

MASC Board of Directors meet with Commissioner Riley

DESE Commissioner Jeffrey Riley shared his ideas and goals for moving education forward with the MASC Board of Directors at the Board's June 10 meeting. Riley began by reviewing his background in education and explained that he has set as a primary goal reconnecting the field with the department (DESE) and reestablishing a solid communications link. A key step, he emphasized, was to "close the book" on education reform and proceed to the next stages of improving outcomes for students.

Riley described his concerns about testing, not so much in the application and administration of tests,

but in the inappropriate use of data and the time it takes to give tests and to prepare for them. In his administration as the receiver of the Lawrence Public Schools, he chose a moderate path, working with teachers and the school committee who, in fact and as a result, became better advocates for their community.

He noted that DESE is an agency that will always focus on compliance, but that it should not be necessary to take it to the level to which the field has objected. "Test and punish is not my preferred course," he explained. He suggested, to the contrary, that developing a working strategy and spending more time focusing on



Commissioner Jeff Riley responds to questions and concerns from the MASC Board of Directors on issues ranging from charter school selection strategies to accountability and equity issues.

good teachers was the plan that worked best in Lawrence. "We are polarized, and we do not need to be so polarized with the staff that we have," he explained.

The commissioner referenced the development of a new accountability system for schools and districts. He indicated that the agency will implement the system, and though noting that it is controversial, but he indicated he will be studying it and make changes as needed. He stated that the field and teachers deserve to "take a breath" and, as a result, it is unlikely that new districts would be placed in severe sanction in the short term. Riley also explained that school committees have a responsibility to monitor and guide the process.

MASC President Beverly Hugo (Framingham) invited questions from the board. President-Elect Devin Sheehan (Holyoke) expressed concern that honors and advanced

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CONFERENCE EARLY BIRD SAVINGS EXTENDED

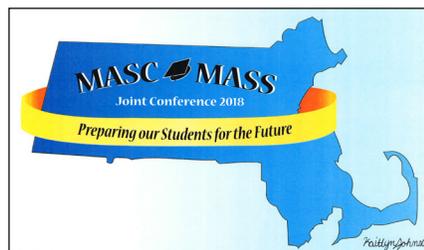
It's not too late to cash in on significant registration savings for the annual MASC/MASS

Joint Conference!!! In the event that you've been too busy with wrapping up the end of the school year (or too heat/July 4 holiday exhausted), the Conference Planning Committee

has extended the closing date for early bird registrations to Friday, August 10.

The conference will feature more than 70 workshops, bootcamps and targeted sessions in addition to keynote speakers, including **Commissioner Jeffrey Riley** (Wednesday Keynote Dinner); **Dr. Marc Brackett** (Thursday General Session); and TV/radio host **Jim Braude** who, with other presenters (to be named), will offer their thoughts on the mid-term election that will have taken place earlier that week. In addition, a full complement of sessions will be offered on Friday and Saturday, concluding with the ever-popular Student Voices lunch during which student leaders from around the state will share their impressions on a range of school and current-issue subjects. **REGISTER NOW:**

www.masc.org



Supreme Court affirms labor rights in *Janus* decision

In the last days of the Supreme Court 2017-2018 term, the Court handed down a ruling that could have wide-ranging impact on public employee unions and their ability to generate revenue from dues and fees. In the case *Janus v. AFSCME Council 31* (known hereafter as *Janus*), the Court ruled that unions may not require non-members to pay fair share agency fees.

Subsequent to the ruling, the National Schools Boards Association released a Frequently Asked Questions advisory on the case and its impact on local school districts. We have reprinted key questions and answers below.

1. What was the *Janus* case about?

- a. This case involved a lawsuit brought by an Illinois public employee, Mark Janus, challenging a union's right to collect dues and fees (so-called fair share provisions), against the employees will.
- b. Janus claimed that compelling him to pay the union dues and fees when he did not join and strongly objected to the positions the union took in collective bargaining and related activities violated his First Amendment right.

2. What was the Court's ruling in *0*?

- a. In a 5-4 decision, the U.S. Supreme Court, overruling *Abood v. Detroit Bd. of Ed.*, 431 U.S. 209 (1977), held: "The State's extraction of agency fees from nonconsenting publicsector employees violates the First Amendment."
- b. In short, the Court ruled that employees cannot be compelled to pay union dues or fees, because doing so violates the free speech rights of the employee by compelling him/her to subsidize the union's "private speech on matters of substantial public concern."

