Closing the CULTURAL DIVIDE

Embedding the local culture of Native American youth into student learning
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Challenges Seen in Staffing After-School Care

As demand for before- and after-school childcare rises, school districts and other employers are having trouble finding workers, Wisconsin Public Radio reports.

Layla Moosavi, director of strategic operations at Wisconsin Wisconsin Youth Company, said she anticipated a higher need for this care due to children needing more socialization, parents returning to the office or other factors.

Her organization is raising pay while instituting $750 hiring bonuses.

“That’s definitely not typical,” she said. “It’s definitely harder than usual — I think part of that is that we’re seeing a smaller pool (of applicants), but the other part of it is that we’re hiring for a larger pool.”

WPR reported factors for the trouble include low pay and concerns about contracting COVID-19 while working closely with others.

Amy Warring, who coordinates after-school programs for the School District of Superior, said that burnout is affecting hiring for its programs.

“We hire district teachers and school assistants for these positions, as well as community members,” she said.

“Many teachers are feeling exhausted from the extra demands during the pandemic and aren’t wanting to work additional hours.”

Childcare programs can’t just make do with less staff. Regulations require a minimum number of workers depending on children’s ages.

UW-Stevens Point to Offer Science Education Major

This fall, UW-Stevens Point will add a science education degree to its curricular offerings.

“This program better prepares students to effectively teach to the interdisciplinary nature of science,” said Krista Slemmons, associate professor of biology and coordinator of the new program. “Of critical importance, it also addresses the need for qualified science teachers in school districts across the state.”

Schools have long reported particular staffing challenges in science education; half of northern Wisconsin school districts describe this shortage as “extreme.”

To learn more, visit bit.ly/3m6kf0D.

EdWeek: Low-Income Students Less Likely to Play Sports

Children in families well above the poverty line are 79% more likely to play sports than children living in poverty, EdWeek reports.

As of 2014, about half of all children ages 6 to 17 in families earning 200% or higher of the poverty rate played sports. Only 28.3% of kids in families living in poverty played sports.

About 57% of high school students played sports in their high school or community over the past 30 years.

The number of girls participating in sports has been one success story of the past few decades. Girls made up just 8% of all high school athletes in 1972-73, a number that has risen to almost 43%.

The publication also noted that volleyball is the most popular high school sport for girls in Wisconsin. The sport is second to track and field in popularity among girls nationwide.

Football was the most popular sport among Wisconsin boys, as it was in nearly all states.

Among the less common high school sports the report lists are bass fishing, rock climbing, bocce, kayaking and figure skating.
Those boards that craft policies themselves typically understand their policies more deeply and face fewer conflicts than boards that pull policies off the shelf.
CLOSING THE

Cultural Divide

How a northern Wisconsin school district embeds the local culture of Native American youth into student learning

Larry W. Ouimette
In the middle of spring break a year ago, the Lac du Flambeau Band of Ojibwe Indians invited me, the superintendent of a small school district in northern Wisconsin, to an emergency Tribal Council meeting.

It was at this meeting that the tribe’s health department asked our district to immediately shut down school to mitigate the spread of COVID-19 throughout the reservation. Council members were committed to protecting the elderly and providing time for the tribal medical community to prepare for any outbreaks. That same afternoon, I joined the school board at an emergency meeting, where the five board members quickly approved the tribal request.

While this might seem an unorthodox way to decide on a school district closure, our response to COVID-19 reflected how closely the Lac du Flambeau School District partners with the Lac du Flambeau Band of Ojibwe Indians. As the administrator of a public school district situated within the Lac du Flambeau Reservation in Wisconsin’s Northwoods, I work with a school board that embraces a policy governance model and encourages me to coordinate with the Tribal Council on the district’s behalf.

The COVID-19 closure served as a reminder for us to center the culture of students and their families into our district decision-making and practices — a goal I think many of us believe in but that can be difficult to achieve. I suppose this is what is referred to as the blessing and the curse of the global pandemic. Regardless, it was the impetus for real change, and our lessons in this process are transferable to all kinds of school communities.
**Historical context**

As school district administrator, I recognize that the other executive leader in Lac du Flambeau, the tribal president, lives in a culture where multiple generations of a family often reside together. The Tribal Council’s health department had been tracking COVID-19 before much of the world was paying as close attention to the impending pandemic and understood the dangers of asymptomatic school children bringing the virus home to their elderly grandparents.

Lac du Flambeau’s prekindergarten through eighth-grade population is 550 students. Of this number, approximately 95% are members of the tribe.

This scenario illustrates the relevant cultural tradition of sharing family space with several generations in which elders are revered and cared for as the first line of thinking and action.

To provide deeper context about Lac du Flambeau School District’s relationship with the Ojibwe, I believe historical context points to the implications for K-12 education. The Lac du Flambeau Band of Lake Superior Chippewa (Ojibwe) Indians has inhabited the Lac du Flambeau area since 1745, when Chief Giishkiman (Sharpened Stone) led the band to the region.

The band acquired the name Lac du Flambeau from its gathering practice of harvesting fish at night by torchlight. Lac du Flambeau, or Lake of the Torches, refers to this

To illustrate our integration of Ojibwe cultural context with Lac du Flambeau teaching and learning, **our values are influenced by the tribe.**
practice and was given to the band by the French traders and trappers who visited the area. Having inhabited the area for nearly 300 years, the Chippewa Indians maintain a prominent and integrated role in the region’s organizations and systems. I live out this multigenerational context in teaching and learning.

While Ojibwe are long-established here, the minority-majority in the surrounding communities is Caucasian. Historically, the cultures have been far apart in values and life experiences in critical ways. In the 1980s, Ojibwe tribal members were threatened and harassed at boat landings for practicing their right to spear fish in lakes located off reservation in ceded territory.

Seven teachings

This cultural divide played out as students moved through the education system. Over the years, generations of Ojibwe families were marginalized and disadvantaged in systemic and personal manners.

With historical trauma and oppression at that fundamental level of existence, there can be deep fractures in health care, access to employment and associated outcomes of unemployment, addiction and even legal issues that land a disproportionate percentage of the parents of students in the prison system.

As a result, in some cases, the home life that is essential to the basic needs of students can be absent, diminished or altogether neglected. In combination with this systematic layer of oppression, the Ojibwe and the majority/minority at times seem to operate in their own silos of life in the Northwoods. This makes cultural artifacts front and center to the lives of those students for whom heritage and the story of collective struggle is central and important to their multigenerational shared history.
As a way of connecting Lac du Flambeau’s history with current reality, we seek to contribute to the teaching and learning of our students in all spaces of their lives. Our mission is simple and straightforward, but expansive: Do what it takes to foster student success.

Our vision statement places cultural sensitivity at the forefront of the classroom experience. To illustrate our integration of Ojibwe cultural context with Lac du Flambeau teaching and learning, our values are influenced by the tribe. In addition to placing traditional good-action words, such as respect for themselves, others and the environment broadly at the top of the values list, we take our work to the next highest level by following the Seven Grandfather Teachings: wisdom, love, respect, courage, honesty, humility and truth. This makes it possible for values of the school to align with values of the home in ways that are meaningful.

