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NDSBA
NORTH DAKOTA SCHOOL
BOARDS ASSOCIATION

AUGUST 2022

Excellence in North Dakota public education through local school board governance ■ VOL XLVII ISSUE 8

NDSBA Announces Annual Convention Keynote Speakers

NDSBA is excited to announce its keynote speakers for the 2022 NDSBA Annual Convention!

Thursday Afternoon Keynote

Speaker: Kostas Voutsas



Our first keynote is former North Dakotan, Kostas Voutsas. Kostas has taught Management and Human Resource courses for

20+ years. He is currently a professor of Management at Arizona State University, but prior to that served as a professor at Dickinson State University for 18 years.

In his keynote, *Conflict Management Cookbook: Building Relationships One Pot at a Time*, Kostas will challenge

attendees to get past the drama of difficult people, improve relationships, and reduce stress to help keep calm when kittens become tigers. His presentation will include solutions to managing conflict, how to better lead to succeed, and how to collaborate with different personalities. Kostas will also be presenting two clinic sessions on Friday.

Friday Morning Keynote Speaker: Dennis McIntee



Dennis McIntee

The second day of the convention will kick off with Dennis McIntee, a speaker and author known as "The Drama Free Guy" because he understands

if you eliminate unhealthy drama in the workplace, your teams will thrive and succeed. Through his work in leadership consulting, Dennis loves to walk alongside leaders as they create high-trust, high-performance cultures.

Dennis's presentation will build on Thursday's topic, addressing self responsibility, actions and outcomes, and producing results. He will also be a clinic session presenter, allowing attendees to ask questions and dive deeper.

We are looking forward to a fantastic Annual Convention, and we hope to see you there! Registration opens on September 1; see page three for more information on how to attend. See you in Bismarck!



NDSBA Service Award Program

NDSBA recognizes board members for their professional development, service, and participation. Awards are presented at NDSBA's Annual Convention.

Business managers should maintain scoring forms for board members, update them each year, and send a copy to NDSBA when 100 and 200 points have been earned. Forms are available at www.ndsba.org under the "resources" link. Also available on the webpage is a spreadsheet that may be useful to record board members' yearly activities. Some service activity or participation areas may not be listed on the form. Contact NDSBA about other participation areas.

A copy of the qualifying board member's form must be received by NDSBA no later than **Friday, September 23**.



Convention Reminders

Committees

NDSBA is still looking for board members to serve as convention committee members. Please fill out the form at <https://forms.gle/PZHEfMMTDLQwYhJy7> as soon as possible if you would be willing to serve on the Nominating, Credentials, Ballot Counting, or Government Affairs Committee.

Convention Rooms

If you have sleeping rooms reserved at the Bismarck Hotel (formerly known as the Ramkota Hotel) for the 2022 NDSBA Annual Convention, you must give them a specific name for each reserved room by October 3 or the rooms will be released. Contact Bismarck Hotel reservations at (701)258-7700.

Convention Delegate Designation

Convention delegates and alternates must be clearly noted on the district's registration, which must be received in the NDSBA office **no later than October 12** in order to vote at Delegate Assembly. Only those registered as alternates **BY THIS DEADLINE** will be allowed to substitute for a registered delegate.



Legal Spotlight

Recent Supreme Court Case Protects Employee's Right to Pray

by Amy De Kok, NDSBA Legal Counsel

In a recent decision, the U.S. Supreme Court decided in favor of a high school football coach who was placed on administrative leave and eventually discharged by his public school district after he repeatedly ignored directives to stop leading his team in mid-field prayers immediately after games. The employee, James Kennedy, sued his district employer claiming that the district violated his First Amendment Free Exercise and Free Speech rights by refusing to allow him to pray following games. While this article does not contain a full discussion of the opinion due to space limitations, there are a few key points of which districts should be aware.

