

# WISCONSIN SchoolNews

Official publication of the Wisconsin Association of School Boards, Inc.

April 2019 | wasb.org

## Special Education Funding in WISCONSIN

— How it Works and Why it Matters —



“  
I love  
feeling  
like I’m  
actually  
making a  
difference.”

Yvonne, RN, oncology care manager  
at Network Health



# WISCONSIN SchoolNews

April 2019 | Volume 73 Number 8

THE OFFICIAL PUBLICATION  
OF THE WISCONSIN ASSOCIATION  
OF SCHOOL BOARDS, INC.

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Wisconsin School News (USPS 688-560) is published 10 issues per year by the Wisconsin Association of School Boards, Inc., 122 W. Washington Avenue, Madison, WI 53703.

Contents © 2019 Wisconsin Association of School Boards, Inc. Subscriptions are available to nonmembers for \$85 per year. Periodicals postage is paid at Madison, Wis.

The views expressed in Wisconsin School News are those of the authors and do not necessarily represent WASB policies or positions.

POSTMASTER: Send address changes to Wisconsin School News, 122 W. Washington Avenue, Madison, WI 53703.



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## Altoona School District Honored with National Education Equity Award

Its Think Tank program earned the Altoona School District a first-place 2019 Magna Award for Equity from the National School Boards Association. The district was one of 18 across the nation — and the only in Wisconsin — to earn the distinction, which recognizes school programs that break down barriers for underserved students. The Think Tank program is an alternative learning environment for students struggling with behavioral issues in class. Launched in 2016, the program is credited with significantly decreasing negative behaviors and improving student achievement. □



## Medicaid Underutilized by Rural Districts

A new report from AASA, the School Superintendents Association, indicates that Medicaid “needs an overhaul in order to make it easier for more schools to access and use.” According to the report, “84 percent of districts that reported not seeking reimbursements from Medicaid for school-based health

services are rural. More than half of those, 55 percent, have enrollments of less than 1,000 students. And 37 percent of rural districts in the survey say that the costs of complying with Medicaid’s administrative requirements led them to avoid seeking funds from the program.” □

### STAT OF THE MONTH

# 83%

**Percentage of Wisconsin schools** that participate in the School Breakfast Program, placing Wisconsin near the bottom nationally.

*Source: Food Research and Action Center*



## Wisconsin Youth Recognized for Volunteer Community Service

Each year, the Prudential Spirit of Community Awards program recognizes exemplary youth throughout the country for their volunteer community service. Created in 1995, the program honors middle and high school students for outstanding service to others at the local, state and national level and is the United States’ largest youth recognition program based exclusively on volunteer community service.

The public school students honored this year include Eloise Massee of Bay View Middle School in the Howard-Suamico School District. She was recognized for her work raising funds and awareness for organ donations. Distinguished finalists include: Avantika D’Cruz-Wigren (Ashland High School), Alivia Farber (Waukesha West High School) and Joseph Schlies (Denmark High School). □

## Wisconsin Trails Majority of Nation in Offering School Breakfast



**A new national report** on school breakfast programs by the nonprofit Food Research and Action Center finds Wisconsin’s participation lags behind the rest of the country.

Although about 83 percent of schools in the state participate in the School Breakfast Program, that figure places Wisconsin near the bottom nationally, especially compared to at least 38 other states where 90 percent or more schools participate in the program. □



## Keep Telling Your Stories

To everyone who attended the WASB Day at the Capitol in Madison a few weeks ago and advocated for your schools and your students, thank you! Your voices are a major part of our advocacy efforts during the state budget process and throughout the year.

We have a long way to go before the next biennial state budget is signed into law later this year. Regardless of whether you were able to attend the advocacy day in Madison, keep talking to your legislators and keep telling your stories. We also encourage you to consider testifying at an upcoming state budget hearing. The dates and locations have not been announced at the time of this writing, but the WASB Legislative Update emails will include those details. So, watch your inbox for more information.

This issue of the *Wisconsin School News* includes detailed information on Governor Tony Evers' 2019-21 budget proposal in the Capitol Watch column on page 24. It also includes an in-depth look at special education funding in our state by the Wisconsin Policy Forum. The special education funding shortfall touches every district and will be a major focus in the school funding budget debate. I encourage every board member to be familiar with how the special education funding

system works and its impact on your district in order to educate your state and federal lawmakers as well as community members.

We also welcome and congratulate our new school board members who will be sworn in and begin their service this month. School board service is rewarding and challenging but integral to the local control of our schools. The WASB is here to help. Next month's *School News* magazine will include important board governance tips.

To our experienced board members who will be leaving office this month, thank you for your service and your commitment to public education. I encourage you to continue your advocacy efforts by supporting public education and your local school district. The best way to stay informed on education issues is to join the WASB alumni program. Visit our website, [WASB.org](http://WASB.org), for more information.

To help new members transition into their role, the WASB will be holding a series of New Board Member Gatherings in April and a series of workshops on the legal roles and responsibilities of school boards in May. The April gatherings will provide a foundation in effective governance for new members. The May workshops will go deeper into the core legal requirements of school

boards, which will provide useful knowledge for new board members and a refresher for experienced members. This summer, governance training will continue at a special Equity Symposium in Appleton on July 12, held in conjunction with our traditional Summer Leadership Institute on July 13. Save the dates for these important governance trainings.

Finally, the WASB is beginning to prepare for the 100th anniversary of both the association and the Wisconsin State Education Convention in 2020-21. To honor a century of successfully supporting Wisconsin school boards, we'd like your help.

We're looking for interesting imagery from the past century — photos from school districts that hold particular meaning to your community, such as a famous alumnus when she was still in high school or a picture of your football team the year it won the state championship. We're also interested in images that reflect how public education has changed, such as teacher contracts and budgets from decades ago. We'll be using the images on the website, in publications and on signage at the convention. If you have interesting images, send them to our Madison office or email them to [info@wasb.org](mailto:info@wasb.org). We're excited to share this milestone with all our members. ■

Regardless of whether you were able to attend the advocacy day in Madison, keep talking to your legislators and keep telling your stories.

# Special Education Funding in WISCONSIN

— How it works and why it matters



By Anne Chapman, Senior Researcher, Wisconsin Policy Forum

**O**ne of the foremost fiscal challenges for state government and school districts throughout Wisconsin is the cost of providing special education.

School leaders from across the state testified at last year's Blue Ribbon Commission on School Funding hearings on the acute fiscal strain caused by special education costs. Meanwhile, during his gubernatorial campaign, Governor Tony Evers called for a \$1.4 billion boost in state K-12 education aid in the 2019-21 budget. His proposal included a \$600 million increase for special education — the largest increase over the current budget of any other education line item by far.

Calls for additional resources stem from rising special education costs (which are considerably higher per pupil than general education costs) and a growing gap between available state and federal funding for mandated special education. To satisfy the mandate, school districts

are diverting resources away from programs intended to meet the needs of all students.

Recent state funding trends illustrate the dimensions of this issue. Between the 2007-08 and 2017-18 school years, special education costs eligible for state aid increased by 18.3 percent — to about \$1.4 billion. At the same time, the state's primary funding source has remained flat at far below aidable costs (i.e., those eligible for state reimbursement) — \$369 million — for a decade. As a result, state funding of special education has fallen from 28.9 percent in 2007-08 to an estimated 24.5 percent in 2018-19 (and is down from a peak of 70 percent in 1973).

To pay for special education costs in the 2015-16 academic year, school districts used more than \$1.0 billion

in resources that otherwise would have served all students. For two-thirds of Wisconsin school districts (283), this equates to 10 percent or more of resources available under their state-imposed, per-pupil revenue limits. These diversions appear to be especially prevalent in school districts serving high-poverty, high-minority schools, which raises equity concerns.

This article further discusses how the tension between special education mandates and available funding drives a key fiscal challenge for Wisconsin's policymakers and local school officials.

## ■ What is special education?

Wisconsin statutes define special education as “specially designed instruction... provided at no cost [to a child's family] to meet the unique needs of a child with a disability.” Regardless of cost or available funding, state and federal laws

Between the 2007-08 and 2017-18 school years, special education costs eligible for state aid increased by 18.3 percent — to about \$1.4 billion.

guarantee students with disabilities enrolled in public schools (either district or independent charter) a free and appropriate public education. Students with disabilities may participate in open enrollment, but nonresident school districts may deny their application if space or programming is not available to accommodate their needs.

A child may qualify for special education or related services based on a variety of disabilities and health conditions. Examples of services include speech-language pathology, physical therapy, classroom aids, modified curriculum, counseling, transportation and school nursing. The specialized educational program and support services a school district deems necessary for a child with a disability (with input from parents) are outlined in an Individualized Education Program.

School districts have different responsibilities to students with disabilities whose parents elect to enroll them in private schools. School districts must locate, identify and evaluate all students with disabilities, including those parentally placed in private schools within the district’s boundaries. However, federal law explicitly states that parentally placed private school students with disabilities do not have a right to a free and appropriate public education. Instead, school districts are subject to a less rigorous standard, to ensure “those children have an opportunity to participate in special education.” School districts meet this standard by setting aside only a proportionate share of their federal Individuals with Disabilities Education Act formula funds (based on the number of parentally placed private school students with disabilities in their area). This count determines the types and amount of services that will be available to those students, only some of whom may end up receiving services.

School districts are not required to use state or local funds to provide these services.

It also should be noted that beginning in 2015-16, privately enrolled students with disabilities gained access to Wisconsin’s Special Needs Scholarship Program — one of 19 programs nationwide that provides state funding for students with disabilities attending private schools. The program is funded primarily through reductions in the state aid of resident school districts, which have the option of raising the property tax levy to compensate for the lost aid. The total deduction in state aid that school districts will realize from the Special Needs Scholarship Program in 2018-19 is an estimated \$8.4 million.

