

A Man of Principle and Good Humor Remembering former WASB Executive Director Ken Cole, *page 10*

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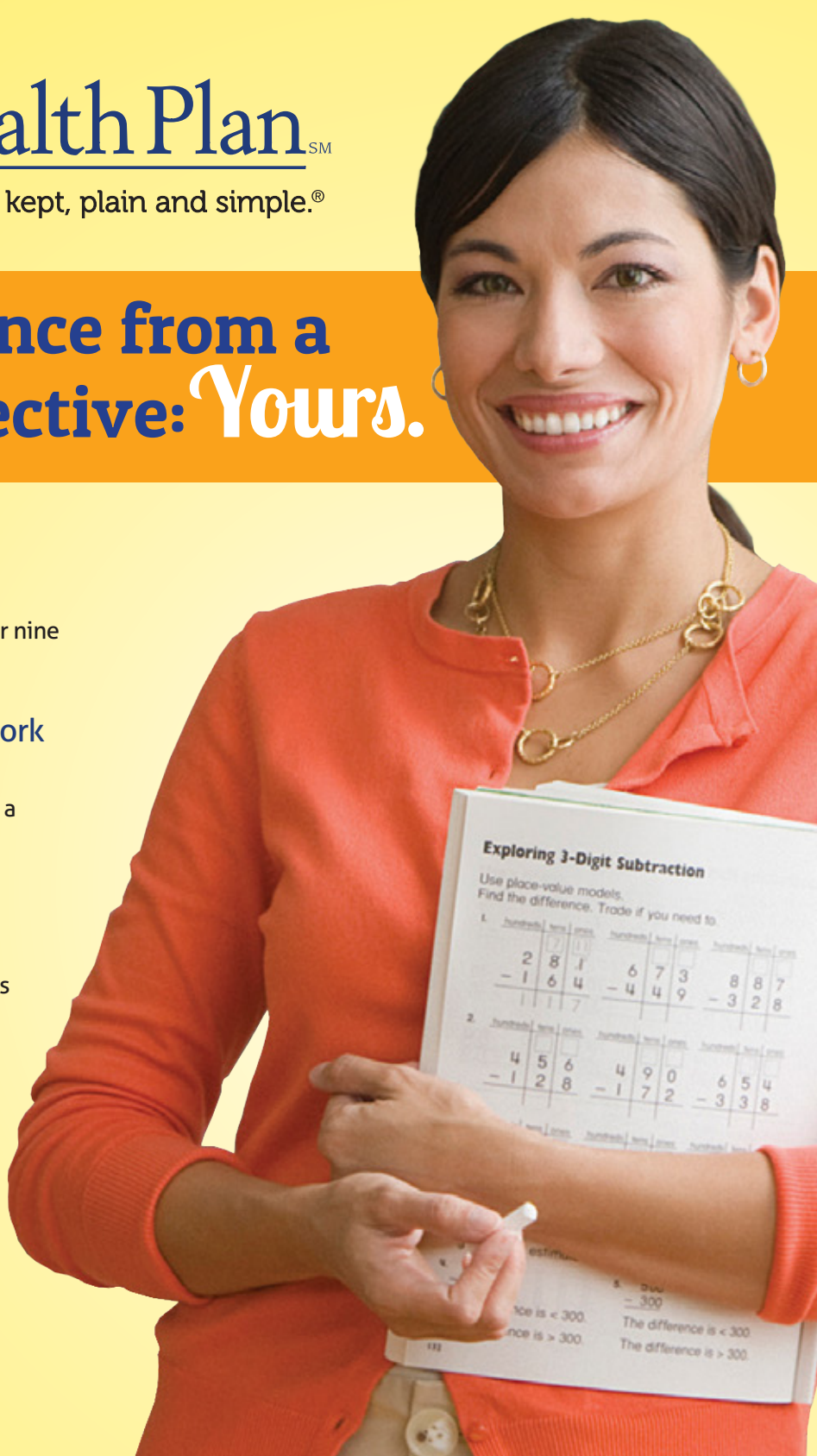
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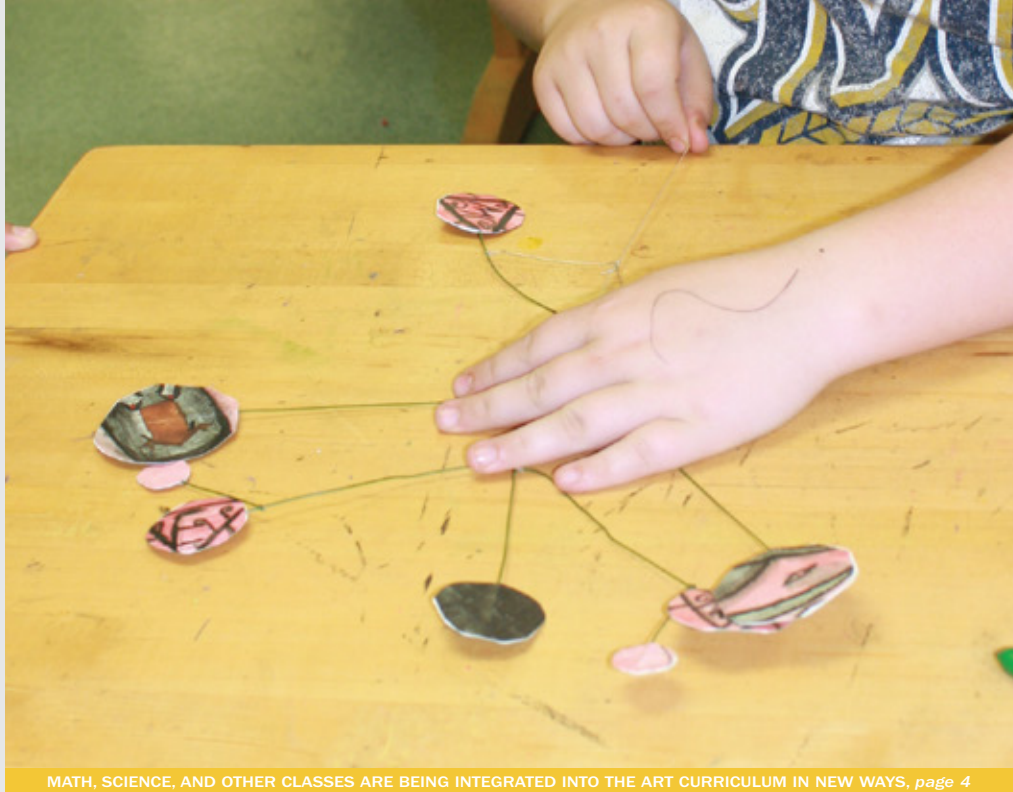
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Graduation Rate Continues to Improve

The Department of Public Instruction announced that graduation rates have risen. The class of 2014 had a four-year cohort graduation rate of 88.6 percent — a 0.6 percent improvement over last year and 2.9 percent from the 2009-10 school year.

“I am so proud of our students,” said State Superintendent Tony Evers. “High school graduation is an important milestone for individuals and their families and advances our Agenda 2017 priority. We want every child to graduate with the knowledge

and skills needed for college and careers. This data shows we are moving in the right direction.”

Rates have also improved among minority and economically disadvantaged students. In a single school year, graduation rates for Native American students improved more than four percentage points to 78.4 percent (compared to 74.1 percent for the class of 2013). Graduation rates among black students remain the lowest at 65 percent. □

STAT OF THE MONTH

86%

Percent of Wisconsin school districts that used the WASB Policy Library or other policy services in 2014-15.

Source: 2014-15 WASB Report to the Membership

Two Wisconsin Students Named Presidential Scholars



Nicholas Ngo of De Pere High School (Unified School District of De Pere) and **Alethia M. Tilford** of Ronald Reagan College Preparatory High School (Milwaukee Public Schools) have been recognized as Presidential Scholars.

The two Wisconsin students will travel to Washington, D.C., for recognition activities, including a ceremony at the White House on June 21, where they will receive the Presidential Scholars Medallion.

Ngo and Tilford are among 141 high school seniors receiving the honor for educational, artistic, and civic accomplishments.

The Presidential Scholars award was established in 1964. The 2015 honorees were chosen from a pool of more than 4,300 candidates determined by outstanding performance on the College Board SAT and ACT exams, and through nominations made by chief state school officers or the nationwide YoungArts competition. □

Four Administrators Selected as Principals of the Year

The Association of Wisconsin School Administrators (AWSA) announced the four administrators named 2015 Wisconsin Principals of the Year:

► **Associate Principal of the Year** — Mark Peperkorn, Pilgrim Park Middle School, Elmbrook Schools

► **Elementary School Principal of the Year** — Sandra Mountain, Random Lake Elementary School, School District of Random Lake

► **Middle School Principal of the Year** — Sara Eichten, Somerset Middle School, School District of Somerset

► **High School Principal of the Year** — Paul Brost, Monona Grove High School, Monona Grove School District.

Nominations for the Principal of the Year program come from fellow administrators, school board members, teachers, students, or parents. Criteria for being chosen to represent the state's school principals and assistant or associate principals include a commitment to personal excellence; collaborative leadership; personalization; curriculum, instruction, and assessment; and being an established and respected member of the community. □



Our Children Deserve Better

At the time of writing this *Viewpoint*, we are waiting for the full state Legislature to take up the Republican-controlled Joint Finance Committee's K-12 package. The proposal on the table modestly increases funding for schools in the next biennium while reshaping public education for years to come.

