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2017 Principals of the Year Honored

The Wisconsin Department of Public Instruction and the Association of Wisconsin School Administrators (AWSA) announced that Daniel H. Westfahl, principal at Brookfield Elementary School, and James Murray, principal at Waukesha STEM Academy, are Wisconsin's 2017 Principals of the Year. Both principals were praised for their work in challenging students while also meeting students' needs.

Under Westfahl's leadership, Brookfield Elementary School has seen improvement in students' reading and mathematics achievement as well as achievement gap closure among student groups. The school's dramatic improve-

ments in student achievement is in part due to a devotion to literacy within his school community. Westfahl developed parent book clubs and school-wide, read-aloud sessions to encourage reading; his school-wide Mindset book club has grown to a district-wide discussion. Additionally, Westfahl's focus on inclusion helps model a school where every child learns something new every day.

Murray was recognized for his work in supporting personalized learning. From his initial role as a teacher and project-based learning facilitator to his work as principal and instructional leader at the Waukesha STEM Academy,

Murray is committed to the school's vision and mission of providing personalized learning for all students. "No matter where students are when they enter our doors, our mission is to help every student find success through engagement and to understand themselves as a learner, but more importantly, as a person," he said.

Criteria for being chosen to represent the state's school principals include setting high standards for instruction, achievement and character, and creating a climate to best serve students, families, staff and community. ■

STAT OF THE MONTH

80%

Percent of Wisconsin voters who are in favor of increasing state aid to K-12 schools.

Source: Marquette University Law School Poll

Report Tracks Changes in Teaching Force

A study from the U.S. Department of Education examined how the elementary and secondary teaching force has changed between 1987 and 2012.

The report found that the teacher work force grew by 46 percent during those 25 years. Above-average growth was seen among teachers in the fields of English as a second language, English language arts, mathematics, foreign language, natural science, and special education. Below-average growth was seen in the fields of general elementary education, vocational-technical education, and art/music.

The growth in the teaching force also varied across different types of schools. The teaching force in high-poverty public schools grew by nearly 325 percent while the number

of teachers in low-poverty schools declined by almost 20 percent. The number of teachers in private schools grew at a higher rate than in public schools. However, private school teachers still account for only about 12 percent of the teacher work force.

The study also found that the work force became more diverse. While minority teachers remain underrepresented, both the number and proportion of minority teachers increased. Between 1987-88 and 2011-12, the number of minority teachers grew by 104 percent, compared to 38 percent growth in the number of white teachers. The percentage of teachers who belonged to all minority groups increased from 12.4 percent in 1987-88 to 17.3 percent in 2011-12. ■

Iola-Scandinavia Teacher Recognized for School Forest Work

Rhonda Fechter, a teacher at Iola-Scandinavia, received the School Forest Award from LEAF — Wisconsin's K-12 Forestry Education Program.

Fechter received the award for her work in developing and growing the use of the district's school forest properties.

"Her dedication and commitment towards environmental education and the use of the school forest is amazing," said Wisconsin School Forest coordinator Gretchen Marshall. "She works tirelessly to make sure the forests are accessible and used by students, staff and the community."

Marshall also recognized the school district's school forest committee which has worked to expand hands-on, outdoor learning activities for students and community members. The Iola-Scandinavia School District has three school forest properties that function as outdoor classrooms. ■



Thank You for Speaking Up for Public Education

Last month, school board members and administrators from around the state testified before the state Legislature's powerful Joint Finance Committee during its series of public hearings on Governor Scott Walker's proposed 2017-19 state budget. They urged lawmakers to support Walker's funding increase for K-12 schools. If approved, the increase will provide an additional \$200 in per-pupil categorical aid in the 2017-18 school year and another \$204 in the 2018-19 school year along with a package of additional categorical aid increases.

I want to thank all of the school leaders who have testified, called, wrote letters and talked to their legislators on behalf of public schools in recent weeks. Your advocacy is crucial to convincing lawmakers to fully support these critical investments. If you haven't reached out recently, please take a few minutes this month to contact your legislators and let them know of your support for state funding increases and how it will impact your schools. Our combined, continued advocacy is needed to ensure that these increases become law.

Members of the WASB board of directors have also been advocating for the funding increases. In addition to testifying at the budget hearings,

WASB president Capt. Terry McCloskey of Three Lakes and immediate past president Stu Olson of Shell Lake joined Gov. Walker and I at Waukesha South High School for a press conference in early April urging lawmakers to support the governor's proposed school funding increase. For more details on the status of the governor's budget, see this month's "Capitol Watch" column on page 24.

The work that you, our school leaders, do is invaluable to the health of public schools statewide and at your local level. As always, the WASB is focused on supporting you in the work of school leadership. Several upcoming WASB events offer opportunities for you to grow and improve in your role as a school leader.

This month, the Spring Academy Workshops will be taking place in the evening at all 12 CESAs. The workshops include a dinner (beginning at 6 pm) followed by a workshop led by a WASB attorney on the roles and responsibilities of school boards. This workshop will provide school leaders with greater understanding of the state laws that directly impact service on a school board and the basics of school governance, including an introduction to the Key Work of School Boards as well as a closer look at the state's

open meetings, public records and conflict of interest laws and a board's powers and duties. For a complete list of the dates and locations of the Spring Academy Workshops, see page 26.

On July 14-15, we will be holding the Summer Leadership Institute in Green Bay. This event includes a keynote speaker and dinner on Friday, July 14 and then a full day of sessions on Saturday, July 15. Sessions will cover a variety of important school leadership topics, such as conducting effective school board meetings, guiding board operations and fiscal authority through policy-making, and among others, board/superintendent relations. For more information on the Summer Leadership Institute, visit wasb.org.

In closing, I'm excited to announce that the WASB will be launching an updated and redesigned website in June. Watch for more information in next month's *Wisconsin School News*. But in the meantime, please make sure your district's membership information is updated by May 19 in the WASB's database to reflect the recent elections and reorganizational meetings to ensure a smooth transition.

Thank you again for your work for our public schools and I hope to see you at an upcoming WASB event. ■

I want to thank all of the school leaders who testified, called, wrote letters and talked to their legislators on behalf of public schools in recent weeks.

Mutually Beneficial Learning

Tackling the achievement gap by
using culturally responsive practices

Heidi Decker-Maurer

Despite best intentions, the news is consistent. Wisconsin continues to trail the nation in achievement between white students and students of color. Since a landmark study in 1994, data has shown that Wisconsin's students of color have

trailed their white peers in nearly every measurement, from test scores to graduation rates. The data shows they also experience higher suspension rates. Various initiatives have been tried, but the question remains: what can we do to close the achievement gap so ALL of Wisconsin's students can succeed?

Dr. Gloria Ladson-Billings, the Kellner Family Chair in Urban Education at the University of Wisconsin-Madison, has conducted research into the problem of racial disparity in Wisconsin education. Her findings point to a crucial oversight that curriculum and classroom management strategies fail to address: the lived experiences of students of color. According to the

Department of Public Instruction, there are nearly a quarter million students of color in Wisconsin, yet more than 70 percent of teachers are white and female. Their perceptions of the school experience can be vastly different.

Our teachers have always had a reputation for caring and for giving their best efforts to teach, but meaningful change can only take place when educators are willing to try a different approach that takes into account the differences in culture that exist in schools. In its mission to ensure ALL students learn and are successful in life, the Wisconsin RtI Center has identified culturally responsive practices as a key strategy educators and education leaders can



THE QUESTION REMAINS:

What can we do to close the achievement gap so ALL of Wisconsin's students can succeed?



The majority of students in the Bayfield School District are American Indian. The culture of its students are integrated into every aspect of the school.

use to help students become interested, engaged, and feel a sense of belonging in the school environment.

■ What are Culturally Responsive Practices?

In short, culturally responsive practices enable practitioners to manage the dynamics of cultural difference in a way that benefits both themselves and students. Using an approach that values community and family worldviews, educators can build more effective relationships with students and make reliable connections between learning and lived experience.

