

bulletin



NDSBA
NORTH DAKOTA SCHOOL
BOARDS ASSOCIATION

DECEMBER 2018

Excellence in North Dakota public education through local school board governance ■ VOL XLIII ISSUE 12

Negotiations Seminar 2019: Budgets, Strategies and Calendars



NDSBA's 2019 Negotiations Seminar will be held at the Bismarck Ramkota Hotel on Friday, February 8. Three early bird sessions will be held on Thursday, February 7. A brochure with registration information will be available at www.ndsba.org and sent to schools in the near future.

EARLY BIRD SESSIONS Best Practices in School Board Governance

Thursday, February 7
8:30 a.m. – 10:00 a.m.

Due to popular demand, we are bringing back this well-attended session from the 2018 NDSBA Annual Convention. Dr. Rob Lech, Jamestown School District Superintendent, will discuss the results of a research study in governance of North Dakota school boards and examine how best practices can be implemented at the board table. Strategies shared will include a framework for effective governance, embedded board education, meeting assessments, and more. Come ready to discuss how to improve your

board's efficiency and effectiveness and, in turn, increase student achievement.

Investigating Allegation of Employee Misconduct

Thursday, February 7
10:30 a.m. – 12:00 p.m.

KrisAnn Norby-Jahner, Vogel Law Firm Attorney, will walk attendees through the complaint and investigation process and will discuss what type of involvement is appropriate for board members.

- Identifying the nature of the complaint
- Determining if an investigation is warranted
- Determining who should conduct the investigation
- The investigation process
- The investigation file
- After the investigation is complete

Teacher Nonrenewal

Thursday, February 7
1:30 – 4:30 p.m.

Amy De Kok, NDSBA Legal Counsel, will share detailed information on teacher nonrenewal procedures and touch on the discharge process. The presentation will include:

- Evaluation of licensed personnel
- Nonrenewal procedures
- Performance nonrenewals
- First-year teacher nonrenewals
- RIF nonrenewals
- Resignation and contract breach
- Pros and cons of including extracurricular assignments in contract

NEGOTIATIONS SEMINAR

Negotiations Basics

Friday, February 8
8:00-9:00 a.m.

This session is a primer geared for first-time negotiators or those looking to review the basics. Registration for this session is included in the full Negotiations Seminar fee.

Negotiations Seminar

Friday, February 8
9:15 a.m.-4:30 p.m.

Topics include preparation and strategy, calendar changes that could affect negotiations, a state budget update, the ND Education Fact Finding Commission, and tips from experienced negotiators. There will also be an interactive question-and-answer panel to conclude the seminar.

Call the Ramkota Hotel to make your reservations at 701-258-7700. We hope to see you there!



The North Dakota School Boards Association team would like to wish you a happy and joyous holiday season. We look forward to serving you in the New Year!



NSBA 2019 Annual Conference

The NSBA Annual Conference and Exposition will be held March 30-April 1 in Philadelphia, Pennsylvania. Join us for a robust offering of over 250 educational programs that will give you new ideas and tools to help drive your district forward.

Conference registration and housing reservations are now open. Register online at www.nsba.org/conference.

DECEMBER 2018



Legal Spotlight

U.S. Department of Education Releases Proposed Rule on Title IX

by Amy De Kok, NDSBA Legal Counsel

On November 16, 2018, the U.S. Department of Education officially released the much-anticipated proposed rules implementing Title IX, for the first time addressing by regulation the topic of sexual harassment. The release comes after Secretary DeVos rescinded last fall a pair of controversial documents issued by the Obama administration that outlined how schools should meet their legal obligations to address episodes of sexual misconduct. The proposed regulation under Title IX, the federal civil rights law that prohibits discrimination on the basis of sex in education programs or activities that receive federal funding, was developed after more than a year of research, deliberation, and gathering input from students, advocates, school administrators, Title IX coordinators, and other stakeholders.

Among the most significant changes the proposed rule makes to Title IX enforcement would be the department's move to clarify and narrow the scope of complaints to which schools are obligated to respond. First, under the new rule, the school itself must have actual knowledge of the sexual

