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Official publication of the Wisconsin School Boards, Inc.

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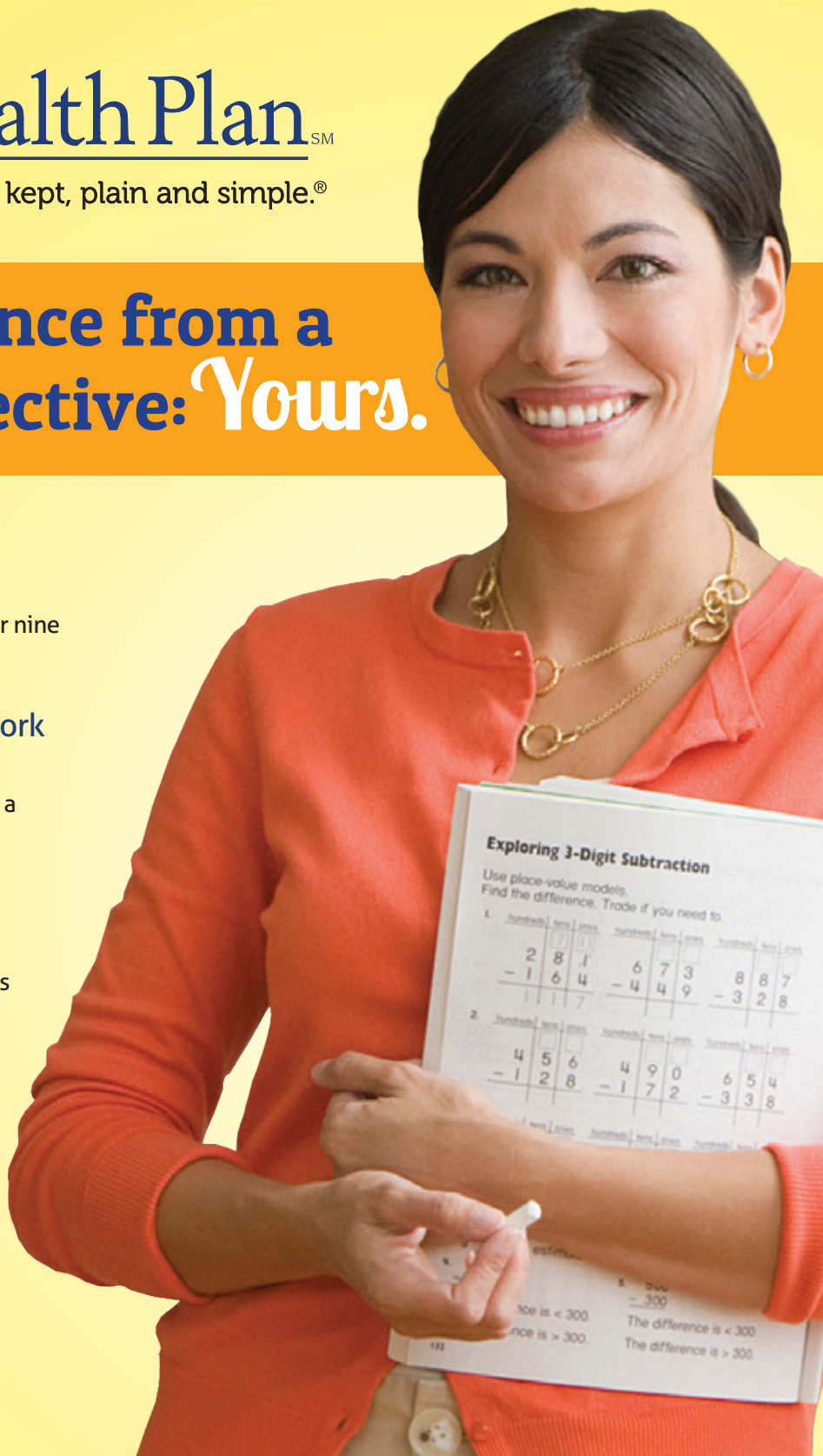
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SCHOOL DISTRICT OF BLACK RIVER FALLS AND THE HO-CHUNK NATION IMPROVE EDUCATION TOGETHER, page 4

4

A Shared History

Shelby Anderson

School District of Black River
Falls and Ho-Chunk Nation work
together to improve education
and support for all students

15

Evolution of Design

*Todd Bushmaker AIA, LEED AP
and Rob Koehler AIA*

Low-cost design options and
other tips that can help make
healthy and creative classrooms

10

Learning from Stay Interviews

Christine Hedstrom

Listening to your employees
can help improve your district
and employee satisfaction

20

Connections & Collaboration

Diana Callope

These constants in a sea
of education trends help
create an environment in
which students care to learn

DEPARTMENTS & COLUMNS

2 News Briefs

3 Viewpoint — A School System Focused on Improvement

22 WASB Insurance — Protecting a Significant School Asset: Property

24 Association News — Advocating for Public Education; WASB Webinars; Summer Leadership Institute

26 Legislative Update — JFC Actions on State Budget Play Critical Role for Schools

28 Legal Comment — District Responsibilities to Transgender Employees and Student

32 Service Associate Q&A — Jenna Goodrich of Arthur J. Gallagher & Co.

AP Performance Increases

More of Wisconsin's students are graduating from public high schools having successfully completed college-level coursework, according to a recent report on the Advanced Placement (AP) program.

The College Board's "AP Cohort Data: Graduating Class of 2014" also ranked Wisconsin the "Best in the Midwest" for AP performance. When it came to the percentage of graduates who succeeded on their end-of-course AP exams, Wisconsin was among the top 12 states nationwide.

And, the College Board named 26 Wisconsin public school districts to its Honor Roll, recognizing districts

that simultaneously increase access to AP coursework while increasing the percentage of students earning a three or higher on their AP exams.

"The Wisconsin education community has been tremendously creative in finding ways to offer rigorous, college-preparatory coursework to our students," State Superintendent Tony Evers noted. "Unfortunately, the governor's 2015-17 budget cuts funding, which means districts will be strapped to pay for the opportunities our students deserve."

Five of the 10 most popular AP exams in Wisconsin are in the burgeoning STEM fields (science, tech-



nology, engineering, and mathematics). Wisconsin is the only state in the nation with psychology as its most popular AP exam.

Many high schools offer AP courses as part of the established curriculum. Through the Wisconsin Digital Learning Collaborative, any student in Wisconsin can take AP courses online to supplement their school's offerings. ■

Wonewoc Students Donate Senior Trip Funds to Charity

The 2015 senior class at Wonewoc-Union Center School District decided to forgo their senior trip and instead donate the money to charity. The senior class raised funds by selling concessions and holding car washes with the idea that it would be used for their senior class trip to Six Flags Great America. However, during a class meeting, students decided to donate \$2,015 to St. Jude Children's Hospital and camp on the high school football field. However, officials at Six Flags Great America learned about the students' kindness and donated tickets to the entire Wonewoc-Union Center senior class. Now, the seniors will be rewarded for their charity with a free trip to the amusement park.

Counselor Holly Nemec said she is very proud of the students.

"It's one of those classes that will be missed," she said. "They're really good kids." ■

STAT OF THE MONTH

78%

Percent of Wisconsin voters who oppose the proposed \$127 million cuts to K-12 schools.

Source: Marquette University Law School Poll

Electronic Cigarette Use Triples Among Students

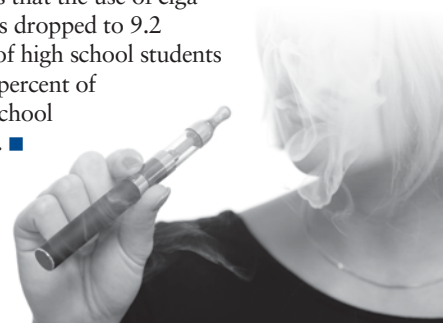
Estimates from the National Youth Tobacco Survey and Centers for Disease Control and Prevention report that the percentage of students in middle school and high school who use electronic cigarettes (e-cigarettes) tripled from 4.5 percent in 2013 to 13.4 percent in 2014.

Many health advocates have spoken out that cigarette manufacturers have marketed their product towards young people. Last April, the Food and Drug Administration (FDA) announced that it would begin to regulate e-cigarettes, and, among other efforts, place health warning labels on the products. However, one year later, no regulations have been enacted.

"The failure of the FDA to move more quickly means we have an

urgent crisis that needs to be addressed," said Mitch Zeller, director of the FDA's Center for Tobacco Products. "In the absence of strong governmental action, these numbers will only keep going up."

As the popularity of e-cigarettes increase, the use of conventional cigarettes has dropped to the lowest it's been in recent years. The report estimates that the use of cigarettes has dropped to 9.2 percent of high school students and 2.5 percent of middle school students. ■





A School System Focused on Improvement

School accountability legislation, once deemed a key priority of the current Legislature, seems now to be mired in the same sorts of policy debates that kept the issue from being resolved in the previous Legislature.

Without a doubt, one of the biggest challenges facing public education is improving and supporting struggling schools. Often, these schools and their students face additional barriers to learning, which merit our attention and support. Yet, funding for schools (and nearly everything else) is tight and likely to remain that way.

