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# Minnesota State High School League

## SUMMARY

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**The League is incorporated as a voluntary, nonprofit association of schools.**

**T**he Minnesota State High School League is a “nonprofit corporation that is a voluntary association” of public and private high schools.<sup>1</sup> Member schools delegate control of certain extracurricular activities to the League and, in turn, the League administers athletic and fine arts programs and competitions and establishes student eligibility rules.

Although the League is not a state agency, over the last ten years, the Legislature has shown continuing interest in its activities. In the late 1980s and early 1990s, concern was most strongly focused on financial issues at the League. Two studies by the Legislative Auditor’s Office, annual financial and compliance audits by the State Auditor’s Office, and a local newspaper investigation all documented questionable financial policies, procedures, and practices. The Legislature responded by enacting legislation that required the League to implement reforms to increase public accountability and curb financial irregularities.

Yet, questions about the League’s activities have persisted. In May 1997, the Legislative Audit Commission again directed us to evaluate the Minnesota State High School League. Our study focused on the following major research questions:

- **What changes have occurred since our 1987 evaluation of the Minnesota State High School League?**
- **What state laws govern the League’s operation and how do they compare with those governing state agencies?**
- **Are changes needed to make the League more accountable to the Legislature, students, parents, member schools, and the public?**

To answer these questions, we compared the Minnesota State High School League’s bylaws and policies with various public accountability laws that govern state agencies. We also examined League practices, especially in areas where the League is not subject to state law or where issues were raised by legislators or staff. We talked with staff and board members from the League and officials from state agencies with oversight responsibilities. We also interviewed representatives from student, parent, and school organizations to learn about the League’s relationship with its constituents. Finally, we examined how other states have organized similar activities.

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<sup>1</sup> *Minn. Stat.* §128C.01.

## BACKGROUND

We looked at the League's overall structure and noted that:

- **The Minnesota State High School League is a large “grassroots” organization.**

The League is made up of 495 public and private high schools each of which appoints two designated school representatives and four designated activity representatives. One of the two designated school representatives must be a school board member and the other must be a faculty member or administrator. Activity representatives are chosen from each of the following areas: boys sports, girls sports, music, and speech. The designated representatives vote on behalf of their member schools when the schools are called upon to vote, and are eligible for election into region committees and the Representative Assembly, which is the League's “legislative” body. The League also has a 20-member board of directors that consists of 8 school representatives, 4 activity representatives, 2 representatives from both the Association of Secondary School Principals and the Minnesota State School Boards Association, and 4 gubernatorial appointments.

Over the last ten years, the League has been subject to public scrutiny. In October 1987, the Legislative Audit Commission directed our office to examine League governance and accountability. At that time, we found inappropriate policies and practices, weak internal mechanisms for accountability, inadequate safeguards to ensure prudent expenditures, and insufficient outside oversight.<sup>2</sup> In 1991, we briefly reviewed the League's actions on key issues identified in 1987 and reported that, while the League had made some progress, many of the problems remained.<sup>3</sup>

Since 1987, we found that:

- **The Legislature has implemented significant reforms to increase the League's public accountability and curb financial irregularities.**

For example, state laws have expanded the League's board of directors to include four public members who are appointed by the Governor, required the State Auditor to annually perform financial and compliance audits of the League, elaborated on the reporting requirements of the Commissioner of Education (now the Commissioner of Children, Families & Learning), made expense reimbursement provisions for board members and staff comparable to state board and state agency requirements, required the League to prepare its budget according to the Department of Finance's rules, and required the League to hold public hearings on proposed eligibility rules if 100 parents request one.

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<sup>2</sup> Office of the Legislative Auditor, *Minnesota State High School League* (St. Paul, 1987).

<sup>3</sup> Office of the Legislative Auditor, *Minnesota State High School League Update* (St. Paul, 1991).

At the same time, we found that:

- **The League has responded to public criticism by trying to increase student and parent involvement in League activities.**

For example, the League created an 18-member student advisory committee in 1991 that meets twice a year to discuss issues of interest to students; two students from this committee help the board of directors screen proposals for bylaw changes. In 1997 the board adopted various policies to improve public notification of League activities and to solicit public input. First, each year on August 15, the League publishes notices in local newspapers that explain how the public can obtain information about the League and be put on its mailing list. Second, the League sends proposed bylaw changes that were presented at Representative Assembly meetings to each school, asking that the proposed changes be discussed at a local school board meeting. Finally, during the fall and spring of each school year, the League holds area meetings throughout the state to share information about itself and to gather input from school staff, interested citizens, and others. The League also conducts open forums to discuss League issues in conjunction with the state wrestling and volleyball tournaments.

## PUBLIC ACCOUNTABILITY

We examined Minnesota statutes to determine whether the League is subject to laws that are designed to ensure state agency accountability to the Legislature and the public. We found that state law sometimes requires the League to conform with requirements of state boards or agencies, but in other instances the League may establish policies of its own. The League is subject to the following laws that govern state agencies: appointing and compensating governing board members, reimbursing board members' and staff expenses, holding open meetings, and complying with the Data Practices Act. In addition, the League is subject to hiring, ethical practices, auditing, budgeting and accounting, and rulemaking laws that are different from those that govern state agencies. Finally, it is not subject to state procurement or contracting laws or statutory limits on tort claims.