harassment or allegations thereof. Reports to the Title IX Coordinator will always constitute actual knowledge on the part of the school. In the K-12 context, reporting student-on-student harassment to any teacher at that school will give the school actual knowledge of the alleged harassment. Second, the new rule only requires schools to investigate complaints alleging conduct that occurred on campus or at a school activity. In this regard, situations are going to be fact-specific and an important factor will be whether the alleged "harassment occurred at a location or under circumstances where the school owned the premises, exercised oversight, supervision, or discipline over the location or participants, or funded, sponsored, promoted or endorsed the event or circumstance where the harassment occurred." Third, the proposed rule would also require that schools be held to a new standard called "deliberately indifferent" in determining whether schools properly addressed complaints. That standard, drawn from Supreme Court precedent, means a school could be found in violation of civil rights law "only if its response to the sexual harassment is clearly unreasonable in light of known circumstances." If a school follows established grievance procedures consistent with the proposed regulation, then the school has a safe harbor against a finding of deliberate indifference. Moreover, while the proposed regulation requires schools to respond meaningfully to all sexual harassment reports of which the school becomes aware, it requires that schools only formally investigate complaints that are filed with an authority figure (i.e., Title IX Coordinator). In those cases that do not trigger an obligation to investigate under the schools established grievance procedures (or when the alleged victim chooses not to file a formal complaint), the proposed regulation still requires the school to provide the complainant supportive measures such as counseling, changes in housing, and other efforts that are devised to help them continue their education.

In addition to the foregoing, the new regulation confirms that the department plans to adopt a narrower definition

of sexual harassment that would be actionable under Title IX. The new definition defines sexual harassment as "unwelcome conduct on the basis of sex that is so severe, pervasive and objectively offensive that it denies a person access to the school's education program or activity." It would also include sexual assault as that crime is defined in the Clery Act regulations. The proposed regulation would allow a school to dismiss a Title IX complaint if it does not meet the new definition of sexual harassment, even if the conduct is proved to be true.

Finally, the proposed rule contains certain requirements and obligations that would kick in once a formal complaint is filed. First, the school would be required to give written notice to the parties (i.e., victim and accused) containing sufficient details to permit a party to prepare for any initial interview and proceed with a factual investigation. Second, during the investigation, the school is required to provide equal opportunity for both parties to present witnesses and evidence, provide the parties with the same opportunity to be accompanied by an advisor of the party's choice (who may be an attorney), and provide equal access to review all evidence and equal opportunity to respond to all evidence. Finally, the proposed rule allows for an element of cross-examination between the parties. In the K-12 context, a hearing is optional, but the parties must be allowed to submit written questions to challenge each other's credibility before the decision-maker makes a determination. For colleges and universities, a final determination must be made at a live hearing, and cross-examination must be allowed (excluding questions about either party's sexual history and with rape shield protections) and must be conducted by each party's advisor (no personal confrontation allowed). Either party may also request to be separated, placed in different rooms, with a video feed for the live hearing.

The proposed regulation has already garnered criticism on all sides of the issue. If the proposed regulation becomes final in its current form, NDSBA will advise and provide guidance to its members on any necessary or recommended policy changes. In the meantime, please feel free to contact NDSBA with any questions or concerns.

The *Bulletin* is the official newsletter of the North Dakota School Boards Association. It is published twelve times each year and is mailed as third class mail from New Salem, North Dakota.

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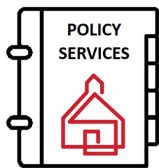
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Policy Updates



by Rebecca Duben, Policy Services Director

District Bullying Policy Requirements

The 2011 North Dakota Legislative Session mandated that every school district must

develop and implement a bullying policy prior to July 1, 2012. Districts should be providing bullying prevention programs for all students. The law also requires volunteers and non-licensed staff who have contact with students to participate in professional development activities related to bullying prevention and receive bullying prevention information. While the law's language requires K-12 prevention programs and staff professional development activities, the policy does not need to specify the program used or delivery details. This allows each district the flexibility to tailor bullying training to local needs.

NDSBA has an updated bullying policy template (**ACEA, Bullying Policy**), which includes all the legal mandates, such as:

- Complete legislative definition of bullying
- Procedures for reporting and documenting alleged acts of bullying, reprisal, or retaliation
- Timeline for district personnel to follow in investigating reports of bullying
- Suggested disciplinary consequences and/or corrective measures for individuals who engaged in bullying or made false accusations for bullying, reprisal, or retaliation

Other useful templates available on the Policy Services website or upon request from members include: **Bullying Adoption and Dissemination Checklist (ACEA-E1)**, **Bullying Reporting Guidelines (ACEA-E2)**, **Student and Staff Reporting Forms (ACEA-E3 and ACEA-E4)**, and **Bullying/Harassment Investigating Protocol (ACEA-E5)**.

Districts should make every effort to include parents, district employees, students, and law enforcement in the development and periodic review of the policy. It is critical that your policy be enforceable and that your district ensures that all policy provisions are carried out. This will minimize the risk of liability to the district if a bullying crime occurs. Upon adoption of this policy, the district must:

- Ensure that it is explained to and discussed with students,
- Publish in its entirety in student and

employee handbooks, and

- File a copy of the policy and any amendments with the Department of Public Instruction to comply with state law.

