

LEADER

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Calendar

- February 7: Officers' Workshop (Thief River Falls)*
- February 8: Officers' Workshop (Mountain Iron)*
- February 9: Officers' Workshop (Sartell)*
- February 12: Officers' Workshop (Marshall)*

School Board Vacancies

How to handle complicated school board vacancies

Mobility in all Minnesota communities (and school districts) continues to increase. Individuals and families have many new opportunities in other communities for their careers and their families. School districts see this daily as new students arrive and need assistance adapting to the new environment. MSBA has seen the impact of mobility in the turnover of elected school board members, and we have seen an increase in questions from members on how to proceed when faced with a school board vacancy.



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provides additional clarity on the issue when it says in part, "A vacancy in any board occurs when a member ... ceases to be a resident of the district, ..." (**M.S. 123B.09, Subd. 3.**)

The vacancy will occur, without any action by the school board member or the school board, the day the school board member changes his/her residence. For clarity, the school board member should submit a letter of resignation with the effective date so the official board minutes can reflect the change. The school board must then comply with the requirements to fill the school board vacancy as found in **M.S. 123B.09, Subd. 5b.** Some additional facts are needed to determine how to proceed. In this case, the school board had held a school board election the previous November, and the school board

See VACANCIES, Page 2

Question: We have a school board member who is moving outside of the school district boundaries because he/she purchased a new house. He/she is moving in April. Can he/she stay on our school board? If not, how do we proceed?

Answer: To be elected to a school board, the individual must be entitled to vote at any election, be 21 years of age, and have resided in the district for 30 days prior to the election (Article VII, Section 6 of the Minnesota Constitution). Minnesota statute

FACT: *Alternative fuel engines are not always the cleanest.*



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VACANCIES: Special elections can be expensive

(Continued from Page 1)

member is in the last two years of his/her four-year term.

The statute requires that the vacancy be filled by school board appointment until a special election is held in the current year. The appointment process is not defined in statute, so the school board can determine the best process. The school board can ask for applications and make a selection.

Also, they can reach out to a former school board member with experience and ask if the individual would serve. Finally, they could also devise a variation to the previous processes.

Once the appointment is made, a 30-day waiting period is imposed before the appointee is seated. The waiting period is in place to allow the public to petition against the selection of the appointee. Because the vacancy occurred in the third year of the term

and more than 90 days prior to General Election Day, the school board must schedule a special election no later than November of the current year. For the majority of school districts that hold their school board elections in the even year, the cost of the special election will be borne by the school district. We have heard that this cost can range from \$3,000 to \$30,000, depending on the size of the school district.

Question: We have a board member who serves in the National Guard and is being deployed overseas for six months. How do we handle this?

Answer: **M.S. 123B.09, Subd. 4,** addresses this type of vacancy.

For ill or absent members who will not be able to serve and attend meetings for no less than 90 days, the school board may declare a vacancy and fill the vacancy with an appointee

until the member can return or until the end of the term, whichever is earliest. Statute does not require a waiting period for this type of appointee, and the appointee is seated immediately following school board action.

The school board has another option for absent school board members who have access to audio and visual technology. The Open Meeting Law (**M.S. 13D**) addresses the conditions that must occur for school board members to participate remotely. MSBA has seen this work for a deployed school board member who was in a non-secured area. Some military deployments are obviously in conditions where the school board member will not have the freedom or the tools available to participate remotely.

CELEBRATE SCHOOL BOARD MEMBERS THIS MONTH!



#CelebrateMNSchoolBoards

**FEBRUARY 18 to
FEBRUARY 22 is
MINNESOTA
SCHOOL BOARD
RECOGNITION
WEEK!**

Visit www.mnmsba.org/SchoolBoardRecognitionWeek
to Download a Recognition Week Kit today!

Instructional Days

Districts have options for make-up days

Many school districts have inquired about having to make up missed days due to inclement weather. A number of resources address this question.

M.S. 120A.41 states: “120A.41 Length Of School Year; Hours Of Instruction.

(a) A school board’s annual school calendar must include at least 425 hours of instruction for a kindergarten student without a disability, 935 hours of instruction for a student in grades 1 through 6, and 1,020 hours of instruction for a student in grades 7 through 12, not including summer school. The school calendar for all-day kindergarten must include at least 850 hours of instruction for the school year. The school calendar for a prekindergarten student under **section 124D.151**, if offered by the district, must include at least 350 hours of instruction for the school year. A school board’s annual calendar must include at least 165 days of instruction for a student in grades 1 through 11 unless a four-day week schedule has been approved by the commissioner under **section 124D.126**.

