



# WEEKLY UPDATE TO THE BOARD OF EDUCATION

October 28, 2021

## A MESSAGE FROM SUPERINTENDENT CARLTON D. JENKINS

Dear Board Members,

This week marks the last week of our first quarter. As we approach the second quarter of our school year, it is instructive to reflect on our first nine weeks as we continue on our journey while grappling with global health and racial/social justice pandemics.

This fall, we opened schools for full day, in-person instruction, five days per week. In order to address the anticipated nutritional needs of our students, we have participated in a community feeding option. Also, we hired additional counseling and mental health supports in anticipation our students, staff, and families would bring some emotional trauma from the twin pandemics into our schools upon their return. These strategic investments have been helpful, although food insecurity and social-emotional challenges are still evident in some of our students, families, and staff. In fact, we recently added two mental health days to our staff calendar to support our colleagues' social-emotional and mental health needs. We recognize the importance of trying to uplift health and wellness in order to ensure all our learning spaces are places where our students, staff, and families can thrive.

Our observations of students, staff, and families during the first quarter have reinforced the importance of voice. As we addressed topics as disparate as professional learning, violence, sustainability, social unrest, and mitigation protocols for celebratory events, our students, staff, families, and community have pushed us to embrace a mentality of co-creation. During these stressful and unprecedented times, we all need to feel included and valued during the process of interrogating and refining policies, practices, programs, and initiatives.

During this first quarter, the importance of embracing humility has been evident. Our unprecedented challenges of multiple pandemics have yielded local and national staffing shortages as well as global supply chain disruptions. As such, we have had to become more nimble and more willing to make strategic pivots in our operations. More importantly, we have had to learn when to acknowledge when our challenges do not have a quick solution but will require a long-term approach and collaborative co-creators.

Throughout this quarter, our district has risen to the occasion. Our students have displayed their potential in the classroom, co-curricular activities, and opportunities for advocacy. Our staff have worked collaboratively to tend to the needs of their students, families, and colleagues despite often being short-staffed. Our families have exemplified

resilience. Our community has stepped up to be co-creators, encouragers, and supporters.

As we watch the second quarter of our school year moving into place, I would like to thank you for your continued support and partnership. We look forward to providing you with more updates on our district's progress and planning next week.

Sincerely,

*Carlton*

Carlton D. Jenkins, Ph.D.

## BOARD OF EDUCATION QUESTIONS

- **Impact of Inflation on Referendum Timeline**  
Attached please find a memo responding to the question posed above.

## OTHER INFORMATION

- **Food & Nutrition Update**  
Attached is a memo from Cedric Hodo addressing the current conditions related to the food supply chain challenges from our food vendor Gordon's Food Service. We have attached the letter from the vendor. Additionally, there is a letter that went out to staff and parents to keep them informed as well.
- **Community metrics for the most recent two-week window (Oct 4-17):**
1. Average **daily case count is 118** and is trending down
  2. Average **daily percent positivity is 3.4%**
  3. Percent with **at least one vaccine dose is 74.4% - 85.9% of the eligible population (12+)**
  4. Percent **fully vaccinated is 71.7% - 82.8% of the eligible population (12+)**

The snapshot shares some good news - Dane County currently has the lowest case rate and lowest percent positivity of all 72 counties in the state. For more information, check out the [PHMDC Oct 21 Data Snapshot](#) and other associated resources on the PHMDC website.

➤ **Weekly Metrics and Ops Recordings and Agendas:**

10.26.21      Metrics Meeting [Agenda](#) & [Recording](#)  
10.28.21      Central and School Admin. Ops Meeting [Agenda](#) & [Recording](#)



## **Weekly News Report**

Attached is the weekly News Report which includes a curated list of local news stories directly related to MMSD over the course of the previous week with links provided.



## **Community Events:**

All dates for community announcements are posted on the [Board Community Activities Calendar](#)

- ✓ **Friends of MSCR 2021 Auction - November 1 - 12**  
*Cost:* Free  
*Where:* Online event  
*What:* MSCR's annual auction is taking place online and will be auctioning off donated items from local businesses and sponsors. The funds raised help support new program initiatives and needed equipment for MSCR. More info can be [found here](#).
  
- ✓ **The Dia de los Muertos Story Sharing and Celebration - Monday, November 8 at 6pm**  
*Cost:* Free (Rotunda Lobby)  
*Where:* Overture Center  
*What:* The Dia de los Muertos (Day of the Deceased) story sharing and celebration will be held at the Overture Center and the celebration will honor ancestors who have passed. Alters will be around the rotunda for public viewing. More info can be [found here](#).
  
