



# bulletin



JULY 2010

Excellence in North Dakota public education through local school board governance ■ VOL XXXV ISSUE 7

## Commission Subcommittees Make Recommendations

The Commission on Education Improvement met June 22 to receive reports from four subcommittees that have been working over the past year. Those subcommittees are: (1) REAs, Pre-K, and Student Support Services; (2) Quality Instruction; (3) Curriculum, Assessment, Scholarship, Technology, and Transition to Work and College; and (4) Formula. No consensus vote was taken on various recommendations, but a first-draft Commission report will be created and reviewed at the next meeting.

Because the full reports are too lengthy to reproduce here, this article highlights a few significant recommendations from the four subcommittees.

### REAs, PRE-K, AND STUDENT SUPPORT

#### 1. REAs

- Eliminate current list of services in Century Code in favor of requiring all eight REAs to provide the following core areas of service: Professional Development, Technology and Technology Support, School Improvement Support, Data System and Usage Support, and Curriculum Enrichment. REAs will develop common standards of quality for each of the common core areas. In addition, REAs are encouraged

to provide additional services unique to their geographic region.

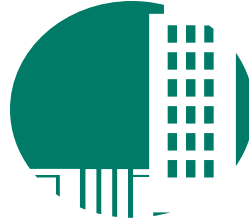
- REAs should work closely with the Department of Career and Technical Education to provide more CTE opportunities for students.
- Strongly recommend that all REA coordinators (full-time or part-time) be on 12-month contracts with appropriate funding from the state.

#### 2. Pre-K

- Support the “Gearing Up For Kindergarten” program run by NDSU Extension Service and offer pilot programs in the state. It is essential these programs have direct educational benefits and accountability standards.

#### 3. Student Support

- Emphasize “on-time graduation” but continue support efforts to assist those students who take longer than four to graduate.
- Create a resource list that highlights initiatives available to assist at-risk students and distribute to administrators, counselors, teachers, and parents.



- Make CTE courses more uniformly accessible throughout the state by: (1) providing incentives to schools to offer CTE courses, (2) increasing the number of area career and tech centers, and (3) increasing funding to CTE.
- Implement “individual graduation plans” for students beginning in 8<sup>th</sup> grade to help them connect their interests and abilities with curriculum and career aspirations. Review the plans with students annually.
- Monitor progress of the task force formed in Standing Rock whose goal is to reduce the dropout rate. Watch for opportunities to replicate the initiative in other parts of the state.
- Enhance and expand after-school programs to reach more students, recognizing that some see this funding in competition with general K-12 funding.

### QUALITY INSTRUCTION

1. ND Professional Teaching Standards
  - Work to devise common teaching standards.
  - Work with ND Professional Development Advisory Committee to make professional development plans meaningful to teachers, administrators, and parents and

*Continued on page 2*

## Bulletin Now Available Online

In order to better serve members, NDSBA is now posting the *Bulletin* on its webpage where issues will be archived for future reference. This will allow boards conducting paperless meetings to have access from their laptops. In addition, members can review previous

issues they may have misplaced. The *Bulletin* will continue to arrive by mail as well.

**ALERT:** Watch for your August *Bulletin* previewing exciting keynotes for the NDSBA Annual Convention.

# ■ SUBCOMMITTEES

*Continued from page 1*

effective in improving instruction and student achievement.

## 2. Institute a New Principal Mentoring Program

### 3. Alternative Compensation

- Pilot alternative pay programs that integrate evaluation and professional development into a compensation system.

## **CASTT** (Curriculum, Assessment, Scholarship, Technology, and Transition to Work and College)

### 1. Readiness for Work and College

- Develop uniform standards among higher education institutions for student placement into developmental (remedial) and college-level courses.
- Address alignment of curricular standards and benchmarks between high schools and higher education institutions. Suggest beginning with pilot projects between 9-12 and higher education teachers of language arts courses to develop mutual expectations.

- Continue state funding of ACT/ WorkKeys
- State should survey and provide information about which Career Inventory Assessments and Interim Assessments are given in schools, including when and at what grade level they are administered.

### 2. Use of Technology to Deliver CTE and other Course Work

- Encourage REAs to develop plans to offer students in rural districts opportunities for Coordinated Plans of Study (CPS); encourage offering more CTE/CPS courses online, possibly through the Center for Distance Education (CDE); and develop a plan for funding online courses.
- Support reorganization plans as proposed for CDE with recommended changes for state funding.
- Encourage availability of Advanced Placement and dual credit courses from CDE.
- Several recommendations are made to clarify scholarship eligibility requirements to coincide with legislative intent and need for long-term funding of the program.