For better or worse, the accountability schemes being debated in Madison (and Washington DC, too, for that matter) are based almost entirely on students' standardized test scores for reading and mathematics. Lost in the focus on test scores is an emphasis on critical thinking, an appreciation of the arts, citizenship and social skills, and the acquisition of occupational and technical skills that will allow students to succeed beyond high school.

Many school leaders readily grasp how an accountability framework focused primarily on reading and math scores can result in inaccurately identifying certain schools as good or bad, narrowing the curriculum by creating incentives for schools to ignore many of the important purposes schools serve beyond boosting reading and math scores, and causing teachers to focus their attention on some students rather than others.

Some policymakers who hear such criticisms of narrow, test-based accountability react by throwing

back questions such as: Do you mean to tell me that schools should not be held accountable? Why should taxpayers continue to tolerate "failing" schools? If you don't like testing, what is your alternative?

These are hard questions for school boards to address, especially when the implicit message is that school boards have lost sight of their obligation to hold their schools accountable for the outcomes the public has set and that intervention from a higher level of authority is needed. However, labeling schools as failing is not the type of help that we need.

Some school accountability measures being considered in the state Legislature seem to prioritize punishment rather than appropriately addressing the underlying issues and providing the resources necessary for improvement. There have been discussions regarding future additional resources but thus far, they have been vague and unspecific.

Top-down "sanctions" from the state are unlikely to address the myriad of challenges that schools face or recognize that each school district and each school must overcome a unique set of issues.

What is needed instead is flexibility to deploy constructive interventions based upon sharing of best practices and professional development.

Evidence also suggests schools can be aided in helping children to overcome the barriers they face and improve outcomes if they are part of an integrated network of youth development and family support services that includes high-quality early childhood care, health services and after-school and summer programs, to name a few.

We have recently seen some signs of progress in Wisconsin with respect to creating such networks. Lawmakers on both sides of the aisle have put forth community schools proposals or proposals that would allow school districts the flexibility to use funds for similar purposes.

The community schools model aims to proactively address a complex range of factors that can lead to underachievement. It seeks to empower students, parents and other adult role models to overcome these factors and, ultimately, to boost student success in the classroom. This model has been implemented successfully in many communities, including Sun Prairie and Milwaukee.

We know that differences in the performance of schools on existing school report cards reflect the differences in the social and economic conditions of those communities or school attendance areas. Many children struggle with issues that many other children don't face and have fewer enrichment opportunities outside of school.

Nevertheless, our focus must be on improving the achievement of *every* student regardless of the barriers they face at home. As we emphasized at the State Education Convention in January, public schools educate "every child, every day."

Too often, lawmakers are quick to throw aside one education initiative for another. Turning schools around doesn't happen overnight and efforts need to be given a chance to make a difference. Overall, we need to focus less on pointing fingers and more on offering support to our low-performing schools. ■



A SHARED HISTORY

School District of Black River Falls and Ho-Chunk Nation work together to improve education and support for all students

Shelby Anderson

In 2010, leaders from the School District of Black River Falls and the Ho-Chunk Nation signed a historic memorandum of understanding (MOU). About 20 percent of the district's 1,900 students are from the Ho-Chunk Nation. The document, which is the first of its kind, clearly lays out what each entity expects from the other as they work together to educate the community's children.

"It's about meeting the needs of all students and understanding the ways those needs might be different for Ho-Chunk students," said Adrienne Thunder, executive director of education for the Ho-Chunk Nation.

The intent of the MOU is to "provide a framework for respectful and cooperative communication that utilizes consensus building for improving programs that affect

Ho-Chunk Nation tribal members."

Under the MOU, the two parties meet regularly and "agree to utilize every means necessary to resolve disputes through mutually respectful dialogue to avoid polarization, resentment, and tension." The district works closely with the Ho-Chunk Education Department and the Ho-Chunk Child and Family Services Department. District staff are trained to improve awareness and understanding of tribal protocol and culture. Day-to-day operations like transportation issues are also addressed by the MOU.

Shelly Severson, district administrator for the School District of Black River Falls, says the MOU opened up the door for collaboration between the district and the Ho-Chunk Nation.

"It's truly about systems of communication," Severson said.

The MOU has paved the way for increased communication, which has led to greater trust.



A SHARED HISTORY

■ Resolving Conflict

When the MOU was initially signed, it required monthly meetings between the district and Ho-Chunk Nation. Today, with fewer issues to resolve, they meet quarterly.

“The relationship is much more positive than it was before,” Severson said.

The idea of creating an MOU began about seven years ago when a complaint was filed against the district with the Office of Civil Rights. A group of Ho-Chunk tribal members perceived that the district wasn’t willing to discuss important topics with the tribe. They believed racism needed to be addressed, that there was

an over-representation of native student in alternative education, and that native students were being unfairly disciplined. After the complaint was placed, a representative from the Office of Civil Rights sat in on the district’s school board meetings.

Severson says the difference between the atmosphere today and seven years ago is that Ho-Chunk parents feel more comfortable coming to the district right away to resolve an issue.

Last fall, the district had an incident at the high school in which a Ho-Chunk student was offended by how a teacher handled a situation involving a conversation between students. After the student went home, she told her parents what occurred. That evening, the tribal president called the school district

asking for a meeting. In response, the district met with tribal leaders and conducted a full investigation of the situation.

“Many feel that the relationship is on a much more even footing,” Severson said. “If there is a conflict, they feel comfortable coming to us.”

Severson said another recent incident involved busing. Some Ho-Chunk parents believed the district wasn’t providing adequate busing from the Ho-Chunk Nation to the district’s schools, but the problem was quickly resolved when one of the parents contacted the district’s bus office directly. In the past, Severson said, the problem most likely would have been reported to the Ho-Chunk Education Department first and expanded into a larger, more contentious issue.

TEACHING Native American HISTORY

Teacher Paul Rykken, head of the social studies department at Black River Falls High School, shares four things to think about when teaching Native American history.

● **FOCUS.** Realize the sheer complexity of American Indian history and focus on one tribe as a microcosm of larger narratives. This will allow you to go into greater depth and will lessen confusion for students. There are multiple sources out there to help you with your own background knowledge (see *First Peoples: A Documentary Survey of American Indian History* by Colin Calloway or *First Peoples: A Documentary Survey of American Indian History* by Daniel Richter).

● **TEACH COMPETING NARRATIVES.** Get beyond “compartmentalizing” our history, particularly when it comes to including the forgotten or underrepresented parts of our past. We do a great disservice to First Nations people, African-Americans, women, or any other marginalized groups by “adding” them in token or “sidebar” fashion, as textbooks often do. A much more authentic version of our past is the story of “competing narratives,” and my experience is that students find exploring the tension compelling. History must be taught from multiple perspectives.

● **LOOK FOR “ACCESS POINTS”.** Look at your curriculum and think creatively about “access points” for American Indian history. The expression “access points” is often used in the context of discussing differentiated instruction — the idea that we find different ways to help all students access the information we are presenting. How do we take a topic that is as complex and potentially controversial as American Indian history and weave it into our curriculum? How do we do that in an authentic way that does not appear to be patronizing a particular group of people? When do we begin that process with our students? What strategies and approaches will be most effective with students at various stages in their education?

● **THINK DIFFERENTLY ABOUT TEXTUAL HISTORY.** I have always been somewhat frustrated with the lack of documents related to native voices. Part of the difficulty relates to the heavily oral tradition present in most native cultures, but also my limited view of primary sources. Be more open to other types of sources, particularly pictographs, artifacts, and other images that are rich in meaning. □



“Right away, we want our teachers to have an understanding of the differences and similarities between the cultures,” Severson said. “The significance of their cultural background can’t be underestimated.”

Today, Severson said, more Ho-Chunk parents feel comfortable contacting and working with the district.

■ Collaboration

The MOU has paved the way for increased communication, which has led to greater trust. Leaders on both sides agree that the MOU is about doing what is best for all students. That was born out in the creation of an additional, new MOU. The School District of Black River Falls, the Ho-Chunk Nation, and Jackson County signed an MOU that created a “Coordinated Services Team” aimed at supporting and advocating for Ho-Chunk students who struggle with law enforcement and/or addiction issues. Funded by grants from the state, this team provides assistance to students and their families. When it comes to addiction issues for young people, providing support and treatment to the entire family is more effective than just treating the student. Thanks to the work between the district, county and nation, this level of support is now possible.

“I feel like our community really understands that we can accomplish more together than we can individually,” Severson said.

Additionally, the district works with the Ho-Chunk Nation to coordinate and provide Ho-Chunk Youth Services tutors in each school in the district. In the past, there was only one staff member who worked as a

tutor for the entire district. At the high school, three full-time teachers are Native American (two of whom are Ho-Chunk).

The district has taken an active role in training new staff on Native American culture. During in-service training, new staff members take a tour of the Ho-Chunk Nation’s buildings and have a traditional meal with Ho-Chunk elders at the tribal office building.

“Right away, we want our teachers to have an understanding of the differences and similarities between the cultures,” Severson said. “The significance of their cultural background can’t be underestimated.”

The Ho-Chunk culture is on display throughout the school district. The Ho-Chunk Nation holds pow-wows in the district’s schools featuring Ho-Chunk students in traditional regalia. And, among other displays of pride, the Ho-Chunk Nation flag is placed throughout the district next to the state and U.S. flags.

