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NDSBA
NORTH DAKOTA SCHOOL
BOARDS ASSOCIATION

SEPTEMBER 2023

Excellence in North Dakota public education through local school board governance ■ VOL XLVIII ISSUE 9

Get in the Know: Greenlights Grant Initiative

A project of the Just Keep Livin Foundation, the Greenlights Grant Initiative helps school districts navigate and apply for federal grants that focus on school safety and improvement of student well-being programs supported by the Bipartisan Safer Communities Act that went into effect June 25, 2022. They offer a wide range of resources to school districts that aid in the grant application process, including webinars, guidebooks, how-tos, tutorials, and other tools to help districts win federal dollars.



GREENLIGHTS GRANT INITIATIVE

A PROJECT OF THE JUST KEEP LIVIN FOUNDATION

The Initiative's focus is raising awareness about school safety grants offered, equipping school districts with resources and tools for successful applications, and ensuring continuous and more equitable federal funding for school safety. Their services are free

and make applying efficient.

To learn more about the Greenlights Grant Initiative, to search for grants and other resources, or to get started on the process, go to <https://www.greenlightsgrantinitiative.org/>.



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/cG3JeyakALoGs6Eb7> as soon as possible if you would be willing to serve on the Credentials or Ballot Counting Committee.

Convention Rooms

If you have sleeping rooms reserved at the Bismarck Hotel for the 2022 NDSBA Annual Convention, you must give them a specific name for each reserved room **by October 2** 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 when registering. Registration must be completed **by October 13** in order to vote at Delegate Assembly. Only those registered as alternates **BY THIS DEADLINE** will be allowed to substitute for a registered delegate.

Board Member Service Awards

A copy of a qualifying board member's points form must be received in the NDSBA office by **Friday, September 22**, for board members to be recognized at the 2023 Annual Convention. 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.

Barb Norby Scholarship Nominations

If you would like to nominate a board member for this award, please email

a short paragraph describing why your nominee is deserving to Alexis at alexis.baxley@ndsba.org by Thursday, September 28. The scholarship recipient will receive the following year's registration and an expense allowance for a school board members' national conference of their choosing.



Annual Convention Registration

Now Open!

Registration for the 2023 NDSBA Annual Convention is **NOW OPEN!** Registration is available online only at www.ndsba.org. Each district should submit ONE registration prepared by the business manager. Please remember that early bird registration rates are only available until October 13!

State Law Requires New Board Members to Attend Seminar

North Dakota Century Code § 15.1-09-32 requires new school board members to attend an in-service training workshop hosted by the North Dakota School Boards Association or its designee within one year of assuming office. NDSBA will host a seminar for new board members on October 26, 2023. Topics will include the role of a school board member, the duties of a school board, and school finance.

Registration for the New Member Seminar is available at <https://www.ndsba.laventurellc.com/2023NDSBAAC/>



Legal Spotlight

Understanding the Fair Labor Standards Act and Ensuring Proper Employee Classification

by Lexie Bergstrom, NDSBA Staff Attorney

The Fair Labor Standards Act (FLSA) is a federal law that establishes minimum wage, overtime pay, recordkeeping, and youth employment standards covering employees in the private sector and in Federal, State, and local governments. The FLSA helps maintain fairness and equity for both workers and employers by ensuring workers receive the rights, benefits, and protections they deserve.

One of the most critical aspects of the FLSA is its guidance on the classification of employees as either exempt or non-exempt. Properly classifying employees is important because it determines eligibility for overtime pay and other benefits. Exempt employees are paid on a salary basis and are not entitled to receive overtime pay or minimum wage under the FLSA. Conversely, non-exempt employees are entitled to receive overtime pay for hours worked beyond the standard 40-hour workweek. Non-exempt employees are usually paid on an hourly basis. Covered non-exempt workers are entitled to the current federal minimum wage of not less than \$7.25 per hour. Overtime pay at a rate not less than one and one-half times the regular rate of pay is required after 40 hours of work in a workweek. Generally, employees of enterprises that have an annual gross volume of sales made or business done of \$500,000 or more are covered by the FLSA. In addition, employees of certain entities are covered by the FLSA regardless of the amount of gross volume of sales or business done. These entities include: hospitals; businesses providing medical or nursing care for residents; **schools** (whether operated for profit or not for profit); and public agencies.