### 3. National Standards and Assessments

- Support ongoing non-binding agreements to participate in formation of common standards and assessments.

### 4. State (EdSmart) and K-12 (ndSLED) Longitudinal Data Systems

- Support continued development of ndSLED and expansion of the number of pilot schools from 30 to 80.
- Create state law requiring exchange of student information between ndSLED and higher education with a common understanding of FERPA issues.
- Support continued development of the State P-20 Longitudinal Data System with state funding.

## **FORMULA**

### 1. Funding for Power School

- Three options are being considered: (1) appropriate \$4,232,351 directly to the state Information Technology Department (ITD) to fund all costs of Power School implementation,

(2) fund this amount to foundation aid and distribute through a "Data Collection Factor" of .005 for each student tracked by Power School, or (3) appropriate \$2,532,000 to ITD and retain a "Technology" factor of .002 (\$1,700,000) intended for schools to use for costs of Power School but available for other needs. Each option includes funding for two temporary full-time positions for statewide Power School implementation.

### 2. ACT Funding

- Two options are being considered: (1) appropriate \$500,000 directly to DPI to pay the entire cost of ACT tests for all eleventh graders, or (2) distribute \$500,000 to districts through the formula and require each district to pay costs of ACT tests including administering to private school students residing in their districts.

### 3. Imputed Taxable Valuation

- Average imputed taxable valuation per pupil by dropping those that are more than three or four times the statewide average and those that are less than one-fourth or one-fifth the statewide average.

### 4. Special Education

- Consider allowing cost reimbursement for transportation of high cost students.
- Raise ADM factor.
- Consider supplemental distribution of surplus funds in high cost formula.
- Investigate inequity of funding for students who live in a district with institutional services vs. those from elsewhere and have boarding fees.

### 5. Consider redefining isolated schools for funding purposes.

As is evident from this brief summary of selected recommendations, the Commission will be considering a multitude of program changes and new initiatives for P-20 education in North Dakota. The Governor's office has not yet suggested a funding level for K-12 schools. Availability of funding will have to be considered before approving the final report. The next meeting is tentatively scheduled for August 25 at the Capitol.



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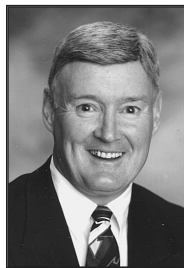
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# comments of counsel

■ By Gary R. Thune, NDSBA Legal Counsel



## Starting School Before Negotiations Are Complete

While it is preferable to complete negotiations prior to the start of school, it is not uncommon for negotiations and/or fact finding to be incomplete in the fall. This situation raises numerous questions for administrators and school boards. Below is a helpful “Q and A” on the subject.

**QUESTION:** *How do boards know whether a teacher will return in the fall if negotiations are still in progress?*

**ANSWER:** They do not know until the first day of school when the teacher reports to work.

**QUESTION:** *Can the board require teachers to sign letters of intent to return?*

**ANSWER:** No. Even if a teacher signs a letter of intent, it has been held insufficient to create a contractual obligation.

**QUESTION:** *Even though teachers are legally entitled to a contract offer when negotiations are complete, can they still “shop around” for other teaching jobs?*

**ANSWER:** Yes. Teachers are not “under contract” during this time and, therefore, would not be “in breach” of a contract (which they have not yet been offered or accepted) should they elect to accept a teaching position elsewhere.

**QUESTION:** *Even if school has started when negotiations are complete, do teachers still have 30 days to accept a contract when it is offered?*

**ANSWER:** Yes, and the individual contract (or an accompanying cover letter) must specify the date when the acceptance is due. The date must be at least 30 calendar days after the teacher receives notification. We recommend using 35 calendar days to be on the “safe side.”

**QUESTION:** *If school is in session and negotiations are ongoing, what salary and benefits are payable?*

**ANSWER:** The prior year’s master contract (including its salary schedule) is applicable until negotiations are completed and each teacher has signed a new contract.

**QUESTION:** *When negotiations are complete and a teacher has signed the new contract for the school year in progress, are the new salary and fringe benefits retroactive to the first day of school?*

**ANSWER:** Yes, unless during the negotiations process the board has given clear, concise and repeated notice of its intent to not pay retroactively and the board is willing and able to defend its position in a court of law when sued.