■ Shared History

Black River Falls High School’s social studies department is respected for its work in teaching Native American history and culture. Paul Rykken, the head of the social studies department at Black River Falls High School, cites Colin Calloway, a historian at Dartmouth College, who says “American Indian history is American history.”

“I don’t think you can separate this story from the broader story — it’s integral,” Rykken said. “In Wisconsin, of course, its critically important due to the presence of the 11 federally recognized tribes/bands ... It’s part and parcel of who we are.”

Black River Falls’ story mirrors that of many school districts around the state that opened their doors to native students in the early 1960s. In Black River Falls, Ho-Chunk students attended the Hochungra School on the Ho-Chunk Nation’s grounds, which is about seven miles east of Black River Falls. The Hochungra School closed in 1963 as part of a general consolidation process that took place in the 1950s and 1960s that closed many “one-room” schools throughout the state. After the closure of the Hochungra School, Ho-Chunk students were bussed into Black River Falls’ schools.

As can be expected, the consolidation of the schools was a contentious time. Black River Falls public school leaders worked to educate and support native students but there were only sporadic efforts to connect the school district and the Ho-Chunk Nation. Then in 1990, with the adoption of Act 31, efforts to teach about Native American history and culture got a boost. Act 31 challenged Wisconsin educators to teach Native American history and culture as part of the standard social studies curriculum.

A SHARED HISTORY

■ In the Classroom

When ACT 31 was enacted in 1991, the social studies department at Black River Falls High School began discussions within its department and with leaders from the Ho-Chunk Nation about how to more naturally integrate American Indian history and culture into classes.

“Our guiding principle from the start was to consider what was best for all our students, particularly when it came to understanding their history,” Rykken said.

More recently, with the MOU signed in 2010, the district embraced the principles of Culturally Responsive Teaching (CRT), which seeks to engage students by connecting to and honoring their cultures experiences, and backgrounds. As part of this effort, the district created a Committee for Culturally Respon-

sive Teaching to develop effective strategies for implementing successful approaches. Many efforts have come out of this work, including training Ho-Chunk student advocates for each grade level. In addition, the committee seeks additional ways for Native American culture and history to be integrated in all classrooms, not just social studies. As a result, the high school art department is working on a mural created by students that depicts Ho-Chunk history. In music classes at the elementary level, Ho-Chunk drummers and singers perform for students.

The district also offers specific classes that cover Ho-Chunk history, culture, and language. Black River Falls High School offers a Ho-Chunk language class taught by a member of the Ho-Chunk Nation. The school also added a Ho-Chunk and ethnic studies class in the fall of 2014. Students earn college credit

for the class via a partnership with the University of Wisconsin-Green Bay.

Thunder said she sees the work that the school district is doing to raise awareness among students of the history and sovereignty of the Ho-Chunk Nation. She said students go out to the Ho-Chunk Nation quite often and learn about culture and the “nuts and bolts” of how the nation works, including studying the tribal judicial system.

■ Work Continues

Severson is proud of the progress the district and nation have made together. More native students are excelling in academics, sports, and other extracurricular activities, and more Ho-Chunk parents are active in the schools than ever before. But she knows there is still work to do, in particular to address the generational trauma that still exists for older members of the Ho-Chunk





THE Student PERSPECTIVE

Black River Falls students share their take on Ho-Chunk history and culture

CODY WIESNER senior at Black River Falls High School

In school are you taught about Ho-Chunk history and/or culture?

While many history classes I have may assess Native American tribes as a whole without really focusing on a specific one, a new endeavor, the new Ho-Chunk and ethnic studies class taught at Black River Falls High School seeks to change that by chronicling the Ho-Chunk experience throughout history and their prevalence today.

Why is it important to understand the cultural and historical significance of the Ho-Chunk Nation?

The Ho-Chunk Nation makes up an important part of Wisconsin through local history and modern application. In a county where the Ho-Chunk Nation plays a prevalent role, it's important to have knowledge about it as informed citizens.

MICHAELA CUSTODIO student at Black River Falls High School and Ho-chunk Nation member

Do you think the school district honors and respects Ho-Chunk culture?

The district provides a Ho-Chunk language class taught with fluent Ho-Chunk speakers for every student, which is amazing. This year they even offered another class, Ho-Chunk and ethnic studies, which I deem extremely valuable for future generations because our history and culture will not disappear.

As a Black River Falls student, do you feel you can be proud of your heritage?

Of course, our school district is greatly diverse! Native American students make up 20 percent of our student population. It's pretty cool to be represented by this many, especially because the number keeps growing and growing. I'm fortunate to be surrounded by others that are also so culturally entwined. So yes, as a student at Black River Falls High School, I feel proud to be a part of the Ho-Chunk Nation. □

Nation — many of whom are grandparents of students.

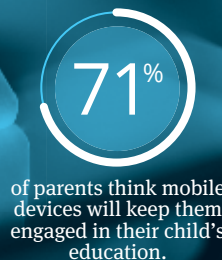
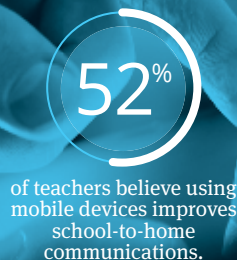
"Some of our students are being raised by their grandparents," Severson said. "These grandparents were in the generation that were removed from their homes as children and put into boarding schools."

The MOU is up for renewal and Severson said both sides are supportive of signing on and continuing to work together. According to Thunder, there are still issues that arise between the two groups, but, with open lines of communication, it's more likely issues will be resolved efficiently and fairly.

"It's a reminder that the work continues," Thunder said. "We don't want to get too comfortable. It's a continuing process." ■

Shelby Anderson is editor of Wisconsin School News.

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Stay Interviews

Listening to your employees
can help improve your
district and employee
satisfaction

Christine Hedstrom



How do we as leaders in the education business address employee retention? Over the past several years, the School District of Waukesha has experienced a growing number of resignations as opposed to retirements. People are not staying in one spot as long as they used to. We've heard a variety of reasons for this — some vicariously and others directly. We've made assumptions about pay, benefits, the impact of Act 10 and the resulting “free agency” among teachers and administrators, but what do we really know about why people leave?

The School District of Waukesha has conducted exit interviews for a number of years. However, it is lagging data (information received after the fact and the employee has

already left the organization). A more proactive method is to find out what is important to employees before they want to leave.

That's why we engaged in a “stay” interview process this school year. About 70 employees participated and provided us with honest feedback about their personal satisfaction working in the district. Participation was voluntary and employees could choose to respond via an online survey format or in a face-to-face situation.

Senior leaders with the school district engaged these 70 employees who came from different employee groups: teachers, administrators, secretaries, and custodians. The majority were teachers across the district. The feedback received — 189 pages of data — was broken down into some common themes.

On a scale of 1-10, with 10 being

most satisfied, the majority of employees rated their satisfaction levels in working for the School District of Waukesha a 7, 8 or 9. Likewise, when we asked participants to rank the district overall, the majority gave the district a 7, 8 or 9. Even with these high rankings, we learned there is room for improvement. Several things need to happen for the district to earn a 10. This is where the major themes from the surveys come in.

Common Themes — What We Heard

The “big rocks” in terms of employment satisfaction could be summed up in a half dozen bullet points, but the value of the conversations meant being able to dig deeper and learn more about what people cared about.

For example, our employees really love that Waukesha is innova-



tive and on the cutting edge of education. Everyone felt invested in their work and found it meaningful. They appreciate the district's collaborative culture.

Yet, amidst all of the positives we heard, and there were many, we also heard what our employees struggle with — stress levels, the workload, and pressure.

Teaching used to mainly entail planning a lesson, teaching it, and moving on. A teacher could go home at night knowing he or she accomplished the day's agenda. Today, teaching has become much more complex. Most employees could not pinpoint specific district initiatives as the culprit for the increased workload; instead there

seems to be a perpetual state of re-prioritization. Efforts to improve reading, and math and infuse technology are not new initiatives, but they are recent improvement efforts and we need a system that under-

Teaching used to mainly entail planning a lesson, teaching it, and moving on ...

Today, teaching has become much more complex.

stands the framework of working in that environment. To help our teachers deal with these added responsibilities, we want to focus on maximizing our collaborative time in

professional learning communities so that teachers can share resources, assessment and instructional best practices working smarter, not harder.

Curriculum. The curriculum used to be a book telling the teacher what to do each school day. Now we have standards that guide the work we do and teachers spend a lot of time finding resources that align with the standards. One of the great things is the amount of resources we have available; but curiously, this can also be a challenge because there is so much to choose from!

The bottom line is, teachers understand how important it is to engage kids and that takes a lot of work. The work does not end because the opportunities are endless.



Based on this feedback, our curriculum and instruction department has more clearly outlined the curriculum design process. We now house all syllabi, common benchmark assessments and resources in one place so teachers can easily access

this information.

Communication. There are pockets of good and bad communication, often dependent on building leadership. Some said they are feeling isolated or out of the loop. However, many employees said they do feel

they are in the know and are aware of changes when they occur. People want to understand the district processes, especially about change.

With this feedback in mind, the district leadership team is working to model more frequent communication via our weekly blogs and other sources to help promote and celebrate our mission and vision to all stakeholders. Employees subscribe to our weekly e-newsletter, Connect, to receive up-to-the-minute information.

