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# SchoolNews

Official publication of the Wisconsin Association of School Boards, Inc.

August 2019 | [wasb.org](http://wasb.org)

## My School. My Choice.

A story of transformation and change  
in the Racine Unified School District...



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# WISCONSIN SchoolNews

August 2019 | Volume 74 Number 1

THE OFFICIAL PUBLICATION  
OF THE WISCONSIN ASSOCIATION  
OF SCHOOL BOARDS, INC.

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Wisconsin School News (USPS 688-560)  
is published 10 issues per year by the  
Wisconsin Association of School Boards, Inc.,  
122 W. Washington Avenue, Madison, WI 53703.

Contents © 2019 Wisconsin Association of  
School Boards, Inc. Subscriptions are available  
to nonmembers for \$85 per year. Periodicals  
postage is paid at Madison, Wis.

The views expressed in Wisconsin School News  
are those of the authors and do not necessarily  
represent WASB policies or positions.

POSTMASTER: Send address changes to  
Wisconsin School News, 122 W. Washington  
Avenue, Madison, WI 53703.



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## Benefits of Music Education Receiving More Attention

According to a recent article in *Education Week*, a new study by Canadian researchers indicates that “high schoolers who participate in music courses may score higher in academic subjects.”

The researchers examined the educational records of more than 110,000 students who started first grade between 2000 and 2003. Taking into account differences among the students, the study found that those who took a music class were more likely to score higher in math, science and English.

“Music achievement predicts academic achievement but not the other way around,” said Peter Gouzouasis, a professor of music education at the University of British Columbia and one of the study’s authors. “So [it] is important to note that this is a

one-way relationship.”

“Additionally, students with higher levels of engagement in music — such as multiple years of experience — had higher scores. The study calculated that students who are highly engaged in music are, on average, more than one year ahead of their peers who are not engaged in music.

“Results were more pronounced for students who participated in instrumental music rather than vocal music. According to the study, these results may be credited to the way instrumental music impacts cognition, executive functioning of the brain, motivation-related characteristics, and social-personal development.”

While the Canadian research found a greater correlation between instrumental music and academic achievement, the benefits of choir

were included in Daniel Pink’s most recent book, *When: The Scientific Secrets of Perfect Timing*. In the book, Pink shares four ideas on how schools can make better use of time. Among those ideas is the suggestion to consider mandating choir practice.

“There’s this incredible thing that goes on,” he says, “that after synchronized activity, kids engage in more pro-social behavior. Kinder. More open.”

Pink’s other suggestions include:

- Moving tasks requiring extensive analysis to the beginning of the day, unless you’re dealing with high school students.
- Giving students recess.
- Starting the high school day later. “...It’s ‘a giant pain’ but ‘the right thing to do.’” □

## 2020 Wisconsin Teachers of the Year Announced

Each year, Wisconsin selects four Teachers of the Year to represent elementary schools, middle schools, high schools and special services. The 2020 Teachers of the Year are:

- Elementary School Teacher of the Year: **Chelsea Miller**, an art teacher at Sullivan and West elementary schools in the Jefferson School District
- Middle School Teacher of the Year: **Erin McCarthy**, an eighth-grade social studies teacher at Greendale Middle School
- High School Teacher of the Year: **Chad Sperzel-Wuchterl**, an art teacher at Reagan High School in Milwaukee Public Schools
- Special Services Teacher of the Year: **Bawaajigekwe Andrea DeBungie**, a special education teacher at Ashland middle and Lake Superior elementary schools in the Ashland School District □



### STAT OF THE MONTH

**11.8 per 100,000**

**According to a Centers for Disease Control and Prevention report** issued in June 2019, the suicide rate among adolescents and young adults was the highest in nearly two decades in 2017 at 11.8 per 100,000.

In 2000, the suicide rate for adolescents ages 15 to 19 was eight deaths per 100,000.

The rates remain consistently higher for males than females. According to *Education Week*, “the report attributes the rise to increases in social media use, anxiety, depression, and self-harm, however, the CDC states that a more detailed analysis of the trends in the age group is needed, along with sustained examination of data in order to determine whether the rise in suicides is continuing.”

*Source: Centers for Disease Control and Prevention*



## Continue Growing and Learning

**T**hank you for your hard work on behalf of children throughout Wisconsin. Your commitment to your students and schools is vital to the growth of our local communities.

School board service isn't easy. The work is multifaceted and requires a serious commitment to continuous learning. We know you want to be an effective board member and we're here to help. The sole focus of the Wisconsin Association of School Boards' services and trainings is to help board members develop their skills and knowledge while amplifying their voice.

To meet the wide spectrum of board members' needs, the WASB holds a variety of workshops, full-day conferences and online webinars throughout the year. In addition, some of the best board training often happens when topics are customized for individual boards. With the WASB's cadre of experienced school attorneys and consultants, we're able to provide a broad range of board governance training including blending topics, such as legal and governance, into a single, tailored workshop.

So, as you're preparing for the next school year, plan to continue your professional development at the numerous WASB trainings this fall and winter, and/or contact the WASB to schedule your own, customized training.

This month, WASB governance

consultants will hold three governance workshops — each held twice — at CESAs across the state:

- For those who want to better understand the fundamentals of Wisconsin school funding, attend the workshop in Turtle Lake on Aug. 6 or in Portage on Aug. 7.
- If you'd like to learn how to constructively manage your board's conflicts, attend the workshop in Oshkosh on Aug. 13 or in Fennimore on Aug. 15.
- If you want to learn how to elevate achievement for all your students at the board table, attend the workshop in Tomahawk on Aug. 20 or in Whitewater on Aug. 22.

We'll also begin the 2019-20 legal webinars series this month, beginning with a pupil records webinar on Aug. 7 and a school district referenda webinar on Aug. 21. Visit [WASB.org](http://WASB.org) to check out the full 2019-20 schedule, which has new topics and an expanded number of webinars. As always, WASB webinars are recorded and available for you to access at your convenience.

The WASB 2019 Fall Regional Meetings will kick off in September. This is your opportunity to network with area board members, celebrate board member achievements, and

learn about the WASB's activities and plans. The meetings will feature an in-depth legislative update and a report from me on the association's activities and plans. In Regions 2, 5, 7, 11 and 15, boards will be voting for a WASB regional director.

Arrive early to your regional meeting to take advantage of a new pre-meeting workshop, run by an experienced WASB attorney, focused on strategies to retain and compensate teachers. We know this is an important topic for all of our districts.

On Nov. 2, the WASB will be hosting a one-day Legislative Advocacy Conference in Stevens Point. Watch for more information to be announced.

Finally, save the date for the 99th WASB/WASDA/WASBO State Education Convention. The annual convention, the premier professional development opportunity for school board members, will be held Jan. 22-24, 2020, in Milwaukee. Planning is well underway for another great convention. The 2020 theme is Expanding Your Vision. We're in the process of selecting breakout sessions and keynote speakers, and the exhibit hall is filling up. Watch for more details to be announced. Registration opens Nov. 1.

Visit [WASB.org](http://WASB.org) to register and learn more about all these great training opportunities. We look forward to seeing you soon! ■

We know you want to be an effective board member and we're here to help.





## A Story of Transformation and Change in the Racine Unified School District

Public school districts nationwide are adapting to a changing world. With the presence of independent charter schools, private schools and vouchers, public school districts need to be at the top of their game — now more than ever. They must provide choices for students, offer rigorous curriculum, and provide safe and secure learning environments for all children and staff. And, above all else, prepare children for college, career and life. Sometimes, being successful takes change — and a lot of it.

In the fall of 2012, the Racine Unified School District began the journey to transform its middle

schools to address declining enrollment, inefficient use of facilities and a poor reputation, among other major challenges. The district's research showed that families wanted more choices and opportunities, safe and engaging learning environments, and a challenging curriculum.

All families in the district live within the boundaries of three K-8 schools. They can attend that school or select from one of four other specialty middle schools. The district's transformation plan included moving a school to a different building, closing an existing middle school, combining a high-performing elementary school with a low-performing middle school to create a

fine arts K-8, and revising all middle school boundaries.

Of course, having a plan is not enough. The biggest challenge would be securing stakeholder buy-in and support, primarily from middle school staff and families.

RUSD's solution: a week-long Kaizen event.

### What is a Kaizen?

A Lean Six Sigma tool, the Kaizen process gathers stakeholders in one place, maps the existing process, improves on it, and solicits buy-in from all parties. The Kaizen process proved to be the key to the district's success. By spending five full days together with stakeholders focused on the identified issues and plans,

# My School. My Choice.

district leaders brought the necessary people on board from the beginning and built strong relationships that carried through the planning and rollout. Because of the success of the Kaizen, teachers and school staff, rather than administrators, led much of the actual implementation work.

Due to lack of support from staff, including union employees in particular, previous attempts to initiate change in the district failed. So, the communication team suggested trying Kaizen. They hoped to not only build buy-in for the plan, but to encourage staff and union leadership to partner with district administration in implementing the middle school transformation plan. The superintendent agreed to try it. Participants included a diverse group from across the district, including administrators, teachers, school leaders, union-recommended representatives (teachers) from each impacted school, union leaders, parents and a middle school student.

The district partnered with Gateway Technical College in implementing Lean Six Sigma strategies and

contracted a talented Kaizen facilitator, who effectively led this diverse group of stakeholders. The facilitator navigated through landmines and relationship issues that stymied district-wide change in the past.

The work proved to be challenging and intense. The Kaizen required communicating honestly and openly, dropping titles at the door, and committing to work

was the first time I had been part of something where I really felt I was on the same level as the administrators who are actually my bosses.”

The group met in March 2017. On the first day, administration outlined the necessity of the middle school transformation. Tough conversations followed about trust and past problems, what is best for students, current challenges and

possible solutions. By day two, the group agreed to work through the plan proposed by the

administrative team. By the end of the week, work plans emerged from four committees to ensure the transformation would happen for the 2018-19 school year.

## Working Together

With such significant change, district administration typically would lead the work. Not when using the Kaizen process. Teachers and school staff led the teams. Bob Debbink, a 30-year Racine middle school teacher, participated in the Kaizen and told the school board he had never been part of something so collaborative.

Sometimes, being successful takes change — and a lot of it.



together in the best interest of students.

“The fact that everyone was at the table was important. The fact that everyone had an equal role at the table was huge,” said Dani Dickert, a middle school teacher and teacher’s union representative. “It







“In all my years at the district, I have been on a lot of committees. But none has ever come close to this type of collaboration,” Debbink explained. “All voices were heard and all people were at the table.”

Throughout the summer of 2017, the teams worked together to make change happen — and happen quickly.

- The communication and marketing team developed the tag line ‘My School. My Choice.’ It was the brainchild of a teacher on the committee. The group also developed a marketing and communication timeline as well as a budget.
- The transportation, enrollment and boundaries team developed a timeline for deciding on and bringing to the school board a

plan for new middle school boundaries as well as a plan for accommodating transportation to choice schools. The team also mapped out what the enrollment process would look like.

