approval and authorization of some expenses that meet the criteria for special expenses. In addition, instances occurred where amounts reported on special expense forms for a region could not be reconciled to supporting invoices or invoices were not submitted as support with a special expense form. It was recommended the MSHSL clarify management's expectations and guidelines for special expenses. The MSHSL should monitor and work with region secretaries to ensure the consistent use of appropriate forms to document and authorize special expenses. This was an item arising this year.
3. The MSHSL should become knowledgeable on how the Governmental Accounting Standards Board (GASB) pronouncement issued in June 1999 will affect its annual financial reporting. This item for consideration was also stated in the 2001 and 2002 management letters.

In accordance with Minn. Stat. § 128C.12, the state auditor performed tests of compliance with appropriate laws and regulations. The results of their tests indicated that, for the items tested, the MSHSL complied with the material terms and conditions of applicable legal provisions.

A. Compensation of the MSHSL's Executive Director and Staff

According to the Board President, staff salaries are based on a range established in policy by the Board of Directors. Salaries are 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, Michigan, Minnesota, Ohio, Pennsylvania, and Wisconsin). The Department of Employee Relations (DOER) affirmed MSHSL's compliance with pay equity laws in a letter to the MSHSL dated June 26, 2001.

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

According to the Board President, the director and his staff were reimbursed a total of \$11,922 for statewide travel during the 2003-2004 school year. The Board President states that expenses are reimbursed as identified in the Board of Directors policy and in Minnesota Statute §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 proscribe 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. During the 2003-2004 school year, there were 19 hearings held to resolve disputes over eligibility. The MSHSL defended one appeal of a hearing decision at the Hennepin County Court and was involved in a lawsuit in Federal District Court.

Descriptions of the hearings held during the 2003-2004 school year are as follows:

- May 2003 – Bylaw 110, Semesters Enrolled. Hearing officer recommended and Board approved that student-athlete was eligible to participate in winter and spring activities for the 2003-2004 school year. Because he had four seasons of football, he was ruled ineligible for the fall season of 2003.
- June 2003 – Bylaw 205, Chemical Eligibility. Hearing officer recommended and Board approved that student-athlete was ineligible to participate in six (6) consecutive interscholastic contests or three (3) weeks, twenty-one (21) calendar days, whichever is greater.
- July 2003 – Bylaw 109, Seasons of Participation. Hearing officer recommended and Board approved that student-athlete was eligible for varsity competition.
- August 2003 – Bylaw 110, Semesters Enrolled. Hearing officer recommended and Board approved that student-athlete was eligible to participate in MSHSL sponsored activities for the 2003-04 school year.
- August 2003 – Bylaw 111, Transfer and Residence. Hearing officer recommended and Board approved that student-athlete was ineligible to participate in varsity competition for 50% of the regularly scheduled varsity contests for one calendar year, beginning at the time of his enrollment for the 2003-04 season.
- September 2003 – Bylaw 205, Chemical Eligibility. Hearing officer recommended and Board approved that student-athlete was ineligible to participate in MSHSL activities for the next two consecutive interscholastic contests or two weeks, fourteen calendar days, whichever is greater.
- September 2003 – Bylaw 205, Chemical Eligibility. Hearing officer recommended and Board approved that student-athlete was immediately eligible to participate in MSHSL activities.
- September 2003 – Bylaw 111, Transfer and Residence. Hearing officer recommended and Board approved that student-athlete was ineligible to participate in varsity competition for 50% of the regularly scheduled varsity contests for one calendar year, beginning at the time of his enrollment for the 2003-04 season.
- September 2003 – Bylaw 111, Transfer and Residence and Bylaw 106, Good Standing and General Eligibility Requirements. Hearing officer recommended and Board approved that student-athlete was prohibited by MSHSL Bylaw 106 from participating in MSHSL sponsored activities, except for “fine arts” activities.
- September 2003 – Bylaw 111, Transfer and Residence and Bylaw 106, Good Standing and General Eligibility Requirements. Hearing officer recommended and Board approved that student-athlete was eligible to participate in B-squad or Junior Varsity competition for one year, commencing with his first day of attendance.
- October 2003 – Bylaw 111, Transfer and Residence and Bylaw 106, Good Standing and General Eligibility Requirements. Hearing officer recommended and Board approved that student-athlete was prohibited by MSHSL Bylaw 106 from participating in MSHSL sponsored activities, except for “fine arts” activities.
- November 2003 – Bylaw 110, Semesters Enrolled. Hearing officer recommended and Board approved that student-athlete was ineligible to participate in MSHSL sponsored activities for the 2003-04 school year.
- November 2003 – Bylaw 206, Good Standing and General Eligibility Requirements. Hearing officer recommended and Board approved that student-athlete was immediately eligible to participate in MSHSL sponsored activities for the 2003-04 school year.
- November 2003 – Bylaw 111, Transfer and Residence. Hearing officer recommended and Board approved that student-athlete was immediately eligible to participate in MSHSL sponsored activities for the 2003-04 school year.

