



# bulletin



**NDSBA**  
NORTH DAKOTA SCHOOL  
BOARDS ASSOCIATION

FEBRUARY 2021

*Excellence in North Dakota public education through local school board governance* ■ VOL XLVI ISSUE 2

## Legislative Halftime – Where Do We Stand at Crossover?



When this edition went to print, there was about one week left of the first half of the 67<sup>th</sup> Legislative Assembly of the State of North

Dakota. February 26 is what is called “Crossover,” or the date by which all bills and resolutions must be out of their body of origin and sent to the other side. Despite introducing 100 fewer bills and resolutions than last session, the legislature is on track to use more legislative days before Crossover than they did in 2019.

While the Senate is on track to wrap up a little early, the greater number of bills and lengthier debate in the House means they will likely see longer and two-per-day floor sessions in order to finish their work in time. Many Senate committees

have already begun hearing House bills.

After all bills and resolutions had been submitted, NDSBA was tracking 171 bills or resolutions of primary importance. NDSBA testified against and worked to kill many of these bills. Some of the ideas that will not advance to the other side include:

- A number of bills that would have reduced or limited taxable valuations or created significant property tax exemptions
- A bill that would have allowed candidates in local elections to declare a party affiliation
- Bills that would have prohibited schools from requiring vaccinations
- A bill that would have required districts to run a background check on every district employee or contractor, even if they did not have

contact with students

- A bill that would have removed all taxing authority of school districts
- A bill requiring a district to adopt a restraint and seclusion policy
- A bill that would have provided the State Auditor with unfettered access to school records

So, what’s left? Some of the key bills that remain are:

- SB 2215 – The bill NDSBA worked on that would add a deadline of July 1 to the negotiation timeline
- A bill (HB 1356) that will mandate districts allow Boy Scout leaders and other patriotic groups to recruit students during the school day
- A bill to put transportation aid payments into the funding formula
- A bill to temporarily allow districts to transfer COVID-19 related excess funds between the general fund and the building fund
- SB 2278 – A bill providing immunity for schools for COVID-19 related liability
- A bill that makes adjustments to the school funding formula (HB 1388)
- A bill to allow for the satisfaction of school calendar hours through virtual instruction

We hope to see a few more bills fail on the floor in the coming week.

As you know, the legislature is constitutionally limited to 80 days. Right now, day 80 looks to be April 30, however, many are anticipating that legislators will try to save a few days by not using all 80. Please continue to watch your email for time-sensitive action alerts. Your emails to legislators have been very helpful and effective; many legislators have expressed their appreciation for hearing from their local board members to our legislative team.

## NDSBMCP March 2021 Training Opportunities



Registration is now open for the following ND School Business Manager Certification Program classes:

- Bidding, Purchasing, and Inventory
- Human Resources II
- Records Management and Retention

These classes are available to both second-year and graduate business manager students. Graduate students retaking a class for continuing education credit will receive a discounted

rate and can earn up to 1.5 credits per class.

Bidding, Purchasing, and Inventory and Human Resources II will be held virtually via Zoom on March 18 from 8:30 a.m. - 3:00 p.m. Records Management and Retention is a self-paced, online course that will be made available to registered students by March 18. Interested business managers can learn more about these training opportunities by going to the NDSBMCP website at [www.ndsbmcp.org](http://www.ndsbmcp.org) and clicking on the NEWS tab or by calling the NDSBA office at 800-932-8791.



## Election Deadlines

North Dakota election laws are specific regarding dates and deadlines. Relevant election law is found in NDCC 15.1-09. Election deadline information and a sample calendar were included in the January

*Bulletin* and are posted on NDSBA’s website under RESOURCES.



# Legal Spotlight Superintendent Evaluation 101

by Amy De Kok, NDSBA Legal Counsel

One of the most important functions of a school board is the evaluation of its superintendent. Evaluating the superintendent is the key to documentation of unsatisfactory performance and is required in order to pursue nonrenewal of the superintendent's contract if desired. An extremely important fact to keep in mind, however, is that evaluations are most effective when they are designed and used for improving existing performance and communicating future expectations—not simply for punitive reasons and reviewing past performance. The statutory evaluation requirements reviewed below should be viewed as minimum, not maximum, standards. Done correctly, an evaluation is a useful governance tool that helps drive school improvement. In fact, a quality evaluation process will develop positive board/superintendent relationships, clarify

roles and responsibilities between the superintendent and the board, create common understanding about the direction and vision of the district, and satisfy the public's desire for accountability and transparency.

The evaluation process not only benefits the superintendent but also the board. It allows the board:

- Another means to follow school district progress.
- To learn about the superintendent's efforts toward professional development.
- To provide input, feedback, and support to the superintendent.
- To create an environment of trust and collaboration.
- To provide oversight and assurance that the vision, policies, and procedures set by the board are being followed.

Under North Dakota Law (NDCC § 15.1-12-03), all superintendents must receive two written performance reviews each year based on the terms of their contract, their job description, and any other performance standards established by the board. The first evaluation is treated by most boards as a formative evaluation of the superintendent's performance and must be completed and adopted by a majority vote of the school board **on or before November 15**. The second evaluation is treated by most boards as a summative evaluation of the superintendent's performance and must be completed and adopted by a majority vote of the school board **on or before March 15**. The purpose of the first evaluation should be to place the superintendent on notice as to deficient or unacceptable performance and areas for improvement, while the second should document the continued existence or correction of those deficiencies. North Dakota law does not make this distinction between the two required evaluations; however, some boards may do so by policy and/or practice.