**QUESTION:** *If negotiations are finally completed on December 1 and a teacher elects not to sign the contract offered and return to work in January, is that teacher entitled to receive the negotiated increases in salary and benefits for the four months he/she taught before leaving the district?*

**ANSWER:** No. Unless the teacher accepts the “new” contract by signing and returning it in a timely manner, he/she is not entitled to its increased level of compensation. If the teacher signs the new contract, accepts the retroactive pay, and then elects to leave before the school year is completed, this would be a breach of contract and could be reported to the Education Standards and Practices Board for possible suspension or revocation of his/her teaching license.

**QUESTION:** *If negotiations do not result in a mutual agreement and the board issues contracts unilaterally, are the rules different?*

**ANSWER:** Basically, no. The unilateral offer must be identical to the board’s final offer and must comply with the same (30-day) notice requirements. The only difference is the absence of “ratification” by the teachers. They

usually take the position they have not agreed to the board’s unilateral offer and will not ratify it.

**QUESTION:** *If there is no “agreement,” how does a board prepare a “new” master contract?*

**ANSWER:** A new master contract should be prepared to include both the issues that were agreed to and the issues the board resolved unilaterally. This master contract would then be the starting point for the following year’s negotiations.

**QUESTION:** *Does suspension of the right to issue contracts during negotiations apply to filling teaching vacancies?*

**ANSWER:** No. Contracts may be offered to new hires with a specified deadline to accept or reject, which may be less than 30 days. Contracts offered to new hires should state that they are subject to terms established during the negotiations process.

Beginning the school year without a contract can include complex issues such as paying on the old contract, retroactivity, and unilateral offers. You should get legal advice before taking action that could jeopardize your district’s legal position on these contract matters.

## NSBA Announces Registration Dates for Annual Conference

The NSBA 2011 Annual Conference will be held in San Francisco, California, on April 9-11. Registration will open on **September 1**, and housing requests will be accepted beginning **October 12**.

A person must be registered for the conference before making housing requests. Preferred housing fills up fast, so mark your calendar for September 1 and register early.

Information will be available at [www.nsba.org/conference](http://www.nsba.org/conference).



# NDSBA Service Award Program

NDSBA recognizes board members for their professional development, service, and participation. Awards are made in two categories based on a point system: **Veteran Board Members** (100 points) and **Master Board Members** (200 points). Members who have participated in National School Boards Association events receive their award "with distinction." Awards are presented



at NDSBA's Annual Convention. Business managers should maintain the scoring forms for board members and send a copy to NDSBA **only** when 100 and 200 points have been earned. Forms are available at [www.ndsba.org](http://www.ndsba.org) under the "Services" link. If you have questions about the point categories, call the NDSBA office.

A copy of the qualifying board member's form must be submitted to NDSBA by **September 15**.

## DEADLINE ALERTS

- Resolutions must be received in the NDSBA office by 4:00 p.m. on **Monday, August 16**.
- Members interested in serving on one of the NDSBA Annual Convention committees should submit their name by **August 2**.
- NDSBA dues should be received by **July 31**.

## your Q our A

**Q.** *What is the school board required to do when patrons present a petition to the board at an open meeting?*

**A.** The short answer is to do two things: (1) Acknowledge receipt, and (2) file it with the minutes of the meeting. The board may elect to respond to the petition at a future meeting but is generally not required to do so. No further action is required, as a matter of law, unless the petition is authorized by state law--for example, an annexation petition or a petition to recall a board member. The petitioners are not legally entitled to speak at the meeting when presenting their petition unless they have been properly placed on the agenda.



**Elgin/New Leipzig School District (co-op position with Roosevelt School District, Carson, ND)**  
Contact: Wanda Kirsch, BsMgr.  
P.O. Box 7  
Elgin, ND 58533  
Deadline: Open



**2010 NDSBA Annual Convention**  
PRE-CONVENTION  
*NDSBA New Member Seminar*  
*NDCSA School Law Seminar*  
Thursday, October 28, 2010  
Ramkota Hotel, Bismarck  
  
ANNUAL CONVENTION  
October 29 & 30, 2010  
Ramkota Hotel, Bismarck

## DIRECTOR OPENING

**Roughrider Area Career and Technology Center (Southwest North Dakota)**  
**Position: Director**  
**Contact: Darrel Remington**  
**701-575-4275**  
**Deadline: Open**