According to the historical narratives around these values, the Seven Grandfather Teachings remind us how to treat one another and our children. The teachings highlight that each of us is responsible for taking care of the children and the world around us. In a forward-thinking promise, the children are, in turn, the ones who must care for the earth tomorrow and for the generations to come. The Seven Teachings are expected to be lived consistently and concurrently.

The way this translates into day-to-day life for the Lac du Flambeau School District is through high expectations for students in caring for each other and for their families — within and across the two cultures that may collide when they cross the doorway into the school system and the surrounding communities.

Authentic partnering
We work continuously at closing the gap between the educational experiences and historical divisions of the residents and students of our community. Primarily, we attempt this by integrating local, culturally appropriate, rich curriculum into subject areas. Secondly, we partner with the local community as closely as possible in school-related but authentic settings.

Examples of our overall integration include our involvement with the tribe in traditional, seasonal activities, such as gathering wild rice and netting whitefish in the fall; making snowshoes, ice fishing and participating in traditional Ojibwe winter games; spearing fish and traveling to the sugar bush to gather and process maple sap in the spring; and harvesting birch bark, strawberries and blueberries, tanning deer hides and participating in traditional ceremonies in the summer.

In travel and entertainment literature, Lac du Flambeau is billed as the place to refresh one’s spirit. It is a lovely sentiment that remains authentic about our community. The life spirit of the Ojibwe tribe is alive and well, so
we do our part as the major school district in our community to respect and integrate the cultural artifacts into all aspects of education.

As the country deals with the devastating effects of COVID-19 on the economy and all systems, we share those similar, collective experiences of the tragedy, of course. However, on top of these shared tragedies, we live the reality of being a community with families who have already experienced significant trauma for many generations.

Thus, in addition to curricular integration of native content, we also try to add deeper support of student services. In the Lac du Flambeau School District and community, we live the great divide of necessity and strong desire for cultural preservation while struggling to combat the negative outcomes of minority status.

Closing divides

The purpose of our continuous improvement journey is to continue to close the divide of Ojibwe students as they share educational and residential space with students from surrounding communities. Together, despite our differences, we call Lac du Flambeau and the surrounding area home.

In line with our values, we intend on listening and growing as a community in ways that respect Ojibwe roots and values while paying attention to all avenues to increase success for our students.

Larry Ouimette is superintendent of the Lac du Flambeau School District. Gayle Juneau-Butler, a leader coach with Studer Education, contributed to this article.

A TIME FOR DE-ESCALATION

Mastering the techniques of defusing tension

Eric Giordano, Ph.D.
Whether in the public square, the workplace, or in one’s personal life, escalating conflict causes major disruptions to organizations, governing bodies, and personal relationships. Escalation means specific situations that exhibit a sharp spike in hostility, tension or competitive behavior — or that bring personalities into severe conflict. Not surprisingly, the demand for skills, strategies and training in conflict de-escalation has grown dramatically.

First, it is important to distinguish between the short-term goals of de-escalation in relation to longer-term goals of conflict resolution. De-escalation is primarily focused on removing us from the precipice of an acute conflict. If done effectively, it can lay the groundwork for a deeper conflict resolution process designed to rebuild trust, restore relationships and prevent future conflict.

De-escalation: Short-term

- Intervene/react
- Temporarily shift relationships
- Stop conflict

Conflict Resolution: Long-term

- Prevent future conflict
- Build lasting relationships
- Resolve problems

Three strategies of de-escalation

1. MAINTAIN CONTROL

An underlying myth of conflict management is often that we can stop bad behavior by controlling others. If we can shut them down (or up), help them see logic and truth, or win the argument, we can end the conflict. Paradoxically, it is the inverse: we can gain control of a situation only by modifying our own thoughts and behaviors.

When acute conflict emerges, our level of stress increases dramatically. Stressful situations cause our brains to release chemicals designed to favor freezing, flight or fight — any of which can cause involuntary changes to our thoughts and perceptions. This often leads to cognitive distortion that cause us to misunderstand, react inappropriately and escalate conflict.

We are familiar with the flight attendant’s recitation before take-off: “Please place the mask over your own mouth and nose before assisting others.” To de-escalate conflict, we must similarly seek to manage ourselves before managing others. In an acute conflict situation, the first step is to calm ourselves. We cannot expect to reduce conflict if we enter a situation agitated or find ourselves growing angry or upset. Below are some common tactics taught in de-escalation training:

Breathing: When we are anxious, agitated, angry or upset, we breathe quickly and send our brain a signal that something is wrong. By breathing slowly, we tell the brain to relax. De-escalation training often begins by teaching deep breathing exercises. The 4-7-8 technique calls for breathing in through the nose for a count of 4 seconds, holding it for 7 seconds and breathing out through the mouth for 8 seconds — and repeating it four times. Employing this breathing technique before responding literally changes our mindset.

Alana Leffler has been promoted to a Shareholder

Alana’s practice focuses on advising public and private schools in the areas of general school law, special education law, and labor and employment law. She regularly counsels clients on topics such as: student discipline; bullying, harassment, and discrimination complaints.
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**Tone of voice:** Once we are calm, we can help calm others by adopting a steady, measured and assuring tone of voice. Speaking more slowly and in a slightly lower tone than normal is usually interpreted as soothing. Speaking rapidly or in an extremely low or high tone has the opposite effect. A calm, firm, low and slow voice promotes confidence and respect.

**Body language:** 80-90% of all communication is nonverbal. Training ourselves in effective body language is critical for effective de-escalating behavior. Examples include:

- Neutral facial expressions  
- Keeping hands in front of body in an open and relaxed position  
- Appropriate eye contact (avoid a piercing gaze)  
- Avoid shoulder-shrugging, finger-pointing, eye-rolling, fidgeting and excessive gesturing  
- Safe social distance, ideally about 3-6 feet

**2. ASSESS AND RESPOND**  
Once calm, we can assess the situation to understand needs and make decisions. This step is iterative and we must pay attention to what is happening throughout a de-escalation process to see if our strategy is working or needs adjustment. When we stop assessing, we give way to assuming and become less likely to achieve the right response. This doesn’t mean our past experience cannot guide us, it just means that we cannot assume there is a one-size-fits-all solution. Helpful techniques include:

**Active listening:** Active listening means giving our physical and mental attention to another person, making an honest effort to hear what they are saying and trying to understand the emotions behind their words and body language.
Helping language: Appropriate language can help validate concerns without forcing agreement while providing critical information to help us assess the situation. Examples include:

- Open-ended questions: “You seem upset, how can I help?”
- Paraphrasing: “If I heard you correctly, you are saying…”
- Clarifying questions: “It sounds like a difficult situation, can you tell me more?”