The Wisconsin RtI Center facilitates this work by emphasizing the crucial importance of culturally responsive practices when helping schools plan and develop multi-level systems of support. In addition, the

center provides a dedicated training series that helps practitioners undertake this work. Since educators want ALL of their students to succeed, this approach gives them the tools to recognize perceptions that may be affecting student achievement.

■ Stage 1: WILL

Will is the desire to engage in the work, even though it is sometimes personal and uncomfortable.

Education professionals want all students to be successful. Achieving this goal means determining how the system serves some students and not others — and committing to addressing discrepancies. The place to start is with self-awareness about how things “are supposed to be” versus how things are. Organizations and individuals must take an honest look at their school’s data, examine

their own belief systems, and actively acknowledge how their own personal and professional worldviews impact how they perceive themselves and others.

■ Stage 2: FILL

Fill involves gaining information about — and an understanding of — the different populations within the schools, districts, and communities.

Self-examination allows adults to recognize the way they perceive students. Becoming educated about the values and beliefs of students’ families, communities, and cultures provides crucial contextual understanding of the students’ cultural worldviews — including beliefs about school. Guiding staff in reframing their cultural understanding is crucial for cementing positive interactions with families and students.

The **Wisconsin Response to Intervention (RtI) Center** is a product of collaboration between the Cooperative Educational Service Agency (CESA) Statewide Network and the Wisconsin Department of Public Instruction (DPI). The center, located in the offices of CESA 10, was created to assist Wisconsin’s educational system to build capacity, adopt and implement high-quality practices, make informed decisions, ensure sustainability of efforts, and increase success for all students.



► A Visual to Guide the Work

One way the Wisconsin Rtl Center illustrates culturally responsive practices is through this graphic that was co-developed with the center, the Department of Public Instruction, and the Disproportionality Technical Assistance Network. The Model to Inform Culturally Responsive Practices provides a pathway to guide individuals, schools, districts, and leadership when undertaking this professional journey.

The Model to Inform Culturally Responsive Practices describes the beliefs, knowledge, and practices Wisconsin educators, schools, and districts need to reach and teach diverse students. It also helps school and district administrators deliberately and intentionally plan how to approach this work and communicate importance and urgency to their staff members.



Sources: Liang, X., & Zhang, G. (2009). Indicators to evaluate pre-service teachers' cultural competence. *Evaluation & Research In Education*, 22(1), 17-31.
 Muhammad, A., & Hollie, S. (2012). *The will to lead, the skill to teach*. Bloomington, IN: Solution Tree Press.
 State of Washington Professional Educators Standard Board. (2009). *Preparing teachers for schools as they are: Recommendations for cultural competence for all teachers in Washington State*. Olympia, WA: State of Washington Department of Public Instruction.

■ Stage 3: SKILL

Skill means developing the ability to be respectful of others' worldviews, and use methods that make learning relevant to student experience, ability, and aspirations.

After cultivating will and fill, educators need to transform knowledge into practice by leveraging lessons learned from self-awareness work and from learning about the worldviews of other cultures. Application involves adults using this new knowledge to build bridges between student home culture and “academic” culture. Incorporating culturally familiar experiences, roles, and situations helps make learning more relatable. Guiding staff in ways to connect school learning to students' lived experiences creates relevance that encourages engagement.

Respecting student heritage, beliefs, and prior learning transforms the learning environment into a place that is safe for students to be who they are while learning academic and social tools for becoming their best possible selves.

■ Evidence-Based Practices

The work and recommendations of top researchers have informed all of the Wisconsin RtI Center's efforts to remedy the state's achievement gap.

The center's approach draws from Glenn E. Singleton's work on confronting racism; Dr. Anthony Muhammad's work on changing school culture; Dr. Sharroky Hollie's work on culturally and linguistically appropriate approaches to teaching; Dr. Xin Liang and Gang Zhang's work on pre-service teacher cultural competence; and the State of Washington's recommendations for cultural competence.

In addition, the research and work of Wisconsin education equity leaders, Dr. Shelly Zion and Dr. Ladson-Billings, has shaped the center's philosophy on tackling the problem on the state level. Their professional wisdom and research-proven results provided evidence-based foundations for the center's work.

■ From Theory to Practice

Wisconsin educators have been working on the problem for decades, and many different initiatives across the state were experiencing pockets

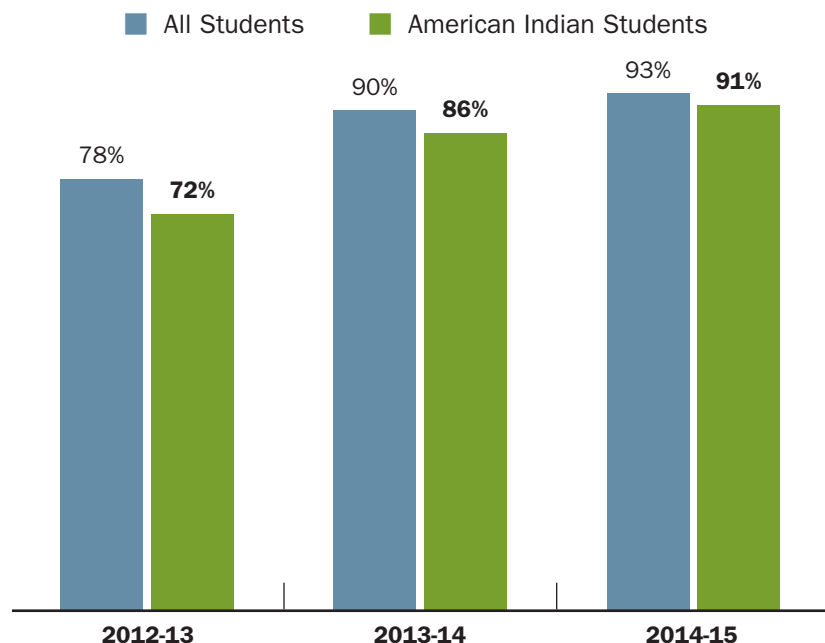
of success. The center drew on this collective wisdom to inform the creation of a multi-level system of support that addressed the needs of all students, with an emphasis on bridging differences in culture.

In addition, the center's culturally responsive training series was developed to lead practitioners through this work. Andreal Davis — co-founder of a cultural and academic enrichment program for African-American students — joined the Wisconsin RtI Center to serve as the culturally responsive practices coordinator. Successful practices were identified, aligned to culturally responsive best practices, and were adapted and scaled up to reach the largest possible audience. In addition, these practices are at the core of all the center's work, and are woven into all aspects of the training, guidance, and support offered to all schools that are implementing a multi-level system of support.

**Incorporating
culturally familiar
experiences, roles,
and situations
helps make learning
more relatable.**

Rising Graduation Rates in Bayfield

from 2012-13 to 2014-15



Onalaska's Culturally Responsive Journey

What Successful Implementation Looks Like

As mentioned before, many schools engaged in this work have realized positive outcomes not only for their students of color, but for all student populations. Bayfield High School in northern Wisconsin is one such school. Doing the work of WILL-FILL-SKILL, they examined their beliefs, learned about student culture, and made deliberate choices that would provide an

environment where students could flourish.

At Bayfield High School, 75 percent of the students are American Indian. Recognizing the connection between student engagement and academic achievement, the leadership team purposefully decided to include the culture of students in every aspect of the school. They wanted students

to see themselves in the building and in the curriculum — in a way they had not before. According to Pupil Services Director Sandy Raspotnik, “We needed kids to come here, feel safe and feel like they belonged.”

Positive cultural imaging throughout the school fosters this sense of belonging. A mosaic of a tribal leader in the entryway, and a wild-life mosaic in the cafeteria represent student connections to their past, their heritage, and nature. Curriculum includes Ojibwe language and culture, as well as outdoor, project-based learning that validates their traditional way of life.

Bayfield school leaders believe this commitment to culture has increased student engagement, leading to a decrease in suspension rates and an increase in graduation rates. Since incorporating culturally responsive practices within the school, they have seen an 80 percent drop in suspensions for American Indian students — as well as a 65 percent drop in suspensions for all students. In addition, graduation rates among American Indian students rose by 19 percent, and by 15 percent for all students.



