



Report on the Minnesota State High School League Fiscal Year 2019

Report to the Legislature

As Required by Minnesota Statutes, section 128C.20

For more information:

Sara Winter
Division of Compliance and Assistance
Minnesota Department of Education (MDE)
1500 Highway 36 West
Roseville, MN 55113
651-582-8237
sara.winter@state.mn.us
education.mn.gov

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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Table of Contents

For more information:.....	2
Legislative Charge.....	4
Introduction.....	4
Analysis.....	4
Conclusion	9

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 2017-18 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 19, 2018.
- The State of Minnesota Office of the State Auditor Management and Compliance Report for the MSHSL for the year ended July 31, 2017.

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 2017. 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 three 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) seven regions had tournament reports with missing beginning and ending ticket numbers or

improper ticket numbers; 2) one region had a tournament report that was not signed; 3) four 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 recorded in the general ledger; 6) four regions had tournament reports where the revenue was not deposited in a timely manner; and 7) one region 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 19, 2018.

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

According to the Board President, during the 2017-18 school year, the Executive Director and his staff were reimbursed a total of \$21,600 for statewide travel. Furthermore, the Executive Director 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 2017-18 School Year

During the 2017-18 school year, member schools submitted 2,355 Transfer Eligibility Determinations. Of those submissions, school administrators submitted 193 completed Transfer Eligibility Review requests seeking varsity eligibility for those students. League staff reviewed those submissions and granted varsity eligibility for 116 students. Of the 77 requests that were denied, the families of 56 students requested the opportunity to discuss their transfer eligibility request with the MSHSL Board of Directors Eligibility Committee. The Board of Directors granted 26 requests for varsity eligibility. A total of 30 requests were denied by the Board of Directors Eligibility Committee, and the parents of three 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 2017-18 School Year

- P.A.M. v MSHSL, Hennepin County Court File No. 27-CV-17-16407. Filed on October 27, 2017, in state court.

The Plaintiff filed a lawsuit with a Motion for Temporary Restraining Order seeking to enjoin the MSHSL from enforcing the transfer rules' one-year period of ineligibility. The parties settled without any financial consideration prior to a hearing on the TRO being held, and the case was formally dismissed December 6, 2017.

- OCR Docket #05-18-4007. Filed on or about November 14, 2017, with the United States Department of Education's Office for Civil Rights (OCR).

The Complainant filed a complaint alleging discrimination on the basis of sex related to the MSHSL's policy restricting membership on girls' sports teams only to girls. OCR conducted an investigation and concluded that "[T]he preponderance of the evidence is insufficient to conclude that the League discriminated against boys on the basis of sex as alleged" because "Title IX does not currently require the League to allow boys to participate in League-sponsored dance team events."

- Gentry Academy v. MSHSL, no court file number. Complaint served but never filed in state court.

The Plaintiff served a complaint on the MSHSL on or about May 10, 2018, alleging: (1) deprivation of procedural due process; (2) breach of fiduciary duty; (3) tortious interference with contract; (4) defamation; (5) promissory estoppel; and (6) misrepresentation. The MSHSL served on the Plaintiff a Motion to Dismiss under Rule 12.02(e) for failure to state a claim on June 12, 2018. The parties mediated the matter and it was settled in August 2018 without any financial consideration with a stipulation for dismissal with prejudice. The lawsuit was never filed in Hennepin County District Court.

- D.M. v. MSHSL, United States District Court for the District of Minnesota (File No. 18-cv-02140). Filed on or about July 30, 2018, in federal court.

The Plaintiff served a complaint on MSHSL on or about July 30, 2018, alleging violations of: (1) the equal protection clause; and (2) Title IX related to MSHSL's policy of restricting membership on girls'

sports teams only to girls. The Plaintiffs also filed a Motion for Preliminary Injunction to enjoin the MSHSL from enforcing said policy. The MSHSL filed an Answer to the Complaint on August 27, 2018, and is contesting the Motion for Preliminary Injunction. A hearing is scheduled for September 26, 2018.

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, who retired March 1, 2018, was completed in May 2018 and is positive. According to the board president during the 2017-18 school year:

It has been a pleasure working with [Executive Director]. [Executive Director]'s leadership is consistent, fair and character based.

[Executive Director] is a gifted and charismatic leader. His communication skills are exemplary and he provides information in a clear, timely and thoughtful manner. [Executive Director] immediately takes control of the room and is confident and clear about doing what is best for the member schools and its students in the state of Minnesota. Education based activities and leadership for a lifetime are the guiding principals [sic] for the decisions made by the MSHSL board of directors.

[Executive Director]'s influence is not only felt in the state of Minnesota, he is well respected on a regional and national level. Watching him interact with other association leaders at a national conference is amazing. His experience, wisdom and knowledge have served the member schools, MSHSL board of directors and region five states at a high level for the past 33 years.

It has been a pleasure to work with [Executive Director]. . . . On behalf of the MSHSL board of directors I would like to thank [Executive Director] for his 33 years of dedicated service to the state of Minnesota and the MSHSL. The impact he has made in our state, regional and national level is impossible to measure.

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 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 Official Handbook and on the MSHSL web page. All members of the Board of Directors, MSHSL staff, and region secretaries review the policy annually. Additionally, MSHSL staff was trained on the policy on July 10, 2018, by the legal representatives of the MSHSL. 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.

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 coaches' workshops. The initiative has also been endorsed by the National Football League and has been shared in fourteen states thus far. All fourteen states are implementing this information into their coach and Athletic Director training.

In June 2018, the MSHSL Board of Directors approved the creation of the Principals Advisory Committee. In partnership with the Minnesota Association of Secondary School Principals, this Committee was formed to further the mission of the League, enhance the focus on educational experiences, and provide additional review of League by laws, policies, and practices. This Committee will commence in fall 2018.

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 a change to the bylaws which was approved by the Representative Assembly:

- MSHSL Continuing Education Requirement Policy Change and Clarification: Clarifying the requirement to complete continuing education requirements applies to all athletic administrators and coaches.
- MSHSL Photography Policies: Outlining approval and accreditation requirements for photographers at state tournaments as well as the acceptable use of flash equipment.
- MSHSL Website Policy: Outlining requirements for individual and/or website companies requesting news media credentials.
- MSHSL Bylaw 504.1-2 – Baseball – Clarifying the policy and intentions of baseball practice prior to the first contest.

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.