3. Is there a distinction between union fees and union dues?

- a. Yes, dues are generally the monies paid by members to a union for representation in collective bargaining matters while fees are monies paid by members for other purposes, including political purposes. Dues and fees are part of so-called "fair share" provisions in collective bargaining agreements.
- b. For purposes of the Court's ruling in *Janus*, there is no distinction between dues and fees. Employees cannot be compelled to authorize deductions (whether dues or fees) from their pay to a union.

4. Who will the Court's ruling affect?

- a. The ruling most directly applies to all public-sector unions and public employers and employees.
- b. At the very least, it will affect the 23 states that allow unions for public employees to negotiate fair-share fees.

5. How will it impact states and jurisdictions that do not have fair-share provisions in their statutes?

- a. Likely, there will be little to no impact on these jurisdictions, particularly if those jurisdictions prohibit fair-share provisions.
- b. However, in jurisdictions that allow unions to collect fair-share monies without the employee's authorization, those deductions cannot be collected from employees who do not join the union and object to the deductions.

6. Will unions still be required to represent and provide other benefits to district employees who have chosen not to join those unions?

a. Yes, unions will be required to represent and provide other benefits to district employees who have chosen not to join them. The *Janus* opinion clearly states that a union's duty of fair representation is a necessary part of the authority that it seeks when it chooses to be the exclusive [bargaining] representative. Therefore, it has the duty to represent non-members, as well as members, even though non-members will no longer be required to pay agency fees.

7. Will this decision require school committees to renegotiate their union contracts?

- a. The decision may require you to renegotiate your union contracts. Agency fees can be allowed by state law or by the collective bargaining agreements (CBAs) that your school district has with its unions.
- b. If the agency fee is required by a CBA, a school district will need to re-negotiate the agreement so that it is consistent with the holding in *Janus*.
- c. If the agency fee is a provision of state law, you should work with your COSA member school attorney to determine what steps your district needs to take to ensure compliance with the Court's ruling in *Janus*.

8. Will this decision affect other aspects of our district's negotiations with its unions?

a. It depends on a district's current practices, but it is unlikely. The decision narrowly focuses on the question of dues and fees.

9. Will this decision affect the way in which we collect union dues from employees?

a. It depends on your current practices. If you are in a jurisdiction that allows deductions from employees for their union fees, you should ensure that an employee has authorized those deductions. Obtaining an employee's signature or using a verified electronic signature application is recommended. As a matter of fact, Justice Alito's majority opinion lists the ability to obtain automatic payroll deduction of union dues and fees from employee wages as an additional privilege of being exclusive representative.

10. What are some best practices that our district can employ to comply with the *Janus* ruling?

- a. Engage your school attorney to review your collective bargaining agreement(s) (CBAs).
- b. Ensure that your CBAs comply with state law as impacted by *Janus*.
- c. Determine whether state law requires "sign-off" by employee prior to union fees or dues deductions.
- d. Establish a system that requires prior authorization by an employee prior to union dues or fees being deducted.
- e. Engage your local union bargaining agent as a partner in implementing new processes.
- f. Review your CBAs agreements to determine whether they contain clauses that require agency fees. If they do, work with your school attorney and your union to renegotiate the contract so that there is a process in place to ensure only authorized deductions are being made.
- g. If the fees are a function of your state's law, work with your school attorney for assistance in determining how you can best implement the Court's ruling.
- h. If you are deducting agency fees from non-union members, make certain that the process for collecting union fees dues is updated so that you do not continue to take fees from employees objecting to the deductions.

Report finds significant undercount of MA children

As the nation heads toward the 2020 census, new estimates show that 104,000 (29 percent) of the Commonwealth's youngest children live in neighborhoods where the census has historically had difficulty achieving an accurate count.

Counting all people in the state accurately plays an important role in determining federal funding for communities. While Massachusetts is ranked second in the nation on child well-being, according to the 2018 KIDS COUNT® Data Book released at the end of June by the Annie E. Casey Foundation, an undercount of Massachusetts children could adversely impact the programs and supports that have aided the state's progress and allowed children to thrive.

An undercount could affect the services that help the families make ends meet. In Fiscal Year 2015, the federal government supported Massachusetts children in a variety of ways, such as through \$280.9 million for special education services, \$146.9 for the Head Start program, and \$76.3 million for affordable child care.