**Number of Students Served**

In 2017-18, 118,546 public school students with disabilities were enrolled in Wisconsin school districts (including district charter schools) and independent charter schools, or 13.8 percent of total public enrollment statewide. This is similar to the latest federal figure of 13 percent and reflects a statewide decrease of 5,576 students

(4.5 percent) since 2007-08. However, the Department of Public Instruction projects a slight increase (0.3 percent) in this count over the next two years.

As illustrated in the chart below, the relative sizes and proportions of special education populations among the state’s districts and charter schools vary widely — from 0.1 to 40 percent of overall enrollment. In just over half of Wisconsin’s school districts and independent charter schools (249), students with disabilities represent between 10 and 15 percent of the overall student body. An additional 116 local education providers have special education populations between 15 and 20 percent. Because of the considerable cost that schools incur to provide special education, this wide variation is a key driver of inequities among districts and schools statewide.

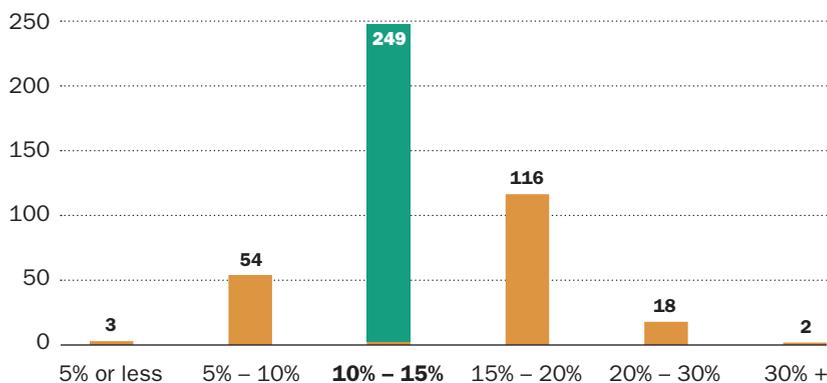
**Special Education Costs, Funding**

Special education costs come from providing specific services outlined in the IEP of a qualifying student that the school would not otherwise incur — also known as “excess cost.”

In 2016-17, the total excess cost

**STUDENTS WITH DISABILITIES**  
by Percentage of Overall Student Body

*in Wisconsin School Districts and Independent Charter Schools*



## New School DataTool Makes Comparing Educational Data Easier

**A NEW ONLINE RESOURCE** from the nonpartisan, independent Wisconsin Policy Forum allows parents, teachers, school officials and the public to examine and compare educational data for school districts throughout Wisconsin. The new School DataTool ([bit.ly/school-datatool](http://bit.ly/school-datatool)) builds on annual publications developed by the two predecessors of the Wisconsin Policy Forum: “SchoolFacts,” a book of statewide educational data compiled by the Wisconsin Taxpayers Alliance, and “Public Schooling in Southeast Wisconsin,” which took a closer look at public school districts in southeast Wisconsin compiled by the Public Policy Forum.

**The School DataTool draws on DPI data to provide interactive dashboards in:**

- Enrollment, including statewide and district-wide figures, enrollment for students of color, students with disabilities and economically disadvantaged students.
- Student performance, including ACT scores, Advanced Placement scores and Forward test scores, measuring overall student performance as well as achievement gaps between groups of students.
- Student engagement, such as attendance, dropout and graduation rates.
- District finances, including revenue and expense breakdowns by major categories and on a per-student basis.

The tool also allows users to compare these measurements between school districts as well as to statewide figures. □

of special education services state-wide was more than \$1.66 billion. This represents about 13 percent of the state’s total educational expenditures. Total special education costs have increased by about 10.5 percent since 2007-08 although year-over-year growth has slowed in recent years.

This increase in costs has occurred despite the previously mentioned decline in the number of students with disabilities. According to the DPI, one possible explanation is that strategies to improve teaching, initiatives to identify students with disabilities at a young age, and other efforts to address lower-cost but more common needs — such as learning disabilities — have diminished the number of lower-need students. At the same time, the DPI points to growth in the number of students with relatively more complex, severe or costly needs — such as students with autism or those with certain chronic or acute

health problems. This increase at the state level follows national trends.

On average, instructional and support costs for students with disabilities are significantly higher (double, by some estimates) than those for regular education. Several specific federal and state funding streams are intended to help defray the costs of these mandated services, but as we will see below, they fall far short and leave districts to cover the lion’s share with general state and local funds.

### ■ Federal Funding

With the 1975 passage of the Individuals with Disabilities Education Act, the federal government committed to assisting states and local communities in providing education for students with disabilities. The main source of federal funding for special education is IDEA grants, determined by a formula. Medicaid also provides funding for certain health, medical and administrative

costs. Federal special education aids offset about 12 percent of total statewide special education costs in 2015-16.

In 2017-18, Wisconsin schools received \$186.3 million in IDEA flow-through grants. Funding from this program has remained relatively flat over the past decade with the exception of 2009-10, when IDEA and Title I formula grants doubled for all school districts under the American Recovery and Reinvestment Act.

### ■ State Funding

According to the Education Commission of the States, Wisconsin was one of only five states as of 2014-15 that reimbursed districts for part or all of their special education costs rather than providing this aid through block grants or the state’s general school funding formula. Among those five states, Wisconsin had the lowest reimbursement rate (27 percent). The other four were Michigan (29 percent),

Nebraska (51-57 percent), Vermont (60 percent) and Wyoming (100 percent).

Wisconsin supports students with disabilities using a variety of financing tools. In addition to two relatively small grant programs targeted toward successful transition from high school, Wisconsin employs three types of categorical aid (totaling \$380 million in 2018-19) that reimburse school districts for a relatively narrow set of special education costs. Costs eligible for reimbursement from the state's primary special education aid program, which are more limited than those that may qualify for federal IDEA reimbursement, include instruction, related services and specialized transportation for students with disabilities. Although special education enrollment has declined modestly over the past decade, costs eligible for reimbursement under this program

have increased by 18.3 percent (\$222 million) to exceed \$1.4 billion.

Despite the increase in costs, the state has appropriated the same \$368.9 million for this program annually since 2008-09. Consequently, as noted earlier, reimbursement rates have fallen from a peak of 70 percent in 1973 to an estimated 24.5 percent in 2018-19. The graph below illustrates how reimbursement rates have fallen since 2000-01 as a result of relatively flat funding and rising costs.

### Local and Other State Funding

This gap between available state and federal funding and actual excess special education costs places a considerable burden on local school districts, requiring them to turn to other revenue sources, primarily general state aids and local property taxes, which together are capped

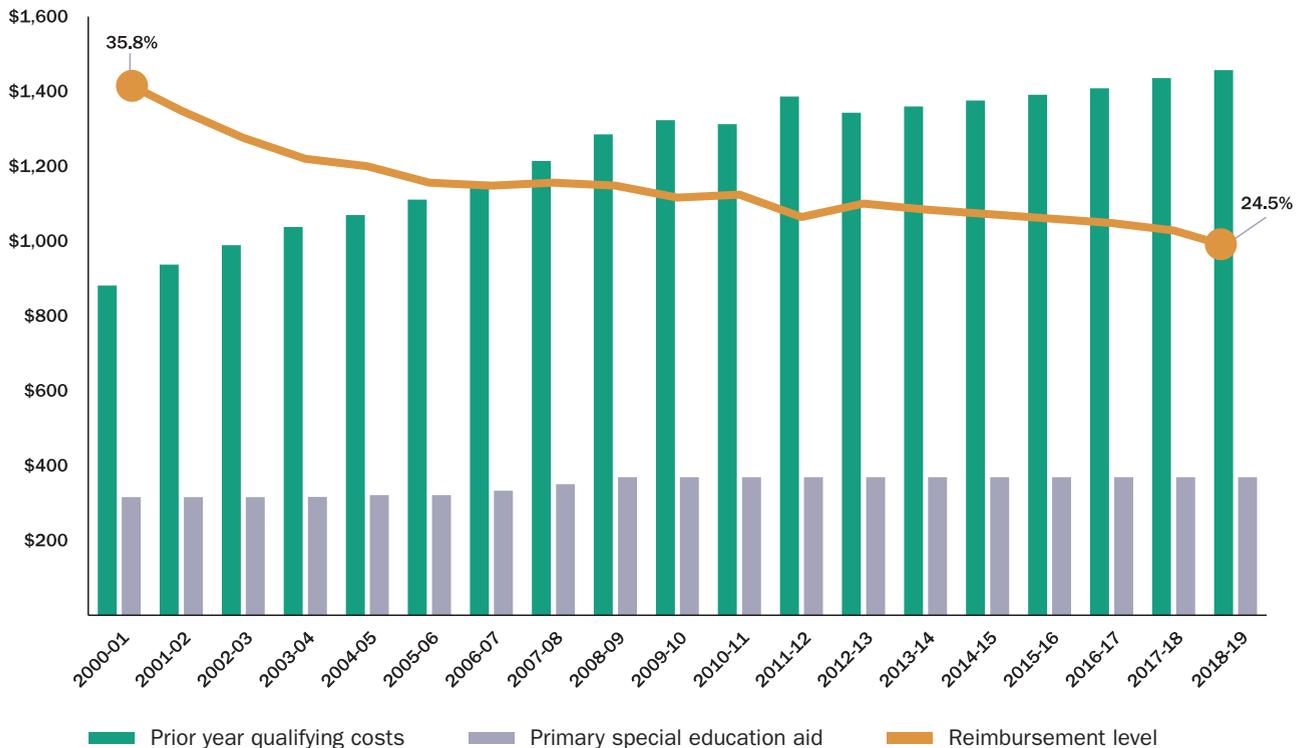
under the state-imposed revenue limit. This finite amount is the main resource on which schools rely to serve all students.

School districts have little discretion over how to spend a large portion of that revenue, as they are mandated to cover the specific costs associated with students with disabilities. Consequently, resources for regular education often are diverted toward special education costs. Because school districts can spend only a finite amount for general education (i.e., the revenue limit per pupil), this leaves fewer resources to meet the needs of all non-special education students and likely exacerbates inequities between schools. The Legislative Fiscal Bureau calculates that school districts diverted over \$1 billion of their general fund dollars in 2015-16 to pay for special education costs.