- ✓ **Friday Night Lecture: Letting Go of Perfect - Friday, November 19, from 7pm-8:15pm**  
*Cost:* Free  
*Where:* Virtual Facebook event  
*What:* Kadampa Meditation Center Madison is hosting a virtual event around mindfulness and living stress-free without having to feel "perfect" Gen Kelsang Gomlam, teacher of Kadam Dharma, will provide insights on ways to understand and alleviate stress. More info can be [found here](#).
  
- ✓ **Fair Trade Holiday Festival - Saturday, December 4, from 8am-3pm**  
*Cost:* Free to attend  
*Where:* Monona Terrace Community and Convention Center  
  
*What:* Madison's premier shopping/trade event for the holidays featuring many vendors. One featured item is the All-Kids 2022 International Calendar. More info can be [found here](#).

## OUR UPCOMING BOARD CALENDAR

- Mon., Nov. 1, 5 p.m. Special Meeting in Open Session-WORKSHOP  
Virtual
- Mon., Nov. 1, 5:30 p.m. Instruction Work Group  
Virtual
- Wed., Nov. 3, 5:30 p.m. City Education Committee  
Virtual
- Mon., Nov. 8, 9 a.m. Board Officers  
Virtual
- Mon., Nov. 8, 5 p.m. Operations Work Group  
Virtual
- Wed., Nov. 10, 5 p.m. Student Senate  
Virtual
- Week of November 15 Board Member Briefings  
Virtual
- Mon., Nov. 15, 6:30 p.m. Student Recognition Ceremony  
(pre-recorded link)
- Mon., Nov. 22, 9 a.m. Board Officers  
Virtual
- Mon., Nov. 22, 6 p.m. Regular BOE Meeting  
TBD
- Nov. 25 and Nov. 26 THANKSGIVING HOLIDAY

## ITEMS ATTACHED FOR INFORMATION

1. Memo re: impact of inflation on referendum timeline
2. Food & Nutrition cover memo, letter from vendor, letter to staff and parents
3. Weekly News Report
4. Mail:
  - a. *WASB Policy Perspectives\_Sep\_Oct\_2021*

To: Members of the Board of Education  
From: Cedric Hodo, Executive Director, Building Services  
Mike Starr, Facilities Manager-Electrical/Technology  
Date: October 21, 2021  
Re: Overview of the impact of inflation on the Referendum timeline.

---

Following up on the question about the impact of inflation on these projects, here are some updates:

- Based on the pre-referendum scope, the project is tracking on budget. Continued diligence is required to maintain scope in line with the pre-referendum concepts in order to maintain a balanced budget.
- Milestone budget updates prior to bidding are being completed to review the project scope as well as current material and subcontractor pricing:
  - Project budgets contain contingencies to account for unknown conditions during the project. These different contingencies have been budgeted to address unknowns both pre-bid and post bid.
  - The construction budgets include current material pricing and a specific contingency line for future material inflation to bid day (when pricing will be locked in).
- Construction pricing is variable, but the focus is to provide the most value to the community with the funds allocated from the referendum.
- Material lead times are increasing and the team is periodically reviewing these lead times. Meeting current procurement milestone dates will be critical to ensure material arrives in a timely manner



---

Food and Nutrition | 4711 Pflaum Rd | Madison, Wisconsin 53719 | 608-204-4001 | [food.mmsd.org](http://food.mmsd.org)

---

Nichele Smith, Director | Carlton D. Jenkins, Ph.D., Superintendent of Schools

October 25, 2021

Dear MMSD staff and parents,

Food & Nutrition has been excited to welcome all students back into our buildings over the past several weeks. We have also had the pleasure to serve ALL students this school year, under the Seamless Summer (SSO) Program! While it has been great to watch the district take steps back toward a normal school year, Food & Nutrition has continued to experience significant operational challenges related to the pandemic.

Staffing and manufacturing shortages continue to be an issue across the food service industry. Our primary food distributor Gordon Food Service (GFS) first reported observing inventory and supply chain issues caused by material shortages, increased demand for select products and workforce challenges in August 2021. We are still facing huge challenges where deliveries are received from GFS three days per week at MMSD's Food Production Center and shortages totaling hundreds of cases of product are observed with each delivery. Excluding, employees with COVID symptoms has caused the staffing levels for our vendors to be capricious, namely among their transportation teams. We are experiencing canceled truck routes with no notice since school started months ago. We are continuing to partner with numerous vendors to try to always have our operational food inventories solidified. Ultimately, making sure that food service is proactive with operable backup plans for our District.