If it comes to fruition, legislators should be thanked for finding the resources to eliminate the governor's proposed cut to K-12 education and allowing a small increase in the second year of the biennium. However, much of the proposed package should give school board members, administrators, parents and taxpayers cause for concern.

It dramatically expands private school vouchers; creates a special education voucher program; expands the authorizers of independent charter schools; revamps the state assessment, accountability, and licensure systems; transfers authority for certain low-performing Milwaukee public schools to a county-appointed commissioner; reshapes the Racine School Board, and more.

State lawmakers clearly heard the outcry over cutting public school funding. However, Wisconsin still stands to lose ground. The proposed zero increase in 2015-16 and roughly 1 percent increase in 2016-17 will not allow districts to keep pace with inflation and more

cuts loom. In the end, this budget likely will result in Wisconsin falling below the national average in per-pupil funding for the first time as the vast majority of other states increase funding for public schools by 4 to 4.5 percent per year. Our children deserve better.

Further, state lawmakers have not heeded the call to minimize disruptions to the state assessment and accountability systems or minimize the impact of private school vouchers.

They are now looking at seeking a federal waiver to allow up to five state assessments and implementing a "star" rating for schools. Regardless of where these issues end up within the Legislature, state assessments and school accountability measures will likely continue to be subject to revision and changes. In all likelihood, it will be years before districts have a reliable, consistent state assessment system to produce meaningful data. Our children deserve better.

The proposed changes to teacher licensure — essentially the elimination of any standards for many middle and high school teachers — would drop Wisconsin to having the weakest standards of any state. Our children deserve better.

And, unfortunately, state lawmakers continue to create additional opportunities for public school resources to be transferred to private schools and private charter manage-

ment companies. In addition to expanding vouchers, creating a special education voucher program, and expanding the authorizers of independent charter schools, the Joint Finance Committee has recommended that each year up to five of the lowest performing public schools in Milwaukee be handed over to a "commissioner" appointed by the Milwaukee County Executive. Similar "takeover commissioners" would be established in other districts that meet certain criteria — currently Madison, Green Bay and Racine meet two of the three criteria to qualify for a takeover of selected schools.

Details are still being worked out, but clearly the intentions are to turn over the governance of public schools to independent charter school boards and private school operators to the maximum extent possible.

It's very important to remember that public school districts retain their constitutional obligation to educate all of the students in their districts even if their public schools are handed over to private operators, as is proposed in Milwaukee.

We should be advancing public policies that support investment in our public school students, their teachers and their facilities. By nearly any measure, the budget proposal adopted by the Joint Finance Committee should be given a failing grade. Our children deserve better. ■

It's very important to remember that public school districts retain their constitutional obligation to educate all of the students in their districts even if their public schools are handed over to private operators, as is proposed in Milwaukee.



The Evolving Role of the Arts

Art education is evolving and students are benefiting

Peggy Hill Breunig
and Shelby Anderson

In his new book, *Creative Schools*, Ken Robinson states, “the aims of education are to enable students to understand the world around them and the talents within them so that they can become fulfilled individuals and active, compassionate citizens.”

It is becoming increasingly evident there is a need for public schools to find a better way to balance the drive for increased student achievement in measured subject areas with opportunities for all students to express themselves in meaningful ways, increase their aesthetic understanding, and experience creative thinking and problem solving. The arts provide such opportunities (see “10 Lessons the Arts Teach”).

Research continues to link participation in the arts to gains in physical, cognitive and social/emotional development from early childhood through high school. However there are also other benefits unique to the arts and just as valuable for all students.

Scientific Collaboration

Schools are increasingly developing collaborative projects that partner the arts with other core subjects like science, math, social studies, and language arts. These projects challenge students to think creatively while working collaboratively with other students. The Appleton Area School District recently completed a STEAM (science, technology, engineering, arts and mathematics)

project that involved students in all three of its high schools. The project joined science and art students as they investigated an environmental challenge and presented it through art.

At the Appleton Career Academy, students investigated antibiotic-resistant bacteria. Science and art students were paired together to research the problem. The art student used art to communicate the issue and the science student provided scientific text to accompany the piece of art. At the end of the project, students presented their work at an art show.

“As a teacher, I feel this process really helped them learn more about the topic they were researching,” said Renee Ulman, an instructor and



coordinator at the Appleton Career Academy. “When I had students present about their research and their art, you could tell that they really knew what they were talking about.”

At Appleton West High School, the focus was on invasive species. Science students made presentations about invasive species to art students. The art students then communicated the challenges invasive species pose by painting square panels. The panels were put together and exhibited as a single, mosaic unit of artwork.

“Students felt they got a much deeper appreciation of the affect invasive organisms have on other species and the environment,” said art teacher Ellen Edge. “They enjoyed working together and even made some new friendships.”

Visual Thinking

Although formal art instruction for most adults ends in sixth grade, everyone is by nature a visual thinker and communicator. As technology advances, the amount of visual information processed continues to grow and evolve.

Tackling Real-World Problems

This spring, almost 300 middle and high school students from 22 Wisconsin schools gathered at UW-Milwaukee’s Peck School of the Arts to participate in the Visioneer Design Challenge. Each year, the competition connects middle and high school students interested in the design arts (architecture, graphic design, fashion, etc) with a professional in the field. Students select a real-world challenge and present their original ideas to, and continue to learn from, professional designers.

This year’s theme, “Uplifting our World: The Millennial Generation Caring of Others,” had students choose a design challenge from one of 10 design areas: architecture, digital photography, exhibit design, fashion design, graphic design, game design, product design, illustration, urban planning and video production. Students solve long-term design challenges at their schools and bring them to the competition for display and assessment. A related challenge is given to them to solve when they arrive on-site.

This first-of-its-kind statewide learning program and competition began in 2007 with 74 students from 11 schools and nine design challenges. Commissioner Joe Luginbill, recently elected to the Eau Claire Area School Board, attended this very first event as a student, stating the skills he learned through this program are still highly relevant and valuable in his daily life and career.

The program is for students who express an interest and it is the brainchild of Virgi Driscoll, professional artist, art and arts educator consultant, retired art teacher and former executive director of the Wisconsin Alliance for Arts Education.

“It’s about students working with professional designers in the field, and with teachers who enable students to think for themselves,” Driscoll said. “These challenges allow students to look at and experience careers through art and technology while learning to solve work-place problems and develop more highly creative minds.”

Doug Forton, an architect from Barrientos Design & Consulting, has been involved with the program since 2008 and keeps coming back.

“I feel like there is a true value to what all the designers are able to teach the students,” Forton said. “Being able to introduce real world applications that might fit these students’ creative interests is something I am proud to be able to do.”

For additional information on the Wisconsin Art Education Association’s Visioneer Design Challenge and other opportunities for students, go to the WAEA website at wiarted.org. □





Theatre and Dance

Movement arts (dance) and drama are frequently used to engage and support learning for our younger students. However, in middle and high school, theatre and dance are often co-curricular activities and most Wisconsin public school students have no opportunities to learn about them as a course of study.

Some elements of dance and drama are incorporated in the model academic standards for physical education and language arts. Qualified teachers can also receive dance or theatre licenses enabling them to teach courses or a dance unit within a physical education course.

Research linking gains in physical, cognitive and social/emotional development to student participation in the arts includes evidence from the disciplines of theatre and dance.

The Wisconsin Model Academic Theatre Standards states, “Theatre is unique because it borrows its content from other disciplines and then applies it to an expressive, aesthetic form.” Productions require collaboration and creative problem solving, and often involve a wide range of students from different backgrounds, social and academic interests all focused on the same goal.

The Wisconsin Model Academic Standards for Dance add that, “Dance has played an important role in history and is a universal human activity. Dance consists of human movement, and comes from our innate capacities and impulses to move, to express, to organize, to relate, and to communicate.”

Dance offers benefits to motor development through the movement arts and enables students to explore creativity, support critical thinking and create connections with peers in youth at all stages of development.

Also called “movement arts,” dance has become increasingly popular over the years with instructional opportunities for children offered through private dance studios/academies, community centers and other local organizations. Unfortunately, not all public school students are afforded such opportunities.

Recognizing most young people have sporadic and uneven access to arts education, The Kennedy Center established Ensuring the Arts for Any Given Child, a program to assist communities in developing a plan to ensure equity and access to arts education for all students grades K-8. In July 2013, Madison became the 12th city in a growing network of cities around the country dedicated to making this happen for all students in their schools (see anygivenesschildmadison.org). □

The Department of Public Instruction’s “Guide for Planning Curriculum in Art & Design,” developed by a taskforce including art and technology education teachers, identifies the need to expose more students and teachers to elements of art and design and considers the broad scope of potential art and design studies. The subject of art and design education is expanded and defined as “the study of visual thinking” — including design (object, environmental and experience), visual communications (information art), visual culture (everyday art for cultural groups), and fine/studio art (professional art).

The guide illustrates how elements of art and principles of design, when properly integrated into other content areas, can enhance learning of both subjects benefitting students and teachers. For instance, research has shown reading comprehension and drawing skills increase when students read a story and draw a picture of it, followed by thinking about the story and redrawing the picture.

In the Waunakee Community School District, Melanie Trainor-Burton, an art teacher at Waunakee Intermediate School, reached out to math and science teachers to see if topics covered in their curriculum might be relevant for her art program. Seeking connections to reinforce student learning in both subject areas, it was discovered similar concepts were being taught — some different in name only. Aligning artwork to concepts in math and science improved understanding and enabled teachers to illustrate concepts by referring students to their art projects.