Professional Development and Educator Effectiveness. Time is a valuable resource in our district. School leaders and educators are trying to do more with a limited amount of time. How do we create a culture of learning within the constraints placed upon us? State mandates, such as Educator Effectiveness, are taking up large amounts of staff time. Staff also gave us feedback on how our walk-through tool could be improved. A walk-through tool is a classroom observation document that gives targeted, immediate feedback to teachers on the domains of instructional practices and classroom environment. Teachers seek to receive more concrete responses to how they are doing, particularly what they are doing well.

Our commitment to continuous learning is highly valued in the School District of Waukesha. We have developed a self-directed program that provides teachers a rolling tide of opportunities to learn and grow throughout the school year at the time and place that is right for them.

Compensation. With compensation, it has become clear that working without a published salary schedule is detrimental to the working environment. With a salary schedule in place, teaching employees are better able to understand the pathway for higher earnings, and recognition for work and leadership. A salary schedule, in essence, takes money off the table and allows employees to focus on the creativity required to do a great job working and supporting students.

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Our board of education appreciates this perspective and one of the goals this year is to have a compensation plan completed and fully implemented for 2015-2016. That said, some employees were clear they want merit pay; others just want a raise.

We are deep in the planning and implementation stages of our strategic compensation framework. Through a collaborative effort of teachers and administrators, this innovative model, built to develop teacher leadership and honor teacher performance and student achievement results, will provide a clear path of compensation for teachers and administrators in our system.

What We Learned

Overall, taking the time to meet face-to-face was a worthwhile effort. Employees appreciated that adminis-

**School leaders and educators
are trying to do more
with a limited amount of time.**

tration took the time to connect; administration appreciated the opportunity to get to know employees on a more personal level. However, some of our questions turned out to be a bit unclear: for example, when asked about trusting or respecting the leadership, were we asking about the building, the department, or the senior leadership? And, there were questions we wished we had asked; like how many total years of service in education did each participant have, and how many years of local service? We anecdotally observed that employees who had worked elsewhere generally ranked our district higher than employees

who had not.

You can learn a lot about your employees simply by asking for their input. Among other things, we learned that our internal communication efforts can be

improved and that time, or the lack of it, is one of the biggest challenges facing our employees. We plan on continuing these interviews and expanding upon them. Stay interviews not only give the perspective of your employees but also give employees a way to communicate their thoughts on district operations. In a time when school employees are often moving between districts, we hope these interviews help us improve our district not only for our students but also our employees. ■

Christine Hedstrom is assistant superintendent for human resources and labor relations for the School District of Waukesha.

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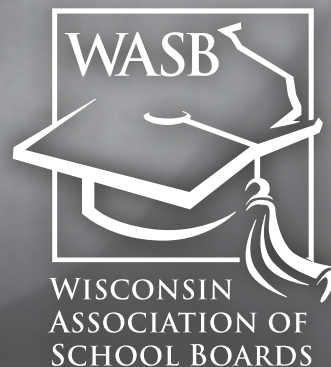


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EVOLUTION

of Design



Low-cost design options and other tips that can help make healthy and creative classrooms

*Todd Bushmaker AIA, LEED AP
and Rob Koehler AIA*

There are many lessons learned as the design of school facilities has changed to address the current and future needs of society. Because of research data, improvements in products, cultural shifts, new pedagogy, government mandates, a changing job market and more, our facilities should look and operate differently.

Sir Ken Robinson, an author, speaker and international advisor on education, forecasts that we're largely preparing students for jobs that don't exist today. Fortunately,

school design has evolved to address numerous societal swings.

■ Flexibility of Space and Furniture

The more flexibility that we can provide for our teachers, the better they can prepare our students for excellence. A key aspect of the educational schema is to prepare a workforce for tomorrow that is proficient in the STEM (science, technology, engineering and mathematics) disciplines, but also proficient in arts, social sciences and collaboration.

When looking at remodeling a dated

facility or creating new construction, we must constantly consider how our space can accommodate all sorts of different learning and arrangement of students (*i.e.*, project-based learning).

Rigidity is the arch nemesis of creative education. Flexibility empowers teachers to allow groups of varied sizes, create diverse activity areas, and provide a forum for shared learning among sets of students. Triangular or trapezoid-shaped desks can provide numerous options for helping groups of all sizes collaborate. There are other low-cost options that can provide



Todd Bushmaker

**Rigidity is the arch nemesis
of creative education.**



Rob Koehler

further flexibility and creativity such as stability balls, soft café-style seating, bean bags, and standing stations to add to the adaptability of the environment.

Existing classrooms can often be made more flexible for different teaching and learning styles simply by rearranging furniture or purchasing more adaptable furnishings. Tables are increasingly utilized that can serve single students, pairs or small groups depending on how they're reconfigured. Room dividers that double as tackboards, writing surfaces, storage units or bookcases can increase a teacher's options while accommodating a limited budget.

Ergonomic seating options can help students focus by reducing muscle and joint strain and the tendency to fidget due to discomfort. Soft, casual seating (whether in classrooms, common areas, breakout spaces or the library) can foster collaboration in a less rigid environment.

New educational theories and teaching methods have put increasing emphasis on improved communication skills and teamwork, highlighting the need for space and furniture that facilitates those attributes.

■ Technology is the Norm

Technology impacts every facet of our lives and its integration into our children's education is vital. However, the power of technology in K-12 education can put significant demands on school facilities and infrastructure. It is essential to have a clear technology pathway that considers such items as student engagement, digital backpacks, personalized learning, 1:1 distribution, and 24:7 learning.

Except for those applications that require higher-end hardware such as video editing and building information modeling (BIM), there is a shift away from stand-alone computer labs to portable, assigned computing devices like Chromebooks and iPads. A large-format, touch-screen computer might be more conducive for the learning environment than a smart board or projector. Again, group interaction,



Non-Invasive SECURITY

Today's schools face the difficult incongruity of needing to be both welcoming and secure. Unfortunately a determined person will find a way in no matter what, but a strategy of slowing them down enough to head off a situation in time can be developed with a little extra attention. Decorative site fixtures, landscaping, drive design and even building setbacks can all be part of helping to stave off a threat before they even get to the building. A video intercom system can screen visitors before allowing them into the school, and establishing their identity before providing access.

Once guests are granted access, they should pass through or by the reception area, prior to entering into the heart of the school. Many schools provide additional security for office staff by incorporating a transaction window, perhaps with bullet resistant glazing. Panic buttons which simultaneously notify law enforcement, and communicate with the district's alarm company, administration, and even the rest of the school, are increasingly common.

Allowing views from hallways into classrooms is no longer seen as wise in light of recent intruder situations and the need for classroom lockdowns. Classroom security functions should allow the teacher to lock the room without opening the door. Electronic locks on both exterior and interior doors have become a widespread option, providing different levels of access and usage tracking; some systems are also capable of remote locking and status assessments. □

collaboration, and communication are key facets of learning that technology should support.

Increasingly, teachers are embracing the use of students' personal devices instead of demanding they be put away. Sufficient Wi-Fi to handle school-issued and personal devices, charging stations, network

and content security, and building infrastructure to handle future needs are important today.

Adjustments are often necessary to ensure devices are ready when students come calling. Charging station needs vary depending on the programs adopted by each district. Some utilize portable carts, which

require a dedicated circuit at a conveniently located receptacle. Locations may vary, such as in classrooms, a corridor alcove, the library-media center, or other locations campus-wide. For permanent installations, a surface-mount raceway (wiremold) is more appropriate, allowing easy access to connect multiple computers to a power source. As you plan for the future, don't forget about other devices, such as tablets and phones.

■ Lighting Strategies and Educational Effectiveness

Natural light enhances learning and social spaces and creates more interesting and dynamic environments. Glazing technology has improved as has options for daylighting in recent years. As importantly, natural daylighting and enriched views have a positive impact on student health, learning ability and sense of well-

being, but too much in the form of glare and overlighting distracts and can negate the advantages.

When building a new school, design teams are now much more aware of the need to balance the

utilization of natural and artificial light and how those two interact with each other in different parts of the building. In existing schools, much can be done to improve efficiency and provide better learning space for



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students. For instance, consider reducing light levels in typically overlit areas such as corridors, gymnasiums and cafeterias. Replace outdated fixtures with LED-based units and install multi-level switching for flexibility in the classrooms.

We've grown familiar with the benefits of timers and motion sensors to reduce lights being on unnecessarily, but daylight sensors are avail-

able that measure daylight level in the room (or areas of a room) and adjust appropriately. Lamp "temperature" can also have an impact: cool colors can be perceived as harsh and sterile, while warm colors can have a relaxing, natural effect. LED lamp technology is available that can dynamically adjust this temperature, and in fact introduce almost any color to suit a specific need.

■ Preparing for the Future

Staying up-to-date with new building technology can help your schools run more efficiently and provide a better, and healthier, learning space for your students. The good news is many of these options are relatively low-cost and can save your district money in the long run.

As we continue to work to make our schools more conducive to collaborative and creative learning, we need to emphasize the importance of flexibility in our classrooms. We do

not know exactly what kind of learning space our students will need in 10 or 20 years nor do we know what kinds of technology our students will be using. Flexibility in our schools is one of the best, and most cost-effective strategies schools can use to stay modern.