As our department has shown throughout the pandemic, Food & Nutrition remains adaptable and ready to lean forward to meet the needs of our students regardless of any obstacles we face. We have been working with our regulatory agencies to find new and creative ways to meet the requirements of our programs while managing the shortages we've seen throughout this school year so far. Some days, meals may look a little different or the menu may change from day-to-day than what our students are accustomed to, but we promise that we will continue to feed any students looking for breakfast and lunch each and every school day.

Food & Nutrition ultimate goal is to make sure that each student receives a delicious and well-balanced meal. We appreciate your patience as we navigate through these unique circumstances and are optimistic about the ways we will be able to expand our program for your students as the school year progresses and we work through these challenges

Thank you for your support,

Nichele Smith





October 25, 2021

Dear Gordon Food Service® Customer,

Thank you for trusting us with your business as we work hard to overcome the challenges facing our industry today.

Our industry has come roaring back and that is very encouraging. However, the pace of the recovery is contributing to unprecedented supply chain disruption, and also the need to significantly increase our hiring activity to support our customers.

We want to be transparent about some of the factors challenging us, while assuring you that Gordon Food Service's team of highly dedicated customer advocates are working tirelessly on your behalf. We have very strong partnerships with carriers and manufacturer partners who are working with us to meet customers' needs. As we drive forward, we are taking the following steps to **mitigate service disruption and on-time delivery issues** as much as possible:

- Attracting and retaining operational employees
- Securing inventory in advance on high-demand products
- Helping customers adapt menu offering and find suitable solutions in the interim
- Consistently holding ourselves accountable to our Customer Experience Index (100% in-stock invoice, no credits and on-time delivery)
- Holding suppliers accountable for inbound fill-rates

While we do not think this situation is permanent, we do expect continued pandemic-related obstacles in the months to come. If demand exceeds our capacity to serve, we'll prioritize the at-risk healthcare industry, and we'll honor our long-term fully committed restaurant and education customers.

Thanks again for the confidence you have placed in us to meet your food service needs. Our customers have been the heart of our family-owned business for 124 years and we will keep striving forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Eisel", written in a cursive style.

Scott Eisel

GL Director of Non-Commercial Sales

**To:** MMSD Board of Education

**From:** Cedric Hodo, Chief Operations Officer - Executive Director Buildings and Auxiliary Services

**Date:** October 28, 2021

**Item:** Food Supply Chain Challenges

---

This memo addresses the current conditions related to the Food Supply Chain challenges from our primary food vendor Gordon's Food.

### **Current Challenges**

We received an email from GFS, regarding their on-hand inventory. Dry goods and meats are now amongst the supply chain of shortages. We are working with GFS to streamline product availability. We have also met with Alpha and Prairie Farms to follow-up on previous conversations regarding potential product shortages.

Over the last few weeks, Alpha has had problems with hamburger buns and Prairie Farms has experienced some transportation issues with milk deliveries, due to a shortage of drivers. Both vendors have communicated their issues of late deliveries, due to transportation and product availability.

Food Service is now preparing to transition our focus more on the usage of our on-hand inventory. We have a team of inventory specialists who will be creating menus using our existing on-hand inventory throughout the district. Keep in mind, with the shortage of meats and higher prices based on demand, we will also incorporate menu selection using more veggie ingredients...( See attached powerpoint from vendor).

We will need to procure menu options that are more consistent with vegan or vegetarian diets. The abundance of fresh, frozen and canned veggie selections are readily available in the local and regional markets.

We ask that this information be allowed to be shared with our District, Board and Communities as the Food Service Industry is facing unparalleled times across the nation. Thank you for your patience as we get through this process.