Nonverbal responses: Appropriate nonverbal communication signals a willingness to listen as well as an empathetic viewpoint. Positive nonverbal responses include:

- Make appropriate eye contact.
- Be at the same eye level (if they sit, we sit; if they stand, we stand).
- Use unintrusive positive gestures such as head-nodding.
- Avoid detrimental body language such as crossed arms, hands on hips, eye-rolling, eyebrow raising, emphatic gestures, etc.
3. SUPPORT NEEDS

Effective conflict de-escalation is premised on the idea of letting people know that their concerns matter and that an authentic effort is being made to address the problem. This does not mean we must take sides or go against core values or principles. Supporting needs means asking and answering three questions:

- Will my response make the situation more or less safe (emotionally or physically)? Safety.
- Does my response show respect and dignity? Respect.
- Will my response address the person’s needs? Needs.

If we can answer “yes” to each of these questions, we are probably going down the right path. In any conflict situation, the health and safety of individuals involved is the first concern. Most likely to be left behind in the equation is emotional well-being. If conflict surfaces past or ongoing trauma, it is healthy to pause for further assessment and/or intervention by a trained professional.

It seems like a no-brainer that we must treat all persons with dignity and respect. As leaders attempting to engage in or oversee a process of de-escalation, we must first model respect, even if it is not reciprocated. If we are targets of disrespect, we have a choice to ignore it or to call it out. But if others are being disrespected, we have an obligation to quickly name this behavior and firmly insist that it cease. However, even in the face of disrespect, we must continue to maintain a sense of calm. Rather than be accusatory or aggressive in insisting people to refrain from disrespectful language, we can say things like: “I can see that you are upset, but I cannot continue to discuss this when you use disrespectful language.” Or, “Because of your use of inappropriate language I am having a hard time focusing on how I can help.” Or, “In order to have a helpful discussion, we need to make sure that we are all treated with dignity and respect. Is everyone willing to do that?”

The third question may be the most difficult: we may not be able to meet others’ needs. However, if we are making a good-faith effort to understand those needs and address them, we are still on the right track. Here are some techniques that can help:

Seek understanding

- Where possible, express empathy, even if we do not agree with their position.
- Try to understand what they are feeling and why.
- Where possible, redirect challenge statements or questions.
- Do not minimize others’ concerns or feelings, even if we don’t understand them.
- A simple caring statement or question may be appropriate.

Create a path to next steps

- Shift the conversation to the future.

Even in the face of disrespect, WE MUST CONTINUE TO MAINTAIN A SENSE OF CALM.
Do not minimize others’ concerns or feelings, EVEN IF WE DON’T UNDERSTAND THEM.

- Ask for their ideas about solutions. What do they hope for and why?
- Ask “what” questions, such as “What are you willing to do?” and “What am I willing to do?”
- Use the “we” pronoun to make ideas inclusive.
- Seek agreement through positive responses.

If necessary, leave
Sometimes we get sucked into a disagreement and we or “they” are unable to maintain control over thoughts, feelings and actions, and despite our best efforts, someone refuses to calm down. There are basically three circumstances under which it is best to leave a situation rather than continue:
- If escalation continues
- If we feel unsafe (or are not accorded dignity and respect)
- If de-escalation is not possible

Like the needle on a compass, the goals, strategies and techniques presented herein cannot tell us where, when and how we should journey towards effective de-escalation, but they can show us if we are going in the right direction.

Eric Giordano, Ph.D., is the executive director of the Wisconsin Institute for Public Policy and Service.

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1. This article is intended as an introduction to conflict de-escalation. To fully understand and practice de-escalation in professional settings, the author strongly recommends professional training/coaching.
2. Or more than six feet if under health-related social distancing guidelines.
3. The author suggests using an ethical communication model or similar approach.
4. It is possible that we can de-escalate an acute conflict on a temporary basis and return to a state of more respectful disagreement. In other words, disagreement itself is not a reason to abandon a de-escalation.
Tell us about your childhood and how it shaped who you are.

JILL UNDERLY: I am the oldest child of a retired union industrial electrician and an administrative assistant who stayed at home with us four children while we were in school. We are a close family. We were active in our Catholic church as I grew up, and my parents instilled in us the value of hard work, community service and love of family. My parents wanted all their children to go to college because of their own experiences growing up working class, and they worked hard for us to realize that goal. As a young child, even though my dad had a great union job, I recall periods where there was no work, especially in the early 1980s. He would have to travel to other parts of the country to find opportunities to work and support the family. I remember how deeply this impacted me as a young child, and I think about this period in my family's history when I think about the struggles our youngsters bring with them to our classrooms.

We spent a lot of time camping and enjoying state and county parks throughout the Midwest, and as a result I have always enjoyed the outdoors and appreciated and protected our natural resources. I was also involved in 4-H, which is a different type of learning that helped me explore other interests outside of school. As a student though, I had access to everything I could imagine through my school. I had music, athletics, science, humanities, art and theater. We had elaborate school musicals when I was in high school. I had excellent teachers who shared their love of learning with us, and between them and my family, I feel like I had the best, most well-rounded education possible. All this in small-town Indiana. I think this experience made me as a parent and as a school administrator realize that all of this is possible, but it takes a joint commitment to do this in partnership with our schools, our families and our state government.

Meet the new

STATE SUPERINTENDENT

of PUBLIC INSTRUCTION

Dr. Jill Underly, elected State Superintendent of Public Instruction in April, has a deep background in public education. Since 1999, she has worked in all facets of public education — as a high school and middle school social studies teacher, a University of Wisconsin College of Letters & Science academic advisor, a Title I consultant and assistant director at the Wisconsin Department of Public Instruction, an elementary principal and director of instruction, and, most recently, a school district superintendent.

Underly received bachelor’s degrees in history and sociology from Indiana University-Bloomington, a master’s degree in secondary education from Indiana University-Purdue University, and a master’s degree in educational administration and a doctorate in educational leadership and policy analysis from the University of Wisconsin-Madison.

She and her husband, John, have two children, one in middle school and one in high school. They live on a small farm in southwestern Wisconsin.

Underly answered questions from the Wisconsin School News to introduce herself to school leaders across Wisconsin.
WSN: Why did you pursue a career in K-12 education?

JU: It was my own experiences growing up with an excellent public education that made me decide to do this, along with the fact that I had three different teachers when I was in high school tell me that I would make a great teacher. I loved working with kids, having worked in a family childcare in my neighborhood, and it seemed to be a natural fit for me. Initially, I thought about becoming a music teacher, and then drifted shortly to thinking about historical preservation and architecture. But I stayed the course and found I had a knack for both learning and teaching, and I enjoyed every moment of my college experience. At the end of the day, I really wanted to work with kids, and somehow replicate the great school experiences I had as a child.

WSN: What is your vision for the future of public education?

JU: I always go back to what public education is: a promise to our kids, and a promise to the future. It's a promise that acts like a savings account, where people in the past and present contribute and build resources that provide for the needs of our children. It's a system that serves our kids from birth through grade 16 — a promise of school buildings, of academic programs, of educators — which all work together to advance the common good. I look at other countries that don't have a high-quality public school system and there is so much societal inequity and income inequality. In those cases, only those who can afford to send their children to a well-equipped school will do so. Thankfully, that's not how Wisconsin's education system is designed.