To equip your students to be a global force, be aware of the evolution of educational design and proactively prepare for tomorrow, today! ■

Todd Bushmaker AIA, LEED AP, is a project architect at Hoffman Planning, Design & Construction, Inc., headquartered in Appleton and is a member of the American Institute of Architects (AIA) and the Wisconsin Green Building Alliance (WGBA) Green Schools Committee.

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Diana Callope receives the 2015 Teacher of the Year Award from Sen. Herb Kohl and State Superintendent Tony Evers.

Connections & Collaboration

These constants in a sea of education trends help create an environment in which students care to learn

Diana Callope

I entered the field of education in 1992, and during my 23-year career, I have participated in a multitude of curricular and technological changes.

In addition to teaching sixth, then seventh, and finally eighth grade, my love for teaching math has been accompanied in the past with teaching language arts and social studies. For at least the first five years, my classrooms were equipped with chalk boards before marker boards became the norm. And to speak of technology now, well, that will change before this article is even published. My first classroom included one computer solely used for playing “The Oregon Trail” on rainy days at recess. Now many

districts have 1:1 technology!

So, how is it that students continue to grow and succeed amidst a sea of change in education? For me, the key is in the connections made with students each year.

■ All Students Can Learn

Shifts in curriculum standards, best practice and gains in technology will continue to be made, but the constant in my educational philosophy has been that, by connecting with students and becoming a significant, motivating adult in their lives, students in my classroom can learn anything.

I strive to create a community environment founded on respect and the premise that, although we may not all have the same academic

abilities, interests, and strengths, we all have the potential to learn. It is my belief that students learn best from those who share a genuine interest in their learning and in the ultimate outcome of their success. Creating a quality learning environment is about much more than knowing and dispensing the content; it’s about creating an environment in which students care to learn.

■ Community Education

And so, each year begins with a genuine effort to know my students and to let my students know me. I relate many personal stories and analogies to our studies in mathematics and even share successes and struggles I had as a student. Essen-

Creating a quality learning environment is about much more than knowing and dispensing the content;
it's about creating an environment in which students care to learn.

tially, I become their cheerleader as we build a community within the classroom. High expectations are set for each student, but they also know that I will make every effort to help them succeed — and I call upon their peers for reinforcement.

Building successful connections between students begins with communication. Students in my classroom are provided with a variety of opportunities for daily collaboration. Whether they are debating solutions to a problem from last night's assignment, working with partners to solve a new problem or writing lyrics to perform original math songs, students are building connections not only with me, but with each other.

This allows gifted and talented students to challenge each other

through discovery and discussion, English language learners to gain from language immersion while collaborating with English speaking partners in math, and students with learning disabilities to have opportunities to talk about strategies with peers as coaches.

■ Creating Learning Coaches

In addition to creating a collaborative classroom environment, my door is always open for extra assistance. Students often arrive early in the morning with partners from class. But even here, once I answer a few questions, they become coaches for others. Students understand they are active participants in their learning and they know I am available on the sidelines to guide, motivate and cheer

them on. They know it truly matters to me that they succeed.

I don't know what education changes will come in the next 10 years, but I am certain that change is coming. Will I write new curriculum for new or adjusted standards? It seems likely. Will my Promethean Board be replaced with some new-and-improved technology for teachers? I would guess, yes.

But regardless of whatever new waves of change arrive at my classroom door, it is certain that each year I will continue to make connections with my students and encourage collaboration within my walls to create the best possible environment for their success. ■

Diana Callope, an eighth grade teacher at Whitewater Middle School, is the 2015 Wisconsin Teacher of the Year.



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Protecting a Significant School Asset: Property

In the last few months, we've had a number of inquiries about how to best protect and make school district property as marketable to insurance carriers as possible. Proposed legislation in the state budget would make significant changes to the Local Government Property Insurance Fund (LGPIF). (As of the writing of this article, the Joint Finance Committee voted to close the LGPIF effective Jan. 1, 2018. The bill still needs to pass the Senate and Assembly before going to the governor's desk.)

In this article, I will outline ways to assist in protecting your property against a loss and improving your chances for the best property proposal from carriers. I will also discuss some key coverage provisions to look for in a property proposal. All carriers have different forms for insuring property and it is important to know the key coverages to look for in a quote.

Risk Management 101 notes that to manage risk we must be planning, organizing, leading, controlling and allocating resources to achieve the goals of mitigating a potential loss to the district. Does your district have a policy statement about your goals related to preserving your property? Any policy statement should have the support of administration and be discussed at a building and grounds committee meeting.

■ Make Your Property Marketable to Insurance Carriers

In a previous career, I was an engineering consultant who performed property inspections for carriers. I found that there was a correlation between the quality of housekeeping in a building and the history of claims for that building.

Here are few tips to make your property marketable to the insurance carriers that may be quoting your insurance:

- **Inspectors look for areas like:** is the space clear in front of electrical panels; are flammables properly stored in the correct cabinets; are combustibles properly stored in shop class and maintenance areas; and are the chemicals properly stored in the science labs.
- **Central Station Alarm.** Having a central station alarm that will sound an alarm at a remote location is essential. Most carriers want this as a protection for school buildings. If your school does not have central station alarms, I would recommend putting that on the capital budget as soon as you can.
- **Preventative Maintenance and Inspection.** Have a preventative maintenance schedule and inspection process for your buildings. I was recently at a

school that had a great five-year plan for building improvements for HVAC, roof projects, window replacement and upgrading the boilers. This shows the underwriter that you have a plan of action to maintain your buildings for the long term.

- **Water Source.** How is your water source to your buildings? How close are the fire hydrants? If you are not aware of water pressure readings for hydrants near your buildings, you can go to your local municipality clerk's office or the water department, and obtain the latest pressure readings. Sometimes the reports the carriers use are outdated and recent reports from the municipality can help obtain a better proposal.
- **Fire Protection.** Do you know the fire protection class for your municipality? Class 1-8 properties are very marketable to carriers. If you have buildings in protection class 9 or 10 (usually rural), it is essential to have all the protection in place to obtain a competitive proposal.
- **Get Your Property Insured Correctly**

When insuring your property, there are several important factors to consider.

Does your district have a policy statement about your goals related to preserving your property?

■ **Valuation.** Most carriers and brokers will provide professional valuation services. Some schools do contract with a private vendor for valuations. Closely review your valuations for accuracy. In speaking with a general contractor, most new school buildings are about \$165 per square foot. Take a look at your square footage and make sure your valuations are high enough to cover a total loss. Your property should be insured on a replacement-cost basis.

■ **Blanket Coverage.** Make sure the proposal includes blanket coverage (insurance that provides more than one type of coverage using a single policy) for your buildings, building personal property and property in the open.

■ **Agreed Value.** The Agreed Value (AV) endorsement should be on all school proposals. An AV is a coinsurance waiver that prevents property holders from being short on coverage for a partial loss if the valuations do not meet the carrier's criteria. Most carriers want to see at least 90 percent insured to value. If your school is a single K-12 building with no spread of risk, it is essential to insure 100 percent to value.

■ **Extra Expense Coverage.** If you have property damage and have to lease space while conducting repairs, extra expense coverage will cover the cost of leasing a space.

■ **Debris Removal Coverage.** This coverage can be critical, especially if district buildings contain lead paint and/or asbestos. If you have hazardous materials in your building, it can be very expensive to remove at the time of a loss. Be sure to ask about the amount and extent of coverage for removing and cleaning up pollutants.

■ **Personal Property.** The property of others is a coverage that is sometimes overlooked. In one fire

loss I was involved with, we used the entire limit for personal property coverage. How much personal property is in your building at any one time? Sometimes shop teachers bring in their own tools that can have a high value. How many staff members have their own laptops or tablet computers in their classrooms?

■ **Ordinance or Law.** This coverage protects you against increases in construction costs due to changes in local building ordinances or federal law changes like American with Disabilities Act (ADA). If you have an older building, your policy pays to replace what you have with the same construction. But if have a building that is not ADA accessible, there could be significant extra expenses above the replacement cost to bring your building up to code.

■ **Vacancy Clause.** Do you know what the vacancy clause is on the policy? Not all carriers define vacancy the same way. If you have a building that is not being used for its intended

purpose (former school building now used for storage) you may have exposure to a vacancy clause limitation on coverage.

■ **Surface Water Runoff and Flood.**

This coverage is essential in Wisconsin. With heavy spring rains we sometimes find out too late that we have a building in a low spot or too close to a floodplain, and then have water damage. Schools need to review the history of water runoff near their buildings and determine if landscaping changes can be made to divert water away from a building. If coverage is not available through your carrier, apply for coverage through the National Flood Insurance Program.

Feel free to contact me if you have any questions about property risk management or properly insuring your buildings. You can contact me at jgibson@tricorinsurance.com or call 877-468-7426, ext. 1714. ■

John Gibson, CIC, CSR, is vice president of TRICOR Insurance. TRICOR Insurance is an endorsed agency through the WASB Insurance Plan. For more information, visit wasb.org and select "WASB Insurance Plan."

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Advocating for Public Education

School leaders push for restoring school funding and removing private school voucher expansion

School board members and district administrators convened in Madison on March 18 for the WASB Day at the Capitol. School leaders learned about the 2015-17 state budget proposal and how it affects school funding, strategized about how to deliver their message to the state capitol, and met with legislators.

WASB President Wanda Owens opened the meeting by thanking the school leaders in attendance for advocating for their schools. “I can’t think of a more important time to make your voices heard,” Owens said.