To qualify for exempt status, employees must meet specific salary and job duties are paid (the “salary basis test”), how they are paid (the “salary level test”), and what kind of work they do (the “duties test”). With few exceptions, to be exempt an employee must (a) be paid at least \$35,568 per year (\$684 per week), (b) be paid on a salary basis, and also (c) perform exempt job duties. Most

employees must meet all three “tests” to be exempt. It should be noted that teachers are usually categorically exempt employees.

There are three typical categories of exempt job duties: executive, professional, and administrative. Exempt employees with executive job duties manage other employees and have authority to hire or fire them. Exempt employees with professional job duties perform work that requires advanced knowledge, education, or skill in a field of science, law, medicine, education, or art. Exempt employees with administrative job duties perform office or non-manual work related to the management or business operations of the employer. Please note that these are general, brief descriptions of the job duties portion of each exemption category. District employers must fully analyze whether a particular employee/position meets the exemption criteria.

All employees are “non-exempt” unless they fit within one of the law’s narrow “exempt” categories. In other words, “non-exempt” is the default position. It is the employer’s burden to prove that an employee may be taken out of that default position pursuant to one of the Act’s specific exemptions. School districts who exempt certain positions must be prepared to defend each exemption decision as exemptions are narrowly construed against the employer asserting them.

Proper classification ensures that employees are treated fairly and receive the appropriate compensation for their work. Failing to accurately classify employees can result in employee dissatisfaction, decreased morale, and legal and financial repercussions for employers. Violations of the FLSA can lead to back pay, fines, and even lawsuits. The number of lawsuits and the amounts of fines have increased dramatically over recent years.

It should be noted that recently, the Wage and Hour Division (WHD) of the U.S. Department of Labor, which is charged with enforcing the FLSA, issued an alert regarding a proposed rule to update the executive, administrative, and professional

regulation. The WHD states that many low-paid salaried workers are not getting paid time and a half for hours worked over 40 in a week. Therefore, the WHD announced a proposal to Define and Delimit the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees that would restore and extend overtime protections to many salaried workers. The proposed rule would help the Department of Labor protect more workers who historically were entitled to overtime pay under the FLSA. The full proposal is currently available to the public on the WHD website.

The takeaway from all of this is to approach these classification issues carefully and with thoughtful examination. Please feel free to contact NDSBA or your district legal counsel for assistance and guidance.

Superintendent Evaluations

North Dakota law requires that school boards complete a formative evaluation of superintendents **ON OR BEFORE NOVEMBER 19** [NDCC § 15.1-14-03]. This evaluation must take place at an open public meeting. One purpose of the November evaluation is to highlight areas of performance in need of improvement and provide an improvement plan a timeline for expected enhance performance. The law regarding superintendent evaluations states that if the superintendent is found to be unsatisfactory in any area, the board shall detail its findings in the report and make recommendations. This process allows opportunity for professional growth before the superintendent’s formal evaluation, which must be complete **ON OR BEFORE MARCH 15, 2024**. A sample evaluation form is available on NDSBA’s website and www.ndsba.org under RESOURCES. Also available under RESOURCES → BRUNCH & LEARN, is our February 2023 installment of superintendent evaluation resources.

NDSBMCP 2023 Graduation to be Held During 2023 NDSBA Annual Convention

Students graduating from the North Dakota School Business Manager Certification Program and students attaining recertification will be honored at the 2023 NDSBA Annual Convention during the business session on

Thursday, October 26. Those being honored will receive a special nametag at registration in recognition of their status.

In the coming weeks, graduates and recertified business managers will

receive an email with more information. For more information on the program or graduation, please contact Patty VerDouw at 800-932-8791 or patty.verdouw@ndsba.org

Upcoming Business Manager Course Trainings

The North Dakota School Business Manager Certification Program (NDSBMCP) will host New Student Training courses for first-year students only on October 5th and 6th at the BSC Career Academy in Bismarck, and Fall Training courses for first and second-year students on November 8th at the BSC Career Academy in Bismarck. The courses included in the New Student Training are Business Manager Roles and Responsibilities, Federal Funding

and Reporting Systems, Introduction to School Finance, Introduction to School Operations, and State Funding and Reporting Systems. The courses included in the Fall Training are Human Resources I and Open Records and Meetings for first-year students, while Ancillary Services Management and Asset Management, Investing, and Bonding will be taught to second-year students.

