

# LEADER

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## Calendar

*March: Negotiations Seminars in Bemidji, St. Cloud and St. Peter*

*April 3: MSBA Day at the Capitol (See Page 4)*

*April 5-19: MSBA Phase III Workshops*

## Learning

### Build a high-performance school board through MSBA workshop

The MSBA School Board Workshop Series continues in April with the **Building a High-Performance School Board Team: Phase III workshop**. This workshop helps build a high-performing school board with a focus on leadership styles and consensus building.

Workshops are scheduled for **April 5 (Fergus Falls), April 6 (Thief River Falls), April 7 (Mountain Iron), April 11 (Marshall), April 18 (Maple Grove) and April 19 (Rochester)**.

Visit <http://www.mnmsba.org/Phase-III-Workshop> to access registration and the workshop agenda.



**Advocate for your students at the MSBA Day at the Capitol on April 3! See Page 4 for details.**

## MSBA guidance on transgender issue

By MSBA staff

The joint decision by the U.S. Departments of Justice and Education to withdraw last year's guidance for transgender students means those departments will not be independently pursuing enforcement actions against schools and/or threatening the loss of federal funds based on the withdrawn guidance.

The withdrawal brings many decisions for transgender students back to local school board control, which is one of MSBA's long-held positions. Our advice to school districts has not changed since our briefing on the issue last year: Work with parents and students at the local level to ensure a safe and nurturing environment for all students.

MSBA believes its current policies offer protection against discrimination, bullying,

and harassment for transgender students. A separate policy for transgender students is likely premature until the issues are settled by the courts. Individual school boards have the authority to adopt policies they believe are necessary for their districts, as long as those policies do not conflict with law and regulation.

The Supreme Court had accepted a case (*Gloucester County School Board vs. Gavin Grimm*) brought by a transgender student on appeal from the Fourth Circuit Court of Appeals. On March 6, 2017, the Supreme Court vacated the Fourth Circuit's opinion and sent the case back to that court for further consideration in light of the federal government's changed guidance.

MSBA will continue to follow these issues in the courts and will provide additional information when available.

## Student Data

# Informal guidance on videos of students

MSBA has been getting questions about the status of video surveillance recordings created and maintained by school districts for a long time. Are surveillance videos private student educational data on all students recorded in the video? If so, when can we let parents see videos of events involving their children? After written permission from all the other parents is obtained? Anytime their child is directly involved in an incident recorded on the video? Do we need to obscure the identity of the other students? What if we don't have the technology to do this? MSBA, along with school administrators and school attorneys all over the nation, has been waiting for formal guidance on these questions.

Recently, a fellow Council of School Attorneys member from Illinois shared an informal opinion from the Family Policy Compliance Office (FPCO), which is the federal office that interprets and enforces the Family Educational Rights and Privacy Act (FERPA), the federal student data privacy law. Informal guidance is not binding on school districts, but, as the saying goes, "something is better than nothing."

The following quotes are excerpts from the shared informal guidance written by Ellen Campbell of the FPCO. To obtain a copy of the complete document, please email MSBA's Cathy Miller at [cmiller@mnmsba.org](mailto:cmiller@mnmsba.org).

"With regard to whether video images ... are subject to FERPA, the term 'education records' means those records that are: (1) directly related to a student; and, (2) maintained by an educational agency or institution or by a party acting for the agency or institution" [citing 34 CFR § 99.3].



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Director of Legal & Policy Services  
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"Informally, we have suggested that if a student is the specific focus or subject of a record, including a video, the record would appear to be directly related to that student. We have further informally advised that a video image that is not 'directly related' to students whose images are incidental or captured only as part of the background would not appear to be an 'education record' of the students. School officials should also answer the question whether the videotape with that image is being 'maintained' by the school or a party acting for the school. ..."

Campbell clarified that a video created and/or maintained by a law enforcement unit is not an education record. These videos are subject to the law enforcement unit's rules and regulations rather than FERPA.

The example Campbell provided is helpful. "For example, if a hallway or bus video captures two students in an altercation and a school maintains the videotape, then we would generally say that the video image is directly related to the two students captured in the image fighting, but not to students who are mere bystanders. In this example, parents of both students in the fight would generally have the right under FERPA to inspect and review the video. If the students are eligible students (18 years or older or attending a postsecondary institution at any age), then the right to inspect and review the video would belong to the eligible student(s). Also in this

example, we have informally advised that before providing a copy of the video images to either set of parents or eligible students that the other parents or eligible students provide consent for the disclosure. However, FERPA does not require a school to provide a copy of education records to a parent. If circumstances effectively prevented a parent from exercising the right to inspect and review the records (such as the parent no longer lives in commuting distance, for example), then the school would be required to either provide a parent with a copy OR make other arrangements for the parent to inspect and review the records."