These examples illustrate Howard Gardner’s theory of multiple intelligences, which describes various ways in which students process information and use it to direct behavior and learning. In other words, arts skills incorporated into instruction aids learning. This is one of the key reasons behind the growing movement to recognize

STEAM as more effective in increasing student achievement and creative thinking.

Beyond the Classroom

Kris Doering, art teacher in the Pittsville School District, has made it her goal to provide experiences and opportunities in her art classes that expand beyond the classroom and challenge her students to think deeper.

“The visual arts offer a unique look on a given problem and the realization that there is not just one answer,” said Kris Doering, art teacher in the Pittsville School District.

Doering, who was originally hired as an elementary teacher, targets projects that connect with other subjects in school and engage the community. A recent project involving the school mascot, illustrates the simple ways that Doering tries to expand art class.

A statue of the school mascot, the

panther, went missing one fall. Eventually the panther was returned, albeit with an unwanted paint job. Doering took in the vandalized panther and her students covered it in several layers of white priming paint. The art students held a community contest to redesign the panther. The community member, whose design the art class selected, came into the art room and painted the design onto the statue. After the design was complete, students in kindergarten through 12th-grade used the design to mosaic the panther in a variety of purple glass. Once the panther was completed, sixth-grade art students measured and dug out an area to landscape for the revived panther. With shovels in hand, all grades helped design and construct the new landscape. This project required her art students to use knowledge from other subject areas, connected her students to the community and engaged the entire school.



10 Lessons the Arts Teach

Elliot Eisner

- 1.** The arts teach children to make good judgments about qualitative relationships.
- 2.** The arts teach children that problems can have more than one solution and that questions can have more than one answer.
- 3.** The arts celebrate multiple perspectives. There are many ways to see and interpret the world.
- 4.** The arts teach children that in complex forms of problem solving, purposes are seldom fixed, but change with circumstance and opportunity.
- 5.** The arts make vivid the fact that words do not, in their literal form or number, exhaust what we can know.
- 6.** The arts teach students that small differences can have large effects.
- 7.** The arts teach students to think through and within a material.
- 8.** The arts help children learn to say what cannot be said.
- 9.** The arts enable us to have experience we can have from no other source and through such experience to discover the range and variety of what we are capable of feeling.
- 10.** The arts' position in the school curriculum symbolizes to the young what adults believe is important.

From Elliot Eisner's 2002 book, *The Arts and the Creation of Mind*.



In another instance, Doering had her seventh-grade art class create a display for a winter celebration in Marshfield. The students were challenged to come up with a display that reflected light. Doering said she stepped back and let her students work collaboratively as they researched and tested ideas.

“Projects of this nature empower the students as they hypothesize, experiment, design, test, redesign, and retest before coming to a conclusion for a final design,” Doering said. “As a teacher, I had to be willing to go on this journey with the students. It provided an intense learning opportunity for everybody.”

Doering also works with educators in the district to tie art education into other core subjects. In third grade, students write a poem about an important life event. Students then illustrate that event on a t-shirt. Fifth-grade students are introduced to math terminology in their art class as they learn about tessellations, translations, transitions, and reflection. In sixth grade, when students study ancient Egypt in social studies, Doering works with students to build a full-size Egyptian tomb. In all projects, Doering said she promotes problem solving and measuring with many of the projects, no matter the grade level. In

short, the level of thinking taking place in Doering’s art classes is a mixture of creativity and problem solving.

“I often tell my students that creativity will make them stand out in their chosen career because they will be able to think outside the box and come up with creative solutions to problems,” Doering said.

■ Arts as Necessary

The arts are not just essential in educating students, but the skills that they teach and develop — creativity, problem solving, etc. — are coveted skills amongst employers. The Wisconsin Career Clusters/Career Pathways model, which helps students understand the background they need for a given career, lists 208,000 different careers in which the visual arts are an important element. According to a report, “Ready to Innovate,” from Americans for the Arts and the American Association of School Administrators, 85 percent of employers who are seeking creative employees said they were having difficulty finding qualified applicants with the right characteristics.

Frank Juarez, a past president of the Wisconsin Art Education Association, adds that the arts help address real-world issues and develop important career skills in students.

“We pride ourselves in problem solving and thinking outside the box,” Juarez said. “This has allowed us to show others that we do not only make art, but also think about how our art contributes to the world we live in.”

There are numerous examples of artistic thinking that has led to great inventions: camouflage for U.S. armed forces soldiers was invented by American painter Abbot Thayer, Earl Bakken based his pacemaker on a musical metronome, and Japanese origami inspired medical stents and improvements to vehicle airbag technology.

Perhaps most importantly, the arts teach lessons that other subjects,



on their own, can't. Jim Heiks, fine arts coordinator for the Appleton Area School District, has been a lifelong advocate for the arts. He emphasizes the lessons the arts can teach but also the ways in which they can draw schools and communities together.

"The arts are a vitamin for learning, and for communities," said Heiks. "And, given the conflicts in

the world today, the arts are a vitamin for humanity." ■

See the January/February 2014 issue of Wisconsin School News for a companion article on music, another arts discipline.

Peggy Hill-Breunig is president of the board of education for the Waunakee Community School District.

Shelby Anderson is editor of Wisconsin School News.

For additional information:

Wisconsin Arts Education Association (WAEA) – wiarted.org

Very Special Arts of Wisconsin (VSA) – vsawis.org

Alliance for Wisconsin Theatre Education (AWTE) – awte.net

Wisconsin Dance Council (WDC) – wisconsindancecouncil.org

"Any Given Child",
John F. Kennedy Center for
the Performing Arts –
[kennedy-center.org/education/
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A Man of Principle and Good Humor

Former WASB executive director passed away April 25, 2015

by Annette Talis



Nothing happens in isolation; you have to look at what came before and what happened later, Ken Cole would say when pressed to consider his legacy after he retired from the Wisconsin Association of School Boards (WASB) in 2005.

Ken, who worked for the WASB for 37 years and served as the association's second executive director from 1988 to 2005, died April 25 after a two-year battle with cancer.

Ken started his career at the WASB in 1968 working with one colleague, Senn Brown, and their boss, George Tipler, the WASB's first executive director. They supported school boards in all areas of policy-making and governing. The legend, still repeated today, is that the one telephone at the association's office started ringing off the hook in 1971 when a new state

law established a duty for public employers to bargain collectively.

"I first met Ken in 1972, when I was administrator for the small school district of Marshall. The board hired the WASB to help us with bargaining and Ken was assigned to work with us. He brought a love of children to the people in Marshall. Ken wasn't mean-spirited. He wasn't anti-teacher. He respected teachers. We could sit together in a room and bargain a contract peacefully," remembers John Benson, who later served as State Superintendent of Public Instruction from 1993-2001, years that over-

lapped Ken's service as the WASB executive director.

Although he became a leading voice nationally in describing the school board's significant role in public accountability for student achievement, Ken's overall focus on the school board's primary duty to serve children dated back to his earliest days at the association. He long believed he was hired by Tipler, known for his dedication to "the boys and girls" of Wisconsin, who perceived something about Ken's character when the young job applicant spoke about his eldest daughter,

Kellie. She was later joined by four siblings — Marcus, Claire, Christian and Cameron. Ken always asserted that he got his job at the WASB as much for his dedication to his own children as for his professional skills and educational background in economics.

Within the WASB, among the staff and



Ken Cole with his wife, Elise, and their children and grandchildren at the time of his retirement from the WASB in 2005.

Ken's overall focus on the school board's primary duty to serve children dated back to his earliest days at the association.



With his affable good nature and professional skill, Ken was good at old-fashioned retail politics without the political motivation.

membership, Ken's stories about his children were familiar. He started meetings — large and small — from the core perspective of his own family. Working outward from that center, he offered his ideas and inspiration about the duty of communities, working through school boards, to pass the baton to the next generation.

Ken was unconcerned that his best work was largely invisible to most people because that meant it was focused on the interests of children or

sometimes say. In the sotto-voce tone he developed as a negotiator, he quietly suggested it might be best if he were remembered simply as a man who worked in a “tiny little office with a huge map of Wisconsin,” borrowing the words his eldest son, Marcus, used to describe the early years of his father's career.

Ken spent 37 years using that huge map to drive to all corners of the state on a campaign with no other purpose than to make government work in communities grappling with the most difficult issues of all for state and local government: How do we create and maintain excellent public schools, fairly compensate teachers for doing society's most important jobs, and recognize the fiscal limitations of taxpayers and businesses that support this most important public endeavor?

As for the history of Wisconsin collective bargaining, Ken saw it all. When he started at the WASB, there was no law requiring local governments to collectively bargain with unions representing employees. In the 1970s, Ken helped the Wisconsin Rapids School District and many others end teacher strikes by resolving the underlying contract disputes. In 1978, Wisconsin law changed to require that contract disputes be resolved through binding arbitration and Ken led the WASB's efforts to provide school boards with cost-effective representation in bargaining and arbitration. It was always Ken's goal to get those adult conflicts and personnel issues resolved so the school leaders could get back to the heart and soul of their business: children.

With his affable good nature and professional skill, Ken was good at old-fashioned retail politics without the political motivation. By the time he became executive director of the association, he knew the highways and byways of the state and could

locate schools in communities large and small, often recalling when they were built, how much they cost and how many referenda it took to earn the approval of voters.