(b) A school board’s annual school calendar may include plans for up to five days of instruction provided through online instruction due to inclement weather. The inclement weather plans must be developed according to **section 120A.414**.”

Minnesota Department of Education’s MARSS Manual Appendix B states: “The local school board retains the authority to modify the school calendar after the school year has started” The appendix goes on to state: “When a school day is canceled for any reason (e.g., inclement weather, health/safety issues with a building), the local school board must decide whether to



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make up that day later in the school year and to formally amend the school calendar.” Furthermore, the appendix states:

“It is the school board’s responsibility to set the school calendar and to determine whether canceled days must be made up at a later date. Minnesota Statutes, section 120A.41 requires school districts to provide instruction for minimum number of hours and days in the school year. There is a criminal penalty under Minnesota Statutes section 120A.32 for willful noncompliance with this requirement. Willful noncompliance is a misdemeanor; a school officer or superintendent found guilty under this provision is subject to a fine not to exceed \$10 or by imprisonment for not more than 10 days. There is no provision in law for state aids to be reduced if a district does not provide instruction for a certain number of days. However, ADM could be negatively impacted in some cases.”

Guidance from the governor’s office is that school districts will not be penalized for looking out for students’ safety.

If the school district had followed the language of M.S. 120A.414 and, with the agreement of the exclusive representative, created “e-learning days,” the school district could use “e-learning days” to replace these missed days. If not, the school district will have to determine the impact the missed days will have on student

Minnesota Department of Education Guidance

- For additional information, see MDE’s “What to Expect When Expecting School Closures” at www.mnmsba.org/Portals/0/MDE-SchoolClosures-1-30-2019.pdf.

achievement and decide whether to make them up.

If the school district does not have “e-learning days,” MSBA has taken the position that, even if the school district decides not to make up the lost student-contact days, the teachers should be required to make up the lost duty days. A few reasons exist for making that statement. First, all of the school district’s teachers sign individual teaching contracts which indicate how much they will be paid and what work they have to complete to receive that payment.

Obviously, then, if the teachers do not work the requisite number of days and are not on some approved leave, they should not be paid as though they worked all the days.

Secondly, the school district is paying its teachers with the public’s money, and I would wager that the public would not be happy to know its tax dollars are being used to pay teachers not to work. An option to make up the lost duty days include having additional days for teacher professional development, with some of the time used for the development of the teacher’s “Individual Growth and Development Plan.” The IGDP is a required item in the school district’s “Teacher Development and Evaluation Plan.”

Learning

Learn to lead: Register or walk-in for MSBA's Officers' Workshops, Negotiations Seminars



Learn about the roles and responsibilities of school board officers at MSBA's Officers' Workshops!

Ask your school district office to register you in advance today!



Officers' Workshops

The MSBA Officers' Workshop focuses on board officers' responsibilities and basics/fundamentals of laws affecting school boards. Elected board officers, superintendents, staff who support the board, and all interested school board members are encouraged to attend.

The workshop agenda will cover statutory duties of board officers, the Open Meeting Law, and much more.

View the remaining workshop schedule and access registration at www.mnmsba.org/OfficersWorkshop.



Prepare for your next round of bargaining with MSBA's Negotiations Seminars!

Ask your school district office to register you in advance today!

Negotiations Seminars

Preparation is the key to successful bargaining, and MSBA is offering its Negotiations Seminars across the state to help school leaders prepare for negotiations.

The seminar agenda will include a negotiations overview (MSBA staff will review collective bargaining data, provide summary data they have compiled, and more), insurance (National Insurance Services staff will share with attendees what to expect from the health insurance market place, market trends, and much more), “negotiations potpourri” (MSBA staff will review areas of concern and points of interest for this round of bargaining), and much more.

View the remaining workshop schedule and access registration at www.mnmsba.org/NegotiationsSeminars.

Organization of State Association Executive Directors

MSBA chief selected chair-elect of national organization

During the **Organization of State Association Executive Directors (OSAED) Winter Institute** in January, **MSBA Executive Director Kirk Schneidawind** was selected by his peers to become OSAED's Chair-Elect.

Brian Farmer, executive director the Wyoming School Boards Association, will become OSAED Chair at the close of the National School Boards Association Annual Conference (scheduled for March 30 and April 1 in Philadelphia).

Farmer will succeed Shawn Hime, executive director of the Oklahoma State School Boards Association.



Kirk Schneidawind
MSBA Executive Director

Learn how to gain The Trust Edge!

March 17-18, 2019 | MSBA office, St. Peter



This great learning opportunity is based on David Horsager's best-selling book! Space is limited to the first 30 registrants. Ask your school district staff to register you today!



