



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

**Fiscal Year 2017**

**Report to the Legislature**

**As required by Minnesota Statutes,**

**section 128C.20**

**COMMISSIONER:**

**Brenda Cassellius, Ed. D.**

**2016 Report on the Minnesota State High  
School League**

**January 2017**

**Fiscal Year 16**

**Report to the Legislature**

**FOR MORE INFORMATION CONTACT:**

**Sara Winter**

**Division Compliance and Assistance**

**651-582-8237**

**sara.winter@state.mn.us**

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**Minnesota**

**Statutes**

**section 128C.20**

## **Cost of Report Preparation**

This report provides information that is maintained and published by the Minnesota Department of Education (MDE) 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 MDE in preparing this report is \$350.

Estimated costs are provided in accordance with Minnesota Statutes 2014, section 3.197, which requires that at the beginning of a report to the Legislature, the cost of preparing the report must be provided.

## **Purpose of the Report**

Minnesota Statutes, section 128C.20, subdivision 1, require 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 school ... whose governing boards have delegated their control of extracurricular activities ... to the [MSHSL].” (Minn. Stat § 128C.01, subd. 1). Minnesota Statutes, section 128C.20, subdivision 1, specifically directs the Commissioner 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, 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.
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).
- 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 Letter as a Result of the Audit of the MSHSL, for the year ended July 31, 2015.

## **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 2015. 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, adjustments were proposed to convert five of the region's 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 cost benefit of using their expertise.

It was 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. It was 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 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) Six 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) Seven 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 sport on

the general ledger; 5) One region had a tournament report where the revenue was not received, nor the expenses paid; 6) Three 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 being tournament workers do not take the proper care to accurately record tournament activity.

It was 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. It was 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. While reviewing the bank reconciliations for two regions in the prior year's audit, incorrect amounts were noted for deposits in transit and outstanding checks.

No instances of incorrect deposits in transit or outstanding checks were noted during the review of the regions' bank reconciliations during the current audit.

This was a previously reported item that was resolved.

In accordance with Minnesota Statutes, section 128C.12, the state auditor preformed tests of compliance with appropriate laws and regulations. In connection with their audit, nothing came to their attention that caused them to believe that the MSHSL failed to comply with the provision reviewed. However, their audit was not directed primarily toward obtaining knowledge of such noncompliance. Accordingly, had additional procedures been performed, other matters may have come to their attention regarding the MSHSL's noncompliance with the provisions reviewed.

#### **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 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 2015-16 school year, the director and his staff were reimbursed a total of \$18,720 for statewide travel. Furthermore, the board president states that expenses are reimbursed as identified by Board of Directors Policy and Minnesota Statutes, section 43A.18, subdivision 2, the Commissioner's Plan.

## Complainants 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 2015-16 school year are as follows:

- August 13, 2015 – Bylaw 111, Transfer and Residence

Independent hearing officer recommended and the Board of Directors approved the Student's ineligibility for varsity competition for the 2014-15 and 2015-16 school years.

- September 10, 2015 – 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 from the first day of the Student's enrollment or participation in an athletic program.

- October 6, 2015 – 111, Transfer and Residence

Independent hearing officer recommended and the Board of Directors approved the Student's ineligibility for varsity competition for the 2015-16 school year. An additional review occurred on January 6, 2016, where the eligibility committee reviewed additional information with the family and eligibility was granted to the Student. The Board of Directors approved the committee's act.

- October 8, 2015 – 111, Transfer and Residence

Independent hearing officer recommended and the Board of Directors approved that the Transfer Rule should be waived even though MSHSL could affirm the prior decision that the Student is ineligible for varsity competition for a period of one calendar year beginning with the first day of attendance in the new school.

- October 14, 2015 – 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 from the first day of the Student's enrollment or participation in an athletic program.

- November 18, 2015 – 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 from the first day of the Student's enrollment or participation in an athletic program.

- December 1, 2015 – 111, Transfer and Residence

Independent hearing officer recommended and the Board of Directors approved the Student's ineligibility for varsity competition for a period of 365 days, commencing from the Student's first day of attendance at the new school.

- December 17, 2015 – 111, Transfer and Residence

Independent hearing officer recommended and the Board of Directors approved that the Student be granted immediate eligibility at the new school.

- December 17, 2015 – 111, Transfer and Residence

Independent hearing officer recommended and the Board of Directors approved the Student's ineligibility for varsity competition for a period of 365 days, commencing from the Student's first day of attendance at the new school.

- January 19, 2016 – 111, Transfer and Residence

Independent hearing officer recommended and the Board of Directors approved the Student's ineligibility for varsity competition for a period of 365 days, commencing from the Student's first day of attendance at the new school. An additional review occurred on April 7, 2016, where the eligibility committee reviewed additional information with the family and eligibility was granted to the Student. The Board of Directors approved the committee's act.

- February 9, 2016 – 111, Transfer and Residence

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

- April 5, 2016 – 111, Transfer and Residence

Independent hearing officer recommended and the Board of Directors approved the Student's ineligibility for varsity competition for a period of 365 days, commencing from the Student's first day of attendance at the new school. The family requested further review be expedited prior to the next regularly scheduled Board meeting. Executive Director reviewed the information with the Executive Committee and eligibility was denied on April 28, 2016. The Board of Directors approved this decision.



