



## Schools Allowed to Host Summer Activities

*Note: The following information was current at time of printing.*

On Monday, May 11, Gov. Doug Burgum and State School Superintendent Kirsten Baesler announced that beginning June 1, North Dakota schools will be allowed to host a number of activities, including summer school and college admissions testing. Amendments to the previous executive order barring students from school facilities for in-person instruction has been amended to allow for graduation ceremonies and certain permitted summer activities.

The changes will allow school facilities to host all of the activities listed below at the discretion of school superintendents, in consultation with their local school boards. Schools must comply with the Department of Public Instruction’s North Dakota K-12 Smart Restart Guidance. The guidance applies both to public and nonpublic schools.

The permitted activities are:

1. Testing for college admission, scholarship eligibility, and career readiness certification (examples: ACT, ACT WorkKeys, GED) in districts with previous certification as testing sites. Students who are already registered should be given priority, along with those whose testing



dates were disrupted and students who could not complete their testing because of the pandemic.

2. Child care programs that are licensed by the Department of Human Services.
3. Summer Student Center programs.
4. Summer School classes.
5. Extended School Year programs.
6. 21st Century Community Learning Center programs.
7. Head Start.

The changes do not preclude schools from offering summer instruction by distance learning, if desired, instead of face-to-face instruction in buildings.

The executive order’s reference to summer school classes includes driver’s education. Schools may determine how they want to deliver both the classroom instruction and “behind the wheel” elements of driver’s education while adhering to Section 4 of NDDPI’s Smart Restart Guidance.

“Nothing in this order requires that a district open for summer and offer these programs and nothing prohibits a school, with approval from the Department of Public Instruction, from offering summer school courses by distance learning,” Baesler said.

## Families First Coronavirus Response Act Leave Model Template and Form

NDSBA Policy Services has drafted recommended policy **DDBE, Families First Coronavirus Response Act Leave** and accompanying exhibit **DDBE-E, Families First Coronavirus Response Act Leave Request Form** to comply with the Families First Coronavirus Response Act (FFCRA) and to assist employees affected by COVID-19 with certain paid leave and job protections. Both new federal COVID-19

emergency leave provisions—Emergency Paid Sick Leave and Expanded Family and Medical Leave—apply to all public school districts regardless of how many employees they have. Because of this, districts are strongly encouraged to expedite adoption of this policy at the next scheduled board meeting. Exhibit DBBE-E may be reviewed by the board but should not be adopted by the board.

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### BoardBook Premier

BoardBook Premier is available to North Dakota school districts, political subdivisions, and businesses. BoardBook Premier is a paperless meeting and document storage program designed by school boards and is the new standard in board agenda preparation and decision making. Visit [www.ndsba.org](http://www.ndsba.org) for more information.



# Legal Spotlight

## Secretary DeVos Releases Final Title IX Regulations

by Amy De Kok, NDSBA Legal Counsel

On May 6, 2020,  
U.S. Secretary of

Education Betsy DeVos released the new final Title IX regulations focusing on sexual harassment as unlawful sex discrimination. The release came after almost a year and a half of reviewing in excess of 124,000 public comments regarding the controversial proposed regulations. NDSBA provided a preview of the proposed regulations in our December 2018 *Bulletin*. The long-awaited rules, at <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf> that apply to colleges as well as K-12 schools, mark the first time the Department has established regulations 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, detailing what schools must do when dealing with sexual assault cases involving students. Secretary DeVos said the new regulations will secure

due process rights for students who report sexual misconduct and for those accused of it. While NDSBA and other educational groups are still reviewing the extensive regulations (2,033 pages to be exact) issued last week, the following are a few of the highlights we've learned so far.

Under the new regulations, after a student reports an assault or a harassment incident covered by Title IX, the school must tell the students involved and their parents in writing about the allegations and the evidence that is gathered. The school must also give the accused person at least 10 days to respond. If the school decides to punish a student for a sexual assault allegation, it must tell the victim in writing. Schools will also have to keep written records of actions taken in response to sexual misconduct reports for at least seven years under the regulations.