Kind regards,

Cedric Hodo  
Chief Operations Officer- MMSD



# WEEKLY NEWS REPORT

Edition: 10/28/21

<b>NEWS ORG</b>	<b>NEWS HEADLINE &amp; LINK</b>
Beloit Daily News	<a href="#">Leavy reassigned to another position in Madison Metropolitan School District</a>
NBC 15	<a href="#">MMSD and Second Harvest close food gap for families in quarantine</a>
Cap Times	<a href="#">Madison schools see 39 new COVID-19 cases, 152 quarantines over past week</a>
WI State Journal	<a href="#">Proposal would add early literacy screening, intervention for Wisconsin public schools</a>
WI State Journal	<a href="#">Madison School Board approves \$538 million budget with 9% tax hike on average home</a>
CBS 3	<a href="#">MMSD board bans hidden surveillance cameras</a>
Cap Times (OP-ED)	<a href="#">East High students are absolutely right to pressure MMSD on assault policy</a>
WI State Journal	<a href="#">Janesville School District hit by ransomware attack</a>
NBC 15	<a href="#">Madison transgender teens reflect on impact of state rulings for school sports participation</a>
CBS 3	<a href="#">MMSD board bans hidden surveillance cameras</a>
Cap Times	<a href="#">LaFollette students plan sexual assault awareness week</a>
Cap Times (OP-ED)	<a href="#">Schools need to improve sexual assault prevention efforts</a>
WI State Journal	<a href="#">Donors support effort to buy school supplies for students in need</a>
WI State Journal	<a href="#">Former East High teacher gets 12 years in prison</a>
WISC News 3	<a href="#">SSM Health working with school districts to provide boosters</a>



# POLICY PERSPECTIVES

Vol. 44, No. 3  
September 2021

## DON'T WAIT UNTIL THE BILLS COME DUE: PROACTIVELY REVIEW LOCAL PURCHASING AND PROCUREMENT POLICIES

Most school board members are very familiar with the school board's role in approving the *disbursement* of district funds—the actual release of money from district depository accounts to pay for supplies, equipment, and services that the district has purchased. A long list of disbursements is typically presented for formal approval at monthly board meetings. However, less attention is sometimes given to understanding and monitoring the district's *procurement* processes. That is, how does the district go about identifying the items or services that are purchased, the vendor/supplier, the price, and (if applicable) the contract terms? In addition, how does the district adjust its processes to account for relatively insignificant procurement decisions, extremely expensive and consequential decisions, and everything in between?

Procurement and purchasing are operational processes that should be addressed in local policies and procedures. School boards and school business officials are encouraged to periodically review such policies and procedures, looking especially for (1) ambiguities and internal conflicts; (2) written processes that may not be being implemented on a consistent basis; (3) provisions that may be outdated; (4) processes and expectations that are serving the district well; and (5) processes and expectations that do not appear to be helping the district meet its goals related to financial stewardship, accountability, and efficiency. There are many reasons to undertake such a review, including the following:

- The board has an interest in ensuring that the district's procurement practices are reasonable and prudent, sufficiently transparent, and meeting the district's operational needs. At the

point the board is asked to approve a *disbursement* (i.e., an actual payment), it is sometimes too late to be trying to evaluate the *purchase* – the district may already be obligated to make the payment.

- Employees with purchasing authority and related responsibilities have an interest in ensuring that they are complying with the district's written rules and expectations. However, this is an area where it can be relatively easy to inadvertently develop inconsistent practices.
- Third parties (such as a disappointed potential vendor) sometimes attempt to point to local policies and procedures as a source of enforceable legal rights. Once a school district sets rules for itself through policy or through the announcement of procedures and standards that will apply to a specific procurement decision, the district will generally be expected to adhere to those self-imposed boundaries.
- Local policies that govern purchasing and procurement intersect with a variety of state and federal laws. Local policy can either facilitate or hinder legal compliance.

When reviewing purchasing and procurement policies, directly involve staff members who regularly perform the different types of procurement. Language in written policies and procedures can often appear to be reasonable when it is evaluated in the abstract. However, it is important to know whether key personnel agree that the local policies are clear, practical, and consistent with actual practices. A district's financial auditor can be another good source of subject matter expertise in the areas of procurement and purchasing.

The remainder of this article identifies several important considerations that a district may wish to incorporate into a review of its policies and procedures for purchasing and procurement.

### 1. Do the district's policies and procedures use key terminology correctly and consistently?

In purchasing and procurement policies, there are usually intended and important differences among terms such as “advertised prices,” “quotations,” “proposals,” “bids,” and “sealed bids.” Those terms generally identify or relate to different types of procurement processes, and those processes involve varying degrees of formality and complexity. Within local policies and procedures, it is important to use key terms consistently and with reasonable clarity as to their intended meaning. For example, avoid using the term “bid” (and related terms, such as “bidder”) in a manner that requires the reader to attribute a different meaning to the term at different locations within the same policy (or within closely-related policies). This could happen if “bid” is sometimes intended to have a narrow meaning (i.e., a competitive bid that is submitted in response to detailed procurement specifications that have been issued by the district) and sometimes intended to have an expansive meaning (i.e., to refer generally to *any* source of price/vendor competition—including something as simple as a price that is advertised to the public). WASB staff have reviewed several local policies in which the term “bid” is used in a manner that creates substantial ambiguity regarding the intended meaning of the policy.