I want Wisconsin's public schools to be first class. And in many ways, they are. What troubles me is that we're aggressively drawing down on the investments made long ago. It's on us now to work with policy-makers to understand how important this investment is, or our system will not always be first-class. We need to ensure that every child — regardless of their zip code, parental income, family status, race, gender and ability — has access to a first-class system. If they don't, the future of our state, our lifestyles, our health, our enjoyment of innovation and our natural resources, are all in jeopardy.

WSN: What are your top three priorities as state superintendent?

JU: Funding, funding, funding. In all seriousness, we need to be sure that we keep our foot on the gas in advocating for education funding in this state. It's so easy to brush this aside, but leaders 30, 60 and 90 years ago made a constitutional commitment to school funding.

Flowing from that funding conversation, we need to look at expansion of early childhood programming so there is uniformity and opportunity for all kids from birth through grade three, and we must build up the teaching profession. The need to diversify our teaching profession is especially important to our success. We need leaders who look like their students and share life and cultural experiences. We need to embrace the idea that teachers, including early childhood teachers, deserve better pay and working conditions because of the role they play in our children's lives. And we need to compensate them appropriately for their education and expertise. Again, it shouldn't matter where an individual teaches, just like it doesn't matter where our students learn.

“I always go back to what public education is: a promise to our kids, and a promise to the future.”
WSN: What is your reaction to the recent state budget debate on K-12 education?

JU: Honestly, I’m very frustrated. For years, bipartisan leaders in the state Legislature have talked about the need for a windfall of money to fix the gaps in our funding system. When the once-in-a-generation opportunity arises, we are failing to meet the occasion. Everything that came out of the Blue Ribbon Commission points to higher special education reimbursement, increased factors to account for poverty, a change in how we fund English learners, more help for sparsely populated districts, and additional transportation support — all these things need an influx of cash.

Time and time again, legislators have lamented that “schools should be run like households or businesses.” When I’m presented with an unexpected amount of money in my household budget, I fix my roof, protect the present and invest in the future. Our urban and rural school buildings are falling apart. We need to upgrade our HVAC systems and make sure our buildings are safe. We need to bring staff pay more in line with what other professionals are making. We need to invest in student mental health now more than ever, but we can’t. Make no mistake, we will pay more down the line in so many ways for our current neglect.

WSN: What can the state superintendent do to promote equitable educational opportunities and equitable treatment for all students in our state?

JU: Lead by example, promote the programs that are working, provide research-driven guidance for districts to model, and continue to be the biggest advocate for equity. The state superintendent’s office has a megaphone, and we need to use it to amplify the great things that are happening, illuminate the things that need to be changed, and draw attention to knowledge that needs to be shared.

WSN: What are the greatest challenges facing our public schools and what will you do to address them?

JU: The biggest challenge facing our public schools is the threat of extinction. I think we need to understand that no matter where we live in Wisconsin, because it could feasibly happen in our lifetime. There are so many factors competing to be the number one reason for our demise. Many people are disengaged. Some don’t have kids in school anymore or never had kids, and they’ve lost sight of how public schools impact our greater economic health. Our populations are declining across the state, but specifically in rural areas. And as a result, schooling becomes more expensive. There are fewer opportunities for kids in rural areas and families see that.

I frequently reflect on what we can do to make sure we provide opportunities for high-quality public school programming in rural and urban areas. I’m worried about the
“I’m worried about the teacher shortage and that we are not retaining teachers in our schools.”

teacher shortage and that we are not retaining teachers in our schools. I’m worried about public tax dollars that should go to public schools but are siphoned to private schools — an issue for another day. I value our private school partners, but disagree with a funding path that pits schools against each other for scarce resources. Either way, voucher programs compete for public dollars for education, which hastens the potential loss of our public school system.

**WSN:** What is the role of school boards in today’s public education system?

**JU:** They are part of the team! As tax dollars fund our schools, school boards are the public accountability to ensure these dollars are spent responsibly, and that our school policies guide the practice of what’s best for kids. I can’t think of a more underappreciated elected office than school board members, and every chance I get, I thank them for what they do for their communities. Boards set the vision and the goals for the district. I think their role must focus on fiscal accountability, policy, advocacy for their public school district with their state elected leaders, and public promotion of their school districts.

My vision is to have school district administrators, legislators and school boards work together — because ultimately (I hope) we want the same thing: strong public schools. It feeds our souls, it strengthens our economy, and strong public schools are our ticket to a better, happier life. At the end of the day, everyone should have an opportunity to be happy and find their passion, and public schools do that. School board members play a critical role in ensuring this happens.

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Coming CLEAN

Six steps to your district’s clean energy transition

Samara Hamzé, M.S. and E.G. Nadeau, Ph.D.
Districts are looking for examples and a step-by-step guide to plan and implement clean energy transitions.

Before we jump into that transition, we’ll define our terms.

Clean energy is achieved in two ways — by using energy more efficiently or by installing and purchasing renewable energy. Energy efficiency can be thought of as energy saved (or energy costs avoided) through implementation of LED lighting, improved insulation, cost-effective heating and cooling systems, and similar measures. Renewable energy is energy derived from renewable sources, such as solar, wind and biofuels.

The state of Wisconsin and its six publicly traded utilities have committed to becoming carbon neutral by 2050. The state’s school districts are realizing an excellent return on investment and other benefits by joining in this clean energy transition.

Increasing a school district’s clean energy can provide multiple benefits:

▪ Energy cost savings
▪ Reduction of carbon emissions
▪ Health and safety improvement in schools and communities
▪ Learning and career exploration opportunities for students

These benefits apply to school districts of all sizes in both rural and urban communities throughout the state.

**Making a clean energy transition in school districts**

Each school district’s transition to clean energy is unique. However, districts tend to follow six basic steps: Establish a clean energy committee; conduct an energy audit; prepare a clean energy transition plan; implement the plan; monitor and evaluate the impact; and inspire others to act.

1. **Establish an energy committee**

   Three key points about forming a clean energy committee are: for its members to be passionate about clean energy, for the committee to be small (five to 10 people), and for the members to represent multiple stakeholder groups — for example, a clean energy committee could consist of a school board member, district staff person, teacher, student and community representative.

2. **Conduct an energy audit**

   The adage “you can’t improve what you haven’t measured” holds true, not only for evaluating academic performance, but also for evaluating the performance of school buildings and for reviewing renewable energy options.

   Jason Demerath, director of business services for the Fort Atkinson School District, notes that energy savings projects at the high school will “help pay for the other maintenance projects that are needed. These items include a complete LED lighting retrofit, building exterior improvements, installation of fans in high-ceiling...
areas, complete replacement of the pool operations system, replacement of a boiler and the replacement of the controls and equipment for heating and cooling the building.” These projects are expected to save the district at least $99,000 annually in energy and would qualify for approximately $41,000 in Focus on Energy rebates.

