



Report on the Minnesota State High School League Fiscal Year 2023

Report to the Legislature

As required by Minnesota Statutes 2022, section 128C.20

For more information:

Sara Winter
Division of Assistance and Compliance
Minnesota Department of Education
400 NE Stinson Blvd.
Minneapolis, MN 55413
651-582-8237
Sara.winter@state.mn.us
education.mn.gov

As requested by Minnesota Statutes, section 3.197: This report cost approximately \$500 to prepare, including staff time, printing and mailing expenses.

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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].” [Minnesota Statutes 2022, section 128C.01](#).

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.

[Minnesota Statutes 2022, section 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 2021-22 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 the MSHSL by the Minnesota Management and Budget (MMB), dated May 6, 2021.
- The State of Minnesota Office of the State Auditor Management and Compliance Report for the MSHSL for the year ended July 31, 2021.

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 state auditor's report reviewed the basic financial statements of the MSHSL for the fiscal year 2021. In its management, the state auditor included the following schedule of findings and recommendations:

1. Finding 2021-001: Internal Control/Segregation of Duties – Regions

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 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 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 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 regions' staff and the cost benefit of using our expertise.

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 proper reporting of its financial activity. The state auditor further recommends 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 that has not been resolved since 2007.

2. Finding 2021-002: Tournament Reports

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 with the tournament revenue.

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

- Eight regions had tournament reports with missing beginning and ending ticket numbers or improper ticket numbers with no documented explanation;
- Two regions had a tournament report that was missing or not signed;
- One region had tournament revenue recorded incorrectly in the general ledger; and
- One region had tournament revenue that was not deposited in a timely manner.

Many tournaments are held at numerous sites statewide and, due to COVID-19, tickets are often sold online. Tournaments are oftentimes staffed with workers who have no prior tournament experience, who do not take proper care to accurately record tournament activity or document the method used for the ticket sales, resulting in inaccurate tournament records and reporting of tournament revenue.

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. If alternative methods of ticket sales are used, the state auditor recommends an explanation be included on the tournament report to support missing or improper ticket numbers. It also recommends region personnel deposit tournament receipts in a timely manner and accurately record them in the general ledger.

This was a previously reported item that has not been resolved since 2009.

3. Finding 2021-003: Expenses

The MSHSL's Board of Director's 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 reimbursement 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, one region was identified to have no supporting documentation for monthly expense reimbursements for internet costs.

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 state auditor recommends region secretaries more closely monitor expense requests and supporting documentation before allowing these types of payments.

This was a previously reported item that has not been resolved since 2018.

Salaries and Expenses

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

According to the board president, MSHSL staff salaries are based on a range established by the MSHSL Board of Directors. Beginning with the 1997-98 school year, staff salaries have been based upon a comparison of similar athletic and activity associations in the states that comprised the Big Ten athletic conference (Illinois, Indiana, Iowa, Maryland, Michigan, Minnesota, Nebraska, New Jersey, Ohio, Pennsylvania, and Wisconsin), among other criteria. MMB affirmed the MSHSL's compliance with pay equity laws in a certificate dated May 6, 2021.

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

According to the board president, during the 2021-22 school year, the executive director and his staff were reimbursed a total of \$12,720.00 for statewide travel. Furthermore, the board president stated that expenses are reimbursed as identified by the Board of Director's Policy and Minnesota Statutes 2022, section 43A.18, subdivision 2, the Commissioner's Plan.

Complaints and Lawsuits

The commissioner must obtain and review a list of 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 Minnesota Office of the Legislative Auditor.

According to the MSHSL, it and member schools received several inquiries from school patrons and students regarding MSHSL rules, with the majority of inquiries to the MSHSL centering around student transfer eligibility (Bylaw 110). The MSHSL notes it attempts to proactively provide support for schools and works to find opportunities for student eligibility within the rules established by the member schools whenever possible. To that end, the MSHSL has posted a webpage for students and parents titled, "Transfer Eligibility Review, General Information for Students and Parents" on the MSHSL website.

A. Overview of the Transfer Eligibility Review Requests Processed During the 2021-22 School Year

During the 2021-22 school year, member schools submitted 2,061 Transfer Eligibility Determinations. Of those submissions, school administrators submitted 159 completed Transfer Eligibility Review requests seeking varsity eligibility for those students. The MSHSL staff reviewed those submissions and granted varsity eligibility for 33 students. Of the 126 requests that were denied, the families of 26 students requested the opportunity to discuss their eligibility request with the MSHSL board of director's eligibility committee. The board of directors

granted 18 requests for varsity eligibility. A total of eight requests were denied by the board of director's 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. Overview of the Lawsuits Filed During the 2021-22 School Year

Goeden v. MSHSL, Hennepin County District Court, File No. 37-CV-20-13661, filed October 22, 2020.

