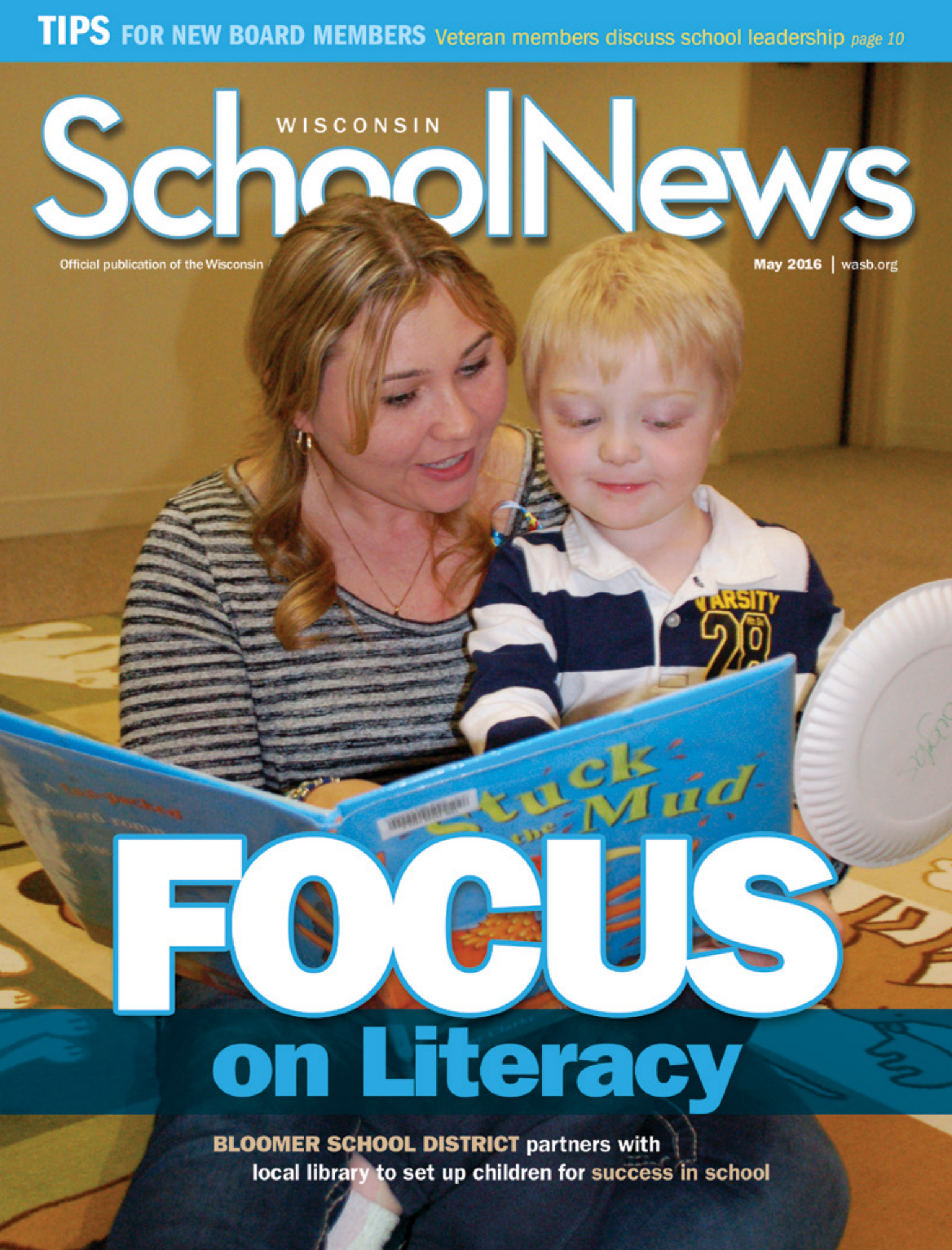


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A photograph of a woman with blonde hair and a young boy with blonde hair sitting on a patterned rug. The woman is wearing a grey and black striped sweater and is looking down at a blue book. The boy is wearing a dark blue and white striped shirt with 'VARSITY 28' on it and is also looking at the book. The book is titled 'Stuck in the Mud'. To the right of the book is a white paper plate with some writing on it. The background is a plain wall.

FOCUS

on Literacy

BLOOMER SCHOOL DISTRICT partners with
local library to set up children for success in school

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Washburn Students Help First Lady Plant White House Kitchen Garden

Last month, five students from Washburn Elementary School were invited to help First Lady Michelle Obama plant the White House Kitchen Garden. Produce from the garden is used for preparing meals for the First Family and official functions like state dinners.

Mrs. Obama started the garden in 2009 and each spring has invited small groups of students to the White House to help her with the planting. This year, in addition to the Washburn students, Mrs. Obama invited students from the Arthur Ashe Charter School in New Orleans, the Kemper Elementary School in Cortez, Colo., and students from two local D.C. area schools.

Before planting, Mrs. Obama talked to the students about why they

plant the garden and the importance of healthy living. “Our thought was that if you know where your food comes from, you might be a little more interested in eating your vegetables,” she said.

Al Krause, principal of the Washburn Elementary School, served as one of the chaperones for the trip and was impressed with Mrs. Obama’s passion for the project.

“You can tell there was a genuine interest not only in the students she had there, but in the information she was talking to them about,” Krause told the Ashland Daily Press. “It was exhilarating.”

Washburn and the other schools were invited because of their green education efforts. Washburn has an



Washburn Elementary student Erin Hinson plants lettuce with First Lady Michelle Obama.

extensive school garden program that includes a 6,400 square foot garden and small orchard. Elementary grades each have a section of the garden to maintain throughout the year, and the middle school and high school have classes that use the garden extensively, culminating in an Agripreneur program. Much of the food grown is used in the school food service, with additional food sold to the community.

Report Takes Issue with Wisconsin's Physical Education Requirements

A new report suggests Wisconsin may be falling behind when it comes to keeping students active and healthy. The Shape of the Nation, a report that studies the state of physical education in each state, took issue with the fact that while Wisconsin does require students to take physical education classes, it doesn't require a specific number of minutes in those classes.

“What it shows here in Wisconsin is that we really need to pick up the pace and we need to do a better job of helping to get our kids active and healthy,” said Bradley Cavanagh with the American Heart Association.

The American Heart Association and SHAPE America are recommending 150 minutes of exercise per week, or 30 minutes a day, for kids. □

STAT OF THE MONTH

20-40%

Percent drop in enrollment experienced by various Wisconsin university and college teacher programs in the past six years.

Source: Milwaukee Journal Sentinel

Record \$37.7 Million Coming to School Libraries from Common School Fund

Wisconsin's K-12 public school libraries will receive \$37.7 million, thanks to record earnings from Common School Fund investments, the Board of Commissioners of Public Lands (BCPL) recently announced.

This 2016 library aid distribution is the largest in the long history of the BCPL. In an era of historically low interest rates, BCPL commissioners are proud to have maintained strong earnings distribution.

According to the Department of Public Instruction, “the BCPL board is comprised of State Attorney General Brad D. Schimel, State Treasurer Matt Adamczyk, and Secretary of State Douglas La Follette. Together, they manage the Common School Fund which today holds approximately \$955 million in financial assets and about 5,600 remaining acres of trust lands.

The board invests the trust fund assets with the goal of providing a long-term, stable source of public school library funding. The primary investment vehicle is the BCPL State Trust Fund Loan Program, which loans money to local communities for public purpose projects including: economic development, school repairs and improvements, local infrastructure and utility projects, and capital equipment and vehicle purchases. The interest earned on these loans and other investments provide the funds distributed to school districts as library aid.” □



Focused on Continuous Improvement

April was an important month for school boards in Wisconsin with school board seats and referenda on the ballot in the spring primary election. Congratulations to the new and returning school board members and to the districts that were successful in passing a referendum!

Of the 71 referenda on the ballot, 55 were approved by voters — a 77 percent passage rate. Our school districts are sound fiscal stewards but sometimes more investment is needed to ensure a high-quality education for our students. The dollars from these referenda will ensure that school facilities are upgraded, programs remain in place and, in some cases, schools won't be forced to close in the face of stagnating state funding and restrictive revenue limits.

While it is encouraging to see so many of our communities willing to support greater investments in public education, the continuing reliance on referenda expands the disparities in school funding and makes it increasingly difficult to make long-term budget plans.

The Wisconsin Constitution requires that we provide for “the establishment of district schools, which shall be as nearly uniform as practicable.” In 2000, the state Supreme Court determined that “uniformity in educational opportunities” was not constitutionally mandated, but that the Legislature must provide sufficient resources so that every student can have the opportu-

nity for a “sound, basic education... that will equip [them] for their roles as citizens and enable them to succeed economically and personally.” While the court recognized that disparities between school districts stem from differing taxing capacities, it did not address how those differing capacities and ability to pass referenda contribute to disparities in resources.

If we allow the disparity to grow among our public school districts, at what point will the public demand a better system and increased state investments? For a deeper discussion on this topic, view this month's Capitol Watch column on page 20.

With the April Election behind us, it's time for school boards to dig in and continue their work. Budgeting for the next school year is underway, graduation day is just around the corner, and annual school board meetings are coming up.