In 2018, Focus on Energy conducted a benchmarking study of Wisconsin schools. In the study, half of all school districts — and 1,223 school buildings — received a comprehensive analysis of each building’s energy performance, including energy consumption, carbon emissions and costs.¹

The expertise of a school district’s facilities manager, data from the 2018 benchmarking study, and assistance from a Focus on Energy advisor can be brought together to forecast the ways in which energy efficiency improvements can provide cost-saving benefits to a district.²

An energy audit almost always shows that buildings can be made more cost- and energy-efficient and that renewable energy is a long-term, cost-saving measure. Even if a school district previously explored renewable energy, now is the time to revisit the return on investment based on the current market price of installed renewables. The Solar Energy Institute has determined that the cost of installed solar has dropped by 70% since 2010. Grants and other financial incentives, as well as the historically low cost of solar energy, can reduce or stabilize fixed costs for a school district.

3. Prepare a clean energy transition plan

The most difficult step occurs in the transition from doing the energy audit to making the financial commitment to implement an energy transition plan. Across Wisconsin, many facilities managers have experience improving the clean energy profile of the school buildings in their portfolios. These professionals and their staff are continuously learning through attending Wisconsin Association of School Business Officials conferences, sharing best practices with each other, and continuing their education. Lean on the experience and professional networks of these highly skilled staff members to improve the energy performance and reduce the operating costs of your school buildings.

Across Wisconsin, many facilities managers have experience improving the clean energy profile of the school buildings in their portfolios.

At least four school districts in Wisconsin have already made zero-carbon commitments. The Middleton-Cross Plains Area and Madison Metropolitan school districts have each committed to achieving 100% net-zero carbon emissions by 2035 and 2040 respectively. Each district’s school board has passed a resolution to achieve these goals through a combination of energy efficiency and renewable energy.

As one step in implementing its clean energy goals, the Middleton-Cross Plains Area School District has entered into a purchase agreement with Madison Gas and Electric for 1 megawatt of solar energy. This is enough energy to power about 150 Wisconsin homes. “[The] school district has a long and proud tradition of supporting sustainable, energy-efficient and environmentally friendly initiatives,” Superintendent Dana Monogue said. “This partnership with MGE and the City of Middleton is another example. We are also excited about the potential energy savings of more than a million dollars over the next 30 years.”

The solar array is estimated to save the district $28,381 in electricity costs during the first year the array is operational and $1.1 million by 2048 compared to rates from non-renewable energy sources.

Using a similar approach, the Madison Metropolitan School District is planning to purchase 3 megawatts of solar energy from Madison Gas and Electric beginning later this year. The proposed project is expected to meet about 20% of the district’s electrical energy needs.

For a school district seeking on-site solar, the Center for Renewable Energy Advanced Technological Education at Madison College has developed a solar toolkit.³ Furthermore, the Midwest Renewable Energy Association’s Solar on Schools program has documented case studies of solar schools and the Wisconsin Solar School Mentor Network.⁴ School districts interested in implementing clean energy have
mentors, funders and experienced professionals to help them design a plan that is right for their district.

During the plan preparation phase, a school district’s energy team can work closely with a small group of professionals to assist in assessing energy efficiency and renewable energy projects, identifying sources of funding, and providing guidance for developing its clean energy request for proposals.

To enhance the educational component of a school’s energy efficiency and renewable energy investments, district planners should consider including Youth Apprenticeship or other academic and career planning components into the proposals. For renewable energy installations, include the costs of an energy dashboard that can be used by teachers and students to explore and learn about energy production and savings in each building.

4. Implement the plan
If the most difficult part of a clean energy transition is deciding to take action, implementing the plan is relatively simple. Once the clean energy project has gone out to bid and the district has committed to a project, its implementation is a matter of coordinating logistics between the school district and the project manager.

This is also an opportunity to engage high school students with hands-on learning, and for younger students to explore the many career clusters that are involved with bringing a large project to completion. For schools with energy dashboards, Wisconsin’s K-12 Energy Education Program

District planners should consider including Youth Apprenticeship or other academic and career planning components into the proposals.

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offers professional development and instructional materials for teachers to integrate energy data from the dashboards into their curricula. The implementation phase is also an opportunity for school districts to highlight the financial, environmental and health benefits of clean energy to their community.

5. Monitor, evaluate and improve the results
A clean energy transition is not a “one-and-done” proposition. It’s an ongoing process. Some questions to consider include:

- Are the improvements in energy efficiency and increased use of renewable energy meeting their targets?
- If not, how can performance be strengthened?
- Are new technologies creating opportunities for even cleaner energy applications?
- Is the school district making use of its clean energy transition to educate students and community residents about its many benefits?

Rice Lake Area School District provides an example of effective energy monitoring, evaluation and improvement. The district installed a wood boiler in 2007 to replace a natural gas heating system. Pat Blackaller, the director of finance and operations, estimates that, “We have cut our energy bill in half” as a result of the change to biomass heating. “For the 2019-20 school year, we spent a total of $89,000 to heat the buildings connected to the wood plant.” During the school year prior to the installation, the district spent $210,000 on natural gas heating. Blackaller points out the actual energy savings from wood heating were even greater because there had been a 10% increase in the square footage being heated, and the new boiler is not used during the entire school year.

Because the Rice Lake Area School District monitored and evaluated the results of its biofuel installation, they were able to recognize the return on that investment. Now the district is in the process of adding another clean energy component. Legacy Solar Co-op of Wisconsin is working with the district to install 750 kilowatts of solar panels on the rooftops and grounds of three schools. According to Kurt Reinhold, managing director of the co-op, “These panels will provide 20% of the three schools’ electrical energy needs and generate $1.6 million in energy savings over the next 25 years.”

6. Inspire others
Districts that have completed clean energy projects can inspire others by sharing their story. Schools can be a valuable community resource for other schools in the state and region that are contemplating their district’s energy future.

In 2020, the Oregon School District completed Forest Edge Elementary, Wisconsin’s first net-zero carbon emissions school. “The school has been designed to efficiently use and conserve energy,” Oregon Superintendent Leslie Bergstrom said. “In fact, it is a ‘net zero’ building, which means it will produce at least as much energy as it uses in a year.”

Through a combination of highly efficient energy usage, solar panels and geothermal energy, Forest Edge is the first school in the state to meet all its own energy needs. This school building is expected to generate an average annual energy
Savings of $82,000. When districts lead by example, it inspires other districts to imagine the possibility of using only clean energy to operate their buildings.

When the educational and career components of clean energy are integrated into the project from the outset, a district can be a beacon for other communities to combine infrastructure and instruction into relevant, place-based learning for students. Schools that have energy efficiency, renewable energy, clean energy resolution or other sustainability practices are invited and encouraged to participate in Green & Healthy Schools Wisconsin. This multi-agency partnership recognizes schools for supporting healthy kids and sustainable communities, and shares the stories of participating schools.