The plaintiff filed a lawsuit alleging the MSHSL failed to reasonably accommodate his disability when it denied his request for additional semesters of athletic eligibility. The plaintiff sought a temporary restraining order (TRO), which was granted on December 28, 2020. The TRO enjoined the MSHSL from applying its Bylaw 110.00 to the plaintiff. The MSHSL appealed the District Court's grant of the TRO. After oral argument, the Minnesota Court of Appeals ordered a supplemental briefing regarding mootness, as the TRO would expire upon the plaintiff's completion of MSHSL-operated sports. Because the plaintiff had graduated from high school during the pendency of the appeal and because the Minnesota Court of Appeals determined that no exception to the mootness doctrine applied, it dismissed the appeal as moot on August 16, 2021. The parties voluntarily settled the matter on February 8, 2022, without an admission of liability and the MSHSL agreeing to pay \$15,000.00 to the plaintiff.

Carter v. MSHSL, Hennepin County District Court, File No. 27-CV-21-8353, filed July 1, 2021.

The plaintiff filed a lawsuit alleging the MSHSL failed to reasonably accommodate his disability when it denied his request for additional semesters of athletic eligibility. The plaintiff sought a TRO, which was granted August 16, 2021. The TRO enjoined the MSHSL from applying Bylaw 110.00 to the plaintiff. The MSHSL filed a motion to dismiss, which was denied on September 13, 2021 by the District Court, and the parties voluntarily settled the matter on October 25, 2021, without an admission of liability and the MSHSL agreeing to pay \$13,750.00 to the plaintiff.

S.B. v. MSHSL, United States District Court of Minnesota, File No. 21-cv-02553, filed November 23, 2021.

The plaintiff filed a lawsuit alleging the MSHSL violated his due process rights under the Fourteenth Amendment of the United States Constitution when he was suspended for a game, following an ejection in a previous game for two unsportsmanlike conduct penalties. The plaintiff sought a TRO, which was denied on November 26, 2021. The case was voluntarily dismissed by the plaintiff on December 1, 2021.

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 and signed in July 2022 by the former board president who served during the 2021-22 school year and is positive. According to the former board president, during the 2021-22 school year, the following results were obtained based on the below rating scale and comments:

Rating Scale:

- 1 – Exceeds Expectations
- 2 – Meets Expectations
- 3 – Does Not Meet Expectations

Board Operations:

- Provides the Board of Directors with adequate and timely information: 1
- Develops an agenda and organizes meetings for the Board of Directors: 1
- Facilitates a sound Board/Staff working relationship through communications; clarification of roles, authority, and responsibility; and an environment which values trust, cohesiveness, respect, integrity and perspective sharing: 1

Comments:

- Executive Director does an excellent job preparing agendas for board meetings.
- Executive Director is available prior to meeting(s) as needed and provides documentation and resources necessary to ensure board members can make informed decisions.

League Management:

- Prepares an annual budget for consideration and adaptation by the Board of Directors: 1
- Appropriately administers the MSHSL Budget: 1
- Develops recommendations regarding MSHSL policies and positions for consideration by the Board of Directors
- Works cooperatively with the MSHSL Board to develop goals or action plans consistent with the MSHSL's mission and governing values: 1
- Implements the MSHSL's mission, goals, policies, programs and services: 1
- Maintains necessary MSHSL records: 1
- Continuously evaluates MSHSL programs, services and needs and makes recommendations to the Board as appropriate: 1
- Coordinates and directs the MSHSL personnel including hiring, evaluation, productivity, staff involvement, morale, delegation of authority, position descriptions, administration of salary, fringe benefits, working conditions, and termination of employees: 1

Comments:

- Executive Director works collaboratively with staff and board members to ensure all programs, policies and decisions are made with the best interest of MSHSL member schools, participants and the institution as a whole.

Leadership:

- Exercises initiative through the generation of ideas and willingness to implement those ideas once they become policy: 1

- Exhibits consistent rational behavior: 1
- Seeks improvement in skills, knowledge and organizational mission: 1
- Provides an appropriate role model for peers and subordinates, exemplifying MSHSL values: 1
- Displays an interest in and commitment to organizational mission, goals and values: 1
- Recommends goals and priorities to the Board: 1
- Accepts responsibility: 1
- Leads with concern and support for others: 1
- Provides adequate information and support for the Board regarding state and national issues: 1

Comments:

- Executive Director serves with humility, gracious professionalism, high intellect, and maintains an unparalleled work ethic and dedication to the MSHSL.
- Executive Director exemplifies “servant leadership.”