Join MSBA's Trust Edge Leadership Institute certified training staff — Amy Fullenkamp-Taylor and Katie Klanderud!

Visit www.mnmsba.org/TheTrustEdge for details.

Meeting Management

Learn about paperless board meetings via BoardBook webinar

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.

BoardBook is an MSBA-endorsed



product.

The next BoardBook webinar is set for **11 a.m. Wednesday, February 20.**

Visit www.mnmsba.org/BoardBook to access the webinar registration link or schedule a private online demo.

Also, read the "Top 5 Reasons to Go Paperless for Board Meetings" at www.boardbook.org/Resources.aspx.

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.

Advocacy

MSBA Board advocates for education in D.C.

The MSBA Board of Directors Executive Committee — along with MSBA Executive Director Kirk Schneidawind and MSBA Associate Director of Government Relations Denise Dittrich — spent last week in Washington, D.C., to advocate for public education during the National School Boards Association's Advocacy Institute.

The MSBA Board Executive Committee is comprised of MSBA President Deborah Pauly (Jordan), MSBA Past President Kathryn Green (Austin), MSBA Board Director Suzy Guthmueller (Centennial), MSBA Board Director Melissa Sauser (Farmington Area), and MSBA Board Director Mike Domin (Crosby-Ironton).

The MSBA delegation met face-to-face with Minnesota's senators and representatives (and/or their staffers) to urge them to support the federal government's full funding of the Individuals with Disabilities Education Act (IDEA). MSBA officials also discussed the teacher shortage issue and the Boundary Waters Canoe Area Wilderness Land exchange.



Rep. Craig, Rep. Stauber support special ed funding

The MSBA Board Executive Committee's time in D.C. included meetings with Rep. Angie Craig (above) and Rep. Pete Stauber (right). Following their visit, Rep. Craig and Rep. Stauber showed bipartisan support for special education funding by collaborating on a recent column in the Star Tribune, "Federal government must deliver on its special education funding obligation." Read this column at <http://www.startribune.com/federal-government-must-deliver-on-its-special-education-funding-obligation/505222172>.



Sign up for Weekly Advocate to learn what's happening at the Capitol

Stay current on news from the state Capitol by subscribing to **The MSBA Weekly Advocate** email. Each Monday morning during the legislative session, the MSBA Government Relations staff sends The MSBA Weekly Advocate to get members caught up with the latest legislative news and provide a look forward to what is happening at the Capitol.

Subscribe to **The MSBA Weekly Advocate** email by contacting MSBA's Bruce Lombard at blombard@mnmsba.org.





**PUT THIS ON
YOUR CALENDAR!**



MSBA Day at the Capitol

Monday, March 25, 2019 | St. Paul



www.mnmsba.org/DayAtTheCapitol

MSBAIT Matters

Check out the MSBAIT Risk Protection Program for unique risk-management coverage designed for schools

We received this question from a MSBA member school district: If we are happy with our agent of record for our property and casualty insurance packages, can we just renew with them for the next few years?

The quick answer is “yes,” according to the MSBA attorneys who compile the MSBA Service Manual.

Visit <http://www.mnmsba.org/MSBAServiceManual> and see:

- Chapter 13, Law Bulletin F, School District Contract and Bidding Procedures;
- II. Contracting Requirements;
- C. Exceptions to General Rule;
- 3. Contracts requiring neither bids nor quotations:
- k. Contracts for property and liability insurance other than group insurance.



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(Note: Based on (Footnote 43): Op. Atty.Gen., 707-A-12, February 9, 1953. December 17, 1929, No. 217, 1930: 159-B-4, August 28, 1962; and unpublished September 17, 1965)

However, as a best practice, you may want to check occasionally to assure you are receiving the best bargain for the least money. If you do need additional resources, you (or your agent) could check the MSBAIT Risk Protection Program. MSBAIT has entered into an agreement with the Marsh & McLennan Agency and nine participating insurers

who have risk management coverage designed for schools to cover the unique risks. We have also added the MSBAIT Advanced Protection Program for: drones, cybersecurity, international travel, builder’s risk, TULIP (tenant users liability insurance protection).

- Property-Casualty Insurers:
 - EMC Insurance
 - Glatfelter Public Practice
 - Hanover Insurance
 - Liberty Mutual Insurance
 - Wright Specialty Insurance
- Workers’ Compensation Insurers:
 - Accident Fund
 - Dakota Truck Underwriters/RAS
 - SFM Insurance
 - United Heartland

Visit www.mnmsba.org/MSBAIT-RiskProtectionProgram for details.