Onalaska's Culturally Responsive Journey

Wisconsin RRI Center/PBS Network

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If you'd like to learn more

about the Onalaska School District's work in embracing culturally responsive practices, watch the brief video at:

goo.gl/fKB52d



The Onalaska School District holds “Equity Day,” an in-service training for educators where they learn about student cultural worldviews and perspectives.

■ Scaling Up to the District Level

After a self-assessment revealed the potential for improving their cultural competence, the Onalaska School District chose to adopt a culturally responsive approach to teaching and learning. Lasting change takes time, so they spent a year building their knowledge. They started with a small team and then scaled up professional development to everyone in the district.

They learned that — whether intentionally or not — adult behaviors communicate teacher attitudes and beliefs about students. Self-reflection allowed them to uncover unrealized biases so they could shift their approach to teaching. They learned about student cultural worldviews and perspectives in order to build understanding and better reciprocal relationships with students.

To maintain progress, their equity committee hosts annual in-service

training. Deepening their understanding of student culture allows educators to differentiate instruction in the classroom.

According to former Onalaska Northern Hills Principal Curt Rees, “...it just boils down to really knowing your students, knowing yourself as an educator, and then making appropriate steps to help each student to achieve the progress that they want — and that they need — to make.”

By adopting culturally responsive practices, the district has seen a ripple effect that goes well beyond improved teacher-student classroom interactions. These practices have transformed entire schools, energized the district, and the effects have spread to families and the broader community as a whole.

■ Mutually Beneficial Learning

Bayfield High and the Onalaska School District have seen positive

results from adopting this approach. Educators and school systems undertaking this work benefit from the richness that diversity brings to teaching and learning, and have been rewarded with the satisfaction that comes from helping students succeed.

Knowledge of self and others gives needed perspective that enables practitioners to make learning relevant, respectful, and relatable. Schools that value student culture build trust, and encourage the self-confidence needed for students to become their best selves. Now is the time for all Wisconsin schools to join on this journey, to ensure success for all of the students we serve.

For more information on the Wisconsin RtI Center’s work, visit wisconsinrticenter.org. ■

Heidi Decker-Maurer is a staff writer for the Wisconsin RtI Center. The Wisconsin RtI Center is a collaborative project between the Wisconsin Department of Public Instruction and the CESA Statewide Network.

Students at Dodgeville High School sign the final beam to be placed in the construction of the new additions.



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Strength & Resiliency

The Hortonville Area School District's
journey to mental wellness

The Hortonville Area School District has much to be proud of. The district was designated as the first model professional learning community (PLC) district in the state of Wisconsin. Teachers have identified and aligned standards for student learning, collaborated with grade-level and cross-district teams, and collected and analyzed student data on common formative assessments.

The district's focus on academics is also apparent in its mission statement: "Our community ensures every student learns at the highest level." But in order for students to learn at the highest level, each student needs to feel emotionally safe.

That's why district leaders were alarmed when they reviewed their student data from the

2013 Youth Risk Behavior Survey. The results were concerning — 12.8 percent of Hortonville students reported having seriously considered attempting suicide in the previous 12 months.

School leaders took action during the fall of 2014 and met with several agencies in the Fox Valley area to formulate a comprehensive, collaborative K-12 program to address mental health challenges and promote mental wellness. The district wanted to provide support in three main ways: prevention/education for students, parents and staff; identification via K-12 student screening; intervention or on-site therapy. The school district's mental health partners — Catalpa Health, NAMI Fox Valley and Samaritan Counseling — became partners with Hortonville and signed on with a four-year commitment.



Support for Students and Staff

Highlights from the first year of the Hortonville Area School District's mental health support program:

- 160 students in the district received therapy on site.
- E3 hotline was set up and is used frequently by parents to request services.
- There were 1,340 mental health therapist and student sessions last school year.
- Students in every building have access to therapy at their school.
- Each school in the Hortonville Area School District is licensed as a mental health clinic.
- Last school year, all students in grades 8-12 were able to be screened for depression, anxiety, suicide ideation/attempt and alcohol/other drug substance abuse.
- 16 percent of students that were screened were referred for additional services. Results included:
 - Increased student attendance throughout the school year for students receiving services;
 - 61 percent decrease in disciplinary actions for students receiving services; and
 - 71 percent of students receiving services felt "significantly or somewhat improved" as reported during their therapy sessions throughout the year.
- The NAMI teen support group that meets weekly has increased in membership.
- Training for all staff has included: Mental Health 101 and Recovery 101, ACEs (Adverse Childhood Experiences) and Trauma Sensitive Schools.
- There is a focus on positive messaging at the middle schools and implementation of Sources of Strength at Hortonville High School.



Dr. Heidi Schmidt, Hortonville District Administrator, stated that the primary goals of the school-based mental wellness program are to eliminate the stigma associated with mental health and allow on-site student screening and therapy access for all students. In addition, the program provides teachers with information and strategies related to student mental health and empowers students to look at their sources of strength (coping skills, grit, and perseverance) during difficult times.

■ Educate, Engage and Empower

The Hortonville Area School District's mental health program, which was named by Hortonville High

School students, is called E3 — Educate, Engage and Empower. The program was implemented during the fall of 2015 and has produced positive results and outcomes for students and the Hortonville community.

Through the partnerships with its community mental health providers, students in every school building have access to therapy and each school in the district is licensed as a mental health clinic. In its first year, the E3 program provided on-site therapy to 160 students and held a total of 1,340 mental health sessions with students. All students in grades 8-12 were screened for depression, anxiety, suicide ideation/attempt and alcohol/other drug substance abuse — 16 percent of students who were

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screened were referred to additional services.

The district has also instituted staff training sessions and student support programs, including a teen support group and a program focused on bringing together students and staff called Sources of Strength.

“Sources of Strength focuses on building resiliency skills through protective factors students have in their lives,” said Hortonville High School Principal Todd Timm. “The focus on trusted adults, mentors, and positive friends to name a few has staff members building on strengths with students and developing action steps in areas that need additional support. The appeal of building resiliency through positive messaging and messages of hope and help has been a great benefit to our students and staff.”

One sophomore student added, “Sources of Strength helps me com-

municate better with my peers about their mental health and possibly make them feel better about getting help if they are struggling.”

Wendy Neyhard, director of student services, was instrumental in formulating the E3 program and bringing initiatives like Sources of Strength to Hortonville High School. She said the district mental health program is focused on prevention.

“Through the implementation of upstream prevention approaches, our goal is to focus on strengths, resiliency and connectedness to prevent crisis,” Neyhard said.



engage · educate · empower

Building Healthy Minds

In its first year, the E3 program in Hortonville provided on-site therapy to 160 students and held a total of 1,340 mental health sessions with students.

Looking Ahead

Some of the future goals for the program include expanding screenings to all students in grades 5-12, revising therapy times at each building based on student need, providing additional staff training, and continuing outreach to parents.



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National Children's Mental Health Week

The Substance Abuse and Mental Health Services Administration (SAMHSA) has designated May 4 as National Children's Mental Health Awareness Day. More than 1,100 communities and 160 national collaborating organizations and federal programs across the country participate in community events, youth educational programs, health fairs, art exhibits, and social networking campaigns in observance of Awareness Day. Each year, a national event takes place in Washington, D.C., to complement these local activities. The event, Awareness Day 2017: "Partnering for Help and Hope," will focus on the importance of integrating behavioral health and primary care for children, youth, and young adults with mental and/or substance use disorders. *For more information, visit www.samhsa.org.*



▶ Watch a DPI-produced video at:
<https://goo.gl/RquUu5>



Although there are aspects of the program the district hopes to expand upon, school leaders report feeling empowered by the district's mental health program. Instead of searching

for answers, Timm said he can provide solutions and options to parents and students.

"The E3 program has allowed me to have conversations of support

with families in need of assistance for their son or daughter," Timm said. "Instead of a phone call to a parent where I am limited in what we can offer for mental wellness assistance, I have the ability to reference our program and encourage parents to consider the option."

The district has received attention for its work from the Department of Public Instruction (DPI). State Superintendent Tony Evers visited the Hortonville Area School District in December to learn about the district's journey. Dr. Evers has also referenced the district's work as the DPI advocates for funding for school mental health supports in the state budget. ■

For more information on the Hortonville Area School District's mental health program, visit www.hasd.org/e3/ or visit <https://goo.gl/RquUu5> to view a video produced by the Department of Public Instruction.