Ken recognized that binding arbitration favored the unions and traveled the state to speak to anyone who would listen. Those efforts bore fruit in 1993 when Wisconsin modified the bargaining law to deny teacher unions binding arbitration if school boards offered a contract settlement meeting the requirements of a “Qualified Economic Offer.” The “QEO” was to be in place for three years under the original legislation, but was extended and made permanent (through 2009) with Ken's leadership and the support of the WASB. Ken retired before Act 10 became law, but experienced the transition away from collective bargaining as a school board member and later board president of the Mount Horeb School Board.

“Ken was one of the most decent people I have dealt with on the education scene, thoughtful, smart, level-headed, trying to push constructive and forward-thinking ideas, and open to talking about them (always a high quality in a reporter's eyes). He really valued education and doing it well,” said Alan Borsuk, a former education reporter for *The Milwaukee Journal-Sentinel* who is now a senior fellow in law and public policy at Marquette University Law School.

In retirement, Ken served on the Mount Horeb School Board, from 2007 to 2011, which was a fitting capstone to his career because Ken considered the school board the highest rung of our democracy, where trusted community leaders are elected to directly confront the future and make decisions about the education of children. ■

Annette Talis is a former director of communications with the WASB.



Ken Cole being interviewed during the contentious time of teacher strikes in the 1970s.

shined a spotlight on school boards and district administrators in the specific context of their own districts.

“What I did was relegated to the back, to keep the school boards together and focused on our issues — the young people,” was the only summary Ken ever offered about his own contribution to public education in Wisconsin. Emotional human controversies — that eventually became collective bargaining “dust ups” — are usually best forgotten after they are resolved, Ken would



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The Path Least Taken

A quest to learn more about high school graduates who don't go on to college

Jim Hull

In recent years, there's been a focus among states to establish standards that prepare students for college and careers. All too often, however, the discussion surrounding these standards largely focuses on college, and even more narrowly, four-year institutions. As a result, many have called for resources to be redirected to those high school students who have no intention of continuing their studies at college, let alone a four-year university. Thus, the thinking goes, high schools that are single-minded in preparing students for college, potentially alienate a swath of students who have no desire for post-secondary education in their future. But is such conventional wisdom accurate? Is college a distant thought for many high school graduates? Is a high school diploma the last educational milestone for a large number of graduating seniors?

Not quite.

A Startling Discovery

In our analysis of data from the U.S. Department of Education's National Center for Education Statistics (NCES) Education Longitudinal Study (ELS, 2002), we found that only one in five students drawn from this nationally representative sample of 15,000 did not enroll in college immediately upon graduating from high school.

Put another way, eight of out of every 10 students in the Class of 2004 made a beeline for college after receiving their diploma — a rate that rose as more time, and perhaps job opportunities, passed. Eight years after graduating from high school, a mere

12 percent of the graduates from the Class of 2004 had not gone on to either a two- or four-year college.

By drilling down into this small subset of the Class of 2004, we hope to gain major insight into the background, goals and preparation of non-college enrollees and how they compare to those graduates who did go onto college.

Policymakers, school leaders and educators need a clearer understanding of the paths graduates pursue in the years following high school in order to make more informed decisions about how to prepare students for success, whichever path they choose.

The 12% and How They Compare to Their College-Going Peers

As we discovered, a remarkably small percentage of Class of 2004 students had not advanced to college by 2012, when most of them would be 26 years old. What else did we discover about this small population, especially in relation to their college-going peers? Many things. Among the most intriguing:

- Two-thirds of non-college enrollees began high school believing they would go on to college.
- Approximately 57 percent of non-college enrollees are male and 43 percent are female.
- About half (46 percent) of non-college enrollees have parents whose highest level of education was a high school diploma.
- Non-college enrollees took fewer

It's important for public schools to prepare all students to be life-long learners, regardless of whether or not they go on to college.

academic courses while in high school than their college-going peers.

- Non-college enrollees spent less time on homework than their college-going peers. They spent less than one hour per week on homework while college enrollees spent at seven hours on homework per week in high school.

In addition, 23 percent of graduates who never enrolled in college actually got accepted to college while in high school. The most often cited reason for not continuing their education was “Can’t afford to go to college.” Although the most common explanation, it was far from being the primary reason most non-college enrollees did not attend.

Interestingly, eight years after graduation, 27 percent of non-college enrollees reported that they still expected to begin and complete at least a two-year degree. This means at age 26, only seven percent of the graduates from the Class of 2004 had neither attended nor expected to attend college. This equates to approximately seven graduates for each of the nearly 26,000 high schools in 2004.

■ What's the Big Takeaway?

It's important for public schools to prepare all students to be life-long learners, regardless of whether or not they go on to college. Such preparation includes rigorous courses and more student support, especially in bridging the gulf between aspiration and attainment.

There is a clear disconnect between what high school students say about their post-secondary plans and what actually happens. When looking back at the history of non-college enrollees at age 26, we

found that the large majority of them fully expected to enroll in a two- or four-year college while in high school, and many of them still aspired to college as adults. We also see, however, that most of them did not take the steps needed to enroll. Some of this could be explained by adolescent uncertainty. But there may be a role for schools, too, especially in helping students clarify their goals and bridge the gulf between aspiration and attainment.

School leaders can begin by asking some of the following questions:

- How many students expect to go onto college when they enter high school?
- How many high school graduates don't ever enroll in college?
- How many high school graduates don't go onto college but wanted to?

- What prevented them from going to college?
- How does the high school preparation differ between those students who go on to college and those who don't?
- Do we have enough trained guidance counselors who are knowledgeable in postsecondary options and their entry requirements?
- Do we provide opportunities for internships and college visits?
- Do we encourage all students to take rigorous courses in high school, regardless of their plans for after graduation? ■

Jim Hull is the Senior Policy Analyst for the Center for Public Education. Research support provided by former CPE interns, Jordan Belton and Patricia Campbell.

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The Era of

OPEN COMMUNICATION

A new age of communication has arrived:
Is your district in the mix?

Dorreen Dembski

Today's constant communication stream is the hallmark of the information age. Constant communication has had a dramatic impact on all organizations — including school districts.

It has created the expectation by our stakeholders, both internally and externally, for an open communication culture. Interactive communication is more than a post to a Facebook page. It is a strategic communication strategy, attended to consistently, across many platforms ranging from digital to print media, to face-to-face.

In this age, with the many resources available on the Internet, it is almost impossible for organizations to control information. People can

find information about your district whether you or someone else is presenting it. Is your district proactively providing information and including people in communication? The information age requires it. If you don't tell your district's story, someone else will surely shape it for you.

Communication is both a way of thinking and a way of doing. All organizations, your district included, should be communicating with and to stakeholders proactively, in ways that people want information. For example, the information age has brought with it an expectation by consumers for a good user experience.

■ Open Communication


User experience refers to the feeling people have when looking for infor-

mation. Is your information out there, in the mix of all available information so that your message can be found when people are searching? Easy accessibility to important information provides a positive user experience. If communication is inconsistent or if information is hard to find, this will create a negative or frustrating user experience. Today's information age requires a sustained communication effort with an emphasis on authentic, easily accessible information that uses multiple channels for communication.

This is in tune with the concept of open communication. Open communication is a way of thinking about communication that reflects a value of wanting to be accessible with the most information possible



People can find information about your district whether you or someone else is presenting it ... If you don't tell your district's story, someone else will surely shape it for you.



for the purpose of building trusting relationships. Building open communication and trusting relationships take time.

For people who subscribe to the idea that information can be controlled, or who worked or lived in a more controlled communication environment, accepting and developing a culture of open communication requires a paradigm shift. The shift is away from thinking that organizations can randomly

THE COMMUNICATION CHECKLIST

- ☐ **Make information easily accessible** — Accessibility to important information provides a positive user experience. If communication is inconsistent or if information is hard to find, this will create a negative or frustrating user experience.
- ☐ **Communicate in all formats** — Organizations need to be in the mix of print, digital, online and face-to-face communication.
- ☐ **Communicate consistently** — An effective approach to communication is sustained, purposeful, consistent, and strategic based on current, research-based practices.
- ☐ **Have a strategy** — A good communications strategy includes attention to data, audience, and message, and uses many channels that are one-way, two-way.



communicate or communicate when there are events, such as a referendum or a crisis. Today's information age requires an integrated, purposeful, consistent, and sustained organizational communication effort through various channels to reach and interact with internal and external audiences on a regular basis.

Organizations should expect interactivity initiated by stakeholders in today's communication environment. This too, requires efforts to be strategically planned, with guidelines that are consistently implemented to reach intended audiences while anticipating that interactivity will follow. All of this requires board and leadership acknowledgment that communication is a formal function of the organization, one in which there are roles, responsibilities *and* emerging best practices.

■ Personalize It

Communication is occurring, with or without your organization and therefore, you don't control it, you participate in it. Nowhere is that more obvious than through social media. Social media is Facebook and Twitter, but it is also blogging, online reviews, Instagram, YouTube — the list goes on and on.

As an organization participates in communication, the communication tactics should be personalized to meet your customers where they are, when they are interested. For example, communicating about budget cuts may take a different strategy than the strategy required to attract parents of young children to your 4-year-old kindergarten program. Those of us in the communication field use the term "content strategy." A content strategy is placing the right story on the right mediums to be available to the targeted audience. That is a tenet of current best practice in communication. There is not a one-size-fits-all approach to communication. Because there are so many ways to communicate, it takes an organized,

thoughtful, research-based approach.

Organizations have to be flexible enough to view communication as an ongoing, multi-channel process that seeks to reach various audiences. Our audiences — and there are many of them for school districts — can discern useful information, use technology to access information and use the interactive nature of the Web to discuss information about your organization. People can and do talk to each other via social media communities, for example, or look online for the information they want. Therefore, your organization's messages need to be in the mix of the information people can find on their own, online.