In the 6-3 decision, the Court ruled that the Free Exercise and Free Speech Clauses of the First Amendment protect an individual engaging in personal religious observance from government retaliation, and that the Constitution neither mandates nor

permits the government to suppress such religious expression. In support of its decision, the majority stated that staff and students could not be "required to shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." Because Kennedy's prayers were private and not within the scope of his employment, the Court determined they were protected by both the First Amendment's Free Exercise and Free Speech Clauses. The majority further stated, "Here a government entity sought to punish an individual for enjoying a brief, quiet, personal religious observance duly protected by the Free Exercise and Free Speech clauses of the First Amendment. And the only meaningful justification the government offered for its reprisal rested on a mistaken view that it had a duty to ferret out and suppress such religious observance even as it allows comparable secular speech. The constitution neither mandates nor tolerates this kind of discrimination."

It is notable that when the district disciplined Kennedy for his conduct it only cited the private prayers as the reason. The district did not focus on any encouragement of students by Kennedy to participate in the on-field prayers. Following *Kennedy*, requiring students to participate in prayers may still be disciplinary. Districts should thoughtfully and carefully document disciplinary actions against employees identifying specific reasons for that discipline. The adverse employment decision should align with board policy and should be supported by evidence.

In addition, the district's primary reason for removing Kennedy from coaching was the concern that, by allowing Kennedy's public religious demonstrations to occur during or directly after school-sanctioned events, it would violate the Establishment Clause. The district wanted to communicate that it did not endorse Kennedy's religious conduct. This reflects the analysis outlined by the

Court in *Lemon v. Kurtzman*, 403 U.S. 602 (1971), which created an "endorsement test" to offer guidance in enforcing the constitutional prohibition on government religious establishment. The majority in *Kennedy* seems to have abandoned *Lemon* and the endorsement test, concluding there is not necessarily an Establishment Clause violation any time a school fails to censor private religious speech. The Court determined that school districts may not prohibit an employee's private, non-coercive religious exercise simply to avoid offending others or allegations of endorsement.

By its decision in *Kennedy*, the Court has certainly cast doubt on long-standing precedent clarifying the parameters of the Free Exercise and Establishment Clauses of the First Amendment. Despite this apparent shift, however, districts should not necessarily read the *Kennedy* decision to elevate a public employee's private right of speech over the interests of public employers. First Amendment issues are often highly fact-intensive, highly complex, and can prove costly if handled improperly. As such, it wouldn't be prudent to assume what is permissible in one context is permissible in another. Districts should carefully analyze the specific facts involved, and consider contacting legal counsel prior to prohibiting a student, staff member, or patron from engaging in what may be protected expression under the First Amendment. Moreover, districts should contact legal counsel prior to disciplining any student or staff member from engaging in what may be protected expression.

NDSBA will continue to analyze the impact of the *Kennedy* decision on school operations. NDSBA is also in the process of reviewing applicable template policies to determine if any updates or revisions are necessary. Please contact NDSBA or your district legal counsel for further information.

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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2022 NDSBA Convention Registration

Registration for the 2022 NDSBA Annual Convention will **open ONLINE ONLY on Thursday, September 1**. Here are some tips to ensure registration success:

- On September 1, business managers and superintendents will receive an email notifying them that registration has opened. This email will include registration and instructions on how to calculate the number of delegates your district is allowed.
- ONE person from each district - likely the business manager - should complete registration for all district attendees in order to avoid duplicate registrations. Board members should NOT register themselves without talking to their business manager first.
- Registrations must be completed by THURSDAY, OCTOBER 12 in order for delegates to be able to vote at the Delegate Assembly.

NDDPI Launches Educator Pathway Program

The North Dakota Department of Public Instruction recently launched the Educator Pathway program. Over the next three consecutive years (2022-2024), the NDDPI Office of Specially Designed Services hopes to use ESSER funds to increase the number of students entering the education field. The program is available to any school district in ND that would like to include college-level classes on education/teaching in their high school curriculum and includes five dual-credit courses students can choose to take to help prepare them to earn a degree in teaching by completing dual credit courses while still in high school. NDDPI will provide direct payment for college application fees, dual credit fees, and books/materials for any student taking the dual credit coursework through the Educator Pathway program.