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Raising the Bar

The promise and pitfalls of online credit recovery | *Terrence Falk*

Summer school. The two most dreaded words high schoolers hear come June when they find out they aren't passing core classes. Summer school has meant long mornings in humid classrooms with the sweat dripping down onto the pages of textbooks which never meant much in the first place, answering the same questions at the end of each chapter, and mixing well-understood concepts with confusing material presented in the same, encrypted manner.

Now enter the new world of online credit recovery where students can log onto a computer program, race through the sections they clearly have mastered and focus only in the areas where they struggle. Each program is tailored to each individual student's needs. They can reread materials and retake online tests until they master the material.

Online credit recovery courses have exploded across the nation. Estimates are that over 75 percent of U.S. high schools use some type of online credit recovery.

Here in Wisconsin, the Wisconsin Digital Learning Collaborative provides online and blended learning. The collaborative consists of two organizations — the Wisconsin Virtual School and the Wisconsin eSchool Network.

Dawn Nordine, Executive Director of Wisconsin Virtual School (WVS), estimates that some 230 Wisconsin school districts and about 300 individual schools use WVS for credit recovery and other online learning services. Other school districts purchase services directly from online providers. Few Wisconsin

districts have not jumped into the digital learning pool.

As a result, graduation rates have soared both nationally and here in Wisconsin. A 10 percent jump in graduation rates after turning to online credit recovery has not been uncommon. Something to cheer about?

■ Red Flags

Not so fast. There have been several prominent examples where online credit recovery courses have fallen short.

In December 2015, only half of the seniors in the Los Angeles school system were on track to graduate that spring in part because the school system had instituted more rigorous standards for graduation. The school district instituted an extensive use of online credit recovery courses. Graduation rates jumped to 75 percent, but board president, Steve Zimmer, questioned whether students were really learning anything or just jumping through the online hoops. The University of California system began

questioning whether they should even accept online credit recovery grades. This was not the first time the value of online credit recovery had been questioned. The NCAA had already disqualified most online credit recovery courses for potential college freshmen.

It's not just Los Angeles. Cities across the country are questioning online credit recovery all the way to New York and Milwaukee. Small town and rural school districts are discovering some of the same problems.

To the larger issue, full-time cyber or virtual schools appear to be missing the mark nationally. Last year, Stanford's Center for Research on Education Outcomes (CREDO) found that virtual schools where students have little physical interaction with teachers have, in general, an "overwhelming negative impact" on a students' education. The gains from one year of online mathematics were "literally as though the student did not go to school for the entire year," said CREDO director Macke

Raymond. But while the number of students in these online schools still remains small, online credit recovery reaches into every corner of the state and so do the problems.

■ How Do We Fix it?

In Los Angeles, the bar was set too low. To pass online tests, students only had to correctly answer 60 percent of test questions. In addition, students could bypass certain sections again answering only 60 percent of a mere 10 questions and did not have to write the essay questions. Students raced through the content in order to see if they could guess their way through the multiple choice tests at the end, often choosing to take several versions of the final tests rather than learn the material.

Carolyn Heinrich, now at Vanderbilt and formerly of the University of Wisconsin-Madison, worked with others to look at how Milwaukee was using its online credit recovery at the urging of the school district. In Milwaukee, they found that MPS was

Online Credit Recovery for Student Athletes? *Be Careful!*



If a high school student wants to go on and participate in college athletics, most online credit recovery courses will not be accepted.

Jessica Kumke is Assistant Athletic Director for Compliance at the University of Wisconsin-Milwaukee, and makes this observation:

"One of the biggest problems we usually see with credit recovery is if it is completely online, self-paced, with no instructor really for the course. Those type of credit recovery classes are not going to be counted by the NCAA. It has to be teacher-based instruction, regular and ongoing instruction between teacher and the student."

Dave Anderson, Executive Director of the WIAA, says that his organization "...does not speak on behalf of for

the NCAA," but will forward any information from the NCAA that it receives on to WIAA member schools. The WIAA has not put anything specifically into the WIAA handbook to address credit recovery based upon NCAA regulations. It is up to guidance counselors and athletic coaches to see what is acceptable by the NCAA.

One of the biggest problems is with high school students who decided on their own to compete in collegiate athletics.

"They never told their guidance counselor that they wanted to play Division I athletics," says Kumke. "So when I talk to the guidance counselor and explain that this kid is not meeting the NCAA eligibility requirements, they respond, 'I had no idea that this is what this kid wanted to do.'"

She suggests that high schools clear all their credit recovery courses with the NCAA ahead of time. High school students should be informed upfront if the credit recovery course they are about to take is preapproved by the NCAA. □



using only a 60 percent passing rate on the final test. They also discovered no increase in knowledge and achievement. MPS didn't wait for the problems to bubble up into the media; it took action. Now the school system requires that student take all various sections regardless of the score, answer all the essay questions and answer 80 percent of the final test questions correctly. Students must take written notes in order to prove they are attempting to learn the material.

Nordine at WVS sees the setting of low-passing standards as a state-

wide problem. Most online curriculum providers let school districts set their own standards as to what is required for passing and how to award letter grades. WVS tries to give guidance to school districts as to what is acceptable and what will work.

WVS also demands that there must be someone at the school to work with the students. Each school must have a LEG (Local Education Guide), at the school working with the students who is a certified teacher. Often the LEG is a guidance counselor or a computer lab teacher, but it is best to have a content-area teacher in that field. But not every district uses WVS, and the fear is that some districts may be just sitting a student down in front of a computer with little or no support.

Additionally, not every student is a good candidate for online learning. "It takes a particular type of student who is ready to be an independent

learner, that is self-motivated, is a communicator, and has technology skills," says Nordine.

WVS runs an online screener to determine whether a student is a good candidate for online credit recovery.

"If a student can't do a three- or four-hour online orientation on how to get around the course... if they can't get through that, then I would seriously wonder if they could get through a whole semester course," says Nordine.

Students who take online learning courses need to be self-motivated. "Kids are basically spending most or all of the day in front of a computer ... It is hard for them to stay on task," Heinrich said.

Providing Student Support

Heinrich, Nordine and others all point to the need for a student to be at or near the appropriate reading level. Most online credit recovery courses are text driven, and if a student can't



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If motivation is lacking, there is no electronic substitution for personal one-on-one counseling and teaching from an educational professional.

read the material, they are unlikely to complete the course work.

Too many districts think they can sign up kids with WVS, give them a computer, and the district does not have to do much of anything.

“Those are the districts that have kids who do not complete,” says Nordine. The districts “...have to put all the support they would have to do if that student was in a traditional classroom.”

Clearly student support is the key. Online programs must be seen as a tool, not the whole program. Schools must look to why students failed to pass in the first place.

Students who have been ill or have had personal problems that have been resolved may have enough motivation to complete an online

course. Online may also work for the student who one day wakes up to the realization that graduation may not take place unless they get serious. But that student must be interested in learning, not just getting credits.

If motivation is lacking, there is no electronic substitution for personal one-on-one counseling and teaching from an educational professional. That is the reason school systems are increasingly turning to a “blended” model where the student interacts with a teacher often in a traditional classroom setting while using the online educational program.

If the student can’t understand the material online, old-fashioned teacher tutoring may break the logjam. And if the student needs

a pat on the back or a hand held, a teacher can give the support that a computer mouse cannot give.

If done right, virtual programs really don’t save a district any money, not if the district is providing the necessary support system for its online students.

Reflects Nordine, “It can be done poorly, with high quality, and every place in between ... If it’s done with quality and preparing that student for that type of environment and experience, we are giving kids a good option.” ■

Terrence Falk serves on the Milwaukee school board and is the WASB Region 14 director. He taught communications and English and coached debate and forensics in Milwaukee Public Schools.



Say Farewell or Renovate?