For two-thirds of Wisconsin

## State Reimbursement Rate for Special Education Falls

Special Education Costs, State Aid and Reimbursement Level | 2000-01 to 2018-19



school districts (283), the amount they must draw down from general funds used to serve all students to pay for excess special education costs represents 10 percent or more of their revenue limit. In other words, about one-tenth of these districts' main source of funding comes off the top to pay for excess costs of students with disabilities.

Among the districts with the highest special education costs as a percent of their revenue limits (up to 24.9 percent), three serve the state's largest district populations of Native American students. For Wisconsin's 10 largest districts (as measured by 2015-16 enrollment), special education cost per pupil not offset by federal or state aids is equivalent to between 12 and 17 percent of their revenue limits per pupil. These include high-poverty districts and

those that serve large populations of minority students.

In summary, the need to finance special education costs with resources that are subject to tight revenue limits and that are intended to serve all students presents challenges to the majority of school districts across the state. Moreover, this need appears to be especially pressing in school districts serving vulnerable students.

### ■ Conclusion

The historical underfunding of mandated special education in Wisconsin creates fiscal and educational challenges for districts that already struggle with flat revenue limits and rising cost pressures. First, schools may lack sufficient resources to provide an optimal range of supports for students with disabilities.

Also, by compelling school districts to divert resources that otherwise would serve all students, insufficient funding for special education has emerged as a major contributor to inequity in Wisconsin's school finance system.

Over the past year, these concerns have sparked calls for increased state special education aid. For example, before leaving his post as state superintendent, Evers proposed a 2019-21 DPI budget that would dramatically boost reimbursement for special education costs for every school district — to 30 percent in 2019-20 and 60 percent in 2020-21. This would require a \$606 million increase over the 2019 base budget (over two years), making it the single largest program expansion in the 2019-21 proposed DPI budget.

Wisconsin policymakers also

## BE RECOGNIZED FOR YOUR INNOVATIVE WORK

**A**re you a local government or school district leader who would like to see your community's innovative efforts recognized by your peers? The Wisconsin Policy Forum wants to hear from you.

**WPF is seeking nominees** for its annual Salute to Local Government Awards, which honor the best in Wisconsin local governments and school districts in the following categories:

- Innovative Approach to Problem Solving
- Innovative Use of Data or Technology
- Intergovernmental Cooperation
- Public-Private Cooperation
- Norman N. Gill Award for Individual Excellence
- Jean B. Tyler Leader of the Future Award



**The deadline for nominations is Friday, May 3.** Nominations may be submitted electronically via the WPF website, [wispolicyforum.org](http://wispolicyforum.org).

The WPF will present these awards at its Salute to Local Government luncheon in Milwaukee this summer. The luncheon brings together leaders from Wisconsin local governments and school districts — as well as business, civic leaders and citizens — for an event highlighting best practices and outstanding performance.

In 2018, the Salute Awards honored: the Sheboygan Falls School District and Bemis Corp. for Public-Private Cooperation for an agreement under which Bemis provides manufacturing equipment to the high school's Innovation Design Center; Jeremiah Johnson of the Muskego-Norway School District as the Jean B. Tyler Leader of the Future Award for his advancement from a part-time custodian to Director of Operations and Human Resources during his 16 years with the district; and Dr. Patricia Greco as the Lifetime Achievement Award co-winner for her 36 years in education, including seven years at the helm of the Menomonee Falls School District.

could consider tailoring alternative policy options adopted by other states facing similar circumstances. For example, 12 states use categorical aids but provide them to school districts up front, often as block grants. This method could address the relatively narrow list of allowable costs and administrative burden that some argue Wisconsin's reimbursement and reporting system imposes.

The majority of states (33) minimize the competition between special education and general education by embedding one or more student weights (such as for disability category or educational setting) for students with disabilities into the state's primary funding formula. As long as revenue limits could be adjusted to account for the increased weights and the aid could be clearly specified for special education (to comply with federal maintenance of effort rules), this method

could reduce the vulnerability of such funding because it would not sit in separate line items that may be more readily subject to cuts.

Our analysis also raises several non-fiscal questions that merit further analysis. For instance, to what extent and in what ways could improvements in currently underfunded resources, such as programming, staffing and facilities, improve outcomes for students with disabilities? Moreover, both over- and under-identification of students with disabilities are potential civil rights issues. It may be worth studying the underlying causes of, and possible solutions to, disparities in the way students of color or other student subgroups are identified as students with disabilities.

Finally, our analysis highlights the interconnection between special and regular education. If special education costs are not fully funded, the

impact of boosts in overall K-12 funding, such as increasing revenue limits or general school aids, are likely mitigated by the need to divert a large portion of those resources to special education. Conversely, the more the state provides funding for special education, the more resources are likely to be freed up for schools to spend on purposes that serve all students. ■

*Anne Chapman is a senior researcher for the Wisconsin Policy Forum.*

*The Wisconsin Policy Forum was formed in 2018 with the merger of the state's two most highly respected independent, nonpartisan government research and education organizations, the Madison-based Wisconsin Taxpayers Alliance and the Milwaukee-based Public Policy Forum. With offices and research staffs in both Madison and Milwaukee, WPF continues the traditions of its predecessors' high-quality, impartial analysis of public policy issues in Wisconsin.*

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# Leadership Through an Equity Lens

The **2017 National Superintendent of the Year** shares his journey to building an inclusive learning environment



*Matt Utterback*

I grew up in a small town on the Oregon coast in a family of educators. My grandfather was a high school assistant principal, and my father was a high school counselor.

I was raised middle class with the privilege that comes with being male, white and the son of well-educated parents. I knew the dominant community norms and used them to my advantage. Unlike many in our communities today, college always was a likely option for me.

When I was 9, my parents adopted

a 7-year-old boy from a Korean orphanage. My brother Jon was one of the few people of color in our community. From my brother's perspective, no one else looked like him or sounded like him, and it was likely no one in our community had shared many of his experiences. Jon settled into our neighborhood elementary school and quickly learned English.

However, as my brother approached his early adolescent years, his struggles began to emerge. He began making statements such as "No one understands me" and "No one looks like me." These were the first signs we were losing him. These struggles of identity were quickly followed by behavioral issues and poor aca-

ademic achievement. My parents sought professional help and tried different schools, but nothing was successful. We continued to lose him.

When my brother was 18, he asked my parents if he could return to Korea. However, because Jon did not have a degree or any career training, he was not welcomed back to his native country. Being rejected by both his native and adopted countries, my brother asked to move to Hawaii where there was a larger Asian population. My brother made this move, but the years of enduring significant marginalization and rejection in his young life had taken their toll, and Jon completed suicide. We had lost him.

## ■ Affirming Identity

What I know today that I didn't know 30, 20 or even 10 years ago is that while many would say they had the best intentions of supporting my brother, the community, the school system and I, as his brother, did a poor job of affirming his identity and honoring his history and culture. Instead, dominant systems worked tirelessly to get Jon to conform to the white-majority norms and customs. Clearly, the result of these efforts was devastating.

Twenty years after my brother's passing, I began to unpack his struggles and his story. I viewed my brother's actions through the lens of my white identity. When I did this, I was incapable of seeing the reality of his experiences as an outsider.

While I had experienced the stark reality of my brother's passing on a personal level, I had not recognized the impact of ignorance and racism on my brother's life. I learned my whiteness matters, and I began to understand the power, privilege and responsibility that comes from being a white male with rank.

Stepping outside of my reality and expected norms wasn't easy or comfortable, but it was essential. It was essential in my recognition that a person's life is meant to be lived authentically without having to wear masks or costumes hiding one's true self.

## ■ Strength Assets

Much of our success in our school district has been the result of our school system embracing equity and creating inclusive learning environments for each student. Equity is not about treating everyone the same. That is equality. Equity has us look at each student as an individual, affirm his or her identity and build upon the strengths each student possesses.

I don't think my brother's story is all that different from the stories of many individuals in our schools today. The harder we try to make students fit into the white-dominant community, the harder they resist and ultimately suffer. When students, parents and colleagues have to conform to majority standards and customs, they are detrimentally impacted.

Today, despite the best of intentions, we still lead school systems where a student's gender, skin color, home language and family income level continue to be the predictors of who does and does not graduate from our schools.

I don't think my brother's story is all that different from the stories of many individuals in our schools today.

Our school systems continue to perpetuate both opportunity and achievement gaps for many of our student groups. The Center for Educational Leadership out of the University of Washington believes the "nexus for eliminating the achievement/opportunity gap lies in the development of leadership capacity — specifically, nurturing the will to act on behalf of the most underserved students while increasing leadership knowledge and skill to dramatically improve the quality of instruction."

We are the leadership required to make a difference for our students. It rests on our shoulders and within our sphere of influence to eliminate the opportunity and achievement gaps that exist for so many of our students.

## ■ Six Principles

As educational leaders, how do we cultivate equity in our schools and classrooms? This is a question that deeply resonates with me because it presents a challenge for those of us charged with improving student achievement. It took me years to understand that in leading my North Clackamas colleagues, my role was to help them recognize that privilege matters in questions of equitable access to education.

We wrestle with the issues of privilege, white-dominant culture and expectations in our school system. We've found a strong interplay exists among instructional

practices, equity and leadership. At the intersection of these concepts lie six principles that we can follow that have a profound impact on our students — especially our traditionally underserved populations.

**No. 1:** Our job as educational leaders is to improve our ability to notice, acknowledge and promote the replication of strong instructional practices.

This is about knowing what quality instruction is and what it is not. It is about learning and being an expert in the teaching and learning continuum that serves as the basis for teacher evaluation.

We know students will miss out on powerful life opportunities if they are not successful learners. Research tells us the single biggest factor in student achievement is teacher quality. The second is educational leadership. Our primary job as school leaders must be the improvement of instruction.

Many of the best instructional practices promoting equity are already occurring within our classrooms. Modeling and replicating those practices is a critical component of professional learning. Leaders charged with the task of leading instructional improvement

must know — through an equity lens — what effective and high-quality teaching looks like.