■ Meeting Audiences Where They Are

The easy availability of information has created an expectation amongst stakeholders that your district is also using multiple channels of communication to provide a consistent flow of information in multiple formats. To further complicate your communication challenges, your customers aren't always interested in every topic you want to share.

The key idea is: *When people are interested in a topic, they want to be able to find the information.*

Research shows that when people are interested in a topic, they look at four or five sources for information. This requires attention to the idea of pushing information on a consistent basis rather than passively posting it on your website when thought of, for example. Your goal is to make your district the top-of-mind, trusted source of information. The tendency to search just-in-time when people are interested in a topic also requires having information accessible on multiple platforms.

Email, social media, websites, face-to-face, meetings, slide-shares on the website, etc. — these are examples of where people may or may not access information, when they are interested.



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Random or inconsistent communication doesn't work. People lose interest in inconsistent communication efforts.

No doubt, face-to-face communication has to be part of your effort. In today's multi-channel world of communication, organizations need to be in the mix of print, digital, online and face-to-face communication to assure consistent information is available in many formats. It really is much harder to communicate in an open communication culture of today's information age than it was just a few years ago. But it is the new reality, and it requires someone to keep the organization's "eye" and efforts on district communication.

■ Are You in or Standing By?

If your organization is already in the mix of face-to-face and interactive online communication: Good for you!

Then ask the next question. How effective is it and what are considerations for continuing your effective communication strategy? If your district is not yet focused on strategic communication through many channels, remember we are in the information age that has created an expectation of an open communication culture. Emerging best practices in communication strategies require an emphasis on regular organizational communication to build trust.

Random or inconsistent communication doesn't work. People lose interest in inconsistent communication efforts or will accuse your district of not communicating well. What is required is a supportive board and leadership team that values communication for the benefit it brings your

district and your stakeholders.

An effective approach to communication is sustained, purposeful, consistent, and strategic based on current, research-based practices. The components of strategic communication include some of same fundamental components that have long been the underpinnings of a strong communication program including attention to data, audience, and message, using many channels that are one-way, two-way.

What's new is the interactivity, responsiveness and multi-channel nature of communication today. It is an information age. Are you in it? ■

Dorreen Dembski is director of communication for CESA 6. She is the CESA liaison for the Wisconsin School Public Relations Association (WSPRA). For more information about WSPRA, visit wspra.org.

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WASB REPORT TO THE MEMBERSHIP



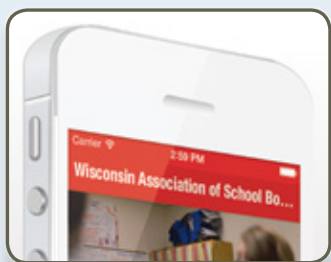
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Built on a tradition of providing high-quality service to member districts, the WASB is proud to report that all public school boards in Wisconsin are

voluntary members. With your membership, you have a statewide voice in public education and your district benefits from valuable member services.

Below are highlights of the *2014-15 Report to the Membership* outlining the many services and benefits that membership provides for your district. For more information about WASB services, publications, and events, visit wasb.org or contact us toll-free at 877-705-4422.

HIGHLIGHTS FROM THE 2014-15 REPORT TO THE MEMBERSHIP



Launched a complimentary **mobile app** which provides education news and resources for school leaders in an easy-to-use format.

Responded to more than **4,500** law-related inquiries from members in **362** districts.

Provided fee-for-service legal services to **114** districts.

Provided training collectively to more than **4,000** school board members and administrators at the more than **50** WASB conferences, workshops, webinars, gatherings, and seminars.



Recognized **26** Service Associates as reputable, valuable partners of public education.

WISCONSIN ASSOCIATION OF SCHOOL BOARDS

A NOTE ON LEGAL AND POLICY SERVICES

As indicated by the numbers in this report, the WASB is happy to assist member school districts with legal and policy-related questions. Providing assistance and support to all of our members is the top priority of the WASB.

The WASB is willing to address all legal and policy questions and inquiries from our member districts. However, not all legal and policy inquiries can be handled or resolved with a simple phone call or email.

Many questions involve a greater level of involvement beyond the typical phone call or email.

Because the amount of WASB staff time needed, more involved inquiries will be billed to the member district under the regular WASB legal and policy services fee. If you have any questions, please contact the WASB at info@wasb.org or call toll free at 877-705-4422. ■

Launched the WASB **Legislative Update** blog, which provides real-time updates of important legislative activities and allows members to receive notifications when new stories are posted.



Responded to more than **600** individual requests from member districts for sample policy information.

Completed **19** Policy Manual Quick Check Services.

Provided services to **86** percent of districts (**364**) from the WASB Policy Library and/or other policy services.

Completed **13** successful superintendent searches and helped many other districts by WASB superintendent search consultants via presentations and advice.

Served **11** school districts and assisted numerous others through presentations and consultations by organizational consultants.



Less is More

How Elmbrook School District spends less to get more from its employee benefits

Elmbrook School District in Southeastern Wisconsin consistently earns accolades in many areas. Most recently, the district ranked #2 on Niche’s “2015 Best School Districts in Wisconsin” list, which evaluated 8,738 districts across the nation. *Newsweek* recently included two of Elmbrook’s schools in its list of America’s Best High Schools. The *Milwaukee Journal Sentinel* named Elmbrook one of the Top 100 Workplaces in the area.

If Elmbrook was a baseball team, it would be the New York Yankees in terms of accolades and long-term success. But Assistant Superintendent Erik Kass identifies with the underdog — with the Oakland A’s, rather than the Yankees. Kass compares his district’s current challenge to the A’s famous 2002 season when they created an outstanding team despite crippling budgetary setbacks. Like Oakland’s general manager in the movie *Moneyball*, Kass and his team have devised a way to generate more value with less money.

Instead of battling the Yankees, however, Kass faces an even more formidable foe: the healthcare industry. He must squeeze as much value from his district’s health plan as possible despite rising costs, reform mandates that could cripple his budget, and many other powerful forces.

■ Two Ambitious Goals

“Like Oakland’s GM Billy Beane, we had to think beyond traditional methodology,” Kass says. “We became focused on improving the level and quality of care while finding innovative ways to control our healthcare costs. In many cases, it’s like we had to make one plus one equal three.”

Specifically, two of the district’s major goals are to:

- Improve the quality of health-care services
- Decrease costs for the employees and district

“Many school districts — and businesses across the nation — are having trouble maintaining the quality of healthcare and preventing cost increases for themselves and employees,” says Senior Vice President Scott Fuller, who is one of Elmbrook’s benefits consultants from Associated Financial Group. “You would think Elmbrook has a magic formula, but in reality they are implementing strategies and resources that are available to all employers — and they are letting go of traditional plan design.”

■ Elmbrook Pioneers the CDHP-Only Package

Elmbrook offers only consumer-driven health plans (CDHPs) to employees — centered around a health savings account (HSA) and health reimbursement arrangement (HRA) — with no traditional options, such as a health maintenance organizations (HMO) plan. This makes Elmbrook a rarity. Today, only 22 percent of all employers offer only CDHPs to employees without any traditional plan option, according to a report by the National Business Group on Health. This number is even smaller for school districts.

The report shows that the most frequently offered type of health insurance today remains a preferred provider organization (PPO) plan, offered by 84 percent of organizations. However, these plans — along with other traditional plan designs — continue to decline in popularity

as consumer-driven health plans become the norm. In Minnesota, Wisconsin and Illinois, employer data from AFG’s MarketPulse shows that 45.3 percent of employers are offering an HSA or HRA this year, an increase of three percentage points from 2014.

- Elmbrook uses **HSAs** to help employees and their families save on a tax-free basis for future qualified medical and retiree healthcare costs. Contributions to HSAs can be made by the employer, the employee or both.
- **HRAs** are similar to flexible spending accounts, except that the employer may permit funds to roll over from year to year, allowing employees to accumulate funds over time. These accounts are set up by Elmbrook for its employees, and Elmbrook pays for up to 50 percent of the deductible toward healthcare services.

This aggressive, consumer-driven approach is critical for accomplishing the two goals mentioned previously — reducing costs and providing quality healthcare services (with an employee clinic). However, this approach would fail without cooperation from employees, the community, the school board and district leadership. A great strategy alone does not guarantee success. The moneyball tactics were nearly undermined by the Oakland A’s front office and players who didn’t understand or agree with them.

■ Communication with Staff is Critically Important

It would make sense if healthcare consumerism flourished among teachers. It seems likely that educators would learn what they need to know

about their health plans, appreciate them, and utilize them correctly.

In reality, this isn't usually the case — sometimes just the opposite. While educators might be more likely to read and comprehend the materials you send them, the culture of a school district typically is not conducive to healthcare consumerism.

"Prior to 2011, teachers didn't have to deal with consumer-driven healthcare," Kass says. "The collective bargaining agreements have typically supported traditional plan designs, so they haven't been introduced to consumerism. Adopting it can be more of a culture shock in the public sector than in corporate America currently."

Therefore, it's important that communication remains a two-way street.

1. Listening to employees.

Elmbrook conducts regular staff surveys to find out, among many topics, how well employees understand and appreciate their employee benefits. In 2014, after the consumer-driven health plans were introduced, staff responded to the prompt "I understand my health benefit plan" with:

Strongly agree: 7%

Agree: 54%

Disagree: 31%

Strongly disagree: 9%

2. Responding to employees.

Knowing that nearly half of employees did not understand their health plan, Elmbrook quickly dedicated the necessary time and resources to educate and engage staff. Elmbrook also included a group of staff members in the early planning meetings for the new employee benefits strategy. "These employees became champions of the vision at a grassroots level," Kass says. "They helped communicate its advantages to other employees, dispel rumors, and pave the way for a radical departure from our traditional health plan."