- December 2003 – Bylaw 111, Transfer and Residence and Bylaw 206, Good Standing and General Eligibility Requirements. Hearing officer recommended and Board approved that student-athlete was eligible to participate in B-squad or Junior Varsity competition for one year, commencing with his first day of attendance.
- December 2003 – Bylaw 111, Transfer and Residence and Bylaw 206, Good Standing and General Eligibility Requirements. Hearing officer recommended and Board approved that student-athlete was 100% ineligible for varsity competition from October 21, 2003, through October 20, 2004, inclusive.
- April 2004 – Bylaw 111, Transfer and Residence and Bylaw 106, Graduates of Secondary Schools. Hearing officer recommended and Board approved that student-athlete was ineligible to participate in MSHSL sponsored activities for 90 school calendar days commencing February 4, 2004. The student was immediately eligible for Junior Varsity and B-squad competition.
- May 2004 – Bylaw 111, Transfer and Residence. Hearing officer recommended and Board approved that student-athlete was ineligible to participate in varsity competition for a period equal to fifty percent (50%) of the regular season varsity games scheduled in each sport in which the student participated. The period of ineligibility was for one calendar year beginning with the first day of attendance at Burnsville High School on December 8, 2003.
- May 2004 – Bylaw 206, Good Standing and General Eligibility Requirements. Hearing officer recommended and Board approved student-athlete immediately eligible to participate in MSHSL sponsored activities.

The MSHSL appeared in Hennepin County Court on September 22, 2004 to defend MSHSL Bylaw 111.00, Transfer and Residence, in a temporary restraining order (TRO) hearing. The judge granted the TRO and the student-athlete was immediately eligible for varsity competition. The MSHSL again appeared in a hearing to grant the above referenced student-athlete a permanent injunction. The judge denied the injunction and the student-athlete was immediately ineligible for varsity competition.

A complaint and motion for a preliminary injunction was filed in Federal District Court and served on the MSHSL on November 26, 2003, over the use of different facilities for boys' and girls' state hockey tournaments. The essence of the complaint, filed by several female student-athletes who play interscholastic ice hockey, is that it is unfair that the boys' tournament is held at the Xcel Energy Center in St. Paul while the girls' tournament is not. The Plaintiffs sought the requirement that the girls' state hockey tournament be held at the Xcel Energy Center. Judge Magnuson denied the motion for a preliminary injunction.

The Plaintiffs have continued to pursue their lawsuit which alleges discrimination in violation of Title IX with respect to the differences in tournament location. Whereas the motion for an injunction primarily focused on the 2004 tournament, the balance of the case focuses on future tournaments. The MSHSL filed a motion for summary judgment seeking an early dismissal of the suit which was recently denied.

The MSHSL has agreed to hold the 2006 - 2008 girls' tournament at the Xcel Energy Center. The lawsuit is still pending.

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 June of 2004 and is positive. According to President Wayne Pender: "The MSHSL Executive Committee, responsible for evaluating Mr. Stead, was in total agreement that Mr. Stead's job performance was of the highest quality. Mr. Stead has provided

outstanding leadership and reflects the values and visions that the [MSHSL] embraces.” Further, “The [MSHSL] is going in a positive direction with the strong leadership of David Stead.”

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’s affirmative action policies ensure that jobs within the MSHSL are equally accessible to all qualified persons. The President states that staff follow Minn. Stat. § 128C.15, Subd. 2, when employment opportunities become available.

According to the Board President, the MSHSL’s comparable worth plan was initially adopted in the fall of 1988. A consultant was subsequently hired to evaluate jobs and assign pay grades. The comparable worth plan submitted by the consultant was approved by the Board on August 14, 1997. In January 2001 the League sent its most recent pay equity report to DOER. DOER notified the MSHSL that it was in compliance in June 2001.

According to the Board President, the League’s Sexual, Racial and Religious Harassment and Violence and Hazing Policy was adopted as a Bylaw and it is enforced statewide. 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.

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 list of policy changes made during the 2003-2004 school year. The changes are as follows:

- November 2003 – New policy on Public Comments at Board Meetings which is consistent with the Open Meeting Law, meets the needs of the public, and allows the Board to conduct their business in a timely manner.
- January 2004 – Revised Complimentary Tickers policy to support region secretaries are employees of the member schools whose work supports the subsection and section tournaments assigned to them by the MSHSL Board. As employees, they are entitled to the same ticket opportunities as other MSHSL members, but the number of tickets they may receive is limited to two (2).
- March 2004 – Revised Representative Assembly Process.
- March 2004 – Revised Activity Advisory Committee Process.

Conclusion

Minnesota Statute §128C.20, Subdivision 1, requires the Commissioner of MDE to conduct an annual review of the Minnesota State High School League. This report documents the required review.