- The programming team focused on the underlying issues plaguing the middle schools and plans for addressing them, including curriculum, programming, family engagement, and more.
- The staffing team focused on the middle school staffing, including the displacement and hiring processes, and communicating that process to middle school teachers throughout the year.

Many of these changes required approval by the school board. All the

changes required board member awareness. This may seem daunting, but the smooth and efficient process offered growth opportunities for many district staff. The collaborative teams of stakeholders presented every update and recommendation to the board, which provided strong support for the collaborative decisions.

### ■ My School. My Choice.

With the planning work, for the most part, complete, it was time to make sure every middle school family made a choice. *See table below for the choices.*

With the support of the communications and marketing team, the district initiated a comprehensive communication and marketing effort. It held ‘choice fairs’ for middle school families and parent information nights at all the elementary schools. The district also distributed marketing materials countywide. The effort led to yard signs, movie theater ads, and even ads on the music-streaming service, Pandora Radio.

### ■ Campaign Success

With the goal to attract and retain families, one of the signs of success for the middle school transformation initiative and the ‘My School. My Choice’ campaign was an increase in the number of families deliberately selecting a middle school during the enrollment window.

In 2016-17, 592 of the more than 3,500 middle school students chose a school. In 2017-18, the district launched ‘My School. My Choice.’

BEFORE TRANSFORMATION	AFTER TRANSFORMATION
Bull Fine Arts Elementary School and Gilmore Middle School	Gilmore Fine Arts (K-8)
Starbuck Middle School and McKinley Middle School (IB)	Starbuck Middle School (an IB World School)
The Racine Engineering, Arts and Leadership (REAL) School	The REAL School (expanded to include more students in grades 6-12)
Walden III School	Walden III School (expanded to include more students in grades 6-12 and now housed in the former McKinley Middle School building)
Boundary Schools (traditional, geographically designated)	Three boundary area K-8 schools; Mitchell, Jerstad-Agerholm and Gifford School.



That summer, 1,848 middle school students selected a middle school, a 212 percent increase.

On Sept. 4, 2018, the district welcomed thousands of students into new and/or transformed schools.

At the new Gilmore Fine Arts school, staff cut the red ribbon and welcomed students down a red carpet into their school for the first time. The school boasts renovated classrooms, fresh paint and a brand-new makerspace. At Starbuck Middle School, now an IB World School, students and staff filed in ready to take on new curriculum and new faces. Walden III Middle and High School and the REAL School took on the challenge of increased enrollment and navigating new buildings. Transformation happened.

In a little more than a year, a team of stakeholders from all employee groups, some of whom had never met before, most who had never led a change process before,

came together to tackle what had seemed impossible.

“It was a great process. It was a collaborative process,” Racine Education Association President Angelina Cruz said. “It was an opportunity to bring a broad group of stakeholders together that were all going to be impacted by this change. The process allowed for all voices to be heard. It was the first time people started to come together and honestly discuss how to move forward together.”

During the process, families learned about the transformational changes happening in the middle schools. Staff learned the value of their voices and how to work together to drive transformational change.

This entire process and campaign helped the district build trust with staff and show its willingness to work together for students. The



team remains committed to the process. They completed a six-month review of the implementation and are looking at other opportunities to enhance the experience of families in the campaign.

In the fall of 2018, the district proved that true partnership and shared accountability can overcome almost any challenge. ■

*Emily Neubauer is the communication manager for the Racine Unified School District.*

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# Teaming Up to Save Smiles

A look at Cudahy's partnership to provide students access to dental care | *Anne Davis*

Imagine trying to concentrate in class while your teeth throb and your family has no way to take you to a dentist and make the pain stop. That scenario is real for many Wisconsin schoolchildren with little or no access to oral healthcare.

The Cudahy School District, a suburban district just south of Milwaukee, found a solution. Through a partnership with Ascension Wisconsin, the district offers free, in-school dental clinics to kindergarten through eighth-grade students. The initiative, part of Ascension's Smart Smiles program, starts its fourth year in the district this fall.

According to the Wisconsin Department of Health Services, one in two children experience tooth decay, making it the most common chronic childhood disease. African-American children are nearly twice as likely to have untreated decay compared to their white peers.

Without access to oral healthcare, children have a higher risk of developing cavities and more serious dental problems that can keep them out of class and affect their ability to succeed in school. According to Deborah Schumaker, Cudahy's school nurse, untreated oral health problems may lead to more serious health issues, including cardiac

problems. Schumaker added that students with diabetes or other auto-immune disorders can experience flare-ups due to pain from cavities or other dental issues.

"Many of our families struggle to make ends meet and cannot afford the luxury of dental services," explained Cudahy Superintendent James Heiden, who said the school-based program was the result of the district's student services team discussing how to best meet the needs of students.

According to October 2018 data from the Wisconsin Department of Public Instruction, 62.5 percent of Cudahy's students were eligible for free or reduced-price meals, one of



the highest percentages in the suburban Milwaukee area.

Low-income families often can't afford regular visits to the dentist, while those on Medicaid struggle to find dentists who will accept them as patients, and dual-income families may have difficulty missing work to take their children to medical appointments.

"I must admit that I am always shocked and somewhat dismayed at how many children need this care when I receive the yearly follow-up report from our school nurse," Heiden said. "But I am pleased that we can offer this service to our students. I believe it benefits them

immensely. Rather than being distracted by chronic pain, they can focus on their school work."

The clinics are held during the school day in the spring and fall at the district's middle school and five elementary schools. Parents are notified in advance and must sign a consent form.

During the fall clinics, Ascension staff give children an oral exam and apply sealant and fluoride to their teeth. In the spring, they clean the students' teeth and apply sealant and fluoride again. Dental sealants have been proven to prevent 80 percent of cavities in back teeth, where most cavities occur, and the cost of one dental sealant is roughly one-third the cost of a filling.

If the staff notices any significant issues during the clinics, they refer the students to a local dental clinic run by Ascension. Students are also given toothbrushes and taught the basics of good oral hygiene. Parents receive letters summarizing their children's visits.

The emphasis on preventative care helps build good health habits in students.

"This is giving these young students a strong, solid message of oral health they can pass on to their children," Schumaker said.

Participation in Cudahy's clinics is

growing. In 2016-17, the program's first year, 581 students received services. In 2017-18, 644 students participated and that number rose to 1,041 in 2018-19. Although the program is aimed at lower-income families, any student may participate.

The effort is so successful that the district is looking for ways to extend the same type of services to high school students.

Ascension's Smart Smiles program is part of Wisconsin Seal-A-Smile, a collaborative effort of the Children's Health Alliance of Wisconsin, the Wisconsin Department of Health

health of individuals and the communities we're privileged to serve by providing care that leaves no one behind," Ramirez said.

According to Matt Crespin, associate director of the Children's Health Alliance of Wisconsin, Seal-A-Smile launched 20 years ago when what is now the Wisconsin Oral Health Alliance identified oral health as a major health issue and recognized that providing sealants through school-based programs was a proven way to reduce decay and address disparities in access to oral

healthcare. The most recent figures show that the effort reached 70,000

### The program works with 70 Milwaukee area schools.

Students and Delta Dental of Wisconsin. Ascension's program is the largest Seal-A-Smile initiative in the state and served 12,000 students during the 2018-19 school year. The program works with 70 Milwaukee area schools and is Wisconsin's biggest provider of school-based oral health.

Participation has steadily increased since Smart Smiles began in 2001. In 2017, Ascension added a mobile dental clinic — the only one in the Milwaukee area. In its first year, the Ascension Seton Mobile Dental Clinic provided urgent dental treatment to 730 students. It served more than 800 students in 2018-19.

"Children seen on the mobile unit are treated for cavities, abscesses, infections and other critical issues," said Robert Ramirez, director of community services for Ascension. "By bringing this care directly to our Smart Smiles schools, we're eliminating transportation barriers for families and children in need."

Smart Smiles receives funding through Ascension's operating budget, Medicaid billing and philanthropy from Columbia St. Mary's Foundation, grants and private support. Ascension's mission to provide compassionate, personalized care for all people, especially the most vulnerable, drives the initiative.

"We are called to improve the

students in 850 schools throughout the state in 2017-18.

"School-based programs reach children who often don't have access to a dental provider and are much more convenient for both children and families," Crespin said. "Students miss less school time — 20-30 minutes versus 1-2 hours if they leave to go to an office — and it is more cost-effective for all involved."

Participation has grown steadily. The program received a significant boost in the 2019-21 state budget to reach more students. From an annual allotment of \$350,000, which has received matching funds from Delta Dental, the program is now slated to receive \$1.5 million from the state over the 2019-21 biennium.

In March, Lt. Governor Mandela Barnes traveled to Cudahy to promote the initiative and tour the middle school dental clinic. Increasing student access to oral healthcare is not just a matter for community collaboration but a statewide imperative.

"Oral health is very important to our kids," Barnes said, noting that too many students lack access. "To the extent that we can be as preventative as possible, we'll see better outcomes in health and better outcomes in education as well." ■

# Can't We All Just Get Along?

## Healing divisions on the governing body



A

s an association working on behalf of Colorado municipalities, we're seeing more and more instances of governing bodies with intractable

divisions that cut across virtually all of the body's decision-making. This division affects productivity, drives away opportunity and undermines citizen confidence. It also lends itself to disputes and claims, with corresponding risks of liability. This article will explore the causes and impacts of such divisions, and explore some possible ways to break out of the patterns that cause them.

### Introduction

First, though, let's be clear about the situation we're discussing. Every governing body has disagreements, and there's nothing wrong with that. It would be strange, indeed, if all members agreed on all issues all the time. If that were the case, why would we even need five, seven or nine members?

Sometimes, disagreements create a residue of misunderstanding or hurt feelings, but that's to be expected. Most governing body members leave

that residue behind and move on to the next matter at hand.

We're also not talking about the "outlier" issue, where one or more members of the governing body have made it their mission to separate themselves from the rest of the group with the sole goal of embarrassing other members and proving that they are the only "ethical," "transparent" or "responsive" (or insert description of your choice) member of the body — at least in their opinion. There are ways to address the "outlier" issue (see the May 2019 *Wisconsin School News*).

What we're talking about here is a governing body in a state that we can all agree is severely dysfunctional. We're talking about a body that's intractably divided and whose every debate, discussion and decision is characterized by lingering unresolved matters, mutual contempt and hard feelings that calcify into hardline positions. We're talking about meetings where members yell or snipe at each other, name-call, storm out, or even resort to threats. Even if it's not that dramatic, meetings may still be characterized by tension, frustration,

passive-aggressive behavior, an inability to see beyond the players and focus on the merits of any issue, and maybe an angry social media post or two after the meeting.