Leading a public school district comes with challenges. As school leaders, we must remain focused on continuous improvement not only by the district as a whole but as school boards as well. To help you in that endeavor, the WASB has launched a Peer Mentoring Program as a complimentary service to our legal, policy and board governance services. Long-term board members who have demonstrated a commitment to professional development have stepped forward to be mentors.

Whether you are a new board

member trying to understand your role or a board president grappling with a governance issue, these experienced board member mentors can provide you with advice, support and guidance. They've walked in your shoes and know what it's like to deal with hot-button issues and difficult situations. Feel free to reach out to them at any time. For more information and a list of mentors, visit wasb.org. Select “Governance” and then “Peer Mentoring Program.”

I also encourage our new board members to utilize the Introduction to School Board Service Program. It's a professional development guide specifically for new board members to assist you in ensuring that you are exposed, at an introductory level, to the full range of issues and topics that come before boards. To download a copy of the program, visit the WASB website. The Introduction to School Board Service Program is a component of the Member Recognition Program found under “Governance.”

In closing, please consider joining us at one of our Spring Academy Workshops. The evening workshops will take place this month in six different locations across the state. Learn about governance and school law issues that every school board member should know. For more information, see page 26 or visit wasb.org. ■

Our school districts are sound fiscal stewards but sometimes more investment is needed to ensure a high-quality education for our students.



FOCUS

on Literacy

Bloomer School District partners with local library to
set up children for success in school

Shelby Anderson



Lorna Margenau, special education director for the Bloomer School District, wanted to offer learning experiences outside of the school's walls to some of the district's younger students and also reach out to children and families not yet enrolled in the district. Research shows that young students — students in the pre-K age group — learn best when they're in a setting in which they are the most comfortable. For many students, this would be home. While teaching students in their individual homes was not an option for all students, Margenau thought

the library might offer a relaxed, welcoming atmosphere for young students and their parents.

Margenau says the library was supportive of the idea from the very beginning.

"From the minute we threw the idea out there, they were on board," Margenau said.

For the past three school years, the school district and the GE Ble-skacek Family Memorial Library in Bloomer have teamed up to provide comprehensive early literacy intervention, including speech therapy and language support, through

library-sponsored story time.

Story Hour is led and taught in collaboration between the school district and the library. Meggan Bixby and Lynn Hammond, speech and language pathologists in the Bloomer School District, and Kathleen Larson, the library director, lead and direct Story Hour and related activities as a team.

"It's a true co-teaching model," Margenau said. "They collaborate on what objectives and lessons they want to teach. They have specific lessons and goals for each Story Hour."



Gaps Persist in State's Reading Scores

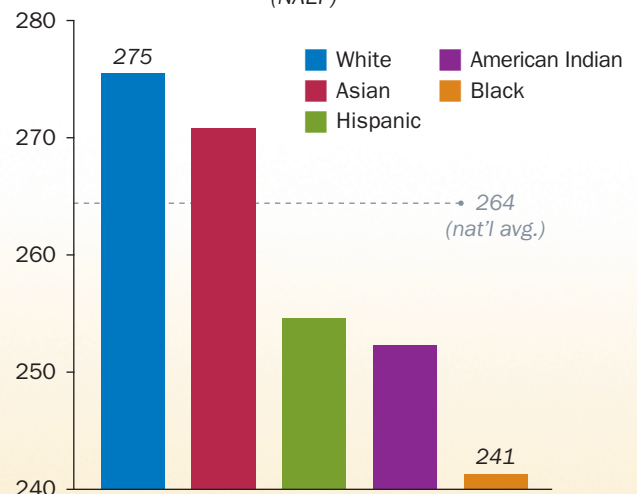
Results from the 2015 National Assessment for Educational Progress (NAEP) showed that reading gaps continue to persist in the state's public schools. Wisconsin eighth-grade white students had an average reading score of 275, compared to 241 for black students. The national average is 264.

Among the state's fourth graders, white students had an average reading score of 231, and black students had an average score of 193. While the reading gap continues to prove challenging for the state, there were some gains. Hispanic students at the fourth-grade level and black students in eighth grade had slight improvements in reading scores.

As a whole, reading scores for Wisconsin made a slight improvement and ranked slightly above the national average. In 2013, Wisconsin fourth graders scored 221 in reading, which was exactly the same as the national average score. In 2015, Wisconsin fourth graders improved slightly, scoring 223, compared to the national average score of 221.

Eighth-grade scores improved as well. In 2013, Wisconsin eighth graders scored 268 in reading. The national average was 266. In 2015, the state's eighth-grade average reading score improved to 270, compared to 264 for the national average. □

Wisconsin Eighth-Grade Reading Scores
2015 National Assessment for Educational Progress (NAEP)



A typical Story Hour includes three stories read by the librarian, a couple of active sing-alongs, and a craft activity. It also includes a sound bag. Bixby or Hammond pull different toys or objects out of a bag and ask the children to name them. Each object is tied into the sound of the day. In addition, each Story Hour ends with play time. While it may seem like fun to the students, a lot of learning and development takes place.

“The goal is to provide an environment for the children that is more natural and more closely resembles what other three and four-year-old children are already doing,” Bixby said. “Instead of having the kids come to school for speech therapy in a setting that most other three and young four-year-olds are not going (public school), we are able to meet their IEP goals in an environment that has already shown to be successful for kids this age.”

It is also important to have a mix of students at different skill levels and from different backgrounds.

“Typically developing peers are already in attendance and often are able to act as positive role models,” Hammond said. “Children this age learn a lot by imitating other children, so it is important to us that our students with disabilities have typically developing children to imitate.”

Not only are the children learning, but parents are also getting ideas and strategies to help develop their children’s literacy and communication skills when they’re at home. Parents are able to participate in the 60-75 minute activities and practice using the strategies to improve their children’s language skills.

Part of the power of Story Hour is that it takes place outside of the regular school setting. Children and parents feel more comfortable meeting in a neutral space such as the public library.

“We have witnessed parents connecting with each other in a way we never have,” Bixby said. “In the environment of the library, we have removed the feeling that they are in a ‘school’ and they are able to ask



Mary Randall, superintendent of the Bloomer School District, and Kathleen Larson, director of the G.E. Bleskacek Family Memorial Bloomer Public Library, accept the *Standing Up for Rural Wisconsin Award* from State Superintendent Tony Evers in March 2015.

Standing Up for Rural Wisconsin

The Bloomer School District’s collaborative work with the GE Bleskacek Family Memorial Library won an award through the Department of Public Instruction’s “Standing Up for Rural Wisconsin” program. Other award winners include:

- **Hunger Initiative Feeds People, Empowers Youth** — Unity School District, Balsam Lake
- **The Food Court** — Galesville-Ettrick-Trempealeau School District
- **Sharing Supper Feed and Read** — Endeavor Elementary School, Portage Community School District
- **Ecovim Digester Project** — Sparta Area School District
- **Agriculture Food for All** — Stratford School District
- **Three Lakes School Fab Lab** — Three Lakes School District

For more information, visit the DPI website at dpi.wi.gov/rural/awards.

each other questions about their children's abilities or disabilities."

■ Leveling the playing field

Story Hour is open to all children in the community but it has been especially helpful in providing opportunities for students from low-income families.

"It helps equalize the playing field," said Mary Randall, superintendent of the Bloomer School District. "Some of the research shows that the achievement gap is partly caused by kids who have been exposed to a lot of learning and kids who don't leave their living room."

Opportunities and activities like Story Hour help students catch up to their peers and develop literacy skills before they enter kindergarten.

"When they come to school, they have the vocabulary to interact

with the world around them," Randall said.

Reading scores for Bloomer Elementary School have improved since the district began its collaborative literacy work with the library. During the 2011-12 school year, Bloomer Elementary School scored a 28.6 in reading achievement on its school report card from the Department of Public Instruction. For the 2013-14 school year, the school's reading achievement score increased to 31.3. Test scores have also shown that the school has made progress in closing its reading achievement gaps.

"I believe strongly that this work is promoting activity time that these children wouldn't have received anywhere else," Randall said "The more language they hear, the more they learn."

■ Working together

The partnership the school district shares with the library was built out of necessity. In a small community, Randall says, it is necessary for the two to work together. In addition to the literacy activities at the library, the library and district have collaborated on other projects, such as the story walk — a half-mile nature walk on the school district's grounds that displays a children's story on large, protected story boards. Parents and their children can walk the trail and read a story at the same time. The story is changed several times a year. In addition, the library, led by library director Kathleen Larson, is very active in the community, holding Lego club, movie nights, and arts and crafts activities. The library also holds book talks at local schools, serves seniors at local



nursing homes, and brings books to residents for their enjoyment.

“Our library is integral to the work we do in the whole community,” Randall said.

Another positive outcome of the collaborative literacy work between the district and library is the benefit to children not yet enrolled in the school district. The school district and library are reaching out to and positively impacting young children before they enter pre-K or kindergarten.

“This work has been successful in that community members whose children aren’t receiving speech therapy from the district are able to benefit from the same instruction we are providing to the kids on our caseloads,” Bixby said.

Students from the community are getting the same professional literacy enrichment activities and opportunities as students in the school district.