School staff activity participation — is it worth the risk?

By Lori Berdahl, RAS

During a spring field trip to a local indoor ice skating rink, a third-grade teacher chose to join her students on the ice — a choice she has long since questioned. While on the ice, a student skated into her legs, causing her to fall and hit her head on the ice. She lost consciousness and experienced a severe concussion; a spinal cord compression at her neck required neck fusion surgery. She missed the remainder of the school year, leaving the students in the hands of a substitute teacher. Although she was able to return to teaching the following autumn vertigo, dizziness, nausea, and other post-concussive syndrome symptoms continued to bother her.

Sadly, many serious injuries



Risk Administration Services (RAS) is a participating workers’ compensation insurer in the MSBAIT Risk Protection Program. Visit the RAS website at www.rascompanies.com.

have occurred to school staff when participating in student games, sports, pep rally challenges, recess activities, field trip events, and team building exercises. Just a few of these injuries have included concussions, torn ligaments and tendons, pulled muscles, and fractured bones. Recovery from these injuries can be slow and may limit performance of roles in and out of the district. Increased demand is placed

on fellow workers and lost time can interrupt the education continuity for students, raise workers’ compensation costs, and require training and paying of replacement workers.

Districts may want to consider discouraging staff from participating in unnecessary activities. In addition to student safety, staff safety should be brought into the discussion and decision-making when planning events. Best practices could be adopted that encourage staff to engage experienced students to help when special demonstration of techniques is needed. Procedures could be implemented that encourage staff to “be a leader in playing it safe” by assessing skills, encouraging, instructing, and supervising — all while remaining safely on the sidelines.

Job Openings

Superintendents and Executive Directors

- Ada-Borup — superintendent (application deadline: February 6)
- Bagley — superintendent (application deadline: March 5)
- Barnesville — superintendent (application deadline: March 4)
- Blooming Prairie — superintendent (application deadline: February 20)
- Blue Earth Area — superintendent (application deadline: February 28)
- Buffalo Lake-Hector-Stewart — part-time superintendent (application deadline: March 22)
- Burnsville-Eagan-Savage — superintendent (application deadline: April 1)
- Cannon Falls Area — superintendent (application deadline: February 25)
- Central — superintendent (application deadline: February 11)
- DaVinci Academy of Arts and Science — executive director (application deadline: March 18)
- Kaleidoscope Charter School — executive director (application deadline: March 4)
- Lake Park Audubon — superintendent (application deadline: March 4)
- Mankato Area — superintendent (application deadline: April 15)
- Morris Area — superintendent (application deadline: March 26)

Principals

- Hawley — high school principal (application deadline: February 22)
- Litchfield — elementary school principal (application deadline: February 8)

Other Administrators

- Anoka-Hennepin — payroll accountant (application deadline: February 12)
- Bagley — school account/business manager (application deadline: February 11)
- Sauk Rapids-Rice — controller (application deadline: February 19)

Governing Boards

- Minnesota State Academies — board of director member (application deadline: March 21)

Visit www.mnmsba.org/DistrictJobOpenings for application information.

In Memory

Michelle Kenney passed away February 2. Michelle was a partner at the law firm of Knutson, Flynn & Deans, P.A. (Knutson, Flynn & Deans represents MSBA and specializes in providing legal representation to school districts.) MSBA sends its condolences to Michelle's family, friends and colleagues. For visitation and funeral service information, visit <https://www.whitefuneralhomes.com/obituary/michelle-lynych>.



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 Job openings, Marketplace notices and other information can be emailed to blombard@mnmsba.org or faxed to 507-931-1515.



Minnesota School Boards Association Insurance Trust

Life and Long-Term Disability



MSBAIT endorses National Insurance Services as the preferred provider for life and long-term disability insurance.

Risk Protection Program



The MSBAIT Risk Protection Program — developed in collaboration with Marsh & McLennan Agency — offers property, casualty, and workers' compensation insurance and risk management products and services to eligible MSBA member school districts through select, participating insurers and other providers.

Property/Casualty Insurers



Workers' Compensation Insurers



Advanced Protection Plan

The Advanced Protection Plan features insurance coverage enhancements designed specifically to protect schools.

- Builder's Risk**
- Cyber/Data Breach**
- Drones**
- International Travel**
- Tenants User Liability Program (TULIP)**

Minnesota School Boards Association Insurance Trust Managing Member Risk Since 1972

Call 800-324-4459 to speak with a MSBAIT representative or visit <http://www.mnmsba.org/MSBAIT> today!



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