The informal guidance leaves many questions unanswered, but at least we know that the FPCO's current position is that students who are bystanders to an incident and not subject to discipline for the incident but are captured in a video of the incident are not "directly related" to the incident, and the video is not an education record of them. The language about whether the school district needs to get permission from the other parents if multiple students are the subject of a video (so the record is directly related to all of them) seems to me to say that the school does need to get permission. An argument exists that this language applies to giving a copy of the video to the parents rather than allowing them to view it. The conservative (safest) interpretation would be to deny the parents' request if permission from the other parents cannot be obtained.

Hopefully, the FPCO will soon issue more complete, formal guidance on the issues of when videos are education records and how to deal with those videos that are education records.

## Personnel

# Resignation, nonrenewal, ULA and termination deadlines

Your MSBA staff have received a number of inquiries concerning the above mentioned deadlines. The following information is an attempt to address these inquiries.

1. Resignation — A tenured teacher must resign by April 1. However, “if an agreement as to the terms and conditions of employment for the succeeding school year has not been adopted pursuant to the provisions of sections **179A.01** to **179A.25** prior to March 1, the teacher’s right of resignation is extended to the 30th calendar day following the adoption of said contract in compliance with section **179A.20, subdivision 5**. Such written resignation by the teacher is effective as of June 30 if submitted prior to that date and the teachers’ right of resignation for the school year then beginning shall cease on July 15” (**M.S. 122A.40, Subd. 7**). Until



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recently, MSBA’s position was that this language also applied to probationary teachers. However, recent guidance from legal counsel has affirmed the position that the above language does not apply to probationary teachers, and said probationary teachers are free to resign at any time during their probationary period.

2. Nonrenewal — “During the probationary period any annual contract with any teacher may or may not be renewed as the school board shall see fit. However, the board must give any such teacher whose contract it declines to renew for the following school year written notice to that effect

before July 1” (**M.S. 122A.40, Subd. 5**).

3. Unrequested leave of absence (ULA) — Lacking an earlier date negotiated in the teachers’ Master Agreement, the ULA process must be completed prior to July 1 (**M.S. 122A.40, Subd. 7**).

4. Termination — A teacher who has completed a probationary period must be “terminated by a majority roll call vote of the full membership of the board prior to April 1 upon one of the grounds specified in subdivision 9” (**M.S. 122A.40, Subd. 7**). The immediate discharge of a teacher can occur if the conditions and guidelines listed in **M.S. 122A.40, Subd. 13** are met.

School districts facing decisions on any of these items are urged to contact MSBA’s Management Services staff with any questions concerning this information.

## Learning

# Today is final day to register for final three Negotiations Seminars

There’s still time to prepare yourself for the bargaining table with one of MSBA’s **Negotiations Seminars**. Advance registration closes today (March 7) for the final three

seminars scheduled for **March 10 in Maple Grove, March 11 in St. Peter and March 14 in St. Cloud**.

See [www.mnmsba.org/NegotiationsSeminars](http://www.mnmsba.org/NegotiationsSeminars) for details.

## Learning

# School Design for Individualized Learning sessions slated for April

The **Bush Foundation** is presenting **School Design for Individualized Learning**, an education design experience that aims to inspire, equip and connect educators who want to reimagine the purpose and structure of school.

Equity will be included among the individualized learning models that will be examined. The first step of School Design for Individualized Learning is to attend one of three two-hour orientation sessions in either **Moorhead (April 10), Rochester (April 11) or St. Paul (April 12)**.

At each session, learning designers from 2Revolutions

will introduce attendees to the principles of individualized learning and share examples of successful efforts from around the country.

Orientation sessions are open to teachers, administrators and staff who want to learn more about individualized learning. Orientations are free, but registration is required.

Visit <http://www.bushfoundation.org/events/school-design-individualized-learning> to register and to learn more about the other phases of School Design for Individualized Learning.



Register today for the ...

# MSBA Day at the Capitol

8:30 a.m. to 3 p.m. Monday, April 3, 2017

Best Western Plus Capitol Ridge

161 St. Anthony Avenue, St. Paul

**Advance registration deadline: March 27**

Ask your school district office to register you today via <http://www.mnmsba.org/EventRegistrationHome>.

The MSBA Day at the Capitol provides school board members with the opportunity to meet with local legislators during the legislative session in St. Paul.