You've likely attended a basketball game where the student section of the home team started rattling their keys. Facetiously, they're telling the bus driver of the opposing team to start the bus because the visiting team is down and the game is essentially over. For many educational leaders, people have been figuratively rattling their keys for years, signaling that one of the school buildings is ready to lose its place as a contender in the facilities arena. Whether the building is inefficient, ineffective, poorly lit, too small, too large, or too low-tech, it might be time to admit defeat.

But, how do you know what the right decision is? As you consider if it's time to metaphorically "start the

bus," there are four critical areas to explore: physical condition, site considerations, educational adequacy, and probable disruption. As you work through this investigation, reflect on engaging with outside consultants—architects and engineers—who can share their expertise and provide a third-party evaluation. Closely examining these areas will help you determine if it's time to say farewell to your building, or if renovation is feasible.

■ A Prime Example

The Berlin Area School District's scrutiny of their existing middle school provides an exceptional example of determining when it's time to say goodbye to your school. Their three-story middle school,

designed as a high school, was built in 1918. It was expanded in 1954 and again in 1985. The 1954 addition included classrooms, lower-level locker rooms, a two-station gymnasium with stage, and tech education and maintenance spaces. The addition in 1985 provided two stories of classrooms.

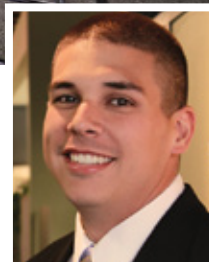
In 2011, the middle school welcomed a wheelchair-bound student and a spotlight was focused upon the deficiencies of the building for those with disabilities. But, that wasn't the only issue with the physical condition of the school. Plumbing was severely corroded below the floor slab. Boilers were archaic and located far from the end of the 1985 classroom addition. This created such discomfort for those



How to handle aging school buildings in your district



Catherine Cruickshank



Robert Koehler

teachers that they took alternative measures to keep warm in the winter. Cracks in the walls were significant enough that daylight could be seen through the walls, especially in the gym where a portion of one wall was also bowing in.

The physical condition wasn't the only concern. As the educational adequacy was studied, the seventh grade classrooms were on different floors and wings, making team teaching a challenge. The eighth grade classrooms were larger than needed — an inefficient use of space.

As well, the site conditions of Berlin Middle School had issues that needed remedying. The limited size of the property created several problems, including vehicle congestion for parents and buses at pick-up and

drop-off times and no green space for recess, or playing fields other than one baseball diamond.

After careful deliberation, it was determined that the best decision was to build an addition for 375 middle school students onto the existing high school. This allowed for the sharing of the auditorium and cafeteria/kitchen as well as Technical Education and Family & Consumer Education spaces. Connecting the new middle school with the high school would eliminate duplicating underutilized spaces, remove travel time for teachers who taught at both campuses, and offer improved spaces for students in all middle and high school grades.

The creativity of this solution was considered cost-effective by area taxpayers, and was enhanced even more for the community by the selling of the old school which was remodeled into apartments. The team at the Berlin Area School District had thoroughly examined critical areas and made wise decisions.

Physical Conditions

As you judge a building's condition, it's vital to scrutinize the structural elements and the mechanical, electrical and plumbing infrastructure to evaluate their remaining life span and ability to be expanded or reconfigured. As well, you should consider the technology infrastructure and



equipment, disability-access issues (particularly bathrooms and accessible routes), and required code updates such as fire separations.

Maintenance and ongoing operational costs should also be considered, along with evaluating more efficient HVAC systems and lighting. Replacing windows would take advantage of the numerous technical advances that have been made in the design of windows to prevent heat/energy loss and provide natural light, without glare.

Examining which solutions are available to fix existing problems and if there are significant costs inherent to address building deficiencies are critical contemplations.

■ Educational Conditions

Additionally, school districts should determine the educational conditions that are influenced by the structure. As you seek to deliver 21st century learning, what facility challenges are present? Once identified, can remodeling, building additions, or new construction address those issues? The grouping of classrooms within

each grade and/or departments and related subjects, class size and number of classrooms, and options for flexible teaching spaces are all important factors to evaluate.

It's vital to scrutinize a building's structural elements and the mechanical, electrical and plumbing infrastructure to evaluate their remaining life span.



■ Site Considerations

Similar attention should be given to the overall site. Is the circulation of buses, parents, pedestrians and cyclists at drop-off and pick-up times safe? Are the egress and ingress patterns between school property and public streets safe? If an expansion is considered, you should examine if there is room for supplemental parking, facilities, playing fields, storm water management, and more.

Contingent upon the assessment of the existing property, it may be best to look at other suitable – and available — building sites within the district. If none are acceptable, alternative options may need to be formulated, such as a grade reconfiguration or redrawing attendance boundaries to reduce the number of students at an overcrowded location or locating playing fields offsite to create room for a building expansion.

■ Probable Disruption

Another major component to deliberate, especially if looking at a reno-

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The WASB offers a Facilities Assessment and Planning service that examines all facilities owned and leased by a school district. This comprehensive facility assessment gives school districts a clearer picture of the current state of its facilities and allows school leaders to properly plan and prepare for the future.

The facilities assessment includes evaluation of both internal and external conditions, existing intergovernmental coordination, and the history of capital improvements.

The first part of the assessment ascertains the extent of deferred maintenance, remaining facility life, and renovations needed. The second part of the facility assessment categorizes and defines the use of the facilities within the existing academic program. This includes evaluating the effectiveness of how programs and departments use the current facilities.

To learn more about how the WASB can help your district assess the current state of its facilities, contact Roger Price, WASB consultant, at rprice@wasb.org or 608-212-0990.

vation or addition that will take more time to complete than one summer, is how to handle the potential disruption. Phasing construction work can sometimes allow classes to continue with minimal disruption. Portable classrooms can be used if the site provides ample room for them. Construction trailers will be needed; so be sure to include those in your space planning. In some instances, an alternative location for classes might be available. It is easy to overlook the amount of space that is needed for construction and safe site circulation. Be sure to look at all alternatives.

■ Game Over or Makeover?

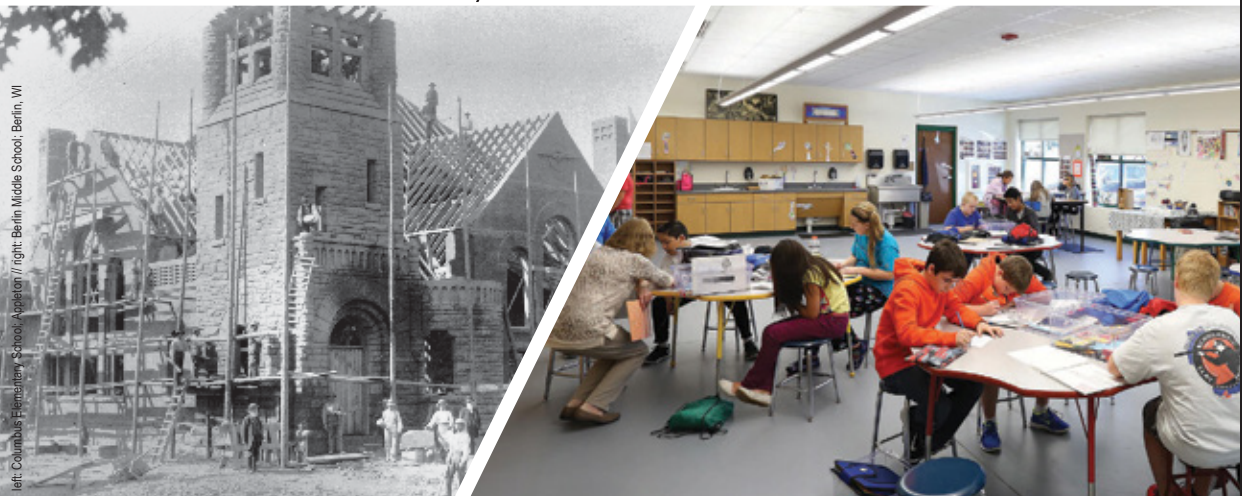
As you consider the next 20 years, ask yourself, "Would it be better to build a new structure than to continue to maintain the existing one?" Depending upon the answer to that question, you can decide if the "game is over" or if renovation is the right solution. Be certain to examine the

physical and educational conditions while also considering the site and the likelihood of disruption. With this framework, you'll be well prepared to make decisions that will provide an environment to lead students to educational victory! ■

Catherine Cruickshank is a senior project planner/designer at Hoffman Planning, Design & Construction, Inc. and has more than 25 years of experience designing educational and residential facilities.