In addition, the person who investigates a sexual assault case under Title IX cannot be the same person who decides whether the accused student is responsible, which means schools may need to hire or train additional staff. This would be a change for school districts in North Dakota, as most districts permit the same administrator (i.e., building principal or superintendent) to investigate the allegations, as well as determine whether the allegations are substantiated and any appropriate corrective action. The regulations also clarify when K-12 schools are required to investigate students' claims. Schools must investigate whenever any district employee—from teachers and guidance counselors to bus drivers—learns of a sexual assault or harassment incident, whether a student, parent, or bystander reports it. Schools will be required to investigate cases that happen on campus or as part of school activities like field trips, athletic events, or conferences.

The regulations also require schools

to use a narrower definition of sexual harassment than is used in workplace sex discrimination laws. Sexual harassment is defined under the new Title IX regulations as unwelcome conduct that "a reasonable person" would consider "so severe, pervasive, and objectively offensive that it effectively denies a person equal access" to an education. The Education Department justified the narrower definition partly to allow for speech it says is protected by the First Amendment. In contrast, victims' rights advocates criticized the definition, which they said would require students to endure more harassment before schools could take action.

**The new regulations will take effect August 14, 2020.** NDSBA is continuing its review of the new regulations and will provide additional guidance and any proposed policy changes to our members in the near future. In the meantime, districts should direct any questions or concerns to NDSBA or their district's legal counsel.

## ■ FAMILIES FIRST

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These federal emergency paid leave provisions became effective on April 1, 2020, and only apply to leave taken from April 1, 2020, to December 31, 2020. Therefore, recommended policy DDBE and exhibit DDBE-E are temporary. Boards should take prompt action to rescind this policy and remove the form upon the expiration of the Act. All existing district leave policies should remain in place to the extent they are not superseded by FFCRA.

Policy Services members may request the FFCRA policy and form by contacting NDSBA at 1-800-932-8791 or by completing the online policy request form located under the Services tab on the Policy Services website at <http://policy.ndsba.org/>. For guidance on FFCRA, go to the NDSBA COVID-19 webpage at [www.ndsba.org](http://www.ndsba.org).

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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# Statewide Virtual Graduation to be Held May 30

State School Superintendent Kirsten Baesler announced on May 6 that a “virtual graduation ceremony” will be broadcast and livestreamed across North Dakota on May 30 as a special opportunity to honor North Dakota’s Class of 2020. The ceremony is a bonus addition to any local graduation celebrations that local school districts will hold.

The ceremony will take place on May 30 at 2:00 p.m. Central Time (1:00 p.m. Mountain). It will be broadcast on ABC affiliates in North Dakota, and a livestream will be available on the websites of Forum Communications properties: *InForum*, *Grand Forks Herald*, *Jamestown Sun* and *Dickinson Press*. The livestream will be available for free and will not be behind the company’s paywall.



*Tigirlily will perform for the North Dakota statewide virtual graduation May 30.*

The ceremony will honor 181 North Dakota high schools and include remarks from Governor Burgum; a musical performance by Nashville

recording artists Tigirlily, two sisters who are natives of Hazen, N.D.; and remarks by a nationally known speaker or speakers, who will deliver an invocation and commencement address.

“This is intended to provide another special opportunity to honor and celebrate our 2020 graduates and their families who have already sacrificed so much of their senior year celebrations because of COVID-19,” Baesler said.

## Human Resources Conference Update and Available Resources

The 6th Human Resources Conference for Local Governments originally scheduled for April 2020 has been postponed until 2021 due to the uncertainty and heavy workload of all local government offices during the pandemic. Please tentatively mark your calendars for June 2 and 3, 2021, at the Ramkota Hotel and Conference Center in Bismarck. All planned presenters will be retained and new topics will be added as they emerge. Registrants will receive an email regarding registration options.

In place of this year’s conference, the HR Collaborative for Local Government is organizing a series of webinars over the next six months on a range of HR Topics. The first webinar was held on April 17 and covered the federal Families First Coronavirus Response Act. This session offered key information on the Emergency Sick Leave and Expanded Family Medical Leave provisions in the bill. A recording of this webinar can be found on the HR Collaborative website at <http://www.hrndgov.org/>. Register under “Join Now” to get regular HR updates and notices of future webi-

nars.