**No. 2:** We must identify and change our practices and beliefs so that each child knows she or he is expected to succeed.

We must recognize that our students can't and won't rise if our expectations are low. We must hold firm to the belief that all students are expected to be able to realize their potential. This includes establishing high standards and making it clear to students what the criteria are for meeting them.

We must avoid overpraising for mediocre work. Students perceive this

as a sign of lower expectations and another reason not to trust feedback. We must normalize help-seeking behaviors — especially for our boys. We must share with students our views that intelligence is malleable. When students learn this, they demonstrate higher academic motivation, behavior and achievement.

**No. 3:** We must learn who our students are and focus on where they want to go.

Relationships are critical. We must learn about our students as individuals and embrace our role in helping them develop and discover their identity. We must convey

a fundamental belief in each student that he or she can develop their intellect and their critical capacity to think. We do this when we build relationships with our students and recognize the racial, cultural and

**Save the Date!** WASB 2019 Equity Symposium and Summer Leadership Institute, July 12 and 13, Appleton.

## Building an Environment of Care, Safety and Respect

**C**reating and maintaining a learning and work environment that holds at its center a sense of sincere caring, safety and respect is critical to student success.

It can be easy to become caught up in simply completing daily tasks. Building inclusive learning environments for each student requires leaders to act beyond mere task completion. Paul Gorski, who directs EdChange, a Virginia-based consulting firm that works to cultivate equity literacy in schools, offers the following strategies to become a more equitable education leader:

- **Pronounce every individual's full name correctly.** No student or staff member should feel the need to shorten or change her or his name to make it easier for others to pronounce.
- **Explore how one's own identity impacts** the way one sees and experiences different people.
- **Grow, learn and change at the same rate the world is changing.** By doing so, leaders won't lose touch with the lives of students with whom they interact. Be open to learning from the experiences of others and being challenged by diverse perspectives.
- **Be open to critique.** Be dedicated to listening actively and modeling a willingness to be changed by the presence of others to the same extent they are necessarily changed by you.
- **Center student voices, interests and experiences** into conversations and decision-making.
- **It is important for those of us working in K-12 education** to take the time to reflect on our behavior as a means to ask why we do what we do. When educators undertake this reflection, it allows us to examine the impact our actions have on others and has us consider if we are moving toward a stance of inclusion, as opposed to inadvertently excluding others. □

economic differences that impact a growth mindset.

We do this when we talk about race and the building of a student's racial identity. We must build in time to listen to our students — to learn their hopes and fears. In North Clackamas, we've used student affinity groups to listen to our students' stories and acknowledge their experiences.

To assist our staff in being able to talk about race, every staff member is expected to attend a two-day, race-focused equity training. In addition, our teachers have the opportunity to participate in a full-year instructional equity cadre. When we share in these types of experiences and hear the voices of our students and staff, we learn about each other and we are compelled to change our practices.

**No. 4:** We must embrace an equity commitment.

As students enter our nation's classrooms each day, they are doing so under a cloud of vulnerability, fear and confusion. The daily hurtful rhetoric in our communities and across our nation has the potential of producing alarming levels of anxiety among children of color and inflaming gender, racial, religious and ethnic tensions in our classrooms.

As educators, we must be committed to protecting our students, families and each other. This means interrupting when we hear or see offensive words and acts, and communicating daily to each student that we will protect, advocate for and value them equally no matter their race,

gender, gender identity, religion, sexual orientation, language or ethnicity.

When we take these actions, we model for our students what we want to hear and see from them. One of the most powerful skills we can teach our students is to engage in respectful conversations. This is the foundation for civil discourse. When we allow our students to listen to one another and when we create space for multiple and diverse perspectives on various issues, we develop competent and critical thinkers.

**No. 5:** We should use our leadership to create inclusive learning environments for each student.

I am proud of our school board and proud to be the superintendent of a school district that is not only talking about equity but is bringing equitable practices into our operations, our classrooms, our resource allocations and the lives of our students.

Our district took a stance and publicly committed to this important work through policy. We have an

equity policy because, like all school districts, student success in North Clackamas is currently predetermined by race, gender, ethnicity, culture, poverty, language and disability. We cannot accept this, and that is why we commit to continuous improvement, knowing that our work is never done.

**No. 6:** We should consider our ethical and moral obligation to take action.

Despite this obligation, it's often easier to settle for a simpler, quieter path. We must not give lip service to education equity, only to accept the status quo. We say we want to be a school system that provides access and opportunity for each student, but in the interim, we keep using the same practices and systems we've always used.

This strategy isn't working for a significant number of our students. As educational leaders, we need to take care of what is most important and not keep the same old routines.

## ■ Sharp Gains

Building from these six principles has had a profound impact on student achievement in North Clackamas. Graduation rates are up 14 percent in the past five years, nearly 90 percent of freshmen are on track to graduate at the end of their freshman year, and our district boasts some of the highest attendance rates in Oregon.

Taking these actions has a cumulative effect that creates a culture of success. When we repeat these actions, it creates momentum. When we build momentum, we positively impact the trajectory for each of our students, allowing them to reach their full potential. ■

*Matt Utterback is superintendent of the North Clackamas School District in Milwaukie, Ore., and the 2017 National Superintendent of the Year. E-mail: [utterback@nclack.k12.or.us](mailto:utterback@nclack.k12.or.us) Twitter: @nc12super.*

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## An Equity Lens for Equitable Decisions

Author and entrepreneur Seth Godin, in his blog *The Permanent Rules*, discusses the need for a new approach to decision-making. He says taking the time to examine our previous decisions reminds us that rules are fluid.

New situations present opportunities to effect positive change. The only way a school system can improve is when leaders decide that a permanent rule, something that we would normally consider never changing, has to change. And then it does.

We need to recognize that our context is continually changing and that requires us to revisit the rules we have grown comfortable with and accustomed to maintaining.

When we make decisions and take action as superintendents, we should apply a series of equity-related questions:

- Does this decision align with our mission/vision?
- Whom does this decision affect both positively and negatively?
- Does the decision being made ignore or worsen existing disparities or produce other unintended consequences?
- Are those being affected by the decision included in the process?
- What other possibilities are being explored?
- Is the decision/outcome sustainable?

Education leaders must own this type of questioning and decision-making if we are to become school systems where a student's gender, skin color, home language and family income level no longer predict who does and does not graduate from our schools.

As education leaders, we must be compelled to begin altering the rules that are having a detrimental impact on student performance and start building new rules, policies and systems that benefit each student. □

# Implementing RESTORATIVE PRACTICES

Addressing behavior and building social capital | *Christine Kleiman*

**W**hat are restorative practices? What would it mean if my school district was implementing them?

Using restorative practices involves a paradigm shift in how school staff members do their day-to-day work when addressing student behavior. Rather than viewing students who commit behavior infractions as bad, educators view them as responsible community members who may need guidance in making better choices.

When a student is removed from class, lectured or even suspended, we are doing things **TO** the student, giving them a label of being bad or unworthy even though we may not use those specific words. In extreme cases, we are creating a pipeline to prison by pushing our students away.

When we use restorative practices, we focus on the deed not the doer. We disapprove of the behavior, but we embrace the person as a valuable member of our school community. We want to help the student understand how their behavior has affected others and then come up with ways to repair the harm and restore the relationship. We do things **WITH** the student to help them learn from their mistakes. By working **WITH** students to help them understand the effect of their behavior we can then foster responsibility, empathy, listening skills, perspective taking, conflict management, emotional regulation and other social/emotional skills.

Is there accountability? Some



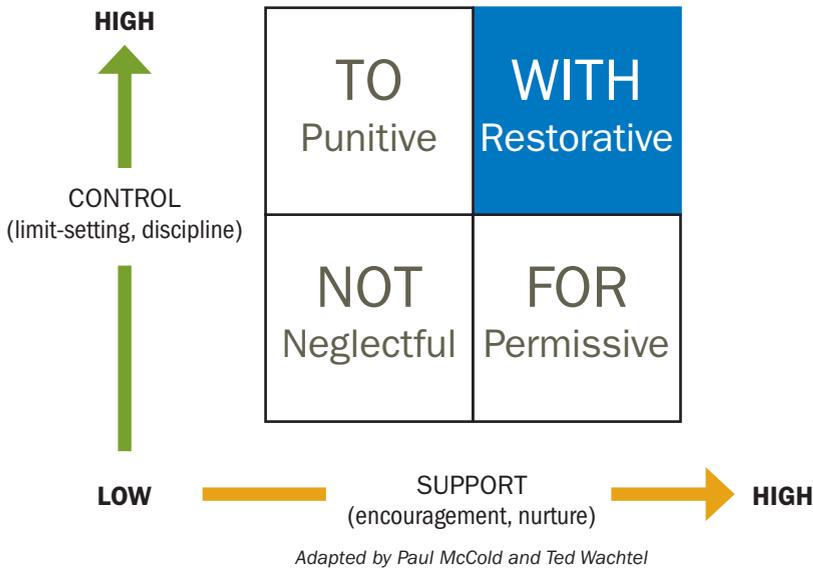
critics may view restorative practices as a lenient approach, one that does not offer accountability on the part of the student. However, is a student held accountable when they are sent home for a day? Using a restorative approach would place the offending student in front of a group of peers

who have been wronged so that he or she might hear the effect their behavior has had on others and work through how that wrong can be repaired. This approach is generally far more difficult and certainly more productive than being required to take a day off school. The power

of restorative practices is in providing both support and discipline — understanding and limits. There are still situations that may require a suspension or an expulsion, but those would be rare and could still be handled in the most restorative manner possible.

The Wisconsin Safe and Healthy Schools Center uses the work of the International Institute of Restorative Practice, which includes five practices. They range from informal (quick and easy to apply) to formal (requiring more training, time and preparation). The practices can be used with nearly anyone in any setting.