“Parents can gain developmental information and get suggestions



about their child’s speech and language skills from professionals, without having to do anything ‘extra,’” Hammond said. “Sometimes a child has trouble with a sound or two, but does not have a speech language disability. Their parents can learn how to help them with these sounds.”

Another benefit is that dozens of young children and their parents become familiar with the library and

utilize it.

“It has been exciting to share the library with several families for the first time,” Bixby said. “Many parents are now regulars at the library because they first came to Story Hour with their child for speech. It is fun to watch our children go home with a bag of books.” ■

Shelby Anderson is editor of Wisconsin School News.



Summer Leadership Institute

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- Multiple tracks allow you to customize your day.

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TIPS

SCHOOL BOARD MEMBERS



Mary Jo Rozmenoski is president of the School District of Black River Falls Board of Education. She is WASB Region 6 director and 2nd

vice president for the WASB.

Gary Vose is president of the Kettle Moraine School District School Board. He has served on the school board since 1987.



► Is there something you wish you had known as a new board member?

Rozmenoski: I wish I would have known more about the time commitment and importance of professional

development opportunities. Once I was elected and attended trainings on governance topics, I was hooked on wanting to learn more and continued to learn through informal and formal education. There are wide-open opportunities for school board members to be involved at all levels and I adjusted my work and personal life to include regular advancement and growth and continuous improvement at every level.

Vose: As a new school board member, I found myself trying to get immersed in all of the details and questioning areas that were of little importance. Instead, looking back, I wish I would have spent more time speaking to administrators and teachers to learn what was really important to them, how the board could better support the students and staff, and understanding the long-term vision and needs of the district. I have found it helpful to always tell myself, 'students first.' I also believe it is important for new

board members to better understand the impact the state Legislature has on education and spend time developing a good relationship and being able to influence them.

► What can a school board member do to increase student achievement?

Rozmenoski: Our school board is committed to student success and the goal that all students will increase their achievement and attain annual personal growth goals in order to reach their highest potential. While there are many factors impacting student achievement that we as a school board cannot control, we positively impact student outcomes by our governance practices including:

- Engaging in formal and informal board development and training;
- Governing effectively in partnership with our superintendent;
- Being open, honest and

Tips for **NEW** SCHOOL BOARD MEMBERS

Veteran school board members, administrators and business managers discuss school leadership

LAST MONTH, hundreds of new school board members joined school boards across the state.

The WASB welcomes our new members and thanks them for taking on the important duty of serving on their local school board.

The WASB posed questions to experienced school board members, district administrators and business managers and asked them their take on school board governance.

We hope this insight is helpful for new and experienced school board members alike.

Thank you for your service.

respecting each other and appreciating each other's strengths;

- Proactively engaging with our community; and
- Understanding and committing to our strategic plan.

Vose: First of all, understand what really does influence the increase of student achievement (*e.g.*, how to motivate individual students, how to motivate staff to motivate individual students and how to engage parents in the process). After really understanding these factors, speak to staff to get their input and buy-in to practical ways of defining, developing and implementing processes and programs designed to individualize the

learning for students based on their needs and interests in order to maximize their overall achievement. Board members need to champion and support the changes identified and do so in a way that encourages creativity and ownership of the learning without becoming overly critical of current practices — it is called leadership not dictatorship.

► **What are some of the bigger issues or challenges that you face as a school board member?**

Rozmenoski: The most challenging times are times of change and I feel that public education has become a divided political issue at many levels.

I look at change from a positive perspective. It is constant and is an opportunity to take the best of the past and move forward. In our work as locally elected officials responsible for balancing budgets, we face difficult choices in a challenging fiscal environment. There is great concern over the dollar cuts to public education and we are charged with keeping the high standard and responsibility to fund public education at levels sufficient to ensure all students an equal opportunity to learn. Our budgets are stretched to the limit and we must continue to keep a strong public education system as part of Wisconsin heritage by bringing innovative instruction to

Looking back, I wish I would have spent more time speaking to administrators and teachers to learn what was really important to them and how the board could better support the students and staff. — Gary Vose

TIPS

our students. Difficult decisions affecting people's lives are sometimes necessary.

Vose: Change within school districts is slower than within the private sector — a board member needs patience and a focus on the longer term rather than what you, as an individual, would like to see happen tomorrow. Another major challenge can be other board members, individual board members with an agenda. This can be a tremendous diversion of time and effort of district staff, which in turn can slow down the rate of change even more. Yet another major challenge is political — the unwillingness of our Legis-

lature to 'fix' the state funding formula, which is inherently inequitable yet our politicians seem to believe it is in their best interests not to tackle this important issue.

► What have you learned from your time serving on the school board?

Rozmenoski: I have learned that we can make a difference and we are not in this alone. Community engagement and collaborative relationships are the key to excellence. Staff, families, students and the community need to be effectively engaged in problem solving and decision making to promote shared leadership in the educational process and feel connected and proud to be a part of the school district.

Vose: Education is very dynamic and the rate of change is ever increasing. You can't fall into the trap of

believing 'I received a good education, so why change.' Instead, you need to be forward looking and continuously be identifying better ways of improving the whole education process. Board members also need to be leaders with passion and most of all be able to identify, attract and hire the very best talent, especially the superintendent. You need to be willing to support the ongoing development of staff (not just taking more college-level courses) and understand some basic principles of motivation — I personally really like the Daniel Pink model, which emphasizes autonomy, mastery and purpose as described in his book, "Drive: The Surprising Truth About What Motivates Us," or for those of you who would like the Cliff Notes version, search online for the video, "Daniel Pink: The puzzle of motivation." □

Walworth School Board Member Wraps Up 48 Years of Service

Kelly Freeman, former president of the Walworth Joint #1 Board of Education, finished her final term as a school board member in April. She was first elected to the school board in 1968. She had attended school in the district and had young daughters in the district when she was first elected.

"It seemed it was the opportune time to try to give back, in some small way, the love of learning the teachers and the district had provided to me and perhaps I could help do the same for our students," Freeman said.

Freeman said one of the most gratifying parts of serving on the school board was the learning experience and working with her fellow board members.



"Over the years as board members changed I was always amazed. Even though we had never worked together before, we sat at the table and were able to accomplish the board's business respectfully always with one goal in mind — what is best for our students."

As to why she stayed on the school board for all these years, Freeman said because she loved it.

"I have the utmost respect for our faculty and staff and for our citizens who support our school year after year — all with the same desire to provide a safe learning environment for our students," she said. "I mean this sincerely when I say it has been an honor and a privilege to serve our Walworth Jt. #1 School District." □

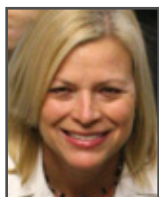
DISTRICT ADMINISTRATORS



Kristine Gilmore is superintendent of the D.C. Everest School District. She was named the 2012 Superintendent of the Year

by the Wisconsin Association of School District Administrators.

Deb Kerr is superintendent of the Brown Deer School District. She is president of the Wisconsin Association of School District Administrators.



► **From your perspective as district administrator, what should school board members be cognizant of as they begin their service?**

Gilmore: As a new board member it is essential to listen, read, and ask questions as you begin your new role. School districts are complex systems with a lot of moving parts. If board members keep committed to students and the mission of the district, it will be easier to make good decisions. It is important to remember that a board only makes decisions as a whole and not individually. Together, you will set policies and the direction of the district. The

heavy lifting is done by the district administrator and staff.

Kerr: First of all, congratulations on making a commitment to serve the children and families in your community. Getting a great education is essential for all students in your district to become world-class ready for any career or college pathway they pursue. Additionally, be ready to work as a collaborative team with members of the board, the administration, and school community. Have a positive attitude about your work and don't be afraid to ask questions or share ideas. Try to be visible at school and community events as you are an ambassador of education.

► **How can new school board members establish good working relationships with their district administrators?**

Gilmore: A relationship is a two-way street and to make it positive, both members need to put energy into it. Take time to get to know each other. Some questions for a district administrator: What is your leadership style? How do you best communicate? What are your core values? What keeps you up at night? What about our district makes you most proud? Where do we have room to grow as a district? Knowing the answers to these types of questions may help you better understand your district administrator.

Kerr: Making time to get to know

each other is very critical to a successful working relationship with board members and district administration. Just like you would expect your child's teacher to get to know their students, this is the expectation for new board members and your district administrator. Come early to meetings to say hello and if you have any questions about school matters, try to call ahead of time as sometimes answers require doing some research about particular issues. Attend any orientations for new board members or meetings arranged by your school board. Visit the schools and invite the district administrator to share school district points of pride, what they are currently working on, and how you as a board member can support our staff doing this important work.

► **As a whole, what qualities does a good school board have?**

Gilmore: A good school board keeps committed to the district mission without letting individual members' thoughts, ideas, or agendas get in the way. They keep the focus on what is best for the district and support the administration and staff in their work to achieve student success. Over my past 13 years as superintendent, I have seen very successful boards work collaboratively, respect each other's differences and keep a sense of humor.

Kerr: 1) An unwavering commitment to student learning and excellent



It is important to remember that a board only makes decisions as a whole and not individually. Together, you will set policies and the direction of the district. — *Kristine Gilmore*

TIPS

teaching for ALL children. 2) Acknowledgment of all of the goodness in education but can also have those difficult conversations about closing the achievement gap for ALL children. 3) Serves as an advocate for public education and for the community. 4) Willingness to be life-long learners and continue to learn and grow as a board. 5) Celebrates the wonderful accomplishments of students and staff all throughout the school year. □

SCHOOL BUSINESS OFFICIALS



Bob Avery is the director of business services for the Baraboo School District and president of the Wisconsin Association of School Business Officials.