Join MSBA and your school board colleagues the morning of **Monday, April 3**, at the Best Western Plus Capitol Ridge.

- Receive a briefing from the MSBA Government Relations staff!
- Study issues of mutual importance!
- Network with other school board members!
- Engage your local legislative leaders at the Capitol!
- Take part in a tour of the renovated State Capitol Building, led by Inver Grove Heights School Board member Paul Mandell!

**Reserve hotel by March 11 (if necessary)**

If you need a hotel room for the night of Sunday, April 2, please call the Best Western Plus Capitol Ridge directly at 651-227-8711 and ask for “MSBA room block.”

Reserve your room before the room block closes on March 11.



## MSBA Student School Board Member Scholarship

# Application deadlines approaching for MSBA Student School Board Member Scholarship



Applications for the **2017 MSBA Student School Board Member Scholarship** are now available on the MSBA website.

MSBA awards a \$3,000 scholarship for two student school board members each year.

Applicants must be a high school senior graduating after the spring 2017 semester, their service must be done during their senior year, and they must be a full-time college student in the fall of 2017.

Typed applications must be sent by postal mail by March 18 — or by email in PDF format by noon, Monday, March 20, to MSBA's Greg Abbott at [gabbott@mnmsba.org](mailto:gabbott@mnmsba.org).

See [www.mnmsba.org/MSBAScholarship](http://www.mnmsba.org/MSBAScholarship) for more information.

## Personnel

# End of the year actions concerning special permissions

By Bill Kautt, MSBA Associate Director of Management Services

School districts need to take care to dismiss individuals who are teaching under special permissions granted by the Board of Teaching.

An individual teaching as a nonlicensed community expert has his/her permission to teach expire at the end of the school year. Such an individual should be informed by the school district that his/her permission has expired and his/her services will be terminated at the end of the school year. The position should be posted, and the school district should attempt to hire a qualified teacher to fill the vacancy.

If no qualified teacher is available and acceptable to the school district,

the school district may reapply with the Board of Teaching to have the previous nonlicensed expert granted the same status for the upcoming school year. Individuals teaching under provisional, restricted, or temporary limited licenses that expire at the end of the year should also be terminated because they no longer have a valid license to teach the subject matter they are assigned to.

Care should be taken to determine whether such individuals have satisfied their probationary period because, if they have a regular teaching license issued by the Minnesota Department of Education, they must be placed on unrequested leave of absence (ULA) or transferred to an area they are licensed to teach in. Once again, the vacant position should be advertised and, if no qualified teachers are available or

acceptable to the school district, the school district can begin the process to secure a special permission to the individuals to teach the following year. Questions concerning these individuals should be addressed to the Board of Teaching or the Licensing Division of the Minnesota Department of Education, whichever entity issued the permission.

School districts should also be aware that the Minnesota Legislature is currently debating bills which restructure the licensing requirements in the state. School districts should be paying attention to **SF 4** and **HF 1079** as they progress through the legislative process and be aware of how such bills will change the staffing options available to school districts if they become law.

## MSBAIT Matters

# Dangerous W-2 phishing scam is targeting schools

The Internal Revenue Service and the Minnesota Department of Revenue are warning all employers of a dangerous W-2 email phishing scam.

Human resource and payroll professionals across the country have received emails purporting to be from the superintendent, business official, or executive requesting W-2 or private information.

The email often looks official to unsuspecting employees who then send the requested information and disclose private information to an unauthorized party.

This scam is sometimes referred to as business email compromise (BEC) or business email spoofing (BES).

Last year, 100 businesses employing 126,000 individuals were hit by scammers. In the first month of this tax season, 80 businesses have been hit by scammers.



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When employers report W-2 thefts immediately to the IRS, the agency can take steps to help protect employees from tax-related identity theft.

The IRS, state tax agencies, and the tax industry, working together as the Security Summit, have enacted numerous safeguards in 2016 and 2017 to identify fraudulent returns filed through scams like this.

As the Security Summit partners make progress, cybercriminals need more data to mimic real tax returns.

### Companies asked to wire money

In the latest twist, the cybercriminal follows up with an “executive” email to



[www.mnmsba.org/MSBAIT](http://www.mnmsba.org/MSBAIT)

the payroll or comptroller and asks that a wire transfer also be made to a certain account. Although not tax related, the wire transfer scam is being coupled with the W-2 scam email, and some companies have lost both employees’ W-2s and thousands of dollars due to wire transfers.