Conclusion and invitation

The six steps shared here provide a broad overview for planning and implementing clean energy in Wisconsin school districts. The energy landscape is quickly evolving, and knowing what technologies, incentives or other opportunities are available to schools can be difficult to track. Over the course of the 2021-22 school year, Wisconsin’s K-12 Energy Education Program is hosting a series of virtual informal chats, “KEEPing Current.” These occasional convenings will be co-hosted by experts on each of the six steps who will be available to answer questions from school board members and administrators. Together, Wisconsin can work to reduce the long-term operating costs for school districts as the state transitions to clean energy.

Samara Hamzé, M.S. is a sustainability professional educating users and employees about environmental programs.

E.G. Nadeau, Ph.D. is a retired sociologist active in renewable energy projects.

1. Focus on Energy benchmarking study: bit.ly/3laGjXz
2. Focus on Energy Advisor map: focusonenergy.com/energy-advisor-map
4. MREA – Solar on Schools: midwestrenew.org/solar-on-schools
5. Green and Healthy Schools Wisconsin: bit.ly/3j3g4Qd
6. KEEPing Current (virtual informal chats with Clean Energy for Schools working group): bit.ly/3zSRF6x
Connect with education leaders from your region during WASB Regional Meetings this fall. We’ll gather to celebrate our accomplishments, get an update on WASB activities and, in select regions, elect directors.

- **Boards in regions 1, 4, 9, 10 and 13** will be voting for a WASB regional director. (WASB directors serve staggered three-year terms.)

- **Each Regional Meeting features** networking, a Legislative Update and a report from WASB Executive Director John Ashley.

- **Prior to your Regional Meeting,** take part in an optional workshop with an experienced WASB attorney and consultant to learn more about effective community engagement at board meetings.

- **New in 2021:** A statewide, online Regional Meeting and workshop with the same program and agenda will be offered on Oct. 27. There is no fee to attend the online Regional Meeting (although registration is recommended). The online workshop will be the same fee as in-person. No voting will occur at the online Regional Meeting for any regional directors.

Visit WASB.org for more information and 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.

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**Fall 2021 Regional Meetings**  
**SEPT. 28 – NOV. 3**

**2021 Fall Regional Meetings & Workshops**

**September - November**

**Dates and Locations Vary by Region**

**FALL 2021 REGIONAL MEETINGS SCHEDULE**

| Region 1* | Sept. 29 – Spooner, Spooner Civic Center |
| Region 2 | Sept. 28 – Minocqua, Norwood Pines Supper Club |
| Region 3 | Oct. 6 – Green Bay, Rock Garden/Comfort Suites |
| Region 4* | Oct. 12 – Menomonie, Off Broadway (by Stout Ale House) |
| Region 5 | Oct. 13 – Rothschild, Holiday Inn |
| Region 6 | Oct. 28 – Onalaska, Stoney Creek Hotel La Crosse-Onalaska |
| Region 7 | Oct. 7 – Neenah, Bridgewood Resort |
| Region 8 | Oct. 5 – Kiel, Millhome Supper Club |
| Region 9* | Oct. 26 – Fennimore, Southwest Tech |
| Region 10* | Oct. 21 – Wisconsin Dells, Trappers Turn |
| Regions 11 & 15 | Oct. 19 – Pewaukee, The Ingleside Hotel |
| Region 12 | Nov. 3 – Verona, Verona Area High School |
| Region 13* | Oct. 20 – Elkhorn, Monte Carlo Room |
| Region 14 | TBD – Milwaukee, Milwaukee Public Schools Administration Building |
| **Online** | Oct. 27 – Open to all members |

* Denotes regions with elections for WASB Board of Directors
School Board Week Planning Kit Available

Oct. 3-9 is School Board Week in Wisconsin. Head to WASB.org to find a Wisconsin School Board Week Planning Kit. It includes:

- Activity ideas
- Sample resolutions
- Sample news releases
- Social media posts
- Sample opinion column
- Graphic templates to help you recognize your school board
- And more!

WASB CIVIL RIGHTS TRAINING

The WASB has partnered with the law firm Boardman & Clark to create a series of training modules to help districts navigate legal and practical civil rights issues for their students and employees. Subscribe to receive access to all webinars and presentation materials in the series.

To learn more about a training package that fits your district, visit WASB.org.

WASB TITLE IX TRAINING

The WASB also partnered with Boardman & Clark to create a series of training modules to help school districts adapt to wide-reaching changes to sex discrimination laws that took effect in August 2020. Districts looking to subscribe for the 2021-22 school year can learn more about a package that fits their needs at WASB.org.

Online Learning Platform Expands

A comprehensive source of online training for Wisconsin education leaders, the WASB’s Online Learning Platform is a living library, changing as new resources are added, including sessions on:

- Community engagement
- Complaint procedures and the chain of command
- The roles and responsibilities of school board presidents
- School board goal setting

Access to the Online Learning Platform is available as an annual subscription based on board size. Districts can choose access to the full Platform or the Board Officers series only. The initial group of webinars in the Board Officer series is now complete.

SAVE THE DATE

Saturday, Nov. 6
The 2021 Fall Legislative Conference will take place in Stevens Point. Keep an eye on WASB.org for event details.

Patricia Vickman Joins the WASB

Patricia Vickman has joined the WASB as a search and governance consultant. Vickman was most recently superintendent of the Southern Door County School District, a position she held since 2012. Before that, she was executive director of administration and executive director of human resources at the Oshkosh Area School District. At the WASB, her specialties will include human resources and community relations. She has experience with referendums, surveys, summits and other methods of collecting community feedback.

Vickman can be contacted at pvickman@wasb.org.
Legislation Aims at Curriculum Transparency, Banning Certain Concepts

WASB raises concerns at public hearing

With the 2021-23 state budget now signed into law, and following a brief summer break, activity in the Senate and Assembly Education committees has resumed.

On Aug. 11, the Senate and Assembly Education committees heard over seven hours of testimony during a rare joint public hearing. This testimony, which sparked strong emotions, mostly concerned Senate Bill 411 and Assembly Bill 411 — a pair of identical companion bills that seek to bar public schools from teaching students and training employees using race or sex stereotypes and other concepts purportedly associated with critical race theory. It also provided a revealing glimpse into how some legislators — and, apparently, a segment of their constituents — view public schools and school board governance.

We were troubled for two reasons. First, there was a lack of evidence/documentation to show that any of the prohibited concepts are actually being taught in Wisconsin public schools. Second, searching out certain words or phrases like “equity” or “systemic racism” does not indicate whether or how those subjects are actually handled in a classroom.

Equally troubling, some proponents of the bills called for audio recordings of all lessons while others called for placing video cameras in classrooms or having teachers wear body cams like police officers. Of concern was a general lack of trust in the halls of government.

Debate over the bills comes amid a nationwide push by political groups, think tanks and other organizations to ban the teaching of critical race theory, an academic theory which posits that racism is an inherent feature of American social structures and policies. Although the phrase “critical race theory” does not appear in either bill, it was invoked many times by multiple speakers during the hearing.