This year's staff survey has not been conducted yet, but early indications suggest that employees are

engaged in their employee benefits, well informed, and even enthusiastic about them. The district is offering employees a valuable new benefit in 2015 that warrants their enthusiasm.

■ The Employee Clinic

Elmbrook's health and wellness center managed by QuadMed, which was recently approved by the school board and will open in September 2015, is in the exact center of the school district. The clinic is also the emerging centerpiece of Elmbrook's employee benefits strategy.

"We need district employees to use the clinic to achieve our goal of reducing costs for both the district and its employees," says Senior Benefits Consultant Al Jaeger, who established the return on investment (ROI) process that Elmbrook used to evaluate employee clinic providers. "The cost savings will depend on employee utilization, and utilization will depend on how well employees understand this resource and its advantages, which of course depends on effective communication. Every part of the employee benefits strategy is interconnected."

- **Wellness/clinic integration.** The clinic will specialize in comprehensive primary care that revolves around prevention, wellness, early intervention and chronic condition management. Elmbrook's employee wellness program will be closely integrated with the clinic. The physicians will help direct employees toward the wellness components they need. They will leverage health information, technology and other process innovations to assure high-quality, accessible and efficient care.

- **Focus on screening and prevention.** Through the use of health risk assessments and biometric screenings, Elmbrook will be able to identify risk and target effective programs and services for specific population risk segments. By preventing illness and keeping existing conditions under control, they can reduce their downstream cost of healthcare.

- **Technology-enabled, evidence-based and coordinated.**

The use of electronic medical records aids the sharing of secure information among specialists. By leveraging point-of-care decision support tools and practicing evidence-based medicine, the clinic will prescribe a personalized treatment plan designed to proactively address future health risks. Web and mobile applications will provide patients with convenient access to health information, educational content, secure messaging with their providers and a constant source of motivation and inspiration to drive greater engagement.

- **Help with Affordable Care Act (ACA) compliance.**

Because the clinic can help employees reduce the cost of their healthcare, it can help Elmbrook avoid the high-plan-cost excise tax (Cadillac tax) scheduled to take effect in 2018. "An employee clinic specifically geared to address this high-cost population's needs may be the best hope for keeping the cost of healthcare manageable and avoiding the Cadillac tax," says Jaeger. The ACA also encourages the implementation of wellness and disease management programs, including an expansion of the ability to encourage healthy behaviors with rewards. "The employee clinic is one of the most effective devices to ensure that these programs achieve their full potential, in terms of clinical outcomes and financial results," Jaeger adds.

With the new employee clinic and other components of its strategic plan, Elmbrook projects a reduction in healthcare costs, superior patient care and high employee satisfaction. For more information about employee clinics, consumer-driven healthcare or any other issues mentioned in this article, contact us at 800-258-3190 or info@AssociatedFinancialGroup.com. ■

Associated Financial Group is an endorsed agency through the WASB Insurance Plan. For more information, visit wasb.org and select "WASB Insurance Plan."

Building Successful Board Members

At the WASB Spring Academy, school leaders discuss board service, referendums, and leadership skills

New and experienced school board members attended the WASB Spring Academy May 2 in Appleton to learn more about the roles and responsibilities of school board members. The event featured three tracks of programming: introduction to board service, referendum pathway, and developing effective leadership skills. Each track featured sessions led by experienced WASB staff members.

The introduction to board service track covered a variety of topics including legal and policy-making duties of board members, governance, and school finance.

Ben Richter, WASB staff counsel, described the legal and policy-making responsibilities of school board members. There are 44 statutory school board powers in the state statutes, including: suspension and expulsion of pupils, purchasing or otherwise acquiring necessary books and equipment, and soliciting and obtaining options to purchase real property (upon approval of an annual or special meeting). Among other expectations, the school board is expected to reflect the values of the community it represents.

“Other board roles include the ability to understand and articulate community core values and beliefs, using them to guide board decision-making and communicating them throughout the district so that they guide day-to-day actions at every level,” Richter said.

The referendum pathways track included sessions on master planning, legal and policy considerations regarding referendums, and preparing for referendums from a facility and financial standpoint.

“The master plan will require a comprehensive assessment of all owned and leased properties and their use,” said Roger Price, WASB



consultant. “This will include ascertaining the extent of deferred maintenance, remaining facility life and renovations needed.”

The third track focused on developing effective leadership skills. Sessions in this track covered communication, practices for effective school boards, dealing with stress to improve leadership performance and a session on the politics of leadership.

Lou Birchbauer, WASB consultant, took an in-depth look at what makes or hinders a high-performing school board. Among other issues,

Birchbauer talked about the importance of building a healthy dialogue at school board meetings.

“People who are skilled at dialogue do their best to make it safe for everyone to add their meaning to the shared pool — even if ideas at first glance appear controversial, wrong, or at odds with their own beliefs,” Birchbauer said.

For links to presentation slides from these sessions, visit wasb.org. Select “Meetings and Events” and then “Event Recaps.” ■

The WASB, in conjunction with CESA 10 and CESA 11, are holding a series of workshops focused on important board governance and school board leadership issues.

■ **WASB/CESA 11 Workshop**

Key Work of School Boards: Vision and Accountability
Thursday, June 25 – 6-9 pm | CESA 11, Turtle Lake
Presenter: Al Brown, WASB Consultant

■ **WASB/CESA 10 Workshop**

Key Work of School Boards
Wednesday, August 12 – 6-9 pm | CESA 10, Chippewa Falls
Presenter: Cheryl Stinski and Al Brown, WASB Consultants

■ **WASB/CESA 10 Workshop**

The School Board’s Role in Superintendent Evaluations
Wednesday, Nov. 4 – 6-9 pm | CESA 10, Chippewa Falls
Presenter: Lou Birchbauer, WASB Consultant

To register or for detailed descriptions of the workshops, visit wasb.org.

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.

Other sessions, focused on school leadership, will be given by a number of Wisconsin school districts, including: Brown Deer, River Falls, Verona Area, Kettle Moraine, New Berlin, Pewaukee, and Racine.

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. □



WASB Business Honor Roll

Has a local business been particularly helpful to your district this year?
Nominate them for the 2015 WASB Business Honor Roll!

Selected businesses and partnerships will be given statewide recognition and highlighted by the WASB.

To nominate a business, visit WASB.org (under Communication Services).
Deadline: **Friday, August 14.**



WASB Business Honor Roll | 608-257-2622 | 877-705-4422 | Visit wasb.org

A Dramatic Shift

JFC budget reflects erosion of support for public education, local control



It is often said that two things that are hard to watch being made are sausage and legislation.

On May 19, long after most parents and students had gone to bed, Republican members of the Legislature's Joint Finance Committee (JFC) adopted a 29-page education spending motion reflecting what many see as a dramatic shift in the direction of state support for public education.

That motion, covering the 2015-17 biennium, included 51 separate school-related provisions, many of which hadn't received a public hearing in the current legislative session. Put together behind closed doors, the motion was presented by majority Republicans on the committee slightly over an hour before debate on it began.

It is impossible to summarize all 51 pieces in this column, but several things stand out.

The first observation is that while the package restores the proposed \$127 million cut to state per-pupil categorical aid in the first year and provides an additional \$100 per pupil in that aid in the second year, it puts Wisconsin on a path to drop below the national average in per pupil spending for the first time ever.

The net increase over current funding is \$100 per pupil and it doesn't come until the second year. The package freezes school district budgets in the first year and allows them to increase by less than the rate of inflation in the second year.

Lawmakers largely ignored recent public polls indicating that when asked which is more important — reducing property taxes or increasing spending on public schools — voters favored increasing school spending by a 54 to 40 percent margin. The JFC package allocates an additional \$319.3 million to property tax relief (that is nominally related to schools,

but doesn't increase school spending) and only \$213.4 million to programs that allow increased public school spending.

While school leaders welcome the additional resources above what the governor proposed, the small increase will likely force many school boards into hard decisions on whether to ask local voters via referendums to raise property taxes to provide funding the state did not provide.

Observation two: Continuing a disturbing trend, lawmakers seem ever more willing to invest in a second privately run voucher education system.

The JFC education spending package not only removes the overall cap on enrollment in the statewide voucher program, it increases the per-pupil voucher payments. More importantly, the JFC package funds expansion of the statewide and Racine voucher programs by using a “money follows the student” approach long sought by voucher advocates and modeled on public school open enrollment to funnel state aid to voucher schools.

The small gain in funding to public schools largely will be offset by the funneling of roughly \$48 million in state aid — over the two-year budget cycle — away from public schools to private and religious schools through the state's three voucher programs.

Currently, per-pupil payments in the Racine and statewide voucher programs are fully funded from a separate state appropriation. Starting this fall, public school districts with “incoming voucher pupils” in the Racine or statewide voucher programs that reside within their boundaries would have their general aid reduced by the total amount paid to voucher schools in those two programs in each year. If a district's general aid payment is insufficient to cover the aid reduc-

tion, the balance would be reduced from other state aid (e.g., categorical aid) received by the district.

Pupils entering the statewide or Racine voucher programs in 2015-16 or thereafter would be counted in their district of residence for general aid and revenue limit purposes.