Whatever the level of dysfunction, destructive consequences can result. Once you write off or demonize your colleagues ("she's just clueless," "he's completely hopeless," "I can't even look at the guy," "there's no reasoning with her, so why even bother"), there may be no coming back.

### Why Can't We All Get Along?

A look at some possible causes.

*"Happy families are all alike; every unhappy family is unhappy in its own way."* ~Tolstoy

*"Happy councils are all alike; every unhappy council is unhappy in its own way."* ~Tanoue

There are any number of reasons why the "marriage" of governing body members can go bad. Here are a few...

**Underlying divisions.** Underlying divisions within the community may be reflected on the governing body.



---

Voters aren't judging whether the individuals they elect will be compatible with each other, so it's possible that **fundamentally incompatible personalities** will end up on the body.

---



Communities can have fracture lines. There may be friction between the “old-timer” part of the community and more newly developed areas that are full of “newcomers.” The interests of old-timers and newcomers may not always be the same. Newcomers may not recognize the history and traditions of the community in the same way that old-timers do. Old-timers may discount the concerns raised by newcomers or vice versa. These differences may be reflected in the makeup of the governing body.

Members may have been swept into office as a result of a controversial issue that divided the community. Perhaps there was a recall election. Unless the slate was wiped clean, the governing body makeup may reflect the divisions that grew from the underlying issue. It may be difficult to get past that issue.

New or younger members may clash with veteran members. Sentiments that “you young’uns haven’t been around long enough to understand this town” or “you old-timers are stuck in your ways” may cause unwarranted rifts. And expressing or acting on such sentiments can

contribute to a feeling that each member isn’t being accorded an equal voice in discussion and decision-making.

That sense of inequality can also be the result of partisanship, and partisanship doesn’t necessarily have to spring from the type of political partisanship that exists at other levels of government. Of course, many levels of local government are avowedly and proudly non-partisan in the political sense (and may have non-partisan elections by law). But an “in crowd” and an “out crowd” based on other considerations can be a type of partisanship that’s just as problematic.

**Personalities.** Voters aren’t judging whether the individuals they elect will be compatible with each other, so it’s possible that fundamentally incompatible personalities will end up on the body. If you have multiple “alpha dogs” on the body who are in constant competition, friction might be a predictable result. If others line up behind their favorite “alpha,” division can ensue. If several “alphas” dominate the meetings, resentments may arise.

Sometimes, an elected official’s personality and proclivities seem to be just plain incompatible with holding elected office. Politics at the governing body level has to be a team sport — decision-making requires collaboration and consensus. One member’s “agenda” can become the “agenda” of the body only by successful team play. A “lone wolf” who lacks the capacity or desire to be a team member is not going to be successful on the body. Add a few more “lone wolves” and frustration and paralysis may result.

Governance is also about leadership. If the voters put someone in office who is afraid to take a stand, is perennially “on the fence” or is

strictly a follower, leadership qualities may be lacking. A majority of non-leaders can create a perception of a “rubber stamp” governing body, resulting in extreme frustration for those members who are willing to stick their necks out.

#### **Preconceived personal agenda.**

There are many good reasons why citizens run for public office. However, the workings of municipal government are not always clear until well after you’re seated. So, the agenda that a candidate ran on may collide with reality and turn out not to be a workable agenda after all. Under those circumstances, clinging to the preconceived agenda is only going to sow the seeds of discord. If you have several members each bent on pursuing only his or her own particular agenda, a fractured body can result.

We once heard from a newly elected local government official who said his one campaign promise was to ensure that water and sewer rates were lowered. But when he took office, he began to understand the economic realities of operating the local water and sewer system, and he saw that demanding the lowering of rates was unrealistic and fiscally irresponsible. He said he had some explaining to do to the citizens, but he wasn’t going to cling to his agenda given the realities he now understood. That’s a smart elected official.

#### **Impacts**

The impacts of severe dysfunction and discord are manifold. They include:

**Lack of productivity.** The body’s agenda may hit a standstill or getting through it might be slow and painful. Even if decisions are made, they may not necessarily be the best decisions.

# Can't We All Just Get Along?

## **Power transfer to tie-breaker.**

If you're constantly split down the middle, then you may be transferring all decision-making power to the tie-breaker. Is that desirable?

**Financial consequences.** If you've developed a public reputation as a dysfunctional body, then your community may be missing out on economic opportunities. Businesses want a predictable environment. Volatility may be driving them away.

## **Public embarrassment and loss of public confidence.**

If you're airing your discord for the camera, your viewership may be up, but public confidence will be down. Residents want to be confident that their elected leaders function at a high level and in their best interests.

## **Driving away the best and brightest.**

We've heard of people who were reluctant to run for office because they witnessed the discord and didn't want to be a part of it. So, you may end up repelling, not attracting, potential leaders who could make great contributions to the community. Or you may lose great members to "burnout." Likewise, if your community has developed a reputation for governing body dysfunction, you may not be able to attract and keep the "best and brightest" for key staff positions.

## **Is this you?**

You think you may be part of a dysfunctional governing body?

You may have experienced some jolts of recognition in reviewing the foregoing. If so, condolences and congratulations! The condolences are self-evident, but congratulations are also due, because recognition of a problem is the first step to dealing with it. So, what do you do? Here are some steps to consider:

## **See if you can gain a consensus that there's a problem.**

Even if you recognize it, you're not going to get anywhere if no one else does. If there's a consensus, then you're halfway to solving the problem.

## **Start by talking about "values."**

The "values" discussion is a critical first step to addressing governing body dysfunction. By "values," we're talking about the philosophical underpinnings that you want as guides for behavior in your interactions with one another. If you can agree on these values, then additional steps are possible. If you can't, you're going to stall out. Such values might include:

- *Courtesy and civility* towards one another, staff and citizens.
- *Non-partisanship.* Even if partisan elections are part of the law for your type of governing body, perhaps you could seek a way to put partisan divisions aside when considering issues.
- *Equality of participation.* This would include equal opportunities to be part of the discussion and decision, and equal opportunities to gain – insofar as possible – the same information at the same time as needed for good decision-making.
- *Acknowledgement* of the role of the presiding officer. Every meeting needs a presiding officer, and most times, that's the board president. The role of the presiding officer must be honored if you want to have orderly, productive and efficient meetings. And, the presiding officer must embrace that responsibility. If there's no acknowledgment of this fundamental need, then you won't get anywhere.
- *Engagement.* This includes a commitment to be prepared for meetings, to arrive on time, to stay for the whole meeting, to give your undivided attention during the meeting, to participate in decision-making, and to be absent no more than necessary.
- *Others?*

**Norms or rules of conduct.** If you can form a consensus around values, you're close to the point where you

can discuss (and hopefully agree upon) the norms or rules of conduct that you want for the body. The content of your norms or rules won't be discussed here, because they'll be specific to your community and the values that serve as the jumping-off point for them. It's worthwhile to look at examples from other communities around the state and nation, but it's important to develop your own norms or rules from the ground up with your values as the foundation, so there's buy-in. Why rules OR norms? It's because the level of formality to be accorded really depends on your governing body's needs and desires. If you have members whose attitude is "Rules? We don't need no stinkin' rules," then perhaps a softer approach of agreeing on "norms" of conduct may be a good starting point. On the other hand, you might see reasons to elevate the adoption process by using a resolution.

## **In Despair? You Can Still Help...**

You may feel your governing body will never come together to recognize the problem, much less move on toward seeking solutions. Should you give up? No! There are still things you can do as an individual. If enough individuals on the body do these things, then perhaps there will be an opening to go further. Suggestions for individuals include:

## **Assume good faith and best intentions on the part of everyone on the body.**

Some smart person once said that we judge ourselves by our intentions and others solely by their actions. This perceptual gap can lead to misunderstandings and unfounded assumptions. Let's give everyone the same benefit of the doubt we give ourselves by assuming that they, too, are acting on the basis of honorable intentions.

**Listen more than you talk.** Do your best to see and understand things from the perspective of others. Ask questions before reaching your own conclusions and repeat back what



It's worthwhile to look at examples from other communities around the state and nation, but it's important to develop your own norms or rules from the ground up with your values as the foundation, **so there's buy-in.**

you think you're hearing from others so that you know you're on the same page. Listen for points of agreement, then emphasize and build on them.

**Try to meet others more than**

**halfway.** If everyone only goes so far to try to bridge the gaps, then you may never meet in the middle. Sometimes one person's generosity in going more than halfway is the catalyst for breaking down misunderstandings.

**Use the postures, tone and body language of respect and**

**engagement.** Do this even if you're not "feeling it." "Acting as if" can be helpful in bringing a hoped-for harmony closer to reality. Make sure your body language and tone of voice aren't inadvertently communicating something you didn't intend. Keep your voice DOWN even if others are starting to yell. Avoid the

hair-trigger, knee-jerk, angry response.

**Try some things to break down**

**barriers.** Maybe switch up positions where you sit on the dais. Suggest a pre-meeting dinner. Breaking bread together can be a way to get people talking (make sure you have a "no-business" rule in effect). Team-building, especially in a retreat setting, can be productive. An outside facilitator or mediator might be helpful in identifying issues that are hard to see from the "inside."

**If you're an experienced member, mentor the newbies.** You have valuable experience from which newer members can benefit. Show them the ropes, teach them your own hard-earned lessons, and model the behaviors you want them to emulate. And if you're a new member, seek out mentors.

**Acknowledge and appreciate** when you see others making the same effort.

■ **Until Next Election  
Do You Part**

A governing body might be characterized as a kind of arranged marriage — a marriage arranged by the citizens. If the conditions for civil and productive discourse are lacking from the start, it's no wonder that such a "marriage" can go bad quickly. But divorce isn't an option. So, start looking at ways to improve your relationships, as individuals and as a body. And take to heart the idea that, by "acting as if," your deepest hope for a strong, high-functioning team can come closer to becoming a reality. ■

*Tami Tanoue is the executive director of CIRSA.*

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# State Schools of Character

## Wisconsin Schools Recognized for Exemplary Character Education Initiatives

**T**hroughout Wisconsin, schools and districts are being recognized for their focus on character education to decrease bullying, improve behavior and increase academic achievement. Schools, including Brown Deer's middle/high school and Edgewood Elementary School in the Greenfield School District, have witnessed a climate and culture shift that has impacted not only the students and staff within their buildings but their communities as well.

### **The Call to Character**

In 2006, the Wisconsin Character Education Partnership began recognizing, mentoring and supporting Wisconsin schools who do the important work of educating the whole child. Working alongside its partner national organization,

Character.org, the WCEP validates and certifies character initiatives using the 11 Principles of Character Framework.

In addition to providing continued education and scholarships for professional development, the WCEP offers a State Schools of Character designation to recognize Wisconsin schools that are exemplars in character education. Wisconsin designees also become eligible for the National Schools of Character recognition.

According to Character.org, "State and National Schools of Character are schools, early childhood through high school, that have demonstrated through a rigorous evaluation process that character development has had a positive impact on academics, student behavior, and school climate.