Addressing the joint hearing, Senate author André Jacque (R-De Pere) said he was proud to bring forward legislation “to stop a false narrative and promotion of racist indoctrination that does not belong in the classroom or the halls of government.”

Under these bills, if the state superintendent determines that even a single teacher in a district has violated the prohibitions on what may be taught, that district could lose 10% of its annual state funding (i.e., its general equalization aid).

In written testimony, the WASB noted that 10% of a district’s general equalization aid can vary widely from district to district under the state’s general equalization aid formula, ranging from next to nothing in some “zero aid” districts to as much as $950 or more per student in others.

The bills could subject school districts to a potential double whammy by also allowing parents or guardians to sue a district for monetary damages for an alleged violation of the bills’ prohibitions. Those damages would not be subject to existing limits on governmental immunity.

These bills further require a school board to post all curricula on the school district’s website and, upon request, provide a printed copy of any curriculum that it is required to post on its website, at no cost to the requester.

In written testimony, the WASB noted that federal law already requires school districts to adopt written policies addressing the right of a student’s parent, upon request, to inspect (but not necessarily receive copies of) any instructional material used as part of the educational curriculum for the student within a reasonable period of time. The WASB also cited concerns with the additional workload and costs imposed by these provisions, noting that many districts do not have a full-time webmaster. The WASB also raised concerns about provisions requiring schools to reproduce materials protected by copyright law.

The other bills heard — Senate Bill 463 and Assembly Bill 488 — would require each school board to post on its website a lengthy and prescriptive list of the learning materials and educational activities used in the school district. The board would also be required to post any procedures or policies that apply to the
documentation, review or approval of such learning materials or educational activities. That bibliographic list would have to be updated at least twice a year and maintained for at least five years. Any district resident could sue the district to force compliance and be awarded up to $15,000 in attorney fees.

Sen. Duey Stroebel (R-Saukville), Senate author of the bills, shrugged off questions about the staff work and costs school districts might incur to comply with the bills, saying, “It’s a school’s job to provide transpar-

ency to their curriculum, to make it available to the public … If a school isn’t doing that, I imagine it would take some manpower to accomplish this. But if you ask me, they haven’t been doing their job for years if they’re not doing that. It’s time they start doing their job.”

Overall, there is a disconnect that reviewing posted curricula or materials for certain concepts or trigger words would indicate how those topics are handled in a classroom discussion. Concerns from students and parents about how teachers handle concepts in class are currently handled at the local level, including discussing the incident with the teacher and administrators and, if warranted, teacher discipline. Parents already have the right to access instructional materials. These bills seem to bypass these important discussions and draw likely incorrect conclusions about what is happening in schools based off posted curricula and other materials. — Dan Rossmiller, WASB Director of Government Relations; Chris Kulow, WASB Government Relations Specialist.

WASB RESOLUTIONS REMINDER

The Sept. 15 deadline for submitting a resolution to the WASB for consideration to become an official policy or position of the association is approaching. Before a resolution can be submitted, it must be officially voted on and approved by a local school board.

The WASB is a member-driven organization. Our positions are determined by resolutions adopted by the WASB Delegate Assembly, which meets annually at the time of the State Education Convention in January. The resolutions adopted by school board member delegates become official positions of the WASB, are published in the WASB Resolution Book, and remain in force until amended or repealed.

Individual boards initiate this process by adopting a board resolution and submitting it to the WASB by the Sept. 15 deadline.

The WASB Policy and Resolutions Committee, comprised of about 25 school board members appointed each year from across the state and from within each of the 15 WASB regions, reviews and evaluates them and determines which will advance to the Delegate Assembly.

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Sheila’s practice focuses on general school law, special education law, and employment law. She counsels public and private schools on topics such as: IDEA complaints and due process hearings; IEP and 504 Plan issues; student discipline, bullying, harassment, and discrimination complaints and investigations.

Jennifer’s practice focuses on litigation, and helping clients navigate the often confusing, and stressful phases of a lawsuit. Whether prosecuting or defending an action, Jennifer’s experience enables her to focus on strategy, and positive outcomes for her clients given her wide breadth of familiarity with the courtroom.

In her practice, Corinne focuses on general school law, labor and employment law, and litigation. She assists clients in drafting policies, procedures, and agreements and advises them on various issues, including employment contracts; discipline; and discrimination complaints and investigations, among others.
Real Estate Transactions in School Districts Revisited

School board members may face decisions related to a district’s acquisition or sale of real estate. These situations arise in a variety of circumstances. For example, a district may need to purchase land in order to build an additional school as part of its plan for future student population growth or consolidation. The district may also need to sell real estate after closing a school that the school board does not intend to use in the future. In each of these situations, leasing the property may be preferable to a purchase or sale, particularly if the need for the transaction is short term or temporary. Finally, districts are often faced with the need to acquire or grant an easement to allow for limited use of a particular property. In most real estate transactions, the district administration typically works with legal counsel on the details of the transaction. However, board members should have a general understanding of the options and processes involved in order to inform their decision making. This Legal Comment will discuss the processes related to real estate transactions, including when a district is obligated to obtain elector approval.

Real estate acquisitions

Elector approval is required for certain actions in common and union high school districts. By contrast, unified school districts do not have the same requirements for elector approval, and the following discussion of elector approval is inapplicable to these districts. The powers that are reserved to the electors in a common or union high school district are exercised by the school board in unified school districts without statutorily required elector involvement.

Acquisition of real estate generally requires elector approval. Specifically, electors may authorize a school board to acquire – by purchase or condemnation – real estate, structures and facilities included within such real estate “necessary for school district purposes.”1 Thus, the electors have the discretion to determine whether the purchase of real estate is “necessary for school district purposes” and to grant or deny authority for the acquisition. Electors may also designate sites for school district buildings and provide for the erection of suitable buildings on those sites.2 Administrators and school board members must, therefore, factor elector approval into the acquisition planning process so that approval is obtained in a timely manner.

Elector authorization for the acquisition of real estate is typically given at a special or annual meeting of the electors. Elector approval authorizes, but does not compel, a district to complete a transaction. A school board retains the authority to finalize the precise terms of the transaction, including the purchase price, and to decide whether to complete the transaction, even if it has received prior elector approval.

In some instances, elector approval may be obtained by means other than at a special or annual meeting or may not be required to complete the acquisition of real estate. For example, if a purchase transaction involves borrowing, the approval of a borrowing resolution by the electors at a referendum election may constitute elector authorization to use the money to complete the purchase.3 In addition, if a board borrows money under the statutory $1 million exemption from referendum approval, this exemption may permit the board to use the borrowed funds to purchase real estate without separately securing elector approval for the purchase.4

Boards also likely have independent authority under state statute to enter into agreements with other governmental units for the purchase of land, buildings and equipment for educational purposes without elector approval.5 Finally, a board generally can accept land donated as a gift without securing prior elector approval.6

When purchasing real estate, it is not uncommon for a district to secure an option to purchase the real estate before seeking elector approval of the transaction. Securing an option to purchase (or entering into a purchase agreement with elector approval as a contingency) before seeking electoral approval offers some advantages. For example, if the district is able to secure the right to purchase in advance of the time that the district seeks elector approval, the terms of the transaction are set, and electors may be provided with greater detail regarding the proposed transaction. Therefore, the board may be interested in negotiating an option to purchase or a conditional purchase agreement as an initial step.