In terms of the process of evaluation, each board member

should individually evaluate the superintendent in a range of substantive areas as set by the board and reflected in the job description. NDSBA recommends that the board president give an evaluation instrument to each board member at least one month prior to the evaluation deadline for this purpose. Board members should rate the superintendent's performance as either satisfactory or unsatisfactory in each area of performance identified in the job description. If a board member rates the superintendent as unsatisfactory in any area, the board member should provide an explanation and recommendations for improvement in the evaluation. Even in areas where a board member rates the superintendent as satisfactory, it is appropriate to provide comments and recommendations for improvement, if any.

Individual comments from each board member should be compiled onto one collective evaluation form prior to discussion of the evaluation at an upcoming meeting of the board. Prior to the board meeting, the board president should meet with the superintendent to have a preliminary discussion regarding the evaluation. This is not a requirement, but is generally seen as best practice. The evaluation must be finalized and approved by the board at a properly noticed public meeting. Any discrepancies among board members about the superintendent's rating in any of the performance areas evaluated should be discussed during the open meeting and a decision reached through roll call vote. If an unsatisfactory rating is given by the board in any area, the board should detail its findings and provide recommendations for improvement. If an improvement plan or professional development plan is needed, this can be done after the evaluation is completed and approved by the board. The

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## Legal Spotlight

improvement plan should detail each area that needs improvement and provide recommendations and goals for improvement. Even in areas where the board evaluation rates the superintendent as satisfactory, the board is encouraged to provide comments and recommendations for improvement or areas of focus. The board should refrain from simply placing individual board comments in the evaluation; rather, the board should discuss each comment or recommendation and vote on which comments and recommendations should be included. Once approved by the board, the comments and recommendations then become board comments and recommendations.

Approval of the evaluation must be by a simple majority vote of the board at the open meeting at which the evaluation is discussed. The board **SHOULD NOT** give the superintendent an overall rating. Upon approval of the evaluation, the board president shall present

it to the superintendent. A copy of both the formative and summative evaluation should be placed in the superintendent's personnel file and a copy should be provided to the superintendent. After receiving the evaluation, the superintendent may provide a written response to the board. Any response by the superintendent must be placed in the superintendent's personnel file along with the evaluation.

Superintendents are encouraged to engage in an annual self-evaluation of their progress toward meeting performance goals and/or to reflect on their professional experience. Self-evaluation provides a structure for considering future goals and determining strategies for achieving them. Boards should not require their superintendent to share any such self-evaluation with the board as part of the evaluation process. Rather, NDSBA recommends that such self-evaluations only be shared with the board if the superintendent chooses to do so.

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NDSBA recommends adoption of a policy on superintendent evaluation to guide boards through this process. NDSBA has established template policies in this regard, as well as a sample job description and evaluation instrument for use by our member districts. Feel free to contact NDSBA for additional resources as you tackle the important task of evaluating your superintendent.

Be advised that the information provided in this article is for informational purposes only and is not intended for legal advice. Please consult with your district legal counsel for direct legal assistance.

## Superintendent Evaluations

North Dakota law requires that a school board complete the superintendent's summative evaluation process **BEFORE MARCH 15**. This means all paperwork, compilations, and public discussion of the evaluation must occur before March 15. A board cannot complete the process if they wait until the March meeting.

It is best to begin the process early in February to ensure compliance with the statutory deadline. The statute also requires that the superintendent be evaluated using a satisfactory or unsatisfactory rating. If you need more information on how to conduct a superintendent evaluation, view the playback of our Lunch & Learn webinar on this topic hosted on February 17. Visit <http://ndsba.org/index.php/resources/lunchlearn/> to watch.

## Negotiations Seminar

The 2021 NDSBA Virtual Negotiations Seminar was held February 4-5. A record number of school board members, administrators, and business managers attended the informative event. Sessions were recorded and made available to registrants. These sessions are available to view until May 1. Thank you to all who participated in and helped make this virtual event a success!

*Pictured at right, Amy De Kok, NDSBA Legal Counsel*



The Conference for  
Public Education Leaders

APRIL 8-10

The NSBA Annual Conference has been rebranded as the NSBA 2021 Online Experience for this year and will be held virtually April 8-10. This annual gathering is the one national event that brings together education leaders — including fellow school board members. Join us at #NSBA21 to connect with your public education colleagues and share invaluable insights into key education trends and best practices.

FEBRUARY 2021



Legislative  
Updates

Updates from the  
2021 Legislative

Session will be sent to NDSBA members weekly by email. If you have not been receiving emails from NDSBA, please call Julie at 800-932-8791 to ensure we have the correct email address on file.



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**Park River Area School District**

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Website:

[www.dakotaleadershipsolutions.com](http://www.dakotaleadershipsolutions.com)

Phone: 701-520-5963

Email: [Paul.Stremick@outlook.com](mailto:Paul.Stremick@outlook.com)

Deadline: February 26, 2021

Position Begins: July 1, 2021



**2021 NSBA Annual Conference**

April 8-10, 2021 • Virtual

**2021 NDSBA Annual Convention**

October 28-29, 2021

Ramkota Hotel, Bismarck



**Book Rooms for 2022 NDSBA Convention**

NDSBA's 2022 Annual Convention will begin Thursday, October 27, with

the Law Seminar and New Member Seminar. Regular convention activities will begin that afternoon and conclude

on Friday afternoon, October 28.

The Ramkota is taking room reservations for the 2022 Annual Convention NOW. Call the Ramkota at 701-258-7700 for room reservations. Secure your room early!



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