Based on the IIRP training, staff are encouraged to start implementing the practices with the most simple or informal practice — affective statements. Affective statements are personal expressions of feeling in response to specific positive or negative behaviors of others. They are done quickly and quietly. “Orville, you’re talking while I am explaining the directions, which is frustrating to me. Please stop.” The behavior, the emotional response and how to resolve the problem were all identified in the brief statement. This kind of communication builds relationships, humanizes the adult and shows the student there are boundaries to their behavior. It is much more helpful than responding by saying, “Orville, be quiet already.”



**According to the IIRP:** “The social discipline window (above) is a concept with broad application in many settings. It describes four basic approaches to maintaining social norms and behavioral boundaries. The four are represented as different combinations of high or low control and high or low support. The restorative domain combines both high control and high support and is characterized by doing things with people, rather than to them or for them.”



When we use restorative practices, we focus on the deed not the doer.

To reinforce positive behavior, the staff person may say something like: “Sedonic, I feel grateful for all the help you have given your friend on the math worksheet. You are a kind person.”

The second restorative strategy uses restorative questions, which includes two sets of standard open-ended questions — one designed to challenge the negative behavior of the wrongdoer and the other to engage those who were harmed. Examples of some of the open-ended questions include: What happened? What were you thinking of at the time? What are you thinking of now? These questions help them tell their story and guide them to a resolution or understanding.

In the middle of informal to formal practices are small impromptu conferences, which are used to quickly resolve lower-level

incidents involving a small group of people.

Circling is a practice used mainly to be proactive or responsive. In a proactive circle, participants are seated in a circle with no physical barriers. The circle format provides opportunities for staff, students and/or parents to share feelings, ideas and experiences in order to build trust, mutual understanding, shared values and shared behavior. Circles can be used to teach content or build a positive school climate by increasing relationship capacity. The circle process engages the participants in the management of conflict and tension by repairing harm and restoring relationships in response to a moderately serious incident or pattern of behavior affecting a group of students, staff member or family.

The most formal practice is a restorative conference, which is used

for the most serious infractions.

A trained facilitator first meets individually with each of the participants to help them understand the formal conference process. Then everyone comes together to discuss the incident (often including friends and family of all parties, those offended and those who offended). A trained facilitator leads a structured process that gives all parties a chance to respond to the restorative questions and work out how to restore community.

Whatever practice is being used, there is a fundamental hypothesis that human beings are happier, healthier and more likely to make positive changes in their behavior when those in authority do things WITH them rather than TO them or FOR them. When the five practices are implemented and used by educators with regularity, we bring back humanity, equity and a sense of

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responsibility to the community.

Are the restorative practices effective? Between June 2015 and June 2017, the RAND Corporation conducted a rigorous evaluation of restorative practices in Pittsburgh public schools and found that the practices reduced suspensions. In addition, many school districts in Wisconsin using restorative practices informally report a reduction of suspensions and repetitive negative behaviors.

► **Meghan Willauer**, ninth-grade algebra teacher, Madison East High School:

“All of the restorative practices I use in my classroom center around building strong relationships — student-to-teacher relationships and student-to-student relationships. To build these relationships, all parties must begin to truly see each other, listen to each other and collaborate together in the classroom. As the teacher, it is my role to create opportunities for these relationships to be built, strengthened and repaired when broken. To me, relationships are the essence of restorative practices and relationships can be embedded every day into any content area at any grade level. When I reflect on my journey with restorative practices, there are so many small successes that together make such a big impact. For example, students know each other’s names and are willing to work with each other. I used to hear, “Who is that? Can’t I work with my friends?” when I assigned groups, which had a negative impact on peers. Now, students are familiar with each other and have a level of trust where they are willing to engage in content-related tasks together.”

► **Andrew de Lutio**, Restorative Practices Coordinator, Milwaukee Public Schools Support Center:

“In Milwaukee Public Schools, we’re proud to have developed and implemented a three-part intensive training series for educators interested in engaging with this

**The WASB has sample policies** from Wisconsin school districts addressing response to intervention strategies, which include: positive behavior interventions and supports; student conduct and discipline policies that emphasize use of positive behavior interventions; and student suspension and expulsion policies that discourage use of out-of-school suspensions/expulsions and encourage use of alternative behavior and discipline interventions instead. Sample policies are available to all WASB members.

WASB *FOCUS* subscribers have access to the May 2011 *FOCUS* on “Changing Philosophies on Student Discipline and Expulsion,” which includes information on restorative justice practices and expulsion prevention and abeyance programs.

In addition, WASB Policy Resource Guide subscribers have access to in-depth student conduct, discipline and suspension/expulsion information, which includes information on positive behavior interventions and supports, alternatives to suspension/expulsion, and early reinstatements from suspensions and expulsions as well as links to additional resources on those subjects.

important work. Foundations of Restorative Practices, Using Circles to Teach, and Circle Keeping provide participants with the opportunity to shift their personal expectations, apply restorative principles to their pedagogy, and reflect on their circle-keeping skills. Furthermore, our year-long restorative practices high school course continues to guide teachers and students through intentional relationship and community development.”

► **Katharine Reid**, K-12 school counseling program system specialist, Franklin Public Schools:

“Beginning in fall 2018, elementary teachers have received training and support to establish what we call Community Circles. Some classrooms use circles daily or twice a week. Many buildings shape the circle questions around monthly themes related to positive behavioral interventions and supports (PBIS) and other building values. One school has created multi-grade circles to bring students from kindergarten through sixth grade together to address important topics.

Some schools are also using restorative practices for repairing harm and conflict resolution. In one

first-grade classroom, circles were already working well to create norms and agreements, practice respectful behaviors and build friendships. The class began to use the circle to address some challenging behaviors from one individual. The student struggled with skills specifically in the areas of self-awareness and self-management. Incidents left students in the class feeling physically and emotionally vulnerable and fearful. The teacher carefully used the circle process to address these feelings, helping all the students share their experiences, identify strategies and supports that would help, and to help the student of concern develop an understanding of the impact of his behaviors on others. All students in the class began to express emotions and needs more assertively and independently. There have been fewer frightening incidents, and the teacher is noticing increased positive student behavior.” ■

*For more information on restorative practices and how to find training, go to [wishschools.org](http://wishschools.org).*

*Christine Kleiman is a regional coordinator for the Wisconsin Safe and Healthy Schools Center.*

# Creating **INFORMED** Citizens

## Understanding and implementing the 2018 Wisconsin Standards for Social Studies

*Kris McDaniel*

In May 2018, the Department of Public Instruction adopted the new Wisconsin Standards for Social Studies after a six-month process involving 44 educators from across the state who looked at research, best practices and work occurring around the country. The

state is in the midst of a three-year process to phase in the standards. During the current school year, the focus is on helping educators understand the revised standards. During the 2019-20 school year, efforts will focus on the release of curriculum resources, with imple-

mentation expected to begin in 2020-21.

The revised standards hold high expectations of our teachers and students, which may require professional development as well as additional time, effort and resources for educators.

### Phase-by-Phase Roll Out of Wisconsin Academic Standards

Year 1 UNDERSTANDING	Year 2 CURRICULUM	Year 3 ASSESSMENT & INSTRUCTION
<ul style="list-style-type: none"> <li>Understand how the standards fit into our coursework.</li> <li>Understand the shift required between old/new standards.</li> <li>Understand implications for increased rigor and content with the new standards.</li> <li>Continue embedding Literacy for All Subjects and Mathematical Practices in coursework, instruction and assessment.</li> <li>Begin preliminary look at relevant industry certifications.</li> <li>Engage a broad group of stakeholders in decisions around offerings and content of courses.</li> <li>Plan for curriculum development.</li> </ul>	<ul style="list-style-type: none"> <li>Develop local curriculum with an instructional focus on implementing the standards.</li> <li>Select and align resources to implement changes in instruction.</li> <li>Review and align local formative and benchmark assessments.</li> <li>Work closely with other teachers and content areas to understand and embed key strategies in curriculum/standards courses.</li> <li>Investigate industry certifications and assessments relevant to local curriculum and outcomes, as needed.</li> <li>Review and update course equivalency options, as needed.</li> </ul>	<ul style="list-style-type: none"> <li>Expand transcripted and other post-secondary standards based credit options.</li> <li>Implement industry certifications and other assessments relevant to local curriculum and outcomes, as needed.</li> <li>Conduct collaborative team studies of student data and progress.</li> <li>Develop new course equivalency options, as needed.</li> </ul>





## Phase I

The revised standards include multiple shifts in the formatting, language, vocabulary, and teacher and student expectations to encompass current research and thinking about social studies. “Benchmarks” at the fourth, eighth and 12th grades are being replaced by 26 standards across six strands.

Each standard has identified learning priorities, from which a K-12 progression of indicators were built. The formation of two grade bands (K-2 and 3-5) and the addition of suggested grades at the end of each indicator provides guidance and assistance to districts, potential consistency across the state and support for state assessment preparation.

The revised standards represent five major instructional shifts:

1. Inquiry as an instructional framework.
2. Integration across all strands.
3. Dynamic balance of skills and content.

4. K-12 as a progression.

5. Civic engagement.

Teaching with inquiry as an instructional framework means that, “A team uses a shared and coherent belief system, language, mission and understanding of a set of instructional principles that are reflected in shared goals and expectations for students that results in the achievement of ALL students, with an instructional planning tool that guides professional development and professional practice.”

In other words, the revised standards expect teachers to look at all teaching through a lens of inquiry. In Wisconsin, inquiry includes five parts: asking questions, gathering and evaluating resources, developing claims with evidence, communicating and critiquing conclusions, and being civically engaged. Inquiry should be used within all social studies disciplines. This may range from teacher-structured inquiries to guided individual inquiry that a student undertakes.

Social studies is, at its heart, an

integrated subject area. It is difficult to teach history without context and it is difficult to provide context without knowledge of the geography, political science, culture and economics surrounding an event or issue. The revised standards hold an expectation that educators will use all six strands to develop scope, sequence and courses. For example, curriculum developers who consider only the geography strand when building a geography course will miss critical points of movement of goods and services through trade, because those are incorporated into the economics strand.