The annual KIDS COUNT® Data Book uses 16 indicators to rank each state across four domains - health, education, economic well-being, and family and community - as an assessment of child well-being. Massachusetts ranks second overall. According to the Data Book, Massachusetts leads the nation in health measures, reading levels and mathematic achievement, but the share of children living in poverty is the same as it was in 2010 - 14 percent. Within each domain, Massachusetts ranks:

- **11th in economic well-being.** The share of Massachusetts children living in families where no parent has full-time, year-round employment de-

creased by 10 percent since 2010.

- **Second in education.** Massachusetts children remain first in mathematic achievement (with 50 percent of eighth-graders scoring at or above proficient level) and reading level (with 51 percent of fourth-graders scoring at or above proficient level). The number of 3- and 4-year olds attending school has stayed essentially the same since 2009-2011.

- **First in health.** The state remains first in the nation in ensuring children have health insurance and has seen a slight decrease since 2010 in the percent of babies born with a low birthweight.

- **Ninth in family and community domain.** The state has seen a 47 percent drop in teen birth rates since 2010, and has seen a slight decrease in the number of children living in high-poverty neighborhoods. In 2016, about 8 percent of children lived in high-poverty neighborhoods.

Massachusetts' rankings on economic well-being and in the family and community domain indicate that raising the incomes of low- to middle-income families and improving employment opportunities remain important challenges for the Commonwealth. Getting an accurate scope of the challenges, however, requires an accurate census count.

The 2018 KIDS COUNT® Data Book is available at www.aecf.org/databook. See also the Kids Count Data Center for national, state, and local data on hundreds of indicators of child well-being. Readers may also be interested in a discussion of policies affecting child well-being as well as state and local data in MassBudget's recent report *Obstacles on the Road to Opportunity: Finding a Way Forward*. MassBudget is the KIDS COUNT® organization for Massachusetts.

NOTE: New ESSA requirements for Military Children and Children in Foster Care

Under the "Every Student Succeeds Act", federal law requires school districts to make accommodations for both children of active duty military families and for children placed in foster care. The federal Department of Education and the Massachusetts Department of Elementary and Secondary Education have issued guidance in these areas. While not requiring school district policy, the guidance provides the opportunity to educate staff and community on compliance with law through policy guidance.

MASC has outlined a policy for each area based upon the published guidance:

JFABE - Education Opportunities for Military Children

JFABF - Education Opportunities for Children in Foster Care

These policies can be found on the MASC website and in the MASC Online Policy Reference Manual.

To access the full language of the policies, go to: <https://www.masc.org/policy-services-3/updated-new-policies>

MASC NEWS

THREE STUDENTS AWARDED MASC PAST PRESIDENTS SCHOLARSHIPS

Last month, the MASC Past Presidents Scholarship Committee selected three students to receive the Association's 2018 Past Presidents Scholarship award. The students, who were selected from the largest applicant pool to date, were chosen based on their scholarship, their service to their school district and/or local community; and achievement in athletic or extracurricular endeavors.

The winners are:

Abigail Fitzgibbon, Manchester-Essex Regional (will attend UCLA in the fall)

Katarina Lusnia, Easthampton (will attend Quinnipiac College in the fall)

Alexis Rabkin, Cambridge (will attend Barnard College in the fall).

Congratulations to all.

REPORT OF THE NOMINATING COMMITTEE

The MASC Nominating Committee met on Monday, June 20 and voted to recommend the following individuals to serve on the Board of Directors. These nominees will be presented to the Delegate Assembly on Friday, November 9 for final approval.

For President-Elect: Deborah Davis, Northeast Metropolitan Reg. Voc. Tech.

For Vice President: B. Ellen Holmes, Ashburnham-Westminster Reg.

For Secretary-Treasurer: Denise Hurst, Springfield

President 2019: Devin Sheehan, Holyoke

The full report of the Committee is being mailed to all MASC members.

MASSACHUSETTS NEWS

SECOND INSTALLMENT OF ADDITIONAL SCHOOL FUNDING TO SUPPORT HURRICANE EVACUEES

The Governor's office announced earlier this month additional state education funds, totaling more than \$8.2 million, have been released to MA school districts that enrolled students who evacuated from Puerto Rico and the U.S. Virgin Islands.