The five classes students can

This is also the deadline for naming alternates.

- Early bird registration fees will be available until October 12. The fees will increase on October 13.
 - Registration for the New Member Seminar and School Law Seminar will be included in online registration options.
 - Your district will have the option to pay by check or with credit card – one transaction per district, please.
 - Upon successfully completing registration, an email confirmation will be sent. Please confirm that your information in that email is correct as that is how your nametag will be printed. If you find errors or do not receive a confirmation email, please contact Taylor at 800-932-8791 or taylor.lassiter@ndsba.org.
- Call NDSBA if you have any questions. A staff member will be able to walk you through the process if you need assistance.

choose that will assist in preparing them to work in the education field are: Teaching Professional, Educational Methodology, Education Workplace Experience, Educating Exception Students, and Special Education Field Experience. If a local school district is interested in including these courses as part of their high school curriculum, they can either have a teacher in their system teach the coursework themselves or reach out to universities for assistance. Currently, Valley City State University, Minot State University, and Mayville State University have agreed to provide instruction.

For more information, please visit NDDPI's Educator Pathway web page at <https://www.teachingnd.com/pathways.html> or encourage your administrator to reach out to the NDDPI Office of Specially Designed Services at 701-328-2277.

State Grants Available for School Board Leadership Training

The Department of Public Instruction is offering competitive grants that would pay half the cost of the Be Legendary School Board Leadership Institute, a leadership training that is designed to help improve the academic outcomes of districts' students. The sessions last two days and are conducted within the school district.

The institute helps school board members set student outcome goals, establish a process to monitor and measure progress toward those goals, and develop teamwork and advocacy skills that result in better student academic outcomes. Board members will be asked to select goals that align to North Dakota's PK-12 Education Strategic Vision Framework goals that include:

- Raise the percentage of North Dakota high schools whose students are graduating "Choice Ready,";
- Double the percentage of third-grade students who are proficient readers by the 2025-26 school year;
- Reduce the achievement gaps for low-income students, Native American students and students with disabilities by 25 percent each year for the next five years; and
- Raise the percentage of students who are engaged in their learning.

School boards that successfully complete the training will be recognized at the annual Governor's Summit on Innovative Education. During the most recent summit in Dickinson last June, members of the Dickinson, Carrington, Rugby, and Nedrose boards were honored. Since then, the school boards in Ellendale and Sargent Central have completed the training, and Belcourt has begun it.

Leadership training for a single school board costs \$4,350 when the 50 percent state grant contribution is included. For members of two boards, the expense per board drops to \$3,125; for three, the cost declines to \$2,583. State School Superintendent Kirsten Baesler hints that it is helpful for two or three boards to participate together,

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RETURN SERVICE REQUESTED



mark your calendar

2022 NDSBA Annual Convention
October 27-28, 2022
Bismarck Hotel, Bismarck

2023 NDSBA Negotiations Seminar
February 2-3, 2023
BSC Energy Center, Bismarck

2023 NDSBA Annual Convention
October 26-27, 2023
Bismarck Hotel, Bismarck



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 for more information.

■ State Grants Available

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which allows members to compare perspectives.

The NDDPI has partnered with Elliott & McMahon LLC, an education consultancy, to offer the training. NDDPI has set aside \$500,000 in federal COVID-19 recovery aid for the Be Legendary School Board Leadership Institute and ongoing school board coaching. School boards may fill out grant applications on the NDDPI's website. They are due by 9 p.m. CT on Thursday, September 15.



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Follow us at [@ndschoollboards](https://twitter.com/ndschoollboards) (Twitter) and **North Dakota School Boards Association** (Facebook) for event, policy and other education-related updates.