Cooperative Relationships:

- Maintains communication and coordination with MSHSL members, affiliated organizations, groups and individuals impacting fine arts and athletic activities: 1
- Maintains necessary communication and coordination with the National Federation of State High School Associations: 1
- Develops a sense of teamwork among staff members and the Board of Directors: 1

Comments:

- Executive Director provides consistent communication with staff, member schools and administrators.
- Communication methods are varied and provide regular opportunities for all who may be interested.
- Executive Director is engaged with and respected by his peers at the National level: 1

Performance on Implementing Board Goals:

- Institutes internal mechanism to address goals set by Board of Directors: 1
- Increased the MSHSL’s communication with member schools and affiliated organizations: 1
- Achieved goals set by the Board of Directors: 1

Comments:

- Executive Director continues to increase communication with member schools and organizations.
- As the needs and expectations of our member schools continue to diversify and grow ... Executive Director continues to expand communication while working to establish goals that meet the ever changing needs of our member schools.

General Comments:

- The MSHSL is very fortunate to have Executive Director serving as the Executive Director.

- The demands of the position continue to grow and require a person with steady leadership and dedication to the “big picture.” Executive Director understands every decision is important and the decisions made today may impact others for generation(s).
- It is without reservation, I applaud and express the highest gratitude for the efforts of Executive Directors. The MSHSL is positioned for growth and continued success under his leadership.

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 MSHSL staff has followed Minnesota Statutes 2022, section 128C.12, subdivision 2, when employment opportunities become available. In addition, employment information is placed on the MSHSL’s website and communicated directly to its member schools.

According to the board president, the MSHSL’s comparable worth plan was initially adopted in 1988; and 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 May 6, 2021.

According to the board president, the MSHSL’s Sexual, Racial and Religious Harassment and Violence and Hazing Policy was previously adopted and is published statewide in the MSHSL Official Handbook and on the MSHSL website. The MSHSL staff was trained on this policy on July 12, 2022, by the legal representation of the MSHSL. Further, all members of the board of directors, MSHSL staff and region secretaries are provided a review of this policy annually by legal counsel or the executive director of the MSHSL. These individuals provide written verification that they are familiar with this policy and that it has been explained to them.

According to the board president, the MSHSL board of directors approved the formation of the Diversity, Equity, Inclusion and Belonging Committee (Committee) f/k/a the Diversity, Equity and Inclusion Committee in June 2021. The Committee was formed to create and promote a culture where diversity, equity, and inclusion are valued and respected, and are a hallmark of all programs, practices, and policies within the MSHSL. Its initial focus was on hiring practices with an emphasis on recruiting a diverse pool of candidates, providing transparency in the process, and increasing the diversity of interview teams. This Committee is ongoing and will continue to review, analyze, and provide recommendations to the board of directors in the 2022-23 school year.

According to the board president, the MSHSL launched the first phase of a new website in July 2020 and the build of the website continued throughout the entirety of the 2020-21 school year. The website was developed by Gravity Works of Lansing, Michigan, and planning and design work on the new site began in December 2019. The second phase and additional features of the website rolled out during the 2021-22 school year and included a student transfer portal for school administrators. The purpose of the portal was to allow back-and-forth entry of student and transfer information between a receiving and sending school. Additionally, branded brackets were rolled out that include automatic advancement, up-to-date features, and the ease-of-use for the reporting

entities. The MSHSL also has used feedback from website users, specifically region secretaries, school administrators, and coaches, to assist it in developing website tools. The MSHSL has provided ongoing support for existing users and for onboarding of new users through both virtual and in-person approaches.

According to the board president, the MSHSL established an initiative, titled “Strategic Directions” in 2019, which included goals for the MSHSL in an effort to recognize the unique needs of the COVID-19 pandemic, as well as other critical aspects of the MSHSL. The goals found in the Strategic Directions, as last updated on October 7, 2021, are:

1. The MSHSL Board of Directors and MSHSL staff will effectively manage the return to full participation through the COVID-19 pandemic;
2. The MSHSL will further define, strengthen and promote the vision values and purpose of education-based activities and athletics;
3. Together, the MSHSL Board of Directors and MSHSL staff will further develop and deploy effective policy governance models and practices;
4. The MSHSL will implement the approved sustainable financial model, developed to meet the needs of our students and schools and create a foundation for the growth desired by schools and communities;
5. The MSHSL will further develop the technology and communication systems and structures to address the needs of our students, schools and communities; and
6. The MSHSL will work collaboratively with stakeholders to develop strategies and actions that promote and support diversity and inclusion in all aspects of the MSHSL.