Robert Koehler AIA, is a project architect at Hoffman Planning, Design & Construction, Inc.

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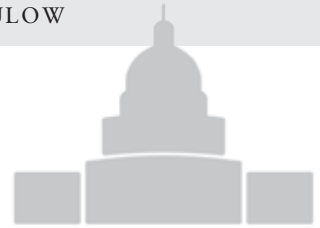


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The Decision-Making Begins

Major decisions loom as JFC begins state budget deliberations

Thank you to all the school board members and other school leaders who testified at the Joint Finance Committee (JFC) hearings on the state budget. The strong showing of support by public education advocates for the governor's school aid increases bodes well for those increases as the budget process moves forward. However, those proposed increases are still a long way from the finish line. Continued advocacy is needed. Contact your legislators, attend their listening sessions and express your support for public education funding in the budget.

Now that the JFC hearings on the proposed state budget have been completed, the decision-making begins.

Throughout the month of May, the JFC will go through the budget, item by item, and vote on whether to accept, modify or delete the governor's recommendations. From there, the budget bill goes first to the state Assembly, and then to the state Senate. Each house can, and likely will, make changes to the budget bill. Once the two houses agree on a final version, the budget then goes to the governor for his signature. The governor can also veto provisions in whole or in part. If all goes smoothly, this process will be done by July 1.

Whether the process will, in fact, be smooth is hard to predict. While the JFC's decision to use the governor's budget as the beginning point for their votes, except for transportation — where the JFC will disregard the governor's proposal and work from current funding levels — is a positive sign, it does not guarantee all the governor's recommendations to devote new spending to schools will make it into law.

Those recommendations face a number of hurdles, not the least of which is the strong desire of many lawmakers to increase spending for

road construction and maintenance above the level recommended by the governor. Taking the unusual step of setting aside the governor's recommendations regarding the Department of Transportation (DOT) budget is a clear signal of lawmakers' intentions to boost transportation spending. Where the additional money to fund more transportation spending will come from is the unanswered question.

The governor's recent announcement that lower than expected costs for some road projects and a bump in forecasted transportation revenues will free up more than \$100 million for the DOT budget in the 2017-19 budget cycle is a step toward bringing the sides closer together, but the sides are still far apart. And that impasse could impact school funding.

■ Boosting Transportation, Paring Back K-12?

Assembly Speaker Robin Vos (R-Rochester) has advocated boosting transportation revenue (e.g., vehicle registration fees and/or gas taxes) to fund additional transportation projects, including an expansion of I-94 in southeast Wisconsin. Vos appears to have backing among his Assembly Republican colleagues; however, Gov. Walker

has threatened to veto any tax or fee increases for roads. (As this issue was going to print, the governor signaled that he was more open to increasing registration fees.)

Decisions on major spending items in the budget, such as transportation spending, Medicaid spending, or increased aid for schools, are generally not made until after a new set of revenue projections has been completed. This typically occurs in early to mid-May, allowing these estimates to take into account state income tax returns filed by the mid-April deadline.

A strong uptick in projected revenues could allow some lawmakers who are wary of adding so much additional school spending to feel more comfortable approving the governor's recommendations.

The governor proposes to increase per-pupil categorical aid payments from the current \$250 per pupil to \$450 per pupil in 2017-18 and \$654 in 2018-19. However, two significant issues related to the increases are yet to be resolved.

■ Employee Health Insurance Issues

One issue is the requirement that each school district certify that its employees will be required to pay at

Throughout the month of May, the JFC will go through the budget, item by item, and vote on whether to accept, modify or delete the governor's recommendations.

least 12 percent of all costs and payments associated with employee health coverage plans in that year in order to receive the proposed increase in per-pupil aid payments.

Key members of the JFC are looking for ways to eliminate this proposed requirement, something the WASB supports. They argue that the requirement intrudes into local control and looks too narrowly at the range of personnel savings schools have been able to achieve using the flexibilities provide by Act 10. *[To boost efforts to scrap these provisions, the WASB has attempted to survey districts about whether they currently meet this proposed requirement or might be denied increases in aid if the requirement goes into effect. If your district hasn't responded, please do so as soon as possible.]*

Another issue is that, as proposed by the governor, a portion of the proposed increases in per-pupil categorical aid is contingent on the state achieving savings by restructuring the program that provides health insurance for state employees. (The restructuring has not been popular among legislative leaders and if that change is not implemented, the increase in per-pupil aid could be reduced.)

Some Assembly leaders have discussed targeting aid increases to lower spending districts but, to this point, we have not heard any specifics for how that idea would be implemented.

On the bright side, the targeted funding for rural schools (sparsity aid

and high-cost transportation aid) and school mental health proposals in the budget seem to have solid support from lawmakers.

Changes to other budget items are still being negotiated, including the governor's proposals to eliminate the revenue limit exemption for energy efficiency projects, to return to lifetime licensure for teachers and administrators, and to merge the Course Options and Youth Options programs into a new Early College Credit Program. Depending on how they are resolved, each of these items could have significant implications for school districts.

Remember that things can change quickly at the capitol. We encourage you to watch for our *Legislative Update* emails to stay on top of changes and developments.

■ Update on Other Bills of Note

If you keep up with our *Legislative Update* blog, you know legislators are working on a slate of anti-local control bills relating to restricting school referenda in various ways. As of this writing, the bills had not yet been introduced; consequently, they have not yet been given bill numbers. How these might play into the final budget deliberations is unclear, but, it is possible that these proposals could come into play given the way items have been added at the last minute in previous budgets. The WASB will keep you updated on the latest developments.

Senate Bill 169/Assembly Bill 247

Two "Right to Carry" bills would create a new concealed carry license that does not require firearm training (the current license does). These identical companion bills would also repeal the state Gun Free School Zone law. The federal Gun Free School Zone law would remain in place as the state Legislature can't change federal law. That federal law, subject to certain exceptions, generally prohibits persons who do not possess a concealed carry (CCW) license from going armed in a school zone, (i.e., in school buildings, on the grounds of a school, and within 1,000 feet of the grounds of a school.)

These bills would allow school boards to post their school buildings and grounds as gun-free, but the penalties for violating the prohibition would be greatly reduced from what they are under current state law. Significantly, under the bills, an individual who holds a concealed carry license would be able to carry a firearm while picking up or dropping off children from school as long as the weapon does not leave the vehicle. Based on our resolutions, the WASB opposes these bills.

Assembly Bill 70/Senate Bill 42

These bills eliminate a legislative mandate that certain school boards pay to publish the proceedings of their board meetings in the local newspaper. The governor had a similar provision in his budget but it was removed as non-fiscal policy. That makes these bills, which the WASB worked to develop based on a Delegate Assembly resolution, even more important. Both bills have received public hearings in their respective houses and await committee votes.

Thank you again for your advocacy efforts so far on the state budget and other bills. ■

Dan Rossmiller is the WASB Government Relations director. Chris Kulow is the WASB Government Relations Specialist.

VoterVoice The WASB has launched a new online advocacy tool called VoterVoice that will make it easier for you to contact your lawmakers. The first time you use it, you will have to confirm your contact information (for your protection) but you will only have to do that once. Your information is not shared outside of the WASB and the elected officials you contact through the system. We hope you will take the time to take action in response to our call to action emails. Please offer any feedback on the new system to Dan Rossmiller or Chris Kulow at the WASB.

Spring Academy Workshops

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

With a focus on effective governance and a board's legal roles and responsibilities, the 2017 Spring Academy Workshops will provide training by WASB attorneys for new and experienced board members.

The workshops will be held in the evening (6-8:30 pm) at 12 locations across 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 members.

The agenda includes a dinner and an in-depth workshop on the "Roles and Responsibilities of School Boards." The agenda is the same in each location.