The JFC package also creates a statewide special needs voucher program that would let students with disabilities attend private schools at taxpayer expense if they have been denied transfer into a public school under the state's public school open enrollment program, beginning in 2016-17. Participating private schools would receive \$12,000 each year for each student with a disability.

These special education vouchers would also be funded using a “money follows the student” approach modeled on public school open enrollment. State aid would be withheld from the resident district of a special needs voucher recipient similar to what was described above.

A third observation is that support for Wisconsin's long tradition of local control appears to be eroding and is under threat.

The JFC package includes a sweeping proposal that would usurp and displace the locally elected MPS Board. It would put a commissioner appointed by the Milwaukee County executive in charge of some low-performing MPS Schools with authority to turn them over to independent charter school operators or convert those schools into private, nonsectarian voucher schools. The commissioner could fire all the teachers and administrators in those schools and make them reapply for their jobs, forbid rehired teachers from joining a union, disregard board policies, and sell publicly owned school buildings. As drafted, this “takeover” language

could potentially apply to Madison, Racine and Green Bay.

Another provision mandates the Racine Unified School Board to change the election of its members, currently from at-large seats, to a plan of geographic apportionment among the municipalities in the school district. Board members elected to an apportioned seat must reside in a designated geographic area at the time they take the oath of office. As written, this change could potentially apply to the Kenosha Unified School Board as well.

Another provision dramatically alters teacher licensure for grades 6 through 12. It allows anyone with a bachelor's degree to teach English, math, science, or social studies courses in those grades and obtain a state license if a school board, or the governing board of an independent charter school or private school, determines the individual is proficient and has relevant experience. For all other subjects in grades 6-12, any individual could obtain a teaching permit if a school board, charter school, or private school determines the individual is proficient and has relevant experience. It appears there would be no minimum state requirement to receive such a teaching permit, such as holding a high school diploma or passing a skills test.

If the JFC provision becomes law, Wisconsin would become the only state to license persons who lack a bachelor's degree to teach subjects other than technical education. Federal law requires educators to have bachelor's degrees and demonstrate competency in the subject area in order to teach special education or a core academic subject, which includes English, reading or language arts, math, science, foreign language, civics and government, economics, art, history, and geography. But this requirement is tied to federal funding, which is mainly distributed to public schools.

Another item in the JFC motion modifies the dates by which a school board must give a teacher or administrator written notice of renewal /

nonrenewal of his or her contract in odd-numbered years in which the biennial state budget is adopted and modify the date for administrators in all years.

It is unclear what problem the modifications to the contract renewal timelines were intended to fix; however, it is very clear that these provisions will cause significant problems for school boards and school districts and could adversely affect Wisconsin's labor market for recent college graduates. It would make it tougher for rural schools to compete for teachers within a narrower hiring window, and make it harder for districts to hire new district administrators in time to prepare for the annual meetings and/or budget hearing.

Other mandates on school boards would: allow the UW System, Waukesha County, tribal colleges, and Gateway Technical College to authorize K-12 charter schools, using the same "money follows the student" funding; direct boards to require high school students to take and pass a 100-question civics/citizenship test in order to graduate; subject every school board's high

school graduation standards policy to approval by the state superintendent and require school boards to allow home-school students, virtual school students and private school students to participate in public schools' athletic and extracurricular programs.

While it is disappointing that well-funded and connected voucher advocates succeeded in siphoning off much of the additional school funding to voucher schools, school board members and administrators should be commended for their efforts to raise awareness amongst the public and lawmakers about the need to restore the proposed cuts to public schools and to provide an increase. Your voices were heard.

Rural schools should benefit from increases in sparsity aid, high-cost transportation aid and provisions authorizing whole grade sharing as well as a reallocation of funding for a variety of school technology-related needs.

The JFC plans to advance its reworked budget to the full Legislature by the end of May, with each house expected to debate the budget bill in early to mid-June. ■

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The Office of Civil Rights Use of “Dear Colleague Letters”

Wisconsin school districts are governed by a number of federal statutes which prohibit discrimination against students on the basis of a variety of protected classifications. These statutes are enforced by the United States Department of Education’s Office of Civil Rights (“OCR”). One of the ways in which OCR has undertaken its enforcement duties is through the issuance of “Dear Colleague Letters” (DCLs) that advise districts as to the standards which OCR will utilize to enforce the discrimination statutes under its jurisdiction. In the last several years, OCR has issued a significant number of DCLs. OCR has not only signaled an increased enforcement practice through these DCLs, but has also used them to advocate for liability standards that are different than the standards currently applied by courts in their interpretation of the discrimination statutes.

This *Legal Comment* will address OCR’s role in enforcing federal discrimination statutes applicable to school districts.¹ The recent aggressive stance taken by OCR is particularly evident with respect to a DCL issued with respect to school bullying. This *Legal Comment* will examine that DCL in light of the federal statutes under which it was issued, and contrast that DCL with current judicial statutory interpreta-

tions in order to illustrate the aggressive approach taken by OCR in its enforcement duties and to provide insight into the OCR enforcement process.

■ OCR Duties and Jurisdiction

There are a variety of federal statutes prohibiting districts from discriminating against students and employees on the basis of protected classifications. These include:

- Title VI of the Civil Rights Act of 1964 which prohibits discrimination on the basis of race, color and national origin;
- Title IX of the Education Amendments of 1972 which prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973 and Title II of the American Disabilities Act of 1990 which prohibit discrimination on the basis of disability; and,
- The Age Discrimination Act of 1975 which prohibits discrimination based on age.

OCR is empowered to enforce these statutes to assure that districts who receive federal funds do not engage in discriminatory conduct. Thus, OCR has the power to investigate and resolve complaints of discriminatory practices and the power

to conduct compliance reviews (audits) of districts with regard to their compliance with these statutes. OCR’s approach to remedy violations of law it enforces is to first seek a district’s voluntary compliance through negotiation of a corrective action agreement. If that effort fails, OCR has the authority to initiate administrative proceedings to cut off Department of Education funding to the district or to refer the case to the Department of Justice to commence a lawsuit against the district.

In the exercise of these powers, OCR has in the past worked within the context of the governing federal statutes and the interpretation given them by the United States Supreme Court and federal appellate courts. To assist districts in complying with these statutes, OCR has issued DCLs to outline the enforcement standards that OCR will utilize in its investigatory duties, either in complaint investigations or compliance reviews. DCLs are not binding law on districts; rather, they are issued by OCR as “significant guidance documents” issued to districts to assist them in meeting their statutory obligations. But, as will be seen below, the DCLs have recently articulated enforcement standards that differ significantly from the standards applied to the discrimination statutes by the judiciary.

One of the ways in which OCR has undertaken its enforcement duties is through the issuance of “Dear Colleague Letters” (DCLs) that advise districts as to the standards which OCR will utilize to enforce the discrimination statutes under its jurisdiction.

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■ OCR Enforcement Trends

The last several years have seen a marked increase in OCR's issuance of DCLs. This is consistent with Secretary of Education Arne Duncan's announcement on March 8, 2010, that his Department planned to redouble its efforts to enforce civil rights laws and eliminate violations against students with disabilities and other minorities.² He indicated that in the past, OCR had not been as vigilant as it should have been in protecting the rights of individuals, and that the Department planned to "reinvigorate civil rights enforcement" of these laws.

Since May, 2011, OCR has issued at least 20 DCLs including the following issued since 2013:

- Guidance on Nondiscriminatory Administration of School Discipline (January 8, 2014);
- Guidance Addressing Equal Access to Extracurricular Athletics for Students with Disabilities under Section 504 (January 25, 2013);
- Pamphlet Supporting the Academic Success of Pregnancy and Parenting Students under Title IX of the Education Amendments of 1972 (June 25, 2013);
- Guidance on Title IX and Sexual Violence (April 26, 2014);
- Guidance to Ensure All Students Have Equal Access to Educational Resources (October 1, 2014);
- Guidance on Responding to Bullying of Students with Disabilities (October 21, 2014);
- Frequently Asked Questions on Effective Communication for Students with Hearing, Vision, or Speech Disabilities in Public Schools (November 12, 2014).

OCR staff recently advised representatives of the National School Boards Association ("NSBA") that OCR intends to issue thirty or more DCLs by the end of 2016.³

In addition to the increased number of DCLs being issued, OCR appears to be using them as a tool

not only for guidance for districts to aid in compliance with the statutory standards, but also as a mechanism to modify the current standards established by federal court decisions in determining whether a district has acted in a discriminatory manner. In at least three cases, OCR has argued that its enforcement DCL "guidances" establish the appropriate legal standard notwithstanding contrary court interpretation.⁴ In this context, OCR has taken on the role of an advocacy body in addition to an enforcement agency.

■ The Bullying DCL

The OCR advocacy role is best illustrated with respect to the DCL it issued on October 26, 2010, regarding student bullying. To understand the potential impact of this DCL, the judicial interpretation given these statutes is critical. In 1999, the United States Supreme Court held, in *Davis v. Monroe County Board of Education*,⁵ that districts could only be liable for money damages under Title IX for student-on-student harassment if the following were established:

- The harassment/bullying was severe, pervasive *and* offensive;
- The school had *actual knowledge* of the harassment/bullying;
- The school's response was *deliberately indifferent*; and,
- The harassment/bullying *barred access* to an educational benefit.

This standard has been followed since that time and applied by federal appellate courts, including most recently by the Seventh Circuit Court of Appeals in a Title VI and Title IX bullying case.⁶ Under this standard, a student has a significant burden in order to establish liability against a district.