### 2. To what extent do the district's existing policies define standards for awarding contracts or making other purchasing decisions?

The following are two examples of broad, sweeping policy statements that are **not** recommended because they would likely be impractical to implement, may be inconsistent with legal requirements in specific situations, and could easily lead to controversy:

- “It is the Board’s intent for the District to award *all* purchasing contracts to the low-cost bid provided that the vendor is deemed qualified.”
- “In *all* cases, the Board reserves the discretion to make final purchasing and contracting decisions that the Board determines are in the best interests of the District.”

School districts will generally be better served by policies that recognize that different procurement decisions are likely to call for different decision-

making standards. Some of the factors that might affect the selection of such standards include the significance of the purchase, any applicable legal requirements, the differences between procurement of services versus supplies or equipment, and the extent to which subjective quality assessments, life-cycle costs, operating costs, or other indirect costs may be relevant. In some situations, an appropriate standard may be something as simple as a decision by the individual with purchasing authority that the transaction is reasonable.

### 3. To what extent do existing policies establish different procurement/purchasing “tiers” using dollar-defined thresholds?

Because cost is a highly-relevant metric on which to categorize a school district’s procurement activities, many purchasing and procurement policies use dollar-defined tiers to some extent. A district should avoid gaps among the tiers for which no procurement rules are supplied, ensure that any overlap in the definitions of specific tiers is intentional/explained, identify known exceptions that may need to be accommodated (see below), and evaluate whether the tiers are practical to implement. It may be helpful to test a policy’s tiers and the related expectations against a representative sample of recent procurements.

### 4. To what extent do existing policies and procedures address, or at least accommodate, situations that are likely to be treated as exceptions to general local rules for purchasing and procurement?

As desirable as it can be to establish uniform standards and processes, the universe of procurement activity that occurs in school districts is such that there is a need to acknowledge exceptions to the general rules. The following list identifies some of the scenarios that might qualify for special treatment:

- Employment (a type of procurement of services)
- Professional services (e.g., the district’s auditor, district legal counsel, etc.)
- Emergency procurement
- Non-emergency procurement for non-budgeted items or services
- Situations in which prior purchasing decisions dictate or at least substantially influence the available choices for future

purchases (e.g., the renewal of a software license or purchasing additional textbooks for a curriculum the district is actively using)

- Construction and other facility improvements
- Intergovernmental agreements
- Situations in which state or federal law establishes requirements that exceed or supersede the district's local requirements
- Various other reasons that a district might consider "single-source," limited-competition, or some other modified procurement process

Even well-written policies are unlikely to identify all possible exceptions that might arise. Therefore, a school district may also want to expressly reserve discretion within its policies to approve additional exceptions to the extent consistent with any applicable laws.

##### **5. How well do local purchasing and procurement policies coordinate with requirements established under state and federal law?**

One significant application of this consideration concerns the coordination of local policies with the extensive requirements that apply to a school district's expenditure of federal funds. Although individual federal agencies sometimes establish supplemental requirements, the bulk of these requirements can be found in the "Uniform Grant Guidance" (UGG). The UGG regulations address issues such as procurement and purchasing, recordkeeping and other internal controls, the reasonableness of expenditures, and the disposition

of equipment and other property purchased with federal funds. School finance officials regularly encounter the UGG in connection with federal programs such as the IDEA (special education), Title I, and various school nutrition programs. Expenditures of federal stimulus/COVID-relief funds (i.e., "ESSER" and "GEER" funds) are also subject to the UGG.

As a starting point in the specific area of procurement, the UGG states that school districts "must have and use *documented procurement procedures* ... for the acquisition of property or services required under a Federal award or subaward." School districts must also "maintain *written standards of conduct* covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts." The UGG goes on to establish tiers at which increasingly formal procurement standards must be met, and those federal tiers are themselves affected by local procurement policies. As another example (among many other requirements), the UGG limits the extent to which school districts can rely on single-source procurement when making a purchase with federal funds.\*

Various state laws, such as section 66.0131 (local governmental purchasing) and section 120.12(24) (solicitation of sealed bids prior to the selection of a group health care benefits provider) are also relevant.