Under this approach, the order of events for the acquisition of property will typically follow this progression:
1. Negotiate an option to purchase or a conditional purchase agreement;
2. Obtain elector approval at a special or annual meeting;
3. Determine the source of funding;
4. Undertake “due diligence” investigations;
5. Obtain board approval for the purchase;
6. Exercise the option to purchase or waive purchase contingencies;
7. Complete the purchase transaction.

The district’s “due diligence” investigations cover a number of issues to be addressed before purchasing real estate. Generally, however, it means making sure that the property may be used for its intended purpose without incurring undue costs. Such due diligence investigations may include conducting an environmental review/audit; reviewing soil samples to determine the suitability for building construction; identifying and addressing any zoning and land division issues; and confirming that electric, gas, sewer, water or other utility services are available to the property.

The overall acquisition process may include various other steps and considerations. For example, when a district is negotiating with a private landowner for the purchase of real estate, the district may need to provide information to the landowner regarding the district’s ability to condemn the property to compel acquisition. In addition, if the purchase of the property could result in the relocation of a business, farm operation or tenant, the district may be responsible for giving notice of relocation rights and paying “relocation costs” under Wisconsin law. If the district is considering the purchase of a property that is listed on the National Register of Historic Places in Wisconsin or the State Register of Historic Places, or is a locally designated historic place, then as early as possible before the purchase, the district should:
1. Determine its long-range plans for the property;
2. Assess whether and to what extent the plans or the purchase itself will affect the historic property; and
3. Notify the state historic preservation officer of any effect its proposed action will have on the historic property.

The district should consider obtaining a property appraisal in order to ensure that the purchase price reflects fair market value. Finally, an agricultural impact statement may be necessary if the land that the district proposes to purchase is agricultural land. It is important for the district to consider these factors early in the process so that appropriate consultations and actions are made in order to avoid delays.

### Real estate sales

Unlike the acquisition of real estate, Wisconsin law does not require elector approval for the sale of district real estate. A board may “sell any property belonging to and not needed by the school district.”

Thus, a board has the authority to determine the terms of the sale, such as the price, timing and conditions of the transaction, and to complete the sale. When establishing a sales price, the district is required to obtain a fair value for the property, within its reasonable discretion. It is not uncommon for a district to seek an appraisal or a market comparison (prepared by a real estate agent) to aid in determining a fair price for real estate.

When selling district real estate, some boards opt to use a bid process in which the property is sold to the highest bidder. A bid process may increase the purchase price if there are a sufficient number of potential buyers interested in the property. Utilizing a bid process also helps to establish a time frame within which a district markets and enters into an agreement for the property’s sale. The board can establish the parameters of the bid process through board policy or by action related specifically to the sale transaction. However, even if the board maintains some flexibility in selecting the buyer through its established bid process, this course of action creates a situation in which the board loses some control over the selection of a buyer.

Alternatively, districts can sell real estate by listing the property with a real estate broker or soliciting proposals to be negotiated with one or more prospective buyers. This process is more akin to the process associated with the sale of privately owned real estate. Such an approach affords the district more discretion in determining whether to proceed with

Unlike the acquisition of real estate [in common and union high school districts], Wisconsin law does not require elector approval for the sale of district real estate.
a particular proposal (subject to nondiscrimination and other relevant laws) and in determining the specific terms of a purchase agreement. Depending upon how the district structures the negotiated proposal process, it is still possible to obtain a competitive price if the district is able to solicit competing offers within a common time frame.

Lease of third-party property

When additional space is needed for instructional or other school-sponsored activities, another option is to lease space from third parties; however, elector approval is required under Wisconsin law for common and union high school districts. The statute governing the acquisition of real estate also requires a school board for a common or union high school district to obtain elector approval for “the lease of suitable buildings for a period not exceeding 20 years with annual rentals fixed by the lease.” Thus, when considering the lease of facilities from a third party, the district’s process should include elector approval at an annual or special meeting. As in the case of purchase agreements, however, the district retains the discretion to determine the terms of the lease agreement, subject to the limitation that the term not exceed 20 years.

Lease of school district property

When leasing school district property to others, the question of whether elector approval is needed for common or union high school districts is usually determined by the particular circumstances. On the one hand, Wis. Stat. § 120.13(17) authorizes a school board, subject to certain conditions, to grant “temporary use of school grounds, buildings, facilities or equipment” if such use “does not interfere with use for school purposes or school-related functions.” This law provides the basis for facility-use policies governing off-hour, weekend, evening and other temporary use of school facilities by community members and others. No elector approval is required for such temporary use. On the other hand, in cases where the board intends to enter into a lease of school property other than on a temporary basis, the board may generally lease school sites, buildings and equipment only if approved at an annual or special school district meeting. Consultation with legal counsel is advisable if a proposed lease of school district property does not clearly fall within the category of temporary use.

Easements

Easements generally involve the transfer of some, but not all, of the rights associated with ownership of a particular property. For example, a landowner may grant an easement to a utility company to extend lines, poles or pipes under, over or across a strip of land, without transferring the underlying ownership of the land to the utility.

Common and union high school districts should consider whether to obtain elector approval in connection with the acquisition of easement rights because easement rights constitute a form of real estate or property interest. Although there are varying legal opinions regarding whether elector approval is necessary for the transfer of easements, by obtaining elector approval, a district eliminates the risk of someone contesting that the district did not have proper authority to transfer the easement.

Conclusion

Boards may be required to make decisions about whether to purchase, sell or lease property. There are a number of steps and options for boards to consider, including the possibility that the transaction must first be approved by the electors. Accordingly, districts and boards should involve legal counsel early in the process to determine the best course of action based on the particular facts and circumstances.

Endnotes

1. Wis. Stat. s. 120.10(5m).
2. Wis. Stat. s. 120.10(5).
3. Wis. Stat. s. 67.05(7)(d)1.
4. Wis. Stat. ss. 67.05(7)(d)2; 67.05(6a)(b).
5. Wis. Stat. ss. 120.13(3); 120.25.
6. Wis. Stat. s. 118.27(2).
7. Wis. Stat. s. 32.185 et seq.
8. Wis. Stat. s. 120.12(21).
10. Wis. Stat. s. 120.13(19m).
11. Wis. Stat. s. 120.10(5).
12. Wis. Stat. s. 120.13(25).

*This Legal Comment was written by Michael J. Julka, Brian P. Goodman, and Daniel T. Fahey of Boardman & Clark LLP, WASB Legal Counsel. This Legal Comment is an updated and revised version of a previous article in Wisconsin School News, “Real Estate Transactions in School Districts” (June 2012).
Educational Services And Products

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