These schools become part of a network of Schools of Character that serve as models and mentors to other educators and hold their designation for five years."

Since 2009, the WCEP and the national character education partnership have recognized 27 state and national schools and districts of character as well as emerging schools of character in Wisconsin.

### **BROWN DEER MIDDLE/HIGH SCHOOL – STATE AND NATIONAL SCHOOL OF CHARACTER**

**Brown Deer Middle/High School** serves 787 students from the Milwaukee area. In 2012, the Wisconsin Department of Public Instruction informed the district of its unusually high office discipline referral rate



and encouraged the implementation of positive behavioral interventions and supports. However, Principal Tosha Womack and her staff understood that behavior supports did not go far enough. They heard from community members and business partners that student interns from the district were lacking the soft skills that character education instilled. Womack knew they needed something deeper and longer lasting, so she reached out to the WCEP.

After attending the 11 Principles of Effective Character Education training during the annual state Character Education Conference, a committee of teachers, parents, student leaders and administrators led a character education initiative at Brown Deer Middle/High School. In September 2012, the administration and teachers introduced the 11 Principles Framework into their lesson plans and school culture. The school began sending teams to WCEP leadership training and joined the Leadership Advancing Character and Culture in Schools learning community. The nine-month learning community for educators meets monthly at Alverno College in Milwaukee with a virtual option for schools outside of the area. The program combines guest speakers, hands-on learning, team building and reflection along with continued mentoring and support. Brown Deer administrators credit participation in the learning community with strengthening their educational practices.

### ■ Students Lead the Brown Deer Way

“Our biggest celebration with character education is our student leadership, which has been vital in our faculty and community buy-in,”

Womack said.

After the initial rollout of the character education plan, the committee met some resistance because middle and high school students believed it to be “elementary.” As a result, the committee determined that to be successful, the Brown Deer Way had to be relevant to students. They charged students with leading the initiative and writing the lesson plans.

As a result, 15 student leaders write and implement character education lessons covering specific character goals each month. The lessons, taught during homeroom classes, involve videos, activities and discussions about taking responsibility, showing respect, celebrating



differences, being honest, establishing trust and building confidence. The lesson plans incorporate daily student life and interests inside and outside of school.

Students on the leadership team explain that the infusion of youth voices has made all the difference.

“I learned so much about myself and others in the process,” Senior Joan Ac-Lumor, a member of the Brown Deer Way team since she was in seventh grade, said. “I loved the lessons because they helped me reflect on who I am, who I want to be and what I need to do to change. I loved seeing the atmosphere of the school change. I can honestly say the Brown Deer Way changed my high

school experience for the better.”

Ben Watkins, another senior who has been on the leadership team for six years, said, “I feel as if the Brown Deer Way created an environment of caring and respect towards each other. Everyone holds each other accountable!”

### ■ Steady Improvements through Culture Shift

Brown Deer’s data after three years of implementation showed a decrease in office referrals and improved academic outcomes. In addition, results from the Youth Risk Behavior Survey showed an increase in the number of students who felt connected to the school. Office discipline referrals

decreased significantly, from a high of 11,000 during the 2012-13 school year to only 1,300 by 2016. Furthermore, the number of students with at least a 3.0 GPA increased and the school received recognition for narrowing its achievement gap in reading.

Other areas showed powerful results as well, including an increase in account-

ability and respectful behavior from students and parents.

“I’ve seen collaboration and ownership from families when it comes to academics,” Womack said. “Teachers who have taught in the district for years have commented about how our work with character education has improved the overall climate of the building. A few teachers have even commented that our work with character education often gives them a reboot as an educator.”

### ■ Beyond the School Walls

Although the character education mind-shift started as an initiative to improve achievement and behavior in school, no one predicted its

unexpected and exciting secondary result — the positive impact it had on the community.

“The entire village of Brown Deer noticed a change and adopted the Brown Deer Way,” teacher Mark Cywinski said. “Businesses display the touchstone, major corporations in the village provide support, the police department painted their cars the school colors, and the village calls upon our students to plan and help at community events. We all live the Brown Deer Way! Local retailers and businesses have fully invested in the initiative, lending their time, talent and resources to ensure lasting and wide-reaching success.”

“When community members offer feedback to the school, they always reference the Brown Deer Way,” Womack added. “I feel the community uses our work with character education as an accountability measure for the school.”

Other positive outcomes of the program include students and teachers mentoring students in other districts and introducing students statewide to the Brown Deer Way. As a result of state and national attention, the student leadership team hosted visiting educators and spoke at the Wisconsin Joint State Education Convention in Milwaukee as well as the National Character Forum in Washington, D.C.

For schools starting in the character education journey, Womack suggests, “Involve all stakeholders in the planning, so they have a clear understanding of the importance of educating the whole child.”

### EDGEWOOD ELEMENTARY SCHOOL IN GREENFIELD, WIS. — STATE AND NATIONAL SCHOOL OF CHARACTER

**Edgewood Elementary School** serves 332 students in pre-kindergarten through fifth grade in the Milwaukee suburb of Greenfield. More than 22 languages and cultures are represented in the student body. The school’s character education journey began eight years ago when a group of staff members realized the need for a school-wide, systematic approach to address the needs of the whole child. After a few years of using a positive behavior intervention framework, they realized the values on the walls no longer matched the work.

“We were looking for a deeper layer — a way to systematically and comprehensively develop character in our students and our school community,” Principal Meg Boyd said. “With input from parents, teachers and other school staff, they began to redefine their core values and eventually chose, ‘We are respectful, responsible, confident thinkers.’”

#### ■ Continuous Improvement through the 11 Principles Framework

Each of Edgewood’s core values includes performance traits. Every summer, the Core Character Team revisits survey results along with their own reflections to determine a focus for the upcoming year.

“Two years ago, we went through

the State School of Character application process,” school counselor Jackie Michlig said. “This propelled us to further refine our practice in the pursuit of developing inspired learners and caring, contributing citizens. The foundation we laid eight years ago is there and each year we add new dimensions. Some, like adding morning meetings, we plan for while others, like teacher-sponsored, after-school clubs, arise because of our strong belief that character is critical for success.”

“Our focus on character has helped us be more kid-focused and more learning-focused,” Boyd said. “It helped us to shift from ‘what [a student] did’ to ‘what skills/traits do they need to develop? How can we do that?’”

Boyd often hears from visitors who are surprised by the caring relationships between and amongst students and staff.

“As with anywhere, we have our share of challenges,” she said. “Students encounter hardships, disrupt learning, and try every last inch of patience we have. Over time, through relentless attempts and re-attempts, we see growth.” On the school’s state report card, Edgewood exceeded state expectations in closing the achievement gap over the past three years. “We still have work to do, though, and we’re keeping on doing it.”

#### ■ The Journey, Not the Destination

Although designation as a State School of Character offers an affirming experience for schools,





past participants identified that the greatest aspects of the process of applying were the professional growth and program development that resulted from the school-wide focus on character education programs. The process of becoming a State School of Character and applying to be a National School of Character is rigorous. However, Boyd and her staff believe the challenge well worth the investment.

“It’s made dealing with the hardships easier,” Boyd said. “We see ourselves as a team that works to

develop children into upstanding citizens and that collective belief helps propel us through the rough patches.”

In May 2019, Edgewood Elementary School was recognized by Character.org as a National School of Character. Yet, Boyd understands the work of character education is never finished — as with any initiative, it requires continuous reflection and growth. Each year, they send new teams to the learning community training at Alverno College and the Wisconsin Character Education Conference.

Boyd’s advice to others who want to embark on the journey: “Rome wasn’t built in a day or by one person. Take the time to look at one change at a time. Take time to have all your staff learn, process and discuss a shift or change, like the addition of morning meetings. Practices like that are most effective when it’s a school-wide practice.

“As with a garden, each season brings some new plantings, some



tilling and some weeding. Maybe that corner that was once full-sun is now shaded by a tree. People change, schools change and so the work of building a community founded in character must change as well.” ■

*If you know a school that should be recognized for exemplary character education initiatives or one that might benefit from resources, mentoring or support, visit [wcharacter.org](http://wcharacter.org) or email [amykarsten@alverno.edu](mailto:amykarsten@alverno.edu) for more information.*

*Amy Karsten is the LACCS Program Director and Outreach Coordinator and an instructor in the Communication and Technology Division at Alverno College.*

### THE 11 PRINCIPLES FRAMEWORK

1. The school community promotes core ethical and performance values as the foundation of good character.
2. The school defines “character” comprehensively to include thinking, feeling and doing.
3. The school uses a comprehensive, intentional and proactive approach to character development.
4. The school creates a caring community.
5. The school provides students with opportunities for moral action.
6. The school offers a meaningful and challenging academic curriculum that respects all learners, develops their character and helps them to succeed.
7. The school fosters students’ self-motivation.
8. The school staff is an ethical learning community that shares responsibility for character education and adheres to the same core values that guide the students.
9. The school fosters shared leadership and long-range support of the character education initiative.
10. The school engages families and community members as partners in the character-building effort.
11. The school regularly assesses its culture and climate, the functioning of its staff as character educators, and the extent to which its students manifest good character.



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# Six Life-Ready Skills:

A Report of the Commission  
to Close the Skills Gap

In April, the National School Boards Association released “A Report of the Commission to Close the Skills Gap,” a joint initiative with more than 10 leading industry groups.

## Executive Overview

As leaders in the education community, it is our goal, if not our obligation, to ensure that when students leave their secondary education, they are equipped with the skills they need to lead a successful and fulfilling adult life. Too often though that is not the case, and students graduate high school without the tools to ensure they succeed in whatever path they choose to follow. The NSBA’s Commission to Close the Skills Gap has identified these critical “LifeReady Skills,” and developed recommendations to help school

districts ensure that students have every opportunity to learn these skills.

The NSBA encourages all school boards to look closely at what their districts are doing to ensure that students are graduating with skills to be “LifeReady” and consider implementing some or many of the recommendations made here by the NSBA’s Commission to Close the Skills Gap.

## Background

For the first time in decades, there are now far more jobs available across the nation than there are interested or qualified workers to fill them. As of January 2019, the number of job openings reached a high of 7.3 million, and that number is expected to double in the next five years. The business community is struggling to fill jobs at every level, but

the entry and mid-level positions that need a high school diploma, yet may not require a college degree, face the largest number of vacancies. Corporate leaders have described this situation as urgent, if not dire, and the situation is growing worse as even more jobs go unfilled each year.

The combination of a growing economy and a period where more baby boomers are leaving the workforce than new employees are joining it, has created an important new opportunity for America’s high school students. That includes the most disadvantaged and at-risk students, those with disabilities and others who often face the most challenges getting the first step up on the career ladder.

Leadership with a variety of business organizations make it clear that many high school graduates do not have the basic skills needed to enter the workforce, thus vastly



The combination of a growing economy and a period where more baby boomers are leaving the workforce than new employees are joining it, has created an important new opportunity for America's high school students.

compounding this workforce “crisis.” As the leading advocate for public education, this is of serious concern to the NSBA.