B. Descriptions of the lawsuits filed during the 2015-16 school year are as follows:

- A.W.A. v. MSHSL, Minnesota Court of Appeals (File No. A15-1387). Filed on August 27, 2015.

A hearing was held on August 18, 2015 regarding the Student's suspension. The Student filed a motion to appeal soon thereafter. On September 15, 2015, the appeal was denied and dismissed because the MSHSL Board of Directors had not yet acted on the issue. The court stated, "Because the hearing officer's August 18, 2015 recommendation is not the final agency decision, certiorari review is premature." Subsequently, the Board of Directors and the Eligibility Committee met on October 1, 2015, and both voted to accept the findings of the hearing officer. No further motions were filed with the Court of Appeals. The case was dismissed without argument on September 15, 2015.

- J.B. v. MSHSL, Hennepin County District Court (File No. 27-CV-15-16227). Filed on September 17, 2015.

Student alleged that the MSHSL violated the bylaws of the MSHSL by declaring the Student ineligible to play sports in the Student's senior year. A settlement agreement was verbally reached. The MSHSL executed the agreement but Student has not yet provided a signed settlement agreement. Once the signed agreement is received, a stipulation for dismissal will be filed and the case will be closed.

- F.D. v. MSHSL, United States District Court District of Minnesota (File No. 16-235). Filed on February 3, 2016.

Student brought action alleging violations of 42 U.S.C. § 1983. Specifically, Student's right to due process and breach of contract, arising out of MSHSL's denial of Student's eligibility to participate on the high school's soccer team for the school year due to MSHSL's transfer student policy. The case was dismissed by the court on August 16, 2016, on a Rule 12 motion to dismiss for failure to state a claim. The timeline to appeal has expired.

## **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 2016 and is positive. According to the board president:

[Executive Director] provides excellent oversight of the [MSHSL]. Through continuous evaluation of the programs, services, and staff, he is dedicated to making each [MSHSL] activity the highest caliber... Despite the challenge of losing the Metrodome as the site of the Prep Bowl, [Executive Director] has developed budgets that withstood dramatic drops in revenue over the past couple of years. The [MSHSL] is now advantageously positioned to grow financially through the use of US Bank Stadium and anticipated growth in income.

...

On the personal side, [Executive Director] has the highest morals, ethics, and character. Focusing on the individuals in the [MSHSL] Office and the Board of Directors, and remaining involved in programs, he is present, personable, and genuine. We are fortunate to have a leader of his skill and integrity to interact with our member schools and lead this amazing organization.

...

[Executive Director] has provided the [MSHSL] and its activities with exemplary servant leadership. The overall mission and belief statements of the [MSHSL] remain his number one priority and he employs exceptional interpersonal skills resulting in a dedicated and motivated staff and Board. We are most fortunate to have [him] as Executive Director of 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 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 Statute, section 128C.15, subdivision 2, when employment opportunities become available. In addition, employment information is placed on MSHSL's website and communicated directly to the member schools.

According to the board president, 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.

According to the board president, 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. 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, MSHSL's TeamUP program provided a DVD for all member schools regarding hazing, entitled "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, and 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, as well as changes to the bylaws which were approved by the Representative Assembly as follows:

- MSHSL Bylaw 111.17 – Transfer and Residence: Removed the words “and attends classes” from the previous definition of Transfer Student.
- MSHSL Bylaw 111.19 – Transfer and Residence: The term “enroll” is defined as “For purposes of determining student eligibility a student enrolls in a school when he or she attends classes or participates in a MSHSL sponsored program prior to attendance.”
- MSHSL Summer Football Practice Restrictions – Outlining the policy and intentions of football practice during the summer. Definitions included practice, levels of contact, contact practice, and recovery period. Policy in regard to contact practice, number of practices, length of practice and penalty were also included.
- Physical Contact with an Official – Outlining physical contact between a coach and an official or between a player and an official and the results when such an incident occurs.
- Use of Non-Registered Officials – Outlining the policy of when a non-registered official performs the duties as an official in a varsity contest without the school receiving a waiver from the MSHSL office. Penalties include monetary fines, censorship, suspensions, or probation. Also outlines how to avoid these situations and what can aid the process.
- MSHSL District Football Policy – Outlining the definition of “District Football.” The difference between district football and section football. Summarizing district assignment and realignment, enrollment data, 9-Man football, school information and input, placement process, district structure, schedules, sub-varsity schedules, sub-district champions, district committee, and resolution of issues.
- Position on National Championships – On June 6, 2016, the Board of Directors of the MSHSL affirmed the position not to support, endorse, or sanction participation in a national tournament or event for member schools of the MSHSL and affirms continued adherence to Bylaw 410.

- There were no proposed amendments forwarded for consideration at the Meeting of the Representative Assembly held on May 16, 2016. As an alternative, the Assembly divided into four caucus groups to discuss and identify the top five areas that merited discussion by the MSHSL in the areas of cooperative sponsorship, tournament classification/format and Bylaw 111: Transfer and Residence.

## **Conclusion**

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