Social studies must balance between skills and content. Looking at the history of social studies education, we see shifts between the supposed importance of skills and content over the years. Both are equally important in the revised standards as a whole, but we must adjust to the students of the 21st century. In our technology-driven era with students who can find answers to closed-ended questions of

dates, names and places in five seconds on their smartphones, we must consider what we want our students to know and be able to do.

Although the history standards are long on historiography and short on required content, the economics, geography and political science standards include much more rigor and have specifics for students to learn. For example, SS.PS2.a.m (Social Studies Political Science standard two, learning priority a, for middle school) requires students to “analyze the scope and limits of individual protections found in the Constitution and Bill of Rights.” To do this by the end of eighth grade, students must have already read and be familiar with the Constitution and Bill of Rights. There is a distinct balance between the SKILL (analyze) and the CONTENT (Constitution and Bill of Rights).

For the first time, the state

expects a K-12 progression of the standards. There are 26 standards. The same standard is expected in kindergarten as in 12th grade. However, the indicators outline what that standard looks like at the different grade bands of K-2, 3-5, 6-8 and 9-12.

For Wisconsin educators and district curriculum teams, this means:

- Pockets of social studies at the K-8 level are not acceptable; state statute outlines the expectations for K-8 social studies to be “regular instruction,” which is defined in rule as “instruction each week for the entire school term in sufficient frequency and length to meet district curricular requirements.”
- Curriculum should be planned K-12, not in separate meetings for elementary, middle and high school. Your high school

teachers need to know what social studies topics are being taught in the elementary and middle schools, your elementary teachers need to know what their students are heading towards, and your middle school teachers need to know both where the students are coming from and where they’re going.

- If students do not have access to social studies at one grade band, it will decrease the chances of them meeting future grade-band expectations. For example, if social studies is only taught through literacy and not dedicated social studies time at the K-2 level, it is likely students are not meeting the K-2 indicators and will be behind when entering third grade. The 3-5 indicators build on the K-2, and so on.

At the very heart of social studies lies the historical mission of public

- Litigation
- Public Records
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- Policy Development
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schooling itself — creating confident, engaged, informed citizens of our country. The Wisconsin Standards for Social Studies reflect a shift to support college-, career- and community-ready students. Civic engagement is one way for students to learn how to be part of an informed, caring citizenry through working on issues within their community.

### Resources

The DPI Social Studies website ([dpi.wi.gov/social-studies](http://dpi.wi.gov/social-studies)) includes recorded webinars, handouts and slide decks with more information. In addition, educators can find crowdsourced social studies scope and sequence plans and add their own. As more educators contribute, district personnel will have a better view of what is happening across the state in social studies.

In the upcoming months, the DPI will release additional resources, including a K-5 suggested scope and sequence; suggestions for integrating American Indian studies and Act 31 curricular requirements; integration of Wisconsin studies, environmental literacy and sustainability standards; and information and technology literacy standards. Curriculum resources will focus on gap analysis of current curricula; systems of assessment at the classroom/district level; a roadmap to building inquiries; how to select high-quality, standards-aligned resources; and

in-depth K-5 work to scaffold student success.

### Conclusion

There is a 20-year gap between the publishing of the Wisconsin Model Academic Standards (1998) and the Wisconsin Standards for Social Studies (2018). In 1998, Google was founded, “Titanic” won 11 Oscars, and Will Smith was “Gettin’ Jiggy Wit It.” iPhones wouldn’t make an appearance for another 10 years. The

world has changed dramatically since then and the Wisconsin Standards for Social Studies reflect that change in social studies education. Shifting district curricula to meet the requirements set by the revised standards will take time, professional development and support. Resources developed by the DPI can support the needs of our Wisconsin educators in completing these shifts. ■

*Kris McDaniel is a social studies consultant for the Wisconsin Department of Public Instruction.*



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<sup>1</sup>Relative to less engaged members.

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## Opening Possibilities for Every Student, Every Teacher, Every School

*Kristine Fritz*

**T**he expression “mens corpusque” (mind and body) dates to early Greek civilization, when it was believed that it was necessary to have learning for the mind as well as physical activity to keep the body strong — much like today’s whole child educational concept. Unfortunately, as society progressed, there was a de-emphasis on physical education and wellness, with obesity rates and chronic disease skyrocketing as a result.

Today, there are numerous efforts and strategies to combat these issues, including efforts by Wisconsin Health and Physical Education, the state’s

largest professional association for health and physical educators. WHPE is closely aligned with the national Society of Health and Physical Educators (known as SHAPE America).

It’s well documented that physical education can change lives. Recent brain research has provided definitive links between increased physical activity and improved academic learning. According to noted researcher Eric Jensen, “Exercise is strongly correlated with increased brain mass, better cognition, mood regulation and new cell growth.”

However, not all physical education is created equal. A quality

program includes four essential components: policy and environment, curriculum, appropriate practices, and student assessment related to standards and individual needs. Quality physical education is much more than merely “running around” the gym. It enhances education as a whole — supporting brain development and physical literacy while leading toward wellness for a lifetime.

How do you know if your district provides a quality physical education program? SHAPE America offers a “20 Indicators of Effective Physical Education Instruction” checklist that administrators are encouraged to use



when evaluating a physical education class. School board members may want to ask if your physical educators are:

- Teaching fundamental skills?
- Using integrated curriculum?
- Placing emphasis upon movement and physical activity?
- Conducting and encouraging parent/child activity events?
- Hosting educational events for parents and other adults?
- Including health education?
- Developing community partnerships?
- Linking with community outreach programs to showcase your district's success?

WHPE encourages school board members and district administrators to connect with their physical educators to see how they can support academics, positive behaviors and relationship building. Professional development and resources are available from WHPE and SHAPE America. Together, we are stronger and can open possibilities for student learning and teacher growth. ■

*Kristine (Kris) Fritz is a WHPE past president, retired health and physical educator and coach from the Sheboygan Area School District. Kris currently facilitates a physical education program for early childhood at the Early Learning Center in Sheboygan. She is nationally recognized as both a state and SHAPE Teacher of the Year and is the current six-state Midwest District President.*

## RESOURCES

SHAPE America – Society of Health & Physical Educators  
[shapeamerica.org](http://shapeamerica.org)

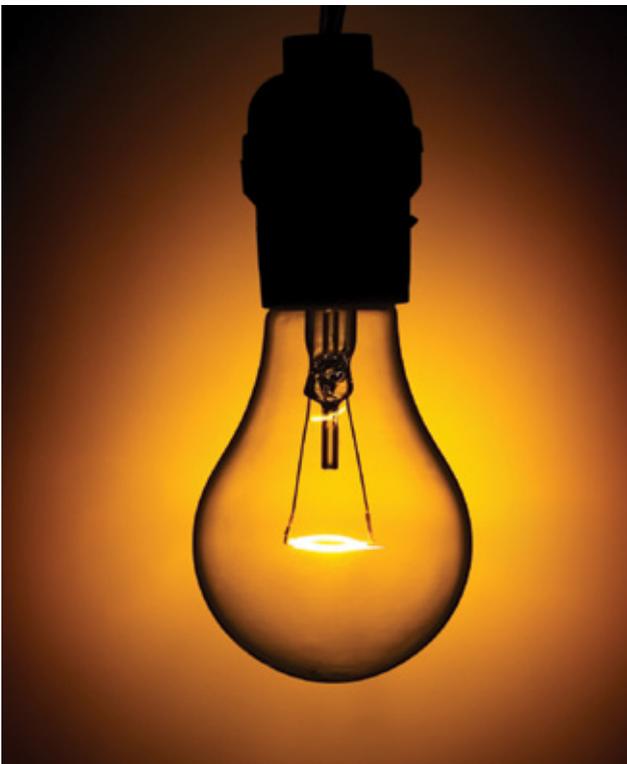
SHAPE America Appropriate Instruction Resources (including the *20 Indicators of Effective Physical Education Instruction* checklist)  
[bit.ly/2HTXmAC](http://bit.ly/2HTXmAC)

WHPE – Wisconsin Health & Physical Education  
[whpe.us](http://whpe.us)  
 Keith Bakken, 800-441-4568 or [kbakken@eagle.uwfax.edu](mailto:kbakken@eagle.uwfax.edu)

**Openphysed.org**  
 (a free educational curriculum from US Games)

“Spark: The Revolutionary New Science of Exercise and the Brain”  
 by John Ratey

“The Kinesthetic Classroom: Teaching and Learning Through Movement” by Traci Lengel and Mike Kuczala



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# It's Budget Season in Madison

## *Split state government may encourage compromise*

**D**eliberations over the state's biennial (two-year) budget will take up much, if not most, of the state Legislature's time and energy over the next several months. Here's a look at the path ahead for schools and school funding.

The political and economic climate for public school funding is about as positive as it has been in a long time:

- Fifty-five percent of respondents in the most recent Marquette Law School Poll in January said they prefer increasing funding for K-12 public schools, compared with 39 percent who said they prefer reducing property taxes. A whopping 73 percent of respondents said they support a major increase in state aid for special education.
- Last November, local voters approved 77 out of 82 school referenda on the ballot (94 percent), including 35 of 38 requests to exceed revenue limits (92 percent).
- The state's fiscal picture is positive. As Assembly Speaker Robin Vos (R-Rochester), told attendees at the WASB Day at the Capitol event on March 13, "We have a record amount of new money, a bigger surplus than we've had in a generation,

more revenue than we've had in almost any time in our state's history, without raising a single tax, a single fee..."

Still, all indications are the budget process will be a difficult one.

For the first time in 10 years, Wisconsin government will operate with control split between the two parties. A Democrat controls the governor's office while Republicans control both houses of the Legislature. However, the GOP does not hold enough seats in either house to override a veto by the governor. That's important since Wisconsin's governor can veto a budget bill in whole or in part. It also creates some incentives for compromise in areas where common ground can be found.