From these concerns, the Commission to Close the Skills Gap was created in 2018. The NSBA convened the leadership of major business trade and membership organizations to advise school boards on ways to increase the readiness of young people to meet the needs of employers. Every business group approached by the NSBA agreed to be represented on the commission. All committed to serving for at least half a year to offer suggestions to school districts that better prepare more young people for the workplace.

Over six months, the commission members listened carefully to the “voices” of businesses and school boards. They recognized that many in the business community are interested in engaging more with school boards, as school boards seek guidance and counsel on the essential skills young people need to be effective in the workplace. Two other important conclusions emerged from those conversations:

- 1) School boards often encounter challenges in reaching out to, and engaging, with employers; and
- 2) Many interested employers found it challenging to reach out to, and engage with, school districts.

### ■ LifeReady Skills

The first goal of the commission was to determine the workplace skills most needed, in addition to critically important academic skills. Many of the commission members participated in the National Network, comprised of 28 trade and membership organizations under the leadership of the Business Roundtable, which identified 24 of the most critical Common Employability skills. The commission narrowed down the 24 skills to six that they considered critical for young people to master in preparation for

employment, education and the larger goal of “success in life.”

These “LifeReady Skills” include:

- Dependability and reliability
- Adaptability/trainability
- Critical thinking
- Decision-making
- Customer focus
- Teamwork

These skills are essential, not only for the workplace but for every interaction and relationship. That is why the commission deems them to be life ready skills for all students.

### ■ Recommendations for School Boards

The commission provided school districts with recommendations for assisting high school graduates in developing the skill sets essential for success in most of life's endeavors. If implemented effectively, these recommendations likely would result in real improvement to young people's readiness to meet the needs of employers and to take advantage of the

opportunities in today's economy for entering good jobs and careers.

These recommendations are grouped into three categories: industry engagement, policy and programming.

### ■ Industry Engagement

Overall, building relationships between school districts and the local and/or regional business community will help school boards understand local career opportunities available to students upon graduating, and help determine if students are graduating with the requisite skills to be successful in the workforce.

1. Create a Business Advisory Board position that would regularly meet with the leadership of the school board to review progress of how high school graduates are meeting the needs of the business community. The advisory board and school board would work together and ensure the “voice of business” is heard on an ongoing basis in

## NATIONAL BEST PRACTICE: Fully integrate work-based learning in secondary schools

A 2019 Wisconsin Workforce Competitiveness Evaluation by the WMC Future Wisconsin Project recommends promoting career awareness in a number of ways, including:

- Putting an increased focus on providing career counselors for middle and high school students to expose them to the broad array of career and post-secondary options.
- Promoting expansion of regional websites geared toward students and parents that highlight career opportunities and the skills needed. Sites like Inspire Rock County and Arkansas' Be Pro Be Proud offer compelling information about technical occupations close to home that provide strong wages, benefits and the ability to complete initial education and training requirements debt free.
- Offering more teacher internship or work exposure programs. Increasingly, teacher internships are paid, making them attractive summer activities. Some programs also offer placements for counselors and school administrators.

supporting appropriate changes to enhance workforce readiness for young people.

2. Seek recurring opportunities for the participation of school board members in appropriate meetings of local Chambers of Commerce, industry trade associations, small business membership groups and other gatherings of employers. This will (a) ensure that the school board understands local and regional current and potential future economic conditions and job vacancies, (b) present the goals and objectives of the school board for enhancing young people's readiness for work, and (c) allow for guidance from the business community.
3. Conduct an annual survey of local employers to assess the progress of graduates in meeting their workforce needs around the six key LifeReady skills. Each year, using the same metric, measure progress in the readiness of high school graduates to meet the requirements of employers.
4. Identify and designate a leader within the school district, or an

individual school board member, as the specific liaison with the business community. This should be someone in the business community who could offer assistance and guidance on how best to engage young people around career and employment opportunities.

5. Consider "open houses" for business leaders to meet regularly with school board members, administrators, parents and teachers to talk through their goals and objectives and ways in which the business community might help support strategies to enhance the work readiness of young people.
6. Attend local Chamber of Commerce K-12 Workforce Committee meetings and events. At such meetings, take the opportunity to ask the group if the entry-level workforce has the skills necessary to successfully meet the job requirements. In addition, understand the opportunities and challenges emerging for local employers so the school district can be proactive in adjusting its emphasis on programs and policies.
7. Tour local or regional businesses to

learn about job opportunities available to graduates in the school district to ensure that curriculum and/or career and technical education is available in the district that matches the workforce needs in that area.

8. Hold school board meetings at local business establishments, if allowable, to further build the working relationships between the business community and the school board and district staff.

## Policy

As school board members, policy changes can be the greatest way to affect change in your district. Set a strategic imperative to ensure that the students graduating from your district do so with the skills necessary to succeed in work and in life and then set policies in place to make that happen.

1. Put equivalent focus on career and technical education/career readiness as college readiness.
2. Consider an option for students to secure a "Job Ready" diploma. This diploma would be designed in concert with the business community in each local area that measures the six LifeReady skills.
3. Consider requiring that each student have work-based learning as a condition for graduating high school. This could include internships, work study, externships, work-simulated projects or part-time employment. Specific metrics would be applied, and students would be required to demonstrate mastery of critical LifeReady skills.
4. Create curriculum and school experience focused on the National Network's Employability Skills.
5. Select entry-level, industry-based and locally relevant credentials to incorporate into the curriculum, either as an academic requirement or elective.

*[Editor's note: Be aware of Wisconsin-specific statutes and administrative rules when discussing these policy*

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recommendations at the local board table. For example:

- *Education for employment laws* [§ 121.02(1)(m) and PI 26]
- *Academic and career planning* [§ 115.28(59) and PI 26.03(3)]
- *Work-based learning programs* [§ 118.56]
- *Technical education diplomas* [§ 118.33(1)(g)1]
- *Contracting with nonprofit corporations operating programs in which disengaged students participate in work-based learning programs while earning high school diplomas* [§ 115.363(2)]

Contact the WASB Policy Services for related information and sample policies.]

## ■ Programming

Through programs in a district, ensure that all life-path opportunities are highlighted to students, including the basic skills needed to be successful on any path a student chooses.

1. In regular professional development sessions for teachers, provide information and training on the critical LifeReady skills the NSBA identified through the Commission on Closing the Skills Gap. These would be provided at least once a year, and as part of the regular training for new and current teachers.
2. Communicate/promote work experience as having similar benefits to a young person's personal and professional development as sports and extracurricular activities. Encourage these experiences prior to a student's graduation.
3. Host annual career awareness events for regional industries to talk about local careers and include education sessions where young people can discuss and learn about the basic skills required for success in college and/or careers.
4. Starting in elementary school, institute a campaign to promote middle-class, highly skilled jobs and change the perception that only good jobs are those that require a college education.

## WISCONSIN Perkins V Plan

**Wisconsin is experiencing a dire need for more workers with advanced degrees.** Currently, only 48.4 percent of Wisconsinites have a high-quality postsecondary degree, yet by 2020, 60 percent of all jobs will require such degrees. This skills shortage is not only reflective of workforce needs, but also presents the opportunity to advance the diversity, equity and inclusion of students and workers from minoritized communities.

In response, the Wisconsin Technical College System and the Department of Public Instruction are working together to advance career and technical education programs (e.g., nursing, welding, business management) across the state. This year, the state is preparing for the changes in the newly reauthorized Perkins V: Strengthening Career and Technical Education for the 21st Century Act. This federal program invests in both secondary and postsecondary career and technical education with the goal of (1) creating programs that prepare students for high-skill, high-demand and high-wage careers, and (2) providing supports so that each student is successful.

This transition to Perkins V is an important opportunity to shape the future of career and technical education across Wisconsin. To best set the foundation for this work, the WTCS will be collecting input and guidance to determine areas for improvement in career and technical training, equity and inclusion, and building collaboration with community partners.

Watch for more information from the WASB on providing comments on the draft state plan for Perkins V.

For more information about Perkins V, visit [wtcsystem.edu/initiatives/perkins-v](http://wtcsystem.edu/initiatives/perkins-v). If you have any questions, email [perkinsv@wtcsystem.edu](mailto:perkinsv@wtcsystem.edu).

5. Hold events where students tour local/regional businesses to obtain a better understanding of positions and/or work environments available in their area. The Manufacturing Institute's Annual Manufacturing Day is a great example of a coordinated effort by the manufacturing industry to promote the opportunities that exist in their industry, as well as how the work environment has changed drastically over the last several decades.

## ■ Summary

A huge problem faces our country. The high demand for skilled workers is not being met with qualified individuals for the jobs available. The NSBA's Commission to Close the Skills Gap was formed with the goal of developing ways to get to the heart of the problem through school districts working with their local industry leaders in creating a workforce that can meet the needs of industry, and more importantly, meet the needs of graduating students.

At the conclusion of the work of the Commission to Close the Skills Gap, reflecting on months of work and candid discussion, it is clear that if school boards and industry could partner on a much deeper level, many young people would benefit. In ensuring that more students are graduating from high school with skills that prepare them for work, our partnerships would be creating opportunities for students to be successful in every aspect of their lives. The NSBA and the commission members believe that every child deserves this opportunity. ■

<sup>1</sup> U.S. Department of Labor. (2019). *Job Openings and Labor Turnover Summary*. Retrieved from [www.bls.gov/news.release/jolts.nr0.htm](http://www.bls.gov/news.release/jolts.nr0.htm)

<sup>2</sup> National Network of Business and Industry Associations. (2015). *Common Employability Skills*. Retrieved from [nationalnetwork.org/wp-content/uploads/2015/03/Common\\_Employability\\_Skills-03-30-15.pdf](http://nationalnetwork.org/wp-content/uploads/2015/03/Common_Employability_Skills-03-30-15.pdf)

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## Are You Adequately Covered?

*Independent contractors can impact your worker's compensation premium*

**W**hen hiring an independent contractor, school district and cooperative educational service agency administrators must take numerous factors into consideration. One of them is ensuring that the independent contractor has worker's compensation insurance to respond to any injuries its employees sustain while working on a district or CESA project.

### ■ Nine Tests

For the purposes of worker's compensation insurance, it's not enough for a contract to state that the independent contractor is an independent contractor and not an employee of the district.

Whether it's a three-person shop or a large construction firm, when independent contractors are involved, responsibility for determining whose worker's compensation policy will pay benefits is a function of whether the independent contractor meets Wisconsin's statutory definition of an independent contractor at the time of the injury.

Section 102.07(8) of the state statutes contains nine criteria, all of which must be satisfied for an independent contractor to not be deemed a district employee and be ineligible for benefits from the district worker's compensation policy.