Keith Lucius is the assistant superintendent, business director for the Ashwaubenon School District. He was named the 2013 School Business Manager of the Year by the Wisconsin Association of School Business Officials.



► **From your perspective as business manager, what do you think school board members should be cognizant of as they begin their service?**

Avery: There are three things that stand out as absolutely fundamental for new school board members to be aware of: 1) that most financial information is recorded in the general operations budget - Fund 10; 2) that approximately 85-95 percent

The opportunities for increasing revenue to offset rising costs are quite limited, so managing the budget really is about managing expenditures. — *Bob Avery*

of the revenues for the general operations budget of any given school district is governed by the state revenue limit statutes; and 3) that, in general, approximately 67-75 percent of the district's costs in the general operations budget are personnel related.

Lucius: Review board meeting materials before the meeting and whenever possible ask questions before the meeting. When this is done, administrators can have the answer at the meeting. This allows the entire board and the public to have the information at the meeting before the board takes action.

► **What school finance issues are important for new school board members to understand or study?**

Avery: The opportunities for increasing revenue to offset rising costs are quite limited, so managing the budget really is about managing expenditures. Secondly, board

members should understand the relationship between state aid and local property taxes within the revenue limit formula and where one's district stands in the formula. Finally, that the mill rate has little to no bearing on what property taxpayers see on their tax bills each year and is therefore less important than it is perceived to be.

Lucius: For new board members, I feel that they need to have a basic understanding of the revenue limit formula and the equalization aid formula. They don't need to know the details, but understand the concept of how they work. For example, how is the budget impact different if the district has a new resident student versus a new open enrollment student? Or how will a referendum impact aid? A board member does not need to be able to calculate the impact — I will do that for them. But they may need to explain the impact to a taxpayer. ■



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ACCESS

for All Students

The state of K-12 broadband in Wisconsin schools | *Bill Herman*

School is still the primary place where education happens. But to support their learning, students have to be seamlessly and continuously connected to the world's resources where they are located: on the Internet.

Almost everyone in education recognizes that fast access to the Internet has become a lifeline for students. Textbooks, magazines, and journals are moving from shelves into the cloud. Widespread learning tools such as Google Apps are available only in the cloud.

Building an environment that provides this connection is not easy or cheap. The needs of a classroom are unusual, where you may need as many as 100 connections in every room. In effect, schools are called upon to develop wireless environments more robust than most businesses provide. In turn, states are called upon to bring fast, affordable, high-volume Internet access into every school.

What is the state of access to the Internet in education in Wisconsin today? Are schools receiving bandwidth sufficient to meet exploding demand? Are their internal networks capable of distributing Internet

traffic to all corners of the building, all of the time, reliably, and fast? The answer is, unfortunately, not yet. This is true not just in Wisconsin, but across the entire country.

■ Bandwidth and Network

Two major components are needed to bring high-quality access to every student. The first is high bandwidth with a highly reliable connection from the Internet to the school. The second is a robust network within the school, to distribute Internet traffic to students and staff throughout the building, whenever it is needed. Recognized standards have emerged to measure both components.



Beginning in 2017, every school should provide 1 Mbps to every person in the building.

Benchmarks for the amount of bandwidth that needs to be delivered to schools have been adopted by leading educational organizations, the Federal Communications Commission (FCC), and the Department of Public Instruction (DPI). From 2014-17, every school should provide 100 Kbps to every person in the building. Beginning in 2017, every school should provide 1 Mbps — 10 times as much — to every person in the building. This jump in bandwidth recognizes growing needs for education.

The effects of the 2017 retargeting of bandwidth is shown in *Fig. 1*. Existing bandwidth are by and large sufficient across Wisconsin schools under the current standard. In 2017, if school broadband supply remains where it is,

Internet access will be inadequate at most schools in the state.

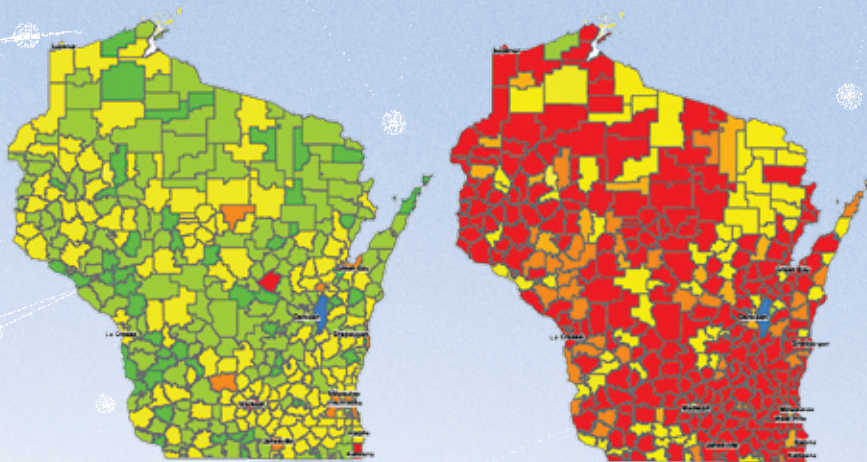


Fig. 1 **2017 Retargeting**

The Connectivity Health Report shows many districts had met bandwidth benchmarks in 2014 (green). However, this standard will be inadequate by 2017 in most school districts (red).

Source: Wisconsin Department of Public Instruction, mapping by Wisconsin Department of Administration

Statutory and pricing constraints on BadgerNet, the state K-12 network, have limited the amount of bandwidth available to Wisconsin schools. By statute, BadgerNet subsidies provided by TEACH Wisconsin — a program administered within the Department of Administration (DOA) — have been available only to a single school in each district. However, all schools now need a high bandwidth

Internet connection. Compounding this, the rates for current BadgerNet service were established in 2011, when bandwidth was far more expensive than today.

Both factors have limited affordable bandwidth for Wisconsin schools.

Moving Forward with BadgerNet

Today the outlook is more hopeful. Wisconsin statute now allows a TEACH-subsidized BadgerNet connection at every school building in the state. In addition, a new BadgerNet contract is under negotiation. DOA's target is a contract with pricing low enough to provide every school in the state with bandwidth that meets the FCC benchmarks at a subsidized cost of \$250/month per building. This would effectively eliminate concerns about affordable bandwidth for Wisconsin schools going into the future.

However, in the meantime, some school districts have chosen to leave BadgerNet for more affordable

TEACH Grants Available for Rural School Districts

To support the need for professional development, beginning this school year, TEACH Wisconsin will provide a total of \$1.5 million annually in grants to rural schools to pay for professional learning in educational technology. This is the first time since 2004 that TEACH money has been used to support professional learning, a recognition by the state Legislature that successful student use of technology depends on effective guidance by teachers.

For more information, visit the TEACH Wisconsin website at teach.wisconsin.gov.



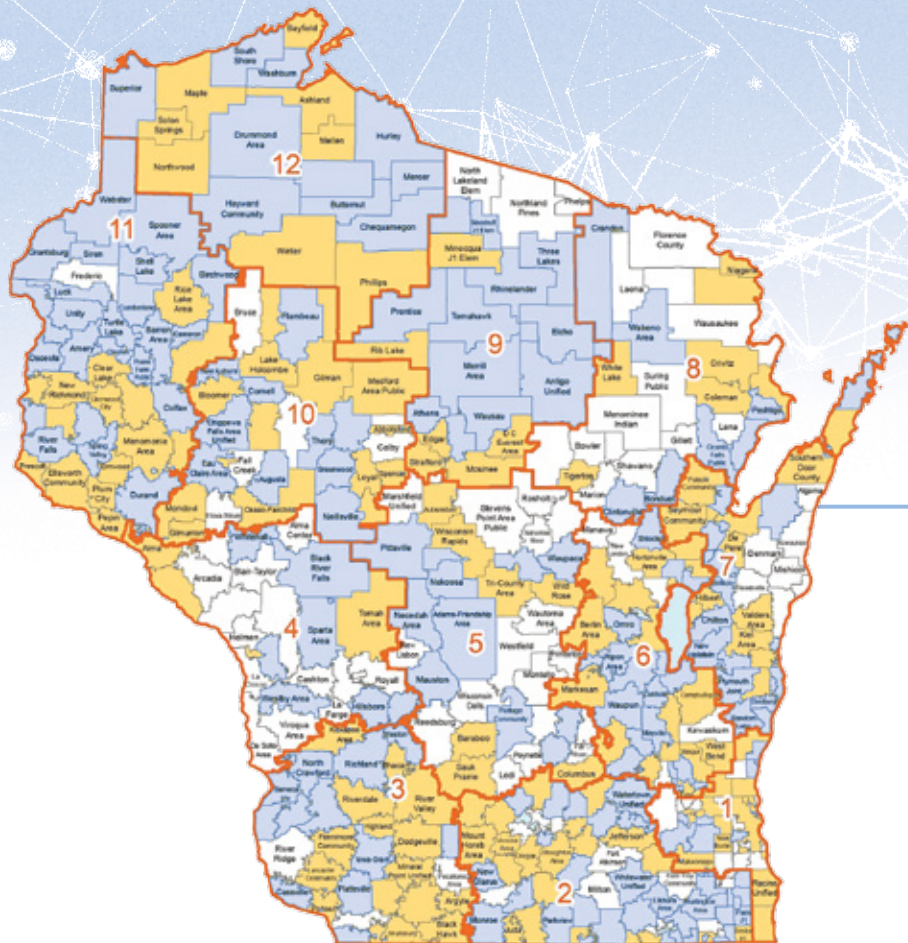


Fig.2 '1-to-1' Implementation

Data from 2014-15 shows nearly 42 percent of the public school districts have implemented a 1-to-1 program (blue). 35 percent of districts do not have a 1-to-1 program (gold), and 23 percent did not respond to the survey (white).

