



Report on the Minnesota State High School League Fiscal Year 2020

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].” 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 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.

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.
- Correspondence from the 2018-19 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 and 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, 2018.

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 of the MSHSL and MSHSL staff.

The Minnesota State Auditor's report reviewed the basic financial statements of MSHSL for fiscal year 2018. 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 and 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 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 the 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, 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 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. We further recommend 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 reports. 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 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) one regions had a tournament report where the incorrect amount of revenue was recorded in the general ledger; 5) three regions had tournament reports where the revenue was not deposited in a timely manner; 6) two regions had tournament revenue that was missing support or proper documentation; 7) one region had a tournament that charged the wrong ticket price; and 8) one region did not receive a tournament's revenue.

Many tournaments are held at numbers sites statewide. Tournaments are oftentimes staffed with workers who have no prior experience, which effects inaccurate tournament records and reporting of tournament revenues. The cause is that tournament workers do not take 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.

3. Region policies require the use of an approved special expense form for expenses that include meals. These policies also include a maximum amount allowable to be paid for breakfast, lunch, and dinner expenses.

A review of expenses paid by each of the regions were noted with the following issues: 1) four regions had expenses where a special expense form should have been filled out but was not; 2) five regions had expenses with food reimbursements for more than the maximum allowed amount; 3) four regions had expenses with no supporting documentation; 4) one region had an employee reimbursement that was not submitted timely for payment; and 5) one region paid two expenses twice in error. The region was refunded the money for one of the expenses, but the second one has not yet been completely reimbursed.

Special expense forms need to be used for tournament judges' meals in addition to region staff meals. The judges' meals are also restricted by the policy's maximum amount allowed. Region secretaries did not ensure all expenses had the proper documentation and were allowable to be paid in accordance with regional policy, which resulted in expenses not being paid in accordance with regional policy.

This is a new item arising this year.

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 have been based, among other criteria, upon a comparison of similar athletic and activity associations in the states that comprised 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 19, 2018.

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

According to the Board President, during the 2018-19 school year, the Executive Director and his staff were reimbursed a total of \$21,739.37 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 2018-19 School Year

During the 2018-19 school year, member schools submitted 2,177 Transfer Eligibility Determinations. Of those submissions, school administrators submitted 239 completed Transfer Eligibility Review requests seeking varsity eligibility for those students. League staff reviewed those submissions and granted varsity eligibility for 101 students. Of the 1,238 requests that were denied, the families of 51 students requested the opportunity to discuss their transfer eligibility request with the MSHSL Board of Directors Eligibility Committee. The Board of Directors granted 24 requests for varsity eligibility. A total of 27 requests were denied by the Board of Directors Eligibility Committee, and the parents of two 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 2018-19 School Year

- Cavallaro v. MSHSL, Hennepin County District Court File No. 27-CV-18-17878, filed on October 29, 2018, in state court.

The Plaintiff filed a lawsuit with a Motion for Temporary Restraining Order (TRO) seeking to enjoin the MSHSL from enforcing a four-game suspension as a result of Plaintiff's second ejection from a football contest. MSHSL bylaws state that any decision by a game official or referee is final and not appealable. The TRO was denied on December 17, 2018, and the case dismissed with prejudice on January 17, 2019.

- 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 the MSHSL on or about July 30, 2018, alleging violations of: (1) the equal protection clause; and (2) Title IX related to the MSHSL's policy restricting membership on girls' sports teams to only girls. The Plaintiffs also filed a Motion for Preliminary Injunction to enjoin the MSHSL from enforcing said policy. The District Court denied the Plaintiff's Motion for Preliminary Injunction on September 27, 2018, finding that "girls-only dance team rule is substantially related to an important governmental objective, and the Plaintiffs are not likely to succeed on the merits of their" claim. The Plaintiff's appealed that decision and on March 6, 2019, the 8th Circuit Court of Appeals reversed and directed the District Court to enter the preliminary injunction after finding that the Plaintiffs had a "fair chance of prevailing on the merits of their case" because the MSHSL did not provide an "exceedingly persuasive" justification for keeping boys from participating on high school competitive dance teams. The Plaintiffs then filed a motion seeking \$129,837.50 in attorneys' fees as the prevailing party. The parties settled the case on April 19, 2019, making permanent a rule change allowing boys to participate in competitive dance team and paying the Plaintiffs \$50,000 in attorneys' fees.