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

Spring Academy Workshops

May 9 – CESA 1, Pewaukee

May 10 – CESA 3, Fennimore

May 11 – CESA 2, Whitewater
CESA 10, Chippewa Falls

May 16 – CESA 4, West Salem
CESA 6, Oshkosh
CESA 9, Tomahawk

May 17 – CESA 5, Portage
CESA 7, Green Bay
CESA 11, Turtle Lake

May 23 – CESA 8, Gillett
CESA 12, Ashland




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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 10 | 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 14 | 12 – 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 and union high 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.



Mark Your Calendar: Summer Leadership Institute

July 14-15, Green Bay

School board members are invited to the Summer Leadership Institute, taking place July 14-15 at the Radisson Hotel & Conference Center 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 two-day event will begin at 6 pm on Friday, July 14 with an inspiring keynote address and dinner. A full day of sessions covering a variety of important school leadership issues will take place Saturday, July 15.

Some of the sessions include:

- Introduction to the Key Work of School Boards
- Coming to Order: How to Plan and Conduct Effective School Board Meetings
- Board Engagement: The Tenets of Master Planning
- Fundamentals of Wisconsin School Finance
- Guiding Board Operations and Fiscal Authority Through Policy-Making
- Community Engagement
- Board/Superintendent Relations

Attendees will be able to select the sessions of particular interest, allowing participants to customize their experience. *For more information, visit wasb.org. Event details will be released soon.*



Open Records Requests for Employee Investigation Records

School district officials occasionally must conduct investigations into alleged misconduct committed by district employees. During such investigations, they will likely collect or create a variety of records concerning the alleged misconduct, including, for example, notes of interviews, mental impressions, strategy and/or witness statements, and a final report. Such investigations often create interest from the media, parents, or other interested citizens who may request records related to the investigation under the Wisconsin Public Records Law (WPRL).

The Wisconsin Department of Justice, which enforces the WPRL, encourages districts which receive such requests to use a four-step inquiry in determining how to respond:

- Is there such a record?
- Is the requester entitled to access the record pursuant to statute or court decision?
- Is the requester prohibited from accessing the record pursuant to statute or court decision?
- Does the balancing test compel access to the record?

This analysis is typically performed by the district's designated records custodian ("custodian").

This *Legal Comment* addresses the custodian's analysis of a public records request for documents generated as a result of a district's internal investigation of employee misconduct

and will review several Wisconsin court cases involving such requests.¹

■ Identification of Records

The first step in responding to a request is to identify any records within the scope of the request. A "record" is defined broadly to include "any material on which written, drawn, printed, spoken, visual, or electromagnetic information or electronically generated or stored data is recorded or preserved, regardless of physical form or characteristics, that has been created or is being kept by [the district]."² Requests for information not contained in a "record" are not governed by the WPRL. Districts are also not required to create a record in response to a request.

The WPRL's definition of "record," excludes, among other things, "drafts, notes, preliminary computations, and like materials prepared *for the originator's personal use* or prepared by the originator in the name of a person for whom the originator is working, [and] materials that are purely the personal property of the custodian and have no relation to his or her office."³ In district internal investigations, the person assigned to perform the investigation typically takes notes during the process. The question of whether such notes fall within the scope of the statutory exemption of a "record" has been the subject of recent litigation in which a newspaper made a request for documents created during the course of a

district investigation into allegations of impropriety surrounding a school athletic program, including documents created by district officials assigned to do the interviews. *Voice of Wisconsin Rapids, LLC v. Wisconsin Rapids Public School District*.⁴ The district took the position that the officials' interview notes fell within the WPRL's exclusion from disclosure because the notes were prepared for the officials' personal use and, thus, did not constitute a "record." The court of appeals agreed, and its decision is helpful in defining what particular "notes" are exempt from disclosure.

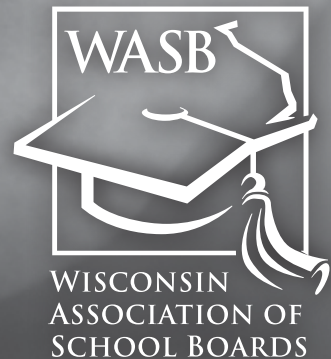
The court initially determined that the documents at issue were "notes." They consisted of handwritten documents, at times barely legible, and included post-it notes, telephone message slips, and short-hand comments of the investigatory interviews that reflected "hurried, fragmentary, and informal writing." The court also concluded that these "notes" were "prepared for the originator's personal use." The court rejected the newspaper's suggestion that the notes were not personal because they were generated in the course of an official district function; namely, a formal investigation. Rather, the court indicated that whether a "note" is personal turns on whether "the notes are distributed to others for purposes of communicating information" and whether they are "retained for the purpose of memorializing agency activity." If so, they are subject to disclosure, as opposed to

There is a strong presumption favoring disclosure of public records, in particular disciplinary and investigatory records after the investigation has been concluded.

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notes which are created and retained for the “sole purpose of ‘refresh[ing] one’s recollection at a later time.”

The court found it significant that these notes were merely raw material for generating the culminating disciplinary document and were not given by their creators to other district officials in the investigation to review, but rather were used during the interviewers’ oral report of their investigation. The notes were kept by the creators and were not placed in any other district file. The notes did not appear to the court to “have been written in a style or format that would ordinarily be used when the originators’ purposes included distribution to others or establishment of formal authority positions or actions.”

■ Statutory Prohibition From Disclosure

If the custodian determines that he or she has “records” subject to disclosure involving an investigation, certain statutes preclude the disclosure of those records. For example, if the record relates to employee conduct with a student, the record may be exempt from disclosure under the federal or state pupil records laws. Also, the WPRL prohibits the disclosure of records containing “information relating to the *current* investigation of possible employee criminal conduct or misconduct connected to employment prior to the disposition of the investigation” other than to the employee or his or her representative.⁵ The application of this prohibition depends on whether the person being investigated is an “employee” and on the time the request is made.

The exception does not apply if the “employee” is a “local public official.” The term “employee” is defined as “any individual employed by a governmental authority, who is not an individual holding a local public office.”⁶ A “local public office” is defined to include various offices listed under the Code of Ethics for Public Officials and Employees, as well as “any appointive office or position of a local government unit in which an individual serves as the head of the department, agency, or division of a

local government unit.”⁷ This category encompasses district administrators, business managers, principals and board members. If an investigative record involves a “local public official,” it is not exempt from disclosure under this provision and any determination to deny access to such records must be based on application of the balancing test.

After an investigation reaches its “disposition,” the custodian can no longer rely on this exemption to deny access to employee investigation records. The timing of when an investigation reaches that point has been the subject of several lawsuits. In *Local 2489, AFSCME v. Rock County*,⁸ the county investigated and disciplined several employees for using county computers to view inappropriate images. The employees filed a grievance under their collective bargaining agreement. Prior to the grievance hearing, a newspaper requested copies of the reports resulting from the county’s investigation. The court of appeals construed the term “investigation” to refer to an investigation conducted by the employer as a prelude to disciplinary action. The fact that the employee had recourse to challenge that action in another forum did not render the records generated during the investigation exempt from disclosure under this exception. Rather, the court concluded that an “investigation” reaches its “disposition” at the time the employer acts to impose discipline on an employee as a result of the investigation. A similar result was reached in *Zellner v. Cedarburg School District*.⁹

The WPRL also precludes from production “(i) nformation relating to one or more specific employees that is used by an authority or by the employer of the employees for staff management planning, including performance evaluations, judgments, or recommendations concerning future salary adjustments or other wage treatments, management bonus plans, promotions, job assignments, letters of reference, or other comments or ratings relating to employees.”¹⁰ The court of appeals rejected an argument that the phrase “staff management planning” creates a blanket

exemption for disciplinary documents generated by an investigation given they would likely be used as a part of future performance evaluations. *Kroeplin v. Wisconsin DNR*.¹¹ In doing so, the court recognized a number of cases which demonstrated a strong public policy of disclosing disciplinary records of public employees and officials where the conduct involves violations of the law or significant work rules. The court concluded that the legislature did not intend to abrogate this policy through an interpretation of “staff management planning” that would create a blanket exemption of disclosure of such records.