These classes are only available to currently enrolled and graduate

students of the program. Those who are interested in entering the program can submit their application up until the New Student Training in October. Students can learn more about the trainings and register by going to the NDSBMCP webpage at <https://www.ndsbmcp.org/> and selecting the NEWS tab at the top of the page. Feel free to contact Patty VerDouw at 800-932-8791 or patty.verdouw@ndsba.org with questions.

Government Affairs Committee Resolutions Report

NDSBA's Government Affairs Committee (GAC) met on August 29, 2023, to act on resolutions for consideration by the Delegate Assembly at the Annual Convention. Participating committee members were: Karl Lembke, Chair (Bismarck); Patti Stedman (West Fargo); Marlana Knudson (May-Port CG); Jason Rohr (Jamestown); Mike Lautenschlager (Lewis & Clark); and Robin Nelson (Fargo).

Resolutions remain as standing resolutions for four years unless significant legislative or staff action prompt an earlier review. At the end of four years, they are dropped unless re-adopted by the Delegate Assembly. Four resolutions were recommended for re-adoption and three resolutions were recommended for re-adoption with amendments. The following are the recommendations of the GAC:

RESOLUTIONS THAT ARE FOUR YEARS OLD AND RECOMMENDED FOR RE-ADOPTION AS WRITTEN

A4. FEDERAL IMPACT AID FUNDING. NDSBA shall support full funding by the federal government for federally impacted schools.

Adopted in 2011; re-adopted in 2015 and 2019.

B1. SALES AND USE TAX

EXEMPTIONS OF SCHOOL CONSTRUCTION SUPPLIES AND MATERIALS. NDSBA shall support the state making supplies and materials purchased by school districts through contracts with contractors for construction projects exempt from sales and use tax.

Adopted in 2003; re-adopted in 2007, 2011, 2015, and 2019.

C1. CURRICULUM CONTENT. NDSBA shall oppose state or national efforts to further define and mandate specific curriculum content.

Adopted in 2011; re-adopted in 2015 and 2019.

E3. REMOVING COMPENSATION FROM NEGOTIATIONS. NDSBA shall support legislation amending the collective bargaining law to exclude compensation.

Adopted in 2007; re-adopted in 2011, 2015, and 2019.

RESOLUTIONS THAT ARE FOUR YEARS OLD AND RECOMMENDED FOR RE-ADOPTION WITH AMENDMENTS

*Items in green are additions and items in red are eliminations.

A5. NON-EDUCATION FUNDS TO PROVIDE FOR SAFETY ISSUES INCLUDING SCHOOL RESOURCE OFFICERS AND HEALTH AND

NURSING SERVICES. NDSBA shall **seek** support legislation that commits additional non-education resources to provision of these necessary services so school districts may continue to provide for educational needs of students and receive support necessary

Continued on page 4

If your board votes to bring a resolution to the convention floor for consideration by the Delegate Assembly, the following process must be followed:

1. Have 400 copies of your resolution ready to distribute at the close of the first Business Session on Thursday afternoon.
2. At the Second Business Session on Friday afternoon, the chair will ask if there are resolutions that were distributed on Thursday. At that time, a delegate from your board must come to the microphone and move the resolution. A delegate from a different board must make the second.
3. Once a motion and second have been made, your resolution will be discussed and voted on by the Delegate Assembly.

RETURN SERVICE REQUESTED

■ GAC Resolutions Report

Continued from page 3

to continue these very important non-educational services necessary to ensure safety and health of all students in the state of North Dakota.

Adopted in 2003; re-adopted in 2007 and 2011; amended and re-adopted in 2015; re-adopted in 2019.

A6. K-12 FUNDING **ADEQUACY**. NDSBA ~~will take a lead role in discussions on continuing the commitment to “adequate funding” that the state has made to K-12 education.~~ supports the continuous commitment to sufficient K-12 funding by the state.

Adopted in 2003; re-adopted in 2007 and 2011; amended and re-adopted in 2015; re-adopted in 2019.

PUBLISHING **MINUTES-REQUIREMENTS**. NDSBA ~~will shall support legislation and seek sponsorship for legislation which would amend the requirement that school boards pay to publish minutes as defined in NDCC 15.1-09-31 provide flexibility and reduced-cost or cost-free~~

options to school districts in meeting the publishing requirements set forth by North Dakota Century Code that include, but are not limited to, records of board proceedings, notices, call for bids, and annual reports.