Overall, we found that:

- **The League's bylaws, policies, and practices are generally consistent with state laws that govern its activities.**

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**The League generally complies with applicable state laws.**

We found only one area where the League is not complying with statutory requirements. *Minn. Stat.* §128C.01 says that the terms, compensation, removal of members, and the filling of membership vacancies on the League's board of directors are governed by *Minn. Stat.* §15.0575. Although it appears to us that this provision refers to all board members, the League maintains that it only applies to the four members appointed by the Governor.<sup>4</sup> Consequently, 16 board members

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<sup>4</sup> The State Auditor's Office recently requested an Attorney General's opinion on whether *Minn. Stat.* §15.0575 refers to all 20 members of the League's board of directors. Letter from Judith H. Dutcher, to State Auditor, to Hubert H. Humphrey III, Attorney General, February 13, 1998.

start their terms in August, according to the League's bylaws, and the 4 gubernatorial appointees start their terms in January, according to state law. This causes a problem for members who are newly appointed by the Governor because they miss the orientation sessions with other new board members and board meetings in the fall of the year prior to their appointment. Because the League operates in conformity with the school year, not the calendar year, we recommend that:

- **The Legislature should consider requiring that all of the League's board members begin their terms on August 1.**

Over the last ten years, the Legislature has passed laws to address the League's financial problems of the late 1980s. Consequently, Minnesota statutes are rather prescriptive in delineating what the State Auditor must examine when auditing the Minnesota State High School League. We reviewed the State Auditor's audits of the League from 1988 through 1997 and learned that:

- **Since the early 1990s, the State Auditor has found no major problems with the League's financial practices.**

Staff from the State Auditor's Office told us that League audits were done in compliance with the law and with the full cooperation of the League. Because the League has apparently addressed its previous financial problems, it may be appropriate for the Legislature to give the State Auditor's Office the freedom to choose how best to audit the League. We think that:

- **The Legislature should consider giving the State Auditor's Office the same flexibility in determining how to audit the League as the Auditor now has with local government entities.**

The League is exempt from the rulemaking and contested case requirements of the Administrative Procedure Act. Both the League's Representative Assembly and its board of directors adopt rules that regulate student participation in extracurricular activities--the assembly through its bylaws and the board through its policies that clarify and interpret bylaws. We examined both rulemaking processes and found that:

- **Although the League adopts rules differently than state agencies, its rulemaking procedures generally promote public accountability.**

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### **The League has tried to increase public involvement in rulemaking.**

The League has made efforts in recent years to increase public input into its rulemaking procedures. Yet, we noted that:

- **Despite the League's efforts, overall involvement by the public in rulemaking has been minimal.**

Although the League must hold a public hearing on its eligibility rules if 100 or more parents or guardians of students request one, as of February 1998, the board had not received any requests. Also, attendance at area meetings and at the open forums held during the state wrestling and volleyball tournaments has been sparse. Several area meetings had no public attendees, and none had more than six.

Although the League's rulemaking processes have been open and democratic, we found that:

- **The various documents that outline the League's rules are often unclear and contradict one another about whether a rule is a bylaw or a policy.**

We found ambiguities in how some responsibilities are divided between the board and the Representative Assembly and numerous inconsistencies in the League's handbooks. Some discrepancies involved labeling certain provisions as bylaws one year and as policies the next, or *vice versa*. In other cases, we found instances where provisions that are defined as bylaws in one 1997-98 publication are described as policies in another 1997-98 publication or *vice versa*, or are absent from another publication altogether. We also found inconsistencies in how provisions of the League's constitution are numbered in its 1997-98 *Official League Handbook* and its Internet web site.

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**League documents sometimes contradict one another.**

While these contradictions may have little or no practical consequences for students, as they must adhere to all bylaws and policies regardless of their origin, these discrepancies can create confusion if someone wishes to change a bylaw or policy. Furthermore, such contradictions may create the perception that the League's rulemaking process is arbitrary. Therefore, we recommend that:

- **The board should carefully review its publications and Internet web site for consistency with the League's official bylaws and policies.**

Finally, the League is not required to adhere to state laws regarding procurement or contracting for professional/technical services, and we found that the League's policies in these areas provide few safeguards to help ensure public accountability.<sup>5</sup> Although the League's staff have periodically obtained price quotes from different vendors for low-cost printing jobs (typically \$10,000 or less), some larger purchases, as well as professional/technical contracts, have been entered into without competitive bids or proposals. We recommend that:

- **The League should adopt policies to obtain competitive bids or proposals for purchases or contracts above a certain dollar threshold and to periodically review preferred vendor contracts.**

We noted that the League has solicited proposals from five vendors to expand its Internet web site and appears to be moving in a deliberate, well-studied manner. The League should consider using this experience to develop overall procurement and contracting policies that delineate the various factors, including price, that should be considered before making major procurement or contracting decisions.