- G.C. v. MSHSL, Washington County District Court File No. 82-CV-18-5347, filed on November 14, 2018, in state court.

The Plaintiff filed a lawsuit alleging due process violations and breach of contract, along with a Motion for TRO, seeking to enjoin the MSHSL from enforcing its one calendar year period of ineligibility for varsity competition as a result of a transfer. In response, the MSHSL filed a Motion to Dismiss for Failure to State a Claim. The TRO was denied on December 11, 2018, and the Motion to Dismiss was granted in its entirety on June 10, 2019. The court found that the Plaintiff did not have a constitutionally protected property right; that, even if she had, the MSHSL did not deprive her of that property interest without due process; and that the MSHSL's application of its transfer rule was not arbitrary. The court additionally found that the MSHSL bylaws did not constitute a contract and, if they did, the evidence did not establish that the MSHSL failed to follow its bylaws.

- 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. The MSHSL stated its objection to any such amendment. No motion to amend has been filed and jury trial is scheduled for October 26, 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 County District Court on or about July 17, 2019. It was removed to 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 Minnesota Department of Human Rights.

A charge of discrimination was filed with the MDHR on or about September 12, 2019, 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 early mediation through MDHR on October 16, 2019, but were unable to reach a resolution. The charge remains 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 conducted in June 2019 and is positive. According to the Board President during the 2018-19 school year:

This year, [Executive Director] assumed the position of Executive Director after the retirement of [previous Executive Director]. [Previous executive director] had held the position for over 30 successful years, and in the office, almost all employees had been hired by him. [Executive Director] faced the difficult task of transition, and he did so admirably. The retirement of [previous Executive Director] was not the only personnel change at the [MSHSL] office. A few support staff employees also retired or moved on to positions outside of the organization. The departure of the Assistant Director in charge of technology was also a challenge [Executive Director] handled. Technology plays a key role in the League's daily workings, and [Executive Director] quickly engaged temporary help. With this fresh perspective on technology, [Executive Director] recognized an immediate need to modernize the infrastructure and tighten up security measures in order to maintain a quality product. [Executive Director] used input from the entire staff to assess and prioritize needs, and his vision for restructuring the technology department will bring the area a much-needed update.

Knowing there are financial hurdles ahead, [Executive Director] is exploring options for obtaining additional revenue, and he has implemented cost-saving measures throughout the organization. These measures have included renegotiating cellular contracts and redesigning tournament programs to cut production costs in half. He is working closely with [Assistant Director] and making a strong effort to maintain transparency with the Board of Directors in regards to financial concerns.

[Executive Director] is adept at navigating the ins and outs of the organization. This year, he and staff led the Section Placement, Classification, and Appeals processes. A longtime moratorium on proposals was also lifted, and the floodgates opened with new requests which he handled as well. Previously at board meetings, action items were introduced and acted upon the same day.

[Executive Director] implemented a different process in which items are first introduced as discussion items and not acted upon until the following meeting. This change has been welcomed by staff and board members who appreciate the time to gather information before making a final decision. Another area [Executive Director] has had to delve more deeply into this year is working with the League's legal counsel. A greater than average number of legal issues have arisen this year, and he collaborated with legal representation to protect the [MSHSL's] interests.