### ■ Key K-12 Provisions in the Proposed Budget

Evers' ambitious \$1.4 billion school funding reform plan would boost state spending on aid to schools from around 33 cents of every dollar the state spends to slightly more than 37 cents. It would also restore two-thirds state funding and fold property tax credit programs into general equalization aids, beginning in 2020-21. This major change, according to Evers, would increase transparency and provide school districts with funds that are cur-

rently counted as "state support for education" but are actually used to reduce property tax bills.

In addition, every district would be guaranteed a minimum of \$3,000 per pupil in general equalization aid. The aid formula would also be adjusted to count students from low-income families as 1.2 students for purposes of calculating general aid while full-day 4K pupils would be counted as 1.0 students for both general aid and revenue limit calculations.

Schools would continue to receive \$654 per pupil in categorical aid, although that aid would not increase. Instead, increases would flow through general equalization aid.

Evers' budget would also allow schools to raise additional revenues locally by providing revenue limit adjustments of \$200 per pupil in 2019-20 and \$204 per pupil in 2020-21 and by annually indexing future per-pupil adjustments to inflation as measured by the consumer price index.

All districts would benefit from proposed increases in special education categorical aid to reimburse districts for a share of their special education costs. The state's appropriation for this aid has been frozen since 2008-09 and as special education costs have increased, the reimbursement rate has fallen from about 29 percent to below 25 percent.

For the first time in 10 years, Wisconsin government will operate with control split between the two parties.

When the state fails to adequately reimburse increasing special education costs, school districts must use their general funds to cover a portion of special education costs. Whatever is not reimbursed by the state has to be covered by the school district by transferring money from its general fund (which is subject to revenue limits) to its special education fund. A significant increase in state special education categorical aid would result in smaller transfers, freeing up revenue-limit-controlled general funds for use elsewhere.

The proposed budget would boost special education aid by \$75 million in 2019-20 and \$531 million in 2020-21 to reimburse special education costs at 30 percent and 60 percent, respectively. This additional funding would come to schools outside the revenue limits.

### ■ Looking Ahead

This is the fifth time Evers has put forward his school funding reform proposal. The first four times, Gov. Scott Walker declined to include it in his proposed state budgets.

Now governor, Evers has made the “Fair Funding” plan part of his proposed state budget. But it is not yet known to what extent that plan will remain in the budget once the Legislature has finished its review and deliberations.

Vos’ comments to the WASB Day at the Capitol audience are instructive. He said:

“Let’s start by looking at our \$1.8 billion in revenues, record revenues, more than we have ever had... It is not realistic for us to take and put about 75 percent of the dollars that we have, a record amount, into one program... I also want to invest in making sure we have raises for our public employees, that we put money into our UW System, [and] that we adequately fund all the other programs.”

Pretty clearly, the level of funding the Legislature plans to offer will be smaller than what Evers has proposed. How much smaller that amount will be and which changes



proposed by the governor will be discarded by lawmakers are questions yet to be answered.

A bipartisan Blue Ribbon Commission on School Funding created by Republican legislative leaders may offer some clues. The commission has endorsed significant funding increases for schools, including many recommendations that overlap with the governor’s budget proposal. Recently, legislators who served on the commission gathered to discuss which recommendations they would introduce in bill form. That move will allow these proposals to receive an airing in public hearings at which school leaders can voice their views.

The nonpartisan Legislative Fiscal Bureau is expected to finish its summary of the governor’s proposed budget by the end of March. The Joint Finance Committee will begin holding agency briefings shortly thereafter. At these hearings, state agency heads present testimony on the governor’s budget bill and the effect it would

have on their agencies and programs.

Those hearings will be followed by JFC public hearings at which members of the public can testify on areas of the proposed state budget that concern them. These JFC public hearings will likely take place throughout April at various locations around the state. They provide an excellent opportunity for school leaders to communicate their priorities and viewpoints on the proposed state budget to members of the JFC. In addition, local legislators often attend the hearings held in their area to listen to the testimony of area residents. Watch the WASB Legislative Update Blog for news about these hearings.

We need school leaders to testify at these JFC hearings to tell their district’s stories so schools are not lost in the shuffle of competing budget priorities. We have momentum on our side. Let’s seize the moment. ■

*Dan Rossmiller is the WASB Director of Government Relations; Chris Kulow is the WASB Government Relations Specialist.*

# New School Board Member Gatherings

If you have a newly elected or appointed school board member, encourage them to attend a WASB New School Board Member Gathering which will provide an informal orientation to:

- Discuss essential information

for their first board meeting.

- Meet the WASB regional director.
- Network with new and experienced school board members in their WASB region.
- Learn about WASB services that can help them in their new role.

Experienced board members and district administrators are encouraged to attend and offer input and guidance.

**All gatherings are 7-9 pm.**

No registration required. Visit [WASB.org](http://WASB.org) for more information.

## TUESDAY, APRIL 16

**Region 2:** Three Lakes Jr. & Sr. High School

**Region 3:** Green Bay School District Administrative Building

**Region 5:** Marathon High School

**Region 6:** CESA 4, West Salem

**Region 8:** Reedsville High School

## WEDNESDAY, APRIL 17

**Region 7:** CESA 6, Oshkosh

**Region 10:** Gerstenkorn Administration Building, Portage

**Region 11:** Muskego-Norway Educational Services Center

**Region 13:** Elkhorn School District

**Region 15:** Germantown High School

## THURSDAY, APRIL 18

**Region 1:** Spooner High School

**Region 4:** Durand-Arkansaw High School

**Region 9:** CESA 3, Fennimore

**Region 12:** Deerfield High School



## Upcoming WASB Webinars

The WASB hosts a series of webinars throughout the year on legal, policy and other important school leadership topics.

### Title IX – School Districts’ Obligations

April 10, 12-1 pm

The federal Office for Civil Rights has been diligent in warning school leaders about the full scope of each district’s Title IX obligations. In this webinar, we’ll identify how Title IX’s focus on sex discrimination and gender equity apply in key areas, such as career and technical education, sex-based harassment, school discipline, employment and athletics. Title IX self-audits and other recommended practices will also be discussed, as well as designating, assigning responsibilities to and training a formal Title IX coordinator.

*Presenter: Bob Butler, Associate Executive Director and Staff Counsel*

### Hiring Teachers

May 8, 1:30-2:30 pm

This presentation will inform you about the general process of hiring teachers, including following state requirements. It includes information about the purpose of position descriptions, posting 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.

*Presenter: Bob Butler, Associate Executive Director and Staff Counsel*

**Please note:** These webinars, and all previous ones, 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](http://WASB.org). In addition, links to past webinars are available in the Policy Resources Guide.

# Spring Workshops

*Legal Roles & Responsibilities of School Boards, May 7-16, 2019*

**DINNER** 6pm | **PROGRAM** 6:30-8:30pm (12 LOCATIONS)

To be effective leaders, school board members must be cognizant of their legal roles and responsibilities. In this workshop, an experienced WASB school attorney will take a deeper dive into the key areas of Wisconsin law, including:

- Open meetings
- Public records
- Conflicts of interest
- A board's power and duties

Participants will gain a greater confidence in understanding the state and federal laws that directly impact service on a school board and how the implementation of those laws influences effective board governance. The workshops will provide a foundation for new school board members to begin learning their role and serve as a helpful refresher for experienced board members.

Visit [WASB.org](http://WASB.org) for more information and to register. Members are welcome to attend a workshop in any location. ■

## SPRING WORKSHOPS

**Tuesday, May 7** – CESA 1, Pewaukee; CESA 12, Ashland

**Wednesday, May 8** – CESA 3, Fennimore; CESA 11, Turtle Lake

**Thursday, May 9** – CESA 6, Oshkosh; CESA 10, Chippewa Falls

**Tuesday, May 14** – CESA 4, West Salem; CESA 7, Green Bay

**Wednesday, May 15** – CESA 5, Portage; CESA 8, Gillett

**Thursday, May 16** – CESA 2, Whitewater; CESA 9, Tomahawk



## Annual and Special Meetings: Notices, Procedures and Powers

June 12, 12-1 pm

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

*Presenter: Barry Forbes, Associate Executive Director and Staff Counsel*





## Video Recordings and Photos: FERPA Guidance

In a *Legal Comment* published last year<sup>1</sup>, we discussed legal issues arising from the growing use of video cameras in school buildings, on school property and in school buses. In particular, we noted that access to video recordings taken in school locations is governed in part by the Family Educational Rights and Privacy Act (FERPA) and we reviewed a number of informal guidance letters issued by the Family Policy Compliance Office (FPCO), the federal agency responsible for investigating and enforcing complaints under FERPA. At the time that *Legal Comment* was published, FPCO had not issued formal enforcement guidance although such guidance had long been anticipated.

On April 19, 2018, FPCO finally issued that guidance in a “Frequently Asked Questions” (FAQ) format addressing its formal enforcement position regarding photos and video under FERPA.<sup>2</sup> This *Legal Comment* will address the legal issues discussed in the FAQ involving districts’ obligations under FERPA with respect to videos involving students.<sup>3</sup> The situations addressed by the FAQ arise frequently and the FAQ provides districts with more certain guidance regarding their FERPA obligations.

### ■ Accessibility of Student Records under FERPA

FERPA provides parents of district students with “the right to inspect and review the education records of their children.”<sup>4</sup> An “education record” means, with some exceptions, any record, file, document or other material containing information directly related to a student that is maintained by a district or by a person acting for the district.<sup>5</sup> Under FERPA, districts cannot release a student’s education records without the written consent of the student’s parents, except as provided by FERPA.<sup>6</sup> One such exception provides that districts may release education records without parental consent to other district officials who have been determined by the district to have legitimate educational interests in the education records.<sup>7</sup>

The FAQ addresses a number of questions which arise in this context and provides answers as to how FPCO will enforce FERPA.

