



## MN Senate Education Finance and Policy Committee

Chairman Sen. Roger Chamberlain, Vice Chair Sen. Justin Eichorn,

Members: Sen. Julia Coleman, Sen. Zach Duckworth, Sen. Scott Newman

### Interim Findings

On January 20, 2022, more than 200 FBI agents (most temporarily reassigned from other states) served search warrants on numerous locations around the Minneapolis-St. Paul metro area. The cause of this unprecedented scene was a suspected fraud costing tens (and, perhaps hundreds) of millions of dollars in misused federal and state child nutrition (FNS) funds.

In Minnesota, the Department of Education (MDE) is the state agency assigned to oversee and administer the child nutrition funds in question. [Early reports](#) on the fraud echoed MDE's claim that the Governor's "stay-at-home order and telework policies interfered with the ability to oversee the program. According to MDE officials, this left the program vulnerable to fraud and abuse." (See page 10.)

While it may be true that the Governor's reaction to Covid created problems, numerous additional inexplicable shortcomings, and derelictions of duty at MDE greatly magnified the scope of the loss. A review of related documents and a [series of three public hearings](#) on the scandal paint a picture of agency leadership that either did not know how to responsibly manage FNS programs or found the faithful execution of those duties burdensome and optional.

The following interim findings are categorized into three types:

- 1) MDE did not follow related state and federal law.
  - MDE, contrary to [federal law](#) and its own [requirements](#) (see page 5), did not assure performance bonds to cover sponsors and large vendors in the case on non-performance. In so doing, MDE contributed to the size of the loss to taxpayers and program recipients by 10-25%.
  - Had MDE followed the criteria required in its own [FNS application](#) (see page 4) it could have [required bank](#) records and financial records from suspected fraudsters and confirmed that they were pocketing FNS dollars rather than buying food.
  - While MDE has the legal right to access sponsor and vendor bank records, the information/impression MDE gave the FBI (as reported in the search FBI warrant. (I.e., "MDE did not have access to Food Service programs' bank records." [See page 12](#)) was that it could not access these records. Lying to the FBI during an investigation is often a crime.
  - Commissioner Mueller failed to safeguard public funds as required by [statute](#).
  - MDE established an increasing rate of precedent creation for [misadministration](#) of FNS funds (see [audit findings](#)). While the scope of MDE's Covid-era failure was historic, the agency's failure was not ahistorical.

- MDE contended that [it lacks the legal authority](#) to do more to stop FNS fraud, arguing that it could solely rely on federal law. Yet [state law](#) has, for years, required MDE Commissioners to bring forward proposed legislation to help MDE better administer the (FNS) programs.
  - MDE leadership confirmed that it had [problems with key players](#) within the FNS fraud [since 2018](#). Yet rather than relaying these problems to the legislature and asking for increased state statutory authority, the agency has consistently sought to go its own way. In the same winter/spring that the FNS fraud became public, the administration acted to [remove \\$1 billion of FNS funding](#) from the legislature's review.
- 2) MDE practiced questionable business practices that would seldom survive in a work environment that provided real accountability.
- MDE's FNS programs had no meaningful reporting to MDE's "Risk Mitigation and Internal Control" office. While the two areas of MDE sometimes communicated, FNS staff approved thousands of meals claimed from suspect locations (duplicate addresses, [second floor apartments](#), seemingly vacant store fronts), in increasing amounts, totaling tens of millions of dollars without those applications getting a [financial review](#) from MDE's Risk Mitigation and Internal Control office.
  - MDE had no process to assure [greater accountability](#) where the possibility of greater financial loss existed. Vendors claiming millions in funding were subject to the same low-level of accountability that MDE provided to vendors claiming thousands of dollars.
  - While, as MDE's leader, each Commissioner has historically had meaningful oversight of FNS, [Heather Muller](#), upon assuming the mantle of leadership, decided to forgo active FNS oversight so that she could continue to serve as one of a larger group serving on the FNS appeals panel.
  - MDE failed to act on [early warnings](#) about suspected fraud.
  - MDE failed to meaningfully pursue programmatic fraud that it suspected. While thousands of meals and millions of dollars were being fraudulently claimed, the department limited site visits and instead relied on "[desk audits](#)". The department could have placed staff outside ([in their car](#)) of suspicious programs to [monitor](#) foot-traffic but chose not to. MDE cited Covid-risk to its staff (from the same sites it approved for use by parents and children).
  - MDE gave free rein to external sponsors (intermediary parties between MDE and food vendors) who had established a [problematic track-record](#), reducing or [forgoing vendor oversight](#), when MDE should have been increasing it.
  - During a time that MDE claimed to rely more heavily on reviewing financial documents and [performing desk audits](#), and less on site visits, MDE actually did less with the data it had on-hand. MDE ceased reviewing [estimated meals served](#) on vendor applications and reconciling these with health and safety codes. Had MDE identified suspiciously large, estimated meal numbers in the application process, it might have prevented those sites from demanding bogus reimbursements months later.
- 3) MDE lacked administrative direction and seems divorced from reality and what was demanded of it.
- Assistant Commissioner Daron Korte was quoted in the Pioneer Press ([April 28, 2021](#)) saying "There are a lot of nonprofits reporting large numbers of meals served, which has created a

fraud risk". Shortly thereafter, in a July 2021 deposition, Assistant Commissioner Daron Korte said that he did not suspect fraud. Yet, during (the preceding) April, someone at MDE contacted the FBI about suspected fraud.

- MDE repeatedly claimed that it allowed the accused fraudsters to continue to access public funds because MDE had lost, or [feared losing](#), to the accused in court. Yet, in 2021, MDE's funding (including its legal defense [line-item for state Attorney General services](#)) was increased by over 16%. When asked about this, agency staff refused to discuss their "legal strategy". Had MDE pursued legal discovery within a court setting, they would have had another opportunity to see the bank accounts of those accused of FNS fraud.
- In the face of egregious fraud, MDE leadership frequently claimed its "[process worked](#)" and that it was a "[learning organization](#)".

**Minnesota's FNS fraud was the [largest in the nation](#). One of two things is true; either Minnesotans are more inclined to FNS fraud, or our appointed state administrators (MDE) are less capable than other states.**