Adopted in 1991; amended and re-adopted in 1995 and 1999; amended and re-adopted in 2003; re-adopted in 2007; amended and re-adopted in 2011; re-adopted in 2015 and 2019



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

2024 NDSBA Negotiations Seminar
February 1-2, 2024
BSC National Energy Center of Excellence, Bismarck

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2023 NDSBA ANNUAL CONVENTION

TENTATIVE PROGRAM
Bismarck Hotel, Bismarck

THURSDAY, October 26

7:00-8:00 a.m. Registration and Breakfast – Dakota Ballroom

NDSBA CONVENTION

PRE-CONVENTION SESSIONS

8:00-2:45 p.m. **SCHOOL LAW SEMINAR** – Lamborn/Patterson

3:00 p.m.

OPENING CONVENTION SESSION

Keynote: Paul Allen

8:00-2:45 p.m. **NEW MEMBER SEMINAR** – Grand Pacific

4:30 p.m.

FIRST BUSINESS SESSION

FRIDAY, October 27

7:30-8:00 a.m. Registration – Coat Room
Exhibit Visitation - Courtyard (breakfast)

11:45-12:30 p.m. **CLINIC SESSIONS**

- NE Region Breakout
- SE Region Breakout
- NW Region Breakout
- SW Region Breakout

8:00-9:15 a.m. **GENERAL SESSION**

Keynote: Jamie Vollmer

*Rallying Support: How to Cultivate Allies
and Strengthen Partnerships During
Challenging Times*

11:45-12:30 p.m. **BUSINESS MANAGERS' LUNCH BUFFET**

9:45-11:45 a.m. **BUSINESS MANAGER SESSIONS**

12:30-1:30 p.m.

BUSINESS MANAGER TALK & FAQ LUNCH BUFFET & EXHIBIT VISITATION

9:45-10:30 a.m. **CLINIC SESSIONS**

- Parliamentary Procedures: Roberts Rules of Order
- North Dakota Data Resources for Student Learning and School Improvement
- Teacher and Principal Apprenticeship
- Securing the Prerequisites of Progress -Community Understanding, Trust, Permission, and Support
- Administrator Cohort Mentoring Model
- Small Organized Schools: NDCDE

1:30-2:15 p.m.

CLINIC SESSIONS

- CREA Annual Meeting
- Trauma Informed, Equity, and Culture Based Training
- Collaborative Conversations with State Superintendent Baesler
- Chatting with GPT (GenZ Prospective Teachers
- Small Organized Schools: NDDOT
- Preview TFFR's Modernized Employer Reporting System

10:45-11:30 a.m. **CLINIC SESSIONS**

- Community Partnerships Support Rural Resiliency
- Using Good Data to Make Good Decisions: Longterm Strategic Planning
- Behavioral/Mental Health Workshop Summary and Future
- Pitchforks and Microphones: How to be Ready
- Safety and Security in Rural Schools
- Small Organized Schools: Annual Meeting

2:30-3:15

CLINIC SESSIONS

- HB 1398 - Cybersecurity and Cyber Integration Plan
- Results Based Budgeting
- Be Legendary School Board Training Year 2: How Are Districts Doing?
- NDPERS Conversation
- Business Manager Relationships, Roles, and Responsibilities

3:30

SECOND BUSINESS SESSION AND DELEGATE ASSEMBLY

4:30

ADJOURN



NEW MEMBER SEMINAR – THURSDAY, October 26, 2023

7:00 a.m. Registration and Continental Breakfast

8:00 a.m.-2:45 p.m. Seminar

NOTE: This session meets the requirements of the law mandating in-service training for newly elected school board members. Attendees will receive certificates of completion in the mail after the convention.

TOPICS COVERED:

Roles of the School Board
School Board Member Duties and Responsibilities
Boardsmanship, Leadership, and Ethics
School Finance
Conflict of Interest
Chain of Command
Open Records, Open Meetings, and Executive Session
Regional School Board Member Q&A Breakout

SCHOOL LAW SEMINAR – THURSDAY, October 26, 2023

7:00 a.m. Registration and Continental Breakfast

8:00 a.m.-2:45 p.m. Seminar

NOTE: This session meets the requirements of the law that allows for CLE credits. Attendees may receive the credits once the amount of CLE credits are approved.

TOPICS COVERED:

The Story of North Dakota School Construction Finance
School Board Member Use of Social Media
Open Meetings and Open Records: An Overview and the Importance of Compliance
Open Enrollment v. Tuition Agreements: Educating Students from Outside Your District
Charge of Discrimination...Now What?: Pointers and Best Practices from the North Dakota Labor Commissioner
And more to come!