*[\* Subscribers to WASB's policy publication **The FOCUS** should look for a forthcoming issue on the specific topic of procurement under the Uniform Grant Guidance.]*

© 2021 **Policy Perspectives** is published by the Wisconsin Association of School Boards, Inc.  
Sue Today, President      John Ashley, Executive Director

**WASB members are encouraged to contact the WASB's legal and policy services staff with any questions.**

122 West Washington Avenue, Suite 400, Madison, WI 53703  
Phone: 608.257.2622 or 877.705.4422 (toll free)

Teresa Kimball  
Policy Services Assistant  
tkimball@wasb.org

Dan Mallin  
Legal and Policy Services Counsel  
dmallin@wasb.org

Scott Mikesh  
Legal and Policy Services Counsel  
smikesh@wasb.org

**Policy Perspectives** is designed to provide general information as a service to all WASB members. It should not be relied upon as legal advice. If legal advice is required, the services of competent legal counsel should be obtained.



Supporting, Promoting and Advancing Public Education  
122 W. Washington Avenue, SUITE 400, Madison, WI 53703  
**ELECTRONIC SERVICE REQUESTED**

Nonprofit Organization  
U.S. POSTAGE  
**PAID**  
Permit No. 14  
Winneconne, WI

## In This Month's Issue of **Policy Perspectives**

- **DON'T WAIT UNTIL THE BILLS COME DUE: PROACTIVELY REVIEW LOCAL PURCHASING AND PROCUREMENT POLICIES**



# POLICY PERSPECTIVES

Vol. 44, No. 4  
October 2021

## NEW SCHOOL BOARD ELECTION NOTICE REQUIREMENT: PUBLIC NOTICE OF INCUMBENT NONCANDIDACY DECISIONS

The cycle for the 2022 election of school board members will be starting soon. The most significant change to the process concerns the possible noncandidacy of any incumbent school board member whose term ends in April of 2022.

Under section 120.06(6)(b)3m of the state statutes (as amended earlier this year), the school district clerk is now responsible for providing prompt public notice whenever an incumbent whose seat will be contested at the next Spring Election either:

- Files a written notification that the incumbent is not a candidate for reelection to his or her office (see Form EL-163 and s. 120.06(6)(b)3); **or**
- Fails to file a declaration of candidacy (see Form EL-162sd) by the ballot-access deadline.

The notices must be posted on the school district's Internet site or, if the school district does not maintain an Internet site, by posting notices in at least 3 different locations within the school district.

In practice, clerks will need to address these new notice obligations in connection with two separate dates every year: (1) the late-December deadline for incumbents to file a notification of noncandidacy; and (2) the early-January deadline for incumbents to file their ballot-access documents (including the declaration of candidacy). In addition, the content of the notices will be different in each of those two situations. The content will be different not only because the triggering event for each notice is different, but also because if an incumbent board member files a timely notification of noncandidacy, there is no extension of the ballot-access filing deadline for other potential candidates. In contrast, if

the normal ballot-access filing deadline expires in early January and an incumbent has **neither** given timely notice of noncandidacy **nor** submitted a declaration of candidacy to qualify for the ballot, then the clerk will need to give notice that the incumbent did not declare as a candidate and that the January filing deadline is subject to a 72-hour extension for other qualified electors who may wish to declare their candidacy for the affected office(s). A sample notice is provided below for each of those two different scenarios.

*[Note: The answers to the following questions and the sample notices provided below reflect the WASB's initial interpretations of these new notice obligations. School district officials should monitor any communications from the Wisconsin Elections Commission that may provide more authoritative guidance.]*

### **Q: Can these new notice duties be performed by a delegee who acts on behalf of the board clerk?**

Yes. The duty to provide these notices may be performed by a delegee, although the clerk likely retains ultimate legal responsibility.

### **Q: What constitutes "prompt" notice?**

The statute does not supply a more specific deadline. It is possible that it would be considered reasonably "prompt" to complete the posting either on the same day as the relevant filing deadline (i.e., right after the applicable 5:00 p.m. deadline) or by no later than the next day that is not a Saturday, Sunday, or legal holiday. However, if an incumbent files a *notification of noncandidacy* prior to the late-December deadline, another option would be to post a notice at the time of the filing and then update the notice if any other incumbent files a notification of noncandidacy. Issuing notice of an incumbent's failure to file a *declaration of candidacy* by the early-January deadline is a particularly time-sensitive task due to the brevity of the 72-hour extension of the filing deadline.

**Q: Where on the school district’s website should these new notices be posted?**

The statute does not include any more-specific requirements or instructions. Especially in light of these new notice requirements (and if a district has not already done so), it may be useful to create a web page that is dedicated to school board election information and to include prominent links to that page from other locations on the website (e.g., web pages, menu trees, etc.) that focus on board-related information.