This is the second installment of \$15 million in additional Fiscal Year 2018 funding pledged by the Administration to help support the costs of educating students who enrolled in Massachusetts schools following Hurricanes Maria and Irma. The Governor's Fiscal Year 2019 (FY19) budget proposal also included an additional \$15 million for FY19, and if included in the final budget, would bring the total additional school aid for districts educating students who evacuated to Massachusetts to more than \$30 million.

The Department of Elementary and Secondary Education will distribute more than \$8.2 million in aid to 122 school districts impacted by increased student enrollment, consistent with the Chapter 70 funding formula. In April, more than \$6.7 million was distributed to 107 school districts around the Commonwealth impacted by additional student enrollments.

In January, Governor Baker filed a supplemental budget bill which included \$15 million in additional local aid to help schools address the costs of educating students who enrolled following the hurricanes in the Caribbean. Between October and March, approximately 3,000 students from Puerto Rico and the U.S. Virgin Islands enrolled in Massachusetts K-12 schools, and there are currently more than 2,200 evacuees still enrolled in Massachusetts public schools.

In addition, efforts continue to coordinate hurricane evacuee assistance across state agencies and with the Commonwealth's 22 Family Resource Centers and other Community Based Organizations/Centers to help evacuees access FEMA and Commonwealth-funded disaster benefits and provide critical case management support to individuals and families impacted by Hurricanes Maria and Irma. will deliberate its budget in May.

MASC Division members: come join the discussion on Facebook!

Did you know the MASC Divisions have Facebook groups? You can find links to them under "Groups" off the MASC Facebook page! Post articles of interest to your division colleagues, discuss issues in your area, and make new connections!



You can find MASC on Facebook at [facebook.com/schoolcommittees](https://www.facebook.com/schoolcommittees). Please like the page and be sure you're following as well.

Remember you can also find MASC on LinkedIn, as well as Twitter and Instagram (@MASCSchoolComm).

Commissioner Riley

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placement courses pose a special challenge. On one hand, small and rural districts can't always afford them and they might be sanctioned if insufficient numbers of students enroll. On the other hand, some districts encourage students to enroll in AP programs and taking the AP tests as a challenge. These students may work hard, but not necessarily excel at the tests.

Riley acknowledged that advanced placement honors classes raise an issue of equity. At the same time, there is a genuine fear that schools might suspend or expel low performing children as a strategy for gaining higher average scores among students. Here he urged focusing on the lowest 25% of performing students where students might be at risk for "falling through the cracks." He described his special concerns for second language learners who might be at special risk, especially when they are required to be tested and assessed along side students who are native or more fluent English speakers.

Immediate Past President Patrick Murphy (Barnstable) asked about the punitive culture that has evolved at DESE and how the commissioner

was addressing this with staff. Riley insists that he has prioritized putting the money where the students are and will be on the alert for efforts to assert "overcompliance." His goal is for staff to attain an awareness of how things actually play out in the field.

Division VIII Chair Don Erickson (BayPath Voc. Tech.) called attention to vocational and technical education in light of the commissioner's prioritization of putting money where students learn. Riley responded that we must deal with the variation in teacher quality and that we must also share the best practices and let the evaluation system take care of itself.

Division VII Chair Geoff Swett (Wareham) raised the question of "adverse selection" when certain students are recruited out of their districts by school choice programs, vocational technical schools, and charter schools. He warned that this results in the home districts being evaluated in a climate where key students are drawn away by various recruiting strategies, particularly charters where schools have well documented records of recruiting low risk students. **Division IV Chair, Michelle Bodin-Hettinger** of Marlboro concurred, noting that a science and math themed charter school in her district had very few students who require special education.

Riley acknowledged that he supports a competitive marketplace. Still, he admitted that while he is leery of how charters recruit, he believes that the absence of competition can be unproductive.

Minority Caucus Chair Mildred Lefebvre (Holyoke) noted that charter schools were to have been centers of innovation and asked if the commissioner would be holding them to this standard when recommending initial authorizations, expansions or renewals. The commissioner was non-committal on this issue, but promised to keep this concern in mind as he determines how much flexibility should be applied.

Past President Jake Oliveira (Ludlow) raised issues of local control and the emerging issues of innovation zones. He noted that school committees bring accountability and advocacy. He warned of the problems with appointed boards and that exclusion of local input raises issues for the long term in places like Lawrence. The commissioner noted that teacher leadership should also be considered a factor in local control.

In conclusion, Riley said, "We have a real opportunity, but I would appreciate both your patience and your advocacy."

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