The October 26, 2010 DCL articulated a lower standard to find a violation of these statutes. Under the DCL, OCR would find that a district is subject to OCR enforcement remedies under the following circumstances:

- The harassment/bullying is severe, pervasive *or* persistent;
- The school *knew or should have known* of the harassment/bullying;
- The school's response *failed to eliminate* the bullying; and,
- The harassment/bullying *interfered with* the student's participation in educational services.

With respect to each of these four elements, in particular the italicized standards, OCR's enforcement standards establish a significantly lower threshold than required by the courts to find that a district violated the governing statutes.

On December 7, 2010, the general counsel for NSBA sent the Department of Education a letter requesting that the Department issue clarification of its October 26, 2010 DCL. In this letter, NSBA pointed out the differences between the legal standards established for school liability under the discrimination statutes as established by the United States Supreme Court in *Davis* and the lower standards articulated in the enforcement DCL. The NSBA argued that OCR's position could lead to "misguided litigation that needlessly drains precious school resources and creates adversarial climates that distracts schools from their educational missions."⁷

OCR responded to the NSBA letter on March 25, 2011, and held firm on the enforcement standards articulated in the October 26, 2010 DCL, noting that they were consistent with positions taken by the Department for many years. OCR reaffirmed its stance in its October 21, 2014 DCL on bullying with respect to students with disabilities. While acknowledging that the DCL standards were lower than those set forth in *Davis*, OCR justified this disparity on the basis that the *Davis* standards were applicable to lawsuits for money damages against schools, whereas the DCL standards applied to OCR's enforcement standards.

What this means for districts is that they are faced with two different standards, one which is more “student friendly” and applied by OCR in its enforcement of discrimination laws with respect to districts who receive federal funding, and another which applies solely in lawsuits brought for money damages against a district.

This scenario is not only playing out in the context of harassment and bullying, but also with respect to other OCR enforcement practices. For example, in its January 25, 2013 DCL regarding Section 504 applicability to extracurricular activities, OCR stated that districts which offer extracurricular activities must do so in a manner which affords qualified students with disabilities an equal opportunity for participation in those activities, either by making reasonable modifications or by providing aids and services, unless such would cause a fundamental alteration to the school’s program. This duty requires an individualized inquiry into each such request. NSBA responded to this with a letter expressing concern that the DCL expanded students’ rights under Section 504 and confused enforcement standards under IDEA and Section 504. While this led to OCR issuing a follow-up letter in which significant clarification was made to its original DCL, it highlights OCR’s aggressive stance in articulating standards different than those established by judicial statutory interpretation.

■ The Impact of the Divergent Standards

As predicted by NSBA, OCR’s articulation of enforcement standards which conflict with current judicial standards has resulted in students commencing litigation against districts under the discrimination statutes and attempting to use OCR’s enforcement standards to modify the judicial standards and provide an easier path to establish district lia-

bility. The Department of Education has joined this argument in several cases, suggesting that its articulation of different standards was not done solely for purposes of enforcement, but was also part of a purposeful attempt to influence the court system and change the damages standard to a more “student-friendly” threshold.

This scenario was recently played out in a Title IX case involving allegations of harassment and sexual assault in which a student is seeking money damages against the school district.⁸ In that case, the trial court dismissed the lawsuit, noting that, under *Davis*, the student had to prove that the district had “actual knowledge” of the harassment and acted with “deliberate indifference” to that knowledge. In order to show “deliberate indifference,” the student was required to prove under *Davis* that the district’s response was “clearly unreasonable.” The court found that no reasonable jury could conclude the district’s response was “clearly unreasonable.”

The student appealed the dismissal to the Fourth Circuit Court of Appeals. NSBA filed a brief with the Court of Appeals, objecting to the student’s attempt to use the DCLs as a substantive basis for changing the *Davis* standard and contending that the “expansion of the *Davis* standard about which the NSBA expressed qualms now appears in the [student’s] arguments, recasting agency enforcement guidance as a gauge of legal liability.”⁹ The Court of Appeals recently affirmed the lower court’s dismissal of the case, rejecting the students attempt to use the DCL as a substantive liability standard and affirming the standard established by *Davis*.

■ Conclusion

It is important for districts to understand the role of OCR and the DCLs it issues with respect to its duty to enforce federal discrimination stat-

utes. First, the DCLs provide important guidance as to how OCR will enforce the discrimination statutes under its jurisdiction with respect to an investigation or audit of the district. Second, the current trend at OCR suggests a more aggressive enforcement approach that lowers the standards to be applied in determining whether a district has engaged in discriminatory practices in violation of the statutes. Finally, the OCR standards set forth in DCLs are not necessarily those that will be enforced by the federal courts. ■

■ Endnotes

1. For additional information on other OCR guidance, see *Wisconsin School News*, “Providing Equal Opportunities to Students with Disabilities in Extracurricular Athletics” (October 2014) and “Addressing Bullying and Harassment by Students” (August 2012).
2. “Crossing the Next Bridge: Secretary Arne Duncan’s Remarks on the 45th Anniversary of ‘Bloody Sunday’ at the Edmund Pettus Bridge, Selma, Alabama”
3. Charles Weatherly “DOJ and OCR Efforts to Expand Areas of Agency Enforcement Re: Students with Disabilities”
4. *Long v. Murray Cnty. Sch. Dist.*, 522 F.App’x 576 (11th Cir. 2013); *K.M. v. Tustin Unified Sch. Dist.*, 725 F.3d 1088 (9th Cir. 2013); and *Estate of Lance v. Lewisville Indep. Sch. Dist.*, 743 F.3d 982 (5th Cir. 2014)
5. 526 U.S. 629, 119 S.Ct. 1661 (1999)
6. *Doe v. Don Galster*, 768 F.3d 611 (7th Cir 2014)
7. December 7, 2010, letter to Charlie Rose, General Counsel U.S. Department of Education from Francisco M. Negrón, Jr., General Counsel NSBA
8. *Doe v. Bd. of Educ.*, 2015 U.S. App. LEXIS 5557 (4th Cir. Md. Apr. 7, 2015)(Unpublished)
9. *Doe v. Bd. of Educ.*, 2015 U.S. App. LEXIS 5557, Brief of Amici Curiae National School Boards Association and Maryland Association of Boards of Education (June 4, 2014)

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

Service Associate Q&A

School attorney Alana Leffler covers RDA implementation and cash-in-lieu-of-benefits

Q. *What are two current school law issues that every school district should have on its radar?*

A. Two important school law issues impacting public school districts are Results Driven Accountability (RDA) and cash-in-lieu-of-benefits (or “opt-out” program).

Q. *What do school districts need to be aware of in regards to RDA?*

A. On June 24, 2014, the U.S. Department of Education announced a major shift in the way it will evaluate the effectiveness of state special education programs. Until then, the focus had been primarily on procedural compliance. But, the achievement gap between students with disabilities and students without disabilities continued to increase. Accordingly, the U.S. Department of Education developed a new accountability framework designed to close the achievement gap — RDA.

Q. *What should schools districts do to prepare for RDA?*

A. Each state is developing a State Systematic Improvement Plan that identifies gaps in student performance and proposes a way to address those gaps. The Wisconsin Department of Public Instruction (DPI) is focusing on improving literacy for students with disabilities. Beginning with the 2015-16 school year, school districts will be required to implement RDA and will be evaluated on the results. Therefore, it is crucial that school districts prepare to implement RDA today by:

- Becoming familiar with DPI guidance on RDA, including the Procedural Compliance Self-Assessment Checklist.
- Examining educational programming to maximize student

achievement, including the achievement of students with disabilities.

- Training staff members on the impact RDA will have on “IEP basics.” This includes:
 - An analysis of grade level proficiency as an appropriate goal for each student with a disability and how that goal would effect the intensity and selection of services;
 - A reassessment of the relationship between the educational environment (LRE) and the effectiveness of educational services so as to achieve grade level proficiency; and
 - The criteria used to determine when grade level proficiency is an inappropriate goal for a student with a disability.

Q. *In regards to cash-in-lieu-of-benefits, can school districts still offer cash to employees who decline the district's health insurance benefits?*

A. There is no express prohibition on cash-in-lieu-of-benefit (“opt-out”) programs, but there are many legal and financial risks associated with them. Opt-out programs became popular when public school districts paid most, if not all, of an employee's health insurance premiums and were required to bargain any changes to that arrangement. Offering cash to employees who would drop the district's health coverage saved money, and it was easier to negotiate than an increase in employee contributions. Because most school districts now require meaningful employee contributions toward health insurance premiums, employees already have an incentive to drop the district's coverage if they do not need it. Therefore, opt-out programs may no longer make financial sense.



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Q. *How does the Affordable Care Act affect this issue?*

A. The Affordable Care Act (ACA) raises another concern. School districts must offer “affordable” coverage to their full-time employees. Employers who fail to offer affordable coverage may be subject to a \$3,000 excise tax for each full-time employee who enrolls on a state-run health exchange. Generally, coverage will be “affordable” if the employee cost for the lowest level of single coverage is less than 9.5 percent of that employee's total household income. Although the IRS has never addressed the issue directly, there is an argument that an opt-out payment is actually a cost to employees, because employees clearly give up additional cash compensation in order to receive district health benefits. This cost could potentially trigger the excise tax.

Even where an opt-out program makes financial sense and can be structured to comply with the ACA, school districts should be careful to comply with other tax requirements and the Medicare secondary payer rules. School districts should closely review their opt-out programs if they have not done so recently. ■

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