**Q: Once the clerk gives public notice that an incumbent has filed a timely notification of noncandidacy, is the clerk required to give additional notice of that same incumbent’s failure to file a declaration of candidacy?**

The statute does not appear to require the clerk to give the second notice in that scenario.

**Q: In connection with the notice that is tied to an incumbent’s failure to file a declaration of candidacy by the January deadline, what if an incumbent files a declaration but fails to file other documents that cause the ballot-access deadline to be extended for 72 hours?**

Section 120.06(6)(b)3m expressly mentions only a failure to file a declaration of candidacy. However, considering that the likely purpose of the statute is to provide relevant information to other potential candidates, there would be nothing wrong with giving notice of *any* event that triggers the 72-hour extension of the ballot-access deadline. In particular, if candidates in your school district are required to file nomination signatures in order to qualify for the ballot and an incumbent fails to file nomination papers by the early-January deadline, that also results in a 72-hour extension. *[Note: If a district gives public notice of a 72-hour extension that is caused by an incumbent’s failure to file nomination papers, the second sample notice provided below would need to be modified to identify the actual cause of the extension.]*

**Q: In the past, an incumbent could file a notification of noncandidacy on or before the late-December deadline, but then change their mind and still file the required ballot-access documents. Now that the clerk is required to give public notice of noncandidacy decisions, is it still possible for an incumbent who initially files a notification of**

**noncandidacy to change their mind and run for reelection?**

Yes. An incumbent is still permitted to reconsider their noncandidacy by filing the required ballot-access documents on a timely basis.

**Q: If an incumbent initially files a timely notification of noncandidacy, does the clerk have a duty to update the public notice if the incumbent changes their mind and ultimately files the paperwork that is necessary to qualify for placement on the ballot as a candidate for reelection?**

The statute does not impose a duty to update the notice in this scenario. However, the law also does not prohibit a clerk or school district from supplementing the original notice with other accurate information.

**Q: If an incumbent files an untimely notification of noncandidacy after the late-December deadline, is the clerk still required to provide public notice of the untimely filing?**

The clerk’s responsibilities in this scenario are arguably subject to more than one interpretation. Ideally, the situation will not arise if incumbents understand that only a timely notification of noncandidacy affects the 72-hour extension of the ballot-access deadline. However, if an incumbent insists on filing a late notification of noncandidacy, clerks and individuals assisting the clerk should follow any guidance that may be provided by the Elections Commission. If no concrete guidance is available, one option would be to post a brief notice of the late filing and then also give notice (immediately after the early-January deadline) of that incumbent’s failure to file a declaration of candidacy (since that failure will be the actual trigger for a 72-hour extension). *[IMPORTANT: The sample notices provided on the next page assume that any notifications of noncandidacy are filed on a timely basis (i.e., on or before the late-December deadline).]*

#### **More elections resources from the WASB:**

- We expect to post the electronic versions of the 2022 “School District Election Schedule” and “Guide for Candidates” pamphlet on the WASB website no later than the week of October 18.
- Webinar opportunity: Visit the WASB website to register for our two-part webinar covering school board elections procedures (Nov. 9) and the clerk’s campaign finance duties (Nov. 16).

(Sample Only)  
NOTICE OF INCUMBENT NONCANDIDACY  
FOR THE 2022 SCHOOL BOARD ELECTION  
[insert formal name of the School District]

The following incumbent school board member(s) whose term of office expires in April 2022 and whose seat will be contested at the 2022 Spring Election have filed a Notification of Noncandidacy, as provided under section 120.06(6)(b)3 of the state statutes:

1. [For each incumbent board member who files a Notification of Noncandidacy, list (1) the board member's name, and (2) applicable identifying information for the seat (e.g., whether the seat is open to any qualified elector of the district, assigned to an apportioned area or to an election district, a numbered seat, etc.).]

By filing the Notification of Noncandidacy, the incumbent(s) listed above have given notice that they do not intend to be a candidate for reelection to their school board office.

A qualified elector of the School District who wishes to become a candidate and have their name appear on the election ballot for any of the school board seat(s) that will be contested at the 2022 Spring Election must file all necessary forms at [insert filing location] by no later than **5:00 p.m. on Tuesday, January 4, 2022**. Additional information about school board elections is available on the District's website or by contacting [insert contact information].