To be considered an independent contractor and not an employee of the

district, an individual or company must meet and maintain all nine of the following requirements at all times:

1. Maintain a separate business.
2. Obtain a Federal Employer Identification Number from the Internal Revenue Service or have filed business or self-employment income tax returns with the IRS based on the work or service in the previous year (a social security number cannot be substituted for a FEIN).
3. Operate under specific contracts.
4. Be responsible for operating expenses under the contracts.
5. Be responsible for satisfactory performance of the work under the contracts.
6. Be paid per contract, per job, by commission or by competitive bid.
7. Be subject to profit or loss in performing the work under the contracts.
8. Have recurring business liabilities and obligations.
9. Be in a position to succeed or fail depending on business expenses and income.

### ■ What if?

Hiring an independent contractor that does not meet all nine

requirements could increase the district's worker's compensation insurance premium in two ways.

First, if the district cannot provide certificates of insurance from the independent contractors verifying its worker's compensation insurance at the time the district's payroll is audited by its worker's compensation insurance company, the aggregate amount of the 1099 expenses paid to independent contractors will be added to the district's worker's compensation insurance policy and likely placed into class code 9101. This class code carries a \$5.19 per \$100 of contract-value rate.

In other words, the district's worker's compensation insurance company will presume all independent contractors do not meet the nine tests unless proven otherwise. Sounds harsh — and it is to some degree. However, that's more reason and motivation to collect certificates of insurance from the independent contractors with whom the district or CESA does business.

Second, if a non-compliant (uninsured) independent contractor is injured and his or her expenses are paid by the district's worker's compensation insurance policy, the district's experience modification factor could go up, increasing the district's future worker's compensation premium.



## ■ Who Determines Whether the Nine Tests are Met?

The payment of worker's compensation benefits arises out of the employment relationship. For any injury involving an independent contractor, the worker's compensation insurance claim adjuster initially determines the injured party's status (either a district employee or not). If that determination is disputed, then an administrative law judge makes the determination. At each level, the determination is based on the evidentiary facts relating to the nine-part statutory test. Eligibility for worker's compensation benefits from the district's policy is determined on a case-by-case basis according to the facts and circumstances at the time of the injury.

## ■ Tips for Managing Risks

How can school districts and CESAs protect themselves from worker's compensation insurance responsibilities associated with an injured independent contractor?

1. Have a written contract with the independent contractor. Include all the terms and conditions of the project, such as:

Stipulate that the **independent contractor must carry worker's compensation insurance** and require proof of the policy — a policy declarations page or a certificate of insurance.

In almost all cases, the **contract should also require** the independent contractor to have and maintain general liability, auto, umbrella policy and professional liability insurance (depending on the scope of the work).

2. The school district should be named as an additional insured on all insurance policies except worker's compensation and professional liability. The district should consult with its agent when reviewing requirements for independent contractors to determine the type and proper limits of insurance.

3. Make sure the nine-part test is met and maintained by the independent contractor.
4. Check with your insurance carrier to find out what it requires when the policy is audited as proof that a person is an independent contractor rather than an employee. This will protect the district from an unanticipated policy audit premium charge.

## ■ Conclusion

Working with independent contractors is a fact of life. Making sure they are properly insured for worker's compensation is not only good business, it can protect the district's bottom line. Review your district's policies and procedures for vetting and hiring independent contractors. ■

*Marty Malloy, MS, ARM-P, CPCU, CSRM, is an M3 Insurance Account Executive and Director of Property & Casualty — Education & Government Practice.*



# Policy Resource Guide

**Made in Wisconsin** for Wisconsin School Districts, the **WASB Policy Resource Guide** is a convenient, up-to-date, Internet-based policy tool providing sample policies and the resources needed to customize local policies.

**Contact the WASB today.**



# No Such Thing as a Free Lunch... or is There?



Recently, a state legislative proposal touted as prohibiting “lunch shaming” made headlines. This column explains the issues involved and clarifies the WASB’s position on the bill.

School meal programs provide nutritionally balanced, low-cost or no-cost breakfast, lunch and, on a much more limited basis, after-school meals to students across the nation each school day. In Wisconsin, the programs operate under laws, regulations and funding administered by the U.S. Department of Agriculture and the Wisconsin Department of Public Instruction. Districts are not required to participate although most do — about 400 of Wisconsin’s 421 school districts provide school lunches while 361 offer school breakfasts.

Schools are reimbursed for meals based on students’ free, reduced-price or paid eligibility status. A student’s household income must be at or below 130 percent of the federal poverty line to receive free school meals, and between 130 and 185 percent to receive reduced-price meals. Schools can charge reduced-price eligible students no more than 30 cents per breakfast and 40 cents per lunch.

Within each of these categories, the federal government reimburses a portion of the cost of the meals, which differs depending on a student’s meal eligibility (free, reduced-price or paid). The state also provides limited assistance

(currently about 4.9 cents per lunch and about 7.5 cents per breakfast).

In mid-2016, the USDA required school districts to adopt policies by July 1, 2017, to address unpaid meal charges, including how they would collect unpaid charges and when unpaid charges would be considered “bad debt” that couldn’t be recouped.

*[Editor’s note: The WASB provided guidance to school boards on the development of these policies in its February 2017 FOCUS, available on WASB.org for FOCUS subscribers. WASB Policy Resource Guide subscribers can find additional information regarding the management of student school meal accounts along with related sample policies and procedures in the PRG under the policy code 763.]*

Some resulting board policies call for serving “alternative meals,” like a cheese sandwich, fruit and milk, to students with a negative balance above a certain threshold. Others allow students with a negative balance to receive a certain number of meals until the account goes too far in the red.

Wisconsin schools served 82 million lunches and 32 million breakfasts in 2017-18. Against this backdrop, a handful of incidents of

students being denied meals, or worse, having their meals dumped in the trash went viral online, spurring the introduction of 2019 Assembly Bill 84 in Wisconsin and separate legislation at the federal level.

Under AB 84, a school board must provide a meal that is of a similar quality to a free or reduced-price meal (not a lower quality “alternative” meal) and reimbursable under state and federal meal programs (defined in the bill as a “quality meal”) to any student who asks. The bill also requires school boards to provide homeless students with a “quality” meal at no cost.

In addition, the bill specifically prohibits a school board from doing any of the following related to providing a “quality” meal:

1. Publicly identifying or stigmatizing a student who is unable to pay or has outstanding debt.
2. Requiring a student to do chores or other work not expected of other students.
3. Communicating directly with a student concerning the student’s inability to pay or to pay outstanding debt. (The bill does not prohibit communication directly with the student’s parent or guardian.)

About 400 of Wisconsin’s 421 school districts provide school lunches, while 361 offer school breakfasts.

4. Requiring a student who has received a meal to relinquish or throw it away if the student is unable to pay or has outstanding debt.
5. Requiring a student or the student's parent or guardian to pay fees or costs charged by a third-party collection agency.

The WASB supports the first three of these prohibitions. However, we have strong concerns about items four and five. While well meaning, the mandate on schools to provide a reimbursable meal to all students who request one, regardless of their ability to pay, is unlimited and could last for a child's entire enrollment in a district.

The bill provides no additional funding to help school meal programs cope with the new open-ended mandate and would likely reduce schools' flexibility to hold down costs. Also, the bill's limitations on debt collection would shift the burden of collection efforts to the school or to taxpayers.

These are not hypothetical concerns. After the Wauwatosa School Board in southeastern Wisconsin voluntarily adopted a "meals on demand" policy, unpaid meal costs increased by 1,000 percent from \$2,000 to \$20,000 in a single year.

In the state of Oregon, legislation similar to AB 84 was adopted several years ago. As a result, a suburban district near Portland is reporting that its unpaid meal charges grew from \$1,200 in 2016-17 to about \$45,000 by the end of the 2017-18 and more than \$104,000 in 2018-19.

The WASB does not condone

"lunch shaming" practices; however, we have strong concerns about proposals requiring schools to provide a free meal to all students, regardless of their ability to pay. Such a mandate could deter financially able families from paying, which in turn could undermine the sustainability of meal programs. The real losers in such a scenario might very well be the neediest children that benefit the most from school meal programs.

Our position is simple. If the state wants to impose these mandates, it should fund them or, at a

is not aimed at needy students who qualify for free school meals and do not accrue unpaid meal charges. Rather, the bill aims to address situations in which students who are not eligible for free meals do not bring food or money to purchase a meal.

Wisconsin school staff work hard to make sure all eligible children are appropriately qualified to receive free or reduced-price meals and inform families of the district's policies. To ensure that the system works well for every student, the state should partner with local school districts to bolster their meal

programs and their ability to effectively administer them. This might include further subsidizing reduced-price meals to eliminate any charges for those meals.

The state could also take steps to address the fact that Wisconsin ranks at the bottom of states in the percentage of schools that offer school breakfasts. In

addition, the state ranks low among states when comparing the percentage of schools that utilize federal incentives (called the community eligibility provision or CEP) that enable schools to provide free school breakfasts and lunches to all students with the percentage of schools eligible to utilize CEP. If state policy-makers truly want to focus efforts on feeding hungry students so they are better able to learn, a more effective approach than AB 84 might be to partner with local school districts to maximize participation in both programs. ■

**NOTE:** AB 84 is currently in the Assembly Education Committee as of the time of writing this article.

Dan Rossmiller is the WASB Director of Government Relations; Chris Kulow is the WASB Government Relations Specialist.

**The WASB does not condone "lunch shaming" practices; however, we have strong concerns about proposals requiring schools to provide a free meal to all students, regardless of their ability to pay.**

minimum, place reasonable limits on a school's obligation to provide free meals.

State financial assistance would be particularly helpful because:

1. School meal programs are expected to operate on a non-profit basis and be financially self-sustaining. There's typically not a lot of extra money available to provide meals for free to students who aren't enrolled in the free meal program.
2. Federal funds cannot be used to cover bad meal debt. Unpaid debts must be covered by money transferred from a school district's general fund (Fund 10) or from charitable contributions.

It is important to note that AB 84





## 2019 FALL REGIONAL MEETINGS & WORKSHOPS

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PUBLIC EDUCATION*

SEPTEMBER – OCTOBER  
DATES AND LOCATIONS VARY BY REGION



## Fall 2019 Regional Meetings

Join us at your Regional Meeting this fall to network with area board members, celebrate accomplishments, and learn about the WASB's activities and plans.

Boards in Regions 2, 5, 7, 11 and 15 will be voting for a WASB regional director. (WASB directors serve staggered, three-year terms.)

The Regional Meetings will feature an in-depth Legislative Update and a report from WASB Executive Director John Ashley.

Prior to your Regional Meeting, take part in an optional workshop (*upper right*) with an experienced WASB attorney regarding strategies to retain and compensate teachers.