CESA regions shown with orange outline.

Source: Wisconsin Department of Public Instruction, 2014 Broadband and Digital Learning Survey

been created and funding has been doubled to help schools build and maintain internal networks in every school building. A major focus is on wireless or "wi-fi" connections. This school year is the first time school districts could apply for the new funding which is called "Category 2," and nearly three of every five districts in Wisconsin applied for it. DPI encourages every school district to evaluate their needs and apply for this funding as appropriate.

The next link in the chain that brings the Internet to every student is the device that he or she uses for access. As we know, schools are increasingly committed to providing their students with access to the

commercial providers in the marketplace. And now districts have a second way to establish affordable high-bandwidth connections to the Internet: dark fiber, which they can own outright or lease from the builder. A major expansion of the FCC's E-rate rules has allowed fiber construction projects to be funded by the program.

As an example, a school district with an 80 percent E-rate discount would have to pay only \$200,000 for a million dollar build — a cost that might be recovered in as little as five years when compared against the monthly cost of paying a provider for benchmark-level bandwidth. These types of projects can be complex and require considerable planning in advance. School districts would be wise to begin exploring their dark fiber options now for projects to be funded in 2017-18.

■ Access for Every Student

The challenge of bringing a high-bandwidth Internet connection

to every school is significant, but even when met, it is only half of the battle. The Internet must be brought not just to every school but to every student.

Here again, new E-rate rules have

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Internet whenever and wherever they need it. Providing students with laptop computers or tablets on demand is an expensive proposition for any school district, and user devices are not funded by E-rate. However, the cost of these devices is routinely dropping while their power continues to increase. Some districts have gone to referendum to exceed the revenue cap by an annual amount to cover the ongoing costs of providing their students with portable devices.

The “gold standard” that many districts around the country are aiming for is to “go 1:1” — to provide each student with a portable device. Fig. 2 shows where schools statewide stood in their implementation of 1:1 in 2015. Of course, before districts can make effective use of their investment, teachers need to be prepared to integrate the use of mobile devices into their teaching, and curriculum has to be adapted to meaningfully incorporate the use of mobile devices into student learning.

■ Access Outside School

Even in districts that have met all of the challenges described above, a critical additional piece is needed. As adults we know that if we do not have fast access to the Internet at

home, we would be cut off from both personal and work resources that we need on a daily basis. The same has become true of students. Many homework assignments cannot be completed without access to the Internet, placing students without Internet access at home at an enormous disadvantage.

Even in affluent school districts, there are students who do not have access at home due to geographic and topographic reasons. This is especially true in rural areas.

A significant remedy to this problem are two additional FCC programs. The first is the Connect America Fund, a federal program designed to make Internet access available to 95 percent of households by 2020. To give an idea of the scale of this challenge, Wisconsin providers have been given \$600,000,000 — more than half a billion dollars — to accomplish it. However, even when this access is available, it will still be challenging for many families to afford.

This challenge is being addressed by an FCC program called Lifeline. Under that program, low-income households — including those with school-age children — are eligible for a subsidy to obtain Internet access for only \$10 per month. In addition to these FCC programs, there are other efforts from commercial vendors to help meet these

goals, including the recently announced AT&T Access Program.

In Wisconsin, the Public Service Commission also offers broadband expansion grants to fill in the “hard to reach” areas of the state. The DPI is working collaboratively on innovative strategies such as putting wi-fi on school buses with UW-Madison and the Cooperative Education Services Agencies. Locally, individual school districts are also trying to achieve home access by offering “hotspots” for students to use at home.

The imperative to bring quality Internet access to every student, at school and at home, is easy to state but complex and costly to accomplish.

School leaders need continuous commitment, and school communities — not just parents of K-12 students — need to understand that good Internet access for students is crucial for their learning and growth, and for the economic health of the community. State legislators need to ensure that funding is available as Internet access is both an equity and economic development issue. School and community leaders need to make sure they are focused on learning about these issues and forging the partnerships needed to address them. ■

Bill Herman is an instructional media and technology consultant with the Department of Public Instruction.

MORE ON THE WEB

Here are some resources to help school districts provide and fund Internet connectivity in their schools.

● **Wisconsin Public Services Commission** (psc.wi.gov)
Broadband Maps at link.wisconsin.gov/broadband-maps

● **EducationSuperhighway.com**
A nonprofit dedicated to bring affordable high-speed Internet access to all K-12 students. *Site includes:* a portal where districts can compare their broadband deals with other districts; Wisconsin Internet access data; and *Network Essentials*, a guide for school district leaders.





The Need for Predictable, Sustainable and Equitable School Funding

On April 5, voters approved 55 of 71 school referendum questions (77 percent). Of the 34 operating referendums in which voters were asked to allow the district to exceed the revenue limit, 29 passed. The passage rate for non-recurring exceptions (those for a limited term of years) was 87 percent (20 of 23). For recurring exceptions (those for an indefinite period) it was 82 percent (9 of 11).

What's behind the high number of referendums and the high passage rates? In part, the answer is that boards and districts did a good job of communicating their needs to their communities. In part, the answer is that our state's funding system is making these sorts of referendums increasingly necessary.

When enrollment drops, a district's revenue limit — *i.e.*, its spending ability — goes down. While such decreases are often cushioned to some extent by adjustments to the revenue limit, for many districts with persistent declining enrollment, passing an operating referendum is the only way to avoid significant cuts in programs and staff. With no per-pupil adjustments to revenue limits this year or next, districts with declining enrollments may feel pressure to go to voters. Additionally, while non-recurring

referendums are easier to pass, they provide relief only for a limited time. If the relief expires before a new referendum can be approved, the district once again faces decisions about cutting staff and programs that led it to a referendum in the first place.

Achieving the sort of predictable and sustainable school funding that would make operating referendums less necessary is complicated.

Schools are expensive and largely funded by property taxes. Half the property taxes paid in Wisconsin go for schools — either K-12 or technical colleges.

Wisconsin school districts levied slightly more than \$4.85 billion in property taxes for 2015-16, or 2.1 percent more than in 2014-15.¹ While this increase, attributable in part to successful referendums, was the largest increase since 2011, it was less than half the 4.5 percent average annual increase from 1997-2011.

This change did not happen by accident. Holding the line on property taxes is a priority for the governor and GOP legislators who control the Legislature.

As the Wisconsin Taxpayers Alliance puts it:

The main reason school tax increases have been slowing in

recent years is legislative action. After 1992-93, the state imposed revenue limits on districts. The "caps" tied a levy growth to enrollment, state general aid, and inflation (through a state-determined per-pupil increase).

However, since 2010, these increases have been below the inflation rate. In each of the past two years, districts were allowed \$75 per student more in revenues. In 2015-16, the state is allowing no increase in the limits. State general aid shared with school districts is also frozen at last year's level.

Even though state aid is flat statewide, the amount an individual district receives can go up or down driven by factors in the aid formula.

A district's revenue limit changes only if: enrollment changes; the legislature allows an adjustment in the limits; or voters approve a referendum.

To be sure, the state can hold down property taxes by not adjusting revenue limits on a per-pupil basis; however, this chokes school budgets and leads to referendums. And, as last year's tax bills attest, it is not a guarantee that school taxes remain level in every district. Even though there was no per-pupil adjustment nearly two-

The key for those seeking predictable, sustainable and equitable school funding will be to build consensus, and building that consensus may hinge on creating a shared vision of what we want public education to be in our state.

thirds of school districts (275 of 424) increased their levy for 2015-16 due in part to the changeability of school aid payments and in part to adjustments allowed under revenue limits.

A surer way the state can hold down or reduce property taxes is by paying a greater share of school costs.

Under revenue limits, additional state aid reduces the amount of property taxes a district can collect. However, providing more state aid won't by itself increase the amount a district can spend unless a district's overall revenue limit increases for one of the reasons noted above. Further, to the extent revenue limits are allowed to adjust, more state money is required to hold down property taxes.

An illustration of how additional state aid can reduce property taxes is seen in technical college levies. Two years ago, with news of a possible state surplus, political leaders moved to "buy down" technical college levies by increasing their state aid by \$406 million and imposing revenue limits on technical college districts. The result was a nearly 50 percent drop in technical college levies and a 2 percent decrease in overall average levies statewide.

This shift from a largely local and property tax-based system of funding to one where state taxes contribute much of the funding also created an ongoing budget commitment for the state, which now must keep paying this \$406 million in aid each year to prevent technical college property taxes from going back up. This change became a more or less permanent feature of our state budget.