[insert the DATE of the notice]  
[insert either: "NAME, School District Clerk" or "NAME, acting for the Clerk"]

(Sample Only)  
NOTICE OF 72-HOUR EXTENSION OF SCHOOL  
BOARD CANDIDATE FILING DEADLINE DUE  
TO INCUMBENT NONCANDIDACY  
[insert formal name of the School District]

The following incumbent school board member(s) whose term of office expires in April 2022 and whose seat will be contested at the 2022 Spring Election have filed neither a timely Notification of Noncandidacy nor a timely Declaration of Candidacy:

1. [For each incumbent who meets the criteria, list (1) the board member's name, and (2) applicable identifying information for the seat (e.g., whether the seat is open to any qualified elector of the district, assigned to an apportioned area or to an election district, a numbered seat, etc.).]

Pursuant to section 120.06(6)(b)3 of the state statutes and due to the noncandidacy of the above-listed incumbent(s), the candidate filing deadline for the affected seat(s) is subject to a 72-hour extension for other qualified electors.

Accordingly, a qualified elector of the School District who wishes to become a candidate and have their name appear on the election ballot for any of the school board seat(s) identified in this notice must file all necessary forms at [insert filing location] by no later than **5:00 p.m. on Friday, January 7, 2022**. Additional information about school board elections is available on the District's website or by contacting [insert contact information].

[insert the DATE of the notice]  
[insert either: "NAME, School District Clerk" or "NAME, acting for the Clerk"]

© 2021 **Policy Perspectives** is published by the Wisconsin Association of School Boards, Inc.  
Sue Today, President      John Ashley, Executive Director

**WASB members are encouraged to contact the WASB's legal and policy services staff with any questions.**

122 West Washington Avenue, Suite 400, Madison, WI 53703  
Phone: 608.257.2622 or 877.705.4422 (toll free)

Teresa Kimball  
Policy Services Assistant  
tkimball@wasb.org

Dan Mallin  
Legal and Policy Services Counsel  
dmallin@wasb.org

Scott Mikesh  
Legal and Policy Services Counsel  
smikesh@wasb.org

**Policy Perspectives** is designed to provide general information as a service to all WASB members. It should not be relied upon as legal advice. If legal advice is required, the services of competent legal counsel should be obtained.



Supporting, Promoting and Advancing Public Education

122 W. Washington Avenue, SUITE 400, Madison, WI 53703

**ELECTRONIC SERVICE REQUESTED**

Nonprofit Organization

U.S. POSTAGE

**PAID**

Permit No. 14  
Winneconne, WI

## In This Month's Issue of **Policy Perspectives**

- **NEW SCHOOL BOARD ELECTION NOTICE REQUIREMENT:  
PUBLIC NOTICE OF INCUMBENT NONCANDIDACY DECISIONS**
- **SEE INSIDE FOR SAMPLE NOTICES!**



# SUPERINTENDENT EVALUATION FRAMEWORK

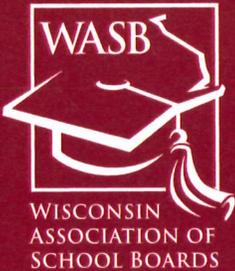
The WASB Superintendent Evaluation Framework recognizes the need for a collaborative development process to support the continuous growth of the superintendent. The superintendent evaluation should be used to foster this growth and to improve the overall leadership within the district.

The WASB Superintendent Evaluation Framework includes:

- Evaluation requirements
- Key considerations
- Prompts and questions for the first-year superintendent
- Standards-based rubrics for the beyond first-year superintendent, that include a self-assessment and the assessment from the board
- And more!

The WASB Superintendent Evaluation Framework is a three-year subscription.

Visit [WASB.org](http://WASB.org) for more information and to subscribe.



# ONLINE LEARNING PLATFORM

**A comprehensive source of on-demand training for school board members and administrators.**

**Take a deep dive into school law and governance on your own schedule**

**Access hundreds of hours of content**

**Includes special training for school board officers!**

---

## **Introductory Modules**

- Understanding the Legal Role of the School Board
- Understanding the Governing Role of the School Board

---

## **Advanced Modules**

- The Roles and Duties of School Board Officers\*
- Developing Governance and Leadership Skills
- Building a Strong Board/Superintendent Relationship
- The Judicial Role of the School Board
- School Finance
- Administrative Topics

**\*The Roles and Duties of School Board Officers module includes more than a dozen in-depth sessions exclusive to the WASB Online Learning Platform.**

---

Available as a one-year subscription with access for the full board, district administrator and one administrative assistant.

Two subscription packages available (fees based on board size):

- Access to all eight modules (\$795/\$995 per district)
- Access to the Roles and Duties of School Board Officers module only (\$595/\$795 per district)

**Visit [WASB.org](http://WASB.org) for more information and to subscribe.**