### ■ When is a video of a student an education record under FERPA?

FPCO defines the circumstances in which a video of a student is an “education record,” subject to specific exclusions, when the video is:

(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.<sup>8</sup>

### ■ When is a video “directly related” to a student?

The answer to this question is context-specific and must be assessed on a case-by-case basis. FPCO has listed in the FAQ a number of situations in which a video will be considered “directly related” to a student. This is not an exclusive list, but illustrates situations FPCO interprets as being “directly related” to a student:

- A district uses the video for disciplinary action or other official purposes (or could use the video for such purpose) involving the student and/or the victim of any such disciplinary incident. For example, a school surveillance video showing two students fighting in a hallway is directly related to the students fighting because it can be used in any disciplinary action involving the students.
- The video shows a student in violation of local, state or federal law.
- The video shows a student getting injured, attacked, victimized, ill or having a health

FPCO defines the circumstances in which a video of a student is an “education record,” subject to specific exclusions, when the video is: (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.

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emergency. For example, a classroom video that shows a student having a seizure is directly related to that student because the depicted health emergency becomes the focus of the video.

- The person or entity taking the video intends to make a specific student the focus of the video. This includes the taking of student identification photos or the recording of a student presentation.
- The video otherwise contains personally identifiable information contained in a student's education record. For example, a video recording of a faculty meeting during which a specific student's grades are being discussed is directly related to that student because the discussion contains personally identifiable information from the student's education record.

The FAQ notes that a video is not “directly related” to a student in the absence of these factors and if the student's image is incidental or captured only as part of the background, or if a student is shown participating in school activities that are open to the public without a specific focus on any individual. Thus, if a district maintains a close-up photo of two or three students playing basketball with a general view of student spectators in the background, the photo is directly related to the basketball players because they are the focus of the photo, but it is not directly related to the students pictured in the background. Videos of students participating in public events (e.g., sporting events, concerts, theater performances, etc.) are often designated as directory information by districts, which typically are released as long as districts have followed the appropriate process to notify parents of the potential disclosure of such directory information.

### ■ When is a video “maintained by” a district?

A district must “maintain” a video for it to be considered an education

record under FERPA. Thus, the FAQ notes that a video taken by an individual at a district event would not be considered an education record, even if it is directly related to a particular student, because it is not being maintained by the district or on the district's behalf. That status would change, for example, if the individual provides a copy of a video to the district that depicts a fight between two students, which the district then uses for disciplinary purposes. In that circumstance, the copy becomes an educational record maintained by the district.

FERPA excludes from the definition of “education records” any records created and maintained by a district's law enforcement unit for a law enforcement purpose. Many districts engage the services of police officers serving as School Resource Officers (SROs) who may generate their own video recordings (e.g., with body cameras). Those recordings would not be considered to be “education records.” However, if the SRO provides a copy of the video to the district in connection with district disciplinary action, the copy of that video may become an education record of the student(s) involved if the video is not subject to any other exclusion from the definition of “education records” and the video is: (1) directly related to a student; and (2) maintained by the district.

### ■ If a video depicts multiple students, can a parent of one of the students or their legal representative view the video and/or receive a copy?

A video can be the education record of more than one student under FERPA. For example, if a school uses and maintains a video showing two students fighting on a school bus in order to discipline the students, the video would be “directly related to” and, therefore, the education record of both students. In these circumstances and, in general, FERPA requires districts to allow, upon request, an individual parent

of a student to whom the video directly relates to inspect and review the video. FERPA generally does not require a district to release copies of the video to the parent.

The FAQ points out that in providing access to the video, a district must provide the parent of the student with the opportunity to inspect and review the video. If the district can reasonably redact or segregate out the portions of the video directly related to other students without destroying the meaning of the record, a district must do so prior to providing the parent with access. If, on the other hand, redaction or segregation of the video cannot reasonably be accomplished, or if doing so would destroy the meaning of the record, then the parents of each student to whom the video directly relates would have a right under FERPA to access the entire record even though it also directly relates to other students.

FPCO stated in the FAQ that it does not advise districts under any applicable state open records laws, but mentioned that FERPA does not generally require a district to provide copies of education records to parents. However, FPCO noted that, in the circumstances described above, a district would not violate FERPA to non-consensually disclose to a student's parents copies of education records that the parents otherwise would have the right to inspect and review under FERPA. The Wisconsin Pupil Records Law states that a parent has the right to be provided with a copy of their child's progress and behavioral records.<sup>9</sup> However, it is not clear how this requirement applies in circumstances where a record directly relates to more than one student. Because of the lack of clarity in this area, districts should discuss with legal counsel whether to allow the parent a copy of any such record.

FERPA permits legal representatives of a parent to inspect and review videos with the parent. While FERPA does not require educational agencies and institutions to allow parents to bring their attorney or

other legal representative with them when they exercise their right to inspect and review the student's education records, nothing in FERPA prevents districts from allowing parents to do so.

### ■ What can a district charge for providing a parent a copy of educational records?

FPCO takes the position that while districts may charge for the costs required to make a copy of the video, districts may not charge a parent for the costs to search for or retrieve education records or for their redaction. However, if a fee for copies effectively prevents a parent from exercising the right to inspect and review education records, a district would be required to provide copies without payment, provided the parent provides evidence of the inability to pay for the copies due to financial hardship.

### ■ Turning videos over to law enforcement

Does FERPA permit districts to turn over videos to a law enforcement agency upon request or following an incident that may warrant law enforcement involvement? Can they view such records?

If a video is an "education record," districts generally may not turn them over to a law enforcement agency upon request without having obtained the written consent of the parent, determined that the conditions of an exception to the general requirement of consent have been met, such as if the disclosure is made in connection with a health or safety emergency,<sup>10</sup> or received a judicial order or a lawfully issued subpoena.<sup>11</sup>

For example, in the course of

investigating a crime, a law enforcement agency may ask a district to view the district's video recordings. If the requested recordings directly relate to a student, those recordings are education records to which law enforcement generally does not have access, absent an exception provided by law or written consent from the parent of the student that is the focus of the record. However, if the district is investigating a student's conduct for disciplinary reasons and has sought SRO assistance with the district's investigation, the SRO likely has legitimate educational interests in the record and can view the video. If law enforcement is not working with the district on an investigation, but rather is conducting its own investigation into criminal conduct by a student for which the school is not considering disciplinary action, law enforcement likely has no right of access to the video.

Additionally, in an emergency, law enforcement might ask to view the live feed from a district's video cameras. A live feed is unlikely to constitute a record maintained by the district, and, thus, is not likely to be subject to FERPA. Further, in an emergency where student safety is at risk, law enforcement likely can view the live feed to ensure a safe educational environment.

### ■ Conclusion

With the increasing use of video cameras to monitor activities at schools, in buses, and at school-related activities, there has been a corresponding increase in the number of parental requests to view the recordings generated by those cameras. This requires districts to make a determination if those records constitute an

"education record" and, if so, whether and/or to what extent that recording can be viewed or turned over to the requesting parent. The FAQ issued by FPCO provides much needed guidance on the stance FPCO will take in enforcing FERPA with respect to such requests. Districts should consult the FAQ and their legal counsel for guidance in responding to such requests, including any consideration of the impact of the Wisconsin records laws.

### ■ End Notes

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

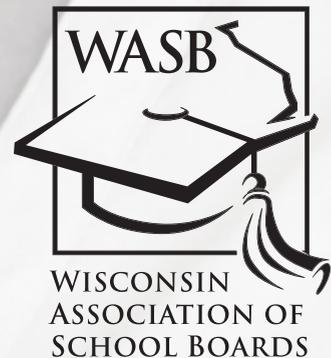
1. WASB School News, "Video Recordings and Pupil Records Laws" (January/February 2018).
2. FAQs on Photos and Videos under FERPA 118 LRP 16524 (U.S. DOE 2018).
3. For additional information on this topic, see WASB School News, "Video Surveillance" (June 2003); WASB Legal Note, "Internet Streaming of High School Athletic Events for Commercial Purposes" (Winter 2007).
4. 20 U.S.C. s. 1232g(a)(1)(A). This also pertains to a student who has reached the age of majority. This *Legal Comment* will use the word "parent" to encompass both parents and eligible students.
5. 20 U.S.C. s. 1232g(a)(4)(A).
6. 20 U.S.C. s. 1232g(b)(1).
7. 20 U.S.C. s. 1232g(b)(1)(A).
8. 20 U.S.C. s. 1232g(a)(4)(A); 34 CFR s. 99.3 "Education Record."
9. Wis. Stat. s. 118.125(2)(a) and (b).
10. 20 U.S.C. s. 1232g(b)(1)(I) and 34 CFR ss. 99.31(a)(10) and 99.36.
11. 20 U.S.C. s. 1232g(b)(1)(J) and (b)(2) and 34 CFR s. 99.31(a)(9).

*Legal Comment is designed to provide authoritative general information, with commentary, as a service to WASB members. It should not be relied upon as legal advice. If required, legal advice regarding this topic should be obtained from district legal counsel.*

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## 2019 WASB SPRING WORKSHOPS



### *TRAINING FOR NEW AND EXPERIENCED BOARD MEMBERS*



*With a focus on a board's legal roles and responsibilities, the 2019 WASB Spring Workshops will provide training by WASB attorneys for new and experienced board members in 12 locations throughout the state.*

**Agenda:**

- 6 pm - Dinner
- 6:30-8:30 pm - Legal Roles and Responsibilities of School Boards Workshop

MAY 7 - CESA 1, PEWAUKEE  
MAY 7 - CESA 12, ASHLAND  
MAY 8 - CESA 3, FENNIMORE  
MAY 8 - CESA 11, TURTLE LAKE  
MAY 9 - CESA 6, OSHKOSH  
MAY 9 - CESA 10, CHIPPEWA FALLS

MAY 14 - CESA 4, WEST SALEM  
MAY 14 - CESA 7, GREEN BAY  
MAY 15 - CESA 5, PORTAGE  
MAY 15 - CESA 8, GILLETT  
MAY 16 - CESA 2, WHITEWATER  
MAY 16 - CESA 9, TOMAHAWK

***VISIT [WASB.ORG](http://WASB.ORG) FOR COMPLETE INFORMATION AND TO REGISTER***

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