Because the \$4.85 billion levied by schools dwarfs the \$417 million levied by technical colleges, it is unlikely lawmakers will try to

dramatically reduce K-12 school levies in the same way but it illustrates how it can be done.

One likely reason lawmakers opted to "buy down" levies by increasing technical college aid rather than K-12 general (equalization) aid was that the price was a match for the size of the projected surplus. This "buy down" also produced a nearly uniform property tax reduction in all parts of the state.

Distributing state dollars through the equalization aid formula does not affect school districts uniformly, which has been a problem for political leaders seeking to reduce taxes for all constituents. The current school aid formula uses property value per pupil as the primary indicator of the ability of school district residents to pay taxes to support local school district expenditures. As such, there is an inverse relationship between equalization aid and property value. Districts with lower per-pupil property values receive a larger share of their costs through equalization aid than districts with higher per-pupil property values.

This variation in general aid payments may also explain why lawmakers in recent years appear to have favored increasing funding to schools through per-pupil aid, which provides the same per-pupil amount in every district. It also solves the problem of "zero-aid" districts under the equalization formula.

The key for those seeking predictable, sustainable and equitable school funding will be to build consensus, and building that consensus may hinge on creating a shared vision of what we want public education to be in our state. Having a vision and a goal in mind may make devising ways to reach that goal easier.

While it is encouraging that



Wisconsinites support school referendums at a high rate, funding school districts in this manner is not predictable, sustainable or equitable. Referendums do not pass in every district. This divides districts into "haves" who can pass referendums and "have-nots" who cannot. Our state has a constitutional obligation to provide students with a free public education in district schools that are "as nearly uniform as practicable." It is hard to see how the current referendum-heavy system works toward this guarantee. ■

¹ The \$4.85 billion figure reflects gross school levies, which were offset by roughly \$1 billion in school-related state property tax credits. Net school levies totaled about \$3.85 billion.

Employer Premium Subsidy Notices are Coming! Now what?

Guidance and support in appealing employer premium subsidy notices

This year, for the first time, the federal government will be issuing premium subsidy notices to employers under the Affordable Care Act. This article offers advice to school districts on what to do if your district receives such a notice.

Under the Affordable Care Act, school districts considered to be applicable large employers must offer affordable health coverage to their full-time employees and dependents or face the possibility of paying one of the two “play or pay” penalties. The trigger to pay a penalty occurs if one or more of the district’s full-time employees purchases insurance through the health insurance exchange and receives a premium subsidy tax credit to help pay for that coverage.

So, how will employers know if an employee receives a premium subsidy? To make sure employers aren’t caught off-guard, the exchanges will send a notice to an employer whenever one of its employees receives a premium subsidy. As of this writing, Healthcare.gov, the federal exchange

operating in Wisconsin, has indicated it intends to begin issuing such notices in the first quarter of 2016 — obviously, we are past that timeframe; we expect the notices to start arriving very soon.

This article is meant to provide some guidance and support on what a district should do if they receive a notice that one of their employees received a subsidy for coverage offered through the public exchange. While we don’t expect school board members to be experts on this topic, it is important for board members to understand the significance of these issues and the ramifications of a district’s payroll/HR department failing to act upon receiving a notice.

■ What do I do if we receive a notice?

If you are an applicable large employer, such as a school district,

and the employee who received the premium subsidy is a full-time employee, then you should strongly consider appealing the notice. If the district doesn’t appeal the notice and the employee’s subsidy eligibility stands, you will almost certainly be assessed a “play or pay” penalty.

If you are not an applicable large employer or the employee is not a full-time employee, then the need to appeal is less urgent — the employee poses no “play or pay” penalty risk to you.

■ What if I don’t appeal?

It’s likely you will still be able to challenge the employee’s subsidy eligibility later when the Internal Revenue Service (IRS) actually assesses a “play or pay” penalty against the district. But, at this point, we don’t know for certain whether the IRS will give you that second opportunity so you are

This article is meant to provide some guidance and support on what a district should do to avoid a potential “pay” or “play penalty if they receive a notice that one of their employees received a subsidy for coverage offered through the public exchange.

generally better off appealing now when you know you can.

Moreover, while the employee may immediately lose their premium subsidy if your appeal is successful, the employee may have to repay the entire premium subsidy they should never have received if you wait until later to challenge their subsidy eligibility. That is probably a much worse employee relations hit than appealing now.

■ What issues can I appeal?

An employee is disqualified from receiving a premium subsidy if they were offered affordable, minimum-value coverage by their employer. So in order to receive a subsidy, the employee must have told the exchange either:

- You did not offer them coverage;
- You offered coverage but it was not minimum value; or
- You offered minimum-value coverage but it was not affordable.

Those are the issues you can appeal — if you did offer the employee coverage; it was minimum value; and it was affordable. If you didn't offer this employee coverage, or the coverage was not minimum value or the coverage was not affordable, then there is usually no point in appealing.

■ How do I appeal?

This is where things get blurry. Every exchange has a different appeal process. And because the

federal exchange has yet to release its procedures, we cannot specify the exact terms of the process.

Typically the process starts with filing an appeal notice, which may involve completing a specific paper or online form or simply sending a letter stating you wish to appeal. From there, the exchange may request documentation to support your appeal, schedule a hearing, attempt to informally resolve the appeal or some combination thereof.

■ What documentation will I need to support my appeal?

That will depend on which issue triggered the employee's subsidy eligibility (which, initially you will not know) and your own internal benefits administration process.



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Broadly speaking you will need:

1. Documents proving that the employee was offered coverage and when.
2. Documents proving the coverage offered was minimum value.
3. Documents proving the employee's monthly cost of single coverage on the lowest cost minimum-value plan available to them.

■ Should I tell my employee I am appealing?

While not required, we encourage you to inform the employee that you intend to appeal the subsidy determination at or before the time you file your appeal. This should avoid the employee being surprised when they are told by the exchange that you are appealing.

But be cautious — you are not allowed to discriminate or retaliate against an employee because they received a subsidy. Don't say anything that may come across as threatening or suggest the employee will suffer some adverse employment action because they applied for a subsidy or if you succeed in your appeal.

■ What records should I keep and for how long?

You should hold onto all documentation concerning your appeal, including the employer premium subsidy notice; your supporting documentation; and the exchange's decision on appeal at least until the IRS is done assessing "play or pay" penalties for the year in question. Those records are also subject to the public records retention

requirements and should be kept in any case as is required by law.

Unfortunately, at this point, we don't know exactly how long the assessment process will take or when it will be completed for a given year, but there is a distinct possibility that it may be several years before the IRS starts sending out assessment notices. In other words, you may need records of an appeal from an employer premium subsidy notice you received in early 2016 well into 2017 or 2018. ■

Bret McKittrick is vice president and a human resources consultant at Associated Financial Group.

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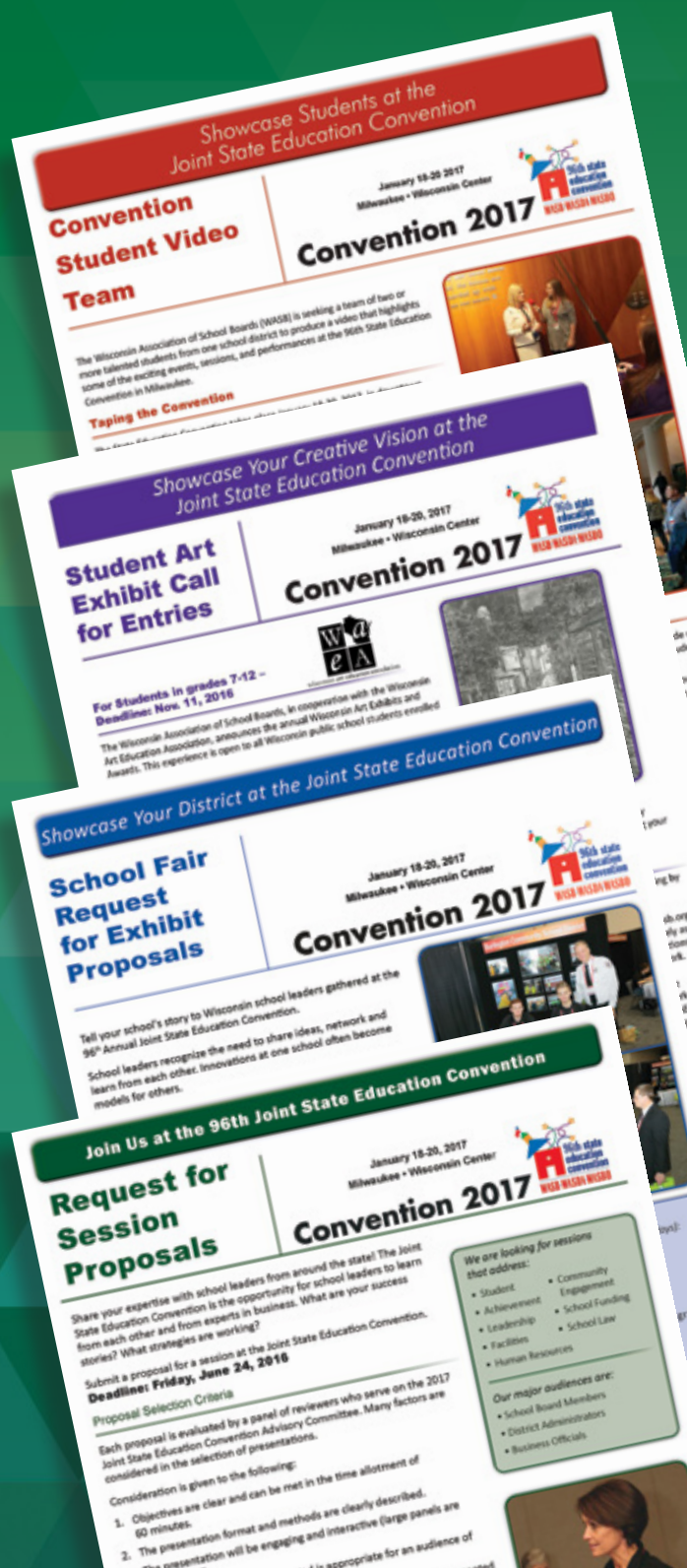