The HR Collaborative is also excited to announce that the revised HR Reference Guide for Local Government has had a comprehensive review and will be available on the HR Collaborative website by June 1. There will be a webinar to review major changes in the guide later in the summer.

## NDSBA Accepting Proposals

NDSBA is still accepting proposals for 2020 NDSBA Annual Convention clinic sessions. The proposal submission form can be found at [www.ndsba.org](http://www.ndsba.org) under QUICK CLICKS.

Help us make the 2020 Annual Convention our best event yet! Consider sharing unique or successful things happening in your district or suggesting a speaker or topic you would like to see.

**Submissions are due by June 1, 2020.**



## Business Manager Certification Program Applications Due June 1

The North Dakota School Business Manager Certification Program is accepting applications for new students to begin courses this summer. The application form can be accessed online at <http://ndsbmcp.org/index.php/handbooks-and-forms/>. The application deadline for the new member class is **June 1, 2020**. Fifteen applicants are needed to start a class, so register today! If the necessary number of applicants is not received, the new member class may be postponed until next summer. Prospective students can download a program brochure at <http://ndsbmcp.org/index.php/handbooks-and-forms/> or contact [rebecca.duben@ndsba.org](mailto:rebecca.duben@ndsba.org) for more information.

The Business Manager Certification Program new member class is tentatively scheduled for late July. Various course delivery options are being discussed due to the COVID-19 pandemic. Class information will be sent to applicants in June. Upon application approval, students may begin working on their affiliate credit requirements. Affiliate credit opportunities will be shared via email with students and are available on the NDSBMP course website at <http://ndsbmcp.org/index.php/news/>.



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### **Wing School District**

Contact: Rebecca Bernhardt  
Phone: 701-943-2319  
Email: [rebecca.bernhardt@k12.nd.us](mailto:rebecca.bernhardt@k12.nd.us)  
Application: Contact Rebecca  
Deadline: Open until filled  
Position Begins: July 1, 2020

### **Oberon School District**

Part-time Superintendent  
Contact: Stephanie Anderson  
Phone: 701-550-1062  
Email: [stephanie.r.anderson@k12.nd.us](mailto:stephanie.r.anderson@k12.nd.us)  
Application: Email resume to above or mail to: PO Box 2  
Oberon ND 58357-0002  
Deadline: Open until filled  
Position Begins: July 1, 2020

### **Lone Tree School District**

Elementary Principal w/ Superintendent Duties - part time  
Contact: Janine Olson  
Phone: 701-872-3674 or 701-290-8385  
Email: [janine.olson@k12.nd.us](mailto:janine.olson@k12.nd.us)

Application: Email or send cover letter & resume to: PO Box 170  
Golva ND 58632

Deadline: Open until filled  
Position Begins: July 1, 2020

### **Leeds School District (part-time)**

Contact: Maria Dunlap  
Phone: 701-466-2461  
Email: [maria.m.dunlap@k12.nd.us](mailto:maria.m.dunlap@k12.nd.us)  
Application: Email resume to above, or mail to: PO Box 189  
Leeds ND 58346

Deadline: Open until filled  
Position Begins: July 1, 2020



## **COVID-19 Resources**

A Resources webpage has been created on the NDSBA website homepage under QUICK CLICKS to provide the latest information and guidance. It can be accessed at <http://www.ndsba.org/>. Resources will be continually updated as the situation evolves.



**mark your calendar**

### **Board Member Boot Camp**

*Hosted by NDDPI and NDSBA*  
July 22, 2020  
State Capitol, Bismarck

### **ND Rural School Summit**

*Hosted by NDDPI and NDSOS*  
October 28, 2020  
State Capitol, Bismarck

### **2020 NDSBA Annual Convention**

October 29-30, 2020  
Ramkota Hotel, Bismarck

### **2021 NDSBA Negotiations Seminar**

February 4-5, 2021  
National Energy Center of Excellence, Bismarck

### **2021 NDSBA Annual Convention**

October 28-29, 2021  
Ramkota Hotel, Bismarck