The IRS, Minnesota Department of Revenue, and the tax industry are urging all employers to share information with their payroll, finance, and human resources employees about this W-2 and wire transfer scam.

## More MSBAIT Matters

See Page 7 for “Seven tips for selecting the best broker for your school district” by Marsh & McLennan Agency.

## Reminder: Employers must start using the new version of Form I-9

School districts must start using the new version of Form I-9 (as of January 22, 2017, all previous versions became invalid). The new Form I-9 is marked “11/14/2016.” (The version that has been in effect since 2013 was marked “03/08/13” and will become obsolete.) The new form can be accessed on the U.S. Citizenship and Immigration Services website at <https://www.uscis.gov/i-9>. The expiration date on the new form is “08/31/2019.”

Failure to use the new form will expose organizations to penalties, which were recently nearly doubled.

See [www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/immigration-fines-going-up.aspx](http://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/immigration-fines-going-up.aspx) for details.

## School Election Timelines

MSBA’s **Elections and Referendums webpage** has been updated with “Important Election Dates,” including 2017 timelines for school elections and referendums. See <http://www.mnmsba.org/Elections-Referendums>.

*The contents of this newsletter are provided for informational use only and are not to be construed as legal advice. If you need legal advice, consult your attorney.*

## MSBAIT Matters

# Seven tips for selecting the best broker for your district

Submitted by Marsh & McLennan Agency



**MARSH & MCLENNAN  
AGENCY**

[www.marshmma.com](http://www.marshmma.com)

1. Begin this process five to six months prior to your expiration date.
2. Select the brokers you would like to consider for your risk management consultant.
3. Notify each broker. Tell them of your intent to open a broker competition. Tell them they are invited to make a presentation, and ask them to send you a list of what they will need in order to make their presentation.
4. Do not be surprised by the amount of data you are asked to provide. It could range from nothing (in other words, they have it canned) to a list that would include the following:
  - (a) Copies of all policies
  - (b) Copies of loss runs for the past three to five years
  - (c) Information on your district
  - (d) Interviews with the key people
 Typically, the more data the broker asks for, the more thorough the job they are going to do.
5. Request that presentations be made a minimum of 130 days prior to your expiration date.
6. The winning brokers' presentation will include, as a minimum, the following components:
  - (a) The broker will bring their whole team to present their qualifications.
  - (b) They will discuss the design of your current insurance program, ask questions about how it evolved, and discuss design options for you to consider.
  - (c) They will discuss your current pricing and where it fits

in the marketplace.

- (d) They will discuss their marketing strategy for your upcoming renewal which, at a minimum, will include the insurance carriers they are going to go to.
- (e) They will discuss your district's ongoing service standards and needs.
- (f) They will answer your questions.
7. Schedule all presentations for the same day, if possible. Make a decision as a team. The decision needs to be made 120 days prior to your expiration date so the change of brokers can be most effectively and efficiently made.

### The result

1. You will have a broker that will be a valued business advisor and not just a vendor of insurance.
2. You will go to bed at night knowing the risks of loss to your district have been addressed.
3. You will have an insurance program designed for the current situation of your district and not the way it was in previous years.
4. You will know your district has selected the best risk management and insurance program with the most competitive price.
5. You and your team will be selecting your broker and NOT delegating that to the low bidding insurance company.

## Minnesota Department of Education

# Data: Minnesota graduation rates continue upward trend

Minnesota high school graduation rates continue to trend upward, with the class of 2016 posting the overall highest rate on record at 82.2 percent. Rates for all students were up one-third of a percentage point from 2015, and up 5 percentage points from 2011, showing that more Minnesota students are graduating from school.

A closer look at the data reveals notable trends across student groups.

Minnesota Department of

**Education**

Since 2011, graduation rates for non-white students have increased by 13.1 percentage points. Rates for white students have increased by 3.2 points during that time.

Graduation rates for black students have increased 24 percentage points —

a 59 percent increase — since 2006. In comparison to their white peers, this represents a 46 percent reduction in the graduation gap for black students over the last decade.

Other student groups have also demonstrated significant increases since 2006 and 2011.

See <http://education.state.mn.us/MDE/about/news/press/MDE060216> for the complete news release.

## Personnel

### Call on MSBA to assist with your school district's master agreements

At a member district's request, Management Services staff will provide written analyses of teacher, nonlicensed, and other **master agreements**. This service is provided at a cost of \$950 for the first agreement from a district and \$750 for each subsequent agreement in that round of bargaining.