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Upcoming Event: Spring Academy Workshops

A foundation in school board governance for new and experienced school board members

With a focus on effective governance and the legal roles and responsibilities of school board members, the 2016 WASB Spring Academy Workshops will be held in six convenient locations throughout the state. The workshops will provide a foundation for new school board members to begin learning their role and serve as a helpful refresher for experienced board members.

The Spring Academy Workshops will be held in the evening, 6-9 pm. The agenda will be the same at all six locations and will include dinner

and two presentations led by WASB staff. The first presentation will be an overview of the Key Work of School Boards and the second will be on the legal roles and responsibilities of school boards.

For a detailed description and to register, visit wasb.org. □

SPRING ACADEMY WORKSHOPS

May 10 – CESA 4, West Salem

May 11 – CESA 2, Whitewater

May 17 – CESA 9, Tomahawk

May 18 – CESA 11, Turtle Lake

May 24 – CESA 1, Pewaukee

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■ Mark Your Calendar: Summer Leadership Institute

July 16, Hyatt Regency, Green Bay

School board members are invited to the Summer Leadership Institute, taking place July 16 at the Hyatt Regency in Green Bay. This event will provide school board members and administrators an opportunity to network with colleagues from around the state and gain the knowledge necessary to successfully lead your school district and improve board governance.

This all-day event will include sessions on school finance, building effective board-superintendent teams, legal and policy-making duties of school boards, teacher compensation plans, and more. The event will also include a legislative update from the WASB government relations team.

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. Watch for details to be released soon.*



■ Upcoming Webinars

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

■ Hiring Teachers May 11 | 1:30 – 2:30 pm

Presenter: Bob Butler, Associate Executive Director and Staff Counsel

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

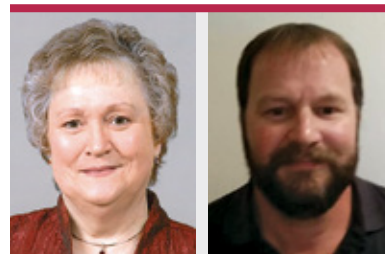
■ Annual and Special Meetings:

Notice, Procedures and Powers June 15 | noon – 1 pm

Presenter: Barry Forbes, Associate Executive Director and Staff Counsel

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

Please note: *These and all previous webinars are recorded and available on demand. WASB members can purchase any webinar and watch when their schedule allows. Upcoming live and pre-recorded webinars are listed on the WASB Webinars page at wasb.org (select "Meetings & Events" and then "Webinars").*



Mother and Son Elected to School Board

Wanda Owens, WASB Region 9 Director and immediate past president of the WASB, will be joined on the Barneveld School Board by her son Tadd. Both are graduates of Barneveld High School and value public service. In addition to serving as 2015 WASB President, Wanda has been on the Barneveld School Board for more than 30 years.

"I have always felt that it is an honor and privilege to serve on the school board," Owens said. "I'm proud to be on the school board alongside my son. I am pleased that he has chosen to serve and look forward to working with him."



Searching Student Cell Phones

A recent study estimated that 73 percent of teenagers have cellphones.¹ While this technology can be used to enhance student learning, it also creates an almost irresistible distraction for students in classrooms. In Wisconsin, school boards are permitted by state statute² to adopt rules prohibiting pupils from using or possessing cell phones while on district property. In response, many districts have enacted rules either restricting such possession or limiting cell phone use in district buildings. This has led school officials to confiscate student cell phones when they are possessed or used in violation of district policy. The proliferation of incidents of students using their cell phones to take, send, and store sexually explicit photos (“sexting”) has also increased the frequency of district confiscations. While districts may be tempted to view text messages, photos, or other applications on students’ cell phones in order to obtain evidence of potential wrongful acts, such “searches” could violate students’ constitutional rights. This *Legal Comment* will review the legal standards related to searches of student cell phones, focusing on recent Fourth Amendment case law, and will also identify other legal issues that may arise in this context.

■ The Legal Standard

A district may confiscate a student’s cell phone when it is used or displayed in violation of school policy.³ Whether, and to what extent, a district may then proceed to search the contents of the cell phone is governed by the Fourth Amendment to the United States Constitution. The Fourth Amendment protects citizens against unreasonable searches and seizures, and applies not only to law enforcement officers, but also to public school officials. The case that sets forth the legal standard governing searches of students by school officials is *New Jersey v. T.L.O.*⁴ In that case, the United States Supreme Court held that school officials may search a student and/or the student’s possessions without consent and without a warrant based on “reasonable suspicion.”

According to the Court, in order to meet the reasonable suspicion standard, a search of a student must be reasonable at its inception and reasonably related in scope to the circumstances justifying the interference in the first instance. A search is reasonable at its inception when there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or district policy, or is in imminent

danger of injury on district premises. A search is permissible in scope if the measures adopted are reasonably related to the objectives of the search and are not excessively intrusive.

With respect to cell phones, the United States Supreme Court recently issued a decision involving the search of cell phones by police officers incident to arrest.⁵ Although not directly applicable to the school context, *Riley* provides important insight into what the Supreme Court thinks about cell phones and privacy. The Supreme Court held that police officers are now generally required to obtain a warrant prior to searching a citizen’s cell phone. In reaching this conclusion, the Court observed that the contents of cell phones contain “a digital record of nearly every aspect of their lives—from the mundane to the intimate” and determined that such data merits more protection from government search than other personal items an arrestee may be carrying in a pocket or a backpack. Lower courts have not yet had the opportunity to decide how *Riley*’s holding impacts the law governing cell phone searches in the school context, but it is safe to predict that they will give more weight to the unique privacy concerns involved in cell phone searches.

While districts may be tempted to view text messages, photos, or other applications on students’ cell phones ... such “searches” could violate students’ constitutional rights.



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■ Application to District Searches

In light of *Riley*, school officials should give extra consideration before searching a cell phone in the first place, and should be particularly attentive to conducting a search that is as narrow in scope as possible to avoid inappropriately interfering with students' right to privacy in the contents of their cell phones. While courts have applied the *T.L.O.* reasonable suspicion standard many times to searches of students' backpacks, pockets, and effects, there is only one case at the federal appellate court level applying it to the contents of a student's cell phone.

In *G.C. v. Owensboro Public Schools*,⁶ a teacher confiscated a student's cell phone because the student was texting in class in violation of district policy. In accordance with that policy, the teacher delivered the phone to an administrator. The administrator was aware that this student had been disciplined multiple times over the course of his two years at Owensboro High School and had also communicated to administrators that he used drugs and was prone to depression and anger. The administrator read four text messages on the student's phone "to see if there was an issue with which [she] could help him so that he would not do something harmful to himself or someone else."

The student learned of this search and sued the district, arguing that the search was not supported by reasonable suspicion and violated his Fourth Amendment rights. The student contended that the search was not justified at its inception because the administrator had no reasonable grounds to suspect that a search of his phone would turn up evidence that he engaged in improper activity. The district responded that the search was proper because the administrator knew about the student's drug use and suicidal thoughts, and therefore, it was reasonable to believe that a cell phone search would reveal either

evidence of unlawful activity or an indication that the student was intending to harm himself or others.

The Sixth Circuit Court of Appeals held in favor of the student. The court explained that the mere use of a cell phone in violation of district policy does not give school officials *carte blanche* to search the cell phone's digital contents if there are no reasonable grounds to believe the search will uncover evidence of further wrongdoing or of injury to the student or another. In this case, the court held the administrator had no specific reason to believe that the student was engaging in unlawful activity or contemplating injuring himself or another student, given that all he had done was send two text messages while in class. The administrator's "general background knowledge of [the student's] drug abuse or depressive tendencies" was not enough, on its own, to justify initiating a search of the student's cell phone.

In addition, the court pointed out that even when a search is justified at its inception, the scope must also be "tailored to the nature of the infraction and must be related to the objectives of the search." Thus, even if a district is justified in performing some type of cell phone search, that does not give the district the right to "search any content stored on the phone that is not related either substantively or temporally to the infraction."