School leaders got an in-depth presentation on the state budget proposal by Erin Fath, policy and budget director at the Department of Public Instruction (DPI). Fath



reported that, under the current budget proposal, there will be \$0 change to the revenue limits per-pupil adjustment in the first year of the biennium. In the second year of the biennium, the per-pupil aid

would be restored on a one-time basis to about \$165-170 per pupil. Fath noted that the instability of the per-pupil funding is essentially a cut to school funding.

“It’s a departure from how the state has historically done school funding,” Fath said.

The state budget proposal also makes changes related to private school vouchers. The state budget would remove the existing cap of 1,000 students and, for the first time, pay for vouchers directly out of the state general aid (money that public schools receive from the state). This would disproportionately impact property-poor districts because those districts rely more heavily on state general aid.

“If you have students participate in a choice program, it is a real loss of revenue to the district,” Fath said.

The state budget proposal doesn’t include the DPI’s request for increase to categorical aids. The budget also excluded funding for DPI’s request for new categorical aids related to



career readiness, school safety, and others.

Faced with this host of cuts and challenges to public education, WASB Government Relations Director Dan Rossmiller addressed key areas for school leaders to focus their advocacy efforts on. Rossmiller urged school leaders to ask their legislators to restore the funding cut to per-pupil aid and remove the expansion of school vouchers.

The Day at the Capitol provided board members and superintendents an opportunity to meet with their lawmakers. Although the event is over, Rossmiller asks that school leaders maintain contact and continue to build relationships with lawmakers. The goal is to build credibility with legislators and others so they will look to you when they need information.

For advocacy tips and resources, visit wasb.org and select “Advocacy & Government Relations.” ■



■ Upcoming Webinars

The WASB hosts a series of webinars throughout the year on legal, policy, and other important school leadership topics. Here is a look at the upcoming webinars from the WASB:

■ **Hiring Teachers** May 13, noon – 1 pm

Presenter: Bob Butler, Associate Executive Director and Staff Counsel

This presentation will inform you about the general hiring process of teachers, including state requirements. It includes information about the purpose of position descriptions, the posting of vacancy notices, application forms, the interview process, and reference checks. You will also learn about state and federal laws as they relate to employment discrimination.

■ **Annual and Special Meetings:**

Notice, Procedures and Powers June 12, noon – 1 pm

Presenter: Barry Forbes, Associate Executive Director and Staff Counsel

This presentation will review the notice requirements for annual and special meetings, cover meeting agendas and procedures and discuss the division of powers between the annual meeting and the school board in common school districts.

Please note: These and all previous webinars 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 WASB Webinars page at wasb.org (select “Meetings & Events” and then “Webinars”).

■ Upcoming Event: Summer Leadership Institute

July 18, Heidel House Resort & Spa, Green Lake

School board members are invited to the Summer Leadership Institute, taking place July 18 at the Heidel House Resort & Spa in Green Lake. This event aims to provide school board members with the tools and knowledge to successfully lead your school district and improve board governance.

This all-day event provides school leaders with an opportunity not only to network with colleagues from around the state but also get up-to-date information on a range of school leadership issues. The Summer Leadership Institute will feature sessions on leadership, community engagement, student achievement, and school funding.

The WASB Summer Leadership Institute provides school leaders with the information and leadership strategies to improve the governance and operation of your school district. *For more information, visit wasb.org.*

JFC Actions on State Budget Play Critical Role for Schools

School accountability debate continues and termination of Local Government Property Insurance Fund delayed



The Legislature's Joint Finance Committee (JFC) has begun voting to adopt or rewrite portions of the governor's proposed 2015-17 state budget. Those votes will play a critical role in shaping school budgets as well as voucher expansion.

As we write this column, votes have not yet been taken on such key issues as restoring the per-pupil aid cut, adjusting revenue limits, expanding private school vouchers, and determining whether vouchers will be funded from general school aids. These votes await updated revenue forecasts expected in early May.

The "Sixty-four Thousand Dollar Question"—yes, I'm dating myself with that reference—will be whether those forecasts will project enough additional revenues to allow lawmakers to reverse cuts to education and possibly provide additional resources.

By the time you read this, we may know the answers. Let's hope for the best, but prepare for the worst.

We know cuts are hardest for schools to absorb when they come in the first year of the state's two-year budget because of the timing. It's hard to deal with unknowns when you have already had to make critical personnel and other decisions by the time the state budget is finalized.

Suffice it to say, JFC members will face some tough decisions if projected revenues don't increase sharply and even if revenue forecasts come back as rosy as hoped, the competition among worthwhile programs for these additional dollars will be intense.

■ Insurance Fund Termination Delayed

Among the first budget votes taken by the JFC on an issue affecting K-12 education was one addressing the proposed elimination of the state-run Local Government Property Insurance Fund (LGPIF).

ance Fund (LGPIF).

This fund, in existence for more than a century, provides low-cost property insurance to local governmental units unable to find coverage in the private insurance market. Over time, the fund's original role as an insurer of last resort shifted to providing coverage to a wide variety of local units of government, including 239 school districts at last count. It remains an insurer of last resort for a number of districts that have been unable to bid out their coverage.

The fund has experienced financial difficulties in recent years, raising questions about why state government is in the insurance business. Some JFC members noted the coverage was too low-cost, which led to the fund's financial woes.

The WASB and other school groups expressed concerns that if the fund were eliminated, a number of school districts, many of which are small and rural, with buildings in locations remote from local fire departments and municipal water supplies, might be left with no coverage or coverage available only at great expense.

In response, the JFC voted unanimously to delay the termination of the LGPIF policies by two years. The final dates for the issuance of new policies remains July 1, while the last date for renewing existing policies is Jan. 1, 2018, and the last date for filing claims is July 1, 2019.

The JFC's action also requires the fund to adopt the policy rates and structure recommended by its Advisory Committee on April 9. Those recommendations raise rates from 40 to 80 percent (about 45 percent on average). These rate increases are needed to restore the fund's financial stability. While the LGPIF will remain an option for two more years, the cost of coverage through this fund will increase.

For school districts utilizing the fund, the reprieve given the LGPIF is an improvement over the governor's original recommendation. The two-year delay should give school district policyholders time to thoroughly consider available options and seek bids, with options for reasonably priced coverage as new providers enter the market and make coverage available to school districts. (For example, the insurance affiliates of the League of Wisconsin Municipalities and the Wisconsin Counties Association have expressed interest in entering this market and providing coverage to schools.)

■ School Accountability

Although it has been widely reported that a deal between the Senate and Assembly on school accountability legislation now appears unlikely, that does not necessarily mean school accountability is dead for the legislative session.

This is because accountability provisions were included in the governor's proposed budget and remain alive. A majority vote of the JFC is needed to remove those provisions; without such a vote, those provisions will remain part of the budget.

The accountability provision would replace performance categories with "A-F" letter grades, allow private voucher schools to choose the assessment they wish to administer for accountability purposes, and change the measures used to determine school performance and school district improvement.

Performance scores would be weighted to account for student poverty rates and the length of time a student has been educated in the school system, beginning with report cards issued in Sept. 2016. Currently, achievement and growth area scores are weighted equally. Under the

budget, as the number of students in a school who are eligible for free or reduced-price lunch increases, the proportion of the school's score based on growth would increase and the proportion of the score based on achievement would decrease.

A early analysis of the impact of this change suggests that while report card scores would change in a substantial number of districts, very few schools would move to a different performance category (and a majority of those would move up a category). Large urban school districts would receive the biggest boost in performance scores while many schools that would see lower performance scores are located in rural areas and towns.

Whether or not a deal on accountability can be reached via the budget process remains to be seen.

The WASB, which favors the state Senate's approach to school accountability (*i.e.*, no sanctions, everyone takes one test, no letter grades), is urging lawmakers to remove the accountability provisions from the budget bill and resolve the disputes

between the houses via separate legislation.

The Assembly has consistently maintained that any school accountability legislation must include "sanctions" on low-performing schools. Its proposals also call for "A-F" letter grades and allow voucher schools to choose from a variety of assessments for accountability purposes, a provision the WASB opposes.

In early March, Assembly leaders introduced a new version that would impose a variety of mandatory interventions paid for by the state on low-performing schools including one that requires school boards to hand over unilateral control of such schools to the district administrator who could overturn school board policies and implement new ones. The WASB strongly opposes this so-called "super superintendent" provision.

Public schools that don't improve over three years would have to continue the interventions but pay for them out of their own budgets. If they didn't improve after that, they would be reorganized, turned into independent charter schools authorized by the UW System or technical

colleges or run by private education management firms.

Just what this deadlock on school accountability means for voucher expansion is anyone's guess. In early March, Assembly Speaker Robin Vos (R-Rochester) told reporters he will not support the unlimited expansion of statewide vouchers unless the Legislature also passes a school accountability bill. He has recently backed off those remarks.

Time will tell, but our guess is that the scope of voucher expansion will be affected more by the state's new revenue estimates than by whether the Legislature enacts accountability provisions.

The key takeaway from this is simple: school leaders need to keep in touch with lawmakers and encourage them to keep local schools in the forefront of their thinking as they vote on the state budget. Urge your legislators to prioritize public schools for available resources and remove school accountability provisions from the budget. ■

Dan Rossmiller is WASB director of government relations.