Communication and reaching out to others are strengths of [Executive Director's], and he grasps the far-reaching scope of the [MSHSL]. In this past year, he has established the Principals' Advisory Committee to gain more input from member schools and to emphasize education-based athletics and activities. He also worked with the Minnesota Interscholastic Activities Administrators Association to bring [MSHSL] staff and board members to their annual conference to hold listening sessions. During these discussions with Activity Directors, valuable insight was gained by all parties participating. [Executive Director] has also established working relationships with other state directors through his involvement with the National Federation of State High School Associations. He sees the value of working with new directors like himself, but he also seeks out directors of more experience. In the upcoming year, [Executive Director] is also looking to bring in staff development opportunities for staff and himself.

As a member of the committee that hired [Executive Director], I believe it is evident he was the correct choice. He is thoughtful when making decisions and is always cognizant of the [MSHSL's] mission and beliefs. Having the grit to face many challenges, the passion to represent the organization, and the integrity, authenticity, and humility to lead others, the [MSHSL] is fortunate to have [Executive Director] 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 most recent Pay Equity Report with MMB and the Notice of Pay Equity Compliance was received and dated July 18, 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 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 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, Athletic Director conferences, and coaches’ workshops. The initiative has also been endorsed by the National Football League and has been shared in sixteen states thus far. All sixteen states are implementing this information into their coach and athletic director training. The Minnesota Vikings, together with the MSHSL, are the newest professional team to engage with the InsideOut Initiative, which is a nonprofit organization working to reclaim the educational purpose of sports.

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 the educational experiences, and provide additional review of the League bylaws, policies, and practices. This committee began meeting in the fall of 2018 and continues this year.

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 Bylaw 111.1.B.iv – Divorced Parents – Recognizing various parent dynamics and providing additional but specific varsity competition eligibility opportunities for students who reside with one parent and move to reside with the other parent.
- MSHSL Bylaw 111.2.B-C – International Students – Outlining eligibility requirements for international students who stay in the United States for additional time beyond their foreign exchange program.
- MSHSL Bylaw 111.1.C – Multiple Transfers – Clarifying varsity eligibility for students who have multiple transfers between schools within one calendar year.
- MSHSL Membership Fees: Proposing a \$10.00 increase in membership fees per school year, through 2023-24 to address the cost of increased services provided by the MSHSL since the last membership fee increase.
- MSHSL Continuing Education Requirement Policy Change and Clarification: Clarifying the requirement to complete continuing education requirements applies to all athletic directors and coaches.

- MSHSL District Football Policy: Outlining method of scheduling regular season football games with a district system based on geography, enrollment, and “like schools” with natural rivalries preserved wherever possible.
- MSHSL Tournament Classification Policy and Process/Procedure for an MSHSL Member School to Appeal Their Tournament Classification: Outlining tournament classification and appeal process/procedure for tournament classifications for post-season play in MSHSL-sponsored activities.
- MSHSL Wrestling Seeding Process: Outlining change to the seeding criteria used for the individual state wrestling tournament.
- MSHSL Wrestling Tournament Participation: Proposing to create a written policy regarding the number of wrestlers from a particular team that can participate in regular season individual wrestling tournaments.
- MSHSL Cross Country Classes: Proposing the boys’ and girls’ section and state cross country championships be conducted in three classes, with the first and second place teams and the first six individual finishers from each section meet advancing to the state championship.
- MSHSL Soccer Classes: Proposing the boys’ and girls’ state tournaments be reclassified to three classes, with the 64 largest teams by enrollment in Class AAA, the next largest 64 teams in Class AA, and the balance of registered teams in Class A.
- MSHSL Volleyball Classes: Proposing the state volleyball tournament be reclassified from three classes to four classes.
- MSHSL Nordic Skiing Races: Proposing to add individual and team sprint races to the boys’ and girls’ state Nordic Ski Tournament.
- MSHSL Golf Rule and Policy Clarification: Clarifying the rules regarding disqualifications/withdrawals during tournament plays and the alteration of team rosters for section tournaments.
- MSHSL Rule and Policies for Music – Clarifying the rules regarding piano and harp use for accompaniment.

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.