Visit [WASB.org](http://WASB.org) to register online. Registration fees for the Regional Meetings vary based on location. The workshop registration fee is \$70. Register for both events and receive a \$10 discount. □

### ■ PRE-MEETING WORKSHOP: Strategies to Retain and Compensate Teachers

The labor market for teachers is changing quickly. Are you adapting your teacher compensation systems and recruitment and retention strategies to ensure that you are an attractive employment destination?

This workshop will focus on alternative compensation systems as well as strategies and tactics for attracting and retaining teachers. Learn about salaries, benefits, leave provisions, working conditions and “grow your own” programs that have been utilized by Wisconsin school districts.

### FALL 2019 REGIONAL MEETINGS SCHEDULE

#### Region 1

Oct. 15 – Ashland, Best Western – The Hotel Chequamegon

Oct. 16 – Rice Lake, Lehman's Supper Club

Region 2 | Oct. 17 – Minocqua, Norwood Pines Supper Club

Region 3 | Sept. 25 – Green Bay, Rock Garden/Comfort Suites

Region 4 | Oct. 23 – Menomonie, Off Broadway (by Stout Ale House)

Region 5 | Oct. 24 – Rothschild, Holiday Inn

Region 6 | Oct. 22 – Black River Falls, Black River Falls High School

Region 7 | Oct. 30 – Neenah, Bridgewood Resort

Region 8 | Sept. 24 – Kiel, Millhome Supper Club

Region 9 | Oct. 8 – Fennimore, Southwest Tech

Region 10 | Oct. 2 – Wisconsin Dells, Trappers Turn

Regions 11 & 15 | Oct. 29 – Pewaukee, Holiday Inn Pewaukee/Milwaukee West

Region 12 | Oct. 10 – Sun Prairie, Meadow View Elementary School

Region 13 | Oct. 3 – Elkhorn, Monte Carlo Room

Region 14 | TBD – Milwaukee, Milwaukee Public Schools Administration Building

\* Denotes regions with elections for WASB Board of Directors



## WASB Governance Workshops

**In August, the WASB is hosting a series of WASB Governance Workshops.**

The workshops will take place at CESA offices across the state. The events begin with dinner at 6 pm. The workshop program runs from 6:30-9 pm.

### ► Understanding School Finance for Board Members

**Tuesday, Aug. 6** at CESA 11, Turtle Lake

**Wednesday, Aug. 7** at CESA 5, Portage

Do you want a better understanding of school funding to be a more effective board member? Take part in this interactive workshop to learn the fundamentals of Wisconsin school funding.

### ► Navigating Through Conflict

**Tuesday, Aug. 13** at CESA 6, Oshkosh

**Thursday, Aug. 15** at CESA 3, Fennimore

Join us in this workshop to learn how to constructively manage your board's conflicts. You'll learn techniques on how to raise difficult issues and listen effectively. Become a more collaborative and supportive team member.

### ► Leadership at the Board Table: Elevating Achievement for All

**Tuesday, Aug. 20** at CESA 9, Tomahawk

**Thursday, Aug. 22** at CESA 2, Whitewater

Attend this workshop to elevate achievement for all your students at the board table. Learn how to intentionally bring educational equity into your district's policies and decisions. ■



The 2019-20 schedule of WASB legal webinars is now available online. Visit [WASB.org](http://WASB.org) for the complete list and to register.

## Upcoming WASB Webinars

### Pupil Records

August 7 | 12-1 pm

The maintenance and release of pupil records are dictated by state and federal laws. This presentation will cover the basics of the pupil records laws with a focus on the limitations to the release of pupil records and recent legal changes.

*Presenter: Ben Richter, Staff Counsel*

### School District Referenda — Legal & Policy Considerations

August 21 | 12-1 pm

Before starting a referendum process, school boards need to be aware of a number of legal and policy considerations. This webinar will provide a detailed analysis of the different types of referenda as well as the procedures and timing, the use of district funds and resources, the roles of the board, individual board members and staff, and how districts, staff and boards may interact with third-party groups, e.g., "vote yes," "vote no," etc.

*Presenter: Barry Forbes, Associate Executive Director and Staff Counsel*

### Pupil Expulsion

September 11 | 1:30-2:30 pm

There are state and federal laws relating to the expulsion of pupils. This webinar will provide a roadmap for the expulsion process and help avoid common pitfalls. The presentation will focus on procedures for administrators as well as for boards that conduct their own expulsion hearings.

*Presenter: Bob Butler, Associate Executive Director and Staff Counsel*

**Please note:** These webinars, and all previous ones, are recorded and available on demand. WASB members can purchase any webinar and watch when their schedule allows. Upcoming live and pre-recorded webinars are listed on the webinar catalog page at [WASB.org](http://WASB.org). In addition, links to past webinars are available in the Policy Resource Guide.



## The Haze Surrounding CBD

If one were to form a judgment about the legality of products containing cannabinoids (CBD) solely by their proliferation in retail stores in communities across the state, it would be reasonable to conclude that individuals can legally purchase and possess them and that they have been approved for sale and use for physical and mental health purposes. However, the legal status of CBD products is not clear under federal and state law, which presents interesting legal questions with uncertain answers for Wisconsin school districts.

Currently, federal law makes it a felony to sell or possess marijuana, and the Food and Drug Administration (FDA) takes the position that the sale and marketing of marijuana and hemp products and their derivatives do not meet its standards. At the same time, however, 33 states have legalized medical marijuana; 11 states have legalized recreational marijuana; and 17 states, including Wisconsin, have laws specifically addressing CBD. Wisconsin also permits the growing of industrial hemp for sale under certain circumstances. These laws, and their enforcement, conflict.

It is within this uncertain legal landscape that retail establishments selling CBD in various forms for physical and mental wellness have proliferated in Wisconsin. Undoubtedly, students and district employees will use, be under the

influence of, or possess CBD products on district property. Districts must be prepared to handle these situations.

This *Legal Comment* will review medical and scientific definitions and properties of marijuana, hemp, delta-9-tetrahydrocannabinol (THC), and CBD; the laws that apply to these products in Wisconsin; and the issues they present to districts with respect to their students. Next month's article will discuss the issues they present to districts with respect to their employees.

### ■ The Substances

In order to understand the laws relevant to THC and CBD, it is critical to understand and distinguish between the medical and legal definitions of these substances. Cannabis is a plant that contains more than 80 biologically active chemical compounds. It is generically referred to as marijuana and is a member of the hemp family of plants. The most commonly known compounds in marijuana are THC and CBD. "Hemp" generally is used in reference to cannabis that contains less than 0.3 percent THC. Wisconsin law defines "industrial hemp" similarly.<sup>1</sup> CBD products are generally derived from industrial hemp.<sup>2</sup>

THC is the main psychoactive component of cannabis. The human body regulates certain bodily functions (including immune activity, appetite and memory) through

receptors in the brain, the peripheral and central nervous systems, organs and the immune system.<sup>3</sup> When a person uses THC, that chemical attaches to cannabinoid receptors throughout the brain and body, and interferes with how their functions are regulated. THC impacts reaction time, disrupts memory, causes anxiety and affects judgment. THC also affects parts of the brain that make a person feel good, giving the user the "high" associated with the substance.<sup>4</sup> The impact of CBD is less clear, but it does not produce the chemical high associated with THC. Research is ongoing on the impact of THC and CBD and whether their use can positively impact a person's health. CBD has specifically been studied as to its impact on controlling symptoms of epilepsy.

### ■ Federal Law

Under the Controlled Substances Act, the U.S. Attorney General has the authority to establish schedules of substances subject to federal control.<sup>5</sup> Substances classified in Schedule 1 have been determined to have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use of the substance even under medical supervision.<sup>6</sup> The Controlled Substances Act makes it a felony for anyone to knowingly or intentionally

However, the legal status of CBD products is not clear under federal and state law, which presents interesting legal questions with uncertain answers for Wisconsin school districts.



manufacture, distribute, dispense or possess with intent to manufacture, distribute or dispense, a controlled substance or a counterfeit substance or to possess a substance in Schedule 1, with a number of exceptions.<sup>7</sup> Marijuana is currently listed as a Schedule 1 controlled substance.

In December 2018, Congress passed the Agriculture Improvement Act of 2018 (2018 Farm Bill).<sup>8</sup> Among other things, the 2018 Farm Bill removed industrial hemp as a Schedule 1 drug in the Controlled Substances Act under certain conditions.<sup>9</sup> The 2018 Farm Bill defined hemp to include cannabinoids with a THC concentration of no more than 0.3 percent. Therefore, CBD that contains no more than 0.3 percent THC on a dry-weight basis is no longer a controlled substance under federal law, provided that certain other conditions are met. One of those conditions is the establishment of joint federal and state control over the

regulation of industrial hemp. States may develop plans to license and regulate industrial hemp production. Those plans must be submitted to the secretary of the U.S. Department of Agriculture for approval.

In addition, the 2018 Farm Bill preserved the FDA's authority to regulate products containing cannabis or cannabis-derived compounds, regardless of whether they are classified as hemp under the 2018 Farm Bill. The FDA recently issued a question and answer communication that addresses the impact of the 2018 Farm Bill related to cannabis and cannabis-derived products.<sup>10</sup> In that publication, the FDA emphasized that it treats products containing cannabis or cannabis-derived compounds, including CBD, the same as it does any other FDA-regulated products.

As such, the FDA pointed out that it has not approved a marketing application for cannabis for the medical treatment of any disease or condition.

The FDA has approved only one CBD product specifically for the treatment of certain seizures (Epidiolex), and then only pursuant to a medical prescription. In the question and answer communication, the FDA emphasized that it is concerned with the proliferation of products containing CBD that are marketed for therapeutic or medical uses, even though they have not been approved by FDA. It points out that selling unapproved products with unsubstantiated therapeutic claims is not only a violation of federal law, it can put patients at risk because patients and other consumers may be influenced not to use approved therapies to treat serious and even fatal diseases. The FDA states that CBD products have not been subject to FDA review as part of the drug-approval process and have not been evaluated as to whether they work, what the proper dosage may be if they do work, how they could interact with other drugs, or whether they have

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\*Go365 Five-Year Study, 2019



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dangerous side effects or other safety concerns.

The FDA indicates that it will continue to monitor the marketplace and take action as needed to protect the public health. In particular, the FDA stated that THC and CBD cannot be marketed or sold as dietary supplements. All products marketed as dietary supplements must comply with FDA rules and regulations. Thus, while the possession of CBD may no longer be a criminal act under federal law, the sale and marketing of CBD as drugs or dietary supplements remains questionable. Although the FDA has made its position clear, it has not yet engaged in rulemaking to formally adopt its position.