While *G.C.* is not legally binding in Wisconsin, its interpretation of the *T.L.O.* standard as applied to cell phones in schools provides useful guidance to Wisconsin districts. *G.C.* demonstrates that determining whether school officials can search a student's cell phone is a fact-specific inquiry, and that while school officials may confiscate a cell phone being used in violation of school policy, they may not automatically search the cell phone's contents unless there is a specific reason to believe that the search will reveal evidence of a student's wrongdoing or his intent to harm himself or others.

For example, if a student is texting or browsing the internet during class in violation of district policy, a school official can confiscate the cell phone, but such activity is not enough to justify a search of the cell phone's digital contents. On the other hand, if the student is texting or accessing the internet during a test, a school official likely can search the cell phone because it is reasonable to believe that the cell phone could contain evidence that the student was cheating during the test. *T.L.O.* and *G.C.* also require districts to constrain the scope of the search to those parts of the cell phone's contents that are reasonably related to the sought-after evidence. In the case of a student using a cell phone to text or go online during an exam, it would be reasonable to view recent text messages and web browsing history to search for evidence of cheating, but it would probably exceed the permissible scope of a search to view a student's call log or stored voicemails, or view texts or browsing history for a time period other than the class period when the exam was taken.

■ Consent

The most effective way to avoid the uncertainties of a Fourth Amendment analysis regarding searches of a student cell phone is to obtain the student's consent to that search. So long as the consent is voluntary, clear, and unequivocal, a search performed pursuant to that consent will not run afoul of the Fourth Amendment.⁷ Whether consent is voluntary is assessed by looking at the totality of the circumstances, including the student's age, intelligence, and education; whether the student was informed of the right to refuse to consent; and the context in which the student is asked for consent. The consent for the search generally must come from the student, rather than the parents—the fact that parents own the cell phone or pay for the plan does not necessarily give them the right to consent to the search on the student's behalf.⁸

However, in 2013, the Wisconsin legislature enacted the Wisconsin Social Media Protection Act, which precludes a school official from requesting or requiring a student, as a condition of enrollment, to disclose access information for, to grant access to, or to allow for observation of a student's personal Internet account.⁹ A school official is also prohibited from expelling, suspending, or otherwise disciplining a student for refusing to grant such access. These restrictions do not prevent a school official from seeking access to a device supplied or paid for by the district or gaining access to an account or service provided by the district (as distinct from a student's private personal Internet account). They also do not prohibit a school official from viewing or accessing information that can be obtained in the public domain.

The law's prohibitions apply only to a student's "personal Internet account," which is defined as "an Internet-based account that is created and used by an individual exclusively for purposes of personal communications." While the statute is not clear on this point, and has not been the subject of court interpretation, one interpretation of what constitutes "personal Internet accounts" is that they include social media accounts such as Facebook, Twitter, or Snapchat, as well as e-mail accounts, but not texts, voice-mails, or call logs. Districts are advised to proceed with caution in deciding whether to seek a student's consent to search a cell phone until courts have had an opportunity to interpret the law and clarify its boundaries, especially since consent is not required if the *T.L.O.* standards are met.

■ Other Issues

Beyond Fourth Amendment issues, the confiscation and search of

student cell phones may give rise to a variety of other legal issues for districts. For example, some students have brought claims against teachers and administrators for theft when they held a validly confiscated cell phone for an extended period of time.¹⁰ The law relating to retention of confiscated property is not well-developed in the school context, but at least one court has upheld as reasonable a district's practice of confiscating cell phones and retaining them for two weeks to enforce a prohibition against possession of cell phones in classrooms, but that time frame depends on the circumstances of each situation.¹¹ Other students have made claims against districts and administrators for unlawful access to voicemail and text messages in violation of state wiretap laws, or claims for torts such as invasion of privacy.¹²

In addition, school officials should be especially careful when investigating allegations of sexting. Wisconsin's child pornography laws make it a felony to produce, possess, reproduce, or distribute images or videos of minors engaging in sexually explicit conduct.¹³ The students involved in creating and distributing the images can be charged with a felony, as can district officials who share or download these images as part of an investigation. As a result, the Wisconsin Department of Justice recommends that school officials immediately solicit assistance from law enforcement when they reasonably suspect that students are engaging in sexting.¹⁴

■ Conclusion

Given the pervasive possession and use of cell phones by students, districts must strike an appropriate balance between students' legitimate expectations of privacy in the information on their cell phones and the district's need to maintain an appro-

priate educational environment. The legal standards under *T.L.O.* are clear that before a district can search a student's cell phone, there must be a factual basis supporting the search, which then must be confined in scope. Each situation presents a distinct analysis under this standard and, given the Supreme Court's pronouncement in *Riley* regarding the unique privacy concerns associated with cell phone searches and the restrictions imposed by the Social Media Protection Act, school officials should proceed with caution and seek legal advice when uncertain about conducting the search. ■

For additional information on related topics, see WASB School News: "Searching Student Vehicles at School" (October 2010); "Reasonable Suspicion for Student Searches" (October 2009); and "Two-Way Electronic Communication Devices" (November 2006).

■ Endnotes

1. Amanda Lenhart, Pew Research Center, *Teens, Social Media and Technology Overview 2015* (April 2015).
2. Wis Stat. s. 118.258.
3. *Klump v. Nazareth Area Sch. Dist.*, 425 F. Supp. 2d 622, 640 (E.D. Pa. 2006); *G.M. v. Casaldue*, 982 F. Supp. 2d 1235, 1249 (D.N.M. 2013).
4. 469 U.S. 325 (1985).
5. *Riley v. California*, 134 S. Ct. 2473 (2014).
6. 711 F.3d 623 (6th Cir. 2013).
7. *Fewless v. Board of Educ.*, 208 F. Supp. 2d 806 (W.D. Mich 2002).
8. *In re Scott K.*, 595 P2d 105 (Cal. 1979); *Trulock v. Freeh*, 275 F.3d 391 (4th Cir. 2001).
9. Wis. Stat. s. 995.55(3).
10. *Koch v. Adams*, 361 S.W.3d 817 (Ark. 2010).
11. *Id.* at 822.
12. *Klump v. Nazareth Area Sch. Dist.*, 425 F.Supp.2d 622 (E.D. Pa. 2006).
13. Wis. Stat. ss. 948.05, 948.12.
14. Wisconsin Department of Justice, *Safe Schools Legal Resource 9* (4th ed. 2013).

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

Service Associate Q&A

Addressing Difficult School Funding Issues

Q. *What are some of the main challenges right now in school funding that you see?*

A. The most significant challenge is balancing expenditures relative to revenues. A total of 152 school districts saw a decrease in total Fund 10 (general fund) revenue between the 2009-10 and 2014-15 school years. Over that same period, another 123 districts had less than 5 percent increases. Most districts with above-average revenue growth had resident student enrollment growth, positive net open enrollment growth, and/or passed operational referenda. When revenues are flat or declining, any expenditure increases can cause difficulty. Between 2009-10 and 2014-15, significant expenditure increases included a 13.25 percent hike in transportation costs, an 11.10 percent increase in Fund 10 transfers to Fund 27 (special education fund), and a 15.50 percent bump in property and liability insurances.

Q. *Have you seen any significant changes or shifts in district expenditures?*

A. Legislative changes have definitely changed the way school districts manage their expenditures. For example, prior to revenue limits, it was common for school districts to use short-term (3-5 year notes) debt to fund some of its facility expenditures. This short-term debt helped districts match the year to year fluctuations in facility needs and avoid those corresponding fluctuations in the operating budget. Once revenue limits were put

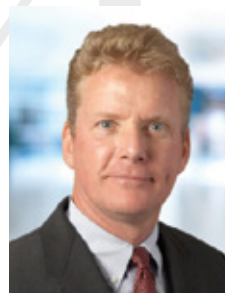
into place, the short-term debt was moved to Fund 39 (referendum approved debt service fund); once the debt was paid in full, the associated levy authority was lost. Current legislation such as Act 10 has also had a significant impact on district expenditure budgets, specifically how districts manage employee compensation. Health and dental expenditures have decreased from 2011-12 through 2014-15 with 234 districts experiencing decreases. Salary expenditures have increased over that same period.

Q. *How have school districts handled funding challenges?*

A. Districts have increased the use of referenda to help address operational and maintenance needs. The operational referenda have been used for program needs as well as maintenance-related expenditures. The use of debt, as it was before revenue limits, is still the primary source of funding to address larger scale facility needs. Some districts have used fund balance to cover deficits; when used for ongoing expenditures, however, this is not a sustainable solution. Districts have also cut programs or increased class sizes to reduce expenditures, but with open enrollment and the expanding voucher program, districts need to understand the full impact of these types of changes.

Q. *What are some strategies school districts can use/are using to maintain healthy finances?*

A. This may seem like a simple



Michel Clark is a director at Baird's Milwaukee Public Finance office.



answer, but operating expenditures cannot exceed revenues. Districts can decrease expenditures, increase revenue or a combination of the two. Establishing budget priorities should be part of this process and create the basis for future expenditure needs. Using a multi-year budgeting tool is not only viewed favorably by the bond credit rating agencies, it also allows districts to run scenarios to better understand budgeting options. Similarly, establishing sound policies and practices allows districts to maintain good fiscal health. Lastly, utilizing long-term funding options for facility needs should be part of the budget planning. Funds 41 and 46 (capitol project funds) can be used as part of the long-term facility planning. ■

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