■ Balancing Test

If an open records request covers a “record” and does not fall within one of the statutory prohibitions from disclosure, the custodian must engage in a “balancing test” in which the public interest in disclosure of a record is weighed against any public interest in nondisclosure. There is a strong presumption favoring disclosure of public records, in particular disciplinary and investigatory records after the investigation has been concluded.

For example, in *Linzmeier v. Forcey*,¹² a teacher was investigated for possible inappropriate contact with female students. No criminal charges were filed and the district did not initiate any disciplinary action against the teacher. After the investigation was closed, a newspaper filed an open records request for access to the investigation report, a record to which no statutory exception to disclosure applied. The district engaged in the balancing test and took into consideration the fact that releasing the investigation report could potentially harm the teacher’s reputation. It concluded, however, that the public’s right to know about possible misconduct of its government employees, especially those put in positions of trust, outweighed any potential harm to the teacher and decided to disclose the records. This decision was affirmed by the court.

In another case, *Seifert v. School Dist. of Sheboygan Falls*,¹³ a district

hired an attorney to conduct an investigation into allegations that a high school coach had mistreated a student. Prior to the investigation, the student's parents filed a notice of injury against the district. After the investigation, the parents sought access to all records related to the investigation. The district denied the request, based in part on its conclusion that the records were the work product of the attorney and were compiled in connection with a matter that could lead to litigation. After conducting an analysis under the WPRL, the court held that the district's right to prepare for litigation by retaining counsel who generated "records" outweighed the public's right to disclosure of those records.

■ Notice to Record Subjects

If the custodian decides that records related to an investigation must be disclosed, the custodian must determine whether such records require notice to any individuals prior to disclosure. Under the WPRL, in certain instances, the custodian must provide notice to "record subjects" before disclosing the records. A "record subject" is defined as "an individual about whom personally identifiable information is contained in the record."¹⁴

For example, such notice must be provided when the district discloses a record containing information "that is the result of an investigation into a disciplinary matter involving the employee or a possible employment-related violation by the employee or a statute, ordinance, rule, regulation or policy of the employee's employer."¹⁵ In such instances, any "record subject" to whom the record pertains must be provided notice as set forth under the WPRL. This notice must inform the "record subject" that he or she has the right to commence an action in court to prevent the disclosure of the record that pertains to him or her. Thus, the "record subject" has both the right to notice and judicial review.

In contrast, if the "record subject" is a "local public official,"

he or she does not have any statutory right to commence an action to prevent the disclosure of a similar record. Instead, a "local public official" only has the right to notice of disclosure and the right to augment the record before it is disclosed.¹⁶ Because of these differences, the custodian must determine whether any requested record relates to an "employee" or a "local public official." In some cases, the record may relate to both and, in such cases, different notices must be sent to the different record subjects. However, the duty to notify does not extend to every "record subject" who happens to be named in the record, but instead only applies to situations when the record disclosed "pertains to" the record subject.¹⁷

In a recent case, the Wisconsin Supreme Court concluded that an individual who qualified as a "local public official" only had limited rights related to notice and augmentation and nothing more. In *Moustakis v. Wisconsin Department of Justice*,¹⁸ a district attorney argued that he also had the right to file an action under the WPRL to block the release of records of complaints and investigations in which he was the record subject. He asserted that he had this right because he believed that he met the definition of "employee" under the WPRL. The court rejected this argument as contrary to a reasonable reading of the WPRL. Instead, the district attorney, as a "local public official," only had the right to notice and augmentation.

■ Conclusion

Districts face many challenges when responding to requests for investigation records. These include determining whether the request involves a "record," whether that record falls within the prohibition from disclosure, and, if not, whether the presumption in favor of disclosure is outweighed in the particular circumstances. In addition, a legal custodian must follow the notice requirements and ensure that all record subjects are provided proper

notice prior to disclosure of the records. Understanding these principles will not only assist in complying with the WPRL, but will also provide guidance to districts in how it approaches an investigation of employee misconduct. For example, districts should consider at the outset who will do the investigation, what types of documents or notes will be generated, who will receive or review those notes, who will maintain them at the conclusion of the investigation, and when the investigation will conclude. The answer to these questions will determine whether and when such investigatory documents will be disclosed if the district receives an open records request. ■

■ End Notes

1. For additional information related to this topic, see *Wisconsin School News*, "Disclosure of Employee Investigation and Disciplinary Records" (July 2007); "Access to Employee Investigation Records Under the Public Records Law" (September 2005).
2. Wis. Stat. s. 19.32(2).
3. *Id.* (Emphasis added).
4. 2015 WI App. 53, 807 N.W. 2d 825, (Ct. App. 2015).
5. Wis. Stat. s. 19.36(10)(b)(Emphasis added).
6. Wis. Stat. s. 19.32(1bg).
7. Wis. Stat. s. 19.32(1dm).
8. 2004 WI App 210, 277 Wis.2d 208, 689 N.W.2d 644.
9. 2007 WI 53, 300 Wis. 2d 290, 731 N.W.2d 240.
10. Wis. Stat. s. 19.36(10)(d).
11. 2006 WI App 227, ¶20, 297 Wis.2d 254, 725 N.W.2d 286.
12. 2002 WI 84, ¶15, 254 Wis. 2d 306, 646 N.W.2d 811.
13. 2007 WI App 207, 305 Wis. 2d 582, 740 N.W.2d 177.
14. Wis. Stat. s. 19.32(2g).
15. Wis. Stat. s. 19.356(2).
16. Wis. Stat. s. 19.356(9).
17. 2006 Wis. Op. Atty. 1 (August 3, 2006).
18. 2016 WI 42, 368 Wis. 2d 677, 880 N.W.2d 142.

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

School Design and Student Success

SERVICE ASSOCIATE Q & A

Q. *What can school board members do to create a good working relationship with an architect and communicate their vision for their school building?*

A. The development of a school facility to meet the needs of learners both now and into the future requires a coordinated and dedicated team of district staff and consultants. This multi-faceted challenge is a process that takes time and resources for it to be done correctly. School board members play a critical role in a number of different areas including, but not limited to, setting the tone for an effective relationship with the design professionals they chose to work with. It is important for the school board to appoint a district representative to be the main contact to the architect for the duration of the project to ensure consistency. It is also important for the school board to assist early on in the development of the process that will be followed by the team for the project.

Q. *How do you strike a balance between designing a school building that is practical and cost effective but also attractive and comfortable?*

A. Every project has its fair share of tension between aesthetics and budget. The key to the success of the budgeting process is to take time early in the development of the scope and budget of the project to identify key educational goals and realistic budgets for that to be implemented. Identifying

the vision of the facility early in the process lays the foundation for future decisions to be made throughout the process.

Q. *How can the design of a school building positively affect student learning?*

A. Every aspect of the built environment impacts the learning that occurs within it but there are a couple of areas that may be more effective in the development of healthy and effective school facilities: indoor environmental quality and daylight. In regards to indoor environmental quality, it is critically important for the basic human needs of the students to be met in order for them to be able to learn. Students must be comfortable and must get the correct amount of fresh air in the space throughout the day for them to be able to learn. It is also important for the acoustical properties of the space to be considered so students are able to hear what is important to hear and not hear the things that distract from the tasks at hand. Natural daylight being introduced into a space is critically important for the health and well-being of the occupants. The ability for students and staff to see outdoors and/or sunlight directly impacts their ability to do the work they need to complete.

Q. *Are there any new products or design features that are changing the way schools are being built and/or designed?*

A. The design and construction industry is constantly working to



Chris Gibbs is a principal with DLR Group, a design firm specializing in corporate, educational, justice, sports and entertainment facilities.



improve the quality and effectiveness of the spaces we create. In the world of school design and construction, two areas of the process have risen to the top in recent projects: furniture and transparency. The evolution of furniture design to create more flexible and adaptable spaces cannot be understated. The furniture and equipment in the learning space has become a way to personalize learning and better meet the needs of all learners. Transparency between spaces within educational environments promotes the development of meaningful relationships amongst students and staff. Interior glass also promotes the ability for students to work in small groups and independently while assuring supervision. ■

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Every aspect of the built environment impacts the learning that occurs within it.



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