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District Responsibilities to Transgender Employees and Students

Wisconsin school districts face several challenges as they address employment and educational issues with transgender employees and students. A transgender individual is a person whose gender identity (one's internal sense of gender) differs from the sex that the individual was assigned at birth. A person's sexual orientation may or may not correspond to his or her gender identity. Many studies and advocacy groups refer collectively to people using the phrase "lesbian, gay, bisexual and transgender" or "LGBT." This article focuses specifically on the transgender employee and student populations that are part of our schools.¹

Nationally, school districts' legal obligations to transgender employees and students have garnered increasing attention and have become better defined. In Wisconsin, however, there remains a lack of clear legal authority to guide school districts as to their legal obligations to transgender employees and students. This article will address the legal trends that have emerged which provide school districts some insight as to their responsibilities with respect to transgender employment and education issues.

Districts Can Anticipate That Transgender Employees Will Have Greater Legal Recourse For Employer Discrimination

There are currently no federal or state laws that expressly prohibit discrimination in Wisconsin on the basis of an employee's transgender status. Efforts to pass such legislation at the federal level have failed. While the Wisconsin Fair Employment Act (WFEA) prohibits Wisconsin employers from discriminating against employees based on sexual orientation, it does not expressly prohibit discrimination based on an employee's gender identity or transgender status.

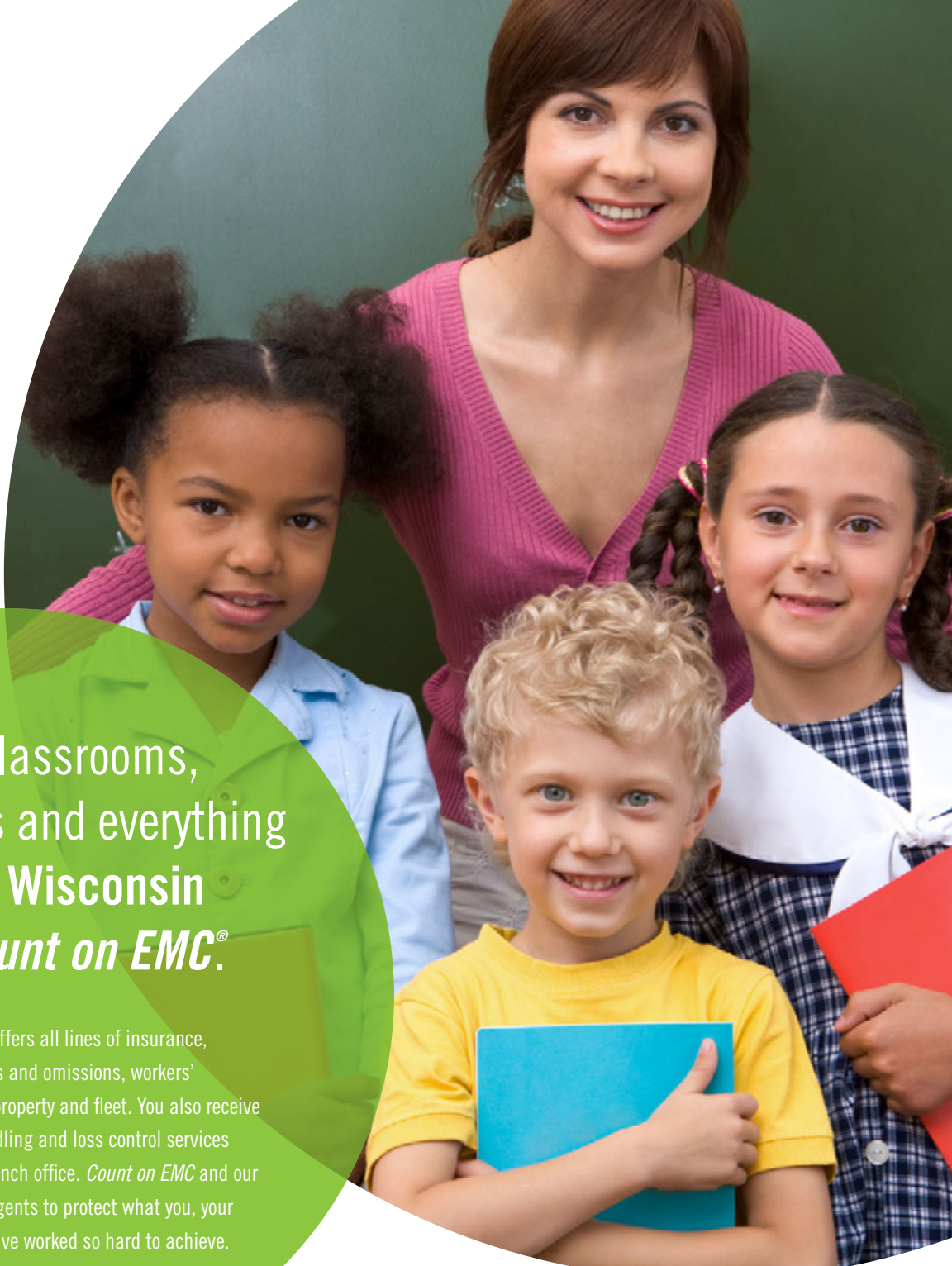
In the absence of express legislation, some courts have begun to expand the scope of the prohibition against discrimination on the basis of sex under Title VII of the Civil Rights Act of 1964. In 1989, the United States Supreme Court determined in *Price-Waterhouse v. Hopkins*² that "sex stereotyping" may be a form of discrimination that falls within the category of sex discrimination under Title VII. In that case, a female manager had not been promoted because others viewed her as "overly aggressive" and "macho." The Court concluded that she was discriminated against because she did not conform to the stereotype that was generally associated with being a woman. The Court expressed that "[i]n the context of sex stereotyping, an employer who acts on the basis of a belief that a woman cannot be aggressive, or that she must not be, has acted on the basis of gender."

While the United States Supreme

Court has used sexual stereotyping to expand the coverage of Title VII, it has not decided a case involving a claim of discrimination on the basis of an employee's transgender status. However, lower federal courts have considered such cases and have reached different conclusions. Some have found discrimination under Title VII on the basis of transgender status, and others have declined to expand the breadth of Title VII to that extent. The Seventh Circuit Court of Appeals, which construes federal law applicable to Wisconsin employers, has thus far declined to adopt an expansive reading of the term "sex" in Title VII cases.

Despite the current state of the law, school boards must still be mindful of the possibility of an employee or applicant bringing a Title VII action because of discrimination or harassment based on his or her transgender status. This is because the two federal agencies that enforce Title VII have made clear that they consider transgender discrimination to be a form of sex discrimination. In 2012, the Equal Employment Opportunity Commission ("EEOC") addressed a case in which a transgender woman presented as a man during an interview with the Bureau of Alcohol, Tobacco, Firearms and Explosives.³ After she disclosed that she would be transitioning from a male to a female, the agency informed her that the job was no longer available. When the EEOC

A number of school boards across Wisconsin have adopted language which prohibits discrimination on the basis of gender expression or gender identity.



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considered the employee's claims, it clearly expressed its position that Title VII not only protected against discrimination on the basis of one's biological sex, but also protected against gender identity. Because federal courts often rely on the EEOC's interpretation of the law, the EEOC's position could prompt more courts to expand Title VII protections beyond a sex stereotyping theory to prohibit discrimination because of one's gender identity.

In December 2014, the United States Department of Justice ("DOJ"), which also has enforcement authority under Title VII, announced that it has changed its stance and now takes the position that Title VII's protections extend to cases of discrimination based on gender identity. In a published memorandum, DOJ was clear that it considers discrimination on the basis of sex to include "discrimination because an employee's gender identification is as a member of a particular sex, or because the employee is transitioning, or has transitioned, to another sex."⁴ Similarly, President Obama issued a new Executive Order in July 2014, declaring that discrimination based on a person's gender identity is prohibited for purposes of federal employment and government contracting.

In light of these developments in federal law to expand Title VII protections to transgender employees, school boards should consider whether their policies and employment practices may trigger a claim by an employee under Title VII. These issues typically arise in the context of hiring, promotion, and discipline decisions, but can also occur in other less obvious contexts. One in particular is whether employers must require transgender employees to use certain restrooms. The federal case law on this issue has varied. For example, in a decision affirmed by the Sixth Circuit Court of Appeals, the Northern District of Ohio concluded that it was not a Title VII violation for an employer to require a transgender female to use the male restroom

because her driver's license specified she was a male.⁵ In contrast, when a transgender female was not allowed to use the women's restroom at work, the District Court of Maryland concluded that she had properly stated a sex discrimination claim under Title VII.⁶ Neither of these cases, however, is binding on Wisconsin employers.

Wisconsin school districts are in a difficult situation as they assess their responsibilities toward transgender employees and applicants. At this point, there is no clear authority from the Wisconsin courts or the Seventh Circuit Court of Appeals on this issue. What is clear is that school districts should be mindful of the potential for claims of discrimination by transgender employees given the trend toward extending these protections.

Districts Can Anticipate Increasing Obligations To Prevent Or Remedy Discrimination Of Transgender Students

As with employment law, there is a lack of express legislative guidance for school districts with respect to their legal obligations to transgender students. However, as in the employment context, there are enough indications from other jurisdictions and regulatory bodies to warrant a careful look at what protections may be appropriate for transgender students.