According to the board president, on June 1, 2021, the MSHSL board of directors approved a new funding model called the Membership Dues and Activity Fees model. This new funding model required membership dues to be based on membership fees, per-student fees, and per-activity fees, with modifications in place for schools with smaller enrollment. Any excess revenue would be used to reduce membership dues. The board president reported that, during the 2021-22 school year, the MSHSL followed this model and also took several steps to contain expenses, enhance revenues, and explore innovative fiscal opportunities. The MSHSL board of directors formally retired the previous Revenue Sharing Plan from 1991 as of February 3, 2022.

According to the board president, on October 7, 2021, due to the dynamic nature of health and safety guidance from the Centers for Disease Control and Prevention (CDC) and the Minnesota Department of Health (MDH), the MSHSL adopted COVID-19 guidance for its member schools.

According to the board president, on December 2, 2021, the MSHSL board of directors revised its Continuing Education Policy. The Continuing Education Policy requires all athletic directors at MSHSL-affiliated schools to participate in a condensed version of its Minnesota Head Coaches Courses and focuses on ensuring access to and promoting the use of the “Why We Play” curriculum for Minnesota athletic directors. The MSHSL board of directors approved the timeframe for the completion requirement to be extended for an additional year, to the fall of 2023.

According to the board president, on April 7, 2022, the MSHSL board of directors approved the 2022-23 activity calendar and 2022-23 MSHSL meeting dates, including board of directors meetings, board workshops, area meetings, and its annual representative assembly meeting.

According to the board president, on June 7, 2022, the MSHSL and six other statewide organizations (Minnesota School Boards Association, Minnesota Association of School Administrators, Minnesota Association of Secondary School Principals, Association of Metropolitan School Districts, Minnesota Interscholastic Activities Administrators Association, and Minnesota State High School Coaches Association) partnered with Forbes Solutions, led by Paula Forbes and Dario Otero, on the “Together We Make a Difference” initiative (Initiative). The primary goal of the Initiative is to bring student voice to the expectations of safe and respectful behavior to our schools and our interscholastic contests. To reach this goal, the initiative will bring student groups together to work and engage in conversations about how we can all establish, support, and expect positive behavior at our schools and contests. Work on this Initiative will continue throughout the 2022-23 school year.

According to the board president, on June 7, 2022, the board of directors approved its 2022-23 Complimentary Ticket List and its 2022-23 Speech season book and topic.

Evaluation of Proposed Changes in MSHSL Policy

The commissioner must obtain and review an evaluation of any proposed changes in the 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 that have been approved by the board of directors and representative assembly this last calendar year.

- MSHSL Bylaw 110.00 Semesters Enrolled: modified the eligibility standard from 12 semesters starting in seventh grade to the national standard of four years beginning in ninth grade and maintaining the opportunity for students to participate at the high school for one year each in grades seven and eight.
- MSHSL Bylaw 111.00 Transfer and Residence: added clearer definitions of key words, and amends the process of review of transfer eligibility in the areas of procedures, timelines, and student circumstances.

The board of directors approved the following additional policy changes:

- Name, Image and Likeness Policy: established the purpose of protecting amateur status for all students and provides guidance on boundaries for financial gain for students who participate in MSHSL athletic programs.
- Alpine Skiing State Meet Tie Breaker: established the same tie-breaking procedure at the state meet that is used at the section level.
- Alpine Skiing State Meet Run Order: established a second-run order at the state meet that is based on the first-run placement.
- Alpine Skiing Protests of Disqualifications: permitted a participant to ski a non-scoring second run at the end of the competition after receiving a disqualification on the first run.
- Basketball: allowed conferences to decide whether to permit the use of a 35-second shot clock during all conferences’ contests if all schools have the capability to use a shot clock and that decision is

communicated with officials, associations or all contracted officials prior to the start of the basketball seasons.

- Dance Team: standardized the number of state qualifiers in the Jazz and High Kick categories at three teams from each section.
- Wrestling: permitted a wrestling team to schedule four girls-only meets without counting these meets toward the 16 allowed team events each season.
- Football Tournament: adjusted the football tournament pairings that allowed for the use of the 2020 rotation for the 2021 tournament and adjusted the following years accordingly, following the cancellation of the 2020 State Football Quarterfinals.
- Pheasant Conference: reassigned the Clinton-Graceville-Beardsley School District to the Little Eight Conference and Ortonville Public Schools to the Camden Conference following the dissolution of the Pheasant Conference.
- Fine Arts: implemented an annual registration system for fine arts judges, aligning it with the MSHSL Officials' registration practice of requiring background checks.

Conclusion

Minnesota Statutes 2021, 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.