The NDSBA, Department of Public Instruction, North Dakota Council for Educational Leaders, and North Dakota United are available to assist schools with technical assistance, professional development, policy guidance, and resources to comply with law.

Parent and Family Engagement

Title I, Part A of the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act (ESSA), provides financial assistance to districts and schools with high numbers or percentages of students from low-income families to help ensure that all students receive a fair, equitable, and high-quality education and meet the challenging state academic standards. Of all the federal Title programs, Title I, Part A has one of the strongest parent and family engagement components. The program insists on robust parent and family engagement activities at every school where Title I federal funds support effective teaching and engaged learning.

Children are more motivated to succeed in school and throughout life when schools work together with families to support learning. Title I, Part A provides for substantive family engagement in carrying out the district and school improvement provisions and in the development and implementation of the district and school-level parent and family engagement plans. Section 1116 of ESSA contains Title I, Part A district and school requirements to involve parents and family members in their children's education.

Districts should work with its Title I schools to ensure that the required school-level parent and family engagement policy meets the requirements of Section 1116 and implements a school-parent compact consistent with law.

NDSBA has multiple templates available to assist with these long-standing federal requirements. Recently, Policy Services updated policy **KAB, District-Level Parent and Family Engagement Policy** and exhibit **KAB-E, School-Parent Compact**, along with drafting board regulation **KAB-BR, School-Level Parent and Family Engagement Policy** to be more consistent with federal and state recommendations.

Each district that receives Title I, Part A funds must have these templates in

place; however, smaller districts have the option to combine policy KAB and board regulation KAB-BR into one **District-School Parent and Family Engagement Policy (KAB-2)**.

NDSBA encourages each district receiving Title I funding to adopt and annually review their parent and family engagement policies and procedures to establish expectations, objectives, and implement meaningful parent and family engagement and activities. To request any of these templates or for further guidance, please contact NDSBA at rebecca.duben@ndsba.org or 1-800-932-8791.

Book Rooms for 2020 NDSBA Convention

NDSBA's 2020 Annual Convention will begin on Thursday, October 29, with the Law Seminar and New Member Seminar. Regular convention activities will begin that afternoon and conclude on Friday afternoon, October 30.

The Ramkota will begin taking room reservations for the 2020 Annual Convention on **January 1, 2019**. Call the Ramkota at 701-258-7700 for room reservations. Secure your room early!

Johnson Selected to Serve on National Committee



Jim Johnson

Jim Johnson, Fargo Board of Education member and NDSBA Immediate Past President, was recently selected by National School Boards Association (NSBA) President Frank Pugh to serve on the 2019 NSBA Policies and

Resolutions Committee. This important committee evaluates and recommends NSBA's priorities for the year to the Delegate Assembly. These priorities guide NSBA's legislative advocacy and outreach work. Congratulations, Jim!



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Board Members Selected to Serve on Legislative Committee

The following school board members were selected to serve on NDSBA's 2019 Legislative Committee:

Northwest Region

Dustin Hager – Rugby
Shane Aadnes – Stanley
Rollie Dalin – Burke Central

Southwest Region

Toby Olin – New Salem
Lodee Arnold – Wilton
Randy Gaebe – Bowman County

Northeast Region

Cynthia Shabb – Grand Forks
Marlana Strand – Mayport-CG
LeeAnn Johnston – Devils Lake

Southeast Region

Robin Nelson – Fargo
Sonia Meehl – Oakes
Heidi Larson – Jamestown

NDSBA Board Representatives

Holly Stromsodt, President – Finley-Sharon
Karl Lembke, Vice President – Bismarck
Jim Johnson, Past President – Fargo

The legislative committee will meet weekly during the 2019 Legislative Session. Please thank and congratulate these members for their commitment to serving North Dakota school districts!

Legislative Updates



ndsba.org

Updates from the 2019 Legislative Session will be sent to NDSBA members weekly by email. If you have not been receiving emails from NDSBA, please call Julie at

1-800-932-8791 to ensure we have the correct email address on file.



Pingree-Buchanan School District

Superintendent/High School Principal

Contact: Alexis Baxley

Phone: 701-255-4127

Email: alexis.baxley@ndsba.org

Application: www.ndsba.org

Deadline: January 27, 2019

Position Begins: July 1, 2019



mark your calendar

2019 School Leadership Day at the State Capitol

January 28, 2019
Bismarck, North Dakota

2019 NDSBA Negotiations Seminar

February 7-8, 2019
Ramkota Hotel, Bismarck

2019 NSBA Annual Conference

March 30-April 1, 2019
Philadelphia, Pennsylvania

2019 NDSBA Annual Convention

October 24-25, 2019
Ramkota Hotel, Bismarck

2020 NDSBA Annual Convention

October 29-30, 2020
Ramkota Hotel, Bismarck