Wisconsin school districts are prohibited from discriminating against students by Wis. Stat. s. 118.13, which states that "no person may be denied admission to any public school or be denied participation in, be denied the benefits of or be discriminated against in any curricular, extra-curricular, pupil services, recreational or other program of activity because of the person's sex ... [or] sexual orientation ... " Transgender status is not specifically covered by this statute, and whether Wisconsin courts will read "sex or sexual orientation" to include transgender status is an open question.

The federal law prohibiting discrimination against students on the basis of sex is Title IX of the Education Amendments of 1972, which provides:

No person in the [U.S.] shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any education program or activity receiving Federal financial assistance.

The same fundamental question raised in the Title VII employment context also exists as to whether Title IX protections extend to transgender students; namely, does the phrase "on the basis of sex" apply to transgender students. Although the *Price-Waterhouse* case discussed above is a Title VII case, the Court's holding that "sex stereotyping" may form a basis for a discrimination claim has been the basis on which several federal district courts have held that "sex stereotyping" may be a form of discrimination under Title IX.

The Department of Education's Office for Civil Rights ("OCR"), and DOJ share authority to enforce Title IX and its implementing regulations. OCR has taken a clear position that discrimination against students because of their gender identity or transgender status violates Title IX. In a case involving the Arcadia Unified School District in California, a transgender male middle school student who had been assigned the female sex at birth filed a complaint alleging discrimination against him when the school required him to use a private restroom instead of the boys' restroom and locker room and when it prohibited him from sleeping in a cabin with other male students during a school sponsored overnight trip.⁷ The school district reached a settlement with OCR and DOJ entered into a Voluntary Resolution Agreement which required the District to amend its policies, train staff and ensure appropriate supports for transgender students who request support. OCR made clear its stance that "[a]ll students, including transgender students and students who do not conform to sex stereotypes, are protected from

sex-based discrimination under Title IX and Title IV.”

More recently, OCR confirmed its position further, stating: “When a school elects to separate or treat students differently on the basis of sex [such as with sex-segregated restrooms] a school generally must treat transgender students consistent with their gender identity.”⁸

This statement is not a strict directive that any particular school must allow transgender students access to particular restroom facilities. However, it is a strong indication that OCR will evaluate cases from the perspective that students are to be treated consistent with their gender identity.

School districts must pay attention to OCR’s position in this regard. If a transgender student files a complaint alleging discrimination under Title IX, a school district may be in a position of defending against the complaint and could potentially be sued by the Department of Justice in order to obtain compliance with Title IX. It is clear that if a student files a complaint with OCR claiming discrimination on the basis of gender identity or transgender status, OCR will investigate that complaint and will press the school district to remedy any discrimination. Having a policy in place, and guidance on how the policy will be applied, will provide some protection for school districts defending such complaints.

There is currently a case pending in the U.S. Eastern District of Michigan in which the court must decide whether Title IX and the Equal Protection Clause prohibit discrimination only on the basis of sex stereotyping, or whether Title IX’s language “on the basis of sex” should be read more broadly to include discrimination based on a person’s gender identity or a person’s transgender status.⁹ The case involves a 14-year-old transgender boy who was required by the school to use the staff’s ladies’ room or a unisex restroom, who continued

to be referred to by staff by his original female name, and who was subjected to various forms of harassment by other students. DOJ filed a Statement of Interest in the case, arguing for a decision that clarifies that Title IX and the Equal Protection Clause prohibit discrimination against an individual because of that person’s gender identity or transgender status. A decision in this case consistent with the DOJ’s position would provide further support for the emerging position that Title IX protects transgender students.

Wisconsin school districts are required to have policies prohibiting bullying and discrimination on the basis of sex or sexual orientation.¹⁰ The Wisconsin Department of Public Instruction (DPI) maintains information on its website encouraging schools to take steps to create safe and supportive school environments for all youth, including those who identify as lesbian, gay, bisexual, and transgender. In particular, DPI supports and highlights districts that have taken steps to add transgender status or gender expression to their nondiscrimination policies. DPI’s model bullying policy specifically references gender identity as a motivating factor for bullying, along with other protected characteristics such as race, religion and disability.

In light of these developments, a number of school boards across Wisconsin have adopted language which prohibits discrimination on the basis of gender expression or gender identity. Some of the boards that have added gender expression and gender identity to their nondiscrimination policies have not yet adopted specific processes or guidance documents implementing that policy in various settings, such as access to sex-segregated restrooms and locker rooms. Additional questions boards will likely grapple with include changing student records and forms of address to reflect the student’s expression of gender identity, as well as how to maintain privacy for all students

and protect against harassment of an individual because of his or her transgender status. Some districts are addressing these issues by working with transgender students and their families as issues arise while others are taking a proactive approach and adopting policies intended to provide general guidance in all situations.

This is a rapidly emerging area of the law, which requires school districts to monitor their responsibilities to their employees and students and keep abreast of changes in those responsibilities. ■

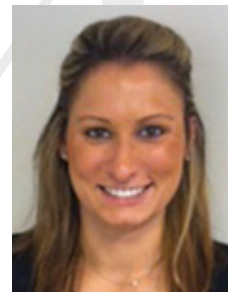
■ End Notes

1. For additional information on related topics, see WASB School News, “Providing Equal Access to LGBT Student Groups” (October 2011), “Supreme Court Ruling on Equal Access Act Opens Pandora’s Box” (July 1990).
2. 490 U.S. 228 (1989).
3. *Macy v. Holder*, Appeal No 0120120821, 2012 WL 1435995 (EEOC, April 20, 2012).
4. Office of the Attorney General Memorandum, Treatment of Transgender Employment Discrimination Claims Under Title VII of the Civil Rights Act of 1964, p. 2 (Dec. 15, 2014), available at http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2014/12/18title_vii_memo.pdf.
5. *Johnson v. Fresh Mark, Inc.*, 337 F. Supp. 2d 996 (N.D. Ohio 2003), summarily aff’d, 98 Fed. App. 461 (6th Cir. 2004).
6. *Hart v. Lew*, 973 F. Supp. 2d 561 (D. Md. 2013).
7. *Arcadia Unified School Dist. Resolution Agreement*, OCR Case No. 09-12-1020; DOJ Case No. 169-12C-70 (July 24, 2013 Correspondence to Superintendent of Arcadia Unified School District).
8. Letter from James A. Ferg-Cadima, Acting Deputy Assistant Secretary for Policy, OCR, to Emily T. Prince, Esq. (January 7, 2015).
9. *Tooley v. Van Buren Public Schools*, Case No. 2:14-cv-13466-AC-DRG (E.D. Mich.).
10. Wis. Stat. ss. 118.13(2) and 118.46(2); Wis. Admin. Code s. PI 9.

This Legal Comment was written by Michael J. Julka, Rhonda R. Hazen, JoAnn Hart and Steven C. Zach of Boardman & Clark LLP, WASB Legal Counsel.

Service Associate Q&A

Jenna Goodrich of Arthur J. Gallagher & Co. discusses school cyber security and preparing for insurance changes



Jenna Goodrich is an account executive with Arthur J. Gallagher & Co.

Q. *What can school leaders do to stay current with important insurance-related issues?*

A. It is very important for school leaders who are involved with risk management to stay informed and up-to-date with trending risks and market conditions. This can be done through conferences, seminars, and staying fully engaged with your broker on coverage, exposures, and trending national headlines.

Q. *Could you talk about one or two risk management challenges currently facing school districts? How can school districts prepare for these challenges?*

A. As many are aware, the recent proposed budget will be eliminating the Local Government Property Insurance Fund by 2018 (see page 26). School districts need to begin the preparation of obtaining property coverage from the private market, sooner rather than later. Talking to your broker about what to expect in regards to coverage, limits, deductibles and rates is critical. Exploring alternative and innovative risk financing solutions with a broker and risk manager with scholastic expertise is key to preparing for the changing landscape of the insurance industry.

Cyber liability is a growing exposure to schools, especially rural schools where security measures are more likely to be outdated. The perception that coverage is difficult and expensive to obtain is incorrect

and the markets are now beginning to make this more accessible to clients. While it may seem that districts cannot afford to purchase the coverage, the reality is that districts cannot afford not to. Your broker should be able to advise on areas specific to your situation in order for you to obtain the most competitive pricing.

Q. *Can Wisconsin school districts benefit from participating in insurance consortiums? How can they help school districts?*

A. Insurance consortiums offer many benefits, which include:

- Significant cost savings while broadening your insurance program coverage;
- Control of your costs in the hard market;
- Retain a portion of the predictable losses;
- Input in the claims process, which typically brings down costs further because of the use of a third party administrator that is hired by the pool;
- Provide long-term cost stability that minimizes premium increases in time of a hard market;
- Transfer a portion of the catastrophic risk; and
- Budget a known maximum cost.



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Q. *What are some benefit-related issues that might change how school boards govern their districts in the future?*

A. After Act 10, the compensation and benefits strategies currently being used by school districts have only been tested for four years. Schools in Wisconsin should be looking at other states that have had similarly situated bargaining environments. This helps to gain insights on how different compensation and benefit strategies play out in the long term: such as compensation models for early career teachers to prevent turnover.

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Talking to your broker about what to expect in regards to coverage, limits, deductibles and rates is critical.



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