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<sup>5</sup> The State Auditor's Office recently requested an Attorney General's opinion on whether the League is subject to the uniform municipal contracting Law as set forth in *Minn. Stat.* §471.345. Letter from Judith H. Dutcher, State Auditor, to Hubert H. Humphrey III, Attorney General, February 13, 1998.

## ALTERNATIVE STRUCTURES

We contacted 24 educational organizations that represent schools, board members, staff, students, and parents to ascertain how satisfied they are with League activities and their opportunities for involvement. We found that:

- **For the most part, League constituents are pleased with the League and its activities.**

Almost all of the organizations that had an opinion about the League said that it was doing a good job organizing events and meeting the needs of schools and students and that they had adequate input into rulemaking. Also, in 1995 the League surveyed a sample of students who participated in extracurricular activities and found little dissatisfaction with League-related issues. The League obtained similar results from the focus groups that it held throughout the state in 1998. Finally, we noted that few students or parents challenge the League's bylaws as they relate to student eligibility. Even though about 160,000 students take part in League-regulated activities each year, only 13 contested case hearings regarding student eligibility were held at the school level, and only 6 of these cases were appealed to the League's board of directors during the first 7 months of the 1997-98 school year.

Because there does not appear to be widespread dissatisfaction with the League and because we found no major problems with the League's accountability to the public:

- **We do not think that it is necessary for the Legislature to make major changes in the League's organizational structure at this time.**

The League is already subject to several public accountability laws, and we found only one area of noncompliance. Even though the League's rulemaking process is autonomous, we found that there are ample opportunities for public input.

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**Public oversight is needed because the League's major activities are governmental in nature.**

Nevertheless, because the League's major activities are essentially governmental--regulating student participation in certain extracurricular activities--we think that public oversight, especially in program areas, is warranted. Two state agencies already have some direct oversight responsibilities--the Department of Children, Families & Learning and the State Auditor's Office. We noted that the State Auditor's Office has consistently fulfilled its statutory role in overseeing financial matters. However, we found that:

- **There is no record that the Department of Children, Families & Learning has reviewed League activities as required by law.**

Minnesota statutes require that the Commissioner obtain and review each year certain information about the League. There is no record that the department has reviewed these data for the last several years. Staff from the Department of Children, Families & Learning told us that the department has just recently begun to develop an oversight activity related to the League within the department's

monitoring and compliance unit and is currently reviewing the required information about the League.

We think that it would be useful to the League, the Legislature, and the general public if the Department of Children, Families & Learning would exercise its existing oversight responsibilities regarding the League. In addition, we recommend that:

- **The Legislature should expand the Department of Children, Families & Learning’s oversight responsibilities to include an annual, written review of League activities and a nonbinding review of all proposed bylaw and policy changes.**

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**The Department of Children, Families & Learning’s oversight role should be expanded.**

Copies of the department’s reviews should be made available to the Representative Assembly and the board of directors before they change the League’s bylaws and policies. This is not a new or unique idea. We found that at least four other states (Iowa, Florida, Texas, and Washington) have their education departments exercising direct oversight over their athletic associations and their rules.

Also, we recommend that:

- **The Legislature should consider giving the Department of Children, Families & Learning the explicit statutory authority to examine League-related issues when warranted.**

Currently, statutes limit the department’s role to reviewing certain information that it is required to obtain from the League. Although state law permits the department to recommend whether League activities warrant legislation, the department does not have the express authority to initiate its own examinations into League activities. The department should be able to examine various issues and trends regarding extracurricular activities and their effect on students’ overall education.

Finally, we recommend that:

- **The League should better define the roles and responsibilities of its ombudspersons and publicize their availability.**

Since 1997, the League has retained the services of three individuals to act as ombudspersons for people who have concerns about bylaws, policies, or other issues and who feel that their concerns have not received proper attention from the League’s staff. However, the ombudsperson’s role is limited to advocacy of a person’s concerns to the League’s executive director and board president. The League does not give specific authority to its ombudsperson to investigate an issue such as a student’s eligibility or to advocate on behalf of parents and students before the Representative Assembly.

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**The League  
should publicize  
the availability  
of its  
ombudspersons.**

To be effective, we think that the ombudsperson should function as independently of the League as possible. To this end, the League should have its Representative Assembly either elect or appoint individuals to this office for a specified period of time (for example, four years).<sup>6</sup> Not only would this give the ombudspersons more independence to investigate League issues, especially those that concern decisions made by League staff or its board of directors, but it would also enhance their level of visibility and importance within the League.

Regardless of how the ombudspersons are selected, the League needs to improve how it publicizes their availability. Unlike state agency ombudspersons, the names, addresses, and telephone numbers of the League's ombudspersons are not available on the its Internet web site or in its publications. A person wishing to contact one must call the League's office to get the information. To date, the League has not had anyone inquire about or use its ombudspersons.

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<sup>6</sup> This would require changing the League's constitution.