### ■ Wisconsin Law

Unlike some states, Wisconsin has not decriminalized the manufacture, sale, distribution, possession or use of marijuana, nor has Wisconsin authorized its use medically by prescription. However, in 2014, Wisconsin enacted “Lydia’s Law,” which authorized physicians to dispense CBD without psychoactive effect (no more than 0.3 percent THC) to treat seizure disorders. That law was amended in 2017 to broaden its scope to apply to all “medical conditions,” not just seizures.<sup>11</sup> Under this law, possession of CBD is legal in Wisconsin if the person has certification from a physician that the CBD is to treat a medical condition, the certification was issued no more than one year before the possession, and the certification has not expired.<sup>12</sup>

A “certification” is defined as a letter or other official document issued by a licensed physician that contains the name, address and telephone number of the physician; the name and address of the patient who is issued the letter or document; and the date on which the letter or document is issued.<sup>13</sup> At the same time, the Wisconsin Legislature amended Wisconsin’s controlled substances schedule to provide that if CBD is

rescheduled or deleted as a controlled substance under federal law, the Wisconsin controlled substances board shall treat CBD similarly.<sup>14</sup>

Thus, under these limited circumstances, a person may legally possess CBD products under Wisconsin law. This is seemingly in conflict with the FDA’s position that CBD products have not met FDA approval for sale as a drug or dietary supplement. Further complicating this picture in Wisconsin is the fact that, in 2017, Wisconsin enacted legislation that created a state “industrial hemp” program to be administered by the Department of Agriculture, Trade and Consumer Protection.<sup>15</sup> The legislation defined “industrial hemp” to include CBD that contains a THC concentration of 0.3 percent or less.<sup>16</sup> The law requires DATCP to promulgate rules establishing a state industrial hemp program “to maximize opportunity for a person to plant, grow, cultivate, harvest, sample, test, process, transport, transfer, take possession of, sell, import, and export industrial hemp to the greatest extent authorized under federal law.”<sup>17</sup>

Among other things, the law requires DATCP to ensure the quality of industrial hemp grown or processed in Wisconsin; to secure the activities related to industrial hemp and the safety of products produced from industrial hemp, including any necessary testing; and to verify adherence to laws and rules governing activities related to industrial hemp. DATCP has established a licensing process for producers of industrial hemp in Wisconsin.<sup>18</sup>

There was confusion regarding the impact of this bill on the legality of sale and possession of CBD produced pursuant to DATCP’s industrial hemp program. Initially, the Wisconsin Department of Justice sent out a warning that CBD was still illegal in Wisconsin. However, in May 2018, then-Attorney General Brad Schimel issued a statement indicating that “products made from industrial hemp, including CBD, are

lawful.”<sup>19</sup> This stance appears to be in conflict with state law inasmuch as it currently requires a medical certification for possession of CBD.

### ■ Impact on School Districts

It still remains illegal for Wisconsin students to possess, sell, distribute, or be under the influence of or possess marijuana (i.e., a substance containing more than 0.3 percent THC) on district property or at district-related functions. The status of CBD products is somewhat less clear. The state permits the growing of industrial hemp from which CBD products are derived and CBD has been removed from Schedule 1 of the Controlled Substances Act under certain circumstances. However, state law restricts the possession of CBD products to those who hold the appropriate physician’s certificate and the FDA has stated that CBD products have not met its protocol for legal marketing and sale as drugs or dietary supplements. The latter point is significant because a number of studies that have analyzed samples of CBD products in the marketplace have shown that the actual levels of CBD and THC in the product do not match the levels shown on the product’s label. This means that CBD products may contain THC in levels in excess of 0.3 percent, which makes those products an illegal Schedule 1 controlled substance.

All of this calls into question the role schools can or should play in the possession and use of CBD products by students at school. In this respect, districts should start the analysis with Wis. Stat. s. 118.29 (School Medication Law), which outlines the circumstances under which school employees and volunteers can administer “drugs” to students. Under the School Medication Law, a “drug” is defined as “any substance recognized as a drug in the official U.S. pharmacopoeia and national formulary or official homeopathic pharmacopoeia of the United States or any supplement to either of them.”<sup>20</sup> The School

Medication Law permits any school employee or volunteer to administer any non-prescription or prescription “drug” under certain circumstances.<sup>21</sup> A non-prescription drug may only be administered “in compliance with the written instructions of the pupil’s parent or guardian if the pupil’s parent or guardian consents in writing” and supplied in the original manufacturer’s packaging which lists the ingredients and dosage.<sup>22</sup>

CBD (other than Epidolex) has not been approved for prescription by the FDA and is not listed as a drug in the U.S. pharmacopoeia.<sup>23</sup> Accordingly, CBD does not technically meet the definition of a “drug” under the School Medication Law. Further, even if it did, a non-prescription drug product must “be prepackaged for use by consumers and labeled in accordance with the requirements of state and federal law.”<sup>24</sup> Since the FDA has not

approved CBD for sale as a drug, it is likely that CBD products do not qualify as non-prescription drugs that school employees or volunteers are authorized to administer within the scope of the School Medication Law.

This leaves open the question of whether students may possess CBD products at school for self-administration. The FDA has not approved CBD products as dietary supplements and state law only permits their possession by a student with medical certification. Given this, the safest course for a board is to restrict the possession and use of CBD products at school. The most effective means of doing so would be for a board to adopt a policy permitting the storage of CBD in a specific location, probably in the nurse’s office, in its original packaging, and permitting its self-administered use, subject to the

district being furnished with the appropriate physician’s certificate and parental/guardian documentation.

There may be circumstances in which a student is not capable of self-administration due to age or physical limitation. In such cases, it is unclear whether a board may legally or should adopt a policy that allows an employee or volunteer to administer or assist in the administration of CBD at school, as such practice would not carry with it the legal protections afforded by the School Medication Law. In any case, if a board adopts such a policy, the board should consult with its insurer and may consider obtaining from parents a waiver and indemnification of claims.

Boards will also need to consider whether a student who consumes or possesses CBD on district property or at district functions without the required physician’s certificate and/or in violation of board policy should be

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disciplined and, if so, to what extent. Assuming such CBD product contains no more than 0.3 percent of THC, a student using it is probably not going to be “under the influence” of that product in the same way as THC or alcohol. Boards may expel a student if the student has engaged in conduct which endangers the property, health or safety of others and the interests of the district demand the student’s expulsion.<sup>25</sup> Given the removal of CBD as a Schedule 1 controlled substance and its lack of psychoactive properties, it is untested in reported expulsion cases whether mere possession of CBD without certification would meet this standard.

## Conclusion

Our *Legal Comment* articles have generally been drafted with respect to topics as to which there is at least some level of guidance from statutes or the courts to guide board policy and practice. This topic is different, because, as discussed above, the production, sale, possession and use of CBD products are governed by federal and state statutes that are not consistent and for which there is no body of case law that districts may rely on to resolve the inconsistencies. The Department of Public Instruction has not yet offered any formal guidance to Wisconsin districts on the subject of CBD. Notwithstanding the lack of any authoritative legal guidance, this article outlines the landscape of CBD products and the laws that affect them, which in and of itself provides important groundwork for districts as they begin to wrestle this issue with their legal counsel. ■

## End Notes

1. Wis. Stat. s. 94.55(1).
2. National School Boards Association, *Drugs, Substance Abuse, and Public Schools* (2019), available at: [nsba.org/-/media/NSBA/File/legal-drugs-substance-abuse-and-public-schools-guide.pdf](https://nsba.org/-/media/NSBA/File/legal-drugs-substance-abuse-and-public-schools-guide.pdf)
3. Moises Velasquez-Manoff, *Can CBD Really Do All That?*, *New York Times Magazine*, May 14, 2019, available at: [nytimes.com/interactive/2019/05/14/magazine/cbd-cannabis-cure.html](https://nytimes.com/interactive/2019/05/14/magazine/cbd-cannabis-cure.html)
4. Scholastic, Inc. *The Science of the Endocannabinoid System* available at: [headsup.scholastic.com/students/endocannabinoid](https://headsup.scholastic.com/students/endocannabinoid).
5. 21 U.S.C. s. 811.
6. 21 U.S.C. s. 812(b)(1).
7. 21 USC s. 841.
8. Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490 (2018).
9. *Id.* at ss. 10113 and 12619 (amending 7 U.S.C. 1621 et seq.).
10. U.S. Food & Drug Admin., *FDA Regulation of Cannabis and Cannabis-derived Products: Questions and Answers*, available at: [fda.gov/news-events/public-health-focus/fda-regulation-cannabis-and-cannabis-derived-products-questions-and-answers](https://fda.gov/news-events/public-health-focus/fda-regulation-cannabis-and-cannabis-derived-products-questions-and-answers) (last updated April 2, 2019).
11. Wis. Stat. s. 961.38(1n).
12. Wis. Stat. s. 961.32(2m)(b).
13. Wis. Stat. s. 961.32(2m)(a).
14. Wis. Stat. s. 961.11(4g).
15. 2017 Wis. Act 100.
16. Wis. Stat. s. 94.55(1).
17. Wis. Legis. Council, *Act Memo, 2017 Wisconsin Act 100: Industrial Hemp*, Dec. 4, 2017, available at: [docs.legis.wisconsin.gov/2017/related/lcactmemo/act100.pdf](https://docs.legis.wisconsin.gov/2017/related/lcactmemo/act100.pdf)
18. See WI Dept. of Agric., Trade, & Consumer Protection, *Industrial Hemp Research Pilot Program*, available at: [datcp.wi.gov/Pages/Programs\\_Services/IndustrialHemp.aspx](https://datcp.wi.gov/Pages/Programs_Services/IndustrialHemp.aspx)
19. Wisconsin Dep’t of Justice, AG *Schimmel and Stakeholders Resolve Questions Surrounding DATCP Industrial Hemp Research Pilot Program*, May 10, 2018, available at: [www.doj.state.wi.us/sites/default/files/news-media/5.10.18\\_CBD.pdf](https://www.doj.state.wi.us/sites/default/files/news-media/5.10.18_CBD.pdf)
20. Wis. Stat. s. 118.29(1)(b).
21. Wis. Stat. s. 118.29(2)(a).
22. *Id.*
23. Louise Wilson, Wis. Dept. of Pub. Instruction, *Practice Points*, 15 School Nurse Update 4, 5, Mar. 20, 2018, available at: [dpi.wi.gov/sites/default/files/imce/sspw/pdf/supdate15-2017-18.pdf](https://dpi.wi.gov/sites/default/files/imce/sspw/pdf/supdate15-2017-18.pdf)
24. Wis. Stat. s. 118.29(dm).
25. Wis. Stat. s. 120.13(c)(1).

*This Legal Comment was written by Michael J. Julka, Steven C. Zach, M. Tess O'BrienHeinzen and Brian Goodman of Boardman & Clark LLP; WASB Legal Counsel. For additional information on related topics, see Wisconsin School News “Administration of Medication to Pupils” (April 2002).*

*Legal Comment is designed to provide authoritative general information, with commentary, as a service to WASB members. It should not be relied upon as legal advice. If required, legal advice regarding this topic should be obtained from district legal counsel.*

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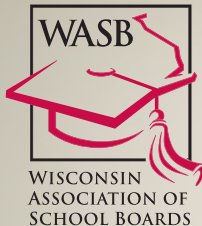
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