If you are interested in having any of your master agreements analyzed, call MSBA at **800-324-4459** and ask for staff in **Management Services** or email **Gary Lee** at [glee@mnmsba.org](mailto:glee@mnmsba.org) or **Sue Honetschlager** at [shonetschlager@mnmsba.org](mailto:shonetschlager@mnmsba.org).

## Strategic Planning

### Set your district's direction with MSBA's Strategic Planning Services

Do you want to get everyone on the same page? Does your school board-superintendent team believe improvement is important? If so, check out **MSBA's Strategic Planning Services**. MSBA's experience and knowledge can help you

put your district's strategic plan on the right course.

Visit [www.mnmsba.org/StrategicPlanningServices](http://www.mnmsba.org/StrategicPlanningServices) — or contact MSBA's **Jeff Olson** at [jolson@mnmsba.org](mailto:jolson@mnmsba.org) or 800-324-4459 for more information.

## Meeting Management

### Learn about paperless board meetings via BoardBook webinar on March 15

MSBA is offering an ongoing series of **FREE** webinars on how to incorporate **BoardBook** to streamline preparation,

distribution and publishing of agenda packets for board meetings.

The next BoardBook webinar is set

for **10 a.m. Wednesday, March 15.**

Visit [www.mnmsba.org/BoardBook](http://www.mnmsba.org/BoardBook) for registration.

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## Find your next school leader with MSBA's Executive Search Service

The MSBA Executive Search Service provides a collaborative and efficient search process that supports school boards in fulfilling one of their most important school board responsibilities — hiring a superintendent. For details, please visit [www.mnmsba.org/ExecutiveSearchService](http://www.mnmsba.org/ExecutiveSearchService) or contact Sandy Gundlach at [sgundlach@mnmsba.org](mailto:sgundlach@mnmsba.org).

## Job Openings

### Superintendents/Directors

- Achieve Language Academy — executive director (application deadline: March 15)
- Aitkin — superintendent (application deadline: March 31)
- Aspen Academy — executive director (application deadline: April 25)
- Butterfield-Odin — 0.5 FTE superintendent (application deadline: March 24)
- Byron — superintendent (application deadline: March 9)
- Chisholm — superintendent (application deadline: April 14)
- Forest Lake Area — superintendent (application deadline: March 27)
- Pelican Rapids — superintendent (application deadline: March 28)
- Red Lake — superintendent (application deadline: April 3)
- South Koochiching-Rainy River — superintendent (application deadline: March 29)
- St. Louis Park — superintendent (application deadline: April 21)
- Tri-County — superintendent/principal (application deadline: April 10)
- Zumbro Education District — executive director (application deadline: March 24)

### Principals

- Columbia Heights — elementary school principal (application deadline: March 31)
- Le Sueur-Henderson — STEM elementary school principal (application deadline: March 13)
- Mountain Lake — elementary school principal (application deadline: March 7)
- Pequot Lakes — high school principal (application deadline: March 20)
- South Washington County — assistant high school principal (application deadline: March 10)

### Other Administrators

- Hiawatha Valley Education District — assistant director of special education (application deadline: open until filled)
- New Ulm — director of learning services (application deadline: March 17)

Visit [www.mnmsba.org/DistrictJobOpenings](http://www.mnmsba.org/DistrictJobOpenings) for application information.

## In Memory

Tom Grundhoefer, a League of Minnesota Cities staff member who provided legal counsel to MSBA, passed away February 19.

*MSBA sends its condolences to Thomas' family, friends and colleagues.*



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The Leader is edited by Associate Director of Communications Bruce Lombard. Call 800-324-4459 with any questions.

Job openings, Marketplace notices and other information can be emailed to [blombard@mnmsba.org](mailto:blombard@mnmsba.org) or faxed to 507-931-1515.



## SFM Foundation offering scholarships to children of parents seriously or fatally injured while working

SFM Foundation is dedicated to easing the burdens on families affected by workplace accidents. To achieve this, the Foundation provides postsecondary education scholarships to children of parents fatally or seriously injured on the job.

Scholarships are available to qualifying students whose parents have been disabled or fatally injured in the course of working for Minnesota, Wisconsin or Iowa employers.

Each scholarship recipient is eligible for up to \$10,000 per year and can receive scholarships annually through graduation from a two-year or four-year college, university or vocational school. The application deadline is March 31.

See [www.sfmfoundation.com](http://www.sfmfoundation.com) for additional information.



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Automobile

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Marsh & McLennan Agency LCC  
for property, casualty, and workers'  
compensation insurance and  
risk management products and services.

National Insurance Services  
for its group long-term disability  
and group term life insurance plans  
for school employees.



Denise Drill  
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